DECIDING AS BRINGING DELIBERATION TO A CLOSE

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Though frequently used in social sciences, the concept of decision is almost never defined with precision. The notions of decision and choice are often used interchangeably, namely in the disciplines that deal much with the terms decision and deciding: economics, sociology of decision-making, and social choice theory. The authors of these three bodies of literature have a clear idea of what it means to choose: choosing involves comparing and evaluating several options through calculation or reasoning so as to select one of them. In their thinking, decisions are assimilated to choices, from which it follows that decision requires no specific definition.

This observation invites us to determine the specificity of deciding—assuming there is such a specificity, above and beyond the notion of evaluating and comparatively weighing reasons—once the goods being sought by actors and their situated action possibilities have been determined through deliberation. We may be tempted to seek help here from philosophy of action. In the philosophical tradition, the question of “deciding” referred to the activity of determination. Deciding was a problem for philosophy of the will; it was often likened to an act of will conceived as a kind of effort. But theory of volition did not survive Wittgenstein’s and Ryle’s devastating critiques (Descombes 1995), and this surely explains why the theme of deciding and decision is virtually absent from contemporary analytic philosophy of action (a notable exception is Oldenquist 1967). Clearly, we shall have to seek help elsewhere. In political philosophy and philosophy of law, thinking on decision-making rules has
continuously—e.g., in the minds of thinkers as distant in time from each other as Pufendorf and Kelsen—included a component that the afore-cited disciplines or fields do not mention: the normative dimension. Since the beginning of modern political philosophy, thinking on majority rule, for example, has linked collective decisions to the question of obligation: Why should the minority submit to the majority’s choices? Because decisions obligate.

In an article whose interest for the study of decision-making has not yet been revealed as far as I know, though it is known to specialists, the philosopher of law Joseph Raz made the normative dimension a constitutive feature of the concept of decision [1]. With the help of Raz’ definition, I first delimit and describe what may be called deciding as bringing deliberation to a close. In the light of this definition, I then examine the difference between individual and collective decisions, concluding with an investigation of rules of collective decision rules as stopping rules.

1. Two concepts of decision: as forming an intention and as bringing deliberation to a close

The argument in this section is that the ways in which we use the terms deciding and decision refer in fact to two distinct phenomena, whereas our ordinary conception only points up one of them. We usually think of deciding as the act of ending the deliberation that precedes taking action. This understanding is correct, but covers only some decision-making phenomena. In “Reasons for Action, Decisions, and Norms,” Joseph Raz purports to “draw attention to an important similarity between rules and decisions” (p. 481). This leads him to point out the specificity of another type of decision, often neglected since we tend to approach decision only from the angle of deliberation; i.e. the reasoning that allows for arriving at a practical conclusion.
Joseph Raz defines deciding and decisions by way of four assertions:

1) To decide is to form an intention;
2) Decisions are reached as a result of deliberation;
3) Decisions are taken some time before the action;
4) Decisions are reasons.

According to this definition, a decision is both similar to and distinct from an intention. First, deciding is a particular way of forming an intention. A decision is the result of deliberation, whereas we can have an intention to act that is not preceded by deliberation. Next, a decision presupposes a certain lapse of time between the moment the intention is formed and the moment the intended action is carried out, whereas it often happens that an agent deliberates and then acts immediately in accordance with the conclusion reached by deliberation. In the latter case, we have an intentional action but, according to Raz’ definition, no decision. This means that deciding consists of determining or fixing an intention to act after a deliberation and before the action is done. But the principal originality of Raz’ definition lies in its last characteristic. He specifies that a decision is a particular type of reason, which he calls “exclusionary”; i.e., it simultaneously justifies refusing to yield to any inclination to start deliberating again and moving into action. I will come back to this notion of “exclusionary reason,” but the important point here is that this fourth attribute confers a normative dimension on decision. The concept of decision includes the idea that normally the deliberation that culminated in a decision will not be restarted. We may intend to do A at \( t_1 \), then change our mind, but the intention to do A at \( t_1 \) constitutes the decision to do A if this intention was fixed and if the deliberation will not be taken up again in the time that elapses between forming the intention and enacting it. In sum, decisions obligate.
To preclude any misunderstanding, let me specify the type of intention under consideration here. Elizabeth Anscombe in *Intention* carefully distinguishes three referents of the term: an intentional action, an intention imputed to an action, and an intention for the future. The author explains that “an action can be intentional without being concerned with the future in any way” (Anscombe 1957 §1 p.1). During a walk, for example, it is possible to distinguish what I am doing intentionally—walking—from what I am doing unintentionally—leaving traces of my passage—without reference to any future. Clearly Raz’ definition pertains to intentions for the future.

To decide, then, is to determine definitively such an intention as the result of a deliberation, with the twofold obligation not to restart the deliberation process and to do what the intention designates. I propose to call this “deciding as bringing deliberation to a close”. [2]

Clearly Raz’ definition does not fit with what we generally call a decision. When we speak of doing something intentionally or deliberately, we mean that the actor has decided to do it. In our common understanding, a decision is the conclusion of a practical reasoning process, and as such, it initiates the action, which immediately follows the deliberation without there being any need to “stop” that deliberation. To this is sometimes added another meaning: deciding requires a particular effort on the part of the deciding agent, either because the decision is difficult to make or because making it requires an effort that goes against a tendency or propensity. In other words, decisions can amount to resolutions, e.g., “I’ve made up my mind: I’m going to stop smoking.” In these components of our common understanding, the word “deciding” does not designate phenomena that are distinct from deliberation and practical reasoning. The intentional action here, regardless of whether it demands an effort, does not require any close as I have defined it on the basis of Raz’ specifications.
We therefore have to distinguish between the type of decision referred to in common usage of the term, which can be called “deciding as forming an intention,” and deciding as defined by Raz, which can be called deciding as bringing deliberation to a close. My investigation here is confined to the second. [3] We must check if Raz’ definition a) describes a class of phenomena that are genuinely distinct from the one we refer to in our ordinary understanding of the word, and, if so, b) whether it describes that class satisfactorily.

Let us look more closely at the two aspects of deciding as bringing deliberation to a close: its temporal and processual dimension and its normative dimension. First, the two are closely connected. Deciding is not only the phase between deliberation and action; it is the definite determination of the intention, which confines the deliberation to the past and intends to control what is undertaken in the future. With one hand, as it were, it rejects restarting the preceding debate while with the other it pushes toward carrying out the action in question. Decision therefore exercises authority over both past and future.

*Putting an end to deliberation*

The decision has authority over the past in that, though it comes out of the deliberation, it cannot be reduced to that deliberation as its conclusion or result. Deciding puts an end to deliberation more than it constitutes the end of that deliberation. Raz points up a process of stopping deliberation that is not the deliberation itself; but, when grafted onto it, requires it to end. To grasp the process he has in mind, let us imagine the different ways in which a deliberation can come to an end.

First, according to the standard outline for action, the end of a deliberation usually results directly from the deliberation process: people deliberate to solve a problem; through that deliberation, they reach the conclusion to do A, for example; then they do A. Once again, this is deciding as it is commonly understood. Moreover, we can easily imagine factors external to
deliberation that make it necessary to bring it to an end; indeed, putting an end to deliberation is frequently thought of in terms of time constraints. Suppose that the practical problem I am faced with is buying a car.

- One reason I have to make a purchase decision is a long trip I have to take on a precise date; that date is the deadline for reaching my decision.
- I know that after thus-and-such hour or day, I will be caught up in other occupations and will not have time to think about the purchase. I have to finish thinking about it and fix my intention by \( t \), even if I cannot actually carry out the intended action until \( t+n \).
- At least one feature of the competing options concerns time; e.g., some car models are on sale only until a specific date, and this requires me to respect certain time limits.

The focus of my decision, how I distribute the sum of my activities over time, and the time-related properties of the options I have to choose from lead me to put an end to my deliberation at a given moment. In all these cases, the reasons for stopping are external to the nature of deliberation and figure as constraints affecting it.

Raz does not imagine constraints of this type; he seems instead to be thinking of a process of closing the deliberation that is neither generated by the deliberation itself (as its conclusion) nor imposed by external constraints but rather called for by the very nature of deliberation, whatever the exact aim of such deliberation. This is indicated by the following excerpt:

Imagine a person who considers a problem for a while and then postpones the decision to the next day. (…) it is possible that he has already formed the view that the proper decision is to do A. That he hasn’t yet decided to do A is not due to any hesitation or uncertainty on
his part. He simply wants to consider another argument which he has no time to examine today, or he may want to hear the view of a friend whom he will meet tomorrow. He may be quite certain that the further argument or any facts to which his friend may draw his attention will make no difference to his decision. The reason for which we say that he has not yet reached a decision (...) is not any uncertainty about what to decide or what to do, but only that he genuinely believes that he should consider some further reasons or facts or re-examine his reasoning – just in case. Indeed the following day he may decide that it would be futile to re-examine his reasoning, or that there is no point to wait for the advice of his friend, etc., and decide without further deliberation to do A. His decision consists simply in bringing the readiness to continue deliberation to an end (Raz, p. 490).

Without formulating it explicitly, Raz touches here on a characteristic of deliberation that calls for this type of closing: deliberation does not, of itself, impose its own end. It may of course happen that we feel we have exhausted all imaginable arguments, but nothing prevents us from waiting a moment or turning to other persons, seeing if time or new thinkers might bring a new perspective and perhaps a different, better thought-out result. In the case of theoretical demonstrations, the fact that the thinker has followed certain requirements indicates to him that his demonstration is complete. But in practical reasoning, there is always a chance that one has failed to take into account something that should be considered (what Geach [1966] referred to as missing premises). Psychological factors intervene, of course, in one’s ability to bring the reasoning to a close: some people are “determined,” others irresolute. But this idea of an open-ended range of attitudes corresponds to the conceptual feature of deliberation just mentioned: deliberation does not itself contain all the conditions needed for bringing it to a close. This explains how people can be over-scrupulous for fear of making a mistake, or, conversely, how they can willfully precipitate a decision for fear of
paralysis. Deciding presupposes putting a close to the research process; this stop blocks the possibility of pursuing the deliberation, which is, in most cases and assuming the afore-cited time constraints do not apply, open-ended.

Here we see why the existence of a time lapse between forming the intention and enacting is so important in Raz’ definition. Let us return to the example of buying a car. Suppose that after reflecting on the financial means at my disposal, available car models, my needs and tastes, I conclude that thus-and-such model made by thus-and-such automobile manufacturer suits me best. I reach this conclusion at the end of the day, and therefore wait until the next day to go to the car dealer who has this model. In this case, a contingent factor—the fact that the dealer is closed at the end of the day—creates a time lapse between the end of the deliberation and the action. At first glance, this time lapse seems to make little difference: all I have to do is go buy the model-chosen-that-evening the next morning, when the dealership opens. But it fact, the time lapse opens up the possibility for me of reconsidering my choice. Now if we follow Raz, the time lapse that makes a decision a decision involves more than a mere suspension between the end of the deliberation and the action: it implies that during that time lapse, I have to obligate myself not to go back to examining the different reasons for choosing or not choosing the various models. But can one obligate oneself to stop deliberating?

*The normative dimension of bringing deliberation to a close*

Deciding can be understood as a “close” that obligates. As mentioned, a person may intend to do A at \( t_1 \), then change his mind. But if the decision to do A has been made, the notion of changing one’s mind appears surprising: we are likely to think that if a person changes his mind, then he has not really made the decision. The concept of decision, according to Raz, thus encompasses not only the idea that the intention formed is temporally distinguished from enactment of that intention but also that it must be enacted.[4]
To clarify this normative dimension, Raz evokes the analogy between deciding and promising. This analogy is appropriate because of the importance he attributes to the notion of “exclusionary reason.” To understand this notion, a paraphrase of Raz’ own example is helpful:

Ann is looking for a good savings investment. One evening a friend indicates an investment that seems very good to him. However, in order for Ann to be sure either that his suggestion is better or not as good as another she has already received, she would have to examine the mass of reading material she has on it before the end of the evening, because the investment her friend has suggested will no longer be an option after midnight. Tired and upset after a long and particularly difficult day at work, Ann does not feel as if she can give the investment her friend suggested, which does looks very interesting, the attention required by the complexity of the matter, so she rejects the investment offer (Raz 1975: 485).

This story brings to light two different types of reasons: reasons for or against the friend’s suggestion (related to its content and how it compares with the prior suggestion from someone else), and Ann’s reason for rejecting that suggestion, which is situated at a different level. Though the fear of not being able to analyze her friend’s investment suggestion wins out and justifies her rejection of the offer, this second-order reason was never really in competition with the first-order reasons concerning the strengths and weaknesses of the offer itself. Fear of the effects of fatigue is a second-order reason that precludes examining first-order reasons.

Similarly, it is only after comparing several first-order reasons that we ultimately make a decision or a promise, but as soon as the decision or promise is made, it obtains the status of a second-order reason. This reason serves both to preclude any reconsidering of the first-order reasons that led to making the decision or promise and to perform the action decided on or
promised. Raz notes that this analogy pertains to the formal characteristics of deciding and promising. Here he is thinking of the relation between first-order reasons and the second-order reason, a relation that is for all intents and purposes the same in the two acts. As with promising, deciding generates a shift from first to second-order reasons; as with promises, decisions are second-order reasons independent of the first-order reasons that were examined in reaching them:

One should make a decision only if there are sufficient reasons to do so. But once a decision is made it is an exclusionary reason even though it is a decision which should not have been made. Moreover, a person can decide knowing that he should not. Once he has decided he has an exclusionary reason despite the fact that he decided while knowing that he should not do so (p. 492).

This passage is somewhat perplexing. The two dimensions of the notion of deciding as bringing deliberation to a close that Raz’ article led me to formulate are closely linked but do not raise the same difficulty. We can easily imagine an individual voluntarily putting an end to her deliberation: she has forged an opinion that she considers firm, so she sees no point in pursuing her thinking. But it is hard to understand why, without at least one of the time constraints mentioned earlier, she should make herself carry out the envisioned action rather than returning to her deliberation. If she has time, and if some event or new consideration moves her to think it would be worthwhile reexamining her decision, why should she stop or forbid herself from doing so?

It seems to me that Raz has not drawn out all the consequences of the analogy he makes between promising and deciding and of his remarkable attribution of a normative dimension to decisions. He concedes that beyond their formal kinship, promising and deciding are different: “Materially they differ. Promises are designed to increase trust and predictability in
inter-personal relations; decisions, to enable people to settle matters in their own mind and put an end to deliberation” (p. 493). With this distinction, he inscribes promises in a relation among several persons whereas decisions, which he envisions here to be reached intra-personally, i.e., by individuals, do not seem to imply such relations. This difference—social relations and absence thereof—raises a problem regarding the normative aspect of decisions.

For obligation to be possible, a small society of at least two persons is required, along with the statuses and norms that establish a relation of obligation between them.[5] In order for a promise to have the status of an obligation, three terms must be present: the promising agent, the thing promised, and the promise receiver. The receiver validates the promise by accepting it and he is the only one with the power to remove the obligation; the promise-maker cannot rightfully, of his own volition, annul the duty to keep his promise. This is true for all obligation relations. If decisions, like promises, obligate, then deciding must also bring three terms into relation. But Raz only seems to envision two terms: the deciding agent and the action decided upon.

Raz was right to bring to the fore the normative aspect of decisions, but he seems not to have perceived, and therefore not to have sought to resolve, the difficulty that arises when deciding is elevated to a normative activity.[6] This logical difficulty—i.e., one cannot obligate oneself—is well known in moral philosophy and was mentioned by both Rousseau and Kant. The case of an agent who is both “the one who commands” and “the one who obeys” raises the following difficulty: if, as the former, he does not wish to obey a given command, all he has to do is modify it, since he is also the commander. In the case of decisions, there has to be a deciding agent and an action decided on, but also a third term that possesses the authority not only to demand that the action decided upon be implemented, but also, eventually, to lift the obligation to enact a decision. One cannot obligate oneself to stop deliberating and perform the action decided on. And since there have to be at least two actors
for a decision to amount to an obligation, we can reasonably wonder if deciding as bringing deliberation to a close is possible in the case of individuals.

2. **Individual and/or collective decisions**

With the two distinct types of decision in mind—deciding as forming an intention and deciding as bringing deliberation to a close—we can examine whether each can be produced by individuals and/or groups. I will show that collective decisions necessarily imply deliberation-stopping, while decisions reached by individuals can be either intentions or the result of deliberation-ending. This leads me to redefine the dividing line between individual and collective and discover a third feature of deciding as bringing deliberation to a close: their public character.

**Deciding by individuals: social or solipsistic**

As explained, the logical impossibility of conceiving a way of obligating oneself raises the question of whether it is possible for individuals to make decisions which obligate. But before returning to this line of questioning, it is important to mention an objection to the idea that they cannot. The logical problem raised by the idea of an individual being both agent and “target” of the obligation can be circumvented if we suppose that individuals can internalize the social relations required by obligation. The Freudian schema and multiple-self theories hold that the individual mind is a kind of hierarchically organized society made up of two or three agents, and this is congruent with some of our ways of speaking about how our minds work. Raz’ story of Ann may be interpreted in this way: one part of her forbids the other part to analyze the investment proposal. The question is whether this way of formulating what happens is anything more than a metaphor. I am inclined to follow Descombes who mentions the internalization hypothesis, and to avoid personifying mental faculties (Descombes 2004:
Rather than imagining a confrontation between parts of Anne’s mind, it seems simpler to think she is evaluating and comparing two alternatives: on the one hand, to examine the documents regarding the investment her friend has suggested but run the risk of assessing them incorrectly; on the other hand, avoid the risk of miscalculation at the cost of missing out on a good investment. My argument here does not require resolving this question, but it is worthwhile noting that it is not readily clear whether the kind of deciding I have been describing can in fact be done by an individual. Can we conclude from this that deciding as bringing deliberation to a close is necessarily collective? Or at least that the normative dimension of this kind of decision is easier to conceive of in the case of collective decisions?

We shall see that the answer to both these questions is negative. But first we need to mention a terminology problem. We need an opposition between individual and collective, but clearly that opposition will not suffice. Activities are not all alike. Some components of an activity can be performed by an individual, whereas others components of the same activity require at least two agents. A multi-component activity can therefore be both individual and collective, and it would be mistaken to describe such an activity as either individual or collective, because it is both while being neither entirely individual nor collective. This is precisely the difficulty raised by decisions which obligate as shown by the following example:

An employer I know offers me a job, and does me the favor of keeping the slot open for me, in case it would be of interest to me. He asks me to let him know my decision no later than day X, so that if I should refuse the offer, he would have time to advertise the opening and choose an applicant before his company’s activities begin to suffer from not having someone doing that particular work. On day X, I tell him I accept his offer.
Stating my decision—making an announcement which communicates my carefully formed intention to take the job he has offered me—creates an obligation, an obligation not to change my mind and indeed to take the job. This is so not because it is in the interest of the employer that I act according to my stated intention. The danger of the job opening not being filled in time explains why it matters to the employer that I enact my decision and that a few days later, when the job contract is to be signed, I do not change my mind. But the employer’s interests do not explain either his sense that he could rightfully accuse me of inconsistency if I changed my mind or the fact that I myself might feel I was in the wrong if I did not follow through on my stated decision. To check that this is so, we can imagine a slightly different version of the same story.

Suppose the employer does not offer me the job immediately. Rather, since we are fairly close, he has had occasion to hear me say to other people that I am energetically seeking a job that corresponds to the position he is getting ready to fill. So he does not advertise the opening, thinking I will accept his offer the moment he makes it. When he does offer me the job, I tell him that while I did indeed say what he heard, I have changed my mind in the meantime and am now looking for a different type of job and thus decline his kind offer.

The employer could potentially find himself in the same inconvenient situation as in the first version of the story, if, in that version, I were to change my mind after announcing my decision to him. But in the second version, he would have no reason to disapprove of the change in my desires and I, no cause to feel guilty, for the simple reason that what I said did not commit me to him in any way. Why not? First, because I said it to a third party, though I knew he could hear what I said; second, because what I said at that time was not a response to an offer from him and therefore did not activate a certain clause requiring a reciprocity of good manners.
In the first version of the story, after the job is offered I decide in favor of taking it. In announcing this decision, I not only announce the conclusion of my deliberation, I also commit myself. My decision obligates me, but I am not obligating myself. The decision to accept or turn down the job offer is indeed an individual one, in the sense that my reasoning and reasons are what determine the response I give the employer. Moreover, that decision will be imputed to me. On the other hand, the commitment resulting from my decision is made possible by the fact that there was a pre-existing relationship between two persons. The employer offered me the job; I agreed to consider his offer; I ultimately stated my intention, and in doing so, that intention acquired the status of a decision; the employer now assumes that as a consequence of this decision, the hire will go through. The employer here is the third term required by a relation of obligation.

This example shows that an individual can indeed decide by bringing the deliberation to a close but that such decisions have both an individual and a collective component. I can form an intention by myself, but this intention is not definitively fixed, nor does it have the value of a commitment, unless there is at least one other person who is at stake in it within the framework of a preexisting social relation. This is indeed an individual decision, because the agent of it is an individual and the decision will be imputed to that individual; but since it implies other actors and forms an obligation, it is also a social decision. Whereas the adjective “collective” would be confusing, the adjective “social” allows for resolving the terminology difficulty mentioned above. In direct contrast to social decision of this sort, a decision as intention is both individual and solipsistic because all its components pertain exclusively to the individual.

Before concluding on this point, we should draw an additional lesson from the employer example. I have thus far mentioned two dimensions of deciding as bringing deliberation to a close: it is a process and it is normative. To this should be added a third
characteristic: a decision of this sort is public in the sense that it cannot be intra-personal. My intention to accept the job offer is legitimately revisable until I communicate it to the employer. It is the announcement to the employer that commits me, not the intention I understand myself to have finalized inside my own mind. Lastly, the announcement is specific in that it is an artefact, an expression produced specifically for the occasion.

*Collective decisions are necessarily the result of a stop that obligates*

The notion of collective decision is not always clearly delimited. The term is not being used rigorously, for example, when it is taken to refer to any decision that is not strictly individual in nature. This is often the case in political science and sociology of organization research on decision-making in public or private organizations, decision-making that involves many different phenomena such as forming and diffusing information on and evaluations of the various options considered, and the effects of influence and power games, distributed across several organizational segments. Such decisions are certainly not strictly individual and their realm of application is obviously collective. However, it fairly regularly happens that, even though many actors intervene in determining and evaluating of the alternative options, the decision itself is ultimately made by a single person.

For assistance in circumscribing a set of phenomena to which the term “collective decision” may edifyingly apply, we can turn to studies from an older research tradition, ranging from the thinking of pioneers such as Condorcet and Borda to the abundant literature on collective choice theory and committee activity. This body of study informs us that a decision is collective when produced by a group in such a way that every member’s contribution to it is implicated in the decision process up until the moment the decision is made. Such decisions are collective both in terms of their agents and how they are made, which excludes both “lot-drawing” procedures and having a single person decide for all the others, even assuming they have been consulted.
Thus defined, can a collective decision be a decision as intention? I think not, because we cannot say that a collective deliberation culminates in a collective intention to perform action A in the same way that intra-personal deliberation culminates in forming an intention to do A. My contention here is that collective deciding requires a collective stopping rule that produces an obligation, precisely because a group cannot produce an intention for the future without such a stop.

This claim may seem surprising given how common the notion of collective intention has become in social philosophy. However, the authors who developed that notion never attributed intention to the group as such. Their ideas of collective intention refer either to the fact that each intention formed by an individual member carries with it the idea of the active group in which he or she is participating (Searle 1995), or to more or less sophisticated “common knowledge” phenomena, understood to link the thinking of one individual to that of another, etc. (Bratman 1993; Tuomela 1991), or to the forming of a plural subject which is in fact the name given to the impact a shared statement has on each individual member of the group, as in “Let’s go for a walk” or action sequences creating mutual commitment (Gilbert 1990).[7] All these authors examine collective intentions that have already been formed because what interests them is the intentional nature of collective action.

It is important to specify that the fact that a collective decision cannot be an intention is due to the fact that relevant intentions here are intentions for the future. However, we can say that a group does something intentionally. In this case we are dealing with a collective action undertaken intentionally, meaning that the participants are conscious of acting to realize shared objectives and are mutually coordinating their actions. Consider the example of a soccer team. Nearly all actions by players in a soccer game are collective, but can we say that the team has a collective intention for the future? It would be a truism—and hence would not undermine the argument—to say that the team has the intention to score goals since the
word intention here refers to the task that is an integral part of the very nature of a soccer team and all its members have this task in mind. On the other hand, any claim that the team collectively intends to use a highly specific tactic (e.g., a particular sequence of passes) at an opportune moment would have to be clarified. We can imagine that the situation of the game at a given moment (the way the players are positioned relative to each other on the field and the position of the ball) calls to the mind of each member of one team a tactical sequence those members have acquired during training sessions; in that case, the situation on the field at that moment, combined with their shared experiences, suggest to each the same sequence, which then coordinates their actions. This does not mean there has been collective thinking that amounts to forming an intention for the future of the group. Coordinated actions corresponding to the particular sequence do not result from collective deliberation. And if we suppose that the coach has ordered his players to adopt this tactical sequence in certain circumstances, that means he has decided for the team, and we are back to individually made decisions. However, we can imagine that in an amateur soccer team that has no coach, the members collectively decide to use the tactic. This amounts to saying they collectively determine an intention to act—and that decision results from the use of a stopping rule: after discussion, they will all adopt one and the same tactic, which will apply to all, each time the given set of circumstances occurs.

But before excluding the possibility that collective decisions can be intentions, we have to consider whether perfect convergence of minds is possible. If it is, that would mean that, confronted with the same situation, the members of a group engage in the same practical reasoning and form the same intention to act—either after collective deliberation or each one by himself or herself after intra-personal deliberation. Two observations suggest that the mind convergence hypothesis need not be taken seriously. First, the hope of reaching unanimity for collective decisions where unanimity is required is usually vain; second, for a complex
decision, convergence can be obtained on the basis of reasons and principles that differ and on which participants do not agree (Sunstein 2007). However, such convergence does occur fairly often, albeit in fairly simple situations—e.g., a few friends get together for lunch and decide which restaurant to go to—and it cannot be explained exclusively by force of habit—i.e., those friends always go to the same restaurant—or any leadership phenomenon. In any case, the logical possibility of such convergence should be granted. But when it does occur, we are dealing not so much with a case of collective intention as with perfect correspondence among individually formed intentions. Identical individual intentions may culminate in a collective action—all the friends head for the same restaurant—just as intra-personal deliberation may culminate in an action, but up against the effects of time and the vagaries of action itself, it is hard to imagine individual intentions coming together in any firm or regular way simply through an additive process.

To better understand this, we can return to the group of friends wishing to have lunch together. While they are heading together toward the restaurant that each has chosen, several members of the group change their mind and suggest another restaurant. Can those who stick by their initial choice rightfully reproach the others for changing preferences? This depends on the initial situation. A collection of individual intentions does not obligate anyone. However, if the friends feel that the convergence of their opinions complies with a decision-making rule, then each is obligated by their collective decision. And here we recognize the features of deciding as bringing deliberation to close: group members are not supposed to go back to their individual deliberations and the fixed intention has to be enacted.

We see that intention convergence does not exactly correspond to collective intention. In order to produce a functional equivalent of a collective intention for the future, there has to be collective decision by an act which stops the deliberation, fixes an intention and obligates someone to apply it.
A collective decision is thus necessarily deciding as bringing deliberation to a close. We can now determine whether the normative dimension of decisions made this way raises a problem if decision-making is collective. We need to imagine two different types of situation. The first and much more recurrent type is when the activity of the deciding group is embedded in one or several institutions. Here, the relation of obligation that confers a normative dimension on decision is managed by the expectations of these institutions and the rules or laws governing relations between the group’s acts and its institutional environment. In the second type of situation, group decisions apply to group members only. Here a different version of the previously raised question arises: Can group members mutually obligate each other by means of the decision that each has contributed to making? In a passage in On the Social Contract concerning the act of association, Rousseau clearly established that the logical impossibility of individual self-obligation does not apply for groups: “But the maxim of civil law that no one is held to commitments made to himself cannot be applied here, for there is a considerable difference between being obligated to oneself, or to a whole of which one is a part” (Rousseau, [1762] 1987, I, 7). Each member is both obligated by all the others and a component of that which obligates.[8] Or rather, if we return to the parallel Raz draws between decision and rule and to Descombes’ line of reasoning (2004: 453), we can make the following assertion: Every member of the group understands that the collectively reached decision is a rule to be followed, since

. it was fixed by her, but also by persons other than herself;
. it applies to her but also to persons other than herself.

Clearly, the conditions set by the normative dimension of decision are more easily met for collective decisions than decisions made by individuals.
To recapitulate: decisions as intentions can only be made by individuals, since no group can have an intention that results directly from collective deliberation. Collective decisions, on the other hand, are necessarily the result of deciding as bringing deliberation to a close. Individual decisions, understood as decisions attributed to a single individual on the basis of a statement of his or her intention, can either be decisions as intentions or decisions which stop deliberation and obligate. This set of conclusions is presented in the following table:

[Here Table 1.]

As the table indicates, there is dissymmetry between decisions made by individuals and by groups. This is due, of course, to the fact that we cannot attribute the same psychological properties to a group as we attribute to individuals. This is turn is surely related to another observation: decisions made by individuals and collective decisions are not made about exactly the same set of “objects” or matters. As explained, I agree with Raz that deciding is fixing an intention to act. The matter on which a collective decision bears need not be an action, though it is necessarily linked to the prospect of action. An individual cannot decide to have a thought, whereas a group, which cannot spontaneously have a thought, can be the object or focus of a decision. It would be odd to say, for example, that an individual decides to “have” the political thinking—understanding, beliefs—that he does at a given moment. He can of course decide to devote time to enriching his thinking, or write down what he considers the entire set of political principles he accepts or believes in. But the result of his efforts will not be a decision to have such political thinking, understanding or beliefs. His political thinking will be strengthened after he enacts his decision to spend time developing it, but that thinking itself cannot be the direct result of a decision. Conversely, a political party
cannot think, but its members can decide to fixe what will stand as the party’s “thought”: a doctrine, a set of principles, a list of public policies. Not all party members need approve this doctrine. But any who do not could not claim—without running the risk of being legitimately criticized for doing so—that the party’s doctrine is not the one collectively decided upon. We see how it is that deciding as putting an end to deliberation involves conceptual and normative activities that allow for conferring the status of personne morale [“legal entity” or, more to our purposes, “corporate body”] on certain groups, groups to which ideas, intentions, goods, debts, torts can then be legally—i.e., through the artifice of law—attributed.

3. Stopping rules in collective decision-making

According to my definition of deciding as bringing deliberation to a close, collective decision-making rules are stopping rules. This is so both descriptively—they can be described as such—and normatively: their use is justified in terms of this function. Here I can only deal with the descriptive aspect.

First, the definition I have given of deciding, a process grafted onto deliberation for the purpose of ending it publicly in a way that obligates, is empirically incarnated to perfection in voting. Voting often follows on the collective deliberation that has enabled individuals to finish forming—to finalize—their opinions. Those opinions are then expressed and counted, after which they are subjected to one of several rules: simple (or absolute) majority, supermajority, or unanimity. This in turn allows for reaching the decision. Given the rich variety of electoral practices that have existed and the multitude of studies that have been done on them, it may seem redundant or pointlessly abstract to apply “deciding as bringing deliberation to a close” to collective decision-making. I mean to show that doing so can
actually free us from thinking of collective decision-making too exclusively in terms of voting, and that this “emancipation” is in itself useful.

The firm grip of the election model on our thinking is of course justified by the very real prevalence of voting practices in collective decision-making. Borda’s, Condorcet’s and Dodgson’s pathbreaking studies originated in a concern to understand and improve the electoral processes used in parliamentary assemblies, academic committees and juries. Later, the remarkable success of social choice theory led us to liken collective decision-making to voting procedures. Both fit a model composed of a) competing options (candidates or motions); b) preference distribution (how decision-makers’ wills get projected on the options); c) aggregation rules making it possible to determine the option chosen on the basis of how preferences are distributed. The elegant formulas separately elaborated by Black, Arrow, and Farqharson made it possible to analyze collective decision-making mathematically and accumulate formal results. In 1950, hoping to facilitate the advent of a hard science of politics, Duncan Black applied the same mathematical formalization that was being used in economics, in conjunction with a theory of committees founded on the ternary voting model (Black 1950). Sixty years later, the imposing edifice of social choice theory is still resting on the same vision of collective decision, a vision entirely shaped by voting techniques. Few thinkers have tried to enrich or complexify the basic model while accepting the fundamentals of social choice theory. Jon Elster is among them; he has added arguing and bargaining to voting as components of collective decision-making (Elster 2007: ch. 25).

The fact is that the history of human societies and institutions, including those of our time, does not show any binary partition of decision-making practices into procedures in which hierarchical superiors impose their will and voting procedures. As we shall see further on, the set of collective decision-making phenomena encompasses a subset that cannot be reduced to electoral practices.
In this part I show how, from the angle of deciding as bringing deliberation to a stop, we get a different perspective on collective decision rules, one that keeps its distance from the electoral model. That distance in turn allows us to take into account what the voting model cannot account for, and thus to see voting in a new light.

Implicit in the electoral model is the idea that collective decision-making is a sort of second-degree deciding that amounts to aggregating individual participants’ decisions. The power of this image is due to the fact that it fits with common sense. Whenever all members effectively participate in a decision, there have to be rules that will enable each member to do what s/he has to do to contribute to the process, and other rules that allow for integrating individual contributions into the collective decision. However, the deciding-as-bringing deliberation to a close perspective raises two questions that are worthwhile examining:

— Do individuals’ contributions necessarily amount to individually determined decisions?
— Does collective stopping necessarily require counting individual opinions?

The answer to both these questions is no. In fact, there are two types of rules for collectively stopping collective decision-making processes. One is what I have called apparent consensus; it does not require any opinion-counting. The other is numerical superiority rules (e.g., the simple majority or supermajority rule); these do require counting. However, voting is the only setup requiring that each participant decide in a way that obligates him or her. We will also see that there have been situations in which a collective stopping rule was not applied after a vote was taken; conversely, there are situations where a numerical superiority rule is what allows for reaching a collective decision—without any voting.
Apparent consensus: 
*collectively stopping the decision-making process without counting opinions*

There is a widespread decision-making rule found in extremely varied contexts that does not use any technique for systematically counting the opinions of contributors to a collective decision. This rule may be minimally described as follows:

After a debate in which everyone implicated in making the decision may take part, one member—usually someone with some degree of recognized authority—synthesizes the debate as it has developed thus far and indicates the option that the debate seems to have tended in favor of. This proposal opens up two possibilities: either A) no one contests it, in which case even if only a few participants manifest their approval while the majority remain silent, the proposal becomes the decision, or B) at least one participant explicitly or implicitly contests the proposal, in which case the debate is restarted and continues until the proposing member or another one puts forward a new synthesis, which leads once again to alternative A or B. If all successive proposals are contested (time elapsing all the while), the decision may be postponed to the next meeting.

The specificity of this rule has seldom been noted (see El Hakim 1978; Steiner and Dorff 1980) and it often escaped anthropologists who were led to observe “palabre” phenomena in Africa, Asia and North America. Those same anthropologists wrote full descriptions of these phenomena, but because their model of how collective decisions are reached was voting, they understood what they were seeing to be unanimous decision-making. Once again, this decision-making rule is not restricted to tribes or villages—i.e., small “traditional,” autarchic societies. Its use can also be observed in modern societies, which encompass several institutions where voting is practiced only as a last resort: constitutional courts (Ferejohn, Pasquino 2002; Pasquino 2007), technical committees (Urfalino 2010), international
organizations (Steinberg 2002), and inside political parties (Mouchard 2002; Steiner, Dorff 1980). [9]

I have suggested calling this decision-making rule “apparent consensus” because it is found in contexts where all participants either value consensus or consider the appearance of consensus preferable to overt divergence, and because the absence of any visible or audible objections to a proposal is in reality nothing more than the appearance of consensus. [10] The apparent consensus rule is radically different from electoral practices—in three ways, as I shall show. However, it, too, like those practices, is a stopping rule.

First, apparent consensus differs from voting in that there is no systematic expressing of opinions. Some participants may of course give quite clear indications of what they think in their contributions to the debate or by contesting a synthesizing proposal at a given moment or being among those who explicitly approve such a proposal. My point is that the decision-making process may be pursued and concluded despite the fact that a significant proportion of participants have not manifested their thinking in any way. The apparent consensus rule allows a major proportion of participants not to express their opinions—for whatever reason: indifference, uncertainty, having chosen to delegate judgment to others, fear of speaking out. If there are no objections, then their silence amounts to consent to the proposal just put forward.

Consequently, the decision is reached without counting opinions. It is likely that in some situations where this rule is used, some participants have an idea of what some other participants think. But because this system includes no arrangement for having each member express his or her opinion, such ideas are mere conjecture. And when the decision is reached, the exact distribution of preferences remains unknown.
Lastly, this decision-making rule grants veto power to every participant, because he or she can always contest one or more of the synthesizing proposals and in doing so prevent them from becoming the decision. This does not mean, however, that apparent consensus is the same as unanimity. The fact that a proposition has not been explicitly rejected does not mean it has won manifest approval from all. The consensus is apparent.

Apparent consensus is not informal unanimity; it is a specific stopping rule. In deciding by apparent consensus, what puts a stop to deliberation is the group’s noting that no one has objected to a proposal. This silent collective recognition is inscribed in the debate-proposal-objection sequence. Once it has occurred, the uncontested decision proposal imposes itself on all participants as the decision the group has reached.

*Numerical superiority stopping rules*

Frequently used expressions such as “a majority vote” or “unanimity voting” suggest that we tend to tie two things together that we also know how to distinguish from each other: on the one hand, voting arrangements by which electors express their preferences; on the other, a decision-making rule of the sort called “aggregation rule” in social choice theory. In fact, in the electoral practices we are familiar with, a voting procedure goes together with a rule that allows for determining by a vote count which motion or candidate has been chosen. The rule that allows for collectively stopping a decision-making process is a numerical superiority rule. It is this type of rule that was refined throughout the history of electoral practices and this type that has been studied most intensively. The numerical superiority rules are: the plurality rule, wherein the option that obtains the most votes wins; the simple or absolute majority, requiring 50%-plus-one of the votes; the various supermajority thresholds; and unanimity.
There is no need to describe these different numerical superiority rules in detail; their mathematical properties are well-known and their normative merits and drawbacks have been debated at length. I would simply make two points.

First, these are indeed aggregation rules. As social choice theory and political philosophy studies have demonstrated, they distribute the weight of each contributor to the decision-making process differently—more or less equally, as it were. But they can also be thought of as stopping rules. Not all of them allow for designating an option in all cases. A vote may fail to be unanimous; a supermajority threshold may not be reached. Such situations require re-voting, after which the same numerical superiority rule is applied to the vote count. When the number of voters is odd, the group can only be sure of collectively choosing an option or candidate if it is using the simple or absolute majority rule. The conclave had to be invented, and archbishops had to be locked up in uncomfortable conditions before they would agree to designate a pope with a two-thirds vote (Colomer, McLean 1998). Nonetheless, these rules do work to collectively stop the decision-making process.

Second, though voting and numerical superiority rules almost always go together, it is important to distinguish carefully between them. This is so because there are and have been situations where voting and numerical superiority rules are or were not combined. Also, from the angle of deciding as bringing deliberation to a close, they are indeed two distinct operations: 1) voting generally cannot be dissociated from deliberation-stopping; 2) applying a numerical superiority rule constitutes the second phase of the stopping process, and if it fails, participants either have to vote again or go back to deliberating and then vote again. Third and most importantly, voting and numerical superiority rules have to be distinguished from each other because numerical superiority rules are collective stopping rules—i.e., using such a rule immediately puts an end to the collective decision process—whereas voting is a
practice that ensures that the individuals participating in the process have each reached their decisions and stopped their individual deliberation.

We can now examine a case illustrating that voting need not be followed by the application of a collective stopping rule and, conversely, a case showing that the use of a numerical superiority rule need not be preceded by a vote.

Voting without a collective stopping rule: sanior pars and maior pars

Our electoral vocabulary originated in the medieval Catholic Church, specifically in monastic orders (Moulin 1953), where a practice called the “scrutinium” was used—to name the head of the monastery, for example. I do not have space here to detail the many variants on voting used in the medieval Church; let the case of the Dominican order suffice. From 1242, this order approved three techniques for nominating heads of different hierarchical levels: common inspiration, compromise, and the scrutinium. Here we are interested only in the third technique. According to Gaudemet (1979), the via scritinii, or election by scrutinium, comprised five potential steps:

1) Secret inquiry. Each monk had to utter his choice in front of two or three peers, previously judged to be trustworthy—and out of sight and hearing of the other electors, to preclude his being subjected to any influence or pressure from them. Scrutatores wrote down the voter’s name and the name(s) that voter had chosen.

2) The votes were announced and collated accordingly. A procedure that was initially secret, then, had immediately become public, in that after the voting procedure, the scrutatores divulged each person’s vote and announced the results.

3) If no monk had obtained a majority, the scrutinium procedure was reiterated.

4) The minority was called upon to give its “consent.” In the case of a clear majority, it was hoped that the minority would rally so that ultimately, the highly valued qualities
of “unanimity and concord” would appear to govern the decision-making. The minority did not always agree to rally.

5) The election “act” itself. At this stage, Gaudemet explains, “they knew where they stood with regard to assembly member opinions. However, the election was not over. It had to be the act of a single member, acting in the name of several—if not all—of the others. ... There were two possible ways of proceeding. If there was absolute unanimity or if the entire minority had rallied, the “elector” declared: ‘I, Brother N, in my name and in the name of all the electors present, hereby elect Brother N as provincial prior.’ ... But if a few members of the minority had refused to consent, he would say: “I, Brother N, in my name and the name of all those who share my choice, hereby elect ...’” (Gaudemet 1979: 326-327). It was this procedure of electing by declaring that made it possible to elect two monks, and this in turn generated disputes that the Church had to try to resolve.

This was indeed a voting procedure, but there was no collective stopping rule applied that would have made it possible to designate an indisputable winner on the basis of the voting results. The Church did attach importance to numbers, to the emergence of a majority, as is clear from the fact that re-voting was stipulated as a means of obtaining it. But that majority did not have the status of a stopping rule. It was only an indication, whose value varied with the degree to which other indications were taken into account; e.g., how monks reputed to be “wise” or who proclaimed themselves so were distributed between the majority and the minority. The maior pars’ preference for a given monk was of course easier to note—and harder to contest—than the sanior pars’ preference for another. But both were arguments, not decision-making rules. The very notion of stopping rule was missing.
The Church was reluctant to give up trying to fit together these two types of legitimacy, which have been called ascending and descending (Ullman [1961] 2010). “Ascending” pertains to the fact that number of convergent votes was important to the Church, as it was consistent with the idea that a decision should take into account all those affected by it (Congar 1958); “descending” to the fact that the Church could not consent to having numbers alone carry the decision; qualitative considerations had to be allowed—considerations embodied by the sanior pars and tightly indexed on age and position in the hierarchy. Only the strongly idealized result of unanimity could make it appear that number, wisdom and the hierarchy had converged.

When unanimity was not obtained—and because the Church could not bring itself to choose between the two types of legitimacy—electoral discord overflowed the restricted circle of voters directly affected by the decision and reached the higher authorities. Disputes of varying duration moved up the Church hierarchy, each side mobilizing its allies. Sanior pars and maior pars were arguments used in a case-by-case handling of disputes that were ultimately resolved through negotiation, arbitration, “calling rank”—or lassitude. We see that without a stopping rule, the notion of collective decision is itself no longer relevant, because the group of primary electors loses control of the decision.

**Numerical superiority rules without voting: the Council of the European Union**

The Council of Ministers of the European Union studied by Stéphanie Novak represents the opposite kind of case: using a numerical superiority stopping rule without voting. Novak calls this obtaining “a qualified majority without voting” (Novak 2009, 2010). Her qualitative study on how decisions are made by the EU Council of Ministers in meetings of its permanent representatives brings to light an exceptional decision-making mode that to my knowledge has not been previously examined. Despite its singularity, this mode is particularly stimulating for collective decision-making theory.
According to European Union treaties, a certain number of matters under EU jurisdiction can be decided by obtaining a supermajority rather than unanimity, as was originally required. All observers have been struck by the fact that in these matters, no vote is taken; the decisions seem to be made by consensus. The fact is that these observers rarely have a clear idea of what that term covers. Stéphanie Novak has shown that there is indeed no voting, but that the decisions reached are not at all consensual; rather, they are made by observing that a qualified majority exists. The determining factor for explaining this curious decision-making mode is that most member-states do not wish to appear publicly in the minority. During discussions and negotiations on a given issue, the permanent representatives of the various countries gradually get an idea of what the position of the other member-states is going to be, and this enables them to estimate if there will or will not be a qualified majority. The Council presidency, meanwhile, has a much clearer vision of preference distribution thanks to its bilateral exchanges with each representative. At the first scheduled meeting of state ministers or their permanent representatives, as soon as the presidency thinks the required majority exists, it makes a declaration to this effect. The national delegations then have two options. The first, which very seldom occurs, is that they contest this “observation” and possibly call for a vote. The second, which has become the norm, is absence of objections and adoption of the proposal understood to have the support of the required supermajority—without this support being publicly verified. In sum, decisions are made using the supermajority rule but none of the states in the minority camp are identifiable as such.

In this remarkable way of proceeding, a collective numerical superiority stopping rule is used without any vote being taken beforehand, whereas in the medieval monasteries there was voting without any collective stopping rule.
What is voting?

The deciding as bringing deliberation to a close perspective will now enable us to see that voting is not merely expressing an opinion but indeed expressing a preference that obligates. As mentioned, voting incarnates the individual and social form of deciding identified in 2.1. To show this, and identify the defining features of voting, I now examine the differences and similarities between the two exceptional situations just presented: the EU Council of Ministers and the *scrutinium* practiced centuries ago in the Dominican monastic order.

Let us first examine more closely what inclines us to think that there is no voting in the EU Council of Ministers. It is tempting to think that the remarks that permanent member-state representatives make in front of the presidency during bilateral meetings, together with the exchanges they have among themselves during the regularly scheduled sessions, are all means of expressing preferences and are therefore akin to voting. These remarks are what enable the presidency to determine whether a supermajority has been obtained on the given issue, and these exchanges are what allow the state representatives to assess individually whether they will be dealing with a victorious supermajority or a blocking minority. But likening these instances of communication to voting would amount to defining voting as signal-emitting. We need to recall the main difference between deciding as forming an intention and deciding as bringing deliberation to a close: only the latter obligates. And in the context under discussion? Interstate exchanges have practically no obligating force; they allow for making estimates, but everyone involved knows that they can be misleading because at any time, and as long as the acting presidency has not “observed” to the assembly the existence of a supermajority, a state can change its mind. Representatives seeking to build a blocking minority say they run into just this difficulty—they watch as their allies of the moment defect one after another. The bilateral exchanges between the presidency and state representatives are more subtle. Whereas the presidency acts to keep the decision proposal
evolving, reaching compromises and exchanging promises in order to gather in an increasing number of states, permanent representatives cannot behave toward the presidency as unpredictably as their counterparts sometimes do toward them. However, the presidency is well aware that the majority it is gradually constructing is vulnerable: modifying its decision proposal to win the support of one state may well alienate another that had approved it. This fragility explains why the presidency announces the existence of a supermajority at the first scheduled general meeting, as soon as it does indeed believe that the required majority has been obtained. It follows from this that even what state representatives say in their bilateral meetings does not really obligate their states. [12] Curiously, states have only actually obligated themselves once the presidency “observes” the existence of a qualified majority and none demand a vote to be sure that this is so. The decision has then been made, and the last of the presidency’s proposals is understood by all to be the content of that decision, and to obligate. States cannot be said to be voting when they express their opinions because the opinions expressed do not obligate those states at the moment they express them.

What formal conditions have to be met in order for opinions to have the status of votes, for opinion-expressing to be equivalent of voting? It seems to me there are at least two. First, the opinion has to be expressed within a precise span of time; second, it has to be expressed in accordance with specific forms that in turn mean it acquires the status of an artefact.

We note that voting generally implies fixing a date and an hour for starting and concluding the procedure. In Dominican monasteries, the monks went before the scrutatores in a fixed order; each monk’s “time” for expressing his preference was defined quite strictly as the moment of expressing it and the duration imparted for expressing it. Moreover, once the name is in the box or, for a monk, once the scrutatores had written down, alongside the elector’s own name, the name of the monk he favored for prior, the time for mind-changing
is/was over. In the Council of the European Union, by contrast, opinion-expressing is not framed in advance by way of a schedule, and state representatives can change their minds. The only moment at which time stops, as it were, is when the acting presidency declares it has observed the existence of the required majority. Before that moment—which is not fixed in advance by anyone, since the presidency only makes its declaration once the majority has been obtained—states can revise their positions. The meeting schedule for ministers or their representatives determines the series of occasions that the presidency may seize for announcing it has assembled a majority, but that schedule does not fix in advance the moment the decision will be made. The second lesson we learn from the contrast between Dominican

*scrutinia* and the opinion exchanges that take place as preliminaries to Council of the European Union plenary sessions thus concerns time. We see that voting reintroduces the temporal dimension constitutive of deciding as stopping. The fact that a particular moment is imposed for taking a vote requires individuals to put an end to their intrapersonal deliberations and prevents them from changing their preferences.

Voting is also different from opinion-expressing because of the discipline it involves. In many ways, the rotating presidency of the EU Council seems to behave like the *scrutatores* in medieval monasteries. Both assemble(d) preferences through bilateral exchanges—one with state representatives, the other with monks. And yet as soon as we use the notion of stopping rule to identify what partakes of the act of voting and what does not, we see that what matters is not so much the relational conditions in which opinions are expressed (secret or public, bilateral or multilateral) as the relatively restrictive format for expressing them. For each monk who came before them, the *scrutatores* noted elector’s name and name of the monk he deemed worthy to head the monastery. The acting president of the EU Council of Ministers collects remarks from the different states on their positions, remarks that vary in clarity, the understanding being that each representative is free to formulate the degree of his
or her state’s commitment as clearly or vaguely as s/he chooses. What distinguishes a vote from an opinion, then, is also the fact that a single specific format is to be used—by all participants. In voting, the preference expressed must take the form of an artefact. Thus formatted, it cannot be ambiguous, and it is readily imputable to the individual voter’s will. This means it can obligate that voter.

The two cases examined here are of course both extremely particular, but contrasting them as I have done brings to light the usefulness of a distinction that applies to all decision-making rules. When we set about characterizing numerical superiority stopping rules, voting appears in a different light: voting is a device that, by controlling the time and form of opinion-expressing, ensures that individuals stop their intrapersonal deliberations and finalize their opinions.

*   *

We have seen that collective stopping rules and the individual variety need to be distinguished from each other. In our usual electoral procedures, a numerical superiority rule is combined with an arrangement for bringing individual decision-making to a close—i.e., voting. Apparent consensus, conversely, is a collective stopping rule that does not require all individuals to have finalized their opinions. These are the results of this investigation of collective decision rules as stopping rules. Elsewhere I will show how helpful this approach can be in evaluating the respective normative merits of collective decision rules.
Notes

I would like to thank Gudrun Kristinsdottir for her comments on an earlier version, Bernard Manin for discussion on some points of the paper, and Amy Jacobs for the translation from the French.


[2] In the French original, the term used is “décision comme arrêt”. In French the term “arrêt” is roughly equivalent to “a stop.” The verb arrêter, meaning “to stop,” is used in the expressions arrêter une décision (to form or finalize a decision); “Ma décision est arrêtée” means “I’ve made up my mind.” Consistent with this, arrêt also means “ruling” (les arrêts de la Cour de Cassation: final appeals court rulings) and thus evokes authority, an authority that obligates. In French, then, the term denotes a stop and, by way of the second meaning, it connotes an obligating authority. In English, of course, the connotation is lost.

[3] From this point on, if not specified to mean forming an intention, the term deciding refers exclusively to what I am calling “bringing deliberation to a close”.

[4] The idea that decisions that amount to stopping deliberation and that obligates are constitutive of part of the activities we call “decision-making” does not run contrary to the idea that decisions can be reversed or even that this is a desirable state of affairs. Rather those are two different, though closely related, points: it is precisely because decisions require a certain rigidity that we find it desirable to be able to revise them under certain conditions—a point grasped very clearly by the authors of Traité de l’argumentation: “Social life requires recognizing the authority of final judgments. But the discussion can be restarted. Often the proceedings are even organized in such as way as to include restarting discussion, meaning doing so does not require a particular decision process that someone would have the
responsibility of initiating. The bicameral system offers an example. ... Seldom is re-
deliberation outright permitted or prohibited; there is a whole intermediate zone between
absolute prohibition and unconditional permission. This zone is governed to a large extent by
extremely complex traditions and customs. It represents quite an important aspect of

[5] For this analysis of obligation relations, and on the logical impossibility of obligating
oneself, I am following Vincent Descombes’ argument (2004), specifically chapters 36-39.
[6] This is probably because he is less interested in the concept of decision than that of
mandatory rule. Following Hart (1961-2005) and in opposition to legal jusnaturalism and
positivism (see De Lara 2003), he is working to demonstrate the rational dimension of such
rules.

[7] Gilbert and Tuomela have different ideas of the plural subject, both of which seem
applicable to intentions for the future, but they are not interested in intention formation. To
avoid a long discussion, let it suffice to mention a few of these author’s respective examples:
several individuals taking a walk together, several individuals carrying a heavy table upstairs.
The question of whether these individuals are going to take a walk/carry the table, rather than
do something else or nothing is not raised, because they are already on the walk/ have already
formed the intention to carry the table upstairs. The question these authors are dealing with is
the nature of collective intentions, not how they are formed.

[8] However, I am not interested here in the shift from the state of nature to the social state or
in group self-positioning. We are examining the more familiar framework of obligation
implied by a decision made by a group composed of socialized individuals, a group that pre-
exists the decision.

[9] In the Swiss political party studied by Steiner and Dorff, this decision-making rule is used
alternately with others, including the majority rule.
[10] For a detailed analysis of the characteristics of this decision-making rule and the description problems that may preclude our perceiving it clearly, see Urfalino 2007.

[11] This is a rotating presidency. Each European Union country presides by turn for six months.

[12] It should be recalled that member-state representatives are careful not to say things that might make them seem to the presidency as either already confirmed partisans or resolute opponents of the proposal under discussion—this, of course, so as not to lose the opportunity of obtaining some advantage in exchange for their support.

Table 1.

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<td><strong>Deciding as bringing deliberation to a close</strong></td>
<td>impossible/problematic</td>
<td>possible</td>
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Bibliographic references


