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THE PRACTICE OF CONSENSUS IN THE EUROPEAN COUNCIL: INCOMPETENT PERFORMANCE, FAILED CONSENSUS-SEEKING, AND THE ROLE OF QUALIFIED MAJORITY VOTING

ABSTRACT: *The European Council tends to decide by consensus, but from time to time important decisions are taken despite opposition from one or more member states. I argue that in some of these cases employing qualified majority voting can preserve rather than undermine the culture of consensus. Specifically, I am interested in instances of incompetent performance of the practice of consensus and reactions to them. I apply practice theory and use analyticist process tracing to conceptualise a mechanism which depicts these dynamics. I develop this mechanism and discuss its limits of portability by analysing three empirical cases: Donald Tusk's re-election in 2017 and European Commission's president nominations in 2014 and 2019. The paper proposes a new perspective on seemingly failed consensus-seeking processes, explaining how they can be reconciled with the culture of consensus. Moreover, the analysis highlights how practices can lead to change while also ensuring continuity, which is an important idea for practice theory.*

KEYWORDS: culture of consensus; decision-making; discourse; practice turn; qualified majority voting; social practice

1. Introduction

On 9 March 2017, the European Council re-elected Donald Tusk for a second term as its president (European Council 2017). It would normally have been a run-of-the-mill decision for the EU and have been of limited interest to researchers, especially given that new people are selected for top positions every five years. However, in this case, something extraordinary happened: for the first time the president of the European Council was elected without the consensual agreement of all Member States. Tusk was re-elected despite a no-vote from none other than Poland, the country Tusk had been prime minister of between 2007 and 2014.

Both the European Council and the Council are often described as operating under “the culture of consensus”, which means that even if they formally can decide on some issues by qualified majority, in practice they rarely do. Consensus is seen as a defining element of the EU’s “political identity” (Novak 2013, 1091) and “a cornerstone of [its] political process” (Novak et al. 2021, 475). This paper explains how and why this culture of consensus might not always bring about consensus in the European Council.

I develop an understanding of the culture of consensus rooted in practice theory. I argue that looking at culture as a dynamic interplay of practice and discourse helps us understand the varied outcomes of decision-making. The crucial point is that the practice of consensus, like all social practices, can be performed at various levels of competence. When a practice is performed competently, its performance strengthens the corresponding discourse and maintains the continuity of the culture of which it is a part. Incompetent performance of a practice, on the other hand, can lead to changes in the associated discourse and culture. Such changes might be unwelcome if most actors participating in the practice value the current state of that culture. This suggests that incompetent performance can provoke efforts to avoid such a result. I argue that using formal provisions that allow for qualified majority voting is the last resort of such opposition. In such circumstances, rather than undermining the culture of consensus, explicit voting serves to preserve it.

The paper makes two main contributions. The first speaks to the debates in EU studies on decision-making in EU intergovernmental bodies, in particular the literature examining the existence, origins and effects of the culture of consensus in both the European Council and the Council (i.a. Heisenberg 2005; Häge 2013; Novak 2013; Kaniok 2016; Puetter 2016; Smeets 2016; Novak et al. 2021; Ławniczak 2023). My focus is on the European Council, the less studied of the two institutions. I offer a new perspective of looking at the seemingly failed processes of reaching consensus, providing an analyticist mechanism which can help shed light on the past and future instances of such processes.

The second contribution is aimed at the broader discussion on practice theory in European and international studies, in particular how it deals with the problem of change and continuity. While it has been argued that practices can promote both continuity and change (Adler and Pouliot 2011, 18), this seemingly contradictory idea has come in for criticism (Ringmar 2014), in particular due to its vagueness. My contribution is to show how ruptures, such as moving away from an established norm, brought about by the modification of a practice's performance, might ensure continuity of the practice itself—including in its criteria of competence—rather than induce further change. This happens under certain circumstances, such as those brought about within the discursive and cultural context of a practice, and the competence of its performance.

In the following section, I review the literature on consensus in the intergovernmental bodies of the EU and then present my practice-oriented approach. Next, I explain my use of analyticist process tracing and apply it to develop a mechanism which describes some of the consensus dynamics in the European Council. I focus on actors and the way they react to incompetent performances of a practice. I then move on to show the instantiation of this mechanism: the re-election of Donald Tusk as the European Council's president in 2017, marking the first and only time the European Council has elected its president by qualified majority rather than unanimously. I compare this case with the nominations of the European Commission's presidents in 2014

and 2019, which show different outcomes when a non-blocking minority opposes a candidate. They also allow me to probe the extent of the proposed mechanism's portability.

2. The practice of consensus in the European Council and the Council

2.1. Varieties of the culture of consensus in the European Council and the Council

The European Council plays a leading role in EU politics. Since the 2010 Eurozone crisis, it has become more involved in policy-making, covering detailed and politically salient issues (Puetter 2014, 69–71). Highly politicised issues might be incompatible with deliberation and consensus at the Council level (Pollack and Shaffer 2010), but when a decision is necessary (in the face of crisis, for example) the European Council, as the last instance, usually delivers a solution.

By default, the European Council decides by consensus, sometimes formalised as unanimity. Only certain decisions, such as major appointments, can be taken by qualified majority (Schoutete 2012). In the Council the situation is the other way round: a small number of decisions formally require unanimity, while most issues can be decided by qualified majority. However, the Council's voting record shows significantly lower levels of dissent than quantitative models predict (König and Junge 2010). The Member States usually refrain from voting against or abstaining, even if a decision does not fully satisfy their positions (Høyland and Hansen 2014). In the recent literature on decision-making in the Council, some authors point towards potential weakening of the culture of consensus, while others claim it is "enduring" (Roos 2019; Pircher and Farjam 2021; Juncos and Pomorska 2024; cf. Novak et al. 2021).

Novak (2013, 1094) argues that consensus should be understood as lack of explicit opposition – decisions may not be supported unanimously, but opponents withhold their reservations. According to Chelotti (2016), practices of cooperation at the European level are limited by national orientations of the actors involved. To oppose ineffectively could bring the attention of domestic public opinion to the failure of the government. Moreover, the tenability of isolated opposition depends on context, including which country is isolated in a particular case. If unanimity is required, governments focus on delaying or blocking unwanted decisions at early stages rather than vetoing them explicitly at the level of ministers (Smeets 2016). Similarly, in the European Council, even if vetoing is possible, it is not an instrument that can be used freely (Tallberg 2008, 695).

In this paper, I assume there are varieties of "the culture of consensus" in both the European Council and the Council. The academic literature on the Council is much more extensive than that on the European Council, which, with a view to characterising these varieties, is why I'm drawing from both. But just how similar are the cultures of consensus between the two institutions?

The European Council comprises individuals, while the Council, even on the ministerial level, is a meeting of delegations (Puetter 2014, 99). This quality, coupled with the lack of transparency regarding the course of its meetings, encourages frank discussion and gives the leaders “the space to think” that is required to solve problems (Hillebrandt and Novak 2016). The difference between the Council’s rotating presidency and the European Council’s president also plays a role in this regard (Przybylska-Maszner 2020). The former is a team effort, and lasts for a mere six months. The Council’s presidency is also more constrained: on the agenda-setting side by the Commission, and on the compromise-brokering side by the need to find common ground with the European Parliament in most matters, in particular legislation. The European Council’s president, on the other hand, is an individual, has a longer mandate and greater control over the agenda. Brokering tasks are more challenging for them, however, as for most decisions consensus is not just an informal norm, but a formal requirement (Tömmel 2017).

A meeting of the European Council is the culmination of previous diplomatic efforts and discussions, just as the results of decision-making in the Council are dependent on the dynamics within its multi-layered structure of preparatory bodies (cf. Lewis 2010; Smeets 2015). Puetter (2016, 602) claims that, in both institutions, consensus-seeking is “a practice which reflects the desire of Member State governments to act collectively even in the absence of centralised EU powers”. Overall, there seems to be a strong preference for compromise and reciprocity, which informs the outcomes of negotiations, even in difficult cases such as the Eurozone crisis (Lundgren et al. 2019).

2.2. Competent and incompetent performance of the practice of consensus

Countless attempts have been made to define the term “practice”. As a noun, it can be countable or uncountable (Kustermans 2016) and it can be substituted by or contrasted with *praxis* (Kratochwil 2018). Emmanuel Adler and Vincent Pouliot (2011, 4) define practices as: “socially meaningful patterns of action, which, in being performed more or less competently, simultaneously embody, act out, and possibly reify background knowledge and discourse in and on the material world”. While some argue that the notion of “competent performance” should be dropped, leaving only the “socially meaningful patterns of action” aspect (Bicchi and Bremberg 2016), Adler and Pouliot’s definition is useful for the purpose of this paper.

Performing a common practice produces and sustains social order – it is “performed into being” through practices (Bueger and Gadinger 2015; Adler-Nissen 2016). Practices, in turn, rest on background knowledge, which encompasses the non-intentional or pre-intentional abilities that allow intentional mental states to emerge. Practices are a means of translating this ideational background into intentional and socially meaningful action. Background knowledge therefore does not simply enable practices but is bound up within

them, which emphasises the interdependence between practitioners. A practice is socially recognisable and can be performed with varying degrees of competence (Adler and Pouliot 2011). This notion is important here, because this paper focuses on what the insufficiently competent performance of a practice could bring about. According to Neumann (2002), culture can be understood as the dynamic interplay of discourse and practice, mediated by stories. Practices are institutionalised and naturalised in a given setting, where they become involved in relations of power and authority. Neumann (2002, 637) observes that “as long as people act in accordance with established practices, they confirm a given discourse”. This corresponds to the perspective of Adler and Pouliot (2011, 18), who claim that “The performance of practices in socially recognizable ways is the source of ontological stability in social life.” To ensure continuity for a given culture, the practices must therefore be performed competently. Competent performances of a practice strengthen the corresponding discourse and preserve the continuity of the culture to which it belongs. It follows that performing a practice with an insufficient level of competence can lead to changes in discourse and, potentially, in culture. I would add here, though, that such change is not inevitable. It occurs unless the incompetent performance is met with effective opposition by other actors, who care about the preservation of the existing state of culture. This opposition, however, might introduce changes on another level. While it serves to maintain the overall culture, as well as the criteria of competence of a given practice, it might mean that certain aspects of the practice’s performance must be changed or, as shown in the analysis below, a long-standing norm, relevant in a particular case, must be abandoned.

To perform the practice of consensus competently, engaged parties need to act in a specific way. Criteria of competence are – in part or even mostly tacitly – negotiated and renegotiated among practitioners. Moreover, their relevance is dependent on the relational context of the performance – where and in whose company the practice is enacted. In some contexts, a highly incompetent performance of a practice might not be a problem, while in others a small misstep might prove costly for the practitioner.

Previous research can help demonstrate what (in)competent performances of the practice of consensus may look like. However, it is impossible to abstractly define the competent performance of a practice – the goal is to sensitise the analysis rather than provide a precise operationalisation. For this purpose, I outline three general criteria of competence that can be relevant when actors representing a non-blocking minority attempt to perform the practice of consensus so that a consensual decision becomes acceptable to them: a) being constructive by proposing a viable alternative solution; b) justifying one’s position, preferably by appealing for the common good or vital national interests; c) genuinely attempting to find support or understanding among other actors. The actual relevance of each of these criteria, as well as the consideration of other criteria, depends on the context of the situation.

Member States and their representatives are expected to “show a high degree of commitment to consensus-seeking” (Puetter 2014, 59). Research on consensus in the Council suggests how this commitment is supposed to manifest: to reach a decision at their level, national officials in the Council have to pay attention to others and learn how they can constructively contribute during meetings (e.g. Lewis 2005; De Silva and Tepliakova 2024). Officials believe that “there is a spirit of compromise” (Ławniczak 2023, 685–86) and “it is impossible to present yourself as uncompromising” (Lempp and Altenschmidt 2008, 520). What this means is that an objecting minority is not required to simply drop its opposition for the sake of consensus, nor is it given some kind of informal veto under QMV. Instead, everyone is expected to search for a compromise that is at least acceptable to everyone.

Tallberg’s (2008, 695) interviews revealed that vetoing in the European Council requires skilfully negotiating and justifying that “vital national interests are at stake”. Accordingly, the veto “is rarely seen” (Juncos and Pomorska 2011, 1105). Negotiators emphasise the weight of good arguments: “One should always add argumentation and justification” (Ławniczak 2023, 687).

Attempts to find understanding, if genuine, are usually successful – Council officials have claimed in interviews that “there is no inclination to humiliate – if you can make some concessions on someone’s behalf – you do” (Ławniczak 2023, 687–88). Member States’ representatives – from the working parties level up to the European Council – need to seek support for their positions, because isolation is something that a Member State should avoid (cf. Smeets 2016), regardless of its size (Kirpsza 2021).

3. Method of analysis and data sources

3.1. Analyticist process-tracing

Process-tracing is an established part of the qualitative methods toolbox in political science. It is usually described as a method which “examines the observable implications” of mechanisms it aims to trace in a given case “to test whether a theory on these mechanisms explains the case” (Bennett and Checkel 2015, 7–8). Understood this way, the method attempts to identify a mechanism, or a chain of thereof, which links the causes and the outcomes (George and Bennett 2005).

This “mainstream” (or “regularity”) understanding of process-tracing is difficult to combine with interpretive, practice-oriented methodology due to ontological incongruence. However, the method’s core idea – exploring and unpacking social mechanisms – remains appealing for interpretive researchers. Several attempts to reconcile process-tracing and interpretive research have been made (e.g. Norman 2015; Pouliot 2015; Guzzini 2017; Norman 2021). In this paper I follow what Meegdenburg (2022) calls an “analyticist approach” to process-tracing. The method allows me to conceptualise, empirically develop, and assess the

portability of a mechanism that can be helpful in understanding the dynamics of (in)competent performance of an important social practice.

“Analyticism” in analyticist process-tracing refers to an analyticist ontological approach, which in the context of international studies has been comprehensively described by Jackson (2011), as one of four philosophical ontologies in the discipline. Analyticism looks at theories as conveying “a sense of the (...) relations of things”, instrumentally utilising theoretical constructs “to order the complex chaos of empirical reality” (Jackson 2011, 113). In analyticist process-tracing, mechanisms are treated as such theoretical constructs and are similar to ideal types in their function (Meegdenburg 2022; cf. Jackson 2011, 142–46).

While analyticist mechanisms are not strictly speaking “causal mechanisms”, they nevertheless describe how a causal-like “motion” is transferred by a given set-up, in “similar ways over a variety of situations” (Meegdenburg 2022, 408). Similarly, to conventional process-tracing, each step of a mechanisms is conceptualised by describing entities engaged in activities (cf. Beach and Pedersen 2013, 49). By emphasising the multifinality of mechanisms and leaving more room for agency and meaning-making, however, the analyticist approach is more compatible with interpretive studies oriented on meaning and practice. An analyticist mechanism, as an analytic construct, is meant to help order reality, in particular serving to recognise, compare, contrast, summarise and communicate across different cases (Meegdenburg 2022).

In the following section, I apply this method in three steps. First, I propose an analyticist mechanism that is meant to capture the ways a valued culture is defended against the threat of devolving because of an insufficiently competent performance of a crucial practice. I have conceptualised the mechanism by applying notions derived from practice theory in abductive engagement with previous empirical research and preliminary analysis of the mechanism’s potential instantiations – a process which is continued below with a more detailed analysis of two of these instantiations (cf. Kurowska 2020, 99–100).

I then present an instantiation of this mechanism – Donald Tusk’s re-election as the president of the European Council. While an analyticist mechanism is a short, simplified ideal type, a concrete instantiation is contextually embedded, capturing a specific chain of events. Providing an instantiation serves to trace the mechanism in action in a specific context and showcase its typical characteristics (Meegdenburg 2022). It can also help to improve the conceptualisation of the mechanism.

Finally, I discuss the mechanism’s portability by discussing a case of selecting the European Commission president in 2014. Mechanisms, understood as analytic constructs, should in principle be portable, able to travel between different cases while providing the means to “grasp, describe, and study” them (Meegdenburg 2022, 409). The aim of this subsection is to refine the analytic construction of the mechanism and capture the idiosyncratic nature of the instantiation (Meegdenburg 2022).

3.2. Data limitations in studying the European Council

The European Council is probably the least researched of the EU's main institutions, mainly due to its highly insulated operations, which are conducted by top-tier European politicians. Tallberg's study on bargaining in the European Council (2008), for which he interviewed heads of state or government, is therefore all the more valuable. More recent, empirical studies include analyses of European Council conclusions (Carammia et al. 2016; Ullrichova 2023). These are the only publicly available records of the EC's summits. Other researchers have focused on the European Council's relations with other institutions, which allows them to use a wider array of sources, including interviews with people affiliated with other institutions and documents exchanged between the different institutions engaged in the cases under analysis (Bocquillon and Dobbels 2014; Witkowska 2021; Crum 2023; Smeets and Beach 2023).

For this paper, the preferred sources would be interviews with participants of the events I want to analyse. Such interviews would be extremely difficult to arrange, however, and even if they were arranged they might not turn out to be reliable due to the political interests of the interviewees and the fact that the analysed events took place many years ago. I was able to ask about the main instantiation, Tusk's re-election, during an interview with a Polish official tasked with coordinating Poland's involvement in the European Council. The official emphasised that the processes behind this type of decision (high-ranking appointments) are entirely informal ("There is nothing on paper, there is no item on the agenda"), and so the ministerial officials are bypassed in favour of politicians.¹

Due to these limitations, my study draws on various materials gathered in a wide survey of media reports, opinion pieces and analyses by journalists and academics. To find available data, I browsed the archives of newspapers, opinion weeklies and online media from the relevant time periods, and conducted two rounds of general web searches – in 2020 (Tusk's re-election) and 2022 (Juncker's nomination). I searched for materials in English and Polish – the latter being especially important for the primary instantiation. These materials serve two main purposes. First, they allow me to reconstruct the sequence of events in each of the analysed cases, including the actions and statements of their participants. Second, they show how the events were interpreted and understood by expert observers. These data allowed me to propose, with some empirical grounding, my own interpretations of the actor's performances during these events (cf. Bueger 2014).

¹ Interview with a Polish official, Warsaw, 19 October 2023.

4. Failed consensus-seeking and the culture of consensus

4.1. The analyticist mechanism

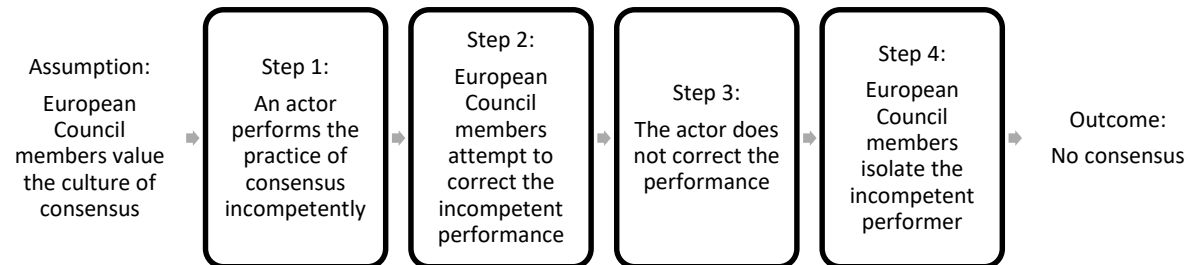
The analyticist mechanism I propose here assumes that within the European Council there is a culture of decision-making, “the culture of consensus”, which is valued by its members. This assumption is important because if the culture wasn’t there or wasn’t valued, the rest of the mechanism would not make much sense. This culture materialises through “the practice of consensus” – the complex of practices related to consensus-seeking introduced above.

The first step of the mechanism happens when an actor performs this practice incompetently. Competence is not a binary variable, but a spectrum with many degrees between its extremes. For the purpose of this analysis, “incompetently” means that the practice was performed insufficiently competently in a given context. The threshold of sufficiency can differ greatly for a variety of reasons. In general, incompetent performance might entail various failures at communication or going beyond the limits of what is appropriate. Simply having a different position does not constitute incompetence, but not being able to justify the position, propose alternatives or find understanding among others does.

The mechanism continues when the European Council members attempt to correct the performance (step 2). They might resort to various means such as signalling that the performance is incompetent (for example by not acknowledging the failed attempts) or offering a way out of the situation. If the actor does not alter their performance to meet the standards of competence (step 3), the mechanism moves to its concluding, fourth step: the European Council members isolate and, if possible, outvote them.

Both the European Council members’ attempts at correcting the incompetent performance and their ultimate response to it are brought about by their assumed attachment (which could be instrumental, normative or habitual) to the culture of consensus. The specific means of correction and isolation would be different in each case but could be similar to the components of stigmatisation: labelling (emphasising and simplifying certain differences), stereotyping (linking labels to negative characteristics), separation (differentiating “us” from “them”), status loss and discrimination (including rejection and unequal treatment) (Link and Phelan 2001). Figure 1 shows the mechanism’s steps and outcome: lack of consensus.

Figure 1: Analyticist mechanism



In the following sections, I analyse three cases when the European Council made decisions which formally require a qualified majority but are nevertheless almost always decided by consensus, both within a relatively short time period between 2014 and 2019. While most decisions taken by the European Council require unanimity, I focus here on those that don't, for three reasons. First, a lack of consensus would result in no decisions being taken, which would make the material for analysis even scarcer. Second, the final steps of the mechanism I propose rely on the *possibility* of extreme isolation and outvoting. Third, it opens up the potential for the mechanism to be useful in analysing decision-making in the Council, where (at least formally) qualified majority voting prevails.

The first instantiation of the mechanism is the re-election of Donald Tusk as the European Council's president in 2017, which marked the first and only time the European Council has elected its president by qualified majority rather than unanimously. This unusual event inspired the work presented in this paper, making it the primary instantiation. The need to better understand it and move beyond broad-strokes theorising was the motivating factor for the formulation of the above mechanism. The analysis of this case, which I present below, serves to improve the conceptualisation of the mechanism and is therefore more detailed. It is divided into sections corresponding to the steps of the mechanism.

Next, I compare Tusk's re-election with two other cases that have happened in the same decade: the nominations of the European Commission's presidents in 2014 and 2019, which show different outcomes when a non-blocking minority opposes a proposed candidate. This part of the analysis allows me to explore the extent of the proposed mechanism's portability – its potential utility in explaining events other than Tusk's re-election.

4.2. Primary instantiation: Donald Tusk's re-election

Donald Tusk was elected for a two-and-a-half-year term in 2014. Most EU Member States seemed satisfied with Tusk's accomplishments during that time. For example, an unnamed Spanish diplomat is quoted saying "You can trust him, he's dependable, he can keep a secret" (Heath 2016). Crucially, Tusk had strong support from the Czech Republic, Hungary and Slovakia, Poland's counterparts in the Visegrad Group. This didn't mean, however, that Tusk's re-election was guaranteed. From Autumn 2015, Poland's government was led by the Law and Justice party (PiS), whose main antagonist in Polish politics had been Tusk's Civic Platform (Henley 2016). France and Italy likewise had reservations about his work as the European Council's president (Heath 2016). Moreover, in January 2017, after Antonio Tajani became the President of the European Parliament, left-leaning politicians expressed dissatisfaction that the centre-right European People's Party nominees held the presidential positions in both the European Commission and the European Council, and suggested they could rectify the imbalance by not renewing Tusk's mandate (*Euractiv* 2017b).

Assumption: European Council members value the culture of consensus

All three previous elections of the European Council's president had been unanimous (Herszenhorn 2017). According to Euractive, "diplomats say that leaders place [great] store on finding a consensus choice when it comes to the presidency of their own summit institution, and would prefer not to vote on it" (*Euractiv* 2017a). The EU governments might have been unwilling to engage in a quarrel over the position (Henley 2016), but given the circumstances presented above, it seemed feasible for the Polish government to push to oust Tusk by relying on the culture of consensus and the established norm of electing the European Council's president unanimously.

Step 1: An actor performs the practice of consensus incompetently

In an October 2016 interview, Jarosław Kaczyński, Chairman of the Law and Justice party, said that "Someone like Donald Tusk should no longer be president of the European Council", but did not definitely rule out Polish support for his second term (Grodecki and Jabłońska-Andrzejczuk 2016). Two months later, Poland's foreign minister, Witold Waszczykowski said in an interview that he "cannot imagine a situation where [Tusk] can run without the support of his own government" and that Tusk "has time until May, when the decisions will be made. Tusk must try to gain the support of the Polish government, because only then will he be a credible candidate" (Baranowska 2016).

This quasi-ultimatum was dropped just two weeks later, when Kaczyński announced that Tusk would not be afforded the Polish government's support (*Do Rzeczy* 2016). With the exception of communicating an unwillingness to support Tusk, I have found no evidence the Polish government took any diplomatic action on this issue during late 2016 and early 2017 (Barker and Foy 2017). In January, prime minister Beata Szydło

claimed that the matter did not depend on the position of the Polish government (*Gazeta Prawna* 2017). If the Polish government in fact wanted to block Tusk's re-election, it seemed to believe that the "culture of consensus", one of the foundations of intergovernmental decision-making in the EU, would allow it to effectively veto Tusk's candidacy on the grounds of reservations it had, especially regarding his neutrality. According to Politico, the Polish government "insisted that no candidate should be elected over the objections of his or her home country" (Herszenhorn 2017). However, Szydło's government seemed to do little either to communicate and justify its position in advance to its partners or to propose a constructive solution (such as declaring support for another candidate, who would be put forward by a group of countries).

To summarise this step, I will double back to the general criteria of competence established above: the Polish government's performance was incompetent because: a) it was not constructive and did not propose credible alternative solutions; b) being unable to link to common European or vital national interests, it failed to convincingly justify its position; and c) it did very little to find support or understanding among other EU governments.

Step 2: European Council members attempt to correct the incompetent performance

Usually, both in the Council and the European Council, a justified reservation of even a single country makes a difference. Why was the Polish reservation dismissed in this case? As discussed above, "the culture of consensus" is not a "veto culture". To remain a functional and stable part of the EU's intergovernmental decision-making, consensus-seeking needs to be a social practice which, like any other practice, is socially evaluated whenever it is performed. Only when a practice is performed competently enough can it provide its practitioner the desired results – otherwise both the practice and the associated culture devolve into something else. In the case of the practice of consensus it is especially important, as devolution towards an "informal veto" arrangement could threaten the effectiveness of decision-making at the EU level. As mentioned earlier, even if a veto is formally possible, its use is limited in practice (cf. Tallberg 2008).

Various efforts were made to correct the Polish government. For example, some diplomats interpreted Warsaw's declarations as not so much anti-Tusk as anti-EU – as part of an agenda meant to undermine the EU institutions (Heath 2016). Labelling the Polish government as "anti-EU" may have been an attempt to make the Polish government realise the incompetence of its performance. Wojciech Przybylski provides another example with his remark that "the general assumption was that Warsaw would not oppose the re-election if it came to a vote" (Przybylski 2017). Doubting that the Polish government could actually oppose the election of Tusk can also be read as a means of correcting its performance.

Step 3: The actor does not correct the performance

However, little happened between the December declarations of Waszczykowski and Kaczyński and 4 March 2017, when, just a few days before the summit, the Polish government proposed a new candidate, Jacek Saryusz-Wolski, for the position. Saryusz-Wolski was a member of the EP that had, until that moment, been affiliated with Donald Tusk's own party, Civic Platform (EPP). The move surprised everyone, even if the candidate's lack of credibility threw it into question. While Saryusz-Wolski had considerable experience in European matters, he had never held a top government position, widely seen as a requirement for the post (*Euractiv* 2017a).

The Polish political scientist Tomasz Kownacki points out that for the Polish government to succeed in blocking Tusk's re-election, it would have needed to conduct intense bilateral consultations with major EU partners and provide reasons for its position (Kownacki et al. 2017). This apparently did not happen, as the last-minute candidacy of Saryusz-Wolski suggests.

Step 4: European Council members isolate the incompetent performer

Following the announcement of Saryusz-Wolski's candidacy, Manfred Weber, the leader of the EPP in the EP, commented: "It is symptomatic that the Polish government once again pursues only a Polish domestic policy agenda and has completely abandoned any constructive ambition at the European level" (*Euractiv* 2017a). This is an example of isolating the wayward actor by means of stereotyping. Firmly rejecting an incompetent performance and isolating the offending actor serves to strengthen the discourse regarding what is normal or appropriate, and protects the prevailing culture (cf. Adler-Nissen 2014, 149).

According to *The Guardian*, Hungary's prime minister, Viktor Orbán, "tried and failed to forge a compromise between Poland and members of the European council" (Rankin 2017). This could be seen as perhaps the final attempts at correcting the Polish government's performance, underpinned by fears of status loss and separation. The Polish government's closest ally, Orbán eventually supported Tusk's re-election, showing the extent of its isolation.

As no formal procedure exists for conducting voting in the European Council, the Polish delegation did not have any way of ensuring their last-minute candidacy would even be taken into account. The meeting's Chair, Prime Minister Joseph Muscat of Malta, proposed Tusk's candidacy first and asked if anyone objected to his re-election (Czaputowicz 2017). This is a clear example of isolation by outvoting (separation), accompanied, arguably, by discrimination. Interestingly, according to Politico, quoting an unnamed EU official, "in a sign of unease over potential procedural challenges, officials from the European Council's legal department were in the room during the vote" (Herszenhorn 2017).

Outcome: There is no consensus (but there is stigma rejection)

Donald Tusk was re-elected with twenty-seven votes for his candidacy and one against. According to Politico, “Polish Prime Minister Beata Szydło said her colleagues were undermining a fundamental principle of EU governance” (Herszenhorn 2017). This is an interesting case of how an actor can react in such situations with stigma rejection or even counter-stigmatisation (Adler-Nissen 2014, 155). Polish European studies researchers commented that the summit proved to be “an opportunity to demonstrate Warsaw’s uncompromising attitude” and ostensibly defend “EU principles”, but also emphasised the domestic context of the Polish government’s actions, interpreting its failed veto attempt as motivated by Kaczyński’s political vendetta (Kownacki et al. 2017).

The events left the Polish government irritated, and saw Szydło attempting to block the summit conclusions (conclusions by the President were released instead (President of the European Council 2017)), while foreign Minister Witold Waszczykowski said “We know now that it [the EU] is a union under Berlin’s diktat” (Rankin 2017). Later, he also claimed that the election itself might be questioned “at the level of the EU law” (Dziennik Gazeta Prawna 2017). Jacek Czaputowicz, a professor of European studies who later became a foreign minister in the PiS government, wrote in a right-wing weekly: “The decision [...] undermines the principle of loyal cooperation, destroys trust among partners, and may have a negative impact on the functioning and perception of the European Union in the future” (Czaputowicz 2017). These are further interesting examples of how an incompetent performer can relate to a mechanism’s primary outcome, with stigma-rejection potentially being its secondary outcome.

Members of the European Council and other actors involved in the process were sending Poland signals – in particular expressing hope that the country would accept Tusk’s re-election after all. When the Polish government’s performance of the practice of consensus failed to improve, it put forward Saryusz-Wolski as its candidate. With no compromise in sight, others had little choice but to unequivocally reject Polish demands by isolating and outvoting it. The Polish government reacted by trying to reverse the stigma and blame others for not respecting EU principles.

Analysis of this instantiation offers several lessons. First, even though the mechanism is described in a number of consecutive steps, the reality of this instantiation proved slightly more fluid. In particular, the different forms of correction and isolation were not as neatly ordered temporally as the steps of the mechanism call for. Nonetheless, the primary function of the mechanism is to convey its analytically generalised and cumulative effects. In this regard, the mechanism was indeed useful. Second, the continuity of the culture of consensus was maintained by introducing a change in the performance of the practice of consensus, which in this case, in accordance with an established norm, was expected to bring about the unanimous election of the European Council’s president. This previously established expectation could not be met, and the effects of the

practice's performance were different. Third, as observed above, a secondary outcome of stigma-rejection should be added to the description of the mechanism, as it expresses an important aspect of the actor-centred dynamics emphasised here.

4.3. Exploration of the limits of the mechanism's portability

Appointment of the European Commission president in 2014

On 27 June 2014, the European Council proposed Jean-Claude Juncker for the position of European Commission's president in spite of opposition from the prime ministers of the United Kingdom and Hungary. This was "a humbling defeat for Britain's prime minister, David Cameron" (Kanter 2014), who pushed for a vote and lost – breaking the informal rule of unanimity in such decisions (BBC News 2014).

Simon Usherwood (Usherwood 2014) lays out three main reasons for the British stance. First, Juncker "comes across as an old-school federalist", despite not really supporting a federalist agenda for Europe. Second, his personal flaws made it easy to show him as "the embodiment of Brussels's worst qualities" and of "Europe as an 'elitist project'" (Winkler 2014), a member of "haughty elite unable or unwilling to address the concerns of everyday citizens" (Kanter 2014), a person unable to "lead EU reform" (Watt and Traynor 2014). Third, the UK government opposed the whole *Spitzenkandidat* process, which was supposed to bind the appointment of the Commission's president with the results of the European Parliament elections (Usherwood 2014). Cameron insisted that this process lacks legitimacy (Watt and Traynor 2014). He also accused Juncker of not being interested in fighting the EU's supposed "bureaucratic overreach" (Kanter 2014).

The British position did not garner much support in most of the EU's capitals. Juncker was not seen primarily as "a federalist", but rather as "someone who works towards what is possible, rather than for some ideological holy grail" (Usherwood 2014). However, the prime ministers of Hungary, the Netherlands and Sweden were openly critical of Juncker's candidacy (Vogel 2014) and seemed to share Cameron's concerns regarding his "federalist" leanings (Daddow 2014). The leaders of Italy and France also "signalled opposition" (Pop 2014).

Three weeks before the European Council's meeting, Cameron discussed the issue with the leaders of Germany, the Netherlands and Sweden, and was supposed to have previously warned Angela Merkel that "a Juncker appointment would accelerate moves toward a British exit" (Vogel 2014). Prime Minister Cameron even suggested that Juncker's selection would destabilise his government (Pop 2014). In fact, Merkel had not been a Juncker supporter from the outset and, according to "The Telegraph", was probing the candidacy of Christine Lagarde with France (*The Telegraph* 2014). However, she changed her mind "after a domestic backlash" (Watt and Traynor 2014).

In the end, the UK sought Sweden's support, but it never materialised (Murphy 2014). Just one day before the vote, a French official claimed that "he was assured by senior British figures at a meeting in London that the Cameron government would not try to halt Mr. Juncker's ascendancy" (Kanter 2014). This is an instance of denying the viability of an actor's publicly stated intentions. One commentator claimed that Cameron's position resulted in the UK "being almost friendless in Europe" and signalled that the Cameron government rejected the European idea (Warren 2014). It also shows it being isolated through stereotyping and separation.

The Conservative party lost the EP elections in the UK, with the eurosceptic UKIP taking first place, which might be why Cameron was eager to prove he was an important player in EU politics (Riegert 2014). At the very last moment, he attempted to block Juncker's nomination with "strong and passionate intervention" and called it "a sad moment for Europe" (Watt and Traynor 2014). However, Victor Orbán turned out to be Cameron's only ally in opposing Juncker's appointment. Orbán's party, Fidesz, despite its membership in the pro-EU centre-right European People's Party (which selected Junker as its *Spitzenkandidat*), was becoming increasingly eurosceptical and engaged in anti-EU rhetoric (Wachs 2014).

After the vote, eurosceptic British politicians angrily denounced EU leaders, accusing them of cowardice and not being "prepared to say in public what they said in private" (another example of the isolated actor's reaction). Meanwhile, the leader of the opposition commented that "David Cameron (...) has become toxic" and other EU leaders "doubt his motivations" (Sky News 2014).

In a way, this case seems very different than Tusk's re-election. The UK's government was performing the practice of consensus much more competently than its Polish counterpart, seeking as it did to find support for its position among other actors. However, this competence was limited to the material aspects of the practice – the multiple meetings with potential allies and talks with other important players. Other actors signalled to Cameron that his "veto" lacked the necessary justification (one of the criteria of competence presented in previous sections). The ones given, while seemingly referring to national interests (threat of Brexit) and European-level issues (Junker's supposed federalist leanings), were too far-fetched to be convincing. Finally, there are no reports of the UK government promoting credible alternative candidacies, and its opposition to the *Spitzenkandidat* process could have been seen as unconstructive.

When Cameron decided not to back down, he was isolated (only Victor Orban supported him) and subsequently outvoted. This instantiation shows that the mechanism can be ported to other similar situations, in particular ones where the poor performance of the practice of consensus is rooted in unconvincing domestic constraints. Moreover, it emphasises that experience does not guarantee competent performance: Cameron had much more experience with European Council negotiations than Szydło, and the UK had been a Member State for much longer than Poland.

Appointment of the European Commission president in 2019

After the 2019 elections to the European Parliament, it wasn't clear who would be selected as the new president of the European Commission. Although the EPP "won" the elections, its *Spitzenkandidat*, Manfred Weber, lacked support from the potential coalition partners needed to get a parliamentary majority in favour of this candidacy ('Macron: "No Majority for Mr. Weber" and Other Spitzenkandidats', 2019). In the end, on 2 July 2019, the European Council chose Ursula von der Leyen (*Germany's Ursula von Der Leyen Nominated to Lead EU Commission*, 2019). However, before that, several other candidates were considered, including Frans Timmermans, the centre-left Socialists and Democrats' *Spitzenkandidat*. This left a large portion of the European Parliament dissatisfied (Oltermann, 2019) and the von der Leyen candidacy barely got the required majority for confirmation (Boffey, 2019b).

Kenneth Armstrong (2019) links this result to the overall failure of the *Spitzenkandidaten* process: "with Weber's candidacy failing to get traction, the slate was wiped clean and an old-fashioned process of political horse-trading took its place", while Mark Dawson (2019) points towards a "consociational concern for sharing authority". Here, I would like to focus on the successful stopping of Timmermans's nomination by a non-blocking minority coalition made up of the V4 (the Czech Republic, Hungary, Poland, Slovakia) and Italy. Making Frans Timmermans the president of the Commission was part of a compromise deal between the leaders of Germany, France, Spain and the Netherlands. It would have (at least partially) saved the *Spitzenkandidaten* process and secured the support of the European Parliament (Keating, 2019a).

Poland was among the strongest opponents of Timmermans's candidacy, as he had been cast as an anti-Polish villain due to his handling of the Polish government's rule of law violations (Cianciara, 2022). Poland's prime minister Mateusz Morawiecki called Timmermans "the candidate who is strongly dividing Europe" and "doesn't understand central Europe" (Boffey, 2019a). Poland and the rest of V4 did not seem "interested in being represented at a high level in a union they would like to roll back" (Janning, 2019). However, Poland and Hungary hoped for "a new opening" and that the new Commission would be less interested in pushing the rule of law disputes against those countries – for which Timmermans was responsible in Juncker's commission (Zalan, 2019). As one commentator notes, Victor Orban "bragged in Hungary that he and his illiberal allies had 'won' the summit by blocking Timmermans and choosing Von der Leyen" (Keating, 2019b). Interestingly, this point of view was shared by some of the Timmermans's candidacy defenders. Garvan Walshe insisted in *Foreign Policy* that "If Europe's leaders care about European democracy, they need to call the Visegrad Group's bluff and support Timmermans's candidacy", painting the disagreement as one between the liberal democracy and its enemies (Walshe, 2019).

Some analysts speculated that the European Council tried to “stick with the informal norm of unanimous decision-making because they worried that overriding the objectors might provoke them to resort to obstructive political tactics” (Hennessy, 2019). It is also likely that Timmermans’s nomination failed mainly due to the (not always openly voiced) opposition of smaller countries governed by parties affiliated with the EPP (Ireland, Bulgaria, Croatia, and Latvia). In other words, the lack of agreement within the largest European party made the proposal unviable. Indeed, Ireland’s prime minister Leo Varadkar said that “the vast majority of the EPP prime ministers don’t believe that we should give up the presidency of the Commission quite so easily, without a fight” (Keating, 2019a).

The analyticist mechanism is not applicable in this case, a fact that highlights the limits of its straightforward portability: It is only applicable if several of the mechanism’s steps can be identified. In this case, the very first step of the mechanism hasn’t occurred: Poland and Hungary, the countries most strongly opposed to Timmermans’s nomination, performed the practice of consensus skilfully. They acted constructively with regard to alternative solutions, which included utilising the party politics at the European level and the discontent within the EPP. They justified their position with reference to European unity and, most importantly, they successfully constructed a broader coalition of explicit dissenters. However, this event, seen through the analytic lens of the mechanism, including its instantiations described above, provides an understanding of how the previously isolated actors can learn to accommodate a practice and achieve their aims in subsequent iterations.

According to Lovato and Maurer (2022) the competent performance of practices allows an actor to wield “process power”, which in this case meant avoiding being disciplined by others. Hungary and Poland can be said to have learned from their previous failures (the Juncker nomination and Tusk’s re-election, respectively) and, through competent performance, they were able to safeguard themselves against being outvoted. This is important in the light of the rise of illiberalism within the EU, which is often identified as one of the Union’s greatest challenges (Hooghe & Marks, 2019; cf. Tosiek, 2023): illiberal governments are not destined to use the tactics of unpolitics (De Silva & Tepliakova, 2024) or non-compliance (Closa & Hernández, 2024), but can learn to accommodate the rules and standards of competence to their advantage.

Table 1 summarises the findings, compares the two instantiations, and emphasises the typical characteristics of the mechanism. It does not include the third case, as it was not an instantiation of the mechanism.

Table 1. Summary of the mechanism's instantiations.

Typical elements of the mechanism	Specific contents – Tusk's re-election	Specific contents – Juncker's nomination
European Council members value the culture of consensus.	All previous elections were unanimous. Consensus over the presidency of their own meetings is important.	Informal rule of unanimity.
An actor performs the practice of consensus incompetently.	Insisting on the right to block Tusk's candidacy. Polish government unable to provide persuasive justification or constructive alternative solutions.	UK government unable to provide persuasive justification of its position, focusing on domestic constraints.
European Council members attempt to correct the incompetent performance.	Labelling performance as "anti-EU". Denying the possibility of intended performance.	Stereotyping actor as being against the European ideal. Denying the possibility of intended performance. Lack of support despite diplomatic efforts (separation).
The actor does not correct the performance.	Saryusz-Wolski's candidacy.	Cameron's last-moment "strong and passionate interventions".
European Council members isolate the incompetent performer.	Stereotyping actor as caring only for domestic policy. Loss of closest allies (status loss). Outvoting (separation and discrimination).	Loss of allies (status loss). Outvoting – only Hungary supported the UK position (separation).
There is no consensus.	Tusk re-elected without unanimous support.	Juncker proposed without unanimous support.
Incompetent performer rejects the stigma.	Reversing the blame, accusing others of breaking norms.	Accusing others of cowardice and hypocrisy.

5. Conclusions

This paper utilises analyticist process-tracing to understand certain aspects of the varied outcomes of decision-making in the European Council in the context of the culture of consensus. I have developed my

argument within practice theory. Because the practice of consensus can be performed more or less competently, it was important to look at the consequences of incompetent performance. I argue that using formal provisions which allow for qualified majority voting is the last resort of opposition to incompetent performance and is intended to protect the valued culture from changing. This casts the ruptures of consensus, such as occurred with Donald Tusk's re-election in 2017, as preserving, rather than undermining, the culture of consensus.

In the paper, I have presented my practice-oriented approach, explained the use of analyticist process tracing, and applied it to develop a mechanism which describes some of the consensus dynamics in the European Council. I have analysed two instantiations of the mechanism – the re-election of Donald Tusk as the European Council's president in 2017, which has been the primary instantiation, and the nomination of the European Commission's president in 2014, which has allowed me to explore the proposed mechanism's portability. Another case, the nomination of the European Commission's president in 2019, presented an opportunity to discuss the limits of the mechanism's portability and the ways in which it can help emphasise the possibility of learning by previously incompetent actors. The analysis provides insights regarding the conceptualisation of the mechanisms and its usefulness.

The mechanism involves an incompetent actor and others who correct them, and it is divided into several steps. The analysis has shown that the identification of these two kinds of actors is analytically useful and corresponds to the level of empirical analysis undertaken here. However, in a more in-depth study, there might be potential for other types of actors to be involved. Performance of a practice is always relational and contextual, and there might be situations in which there is no broad agreement regarding its level of competence. Moreover, as indicated in the analysis, the clean separation of consecutive steps in the mechanism's description results from an analytical generalisation – in practice, the boundaries between the steps can be somewhat blurred and their elements can occur in different order.

The analysis has also allowed me to identify the incompetent actor's reaction to the correcting and isolating actions of other actors. Both in Poland after Tusk's re-election, and in the UK after Juncker's nomination, there were examples not only of stigma-rejection, but also of counter-stigmatisation. However, as the Timmermans's non-nomination has shown, these rejections did not preclude learning. The proposed mechanism, by focusing on actors' relations to competent performance of decision-making practices, points towards these processes and can be helpful in making clear not only how the EU's culture of decision-making can be protected from challenges but also how it can be abused by bad-faith actors. The latter might be particularly relevant for issues decided formally by unanimity, where the majority lacks the ultimate instrument of correction described here (i.e. outvoting) and needs to find other ways of dealing with challengers.

Finally, the mechanism provided a way of fulfilling one of the analytical promises of practice turn: practices can bring about change while also ensuring continuity. The analysis has shown how a change, even a rupture – moving away from a long-standing norm of deciding unanimously on matters such as the nomination of the European Council’s president – can be interpreted as instrumental to ensuring the continuity of a valued culture. Performing a practice differently can then simultaneously (and paradoxically) exhibit change and continuity, depending on how wide a perspective we are taking (cf. Feldman & Orlikowski, 2011).

Funding statement

Research was partially conducted within the project “Meanings, tensions and consequences of the practice of consensus in the Council of the European Union”, financed by the Polish National Science Centre, Grant Agreement No. 2021/43/D/HS5/02081.

Acknowledgements

I am grateful for the feedback received on earlier versions of this paper at UACES Virtual Conference (September 2020), 10th Conference of the ECPR Standing Group on the European Union (June 2021), UACES 52nd Annual Conference (September 2022), 16th EISA Pan-European Conference on International Relations (September 2023), as well as during my study visit to the ARENA Centre for European Studies (February 2024). In particular, I’d like to thank Xymena Kurowska and Monika de Silva for comments that helped to significantly improve this article.

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