

The Elephant in the Room in Presidential Politics: Informal Powers in Western Europe

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journals.sagepub.com/home/psrev**Selena Grimaldi** 

Abstract

Presidents' informal powers remain under-investigated especially in Western European democracies. This gap might hamper the full understanding of how presidents ultimately behave and act. The objective of this article is twofold. First, it aims at adopting a definition of presidents' informal powers by distinguishing them from formal ones and from informal institutions. Second, it distinguishes among different kind of informal powers by focusing on why presidents use them. To this end, a typology based on the following two criteria is proposed: (1) the existence of formal powers at disposal of the president in a specific sphere and (2) the evaluation of public support each individual president thinks to enjoy should they act or refrain. Four types of informal powers can be derived from these dimensions: substitutive informal powers, parallel informal powers, risk-taking informal powers and subverting informal powers.

Keywords

presidents, informal powers, formal powers, leadership capital, inter-institutional relations, public opinion

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Introduction

Presidential powers have been investigated in depth by comparative literature. However, most scholars assumed that presidential powers are simply formal ones namely those powers written in Constitutions and almost all have relied on the classical distinction provided by Shugart and Carey (1992) between *legislative powers* and *non-legislative powers*. The same distinction with different nuances has been proposed by other scholars (Frye, 1997; Metcalf, 2000). Only few ones chose to rely on different categorisation trying to capture not only formal powers but also the real praxis of the presidency (Amorin Neto and Costa Lobo, 2009; Cranenburgh, 2008; Siarof, 2003; Tavits, 2008). However, the problem with such categorisations is that they did not actually depart

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from the traditional one, but simply added some presidential behaviour to the existing check-lists.

The most recent and complete study on presidential powers (Doyle and Elgie, 2016) pools together the most important existing measures of presidential powers trying to address certain methodological concerns (Fortin, 2013). However, the problem is that, the different indexes of presidential powers do not consider that the powers enjoyed by the presidents might go beyond those actually conferred by the constitution (Elster, 1997). Therefore, presidential informal powers remain an almost unknown territory.

In European presidential studies, there are only few attempts to recognise the existence of informal powers. However, a clear definition is totally missing – not to mention any reflection about the possibility to measure them in some way. Conversely, in the United States, a flourishing strand of literature emerged in relation to the importance of the use of informal powers by presidents. Many scholars have emphasised US presidents' 'power of persuasion' as a function of reputation and prestige (Neustadt, 1990) and their ability to appeal to the public to place pressure on Congress (Canes-Wrone, 2005; Kernell, 1997; Lowi, 1985; Neustadt, 1990; Rudalevige, 2005; Schlesinger, 1974). However, most of these works are focused on presidential influence on policy-making only. Furthermore, attempts to measure such presidential informal powers have been scarce so far, also in the United States.

In addition, even scales of presidential power based exclusively on formal powers have been disputed in the American context in recent times, that is, by Morgenstern et al. (2013) who have compared the US presidents' and Latin American presidents' capacity to implement policy. Their starting point was evidence that the formally weaker president of the United States manages to achieve similar policy goals than formally stronger Latin American presidents. In order to solve this puzzle, they complained that in comparative literature, the primary independent variable is in all cases variance in formal constitutional powers and therefore 'comparative scales of presidential powers are lacking' (Morgenstern et al., 2013: 39) since they cannot overcome the problem of presidents exercising similar powers through other tools. As they posit, 'if the ability to implement policies is similar but formal/constitutional powers are different, then scales must be missing important tools available to presidents' (Morgenstern et al., 2013). Morgenstern et al. (2013) demonstrated that even in Presidential systems – where presidents typically enjoy large amount of powers, all presidents have resorted to a mix of formal and informal (or as the say reinforced) powers to implement their agenda.

The aim of this article is to fill this gap in European presidential studies, namely to define what Presidents' informal powers are. In doing so, two different strands of American literature have been combined: one deals with presidential-going public strategies and the other deals with informality, informal governance, and informal institutions (Azari and Smith, 2012; Christiansen and Neuhold, 2012; Helmke and Levitsky, 2004; Lauth, 2012).

The article proceeds as follows: in section 'Literature Review and Research Strategy', a review of literature is presented and the research strategy is explained; section 'Presidential Activism and Presidential Power' distinguishes between presidential power and functions and section 'Presidential Formal and Informal Powers: A Definition' provides a definition of formal and informal powers, while section 'What Purpose Can Informal Powers be Used For? A Typology and Conclusive Remarks' concludes by providing a typology of informal powers.

Literature Review and Research Strategy

In Europe, the most influential debate partially connected with presidential powers revolves around the so-called presidentialisation thesis (Poguntke and Webb, 2005). According to this thesis, parliamentary and semipresidential regimes are becoming more presidential in their actual practice without changing their formal structure. The logic of presidentialisation implies the growing power and autonomy of political leaders both within political executives and political parties, and in the emergence of increasingly leadership-centred electoral processes. To use Passarelli's (2015: 6) words, 'the presidentialization concept combines different empirical trends into a unique theoretical understanding of ongoing power shifts (also) within parliamentary regimes'. The presidentialisation assumption has been criticised both because of the weaknesses of its empirical findings (Dowding, 2013; Heffernan, 2005, 2013; Karvonen, 2010) and because it underestimates how institutions clearly shape political behaviour (Samuels and Shugart, 2010). Recently, the research on the presidentialisation of parties (Passarelli, 2015) confirms that the institutional logic supported by Samuels and Shugart (2010) holds strong. However, certain political contextual dynamics, such as the parties' genetic features, have a leverage in explaining presidentialisation. On one hand, this literature has been useful in pointing out that presidentialisation of politics revolves around the empowerment of the Head of Government, who can be the President or the Prime Minister (PM), especially when he or she is also the leader of nationalised and centralised parties. On the other hand, it seems this thesis leaves a little space to the Head of States, with no or limited executive role. In this respect, Passarelli's (2015) useful distinction of presidentialisation, personalisation and centralisation of party politics helps understand that presidentialisation occurs in semipresidential systems where presidential powers are strong and used, whereas in other cases of semipresidentialism or parliamentarism personalisation without presidentialisation¹ occurs. Following this line of reasoning, we can argue that the empowerment of presidents with limited formal powers (in parliamentarism and in certain semipresidentialisms) is always contingent and instable since it is grounded on personalisation of politics, which refers to personal capital in terms of skills, characteristic, attitudes and reputation, whereas the empowerment of strong presidents may be grounded in presidentialisation, which refers to relevant institutional and party resources. Finally, the empirical analysis provided by Passarelli (2015) has been important for another reason, namely, it emphasised the link between personalisation and informal politics. In fact, he argues that the empowerment of PM in parliamentary contexts 'stems more from informal practices and the circumvention of formal rules rather than from any significant changes to the constitutional structure or to the parties themselves' (Passarelli, 2015: 251).

Turning to presidential activism, the link between personalisation and informality has not so far been developed in Europe. In fact, presidential activism has usually been studied as an equation of presidents' capacity of discretionary use of formal powers. This definition is problematic because 'first, it leaves unresolved the problem of how to assess the actual use of formal powers and the threat to do so [. . .] Second, it underestimates the total amount of presidential activism' (Köker, 2017: 6), since it bypasses completely the informal use of power by presidents.

The reflection on presidents' informal powers seems more developed in the American context and it can be a useful starting point to understand why and to what extent informal powers may be used by European presidents. In particular, two strands of literature are taken into account: on one hand, all those works related to the Public presidency; on the other hand, all those important reflections on informal institutions.

The first strand of literature points out that, even though originally American presidents were not allowed to communicate directly with citizens on policy matters, in the twentieth century, with the rise of the 'rhetorical presidency' (Tulis, 1987), presidents were not only permitted but expected to speak directly to the public on major issues. Notwithstanding this innovative conception, when analysing presidential roles, the majority of scholars kept on neglecting the relationship between president and citizens. In fact, until the 1990s, presidential studies were dominated by the so-called pluralist approach according to which presidents' power reside in their capacity to bargain with and persuade (Neustadt, 1990), all those (mainly institutional) actors who have leverage that they can use against the president (thus, the Congress but also the executive bureaucracy). Consequently, important works were devoted to emphasise how presidents strengthen their bargaining power especially through control over the bureaucracy (West and Cooper, 1989). Kernell's (1997) approach partly disputed these assumptions by claiming that American presidents have increasingly come to rely on 'going public' – that is, on making direct appeals to voters in order to scare Congress into passing legislation that the president wants. Even though 'going public' has not replaced negotiation and institutional bargaining, it seems to have become the favourite choice of most recent presidents. According to Kernell (1997), there are two main reasons why bargaining has become a less appealing and successful strategy. First, since the 1970s, presidents are more frequently political outsiders and thus less likely to excel in bargaining strategies. Second, divided government has become a persistent feature of American politics leaving limited space for the success of bargaining tactics. Following studies have focused on how presidents' appeals to the mass public can place pressure on Congress (Canes-Wrone, 2005). From these researches emerge that presidents' speeches are undoubtedly a source of power especially when major issue are at stake (Eshbaugh-Soha, 2006). However, presidents' statements do not always positively influence the legislative agenda. In fact, even *The State of the Union Address* is a tool that presidents can use to facilitate congressional conformity, but it is not a 'weapon' (Hoffman and Howard, 2006) which can bring the Congress to heel.

All these studies help emphasise how non-codified presidential behaviours may have important political consequences in terms of influencing the policy-making. However, going public tactics cannot exhaust completely the category of informal powers. Better, especially in the European contexts where fused power systems prevail, presidential influence can be related to government formation besides the policy-making. As a consequence, going public tactics are only one side of the coin, since also bargaining strategies, private talks, meeting behind closed doors end up being crucial tools to explain presidential powers.

The strand of literature related to informal institutions has encountered some difficulties to emerge since classic institutional analysis has the tendency to neglect or 'push the informal to the margins since the informal sphere has the aura of the irrational and irregular rarely able to be grasped in elegant formal models' (Brie and Stoelting, 2012: 19). However, the 'governance turn' – which is concerned with those aspects of the policy-making that cut across between public and private actors as well as binding and voluntary agreements (soft law) – forced scholars to pay greater attention to the non-formal aspects of politics (Christiansen and Neuhold, 2012). The most important conclusion of these researches is that informal institutions arrangements are necessary for the functioning of formal institutions and thus they should be systematically included in any policy research which aims to achieve realistic results (Azari and Smith, 2012; Brie and Stoelting, 2012;

Helmke and Levitsky, 2004). At the same time, informal institutions can undermine, devalue or infringe upon the goals and rules of the formal ones especially in transitional (Grzymała-Busse, 2010; Tsai, 2006) or corrupted regimes (Darden, 2008). However, in well-established democracies, informal institutions do not generally hamper or undermine the logic of the democratic process but rather reinforce its working (Lauth, 2012). Thus, one first evidence was that of the existence of both functional and dysfunctional informal institutions; the previous, typical of democratic countries and the latter of developing countries.

Subsequently, the debate has tried to provide definitions of informal institutions as rules by distinguishing them from formal ones. In doing so, many different elements have been taken into account and especially, differences related to universality, inclusivity, legitimation, modus and time of change, type of enforcement, type of sanctions, types of arenas, and so on (Brie and Stoelting, 2012; Lauth, 2012; Stacey and Ritteberger, 2003). In order to assess the relationship between formal and informal institutions, many typologies have been employed most of them based on a functionalist perspective, that is, Lauth (2012) distinguishes between ‘complementary institutions’, namely those which coexist side by side with formal institutions reinforcing them; ‘substitutive institutions’, which are functionally equivalent to formal ones; and the ‘conflicting institutions’, when the two systems of rules are incompatible.²

The debate on informal institution brings to light another important aspect for the purpose of this article, namely the differences between informal institutions and informal politics. In fact, informal institutions are defined as unwritten, not codified rules that nevertheless are able to be institutionalised in the long run and therefore they coalesce into stable expectations among political actors (Helmke and Levitsky 2004). Conversely, informal powers are related to a specific political behaviour not codified by written norms or Constitutions which is used by a political actor. This behaviour may eventually be institutionalised in a specific praxis becoming an informal institution (see section ‘Presidential Formal and Informal Powers: A Definition’ for further details).

All that being said, these two strands of literature seem particularly fitting to answer the following two essential questions:

1. How can informal powers be defined in comparison to formal ones?
2. For what purpose informal powers can be used?

In trying to answer the above questions, my research strategy is based on two choices.

First, notwithstanding this article aims to make generalisations, namely informal powers here defined are supposed to be adopted by presidents irrespective to the form of government they operate, most of the examples that sustain my arguments are derived from European politics. This choice aims to address a problem emphasised by scholars dealing with informal institutions, namely that a growing body of research is related to developing countries such as Latin America, post-communist Eurasia, Africa and Asia and it is focused especially on pathological outcomes, whereas North America and Western Europe are notably absent.

Second, I focus especially on weak presidents, namely those European presidents who enjoy limited formal powers like it happens in parliamentary democracies or in certain semipresidentialisms, where president restrains and coexists with much more powerful prime ministers. This choice is based on the findings by Morgenstern et al. (2013) according to which when formal powers are few, “reinforced or (informal) powers prove

important [. . .], while extensive formal powers limit the necessity for and the utility for associated (informal) powers". (Morgenstern et al., 2013: 47).

More precisely, to distinguish between weak and strong presidents based on the constitutional powers, they display I rely on *prespow1* scores proposed by Doyle and Elgie (2016). These scores empirically show that regime types are not always consistent with the constitutional strength of presidents. Therefore, this seems to confirm the theoretical assumption that the internal coherence of classic categorisation of parliamentarism, semi-presidentialism and presidentialism is not as strong as it is generally assumed (see Blondel, 2015; Cheibub et al., 2014; Fruhstorfer, 2019). In fact, according to *prespow1* scores, certain parliamentary presidents are more powerful than semipresidential ones (i.e. the Italian president vs the Irish one). There are presidents operating in president-parliamentary systems who are weaker than presidents in premier-presidential systems (i.e. the Austrian president vs the Lithuanian one). The common belief sustaining that presidential systems are those with strongest presidents does not always prove right. For instance, there are semipresidential systems with presidents who score higher than in certain presidential system (i.e. Icelandic presidents vs US presidents). In addition, relevant differences emerge even when looking at the same regime type.

By considering one geographical area at time to assess presidential constitutional strength,³ in the European context weak presidents are those who score below the mean value of 0.214 (by considering only existing regimes). Based on this criteria, all presidents in parliamentary system (as expected) and some president who operate in semi-presidential systems are weak, namely their *prespow1* score is below the mean value (see Appendix 1).

Another aspect to address is the relationship between the presidential strength in constitutional terms and the type of government. Building on Fruhstorfer's (2019) idea of consistent and inconsistent constitutional designs, when dealing with presidential institutions, I assess as 'inconsistent designs' those which combine directly elected presidents with a low score of presidential powers (namely with a score below the mean value) or indirectly elected presidents with high scores (namely with a score above the mean value), whereas those which combine directly elected presidents with high scores and indirectly elected presidents with low scores of presidential powers are defined as 'consistent designs'.

The majority of European presidents are weak; out of 28 cases, there are seven presidents in parliamentary systems presenting a consistent constitutional design; and there are nine presidents in semipresidential system with inconsistent constitutional design, for a total of 16. As expected, weak presidents are typically those who operate in parliamentary systems. However, because of the number of semipresidentialisms with inconsistent constitutional designs, many weak presidents are present even within semi-presidentialism. Even though providing a specific empirical session is above the purpose of this article, which is mainly theoretical, all the examples quoted in the next sessions fall into these two types of government. In particular, among parliamentary systems, German and Italian presidents' use of informal powers are taken into account and, among semipresidential systems, I provide examples of Austrian, Irish, Portuguese and Finnish presidents.

Presidential Activism and Presidential Power

Political science literature struggles with the concept of power since Max Weber provided his definition according to which power is 'the probability that one actor within a social

relationship will be in a position to carry out his own will despite resistance, regardless of the basis on which this probability rests' (Henderson and Parsons, 1947: 152).

So far, few points have been widely accepted; first, power is a relational concept and cannot exist without the presence of two individuals and/or groups. Second, power is related both with coercion (power over) and persuasion (power to) and therefore the main modes to exercise power are sanctions (or threats of sanctions) or rewards (both material and immaterial). Another important element of the Weberian definition is that power is a probability not a certainty. This latter point is particularly important since, from an empirical point of view, power can be measured – especially when it can be translated in a specific behaviour or act. This goes to show that empirical studies have clearly focused only on actual rather than potential power. Finally, Weber also links power to legitimacy by providing three ideal types of power: charismatic, traditional and legal-rational.

Most of the studies on political power are related to the behaviourist approach (Dahl, 1957; Lasswell and Kaplan, 1950; Parsons, 1963) which first has conceptualised, measured and assessed political power as acts and behaviours exercised by political office-holders. However, these works arise certain theoretical weaknesses since they end up blurring the notions of power, authority and legitimacy, thus making them vague and interchangeable (Uphoff, 1989). When political science shifted from behaviouralism to other approaches such as neo-institutionalism, rational choice and social constructivism, the interest for political power declined.

However, leadership studies regained momentum in the late 1980s and political power has returned to be central in scientific debate. As Blondel (1987) puts it, 'political leadership is a phenomenon of power' and insists especially on that (national) political leadership can be defined as the power exercised by one or a few individuals to direct members of the nation towards action. One of the most important achievements of Blondel's work was showing that *having power* cannot always be equated to *being in power*. However, formal position and real power have an effect on each other so much so that even though not all leaders occupy a constitutionally defined position, often position helps to define leadership. In other words, political leaders can have different resources of power but may not necessarily have authority, which is a specific kind of power strictly connected with the establishment of a role.

Coming back to the goal of this article, the powers of the presidents pinpoint a relationship that involves the will of the President and the compliance of other actors (PM, citizens) or institutions (cabinet, parliament). In most of the cases, presidents exercise a power based on persuasion rather than coercion, meaning that presidents may affect outcomes rather than produce them. Furthermore, presidential powers are often an expression of authority, meaning that their power refers to the concrete roles and relationships that establish it. In addition, presidents not using their powers do not mean that they have no powers at all.

Generally, presidential powers are related to the functions presidents perform according to the constitution (Elgie, 1999; Samuels and Shugart, 2010). Basically, their powers come with the position they hold. However, constitutions list – but especially constrain – the power of presidents, since they usually pinpoint a system of check and balances where different actors and institutions need to be activated to accomplish specific goals. So far, in dealing with the functions presidents perform, only the powers written in constitutions (namely formal powers) have been investigated. However, as Blondel (1987) suggested, the position is important but cannot include all the possibilities at disposal of leaders and office-holders.

Another important point when dealing with the concept of power rests on the connection power itself has with authority and legitimacy (Uphoff, 1989). In fact, since power is seen as a general category, authority and legitimacy are specific resources of powers. This distinction is useful when dealing with presidential powers since, in the case of formal powers, compliance remains on the idea that presidents can do something because, according to the formal role they embody by law, they have the right to do so. This means that presidential formal powers are an expression of authority that ‘derives from the existence, exercise and maintenance of certain roles whose incumbents claim a right to have people’s obedience’ (Uphoff, 1989: 310). In the case of informal powers, compliance is based on the president doing something reputed good, right or moral. This means that informal powers stem from another resource of power that is legitimacy, which ‘derives from the beliefs and judgements of persons who are subjects to those roles, and they accept such roles, their incumbents, and the resulting decisions or commands as right and proper’ (Uphoff, 1989). In fact, informal powers can be used successfully when the public believe that what the president has done is morally right, despite such actions not being clearly identified with the presidential position and role.

One of the most problematic issues in dealing with presidential powers is how to translate the general definition into empirical terms. The first concern is that not all presidents’ acts and behaviours can be identified as powers. In particular, distinguishing actual presidential power from simple activism is key to identify the emergence of an actual presidential will over other actors or institutions. Especially, in semipresidential and parliamentary democracies such presidential will is not always easy to detect. In fact, in a fused power system, different wills are likely to emerge when major decisions are at stake. In such systems, the choices of the president are often constrained by other actors, such as the PM or the parliamentary majority. Conversely, in separation-of-power systems, certain decisions are exclusive president’s choice – that is, the cabinet formation. In assessing whether a presidential power exists, one can imagine a power relation as a continuum where, on the one side, the president’s will clearly predominate and, on the opposite side, the president needs to be compliant with the will of other actors or institutions.

Which will ends up prevailing in such institutional confrontation can be harder, but not impossible, to detect. In any case, a power exists only when presidential will emerged (by partly or fully dominating the power relation). Otherwise, one should better talk about presidential functions, attributions, and so on. Let me clarify this point with an example. In most of the European Constitutions, the president can appoint the PM. However, this prerogative is usually constrained by the result of the elections, as clearly stated in the Portuguese Constitution (art. 187.1) or as implicitly derived from the fact that, in order to enter and/or stay in office, the PM needs the support of the parliamentary majority. Moreover, in certain constitutions, the PM appointment by the president is even more constrained since it follows their nomination (as in Ireland art. 13.1 Cost) or election (as in Finland ss. 641.1) by the Parliament. Therefore, when electoral results are clear enough, the appointment of the PM is a presidential attribution rather than a power, since their will has no space to emerge but, conversely, presidents must conform to the will of the leaders or of the parties of the parliamentary majority. However, when government formation becomes less predictable, the presidential will may emerge and then such prerogatives may become actual presidential powers.

Coming back to the distinction between formal and informal powers, they both foresee that the will of the president clearly emerge among those of other actors or institutions.

| <i>Formal powers</i> | <i>Informal powers</i> |
|--|--|
| Codified in constitutions | Not codified in constitutions |
| Clearly recognized and publicized | Both publicized and covered up |
| Legal sanctions for abuse | Social sanctions for abuse |
| Clear and direct enforcement | Ambiguous and indirect enforcement |
| Legitimacy derived from constitution (democratic rule) | Legitimacy derived from social acceptance (linked to the President’s reputation) |

Figure 1. Differences between Formal and Informal Presidential Powers.

However, they differ as far as the mechanism of compliance is concerned. The former relies on authority, as the decision of the president is enforced since the constitution clearly gives him or her the possibility to act, while the latter relies on legitimacy, namely the decision of the president is enforced because people believe it is good, right or proper. In Italy and Austria, the appointment of the PM by the president has become an actual formal presidential power when electoral results were uncertain and a cabinet formula was difficult to detect, or when presidents expressed their will by avoiding the dissolution of the assembly (i.e. Ciampi, Monti, Draghi cabinets in Italy and Bierlein cabinet in Austria). In all these cases, presidents’ decisions need to be enforced because the constitution gives them the right to act in such a way.

Conversely, the president’s decision to not appoint or choose a minister does not derive by Constitution, since in most of Western European constitutions presidents have no power to censure or propose a minister, which is usually a PM prerogative. Nevertheless, such informal power of non-appointment clearly exists, that is in Portugal (Feijo, 2021) and Italy (Pasquino, 2012), while the informal power to appoint Foreign Ministers exists in Finland (Karvonen et al., 2016; Raunio and Sedelius, 2020). In all these cases, presidents’ decisions are enforced because the majority of the people support the president or share presidents’ evaluations. This is why presidents’ public support is important, especially during the mandate and not only at the election moment. In fact, direct election may have an effect on the capacity of presidents to use informal powers, but it is people’s support during the mandate that actually triggers the use of informal powers, since they rely specifically on legitimacy rather than authority.

Presidential Formal and Informal Powers: A Definition

By taking in mind all the elements above mentioned, I first define informal powers in order to distinguish them from formal ones (see Figure 1) and then I distinguish informal powers from informal institutions.

As far as the first point is concerned, presidential formal powers are defined as ‘those [powers] granted by the constitution’ (Doyle and Elgie, 2016; Elgie, 1999; Köker, 2017). In other words, formal powers are codified in constitutions and they can be discretionarily used or not by Presidents facing similar contexts, problems or situations. In defining presidential formal powers, constitutions also prescribe sanctions for the abuse of such powers by providing procedures such as impeachment. Moreover, formal powers are

always clearly recognised and publicised since to be enacted they follow clear (often) written procedures. As a consequence, their enforcement is clear and direct (without intervening factors or intermediaries) and it is easy to detect and measure them. Furthermore, the use of (or abstention from using) formal powers may produce in the long term certain behavioural regularities that eventually root in shared expectations about presidents' behaviour but these can be overturned anytime, nevertheless. For example, Austrian and Icelandic presidents enjoy many formal powers according to their respective constitutions yet almost all presidents in both countries limited the discretionary use of such powers to the extent that they are generally considered figureheads and many scholars even classified Austria and Iceland as parliamentary systems rather than semipresidential ones by adducing this presidential inactivity as a constitutional praxis (Samuels and Shugart, 2010; Sartori, 1994). However, unexpected political conditions may reverse these regularities and convince presidents to act in divergence with constitutional praxis. For example, in 2019, Austrian President Van der Bellen discretionarily intervened in government formation by selecting the president of the Constitutional Court, Brigitte Bierlein, as leader of a non-political caretaker government after a no-confidence vote succeed for the first time in Austria. A similar case happened in Iceland in 2016 when President Grímson refused to authorise the PM to dissolve parliament, disregarding government expectations. These examples clarify that even though well-established constitutional praxes exist, codified formal powers granted to the presidents allowed them to change such regularities and overturn institutional actors' and citizens' shared expectations. These changes in presidential behaviour can be criticised both by the political class and/or by public opinion but not sanctioned since the source of the legitimation of formal powers derives directly from the democratic rule written in the Constitution.

Conversely, informal powers are not codified in constitutions as they generally emerged as innovations or tools to address new situations and changing contexts, to fill gaps in or to interpret ambiguous formal powers. Informal powers generally cannot produce legal sanctions, meaning that it is difficult to limit or restrict presidents from using them especially when the presidential turf is not clearly defined in written rules in the first place. Nevertheless, social sanctions may emerge especially when citizens, public opinion or other institutional actors succeed in casting doubts on the legitimacy of presidential action. In these cases, presidents may feel to have been marginalised, disregarded or disempowered to the extent that some choose to resign before the end of their term. This is what happened in Germany in 2010 when President Köhler resigned only 1 year after his second re-election for a statement he made with reference to German troops deployed in Afghanistan, which was deeply criticised by both political class and part of the public opinion. This point leads to another important aspect – informal powers, similarly to informal institutions, derive their legitimacy from social acceptance (Lauth, 2012). In particular, this social acceptance may be directly linked to the level of public support enjoyed by presidents and/or by their reliability in the eyes of other relevant institutional actors (especially the executive and the legislature). In this respect, the case of the two Italian presidents Pertini and Cossiga are worth being mentioned. During his term, President Pertini (1978–1985) extensively used the power to make public statements to criticise certain policy decisions or to ask for investigations on certain scandals involving prominent politicians or institutions. His considerations were promptly considered and the legitimacy of this informal power was never questioned by the government or parliament, in consideration of the huge popular support Pertini enjoyed. On the opposite, the extensively use of the same power by Cossiga with the aim of criticising (and

even insulting) the entire political class was questioned and led to the beginning of an unsuccessful impeachment procedure in 1991. Indeed, Cossiga was considered completely unreliable by both the government and the Parliament, as well as by part of the public opinion, leading him to resign 2 months before the end of his term. Furthermore, informal powers may be publicised through the release of messages, notes, public statements or the organisation of specific visits or attendance of certain events (available on the presidents' websites, agendas, diaries, etc.) but often they partly remain covered up as it happens for meetings behind closed doors and phone calls exchanged with PM; Ministers or certain parliamentarians which content remain reserved. In these cases, presidents' influence might only be presumed even without any certainty (Raunio and Sedelius, 2020; Tebaldi et al., 2019). As a consequence, the enforcement of informal powers is often unclear and indirect (requiring the participation of other people's will), thus it is hard to understand if and to what extent such powers have been actually used or not, even before understanding the level of their impact. This is why informal powers are so often neglected from the analysis, since it is hard to detect and measure them.

As far as the second point is concerned, informal powers are different from informal institutions. However, the two concepts are very close and they are often used interchangeably (Eisenstadt, 2003). Nevertheless, informal institutions are based on two concurrent elements: regularities and shared expectations (Helmke and Levitsky, 2004; Lauth, 2012), whereas informal powers lack both these two constitutive characteristics. In fact, informal powers tend to emerge spontaneously as a sort of novelty or innovations performed by a specific president and even though they may be used by successors, becoming recurring 'tools' in the presidential toolbox, they cannot be seen as actual 'regularities', since their use is only related to the specific will of the individual president. Moreover, informal institutions are seen as 'shared expectations', meaning that all other subjects involved in a power relation with the president expect compliance with the actions and behaviours taken so far. Conversely, informal powers fall in the reign of uncertainty, in the sense that nobody can really predict what the actual presidential behaviour will be.

In a nutshell, informal powers may become informal institutions as long as the same action or behaviour keeps on being performed in the same way by different individuals holding the presidency and consequently, all other actors in a power relation with the president expect they will comply with the aforementioned praxis. Nevertheless, not only formal but even informal powers can subvert or put an end to such informal institutions. This was precisely what happened in Austria in 2014 when the informal institution (praxis) according to which Austrian presidents have no veto powers over legislation was overturned by President Heinz Fischer who refused to sign a bill. As Köker (2014) pointed out, Austrian Constitution is vague about the possibility of presidential pocket veto. However, the majority of constitutional scholars admit that President cannot be forced to promulgate a piece of legislation she or he considered unconstitutional for any reason (Adamovic, 2000). This means that the status of the presidential veto power in Austria is typically informal but, nevertheless it succeeds in overturning a consolidated informal institution.

Finally, informal powers may be included in the broader category of informal politics in the sense that they are informal actions with a spontaneous character but at the same time, they are necessary linked to an institution (the Presidency), whereas informal politics do not need to be necessary linked to any institution (i.e. coalition agreements; corporatist meetings, private talks) (Helmke and Levitsky, 2004).

In sum, informal powers are *actions and behaviours not clearly codified in Constitutions that emerge spontaneously as a novelty and they are linked to presidential will but a regular pattern is hard to identify and they cannot produce shared expectations. They can be publicised or covered up and their enforcement is often ambiguous and indirect. Informal powers may produce social sanctions but not legal ones since they derive their legitimacy from social acceptance linked to presidential reputation.*

What Purpose Can Informal Powers be Used for? A Typology and Conclusive Remarks

In order to classify informal powers, one cannot rely on their scope of application, since both formal and informal powers can be employed in different areas such as government formation, policy-making and polity consolidation.⁴ For example, presidents can step in the policy-making both by using their formal veto power or by giving advice, writing notes, calling private talks or exchanging phone calls with PMs and cabinet members or MPs. These latter practices of legislative influence are pretty common in many European countries (i.e. Italy, Portugal, Germany). In Italy, the phenomenon is so well-known and accepted that the term ‘moral suasion’ was coined by making reference to the role of the British monarch described by Bagehot (Grimaldi, 2015; Amoretti and Giannone, 2014).

Moreover, informal powers cannot be classified according to their mode of expression, since they comprise a similar range of tools that are usually grouped in the following two broad categories: going-public tactics and bargaining strategies. In particular, similar tools (such as speeches, interviews, notes, visits and meetings) can be used with different purposes. For example, public speeches can be used to both address a policy problem (such as the address speech during the opening of the annual session of the Eduskunta by Finnish President Niinistö in 2016 on immigration) and to integrate the nation and commemorate certain events of the nation- or state-building process, (such as the messages of 3 October and 8 May in Germany). In addition, in exercising their formal powers, presidents can combine different tools, as in the case of ‘Open Presidencies’ in Portugal. In fact, these combine public speeches with the prolonged presence of the president in a specific part of the country, which ‘quasi-officially turns the region into the seat of the presidency. This sort of political tour would then attract a lot of media attention – regionally and nationally – thus enabling the president informally to frame the country’s political agenda’ (Amorin Neto and Costa Lobo, 2009: 249).

As a consequence, informal powers can be classified only by investigating their relationship with formal powers and what purpose they can be used for.

As pointed out in recent works dealing with inter-executive relations (Raunio and Sedelius, 2019, 2020; Sedelius, 2006) when it is unclear how formal powers are distributed between the president and the executive, informal powers are more likely to be employed by presidents. Therefore, it is likely that informal powers emerge when the power relations that occur among the president and other institutional actors are not clear or fully detailed by the law or Constitution. In other words, it is often the lack or inconsistent definition of formal powers to determine the use of informal ones.

However, the relation between the president and the public is central to understand to what ends informal powers are used, since – as explained previously – informal powers’

compliance mechanism is based on legitimacy, which is produced by those subject to authority. In Uphoff's (1989: 312) words,

While authority comes from the claims of incumbents seeking compliance, [. . .] legitimacy is produced by members of the public to the extent that they believe, and are willing to act on their belief, that specific exercises of authority are right and proper, deserving to be obeyed.

Especially in the current environment affected by multiple interconnected phenomena such as mediatisation (Strömbäck and Esser, 2014), personalisation (McAllister, 2007) and presidentialisation (Poguntke and Webb, 2005) of politics, the relationship between the president and the public is key, even when a direct link of delegation between the president and the citizens does not formally exist because of a lack of direct presidential election. Moreover, the link between the president and public opinion is crucial because it always acts as a leverage for the executive or parliamentary majority (Gherghina, 2013) to listen to presidents' pleas. Furthermore, public opinion is always considered by presidents when they decide to go public (Ponder, 2018) and public approval of the president has proved to be influential in presidential speech-making (Cockerham et al., 2019) – namely, when specific tools of informal powers are adopted. In addition, a positive relationship with the public can determine a surplus of power in the political capital of presidents (Grimaldi, 2017) and can be used vis-à-vis the PM and their cabinet.

When it comes to presidential informal powers both the relationship with the PMs and their executives and the relationship with the public need to be taken into account. In fact, informal powers are more likely to be used when differences emerge between the president and the PM and their government, often (but not exclusively) if presidents and PMs comes from opposing parties. As a matter of fact, informal powers can be employed either to produce conflict or increase cooperation. Presidents can rely on informal powers to make their diverging views prevailed, notably when they think public opinion is on their side. However, presidents can use informal instead of formal powers to prevent these differences from becoming the origin of an open conflict with PMs and their cabinets. This is more likely to happen when presidents are scared to lose their popular support by engaging in a turf-war with the executive. This is especially the case of presidents who are supposed to be 'above parties' figures.

All that said, it is possible to distinguish informal powers accordingly to their purpose by taking into account two dimensions. The first one is relates to the existence of formal powers at the president's disposal in a specific sphere and the second is based on the evaluation of public support each individual president thinks to enjoy should they act or refrain (see Figure 2).

As far as the second dimension is concerned, it is worth to specify that public support in president emphasises the relationship that occurs between the president and the public opinion. Here, public support is seen as something that can quickly change and it is related to day to day politics rather than as a stock of capital (like trust) in the hands of presidents. In fact, even though presidents may be generally trusted by citizens, their opinion on specific issues may not be necessarily in line with or responsive to the public opinion.

With this in mind, the two dimensions generate four types of informal powers (see Figure 2):

| | | Existence of formal powers | |
|----------------|------|----------------------------|-------------|
| | | no | yes |
| Public support | high | Substitutive | Parallel |
| | low | Subverting | Risk-taking |

Figure 2. A Typology of Informal Powers.

1. *Substitutive informal powers*: a clear formal power does not exist and the president who enjoys high public support may try to rely on informal powers to both fill gaps and resolve ambiguities in formal powers and to carve out new patterns of action to address critical or unexpected events or situations.

Examples of substitutive informal powers can be the vetoes and/or the proposals of certain ministers by presidents who do not have this formal power, since constitutions only grant them the power to appoint the PM (and on his or her proposal the ministers) but they enjoy sufficient public support to see their requests taken into account by PMs and parliamentary majority nevertheless. In 2000, the Austrian President Klestil who gained positive international visibility during his first term and was reconfirmed, successfully vetoed the nominee of two ministers of Schlüssel's government, even though he did not succeed in blocking the formation of ÖVP-FPÖ coalition. In Italy, beloved presidents often succeed in vetoing the nominee of certain ministers (i.e. President Scalfaro in 1994 and Mattarella in 2018), but recently they seem to have put under surveillance two specific portfolios: foreign affairs and economy, namely those most involved with the European Union (EU). Both Ciampi and Mattarella successfully proposed the nominee of the minister of Foreign Affairs – respectively of Berlusconi III and Conte I cabinets – and Napolitano proposed the nominee of Renzi's cabinet Finance minister. In all these cases, presidents enjoyed a high popular support which cannot be ignored by parliamentary parties. Other examples are the above mentioned presidential pocket vetoes on legislation in Austria and Germany. In fact, this power is not clearly defined by the respective Constitutions but presidents considered using it anyway, especially when their public support was high as in the case of Fischer and Köhler. Moreover, Köhler frequently intervened both by asking the government for further clarifications on certain bills and by making his doubts acknowledged on certain provisions in the committees of the Bundestag, so much so that his suggestions got the nickname of 'red Köhler-cards' (Strohmeier and Wittlinger, 2010: 253). Substitutive informal powers can be used also in foreign policy when a clear formal presidential domain reserve does not exist. This is what happened in Ireland when President Robinson evidently intervened in foreign policy by unofficially travelling to Great Britain and to Northern Ireland and thus, by bypassing

the need to request the Government's permission to leave the country as the Constitution prescribes (art. 12.9). President Robinson's 'non-official visits' had twofold purposes: to relax the Irish-British relationship and to create the premises for an enduring peace in Northern Ireland (O'Leary and Burke, 1998), but they especially stood as a tool to carve out a new informal power in foreign policy. This result was achieved due to her incredible public support which no PMs could ever compete with. Another good example of presidential intervention in foreign affairs is that of the Italian President Napolitano's, when Italy had to decide on its position on the Libyan war. The right-wing government led by Berlusconi played for time, since it signed a non-belligerency treaty with Gaddafi in 2008. When war started Napolitano's public statements backed the French and British attack first, to then convince the PM to abandon his previous foreign policy stance. However, according to the Constitution, foreign policy is not presidential turf and the president succeeded in carving out this new substitutive informal power by relying on his huge popular approval – especially in comparison to the declining support the PM was experiencing.

2. *Parallel informal powers*: a formal power exists in the presidential toolbox to address a specific situation, but the president still decides to use informal powers to intervene by spending their high public support to influence other actors' decisions (and primarily, the PM and the government) to reach their goals faster and avoid any possible institutional conflict that will likely to emerge by using formal powers.

Presidential intervention in the policy-making labelled as moral suasion is an example of parallel informal power. In fact, even though a formal power such as presidential veto or presidential referral exists, moral suasion is generally preferred especially if presidents enjoy a high popular support. Presidents rely on moral suasion because they believe that their requests have chances to be immediately incorporated by the government or the parliamentary committees. In other words, moral suasion may be seen as a shortcut as it can achieve the goal of amending part of a proposal and averting the rejection of the entire bill (a sort of partial or line-item veto). For example, in Portugal President Rebelo de Sousa sent back several executive laws for further elaboration without vetoing them formally (Feijo, 2021: 102). Moreover, when president and PMs come from opposing political forces, moral suasion may be used because presidents can obtain the changes they want without exposing the government or parliamentary majority to their formal and public dissent, which can lead to an institutional conflict where presidential neutrality may be questioned. In particular, in Italy, both President Ciampi and Napolitano ended up relying more on moral suasion than on formal vetoes (Grimaldi, 2015) not to fuel the contrast with the right-wing PM Berlusconi. Another example of parallel informal powers pertains to government formation sphere, that is, when presidents have the formal power to dismiss the PM or a minister but attempt to convince them to resign or reshuffle their cabinet instead. Once again, the Portuguese president is a suitable case to demonstrate this. According to the Constitution, the president cannot dismiss the cabinet by invoking lack of confidence. However, the president can still dismiss the cabinet in exceptional political circumstances 'to ensure the regular functioning of democratic institutions' (art. 133 g, 195.2).⁵ This possibility was invoked by President Rebelo de Sousa who enjoyed an incredible public support during the Portuguese political crisis triggered by forest fires in October 2017. In fact, since the minority government led by the socialist Costa proved

its inability to reform forest policies after two tragedies in just a few months, the president made it clear that the government needed to refresh its parliamentary legitimacy. He pointed out that ‘unless his plea was heard, he would make use of “all his constitutional powers” to see that the Portuguese would not be let down yet another time, implying he might choose to dismiss the PM or dissolve the parliament’ (Feijo, 2017). The same day the Minister of Home Affairs resigned. This example proves that even though constitutional powers exist, sometimes presidents can decide to opt for informal ones to pressure the government to make substantial changes (both related to the content of policies and the composition of cabinet). In addition, the use of such informal parallel powers is more convenient in situations of dual executive as they are likely to achieve the results wanted and at the same time avoid the insurgence of an institutional turf-war between the PM (and their cabinet) and the presidency, which in the long run could also undergo a contraction of presidential popular legitimacy.

3. *Risk-taking informal powers*: a formal power exists but presidents do not feel they have enough public support to make their will prevailed and/or they feel they could dilapidate their political capital by using formal powers. Informal powers are therefore used in the attempt to make clear their point of view (especially when diverging from that of the cabinet or the majority in parliament). This may lead to presidents threatening to use formal powers to be listened to.

A good example of Risk-taking informal powers is the phenomenon of the so-called ‘dis-senting promulgation’ used by Italian presidents (Amoretti and Giannone, 2014). As a matter of fact, according to the Italian Constitution (art. 74), the possibility to ask the Chambers to revise a specific bill is clearly at the president’s disposal but sometimes presidents decide to sign the law under scrutiny, while also pointing out their doubts. During his first term President Napolitano decided to complement the promulgation of the security law (Law 94/2009) and of the reform of university (Law 240/2010) with a written note which underlined some shortcomings. On one hand, the use of risk-taking informal powers was a way to signal the presidential political and personal distance from such measures, which were highly opposed by the progressive public opinion. On the other hand, the use of a formal veto would have been interpreted as a party-driven intervention, at least by the conservative Italian public opinion, since both bills had been important points of the electoral pleas of the right-wing coalition led by Berlusconi. In addition, Napolitano was probably scared to lose his hard-won neutrality had he engaged in a political turf-war with the government. In fact, the first ex-communist president was elected in 2006 with one of the lowest score of Republican era, since his capacity ‘to be above parties’ was put into question. Finally, the use of risk-taking informal powers partly succeeded, since some presidential amendments were accepted and the president’s opposition to those provisions clearly emerged. Another good example occurred in Ireland in 1994, when President Robinson threat to use her formal power to dissolve the Dail (art. 13.2.2.). On that occasion, the Fianna Fail PM Reynolds had not sustained any defeat in the Dail, but the coalition with Labour had broken all the same. Robinson’s decision to use risk-taking informal powers rather than formal ones can be explained through two elements. On one hand, the president in Ireland is conceived as being above parties and therefore, by refusing the PM’s formal request to dissolve the Dail, President Robinson would have potentially triggered a turf-war between the presidency and the prime-ministership with uncertain results, thus compromising her high popular support. On the other hand, President Robinson was likely to

take into account that public opinion was strongly against the upcoming elections, especially because a different majority was likely to be formed in the Dail (Gallagher, 2012). All that considered, President Robinson decided to make it clear that she was against a dissolution in order to prevent the PM to bring forward an official request, which in fact she never received from Reynold's part.

4. *Subverting informal powers*: no formal power is held in the presidential toolbox. In addition, the president's public support is unsteady or in decline, thus they may opt to adopt certain actions with the purpose to demarcate their differences vis-à-vis other institutional actors, often with the only purpose of criticising, delegitimising or even disempowering them and of moving public opinion on their side.

Subverting informal powers are more difficult to detect, especially in well-established democracies. Nevertheless, their theoretical existence cannot be neglected and an example occurred in Finland as far as the management of European affairs were concerned. As a matter of fact, foreign policy has traditionally been a presidential dominion, even though president's powers have been restricted – especially in EU affairs – after a constitutional revision in 2000. In particular, both the President and the PM claimed to be entitled to represent Finland in European institutions. On this issue, severe disputes emerged between President Tarja Halonen and different centre-right PMs from 2003 onward, which most likely undermined the popular support Halonen enjoyed. In fact, at the beginning of her first term, the approval ratings she enjoyed were incredibly high, whereas in 2006, her popular support almost halved. Until the ratification of the Lisbon Treaty, the President insisted on being present during the European Councils together with the PM (the so-called politics of two plates) and sometimes, she did not refrain from publicly attacking the government (Raunio and Sedelius, 2019). However, in the end, the PM and cabinet prevailed, and the president was formally excluded from European affairs. This case emphasises how risky it is to use subverting informal powers, as the final outcome can be potentially negative, ending up reducing even more presidents' powers, as it happened in Finland.

The classification of informal powers provided by the above typology as well as the definition of informal powers are theoretically necessary steps in presidential studies that, so far, have been exclusively focused on formal powers.

This article has important implications for presidential leadership. First, it expands our understanding of presidential power by clearly distinguishing between formal and informal powers. Second, it connects informal powers to legitimacy and therefore to the relationship between presidents and the public in contemporary democratic regimes. This passage is key in the understanding of the nature of informal powers and why and for what purpose they are used by presidents.

Clearly, a lot of research is needed to widen our knowledge on presidential power. Notwithstanding the difficulties in finding data, both case studies and comparative researches would be essential to complete the map of informal powers, here only briefly started. However, such studies would be even more important to test the validity of the typology proposed in this article. Many future research avenues can be explored from this initial work, but it would be useful to address the following two points: (1) how to measure presidential informal powers in order to perform comparative quantitative studies and (2) when and to what extent informal powers emerge and are more likely to be used in order to provides some potential casual hints.

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Notes

1. However, personalisation may affect both the Prime Minister (PM) and the President but this latter case has not so far equally investigated.
2. Other typologies based on functionalist perspective have been provided by Helmke and Levitsky (2004) and Azari and Smith (2012).
3. By grouping presidents per geographical regions it emerged that, in Europe, presidents have lower powers in comparison to presidents in other regions. In fact, on average, presidential power in Europe scores as 0.226, whereas in Asia it scores 0.356, in Latin America 0.362 and in Africa as 0.441.
4. Shugart and Carey (1992) have distinguished presidential powers as legislative and non legislative powers. This distinction is not fully convincing especially because among non legislative powers, none has ever tried to encompass those powers related to Presidents' role as Head of States namely related to representing the whole nation. This aspect may become crucial especially in parliamentary and semipresidential countries where the head of government is not the same person of the head of state.
5. This point was clarified by Amorin Neto and Costa Lobo (2009), who reject the categorisation of Shugart and Carey (1992).

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Appendix I

Presidential Powers, Type of Presidential Election, Type of Constitutional Design in Europe.

| | Presidential score (prespow1) | Direct/indirect election | Consistency/ inconsistency |
|----------------------------|----------------------------------|-----------------------------|-------------------------------|
| Albania 1998– | 0.141 | Indirect | Consistent |
| Austria 1945– | 0.092 | Direct | Inconsistent |
| Belarus 1997– | 0.615 | Direct | Consistent |
| Bosnia and H. 1996– | 0.284 | Direct | Consistent |
| Bulgaria 1992– | 0.183 | Direct | Inconsistent |
| Croatia 2001– | 0.291 | Direct | Consistent |
| Cyprus 1960– | 0.648 | Direct | Consistent |
| Czech Republic 2001– | 0.257 | Indirect | Inconsistent |
| Estonia 1992– | 0.184 | Indirect | Consistent |
| Finland 2000– | 0.05 | Direct | Inconsistent |
| France 1963– | 0.131 | Direct | Inconsistent |
| Germany 1949– | 0.029 | Indirect | Consistent |
| Greece 1986– | 0.029 | Indirect | Consistent |
| Hungary 1991–2011 | 0.275 | Indirect | Inconsistent |
| Iceland 1944– | 0.325 | Direct | Consistent |
| Ireland 1938– | 0.062 | Direct | Inconsistent |
| Italy 1948– | 0.1 | Indirect | Consistent |
| Latvia 1998– | 0.01 | Indirect | Consistent |
| Lithuania 1993– | 0.282 | Direct | Consistent |
| (North) Macedonia 1992– | 0.116 | Direct | Inconsistent |
| Malta 1965– | 0.148 | Indirect | Consistent |
| Moldova 2001– | 0.272 | Direct | Consistent |
| Poland 1997– | 0.241 | Direct | Consistent |
| Portugal 1983– | 0.197 | Direct | Inconsistent |
| Romania 1992 | 0.25 | Direct | Consistent |
| Slovakia 2002– | 0.189 | Direct | Inconsistent |
| Slovenia 1992– | 0.118 | Direct | Inconsistent |
| Ukraine 2011 | 0.464 | Direct | Consistent |
| Average (existing regimes) | 0.214 | | |
| Average all regimes | 0.226 | | |

Source: Adaptation from Doyle and Elgie (2016) and from Fruhstorfer (2019).

(1) Here are reported all scores per existing regimes (namely, 28 countries in Europe with a directly or indirectly elected president). However, Doyle and Elgie (2016) took into account also previous regimes (here, intended as different constitutional frameworks where presidential powers varies) such as Albania 1991–1998, Croatia 1991–2000 and Latvia 1992–1997. Therefore, 0.226 is the mean value of 49 country-time periods whereas 0.214 is the mean value for the actual 28 regimes.

(2) Russia and Turkey are geographically placed between Europe and Asia and therefore have been excluded from this table.