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van de Steeg, M.

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Public Accountability in the European Union: Is the European Parliament able to hold the European Council accountable?

van de Steeg, Marianne

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Abstract

The European Council occupies a central role in European politics. Yet it is not officially accountable to any public or parliamentary body for the decisions it makes on behalf of European citizens. National parliaments are only entitled to exert control over their own Heads of Government or State. The European Parliament, as a supranational institution, is the only parliamentary body that regularly discusses European politics with the European Council as a collective, namely via the European Council Presidency. As such, it alone has the possibility to hold the Council accountable for the agreements made at European Summits. However, the European Parliament has limited rights to impose pressure on the European Council Presidency. Nonetheless, despite the lack of a formal accountability arrangement, the European Council Presidency is more forthcoming than could have been expected.

Full Text: [HTML](#)

Marianne van de Steeg is post-doctoral researcher at the Utrecht School of Governance, Utrecht University and the Department of Political Science, Amsterdam University.

e-mail: m.w.vandesteeg@uu.nl

Public Accountability in the European Union: Is the European Parliament able to hold the European Council accountable? (*)
Marianne van de Steeg
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Abstract PDF

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1. Introduction [↑]

The European Council decides on the European Union's development. Even though it is not yet established as one of the official institutions of the European Union (EU), in practice, the European Council functions as agenda-setter, as the ultimate arbiter in decision-making and as the motor behind every subsequent step towards further European integration. Among other things, the member-states united in the European Council are responsible for the constitutional development of the EU via treaty changes and for handling the policy consequences of crises. In view of the far-reaching impact and scope of these types of decisions, democratic oversight is warranted.

Two kinds of forums are relevant for the democratic oversight over the European Council's decision-making: The various national parliaments and the European Parliament (EP). The reach of the national parliaments extends only to their own individual Head of Government or State; they exert only indirect oversight over the Council as a body. Even if each national parliament were to hold its national representative in the European Council fully accountable, democratic oversight would still be fragmented. In comparison, the EP as a supranational institution could be better positioned to carry out this oversight. The EP is the only democratically elected representative body that has regular discussions with the European Council as a whole, namely via the Council's half-yearly Presidency (1). In the EU's architecture, the EP is the only institution that might be able to provide a forum for democratic oversight over the European Council as a collective entity. The focus of this article is to determine whether the EP is able to hold the

Council publicly accountable for decisions made during Summits in which treaty changes and crises are discussed. Public accountability gives citizens a chance to learn what actions those in power undertook in their name.

A growing body of literature claims that the EU suffers from an accountability deficit (see, for example, Schmitter 2000; Arnall & Wincott 2002; Curtin 2004) (2). Williams (1990) and Harlow (2002) explicitly raise the issue of the European Council's accountability in relation to the EP. Unfortunately, research on the EP has so far neglected the question of how the EP holds the Council responsible. The literature mainly focuses on the political organisation of the EP and the manner in which it performs its legislative function (see Hix, Raunio and Scully 2003 for an overview; Corbett *et al.* 2000; Marks and Steenbergen 2004). This article aims to help fill that gap and therefore focuses on describing the accountability arrangement between the European Council and the EP. Relevant hypotheses explaining under which conditions the EP is able to hold the European Council accountable have not yet been identified. An approach to finding such an explanation consists of two sub-questions:

1. Is the European Council *de jure*, i.e. formally, accountable to the EP?
2. Is the European Council *de facto* accountable to the EP in public sessions?

I will begin by arguing that the accountability arrangement that has developed in the interplay between the European Council and the EP is less problematic than one would expect on the basis of the lack of a formal arrangement. In the EU's institutional architecture, the EP does not formally have authority over the European Council. In that sense, the situation is incomparable to a national parliament and its executive branch. Individual members of the European Council are as Heads of Government (3) appointed by, and need the support of, the majority in their respective national parliaments. Yet as a collective body, the European Council does not depend on this kind of support from any other supranational institution, including the EP. The EU's particular constellation is at the root of its *de jure* accountability deficit. *De jure*, the European Council is not obliged to answer to any EU institution or any other representative body.

In this paper I will present some indications that a tradition has been emerging since 1996 in which the Presidencies of the European Council have dealt with the EP as if were almost a 'normal' accountability forum, even though it has no formal obligation to do so. In view of the timing, the *de facto* accountability of the European Council to the EP has perhaps benefited from the public clamour surrounding Maastricht and the BSE crisis. However, accountability on the EU-level remains fragile and is not (yet) secured by a comprehensive formal accountability arrangement.

2. Defining an accountability arrangement [↑]

A wide array of definitions of accountability can be found in the literature on accountability and the EU or other international organisations. Accountability is limited in this article to *ex post* responsibility (Mulgan 2003; Strøm *et al.* 2003; Grant and Keohane 2005; Bovens 2007). This excludes definitions of accountability that include an array of other phenomena in the concept of accountability, such as influencing decision-making before meetings take place (i.e. *ex ante*), responsiveness, transparency, liability, controllability or responsibility (e.g. Bergman 2000; Moravcsik 2002; Kopell 2005). Moreover, in this article accountability always refers to *public* accountability, because only *public* accountability enables citizens to hold democratic oversight of the powers they have delegated to Members of Parliament and, indirectly, the European Council (Auel 2007).

Following the general definition of public accountability given by Bovens (2007), an accountability arrangement exists when there is a stable constellation with the following characteristics:

1. A relationship between an actor and a forum
2. in which the actor is obliged
3. to explain and justify
4. his conduct,
5. the forum can pose questions
6. and pass judgement,
7. and the actor may face consequences (Bovens 2007, p. 452).

All seven conditions must be met if a comprehensive accountability arrangement is to be established.

At the heart of public accountability are points 3 to 5. The actor appears before the forum in a setting to which the wider public has access, i.e., a parliament's plenary session or a committee session. The actor explains and justifies its conduct in response to questions made by the forum. These questions may be presented in the guise of positive or negative comments on the actor's conduct and the decisions that were made during the previous Council meeting.

Point 7 is most difficult, but quite essential: if the actor faces no negative consequences for poor performance, there is little incentive to take the forum seriously. If the actor does not face negative or positive consequences in relation to the forum's judgment, then an accountability debate risks becoming either a platform for propaganda or a compulsory rushed job. Typical for parliamentary democracy is that the forum usually has a motion of censure at its disposal as the ultimate sanction for a negative judgement. As described in the next section, the EP - as opposed to other parliaments - does not have this right. However, censure is not the only negative sanction available. Grant and Keohane argue in their article '*Accountability and abuses of power in world politics*' (2005) that we often overlook other instruments for keeping democratic check on international institutions. Aside from loss of office, they list a number of other negative consequences that power-wielders in world politics might incur, including effects for network ties and public reputation, such as loss of prestige. Soft sanctions, however, might not be strong enough to create a *de facto* accountability arrangement.

According to Williams (1990), the softer negative sanctions mentioned by Grant and Keohane would not be sufficient to make the European Council take its accountability to the EP seriously. Yet the situation may have changed since the time of Williams' article, which was written before the Treaty of Maastricht and the ensuing debate on Europe's democratic deficit. Moreover, while it is one of the few articles that deal empirically with the accountability relation between the European Council and the EP in the sense of democratic oversight, Williams' conclusions were mostly based on her own experiences as a former Labour MP and Cabinet Minister. In view of the gap in the literature on accountability and the European Council, a systematic empirical study is warranted.

Since in this case we already know that the actor is the European Council and the forum is the EP, the definition developed by Bovens can be modified to a model for empirical research:

1. Is the Council obliged to appear before the EP and does it give *information* on its conduct?
2. In a *debate*, the EP asks questions, expresses appreciation and raises criticisms. Does the Council explain and justify its conduct in response to EP queries and critiques?
3. Does the EP pass *judgements* of the Council's actions? This may hold either positive or negative consequences for the Council.

The main part of the argument in this article consists of an analysis of various occasions for public, observable, *de facto* accountability: the plenary sessions of the EP with the Presidency of the European Council on six issues (sessions in committees did not take place on the selected issues). In working towards this argument, first an outline is given of the *de jure* accountability

relationship between the European Council and the EP. In addition, interviews with twelve respondents from the EP(4) are presented. These interviews were conducted in order to gain context information and to grasp that which cannot be learned from an analysis of documents. By combining the results of the analysis from the selected plenary sessions with the information from the interviews, a conclusion can be drawn about the extent to which the European Council is accountable to the EP in general.

3. Is the European Council *de jure* accountable to the EP? [↑]

Is the Council obliged to appear before the EP and to give information on its conduct?:

The European Council has the obligation to inform the EP. *The European Council shall submit to the EP a report after each of its meetings* (article 4 TEU)(5). For the Presidency to fulfil this obligation, it suffices that it appears in the plenary sessions. A Presidency does not need to expose itself to close scrutiny by appearing in one of the specialised parliamentary committees. Indeed, shortly after a Summit (Council meeting) - often the next day - the Council Presidency reports in the plenary session to inform the EP about the previous Summit. This item on the agenda normally does not contain a reference to a document. The *Council Presidency Conclusions* are made available to the public at large immediately following the Summit and can be used by the Members of the European Parliament (MEPs) to inform themselves prior to the meeting (6).

3.1. What rights does the EP have to oblige the Council to enter into a debate, and explain and justify its conduct? [↑]

The European Council is obliged to report to the EP on the previous Summit. However, after the Presidency has made its opening statement, it is entitled to leave the plenary session; it is not obliged to listen to the comments and questions by the EP, nor to react to the questions in a closing statement. In other words, the EP only has the right to be informed, nothing more. This places the EP in a very weak position in relation to the European Council.

The EP's position is further weakened by the manner in which the plenary session is structured in the Rules of Procedure. The EP is multi-national and is organised in political groups that are less cohesive than are political parties. The result is that one spokesperson per political group does not suffice; many more MEPs want to speak. This sets a serious time constraint to each contribution to the debate, and, worse, makes interruptions and follow-up questions virtually impossible. Article 142 RoP restricts the allotted speaking time for each MEP. Article 143 (4) RoP makes follow-up questions almost impossible: *List of speakers. 4. No Member may speak more than twice on the same subject, except by leave of the President.* Moreover, after the Council Presidency's reply to the statements made by the MEPs, the MEPs are not allowed to repeat their question: it is established that the European Council will always make the opening and the closing statement (article 142 (5) RoP). This situation makes it difficult for the EP to put pressure on the Presidency into replying adequately to the MEP's comments.

The same Rules of Procedure hold for the committees as for the plenary sessions. However, since a parliamentary committee is much smaller than a plenary session, the committee president may apply the rule that no member may speak more than twice on the same subject less stringently (respondent 3). It is unfortunate that after a Summit the Presidency always appears in the plenary session and hardly ever in a committee discussion(7), as this would offer an opportunity for MEPs to exert some pressure or demand accountability from the Presidency.

3.2. Does the judgement passed by the EP have formal consequences for the Council? [↑]

The EP does not have a right that parliaments often have, namely the entitlement to a vote of censure(8). The European Council therefore does not face any risk when the Parliament gives a negative judgement on its conduct or justifications. This has two consequences for the accountability relationship between the EP and the European Council. On the one hand, it gives the MEPs a higher degree of liberty to publicly criticise the Council. Since no majority is responsible for keeping its government in office, it is less costly for the EP to lay down its judgement (either positive or negative) in a resolution. On the other hand, without any official opportunity to administer a negative sanction, the EP lacks an important instrument to pressure the European Council's Presidency to take the accountability debate seriously.

The absence of any formal power over the European Council poses limitations to what the EP can do.

There is no institutional power; there is no motion of censure (respondent 1).

One can give the European Council a good dressing-down, but one does not have the power, thus the result is sometimes zero. In fact, I am not satisfied about that (respondent 2).

What is the matter is that the EP cannot reach the European Council. It cannot dissolve the European Council; it cannot make a motion of censure. Nor can the European Council dissolve the Parliament. A political sanction does not exist. In the end, it is about supporting or criticising (respondent 3).

There is only a certain amount we are able to do, and we are doing it effectively (respondent 4).

Considering the particular institutional constellation of the EU, it is quite understandable that the EP does not have the ultimate sanction of most parliaments at its disposal. In the words of one of the respondents: *I am not going to send a British prime minister home* (respondent 5). With the absence of a motion of censure, the other types of sanctions listed by Grant and Keohane (2005) become important. The European Council and its Presidency might risk losing prestige during the public sessions with the EP. The other soft 'weapons' that the Parliament has at its disposal, as mentioned by respondents 1, 3, 4, 8, 9 and 10, are to ask questions, to criticise, to propagate an opinion, to listen well, and – in sum – to debate.

So far, the conclusion is that there is a *de jure* accountability deficit. The European Council is obliged to report to the EP, but apart from some soft 'weapons', the EP cannot force the Presidency of the European Council to explain and justify its conduct. The formal set-up gives the Presidency ample room to manoeuvre in terms of how to reply to demands from the EP. From the perspective of rationalism's logic of expected consequences, the Presidency would not incur too many costs if it jeopardised its relationship with the EP. Without the motion of censure, the EP cannot seriously bite. With a format of the plenary session in which the Presidency makes the opening statement and, after the MEPs have spoken, makes the final statement, the questions and criticisms to which to respond can be selected at will. From a rational point of view, the Presidency can be expected to fulfil its obligation by informing the EP, but will in general be evasive when there is an attempt to hold it accountable. On the one hand, the plenary session of the EP provides an excellent stage for a well-composed opening speech in which the Presidency can show its European stature. On the other hand, the EP has few official tools to put pressure on the Presidency into answering its questions. Moreover, it is not a repeated game, i.e., the EP and any given Presidency usually meet only a couple of times. After the half-yearly Presidency, chances are high that the new Presidency will never again have to face a debate with the EP. In that sense, the Presidency's performance during the debate in the Summit closing the Presidency (usually the most important Summit) does not have any consequences for its future relationship with the Parliament. From this point of view, a Presidency risks more by defending its actions and admitting responsibility for mistakes than by being vague and evasive. In this sense, it could be

expected from rationalism's logic of expected consequences that the accountability deficit in the *de jure* arrangement would lead to a *de facto* accountability deficit.

However, things are not as one-sided as they seem. The incentive structure provided by the arrangement codified in the treaties and Rules of Procedure does not necessarily lead to rational, risk averse behaviour on the part of the Council Presidency. Constructivism has shown that rules of behaviour develop over time into traditions that may supplement the formal accountability arrangements. In fact, the respondents from the EP have indicated that over the past five to ten years, three changes have taken place that may aid the EP in holding the European Council publicly accountable. Nevertheless, a word of caution is necessary, since traditions are more easily discontinued than formal provisions.

The provision of information outside of the plenary sessions has improved with the tradition that, at least once during the semester, the Committee of Presidents of the Parliament and the political groups informally meets with the Presidency of the European Council for a general discussion (respondents 4 and 7). Besides giving occasion for accountability behind closed doors, this meeting gives the leaders of the Parliament and the Presidency the chance to become better acquainted and familiarise themselves with each other's positions. Even though these encounters take place away from the public eye, they ultimately have a positive impact on later discussions with the Presidency in the public setting of the plenary (respondents 4 and 7).

Public accountability may have benefited from another new tradition. Since approximately the year 2000, the President of the Parliament has more often allowed follow-up questions to be asked in plenary (respondent 1). MEPs can use follow-up questions as an instrument to demand accountability through stimulating the Presidency to publicly make explicit statements.

The third new tradition mentioned by the respondents from the EP may have most impact on both the debate itself and whether the Council risks negative consequences. The Presidencies of Luxemburg and The Netherlands (both in 1997) and Austria (in the second semester of 1998) were felt to be more often forthcoming and considerate towards the EP than experienced under past Presidencies (respondents 1, 4, 5, 7 and 8). As respondent 1 put it, Presidencies who respond to the Parliament as if they can be obliged to be accountable have set a custom that has made it more difficult for other Presidencies to be evasive. This could function as a form of loss of reputation. Perhaps this functions as a soft sanction.

The question remains as to whether these traditions will enable a more fruitful *de facto* accountability arrangement than what could be expected based on the formal provisions. Does the observable *de facto* behaviour fill in this gap? Are there any indications that corroborate the respondents' assumptions that recent changes in the relationship with the Council Presidency has led to an improvement? The remainder of this article will answer the question of to what extent the behaviour of the European Council Presidency and the EP aids or hampers the development of a comprehensive *de facto* accountability arrangement.

4. Methodology for examining *de facto* accountability [↑]

Unit of analysis and coding system: Since the forum (EP) and the actor (Council Presidency) each have their own parts to play in bringing about accountability, any public session of the EP must be considered in its entirety. In this case, since there were no committee sessions on the selected issues, only specific plenary sessions were analysed.

A plenary session of the EP consists of the following agenda and is usually followed through with the adoption of a resolution at a later stage:

- Opening by the Presidency, often represented by the Prime Minister and sometimes also or

- only by the Minister of Foreign or European Affairs;
- Statements by the spokespersons of the political groups and one independent MEP;
- Closing statement by the Presidency in cases where, for example, the Prime Minister leaves the debate early;
- Statements by the other MEPs; and
- Closing statement by the Presidency.(9)

The coding of the parliamentary debates proceeded in two stages. First, anything that could be linked to demanding and giving accountability was coded by using the elaborate coding tree from [Annex 2](#). This coding tree is adapted from that of Muller (1994, p. 104-105). Muller is the only author who has made a systematic empirical study of the extent to which a government is held accountable by a parliament. However, since the scope of Muller's study was different, his accountability checklist had to be adapted to both parliamentary sessions and the situation in the EU. Coding categories were added inductively by analysing two plenary debates as a pilot: one of the Dutch Parliament at the Summit about the Treaty of Amsterdam and one of the EP at the Summit about the Constitution for Europe. Later, the EP's debate at the Summit regarding the European Constitution was re-coded with the same coding scheme as all the other selected parliamentary debates of the EP. Every time either the Council Presidency or an MEP said something that aided or hampered accountability, this was coded.(10)

Second, since the unit of analysis for this paper is a complete public session of the EP, the individual coded statements have been aggregated to this level. The aggregation is based on the tenor of what was being said, not by quantitatively adding the codings together. We want to know whether the EP demands accountability and comes to a judgement, and whether the Council Presidency actually renders account for its past actions. These questions can be answered by the information obtained in the detailed coding stage. This information is used to tick off in Section 5 the following 4-step checklist for the EP and the 6-step checklist for the Presidency.

The forum (EP):

Information.

1. Was the EP present as an institution? In debates where a major part of the political groups and nationalities were represented by the MEPs present, the EP as an institution was very interested in receiving information from the Presidency and demanding accountability. If participation was limited, then this is considered as a signal that the debate was declassified by the EP as being an issue related to a specific constituency and thus not of interest to the institution as a whole. The EP is considered to be present as an institution when MEPs from more than 5 nationalities and at least the 2 largest political parties (the European People's Party and the European Socialists) actively participate.

Debate.

2. Did the forum use the limited time available efficiently? Instead of holding the Presidency accountable, MEPs sometimes used their allocated minutes mostly or completely to criticise or defend one another or their own national government (whose Heads were not present at the debate), or to launch new policy ideas. These types of interventions might well have served a purpose, but in terms of holding the European Council accountable for the previous Summit, this was an inefficient use of speaking time.

3. Was the forum clear about what it wanted to know from the Presidency? Were the MEPs quick and alert in the debate? If there was an occasion for follow-up questions, such as during 'question time', did they use this opportunity to pressure the Presidency into giving an answer to their questions? Or, on the other hand, did an MEP try to aid the Presidency in sweeping

criticism under the carpet by being protective and signalling that rendering account was not necessary?

Judgement.

4. Was the forum able to lay down its judgement in a resolution? Was the EP able to gather a majority opinion? Did the resolution contain the central points of the debate? Even when these were points that were mentioned frequently by the smaller political groups but seldom by the two biggest groups?

The actor (Presidency):

Information.

1. Did the actor report to the EP?

Debate.

2. Was the actor present during the debate and did the actor listen to it?

3. Did the actor make a closing statement and include a comment on the subject for which this parliamentary debate was selected?

4. Did the actor mention the central issues raised by the EP in his reply?

5. Did the actor actually formulate an answer to the central issues raised by the EP? Did the Presidency give an explicit answer to the central points of criticism raised by the EP? Or was he evasive by speaking in veiled terms and redefining or denying the EP's criticisms?

6. If applicable, did the actor accept responsibility for failures? This question is not applicable in cases where the Summit went smoothly and the EP was generally positive about the work of the European Council. A Presidency accepts responsibility for his or the Council's actions during the previous Summit by expressing regret about mistakes that he or the Council had made, by making promises on ways to amend the situation, or by acknowledging his or the Council's shortcomings. By accepting responsibility for failures, the Presidency adopted a vulnerable attitude.

Case selection and total N of this study: The advantage of the study of *de facto* parliamentary accountability is that the studied behaviour is easily accessible. The EP's public sessions and its archives are open to the public. The EP archives were examined for plenary and committee sessions with the European Council Presidency held after meetings that dealt (among other things) with the selected three treaties and three crises (see below). In most cases the meetings on which the Presidency gave accountability were official Summits. However, crises do not follow the European Council's agenda, so in cases of emergency the European Council makes a decision not at an official Summit, but for example by phone. The public sessions in which the Presidency accounted to the EP for such an official position were included as well.

The reasoning behind focusing the case selection on treaties and crises is that these are moments in which so much is at stake for the EU that from a democratic perspective, parliamentary accountability is warranted.⁽¹¹⁾ Four considerations guided the case selection. First, in order to guarantee both the availability of material in the archives and a certain spread over time, the cases had to fall between 1990 and 2005. Second, the EU had to be the main international organisation involved. Military crises were excluded because in such cases the EU member states cooperate

with the US through NATO. Third, the discussions on a case had to be concentrated in time. New treaties are usually adopted during one or two Summits held during one presidency. Yet crises may run for many years. Therefore, the crises selected were those that concerned a precise, single moment of a sudden emergency to the EU. Only those parliamentary debates were sampled that were related to that moment of sudden emergency. Fourth, in relation to the idea that public accountability is warranted when something essential to the polity is at stake, cases with a high public saliency were preferred. This is the reason why the Constitution for Europe was preferred over the Treaty of Nice. In the end, the following six cases were selected:

- *Maastricht (1991), Amsterdam (1997) and a Constitution for Europe (Dublin, 2004)*. The objectives of the Treaties of Maastricht, Amsterdam and the Constitution were to better equip the EU and its institutions for its expanding tasks and membership. Moreover, during all three treaty negotiations, public opinion pressured the European Council to improve the democratic quality of the EU. During the preparation of the Maastricht Treaty, two MEPs were the liaison between the Council and the EP. However, the MEPs were not much involved in the process. During the preparation for the Amsterdam Treaty, the liaising MEPs were consulted more often by the Council. The cooperation between the Council and the EP during the preparatory phase of the Constitution culminated with the considerable presence of MEPs during the Convention and the continuous exchange of views during the subsequent negotiations on the Constitution for Europe led by the Irish Presidency.
- *The BSE crisis in 1996*. During the BSE crisis, the health of EU citizens was at stake. In March 1996, the British Prime Minister announced in the House of Commons that the ‘mad cow’ disease had passed from livestock to human beings. Shortly afterwards, the EU decided to ban British meat and other related products from the European market until the UK could demonstrate that it had taken adequate measures to guarantee food safety. For a while, the UK reacted to the European measures by obstructing all European decision-making with its veto.
- *The Haider crisis in 2000*. There was a concern that the political health of Europe was at stake during the Haider crisis. In February 2000 Haider’s FPÖ, accused of xenophobia and anti-Semitism, entered into Austrian government with the country’s conservative party. In Vienna and all over Europe, citizens protested against the new Austrian government. The 14 other EU member states (i.e. the European Council minus Austria) decided to freeze certain diplomatic contacts with the Austrian government, while the Commission ensured the normal functioning of the EU institutions. Less than a year later, the EU-14’s ban on the Austrian government had not changed much and was lifted without much publicity.
- *The Prestige crisis in 2002*. The oil tanker *Prestige* sunk in 2002 off the coast of Galicia, Spain and spilled an enormous amount of oil. This crisis was immediately dubbed ‘*Erica II*’, after the oil tanker *Erica* that a few years earlier had sunk near Brittany, France. Again, the EU witnessed an environmental as well as a social and economic disaster for the coastal area affected. After the sinking of the *Erica*, the Commission had prepared a package of measures that should have prevented another crisis such as this one. Well before the sinking of the *Prestige*, the EP had already completed the parliamentary procedures on this package of measures, but unfortunately the Council had refrained from passing this package.

For these six cases, the EP’s archives were searched for discussions with the Presidency during the plenary sessions and the committee sessions. Regarding the plenary sessions, the EP’s archives contain eleven sessions with the Council Presidency for *ex post* accountability. On the other hand, in the committees there was no chance for the forum to demand *ex post* accountability on any of these six cases. All of the relevant committees for public sessions with the Presidency on the six selected cases were researched. The EP’s archives contain the minutes for committee sessions that have taken place since 1994. They do not include the Maastricht Summit, since that treaty revision took place before 1994. Furthermore, for the sessions that are deemed to be relevant on the basis of the brief minutes in the archive, the cassettes with the full recording of the committee session can be obtained. However, after a number of years, the cassettes are destroyed.

The conclusion from this search is that there was never an occasion for public accountability. First, most committees related to the selected cases did not foresee a session with the Presidency. Second, on one occasion, a session of the Constitutional Affairs Committee was scheduled with the Irish Council Presidency right after the Dublin Summit, but this point on the agenda was dropped. Third, the Italian Council Presidency appeared before the Environment, Public Health and Consumer Protection Committee (EPH Committee) to talk about the BSE crisis. However, in addition to the BSE crisis, the Presidency discussed another seven issues with the EPH Committee, and after the discussion several other agenda points were dealt with. Even though the minutes of this session are brief and the cassette was already destroyed, we can assume that the discussion specifically on BSE was probably too short to be able to have demanded from the Presidency an extensive justification and explanation of its conduct. To sum these three points up, it is safe to conclude that for the selected cases there was never a chance to hold the Presidency accountable for actions related to the selected cases in the committees. Eleven plenary sessions and the absence of committee sessions on the selected issues result in an N of 11.

5. Is the European Council *de facto* accountable to the EP in the plenaries? [↑]

5.1. The actor gives information to the forum

The first step towards *de facto* accountability is that the actor gives information to the forum on the previous event. Both the forum and the actor have a task in fulfilling this condition for accountability. First, the forum has to be willing as an institution to receive the information from the actor. Second, the actor has to appear before the forum and give the information.

Table 1

The forum: The forum received a ‘yes’ in Table 1 on the question of whether it was willing to receive the actor’s information (present as an institution), in cases where the full range of the EP’s membership participated.⁽¹²⁾ This was a sign that the EP as an institution took seriously the opportunity to enter into a debate with the Presidency on the previous Summit. Since a visit by the Presidency of the European Council is one of the official highlights of the parliamentary year, these sessions are usually well attended. On such occasions, the backgrounds of the MEPs actively participating in the debate expressed well the variety in the membership of the institution. For example, during the February 2000 debate on the Haider crisis, apart from the usual suspects from the various national delegations constituting the socialist, Christian-democratic, liberal and green groups, even the representatives of small left- and right-wing extremist parties took the floor. MEPs from the UK Independence Party, the French Radicals, the Belgian *Vlaams Blok*, the Italian *Alleanza Nazionale*, and, of course, the Austrian *FPÖ* (i.e., Haider’s party) were keen to have their say.

The forum received a ‘no’ to the above question when the issue became a ‘pet’ subject and lost the interest of the institution as a whole. In view of the limited variety in political and national backgrounds concerned, it can be concluded that the Haider crisis eventually became a pet subject. In July 2000, especially, MEPs from the Austrian coalition parties ÖVP and FPÖ, from the German CDU/CSU and from Portugal were actively present. For each of these MEPs a close tie with the Haider crisis can be easily pointed out. From the outset of the crisis, the German CDU/CSU led the criticism against the measures taken by the EU-14. The presence of the Austrian coalition parties speaks for itself. Finally, the criticism by a Portuguese right-wing politician and praise by a Portuguese left-wing politician becomes immediately obvious knowing that the Presidency was represented by a Portuguese social democrat.

The actor: On all occasions, the Presidency fulfilled its obligation for the treaties by reporting

immediately afterwards to the plenary session of the EP and received a ‘yes’ in [Table 1](#). However, giving information to the forum at the beginning of the plenary session is the least important part of giving accountability.

Even if the Presidency did not give much information in its opening statement, the MEPs already had quite some information at their disposal to make them able to demand the Presidency to give accountability. First, immediately after a Summit, the Presidency and the other Council members issue statements and the media reports extensively on the event. Second, the MEPs have many sources of inside information at their disposal. Respondents 2, 4, 6, 7, 9 and 12 claimed to know well how the discussions in the European Council went via their political group in the EP, the meetings of the European party federations, the contacts with the national party back home or other sources. This holds true especially for those political groups with Commissioners, Prime Ministers or other cabinet members in their midst. For example, an MEP stated proudly: *It is an open book. There is no need for an explanation or the intercession of the Presidency* (respondent 6). In other words, the problem for the MEPs is not a lack of information. What matters first is whether the MEPs are able to stimulate the European Council Presidency to engage in a *public* political debate on the discussions held during the Summit, and, second, whether the Presidency takes up the gauntlet by offering explanations and justifications for the Council’s conduct. That is why the next step in accountability - debate - is crucial. As a respondent from the EP put it, *the corridors are efficient and the official does not work* (respondent 7), i.e., the problem is not *confidential* information, but having the Presidency to make it *public* during a plenary session.

5.2. Debate: The forum demands clarifications, the actor explains and justifies [↑]

The debate between the actor and the forum on the actor’s conduct at the previous event is the crucial second step in the empirical conceptualisation of *ex post* accountability. The role of the forum is to pose questions and demand clarifications from the actor. The role of the actor is to explain and justify its conduct. We need to be aware that from this point on, the EP has hardly any rights, and the Presidency formally has the freedom to be as evasive as it wants to be. In the following section, we will see to what extent the EP was willing to use the public plenary session to exert pressure on the Presidency to take up a role as an accouter. Subsequently, the extent to which the Presidency was willing to come forward instead of trying to evade the question will be evaluated step by step.

The forum: In order to exert pressure on the Presidency, the EP needs to use the limited time available efficiently and has to be clear about what precisely it wants the Presidency to clarify. First, there must be a focus on the agenda item and the interlocutor. An example of a ‘yes’ in [Table 2](#) on this question is the debate at the Amsterdam Summit. During this debate, the MEPs remained in their comments close to the topic of the European Council in Amsterdam.

It should be kept in mind that the occasion to demand accountability from the European Council on its actions during the previous event is just one of many. MEPs allow this opportunity to pass when they bring up issues other than the order of the day and, worse, when the target of their criticisms is not the Presidency but rather a national politician who is not even present. When a large proportion of interventions dealt with other matters than those on the agenda, the debate received a ‘no’ in [Table 2](#). For example, the EP seemed to have forgotten about the presence of the European Council Presidency during the first debate in June 1996 on BSE. Many MEPs used their limited allotted speaking time for purposes other than demanding accountability. The EP became instead the venue for national politics. An extensive British debate unfolded between the Conservatives and Labour. An Austrian MEP defended the position of Austria in the European Council, while a Spanish MEP criticised the Spanish position. By diverting the attention in the debate away from the representative of the European Council who was standing before them, the EP signalled that having the Presidency explain and justify the Council’s actions was not important.

Table 2

Second, the EP should express clearly and sharply what it actually wants to know from its interlocutor. In cases where this happened, the EP received a ‘yes’ for that debate. This did not necessarily imply showering the Presidency with criticism. For example, the March 2004 debate on the negotiations on the Constitution for Europe received a ‘yes’ even though the MEPs were generally positive about the actions undertaken by the European Council and its Presidency. While being satisfied overall, the MEPs were nonetheless sharp in demanding the Presidency to explain and justify its conduct. Another example that received a ‘yes’, was the debate in 1997 on the Amsterdam Summit. The appreciation and criticisms were formulated well and were rather factual. The MEPs demanded accountability by explicitly stating to which criticisms on the Summit of Amsterdam they wanted the Presidency to reply.

On the other hand, on several occasions the EP received a ‘no’, ‘moderately’, or ‘reasonably’ in Table 2, because the MEPs did not powerfully demand accountability on the manner in which the European Council handled the treaty negotiations or dealt with crises. Sometimes the EP was unclear in signalling the issues that needed an answer. In those cases, criticisms were phrased vaguely or barely touched the kernel of the issue, leaving much manoeuvring room for the Presidency to evade the question of the European Council’s responsibility for its actions (or non-actions). For example, the EP lost sight of the substance of the BSE crisis during the second debate on that topic in June 1996. Most of the MEPs’ comments dealt with the decision by the United Kingdom to obstruct all votes in the Council until the ban on its produce was lifted, as well as the fact that the Summit of Florence dealt with this political problem instead of an employment policy for Europe. In other words, the immediate political crisis diverted the MEPs’ attention away from the BSE crisis. Of course, the UK’s obstruction politics had to do with the crisis. However, in the meantime, the MEPs refrained from pressuring the European Council to explain how the decisions made at the previous Summit would guarantee in both the short- and long-term EU citizens’ health, food safety and the future of the agricultural sector. Later it turned out that the European Council, advised by the Commission, decided too quickly to lift the ban on certain foodstuffs in an attempt to placate the UK. In the plenary session, the MEPs missed a sense of urgency in demanding from the Presidency an explanation of how the European Council was dealing with the BSE crisis.

The actor: After having analyzed how the EP used the limited time available during the plenary sessions to demand accountability, we will now focus on the Presidency. To what extent did the Presidency come forward, and was it prepared to explain and justify the European Council’s actions? This can be easily measured with the five steps outlined in the first row of Table 3.

Each step builds on the previous step, e.g. a Presidency who actually answered the central issues raised by the forum had to first listen to the MEPs and then make a closing statement.⁽¹³⁾ In other words, if the Presidency did not even mention central issues raised by the forum in the closing statement, these issues were surely not answered. However, the Presidency may have chosen to mention an issue raised by the EP, e.g. the Amsterdam Treaty and Justice and Home Affairs, but still have made a statement that was not related to the MEP’s comments on this issue. In that case, the Presidency mentioned a central issue raised by the EP but refrained from answering. The highest level of explaining and justifying the European Council’s conduct consisted of answering the central issues raised by the forum and, in case of major criticisms, acknowledging responsibility for the Presidency’s and the Council’s conduct. As can be seen in Table 3, on some occasions the Presidency was very forthcoming, and on several occasions the Presidency was rather evasive.

Table 3

Examples of debates in which the Presidency was forthcoming are the plenary sessions on the

Amsterdam Treaty in June 1997, the Haider debates in June and July 2000, and the Constitutional debate in March 2004. In all of these occasions, the Presidency was present, listened to what the forum had to say and made a relevant closing statement. The Presidency took the concerns of the forum seriously by actually dealing with the major issues put forward in the MEPs' statements. Of course, the Presidency did not address every detail put forward by every single MEP.

Nevertheless, the criticisms that were most often aired by the MEPs were mentioned in the closing statement and received a reply from the Presidency. In cases where several politicians represented the Presidency, the second or third speaker replied to issues left unanswered by the main speaker. For example, during the Amsterdam 1997 debate, the Prime Minister had left a central issue aside that was subsequently answered by the other representative of the Dutch Presidency. The Presidency's answer to the central issues should be factual, explicit and deal with the heart of the matter. For example, during the March 2004 debate on the Constitution for Europe, the EP expressed its concern about the progress in the negotiations. The Irish Council Presidency, Prime Minister Ahern, answered extensively by explaining the difficulties encountered and clarifying his position and intentions.

Finally, in cases where the Summit does not go smoothly and the forum indicated that on some points it was dissatisfied with the Presidency's conduct, the Presidency should accept responsibility for its actions (or non-actions). Indications of accepting responsibility are expressing regret about mistakes, making promises on ways to amend the situation, or acknowledging shortcomings. Accepting responsibility for the Council's actions does not necessarily imply giving in to the criticisms made by the EP. For example, during the June and July debates on the Haider crisis, those MEPs who did not agree with the sanctions against the Austrian government pressed the Portuguese Council Presidency in admitting that the EU-14 had made a serious mistake. On both occasions, the Presidency examined the arguments of the critical MEPs while holding an elaborate plea on why the sanctions were a good decision and by no means a mistake. Minister of Foreign Affairs Seixas da Costa (June) and Prime Minister Guterres (July) concluded their statements by taking full responsibility for the decision and its consequences.

On the other hand, as can be seen in [Table 3](#), on several occasions the Presidency did not do well in giving accountability. The plenary sessions in which the Presidency was most evasive were Maastricht 1991, all debates on BSE in June and July 1996 and the debate on the *Prestige* in December 2002. The June debates on BSE were worst, since the Presidency only made an opening statement on this crisis and skipped large parts of the debates. We know that

Foreign Minister Dini, the only representative of the Italian Presidency, temporarily left the second BSE debate in June 1996 while the MEPs were still making their statements, because he was criticised by an MEP for temporarily having left the meeting. Apart from the closing statements, there is not normally any indication in the records on when a Presidency leaves the session during the debate. Occasionally, when more than one politician represents the Presidency, the Prime Minister makes the closing statement right after the spokespersons have had their say and then leaves the session. In such cases, the accountability given by the Prime Minister in his closing statement is limited to what the spokespersons had to say, leaving out the many contributions by the other MEPs. Examples of this attitude can be found in the plenary sessions on the Maastricht Summit and the third BSE debate.

Even if the Presidency made a closing statement after all the MEPs had spoken, there were three other ways in which accountability could be avoided. These can be found in the last three columns in [Table 3](#). First, sometimes the Presidency did not return to certain central issues raised by the forum. Since the Presidency has the last word due to the format of the plenary debate, it can choose which issues raised by the forum receive a reply. It may be tempting to focus on the positive remarks or to leave the most painful issues aside. For example, Foreign Minister Haarder (Danish Presidency) explained the actions and decisions made by the Council in reaction to the sinking of the *Prestige*, but in his closing statement, he did not mention the most important criticism raised by the EP. The MEPs wondered why the European Council had delayed the

adoption of the package prepared by the Commission that should have prevented another *Erica*. What did the Council do in between the sinking of the *Erica* and the *Prestige*? Haarder left this persistent question out of his closing statement. Foreign Minister Dini (Italian Presidency) was even more thorough in skipping critical issues from his closing statement during the second debate in June 1996 on BSE. He dedicated the closing statement to matters other than the BSE crisis, even though BSE was included in the opening statement and many MEPs commented on the political problems ensuing from the BSE policy.

Second, even when the Presidency returned to central issues raised by the MEPs, it was able to refrain from giving an answer by saying much without truly saying anything. Prime Minister Lubbers of the Dutch Presidency provided us with the best example of this. Lubbers made his closing statement immediately after the statements by the spokespersons. The spokespersons showered the Dutch Council Presidency with criticism. Instead of dealing with this criticism, Lubbers started his closing statement with a long introduction in which he redefined the contribution of the MEPs. In his perception, the EP was positive about the Maastricht Treaty, their criticism given in that debate was the exception. Then Lubbers suggested that it would be better for him to think the comments made by the EP over instead of immediately making a definitive statement. That meant an infinite postponement; this plenary session marked the end of the Dutch Presidency. This proposition did not stop Lubbers from making a lengthy closing statement. However, he did not provide any answers to the issues raised by the spokespersons. Instead, Lubbers freely associated on issues brought forward by the EP.

Third, only rarely did the Presidency take responsibility for failures or admit shortcomings. Usually, Presidencies do not find it hard to accept responsibility for successes. Acknowledging failures is more difficult because this is a demonstration of vulnerability. What is more, some Presidencies extensively congratulated their own ‘achievements’, even though the forum showered them with criticism. This happened especially in the closing statements on the Maastricht Summit and the Florence Summit on BSE. For example, at the Florence Summit, the European Council had reached an agreement with the UK on measures to contain the spread of BSE. As a result, the obstruction politics of the UK ended, but unfortunately, the BSE crisis was not fully contained. Before Prodi made his closing statement, five spokespersons had just criticised completely or partly the decision-making that had taken place during the Summit; just one spokesperson was positive, and one spokesperson was neutral. Nevertheless, Prodi focused in his closing statement on the marvellous job the Italian Presidency had done:

(...) that the Italian Presidency has succeeded to solve one of the worst crises in the existence of the EU. (...) Now the BSE-problem is solved, it is of course easier to minimise this and to maintain, just like Mrs Green has said, that it received a political-institutional solution. (...) We have overcome a crisis that could have had destructive consequences for Europe. (...) We have provided a major contribution to solve one of our most difficult problems.

Prodi’s way of dealing with the EP’s criticisms is diametrically opposed to the attitude displayed by the Dutch Presidency during the debate on the Amsterdam Summit. In fact, the latter is the best example of fully giving accountability. Prime Minister Kok did not hide behind the complicated role of having to speak on behalf of a body composed of fifteen member states, nor did he try to justify the unjustifiable. The four central issues in the criticism of the MEPs during this debate were institutional reform, the EU’s division into three pillars, employment and social protection. While taking responsibility for his part in the result, Kok agreed with the MEPs that some important issues had not been settled, and that a social Europe was lost from sight:

During the previous years – I say this also because I myself have been responsible for that; I do not reproach anybody else – an extraordinary amount of time was dedicated to monetary matters (...) and much less was done regarding the social component.

5.3. The forum passes a judgement [↑]

The forum: The EP's main power is to be able to hold a public session with the Presidency of the European Council. By laying down the essence of the exchange of views with the Presidency in a resolution, the EP pegs out its position and makes its opinion on the Council's actions public. Making something public, i.e. publicity, is the main type of 'sanction' at the EP's disposal. The European Council does not risk a motion of censure if the EP comes to a negative judgement. However, making public a negative judgement may have an effect on the Presidency's and the European Council's reputation in the public domain. To what extent the Presidency or the European Council in general feels this type of 'soft' consequence after a negative judgement from the forum falls outside of the scope of this research. However, it is possible to say something about the extent to which the forum is able to make a fist and pass its judgement.

Generally, the support of the two major groups, the European People's Party and the European Socialists, is needed to pass a resolution. However, the central issues of the plenary session may include points held dearly by the smaller political groups. If points especially propagated by the smaller political groups played a major role in the plenary session, it was checked whether they were contained in the ensuing resolution. The EP as an institution is namely the forum; the two largest political groups are just part of it. In other words, the forum's judgement as laid down in the resolution should represent the essence of the debate well. In cases in which the EP was able to pass a resolution that included the main opinions expressed during the plenary session, it received a 'yes' in [Table 4](#). An example of a resolution that reflected the essence of the debate well was the resolution on the Amsterdam Summit passed in June 1996. It constituted an explicit commentary on what the EP thought about the agreement reached by the European Council and contained a list with the issues that the EP wanted to have settled during the next treaty reform. In that sense, accountability and the ensuing judgement has a forward-looking quality. Even though the EP was often rather critical about the European Council's conduct, the EP's judgement was sometimes very positive. After the February 2000 plenary session on Haider, for example, the EP passed in its resolution a reward for the European Council.

However, even though the hands of the political groups in the EP are not tied like the hands of governmental parties in a national parliament, the forum sometimes was unable to lay down the central points of the debate in a resolution. For example, after the debate on the Treaty of Maastricht in December 1991, the attempt to pass a resolution failed by one vote. Due to communication problems between, and especially within, the two major political groups, the EP was unable to raise a majority and to make a fist. On other occasions, such as the BSE debates in June and July 1996, the resolutions did not reflect some of the major criticisms brought forward in the plenary sessions by the MEPs. All these examples received a 'no' or a negative remark in [Table 4](#). The reason for this is that when a debate is not concluded with a resolution, or when the adopted resolution does not include some of the main issues, the result is similar: the EP has less to show.

[Table 4](#)

5.4. To what extent did the forum and the actor contribute to accountability? [↑]

The contributions of the EP and the Presidency to accountability are expressed on a 5-point scale in [Table 5](#). The score of 'somewhat' indicates that the contribution of either the forum or the actor was considered to be barely sufficient. The EP contributed positively to accountability in most of the parliamentary debates analysed (i.e., 8 out of 11). However, most often its contribution was judged as being barely sufficient (namely 5 counts of 'somewhat'). The Presidency's total score is lower than that of the EP. The Presidency contributed positively to accountability half the time (i.e., 5 out of 11). It seems that the Presidency either seriously hampered or seriously aided accountability, because only once was the Presidency's contribution rated as being barely

sufficient. The first and general conclusion is that the forum did more to demand accountability than that it received from the actor. Considering the gap in the *de jure* accountability relationship, this does not come as a surprise.

Since the forum hardly has any formal rights and depends mostly on the willingness of the actor to accept accountability, the actor's attitude weighs most in coming to a conclusion on the *de facto* accountability arrangement. Even though the Presidency on some occasions hardly contributes to accountability, I would not conclude that the gap in the *de jure* accountability relationship has led to a *de facto* accountability deficit. It is better to say that the glass is half full. First, the score of the Presidency is reasonable in comparison to that of the forum. Since the contribution of the forum was often barely sufficient (i.e., 5 times 'somewhat'), it is questionable as to whether the EP's demand for accountability was vigorous enough.

Table 5

Second, Table 5 suggests an improvement over time in the attitude of the Presidency. The five plenary sessions that were rated as a somewhat, much or very much of a contribution to accountability were the plenary sessions on the Amsterdam Summit, the Haider crisis and one of the debates on the Constitution for Europe. These plenary sessions have in common that they all took place at the end of the nineties or the beginning of this century. This fits with the claims by the respondents from the EP that since the Presidencies of 1997 and 1998, a tradition has been developing according to which the Presidency gives accountability as if the EP were a normally endowed parliament. The result for the June and July 2000 plenary sessions on the Haider crisis confirm this claim; curiously enough, the actor contributed more to accountability than the forum. On both occasions, even though only a small section of the EP demanded accountability, the Presidency extensively explained and justified the decisions made by the EU-14. Just as if being accountable to the EP is the normal state of affairs. Still, even if a tradition of accepting accountability is developing, some Presidencies take its accountability to the EP less serious. For example, in 2002, the Presidency evaded accountability for the decisions made regarding the *Prestige* disaster.

Another lesson that can be drawn is that on the two occasions that the EP was very positive about the actions of the European Council during the previous Summit, the Presidency was less forthcoming in being accountable. Most of the EP congratulated the Presidency and the European Council extensively during the February debate on the Haider crisis and the July debate on the Constitution. Nevertheless, the positive atmosphere did not stop the forum from demanding accountability. The contribution of the forum in demanding accountability was rated as respectively 'much' and 'somewhat'. However, the rating for the actor on these two occasions was lower, namely 'somewhat' and 'little', even though the Portuguese and the Irish Presidencies showed a willingness to be accountable for the same topic on a previous occasion. Apparently, both Presidencies refrained from providing explanations when faced with a mostly satisfied Parliament.

6. Conclusion and discussion

The question raised in this article was: Is the EP able to hold the European Council, through its Presidency, accountable for its actions? A quick answer would be 'occasionally, yes'. However, in view of the relation between the forum and the actor, it would be better to turn this question around: Is the European Council's Presidency accountable to the EP? Alternatively, and considering the imperfect formal position of the EP, even more realistic would be: Is the European Council's Presidency willing to be held accountable by the EP? Whether there is a *de facto* accountability arrangement between the European Council and the EP depends largely on the benevolence of the Presidency. The answer is that half of the time, the Presidency was forthcoming in being accountable to the EP. In spite of a *de jure* accountability gap, the analysis of

eleven parliamentary debates suggests that *de facto* accountability is becoming more regular practice. Of course, the risk with practices that have no formal foundation is that they can easily be discontinued by the one who is more powerful, in this case the European Council Presidency.

On the European level, only the giving and receiving of information (the first part of an accountability arrangement) is *de jure* and *de facto* fully covered. *De jure*, the Presidency is not obliged to explain or justify its conduct, nor does it risk any formal, official consequences from a negative judgement of the EP. Thus, in terms of *de facto* accountability, the Presidency did more than it had to in five out of eleven occasions. This is not a rational behaviour that follows the logic of expected consequences. However, the explanation offered by social constructivism might fit. The data suggest a noted improvement in Presidential acceptance of accountability since the parliamentary debate in June 1997 after the Amsterdam Summit. This confirms the statement from the respondents of the EP that since the Presidencies of 1997 and 1998, a tradition has been developing in which Presidencies deal with the EP as if it were a normally endowed parliament. Grant and Keohane (2005) indicate that besides a motion of censure, peer pressure and fear of loss of reputation may function as negative consequences an actor would want to avoid. Further research is needed to demonstrate whether this type of stimuli will work in forming a tradition in which the *de facto* accountability arrangement surpasses the official *de jure* arrangement.

Since the research presented in this article was exploratory in character and suffers from a small selection of cases, no definite conclusion can be drawn. However, we have gained several insights that will aid further research. First, we know something more about independent variables that need to be tested systematically in the future. *Time*, especially divided into before and after 1997/98, might prove to be an independent variable that explains whether the Presidency is forthcoming in accepting accountability. Another aspect of time is that the *de jure* accountability arrangement may change and thus become a variable. It can be expected that if the position of the EP is strengthened in the treaties in relation to the Presidency that this will lead to a higher success rate for the Parliament. *Nationality*, and thus the political culture of the Presidency, may not be so decisive: E.g. the performance by the two Dutch Presidencies was remarkably different. The type or political saliency of an issue does not seem to matter much. There is not much difference between the results for the treaties or the crisis cases. Moreover, the issue that was most pregnant with public concern, i.e., BSE, found a most negligent forum and actor. Nor does the *frequency* with which a specific Presidency meets with the EP to render account after an event seem to matter.

Second, the question as to what kind of mechanism relates the actions of the forum to the actions of the actor has so far remained open. To what extent does the demand (or absence of a demand) by the forum influence the actor into accepting accountability (or not)? Put simply, we could expect that the extent to which the forum demands accountability is equal to the extent to which it receives accountability. However, from the perspective of the *de jure* arrangement, we can expect that the EP receives less than what it asks. We saw a similar pattern of the EP receiving less than what it asked when the large majority of the EP was very pleased with the result of a Summit (see Section 5.4). The most awkward result in Section 5.4 was that on two occasions the forum received *more* than it asked for. On both of these occasions, the forum scored low because the topic had become a pet object and the EP did not adopt a resolution. Instead, the actor, unlike the forum, made much of a contribution to accountability. What light does this finding shed on the conceptualisation and operationalisation of public accountability? Perhaps the answer lies in the formation of the new tradition of a Presidency who is actually accountable to the EP.

A third road to further research would lead to an exploration of public accountability of the Presidency in the sessions of the parliamentary committees. For the five selected cases for which there were still documents in the committee archives, there were no relevant sessions with the Presidency. However, it is clear that the committee sessions are potentially an important place for public accountability. In the parliamentary committees, the MEPs are more likely to receive explanations because of the small scale and the format of the debates. Several respondents from

the EP indicated that the committees are more suitable for an accountability debate. If a minister of the Presidency were to join a committee discussion, *he would be obliged to give information. He could not have a general discourse and say goodbye. He would have to expose himself to possible criticism* (respondent 2). However, to this respondent's regret, he regularly had discussions with the Commission, but never with the Presidency. Of course, the Presidency is not obliged to appear in the committees. Since in the committees it is more difficult to be evasive, the absence of accountability debates in the parliamentary committees for these cases should not come as a surprise. The question is whether the experience of this respondent is more generally valid. How often does the Presidency appear in a committee to discuss an event of decision-making? On those occasions, is the Presidency more forthcoming in the committee session than in the plenary session on the same topic?

Annex 1 [↑]

Twelve respondents from the EP were interviewed in the autumn of 2006. The selection of respondents stopped when the interviews no longer produced any new insights but only confirmed the information obtained from the previous interviews. The respondents were selected on the basis of two criteria. First, their mandate had to coincide with some of the plenary debates analysed. Preferably, they actively participated in at least one of the plenary debates analysed (this is the reason why no respondents from the new member states have been selected). Second, in order to reflect the multiformity of the institution, the respondents had to come from a variety in backgrounds in terms of nationality, party affiliation, sex, tenure, vision on European integration and their official positions in the European Parliament.

The respondents come from Germany, the UK, Italy, Spain, The Netherlands, Portugal and Denmark. Three MEPs were elected before the Treaty of Maastricht, in 1991 (the first plenary session analysed). Most were elected in the nineties. From each of the two biggest political groups, the Socialists and the European People's Party, four MEPs were interviewed. Representatives from three smaller parties, among which were the Liberals and the Greens, were also interviewed. The respondents represented a broad range of positions that are or have been occupied in the Parliament and other political bodies. Just to name a few, among the respondents were people who are or have been leaders of their political group, Presidency of the EP, representatives of the EP in IGCs or the Convention, vice-Presidencies of committees of the EP, and both high level and lower level civil servants to the EP. Many of the respondents hold or have held political positions in their national party or in their national parliament. Approximately 25% of the respondents were women.

Annex 2: Coding tree, EP plenary debates [↑]

Forum: The EP

Relation coding tree to the 3-step model of accountability:

- Information: A1, A3 (however, this behaviour was not displayed in the cases analysed).
- Debate: Almost the whole coding tree. Especially C2/3, C4, C6, D2/3, D4, D6, AF, AI and A2 (the latter was displayed only once) are relevant.
- Judgement: E.

Coding of all the issues raised by the MEPs, and all issues in the Presidency's closing statement.

A. No accountability desired

A1. Presidency exempted from obligation to report to the EP

A2. Passes the buck to someone else, exempts Presidency from giving account

A3. Refuses to listen to the Presidency

AF. Uses allotted speaking time for other business: comments for which a specific national parliament, not the EP, is the proper place

AI. Forgets about demanding accountability: Focus on making proposals for future policy instead of a reaction to the European Council's previous conduct

B. Asking for information (Questions for which the answer is relevant, if it is only a rhetorical figure, then C or D).

B1-2-3. Neutral; B4-5-6. Negative; B7. Positive

B8. Follow-up questions

C. Praise. D. Criticism.

C0-D0. Vague, generally phrased, cannot be categorised under any of the following categories.

C1-D1. Judgement on the accountability given by the President. Only if it is an explicit appraisal or criticism in relation to the account giving.

C2/3-D2/3. Judgement on the decision, the decision-making process, or the decision-maker. Per MEP, the issue(s) mentioned in brackets.

C4-D4. Judgement on the capacities of the decision-maker. D4: There is no hope for improvement.

C6-D6. Appraisal or criticism expressed in demands and calls. Strong and forceful expression of C2/3-D2/3. Per MEP, the issue(s) mentioned in brackets.

C7-D7. Judgement on the role of the own body or members of the own body.

E. Judgement

Resolution (central issues in brackets)

Actor: The European Council and its Presidency

Relation coding tree to the 3-step model of accountability:

- Information: None. Presence of the Presidency at the debate.
- Debate: Almost the whole coding tree. Especially A1-5, B1, C3, C4, D1, D3, D4
- Judgement: Effect judgement cannot be measured

A. Concessions

A1. The Presidency accepts responsibility for the decision and its consequences. Rhetorical vulnerability because of display of fallibility.

A2. The Presidency shows regret about taking or refraining from taking the decision. The

Presidency indicates that he, just like the EP, values the results of the decision negatively

A4. Regret about the situation (without referring to the own role in creating this situation)

A5. Admits a failure or weakness. This is without referring to the own role in creating the situation. If it includes this, then A1 or A2. Minimal concessions are scored under this heading.

B. Reaction to situation

B1. Actions and measurements taken by the Council (between brackets the issues mentioned)

B2. Explanation own role, as an individual

B3. Explanation own role, as the European Council

B4. Reference to the role of others in creating the result (e.g. the Commission, specific member states, specific politicians). This can be done both to explain what happened and to pass the buck to someone else

C. Presidency portrays himself positively

C1. "I am making an effort and I am dedicated"

C2. "Look at the measurements taken!"

C3. "My reaction to the situation was fantastic." This might be correct, but becomes problematic when most of the statement consists of this and the forum was rather negative.

C4. "You and I, we are on the same side." This becomes problematic when what the Presidency says is diametrically opposed to the gist of the MEPs' statements.

D. Reaction to the MEPs' statements (between brackets issues mentioned)

D1. Reply to questions and criticism

1. Factual, deals with the gist of the matter
2. Occasion for statement related to the topic, but unrelated to the MEPs' statements
3. Gratuitous, meaningless, does not deal with the gist of the matter

D2. Accepts criticism or appraisal

D3. Denial MEPs' criticism. After much criticism, the Presidency reiterates in closing statement his discourse of having done a brilliant job

D4. Denial of the MEPs' definition of the situation. The Presidency displays another definition of the situation.

E. Level of detail and precision on the level of the complete opening and closing statement. Only to be coded if it is striking and easy to underpin with text samples.

E1. Very high

E2. Very low

References [↑]

Arnall, Anthony & Daniel Wincott (2001), *Accountability and Legitimacy in the European Union*, New York & Oxford: OUP.

Auel, Katrin (2007), 'Democratic accountability and national parliaments – Redefining the impact of parliamentary scrutiny in EU affairs', *European Law Journal*, 13: 4, 487-504

Bergman, Torbjörn (2000), 'The European Union as the Next Step of Delegation and Accountability', in: *European Journal of Political Research* 37, pp. 415-29.

Bovens, Mark (2007), 'Analysing and Assessing Accountability: A Conceptual Framework', in: *European Law Journal* 13(4), pp. 447–468.

Corbett, Richard, Francis Jacobs & Michael Shackleton (2000), *The European Parliament*, London: Catermill.

Curtin, Deirdre (2004), *Mind the Gap: The Evolving EU Executive and the Constitution*, Third Walter van Gerven Lecture in Leuven, Groningen: Europa Law Publishing.

Grant, Ruth & Robert Keohane (2005). 'Accountability and Abuses of Power in World Politics', in: *American Political Science Review* 99(1), pp. 29–43.

Harlow, Carol (2002), *Accountability in the European Union*, Oxford: Oxford University Press.

Hix, Simon, Tapio Raunio & Roger Scully (2003), 'Fifty Years On: Research on the European Parliament', in: *Journal of Common Market Studies* 41(2), pp. 191-202.

Koppell, Jonathan (2005), 'Pathologies of Accountability: ICANN and the Challenge of 'Multiple Accountabilities Disorder'', in: *Public Administration Review* 65(1), pp. 94-107.

Marks, Gary & Marco Steenbergen (eds) (2004), *European Integration and Political Conflict*, Cambridge: Cambridge University Press.

Moravcsik, Andrew (2002), 'In Defence of the 'Democratic Deficit': Reassessing the Legitimacy of the European Union', in: *Journal of Common Market Studies* 40(4), pp. 603-34.

Mulgan, Richard (2003), *Holding Power to Account: Accountability in Modern Democracies*, Basingstoke: Pelgrave.

Muller, Erwin (1994), *Terrorisme en politieke verantwoordelijkheid: gijzelingen, aanslagen en ontvoeringen in Nederland*, Gouda: Quint.

Schmitter, Philippe (2000), *How to Democratize the European Union....And Why Bother?* Lanham: Rowman & Littlefield.

Strøm, Kaare, Wolfgang Müller & Torbjörn Bergman (eds) (2003), *Delegation and Accountability in Parliamentary Democracies*, Oxford: Oxford University Press.

Williams, Shirley (1990), 'Sovereignty and Accountability in the Europea Community', in: *The Political Quarterly* 61(3), pp. 299-317.

Endnotes

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(1) In this article 'it' and 'its' are used when dealing with the Presidency as an institution. When the Presidency is a person it is 'he' or 'his' (there were only male incumbents of the Presidency).

(2) IR-liberal Moravcsik is one of the few voices who go against the current. In his view, direct accountability via the EP is one of the two robust mechanisms for European democratic accountability (Moravcsik, 2002: 611). However, Moravcsik's concept of accountability is focusing on accountability in relation to legislation and elections. His use of accountability is so broad and all encompassing that it falls outside of the scope of this article.

(3) Except for the French President who is elected by the French citizens.

(4) The respondents from the European Parliament were selected on the basis of two criteria. First, their mandates coincided with some of the plenary debates analysed. Preferably, they actively participated in at least one of the plenary debates analysed. Second, as a group they had a variety of backgrounds. This criterion was implemented in order to reflect the multiformity of the institution. The selection of respondents stopped when the interviews ceased to produce new insights but only confirmed the information obtained from the previous interviews. See [Annex 1](#) for more detailed information.

(5) Similar provisions, which besides the right to be informed also explicitly include the right to ask questions, have been made regarding CFSP (article 21 TEU) and JHA (article 39 TEU).

(6) Article 4 TEU states as well that the Presidency must submit to the EP *a yearly written report on the progress achieved by the Union*. This right does not provide the EP with an extra occasion to hold the European Council accountable on decision-making during its Summits.

(7) No committee sessions were found that would offer MEPs an occasion to demand accountability from the Presidency after the Summits on the six selected cases (see Section 4). Respondents 2, 4 and 11 confirmed that the committee sessions are more suitable to pressure an actor into rendering account. *In the committees, unexpected questions may come up, and then he has to respond. When we are not satisfied with the reply, we come back to the issue* (respondent 2).

(8) This makes the EP's formal position in relation to the European Council much weaker than its position in relation to the Commission. Article 214 (2) TEU on the appointment of the Commission and article 201 EC on the vote of censure establish that the Commission needs a positive judgement from the EP. This means that the Commission potentially risks losing office when the Parliament is dissatisfied. The European Council and its Presidency do not run this risk.

(9) A debate also includes an opening and a closing statement by the Commission, but these statements fall outside of the scope of this article. The question is whether the EP is able to hold the European Council, not the Commission, to account.

(10) A reliability test has been done, The author of the article has coded all the debates herself.

Thanks to Gijs Jan Brandsma for checking the validity of the coding tree.

(11) Another assumption behind the initial case selection is that in cases of treaty or crisis Summits, chances are higher of detecting an accountability arrangement, because there is attention and pressure from the public eye. However, this assumption still needs to be tested. This will be done by expanding the research project to include less sensitive cases as well.

(12) For the rule-of-thumb for measuring whether the full range of the EP participates, see the 'forum' text box in Section 4.

(13) The Haider debate in February 2000 is the exception to this rule of common sense. The Presidency's opening statement already dealt with the issues subsequently put forward by the MEPs. Thus the fact that the Presidency refrained from making a closing statement is less problematic from the perspective of giving account. That the opening statement already contained a response to the central issues raised by the MEPs is an indication that both the Presidency and the EP discussed the Haider crisis along the lines of the general public debate.

Table 1

Did the EP want to receive information and did the Presidency give it?

	Forum (EP)	Actor (Presidency)
	Present as an institution?	Reported to the EP?
Maastricht 12/12/91	Yes	Yes
BSE 6/6/96	Yes	Yes
BSE 19/6/96	Yes	Yes
BSE 3/7/96	Yes	Yes
Amsterdam 26/6/97	Yes	Yes
Haider 2/2/00	Yes	Yes
Haider 14/6/00	No: Question time	Yes
Haider 3/7/00	No	Yes
Prestige 18/12/02	Yes	Yes
Constitution 31/3/04	Yes	Yes
Constitution 21/7/04	Yes	Yes

Table 2

Debate: Did the forum demand accountability?

	Used time efficiently?	Clear about what they wanted to know?
Maastricht 12/12/91	Yes	Yes
BSE 6/6/96	No	No. Council was not held to account for BSE
BSE 19/6/96	Yes	No. Focus was on political problems, not BSE
BSE 3/7/96	Yes	Reasonably
Amsterdam 26/6/97	Yes	Yes. Sharp
Haider 2/2/00	Yes	Reasonably
Haider 14/6/00	Yes	Yes. Very sharp (Question Time)
Haider 3/7/00	Yes	Yes
Prestige 18/12/02	No	Yes. Sharp
Constitution 31/3/04	Reasonably	Yes
Constitution 21/7/04	Yes	Moderately

Table 3**Debate - To what extent was the actor forthcoming in giving accountability?**

	Present and listened	Made closing statement on selected case	Mentioned central issues raised by forum	Answered central issues raised by forum	If applicable, accepted responsibility for failures
Maastricht 12/12/91	Yes. PM Lubbers left after spokespersons Dankert stays	Yes	PM: Partly. Other: Almost all	PM: Very evasive. Other: Partly	No
BSE 6/6/96	May have left at a certain point	No	n.a.	n.a.	n.a.
BSE 19/6/96	Temporarily left during debate	BSE not mentioned	n.a.	n.a.	n.a.
BSE 3/7/96	Yes. PM Prodi left after spokespersons Dini stayed	PM: Yes. Other: 1 sentence	PM: 2 out of 3. Other: n.a.	PM: Evasive. Other: n.a.	PM: No. Other: n.a.
Amsterdam 26/6/97	Yes. Both PM Kok and Patijn whole debate	Yes	Yes	Yes, almost completely. Explicit. High level of precision	Yes. Acknowledged shortcomings
Haider 2/2/00	May have left at a certain point	No	Yes, already in opening statement	Yes, already in opening statement	Forum positive: n.a.
Haider 14/6/00	Yes	n.a. (Question time-format)	Yes	Yes, eventually explicitly	Yes. Took responsibility. Did not give in on demands forums
Haider 3/7/00	Yes	Yes	Yes	Yes, almost	Yes. Took explicitly full responsibility for consequences decision
Prestige 18/12/02	Yes	Yes	Partly	Hardly	No
Constitution 31/3/04	Yes	Yes	Almost all	Yes	Forum positive: n.a.
Constitution 21/7/04	Yes	Yes	Did not deal with criticism	Evasive	Forum positive: n.a.

Table 4**Was the forum able to pass a judgement that did justice to the previous debate?**

	Passed a judgement?
Maastricht 12/12/91	No, attempt failed. EP and political groups were too divided
BSE 6/6/96	Yes, more focused than debate
BSE 19/6/96	Did not cover debate well
BSE 3/7/96	Part of the debate missing
Amsterdam 26/6/97	Yes. More detailed than debate
Haider 2/2/00	Yes
Haider 14/6/00	Yes, covered debate, but toned down criticism
Haider 3/7/00	No. No attempt. EP was divided
Prestige 18/12/02	Yes
Constitution 31/3/04	Yes
Constitution 21/7/04	No. Majority was satisfied. Instead, smaller political groups were rather critical

Table 5**Total contributions to accountability by the forum and the actor**

	Maastr. 91	BSE 6/6/96	BSE 19/6/96	BSE 7/96	Amst. 97	Haid. 2/00	Haid. 6/00	Haid. 7/00	Prest. 02	Const. 3/04	Const. 7/04
Forum											
Information: Present?	Yes	Yes	Yes	Yes	Yes	Yes	(No: QT)	No	Yes	Yes	Yes
Debate: Efficient?	Yes	No	Yes	Yes	Yes	Yes	Yes	Yes	No	Reasonably	Yes
Debate: Sharp?	Yes	No	No	Reasonably	Yes	Reasonably	Yes, very	Yes	Yes	Yes	Moderately
Judgement?	No, failed	Yes	Yes, poor	Yes, poor	Yes	Yes	Yes, toned down	No	Yes	Yes	No
contribution to accountability	somewhat	very little	little	somewhat	very much	much	somewhat	little	somewhat	much	somewhat
Actor											
Information: Reports?	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Debate: Present?	Yes. PM leaves	Left?	Left temporarily	PM left	Yes: both	Left?	Yes	Yes	Yes	Yes	Yes
Debate: Closing statement?	Yes	No	Not mentioned	Yes: PM	Yes: both	No	n.a. (QT)	Yes	Yes	Yes	Yes
Debate: Mentions all central issues?	PM: Partly Other: Almost all	n.a.	n.a.	PM: 2 out of 3 Other: n.a.	Yes	Yes in opening	Yes	Yes	Partly	Yes, almost	No, omits criticism
Debate: Answers all central issues?	PM: No Other: Partly	n.a.	n.a.	PM: No Other: n.a.	Yes, very	Yes in opening	Yes, eventually	Yes, almost	Hardly	Yes	No
Debate: Accepts responsibility?	No	n.a.	n.a.	PM: No Other: n.a.	Yes, very	Forum positive: n.a.	Yes	Yes	No	Forum positive: n.a.	Forum positive: n.a.
contribution to accountability	little	very little	very little	very little	very much	somewhat	much	much	little	much	little

Note to table: The actions by the forum to demand accountability and by the actor to give accountability were rated on a 5-point scale, ranging from 'very little' via 'somewhat' to 'very much'. 'Somewhat' is used as the cut-off point between a positive and negative contribution to accountability: 'somewhat' and higher scores are considered as aiding accountability.