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A New Paradigm for EU Diplomacy? EU Council Negotiations in a Time of Physical Restrictions

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Summary

Can diplomacy work without physical presence? International relations scholars consider the European Union (EU) the most institutionalised case of international cooperation amongst sovereign states, with the highest density of repeated diplomatic exchange. In a year, the Council of Ministers hosts on average 143 ministerial and 200 ambassadorial meetings, along with hundreds of working group meetings. These intense diplomatic interactions came to an abrupt halt in mid-March 2020, when the spread of COVID-19 forced the Council to approve — in a manner unprecedented in European integration history — the temporary derogation from its rules of procedures to allow votes in written form, preceded by informal videoconferences between ministers or ambassadors. This argumentative essay reflects on how we can use these extraordinary months of intra-European diplomacy to assess the viability of virtual diplomacy in the EU context and what lessons it provides as we seek more sustainable means of international engagement.

Keywords

European Union (EU) diplomacy – Council of the European Union – COVID-19 – e-diplomacy – virtual diplomacy – technology – communication – governance

1 Introduction¹

Diplomacy, like so many aspects of life, has been significantly affected by the COVID-19 pandemic.² The European Union (EU), a hugely complex diplomatic construction, has been no exception to this.³ The pandemic resulted in the unprecedented decision in mid-March 2020 to end all face-to-face meetings within the Council of the European Union. This required a temporary derogation from the Council's rules of procedure to allow votes in written form, preceded by informal videoconferences between ministers, diplomats and officials.⁴ In a normal year, the Council hosts on average 143 ministerial and 200 ambassadorial meetings, plus hundreds more meetings at the working group level. The last physical Council meeting — of Justice and Home Affairs Ministers — took place on 13 March. Only 9 ministers were present — the 18 other Member States were represented either by Ambassadors or Deputy Ambassadors.⁵ On 10 March 2020 the European Council — where Heads of State or Government meet — convened its first meeting via videoconference, focusing primarily on coordinating the EU's response to the pandemic. In the three months from 16 March to 16 June, the Council organised 67 videoconferences across the various ministerial formations, 3 for the European Council and another 6 between the EU and third countries.

This unprecedented shift of diplomatic activity from the physical to the virtual has been successful, insofar as this 'remote-control' EU continued to conduct its business, albeit in less than ideal circumstances.⁶ But what has been the impact of this change on the quality of diplomatic interactions and the policy-making processes they enable? However unprecedented the past three months, it remains entirely possible that COVID-inspired restrictions will remain in place in some form, and the back and forth of officials from national capitals to Brussels might be further re-evaluated to reduce carbon footprints. In short, the current prevalence of e-diplomacy in the Council — as in other diplomatic settings⁷ — may continue. It is therefore timely and appropriate to consider the ramifications of this novel and increased use of technology-enhanced modes of interaction for the nature of diplomacy, with the EU's

1 Heidi Maurer has received funding from the European Union's Horizon 2020 research and innovation programme under the Marie Skłodowska-Curie grant agreement No 840917.

2 Liechtenstein 2020; Faizullaev 2020.

3 Gotev 2020.

4 Council of Ministers 2020b.

5 Council of Ministers 2020a.

6 Barigazzi, de la Baume and Herszenhorn 2020.

7 Balakrishnan 2020; Grüll 2020; Kingdom of The Netherlands 2020.

Council providing an ideal test case. To that end, this essay sets out the basis of a research agenda focusing on two key questions: 1) How does diplomacy work without physical presence, particularly in terms of its impact on negotiation, compromise seeking and co-operation; and 2) What questions does the use of e-diplomacy in the Council raise vis-à-vis governance, legitimacy and transparency? After briefly examining the practical effects of the switch to e-diplomacy on the Council, this essay discusses both questions in turn.

2 Diplomacy in the Council of the European Union

The high density of regular and repeated diplomatic interactions occurring in the Council reminds us that ‘negotiation, one of the key functions of diplomacy, is central to the way that the EU operates.’⁸ This essay proposes this institution as an ideal case to consider what it means when technologically enabled distance diplomacy replaces physical proximity. Representing the primary site of EU Member State engagement and deliberation, the Council is the EU’s ‘fulcrum’,⁹ and the ‘institutional heart of decision-making’,¹⁰ with negotiations taking place continuously at multiple levels and across multiple dossiers. The extensive literature on the Council and its operations demonstrates the highly dynamic and multidirectional nature of diplomacy.¹¹ It also highlights the importance of the different Council levels (working groups, Committee of Permanent Representatives [Coreper] I and II, ministerial formations) as locations not only for the transaction of business but also as important venues for deliberation and sources of socialisation, inculcating participants over the longer term into particular norms and cultures of behaviour — what James March and Johan Olsen term the logic of appropriateness.¹² Thus, repeated and regular engagement between officials either based in Brussels or sent by capitals ensures that the primary purposes of the machine are achieved: reaching agreement and ‘getting the room to work’.

Physical proximity has always been crucial to these interactions. Whilst diplomats and officials regularly engage with opposite numbers in Brussels and national capitals outside their meetings, being able to meet your interlocutor in person has always been considered essential. One senior British official

8 Hocking 2004a, 93.

9 Hayes-Renshaw and Wallace 2006, 321.

10 Lewis 2019, 158.

11 Puetter 2014; Naurin and Wallace 2008.

12 March and Olsen 1989; Lewis 2005.

involved in the EU's Common Foreign and Security Policy even declared: 'Brussels works on meals, not on the Council meetings, so you see a problem and then you decide who you are going to invite to dinner to thrash it out'.¹³ Thus, although the pandemic-related restrictions altered dramatically the normal rhythms and flow of Council business, in particular contexts attempts were made to ensure important business could continue. For example, meetings of Coreper II, the most senior ambassadorial formation involving Member States' Permanent Representatives, 'continue to take place physically in these difficult coronavirus times, [although] respecting social distancing measures'.¹⁴ Meanwhile, Ambassadors to the Political and Security Committee followed their normal twice-weekly meeting routine until 20 March; their business was then disrupted only until 8 May when meetings resumed but with social distancing measures in place and attendance restricted to only the Ambassador plus one official. This highlights the reality that even when other international organisations enforced stricter lockdown measures,¹⁵ the Council and therefore Member States, continued to place great importance on maintaining some level of physical engagement and functionality for their most significant bodies. This suggests that in some contexts, therefore, e-diplomacy and videoconferencing are not considered adequate substitutes for their physical alternative. Indeed, Angela Merkel has railed against the suboptimal nature of e-diplomacy with its 'lack of personal interaction and the limited flexibility to have bilateral talks'.¹⁶

3 EU Diplomacy as Communication: How Does E-diplomacy Affect the Council?

The use of technologies to support virtual or e-diplomacy is not new.¹⁷ Rather, COVID-19 has necessitated their swift, large-scale adoption to enable a semblance of normality and routine to continue. For many diplomats, though, e-diplomacy — particularly videoconferencing — is 'a poor substitute for in-person meetings'.¹⁸ Whatever the technological alternatives, it is argued, nothing can replace physical encounters between colleagues and rivals, the

13 Senior British official involved in the EU's Common Foreign and Security Policy, interviewed by the second author, 10 November 2011.

14 Council of Ministers 2020c.

15 Ohler 2020.

16 Greubel 2020.

17 Adesina 2017.

18 Ebner 2020.

quiet conversations on the margins of meetings or ‘corridor diplomacy’.¹⁹ It is in such contexts that so much diplomacy takes place. Body language can be read and nuance understood, allowing compromises to be reached and deals to be struck.²⁰ This, certainly, is the view of William Burns, former US Deputy Secretary of State, who argues ‘there is still no alternative to old-fashioned human interactions’.²¹

There is extensive debate on this question in the literature, though. For example, in their examination of the effectiveness of e-negotiation as an alternative to face-to-face contact, Amira Galin, Miron Gross and Gavriel Gosalker suggest that choice of ‘negotiation media does not yield any significant difference in the outcomes of negotiation’.²² However, by contrast, Jörg Hauber et al. note that ‘communicating through conventional videoconferencing tools is an artificial experience ... due to the absence of eye-contact, lack of a shared social and physical context, and a limited possibility for informal communication’.²³ This echoes work by Seanon Wong, who highlights the importance that diplomats attach to emotional cues in face-to-face negotiation.²⁴ Meanwhile, David T. Nguyen and John Canny argue that if videoconferencing is to be effective in diplomatic interactions, it must enable both gaze and upper body cues.²⁵ These debates matter, not least given that International Relations (IR) has tended to analyse diplomacy from a systemic perspective that takes little account of more personal or environmental factors. Marcus Holmes and Nicholas J. Wheeler are amongst those seeking to address this gap by examining diplomatic engagement from a psychosociological perspective.²⁶ Their central argument is that in the development (or not) of social bonds between diplomats and political leaders, ‘*how*’ interaction takes place is as important as who is doing it. In this context, face-to-face meetings are ‘particularly important for building empathy and increased intention understanding’.²⁷ The example they offer is the personal empathy and trust that developed between Ronald Reagan and Mikhail Gorbachev that was so essential to peacefully ending the Cold War with their ‘iterative personal interactions’ over a period of time.

19 Greubel 2020.

20 Rettman 2020.

21 William Burns, as quoted in Wong 2020, 78.

22 Galin, Gross and Gosalker 2007, 794.

23 Hauber et al. 2005, 1.

24 Wong 2015.

25 Nguyen and Canny 2009.

26 Holmes and Wheeler 2020.

27 Holmes and Wheeler 2020, 135.

Applying this to the EU's Council, it is clear that the development of social bonds between diplomats and officials from the 27 Member States is a key element in its successful functioning. The Council's work depends on constant and regular engagement across a wide range of policy issues. A typical legislative file requires around eighteen months to go from initiation to formal adoption as EU law. During this time, it travels up and down the Council's structures, from the working groups that deal with highly technical policy questions up to Coreper, which acts as an important systemic bottleneck and *de facto* decision-maker, deciding whether a file should pass to ministers either for approval or, less likely, for further discussion. Multiple meetings therefore take place, with each level seeking to maximise agreement.²⁸ In these contexts, significant degrees of trust and socialisation build up, with participants invested in the success of their shared endeavour.

An important issue in the context of e-diplomacy, therefore, is the impact of distance and not being in the room on these collective efforts. Diplomats and officials who attend meetings regularly develop a detailed understanding of their peers' positions and needs on a given issue; moreover, repeated interactions over an extended period make it feasible to anticipate likely demands and problems, itself a core task of Permanent Representations. The switch from physical to virtual engagement would not necessarily be detrimental to negotiations on a file that has been in the Council system for some time. However, for new files or policy questions, particularly those involving a different set of national experts, some of whom may have little experience in Council negotiating processes, it must be asked whether the quality of diplomatic engagement and negotiation will be affected, as per Holmes and Wheeler's argument. The example of the UK-EU Future Relationship negotiations is instructive in this case. After just one round of face-to-face meetings, negotiators had to change to a virtual format, which after four rounds had produced few tangible results. In part, this is due to the complexity of the issues under discussion and to the nature of such negotiations that often result in little initial movement. The fact, though, that participants were unable to meet physically and develop a rapport has been identified as a particular difficulty. As Michel Barnier noted on 24 April: 'We held some 40 videoconferences this week, and I have to say, objectively, that it is not the same thing in terms of the quality of discussions and negotiations.'²⁹ Equally, it is arguable that the marathon July European Council meeting, which saw agreement reached on both a €750 billion COVID

28 Bostock 2002.

29 Barnier 2020.

rescue package and the EU's seven-year budget settlement, was successful only because the leaders were physically together in the same room.³⁰

The Member States' decision to ensure senior diplomatic formations could continue their work face-to-face and the difficulties of beginning complex negotiations in a virtual environment highlight the relevance of questions around the impact of e-diplomacy on Council activity. In particular, we should consider how well officials and diplomats can prepare for engagement in this context and how they mitigate the difficulties posed by e-diplomacy and videoconferencing — not least, only seeing their interlocutors in two dimensions rather than three. Is it possible to identify particular moments, in a set of diplomatic interactions when the diplomats are not physically present, which have a particularly deleterious impact on outcomes? And over the longer term, what does this mean for processes of socialisation and the development of relationships that are key to successful outcomes?

4 EU Diplomacy as Governance: Balancing Solution Delivery and Legitimacy

Scholarship on the changing nature of diplomacy over the past decades emphasises the stronger role of diplomats as boundary spanners³¹ and their contribution to governance.³² Again, the EU is an extreme and thus excellent case to observe how the pandemic has influenced the contribution of diplomacy to governance. This essay suggests three dynamics that should inform future research about European diplomatic interactions: the balancing of efficiency and legitimacy; the link between Brussels-based diplomats and their national governments; and the collective locking in of policy ideas that persist even in or after crisis mode.

The most important aspect on the minds of diplomats and policy-makers in March and April 2020 was to keep national and European governance systems running efficiently and effectively. Apart from the continuity that Coreper II meetings ensured for negotiations between Member States, the first weeks of lockdown disrupted EU policy-making before the system found a new, although still limited, *modus operandi*. We therefore need to assess diplomatic interaction at the EU level not only in terms of what it delivers but also in the democratic quality of the process. Bringing together academic discussions on the salience of diplomacy for citizens with the literature on EU legitimacy

30 Herszenhorn and Bayer 2020.

31 Hocking 2004b.

32 Mitzen 2015, 120-134.

and accountability³³ provides relevant research avenues to consider how, after the first weeks of crisis, the EU governance system managed to rebalance the need to provide policy solutions while ensuring sufficient transparency, accountability and legitimacy. In the domain of foreign affairs, for example, the last formal Foreign Affairs Council conclusions synthesising the discussions of EU Foreign Ministers were adopted on 16 March 2020. Since then, information about ministerial discussions has been provided by the High Representative in press conferences following the videoconference,³⁴ with accompanying short summaries on the Council's website.³⁵ The absence of a regular paper trail in a system that is normally highly institutionalised necessitates a new discussion on legitimacy and accountability in EU foreign policy co-operation.

It also emphasises questions of institutional agency and leadership. Here, competing assumptions on the impact of the crisis are possible. It is logical to assume that in crisis mode Member States are keener to take back control, thereby limiting the space for EU institutional agency and policy leadership. On the other hand, it is also reasonable to assume that the more a government is in crisis mode, the less bandwidth it has to consider everyday foreign policy making and, therefore, the more space there is for institutional policy agency. Empirical research needs to assess how these dynamics between diplomatic and political actors played out during the crisis and the extent to which these emergency processes linger once the system has returned to 'normal'. In the event greater agency by the High Representative and European External Action Service (EEAS) are observed, we need to question whether the post-crisis system has appropriate mechanisms in place to ensure sufficient legitimacy and control.

Second, how have the extraordinary lockdown measures affected the essential relationship between Brussels-based diplomats and their national governments? How far are the former able to ensure that their political masters do not lose sight of their collective ambitions and commitments? Are they still able to shape domestic thinking about policy solutions through the insights gained from negotiations with their Brussels peers? To what extent can they help their governments look beyond particular domestic (image) problems to the need for collective action? Even before the pandemic, there was increasing scholarly effort to achieve a better understanding of processes of renationalisation and de-Europeanisation in European capitals.³⁶ A diplomatic studies perspective

33 Sjørusen 2018; Maurer and Morgenstern-Pomorski 2018.

34 EEAS 2020.

35 Council of Ministers 2020d.

36 Tonra 2018.

can contribute a vital view of how individual ambassadors or diplomats can shape domestic policy design.

Finally, the pandemic raises questions about the extent to which the EU collectively shapes and constrains national governments' scope for policy action. In 1988, Fritz Scharpf developed the concept of the 'joint decision trap'.³⁷ The way Member States designed their policy responses to mitigate the negative economic impact of the COVID-19 lockdown puts the spotlight on how diplomatic interaction impacts the degree to which governments are or feel collectively trapped into normative or political commitments. Here, two examples are instructive: the decision to bail out European airlines given EU commitments to the 'Green Deal for Europe', and the reiterated commitment to fighting disinformation in and outside of Europe. Neither is likely to have come high on the policy agenda of all 27 governments without active promotion — and emphasis on the collective commitment — by the European Commission and the High Representative/EEAS, respectively. Diplomacy is not simply about communicating interests and intentions. It is also the means by which such long-term commitments are locked in, even during and after a crisis. How these causal mechanisms function and interact can deliver innovative research about international governance, with the EU environment constituting a highly salient case study.

5 Conclusions

This essay has reflected on the impact of COVID-19-induced physical restrictions on EU diplomatic activity, sketching two avenues for future research. Technology, such as videoconferencing, is just a tool. It can magnify existing structural imbalances but also bring new opportunities for innovative forms of interaction between skilled diplomats. We need to better understand how diplomats in an online environment seek to nurture relationships that look beyond bargaining but also how e-diplomacy challenges legitimacy and transparency. For both strands, this essay contends that EU diplomacy is a highly suitable case that will inform both EU and diplomatic studies scholarship.

At the same time, we must consider the extent to which we can draw wider insights from the experience of the EU Council system or whether, like the organisation itself, COVID-19 has produced a *sui generis* reaction. The particular nature of diplomatic activity within the EU — highly intense, with significant levels of institutionalisation, trust and socialisation — suggests the challenges

37 Scharpf 1988.

posed by the pandemic have been especially obvious but also comparably easier to tackle. This can be seen in the efforts to maintain some degree of ongoing physical diplomatic interaction even as other international organisations introduced more stringent lockdowns. Conceivably, and especially in the event of future outbreaks of coronavirus, the EU Council may provide an example to others of how to maintain greater levels of 'normal' functionality during times of acute crisis. In other words, and particularly as we understand more about the nature of such pandemics, the operation of the EU Council system may offer a template to others for how to ensure greater continuity in the practice of bilateral and multilateral diplomacy. It certainly provides scholars with a strong basis for new comparative work on diplomacy in multilateral settings.

The operation of the EU Council system during the pandemic also offers a potential wealth of data on diplomatic practice and on the utility of e-diplomacy technology. How EU and Member State officials and diplomats have experienced and coped with the challenges posed by distance diplomacy can reveal a great deal about the real potential for such technologies to replace (at least some) physical interaction and allow us to conduct a critical appraisal of whether it really does matter whether people are actually 'in the room'. For countries and organisations with finite — and sometimes limited — resources available for diplomacy, the answers to such questions have the potential to transform both their diplomatic reach and ambition.

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