

## Policy Position

# On Institutional Corsets and the Question of Timing: How Much Damage Can the Hungarian Council Presidency Do?

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[#CouncilPresidency](#)

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Hungary is set to take over the EU Council presidency in the second half of 2024. Given the state of the rule of law in the country, there are doubts whether Hungary will be able to successfully fulfill its role. A debate on whether it should be blocked from taking over the presidency on 1 July 2024 is in full swing. In this Policy Position, Thu Nguyen analyses the institutional role of Council presidencies, and argues that the Hungarian presidency will not be able to do much damage considering both the institutional corset and the time period in which it will operate.

There has been a lot of noise around whether Hungary should, and legally could, be blocked from taking over the Council presidency in the second half of 2024, considering the state of the rule of law in the country. On 1 June, the European Parliament adopted a [resolution](#), questioning Hungary's ability to "credibly fulfill" the tasks of a Council presidency and asking the Council to "find a proper solution as soon as possible", else Parliament could take "appropriate measures".

The Meijers Committee has laid out avenues how the Hungarian presidency could be postponed [here](#) and [here](#), despite such possibility not explicitly foreseen by the Treaties. Proponents of doing so argue that a member state in breach of EU fundamental values and subject to the [suspension of EU funds](#) on rule of law grounds should not be able to chair one of the main EU institutions. Such concerns are legitimate, but another question seems to be sidelined in the debate: How much practical damage can the upcoming Council presidency under Hungary actually do in the EU?

The answer is, arguably, not all that much.

### The institutional role of a Council presidency

The presidency of the Council rotates between EU member states every six months. Member states holding the presidency work in groups of three ('trio') to ensure consistency and coherence in the Council's work. Hungary is set to be in a trio together with Spain (second half of 2023) and Belgium

(first half of 2024).

A Council presidency has three main roles: Firstly, it sets the agenda in the Council and chairs the Council meetings. Secondly, it acts as an honest broker between the different member states and is expected to mediate between the different interests and foster compromise in the Council. And thirdly, it represents the Council in relation to the other institutions, most notably in the trilogues with the European Commission and European Parliament. These are important prerogatives. Setting the agenda means that a Council presidency has the power to prioritise policy topics during its term and can influence which specific policy issues will receive the most attention, time, and resources in the Council. In addition, as no other member state has a representative in the trilogue negotiations, the member state holding the presidency also enjoys leeway in how to conduct them.

And yet, a Council presidency is not as powerful as it is at times portrayed. It neither sets the [agenda for the EU](#) nor is it the “[head of the EU](#)” as has been claimed. Rather, it operates in a tight institutional corset between the European Commission and the European Council. This is especially the case after the Treaty of Lisbon limited its powers by separating the Council presidency from the presidency of the European Council and the chairmanship of the Foreign Affairs Council (FAC).

On the one hand, the Council does not have a right to initiative. This belongs exclusively to the European Commission. Council presidencies, thus, depend on the Commission to make legislative proposals and they must work within the Commission’s own agenda. On the other hand, the Council is not a decision-maker of last resort. While the main legislative work takes place at Council level, it is the heads of State or government that ultimately decide on particularly contentious or politically sensitive issues in the European Council.

In addition, a Council presidency term only lasts six months, even though preparations for a presidency begin well in advance. The [average length](#) of EU legislative files adopted at first reading in the ordinary legislative procedure is 16 months; at second reading it is 36 months. This means that many legislative dossiers cannot be concluded from start to finish within a single Council presidency. Consequently, an incoming presidency inherits significant parts of the agenda from its predecessors. Likewise, its own dossiers will likely stretch well into the next presidency. This significantly limits the room for maneuver in setting the agenda.

So arguably, the damage a Council presidency can do in general is limited. This is even more so the case when it comes to the next Hungarian presidency.

### A question of timing

Hungary is set to take over the rotating presidency on 1 July 2024, right after the European Parliament elections. The Hungarian presidency will, thus, fall in a period during which the EU institutions will be busy with the distribution of positions and, most notably, the appointment of the new Commission. As a result, little legislative work will happen during that time. History has shown this. After the last European Parliament elections in 2019, the legislative files moving forward under the Finnish presidency in the second half of the year were significantly fewer than normal: agreements were reached on [18 texts](#) during its term. For comparison, the Estonian presidency brokered [76 agreements](#) in the second half of 2017, the Austrian one reached agreements on [128 documents](#) in the second half of 2018, and the French presidency even managed to foster agreement on [130 texts](#) last year.

The first presidencies after European elections are, thus, traditionally quiet. If ever there was a time for a Hungarian presidency to do as little damage as possible to legislative

procedures, it is probably in the upcoming term.

Overall, concerns on whether a member state subject to an article 7-procedure as well as a procedure under the rule of law conditionality mechanism would be able to credibly chair and represent the Council are valid. In the same manner, it is understandable why the European Parliament would have an interest in underlining its role as the guardian of European values through its resolution. However, changing the order of the Council presidencies would require action by the member states, – Parliament has no say in internal Council business – who seem to have little appetite to pursue any such avenue. Depriving another government of their turn to chair the Council would, after all, mean changing the rules of the games with uncertain outcomes – and in this case to prevent a presidency that, arguably, cannot do a lot of damage in the first place.

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