



Dynamics of decision-making inside the European Council

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The Paradox: Dynamics and constraints of leadership

When studying the European Council, an intriguing and important issue is how and why national leaders adopt consensual agreements in matters of high political salience for their states and their own domestic power positions. From an intuitive viewpoint, the national leaders in the European Council are arguably strong-willed politicians who are not (re-)elected in national campaigns to design any kind of federal finalité for Europe but who are supposedly inclined to defend narrow and short-term national interests. As each member disposes of the right to veto under the rules of consensus, the conventional wisdom would expect a series of internal fights and deadlocks which would destroy the weight and impact of the body and which would consequently reduce the interest and engagement of top national leaders to contribute actively the European Council's success. However, there is a surprising dynamism within the European Council. How is this formation of consensus achieved?

Rules for organization: Exclusivity and confidentiality

A central characteristic of the European Council's internal working is the significance the Heads of State or Government put on a restricted and exclusive membership. Since the foundation of the European Council in 1974, the President of the European Commission has been accepted as a member of the group – formally at the same level as the Heads of State or Government, but in a non-voting capacity. The Lisbon TEU added an elected permanent President to the list of members, replacing the rotating Presidency. The Lisbon provisions also allow for participation of the 'High Representative of the Union for Foreign Affairs and Security Policy [who] shall take part in its work' (Art.15(2)TEU). Moreover, the club doctrine keeps civil servants out of the meeting room. Chancellor Schmidt is reported as having demanded: 'no papers, no civil servants' (De Schoutheete, 2002: 30). After first participating in the European Council, the Irish Prime Minister Leo Varadkar emphasised the difference that this informality makes. The Council of Ministers tends to be people reading out statements to each other. This is very different. It's very dynamic', Varadkar stated. 'I really felt that the elected politicians were in control' (Treffer, 23.June. 2017).





The permanent presidency: Charismatic master or facilitating manager

The creation of office of a permanent presidency was a reaction to structural problems rotating presidencies.

Taking up the often-used 'principal-agent approach', it is of interest to consider whether the permanent president has tended to be primarily the 'principal' or rather the 'agent' of the institution. Here, interpretations of a president with strong power and influence can be contrasted to perspectives of a president acting rather as a 'manager' with limited but effective procedural powers or even just as the 'maid' of the European Council.

Article 15(5) TEU sets limits for any potentially ambitious office-holder. This restricted profile was also reflected in the selection of the first office holder. While the competition in the media took place between the former British Prime Minister, Tony Blair, and the long-serving Luxembourg Prime Minister, Jean Claude Juncker, the Heads of State or Government finally agreed on Van Rompuy, who at that time had only limited experience in European affairs.

Article 15 (TEU)

(5) The European Council shall elect its President, by a qualified majority, for a term of two and a half years, renewable once. In the event of an impediment or serious misconduct, the European Council can end the President's term of office in accordance with the same procedure.

(6) The President of the European Council:

- (a) shall chair it and drive forward its work;
- (b) shall ensure the preparation and continuity of the work of the European Council in cooperation with the President of the Commission, and on the basis of the work of the General Affairs Council;
- (c) shall endeavour to facilitate cohesion and consensus within the European Council;
- (d) shall present a report to the European Parliament after each of the meetings of the European Council.

The President of the European Council shall, at his level and in that capacity, ensure the external representation of the Union on issues concerning its common foreign and security policy, without prejudice to the powers of the High Representative of the Union for Foreign Affairs and Security Policy.

The President of the European Council shall not hold a national office.



In line with this restricted profile, Van Rompuy described his intentions as follows:

'we are not playing a zero-sum game. Europe must be to every member states' advantage. (...) I will consider everyone's interests and sensitivities. Even if our unity is our strength, our diversity is our wealth. (...) Every country should emerge victorious from negotiations. A negotiation that ends with a defeated party is never a good negotiation' (Van Rompuy 2014: 113).

This role of an 'honest broker' to facilitate cohesion and consensus is considered as of particular importance for European Council consensus formation. One of the president's most important negotiating devices is the so-called '*confessional procedure*' i.e. the interruption of plenary sessions. Under the direction of the President, those members with divergent interests are asked to gather for a separate meeting, within which consensus will be sought.

Consensus formation formal rules and beyond: Package deals and the time factor

The formal voting rules are simple: 'Except where the Treaties provide otherwise, decisions of the European Council shall be taken by consensus' (Art. 15 (4) TEU). For explaining the relative productivity other features are of major relevance. One important device for consensus formation are 'package deals'. Only the governmental heads are in a position to reach agreements that entail demands and concessions in a broad range of policy areas. By combining side payments and inter-sectorial linkages and thus linking together detailed decisions for several issues on the political agenda they can reach agreements where their colleagues in the Council of Ministers are in a position of stalemate.

However, the process of framing and concluding agreements is not straightforward, nor can it normally be concluded rapidly. Deadlines can force members to agree. The culmination of such a process is often referred to as a 'night of the long knives' (De Schoutheete, 2002: 41–43) or as the 'end-game' (Dyson and Featherstone, 1999: 245). In hectic and tiring sessions that often run into the night, members have to decide on compromise proposals linking several different items on the agenda.



Decision-making: The power dimension

Dynamics and constraints of decision-making in the European Council are to a considerable degree determined by cleavages within the group of national leaders. One important cleavage are *asymmetries between smaller and larger member states*. As an example, smaller countries are expected to use their right to block decisions less often than larger countries. As one Prime Minister stated: 'Luxembourg can issue a veto once in a decade, and Britain once per week' (quoted in Tallberg, 2007: 16).

However, observations of the deliberations and positions taken in the consensus formation show that there is no persistent cleavage between smaller and larger countries. The agreements reached by the European Council via grand bargains show that smaller countries are in a strong position. In package deals their concerns are dealt with extensively inside the European Council. Taking a general perspective, with all Member States represented around one table, the European Council functions as a bulwark against trends towards a closed circle involving just 'the mighty few'.

When it comes to leadership in the European Council the performance of a *Franco-German Couple* is of major concern. The heads of the Franco-German tandem, as benevolent-hegemon, have regularly exerted significant influence as agenda-setters and in pre-forming packages that have then received sufficient support from their peers. From the perspective of other members, the consensus between the conflicting interests of the two countries seems to have been useful because their own preferences have lain somewhere between the two positions and thus their own interests were not violated. However, the power relations between the two countries have changed, with a 'bilateral asymmetry' having grown over decades and particularly during the crisis years since 2009. Looking at the economic situation of the countries involved, the issue of Germany's 'reluctant hegemony' has become a controversial issue.





Conclusion and research perspectives

The analysis and assessment of why and how national leaders are able to use the European Council to reach agreements point at a mix of several factors: consensus formation depending on a combination of procedural and institutional opportunities, and the possibility of the President and informal leaders shaping comprehensive package deals. To understand the work of the European Council, it is important to analyse the power relations.

When we compare all the factors and forces making for consensus formation, we find that a simple formula for success does not exist. Such a conclusion opens a door for future and deeper research.

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