

# European Union versus core state powers: the customisation of EU fiscal policy

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## ABSTRACT



Member states use implementation to preserve core state powers, such as fiscal policy, vis-à-vis the European Union (EU), by choosing whether to adopt stricter or looser rules than the EU requires. However, these choices and their reasons when the EU extends its fiscal competences are understudied. We theorise how the interplay of uploading and downloading factors might lead member states to customise EU fiscal policy according to their preferences, if their capacity allows it. Using fuzzy-set Qualitative Comparative Analysis, we study the customisation of six rules of the Fiscal Compact in France, Germany and Italy in 2012 ( $N = 18$ ). Member states exercised 'opposition through the back door' when uploading outcomes did not reflect their preferences and did not provide a credible deterrent. More often, however, member states as 'customisers' acted as especially ambitious problem-solvers or signalled compliance, when uploading outcomes reflected their preferences or provided a credible enforcement threat.

**KEYWORDS** Customisation; fiscal policy; policy implementation; fuzzy-set qualitative comparative analysis

## Introduction

This paper analyses how the interplay of 'uploading' and 'downloading' factors has led to customised implementation of the European Union's (EU) fiscal policy. 'Europeanisation' is a two-way process whereby member states first 'upload' their policy competences to the EU level, resulting in European policies. Member states later adapt to these new policies and institutions when 'downloading' and implementing them in domestic political structures and processes (Börzel, 2002). Member states consider 'core state powers' – fiscal, monetary, security, military policy – to be closely linked to national sovereignty and have therefore only reluctantly uploaded them to the EU with the 1992

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Maastricht Treaty (Genschel & Jachtenfuchs, 2016). Fiscal policy is a peculiar case of core state power: although spending powers remain a stronghold of national competence, the EU can adopt very demanding, detailed rules that constrain fiscal policy of member states and are binding on them, such as an upper limit on public deficit and debt.

Because of their special importance for state capacity, core state powers may be a target for the EU to expand its policy competences during crises (Schimmelfennig, 2018). Indeed, EU fiscal rules became increasingly intrusive after the sovereign debt crisis in 2008 (Dunlop & Radaelli, 2016), putting stronger pressure on member states to implement them. However, little systematic knowledge exists about how member states react to such pressure when downloading these expanded EU policies. Policy implementation is crucial for the EU's problem-solving capacity because any EU policy is only as good as its implementation (Treib, 2014). Moreover, 'differentiated policy implementation' provides another dynamic, next to differentiated integration, through which member states seek to preserve national powers vis-à-vis the EU after the uploading phase (Zhelyazkova *et al.*, 2023). Particularly, core state powers largely rely on member states' implementation.

When the EU increasingly regulates an area of core state powers, member states are likely to 'customise' EU rules (Thomann, 2019) to 'regain control' of fiscal policy and limit the impact of European rules. Customisation captures how even compliant member states change the content of EU policies to adapt it to specific national circumstances. This fine-grained adaptation of EU policies, also called 'over-implementation' or 'gold-plating', refers to the extent to which member states change EU rules, by adding or removing restrictiveness (content) or density (amount) of rules when implementing them. Empirically, customisation has proven widespread for directives in sectors like EU Justice and Home Affairs, environmental, social and food safety policies (Thomann, 2019; Thomann & Zhelyazkova, 2017). However, the customisation of EU policies concerning traditional core state powers, beyond the usually studied regulatory directives, has never been studied.

This paper asks: how and why do member states customise new, expanded EU fiscal policies? Moving beyond EU policy-making, analysing customisation helps us understand the responses of member states who are balancing increasingly intrusive EU fiscal requirements with domestic problem-solving. Member states may exploit their flexibility for adapting EU rules to national circumstances, or for working towards common fiscal goals. We focus on the boundaries member states set on the intended content of EU rules: the direction of customised restrictiveness. Do member states choose to not go further than the EU requires, or do they choose instead not to water down EU rules (Zhelyazkova & Thomann, 2022) – and why?

By combining two core elements of Europeanisation theory, we address two research gaps and make two core arguments. First, we argue with

Börzel (2002) that *customised outcomes depend on factors pertaining to (the outcomes of) two key processes: uploading and downloading*. First, member states delegate key policy competences to the EU, and try to upload their policy preferences in that process. They then download, i.e., implement, the adopted EU policies (Jordan, 2002; Radaelli, 2006). However, most research considers policy implementation to be a discrete stage of the EU policy process and neglects how uploading outcomes may affect it (Börzel, 2002; Thomann & Sager, 2017). We argue that the *interplay* of uploading and downloading factors helps us explain variation in the customisation of EU policies in three compliant countries. Second, *how member states' preferences and capacity interact* in EU policy implementation remains inconclusive (Treib, 2014). We argue that customisation outcomes reflect the interplay of preferences and capacity: member states do what they want, if they can.

Empirically, we analyse the implementation of the 2012 Treaty on Stability, Coordination and Governance (Fiscal Compact or TSCG) in France, Germany and Italy through in-depth analysis of national transposition measures, policy documents, parliamentary debates, expert interviews and statistics. The process of committing member states to transposing new, stricter fiscal rules formulated in the TSCG started with the outbreak of the euro crisis. A German initiative, the TSCG was a controversial measure, facilitated by a Franco-German compromise and the instrumental support of the European Commission (Schild, 2013). Illustrating the tension between expanding EU competences and member states trying to preserve core state powers, this case offers lessons for the role of customisation in areas of core state powers and the EU's (expanding) fiscal capacity. Using fuzzy-set Qualitative Comparative Analysis (fsQCA; Oana *et al.*, 2021), we find that member states exercised 'opposition through the back door' when uploading outcomes did not reflect their preferences and did not provide a credible deterrent. Conversely, member states acted as problem-solvers or signalled compliance, when uploading outcomes reflected their preferences or provided a credible enforcement threat. As expected, capacity trumps preferences when member states customised EU fiscal policies.

Next, we introduce EU fiscal policy as a likely case for customisation and specify the outcomes of interest. Second, we outline the explanatory model. After presenting our data and methods, we present and discuss the results. The discussion summarises the main findings. We conclude by discussing implications.

## **EU fiscal policy as a 'likely case' for customisation**

It is crucial to study how member states put EU fiscal rules into practice. Through the Economic and Monetary Union, the EU obtained the ability to regulate how member states can conduct their fiscal policy. Notably, the

Stability and Growth Pact (SGP) prescribes an upper limit of maximum 3 per cent deficit to Gross Domestic Product (GDP) ratio and a 60 per cent public debt to GDP ratio. Yet the EU has weak spending powers compared to other multilevel governance systems (Genschel & Jachtenfuchs, 2016). Hence, EU fiscal policy mainly consists of rules which the member states need to implement. EU fiscal rules limit the national fiscal policy at the core of national sovereignty. The discretion that member states retain in implementing EU fiscal policy is stronger for directives or international treaties, requiring formal transposition at national level, than for directly applicable regulations (Falkner *et al.*, 2005).

During and after the euro crisis from late 2009 to 2013, member states may have made the largest possible use of their discretion by customising EU fiscal rules in line with their preferences, while still being compliant. EU fiscal rules have become more restrictive, while member states with high accumulated deficit and debt levels could no longer easily finance themselves on the financial markets. These countries with high deficit and debt levels were strictly monitored by the Commission and subjected to strong pressure by markets (Zgaga, 2020). Italy, for example, objectively suffered from the euro crisis: its deficit was just about compliant with the 3 per cent ratio, but owing to a debt level equal to 126.5 per cent of its GDP in 2012 (the SGP allowing for a 60 per cent ratio), the country paid high interest rates (5.49 per cent).<sup>1</sup> Conversely, countries with a comparatively better macroeconomic situation faced less pressure or costs when adopting EU rules (Baerg & Hallerberg, 2022). France felt the crisis more subjectively, as it had not come under speculative attack from the markets, but its economic situation was worse than that of its historical 'political rival' – Germany (Schild, 2013). Germany was fiscally more able to cope with the debt refinancing costs thanks to its calmer macroeconomic outlook. As the TSCG represented a further constraint to the fiscal sovereignty of all three countries, national parliaments took time to debate how to concretely transpose the TSCG, by adopting new national rules, or by leaving existing rules unchanged. These conscious decisions were driven by external pressure and political considerations on where to set the boundaries for a European rule to permeate national sovereignty.

### ***Outcome: customised restrictiveness of EU fiscal policy***

We analyse the direction of customised restrictiveness of EU fiscal policies, that is, whether the content of the national transposition rule sets stricter or looser requirements than the European rule (see Thomann & Zhelyazkova, 2017). Restrictiveness refers to the extent to which the domestic rules interfere with the freedom of target groups or grant them rights or services. Customised restrictiveness represents political choices through which member

states allow EU fiscal rules to constrain a fundamental attribute of national sovereignty: the discretion over spending resources.

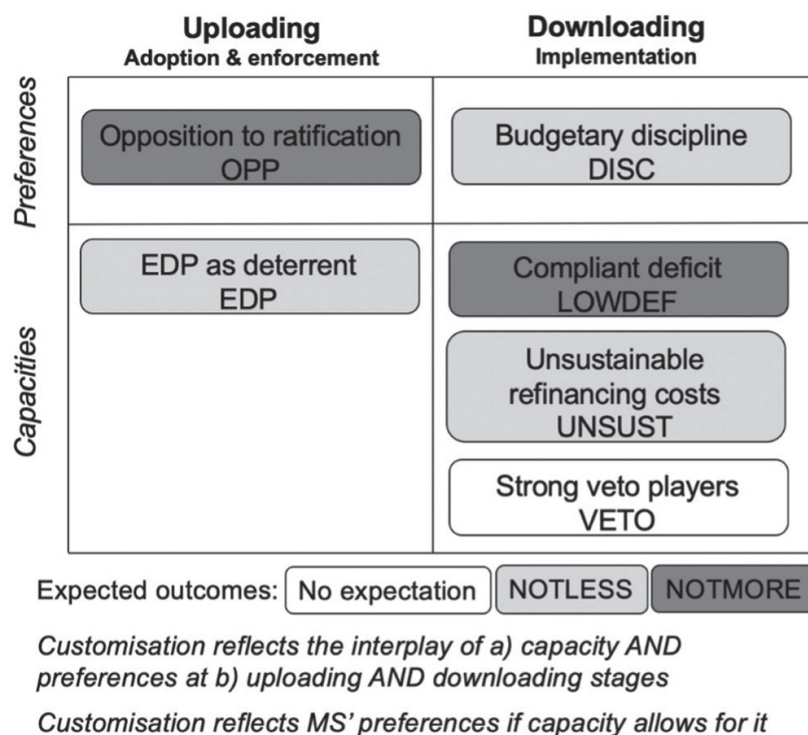
Our theoretical interest is specifically on what member states choose *not* to do when customising EU fiscal policy. Specifically, member states set limits on the intents of EU rules in two ways. First, member states can choose not to adopt more ambitious targets than the EU has set, resulting in *no added restrictiveness (NOTMORE)*. They may, for instance, issue equivalent or looser balanced budget rules; or not require more detailed information than the EU about the content of the budgetary law. Second, member states can choose not to loosen EU criteria, resulting in *no removed restrictiveness (NOTLESS)* when member states set requirements that are at least as strict as those of the EU, but not weaker. Europeanisation theory allows us to derive expectations about these customised implementation choices.

### **Explaining the customisation of EU fiscal policy**

We argue with Börzel (2002) that the interplay of member states' preferences and member states' capacity both as a result of the uploading stage, and during the downloading stage explains the customised restrictiveness of EU fiscal policy. Figure 1 displays our theoretical framework, which addresses two key gaps in Europeanisation research.

First, when Börzel (2002, p. 194) conceptualised Europeanisation as a two-way process, she sought to address a specific problem: 'Without denying the two-way nature of Europeanisation, most studies self-consciously concentrate on one side of the equation. They "bracket" European level processes to analyse their effects at the Member State level or vice versa'. Thomann and Thomann and Sager (2017, pp. 1401–1402) highlight that fifteen years later, 'a thorough understanding of the effects and acceptance of EU policies [still] requires researchers to tackle the challenging task of linking different stages of the policy cycle in the EU multilevel system. (...) More research should scrutinise how EU policy-making interacts with implementation'. Therefore, our understanding of the role of implementation in the EU's broader policy and political process is still limited.

To address this gap, we explore the time-dependent interaction of uploading and downloading as a two-way process, where member states both shape European policy outcomes and adapt to them. Since we explore implementation (which pertains to the downloading stage), we analyse how the member states' stance on, or reaction to, uploading policy competences to the EU, in interplay with factors affecting how member states download EU policies, influence customisation. Uploading factors refer to how the member states position themselves on the outcomes of the ascending stage of the European policy process, when member states formally delegate their core competence to adopt and enforce fiscal policies to the EU level.



**Figure 1.** Theoretical model.

Downloading factors refer to the descending stage of this process when the EU's policy impact on the member states materialises in practice (Börzel, 2002; Jordan, 2002; Radaelli, 2006). The uploading stage ends with the adoption and enforcement of the EU policy, when the process of implementing the policy starts. Treaty ratification represents the last formal step of this adoption process. Our first expectation is that EU policy implementation is partly a reaction to prior outcomes of EU policymaking (Thomson *et al.*, 2020; Zhelyazkova, 2013; 2014), where customisation results from constellations of both uploading and downloading factors. Referring to Figure 1, we should therefore see at least one factor pertaining to EU adoption and enforcement (uploading), and at least one factor relating directly to downloading, in each pathway explaining customised outcomes.

Second, we argue that customisation is the result of both member state capacity and preferences. Capacity relates to domestic costs of adaptation and defiance, including institutional and structural factors of both economic and administrative nature. Preferences relate to political positions and ideologies of key actors in the EU and domestic political arena, regulatory styles and culture (Falkner *et al.*, 2005). Treib (2014, p. 32) states that 'the main task to be accomplished by future research is to establish under what conditions which configurations of factors [that represent member states' willingness and capacities to comply] prevail'. Accordingly, it is unclear when preferences take precedence over capacity or vice versa in EU policy implementation.

Addressing this gap, we argue that capacity is an important condition for understanding how member state preferences play out. Börzel (2002) shows how EU uploading outcomes reflect competing policy preferences of member states and their capacity to participate in the adoption process of EU policies. We expect that this interplay will also matter for downloading outcomes in a predictable manner. We consider relevant factors pertaining to political (opposition) and regulatory (fiscal discipline) preferences, and to member states' capacity to customise EU rules in light of EU enforcement, domestic and market pressures. Extant literature argues that 'compliance is primarily a matter of administrative capacity rather than political willingness' (Börzel & Buzogány, 2020, p. 335), where capacity facilitates transposition (Treib, 2014, p. 26). If capacity dominates implementation, this finding begs the question what the remaining role of preferences is. We do expect that member states will customise EU policies based on their preferences, but only if their capacity allows for it: *capacity trumps preferences*. Put simply, member states do what they want, if they can. Relating to Figure 1, what we should therefore see is that the two conditions capturing preferences should only result in the expected customised outcome (as exemplified by their colour) if there is no capacity condition at play that would point to a different outcome.

We now discuss the six conditions.

## **Uploading factors**

### **Preferences**

*Opposition (OPP)*. Calls to consider the interplay of policy processes at the EU and domestic levels (Thomann & Sager, 2017; Treib, 2014) highlight that member states may use implementation as an opportunity to exercise 'opposition through the back door' and compensate for an uploading outcome that did not reflect their preferences (Thomson, 2010; Thomson *et al.*, 2020; Zhe-lyazkova, 2013). Ratification in the national parliament represents the final step in the adoption of an EU policy, which precedes implementation (transposition). Opposition to ratification reflects the domestic support for delegating the policy competence to the EU. It indicates the extent to which important political actors in the member state were able to upload their policy preferences to the EU more meaningfully than opposition among governments before the TSCG is adopted: given its importance, the TSCG was adopted unanimously (Tsebelis & Hahm, 2014). A government which is against the ratification of (parts of) a certain piece of EU legislation might not add further restrictiveness to it, instead preferring to water down its content during implementation (Knill, 2015). The same should happen if members of the parliament voice strong opposition against specific treaty rules.

## Capacities

*EDP as deterrent (EDP)*. Enforcement is a core policy competence that member states delegated to the EU. To various degrees, member states implementation is a strategic reaction to the (anticipated) enforcement activities of the Commission (König & Mäder, 2014; Treib, 2014). The Commission can recommend an Excessive Deficit Procedure (EDP) against those member states that breach the deficit and debt limits of the SGP. This is something member states want to avoid. Under the 'Six Pack' (2011), the Commission can recommend sanctions of up to 0.5 per cent of the GDP, which enter into force unless a qualified majority in the Council rejects them. In addition, member states under an EDP face political pressures from the Commission (Bokhorst, 2022) and reputation costs (Beach, 2005; Fabbrini & Zgaga, 2019). By exercising pressure for budget consolidation, the EDP has also social costs.

An EDP's deterrent effect depends on the ability of a member state to face its adverse domestic costs. The EDP arguably represents a strong deterrent for member states with scarce budgetary resources, low economic growth, high levels of debt, and high refinancing costs on the financial markets. Subjected to an EDP while implementing the TSCG, they will perceive it as a credible and constant enforcement threat. Therefore, they will seek to signal compliance to the EU through commitment to budgetary discipline, and not remove restrictiveness from EU fiscal rules. However, the politically influential and economically powerful France and Germany experienced the precedent of facing an EDP in 2003 but being able to block sanctions against them (Baerg & Hallerberg, 2022). An ongoing EDP should be a stronger deterrent for Italy, given its economic outlook, than for Germany and France.

## Downloading factors

### Preferences

*Strong budgetary discipline (DISC)*. The preferences and (fiscal) ideas of domestic political actors matter for EU policy implementation (Mastenbroek & Kaeding, 2006; Rueschemeyer, 2009). Historically, European member states have had different approaches to fiscal policy, some (like Germany) prioritising budgetary discipline (Hien & Joerges, 2017), others (like France) governmental (deficit) spending for stimulating the economy (Howarth, 2007). The approach to budgetary discipline represents a specific set of policy preferences that may lead member states to exercise opposition through the back door (Falkner *et al.*, 2005). Specifically, governments praising budgetary discipline will tend not to remove restrictiveness from the EU fiscal rules. Moreover, ex-ante regulation matters: if a balanced budget law was already in force before the TSCG, a government praising budgetary discipline will show support for equivalent or even stricter fiscal rules.

## Capacities

Functional problem pressure creates incentives for how member states respond to EU harmonisation (Falkner *et al.*, 2005).

*Compliant deficit (LOWDEF)*. Normally, we would expect member states to not add restrictiveness to EU fiscal rules. Stricter fiscal rules limit spending by the government, potentially preventing it from achieving promises to its constituency and applying unpopular measures of fiscal consolidation. Limiting domestic spending also reduces parliamentary prerogatives on budgetary law and, thus, the role of the opposition (Schoeller & Karlsson, 2021). Member states thus have an incentive to not implement stricter fiscal rules when their deficit is low and they do not risk the opening of an EDP. They can use this 'period of calm' to defend some fiscal sovereignty.

*Unsustainable refinancing costs (UNSUST)*. States can finance themselves through borrowing from investors by issuing bonds on financial markets. The long-term interest rate measures the refinancing costs that a national government pays for borrowing additional resources from investors. It is the cost of replacing existing debt with new debt. The less investors trust that the government will repay them, the higher the interest rate they will demand (Finke & Bailer, 2019). If a state's public debt is very high (90 per cent of GDP or higher) (Swinkels, 2020), and economic growth is weak, 'then sovereign bond investors would demand a risk premium in the form of higher interest rates [...] or even refuse to lend any more funds to a profligate member state' (Chang & Leblond, 2015, p. 630). Refinancing costs can thus become (almost) unsustainable for state's public finances. Faced with such pressure, member states with a high-interest rate might feel compelled to implement fiscal policies oriented towards signalling credible budget consolidation to the markets: they have an incentive to not remove restrictiveness from EU rules.

*Strong veto players (VETO)*. Each political system has a number of veto players, which are very important actors since they can facilitate or block EU policy implementation decisions (Tsebelis & Hahm, 2014), although their role may vary depending on their substantive positions (Treib, 2014). Institutional veto players belong to different branches of power: the chambers of parliament (legislative), the government (executive), and the constitutional court (judiciary). The more veto players there are, the more difficult implementation can become (Zhelyazkova & Thomann, 2022). Rather than distinguishing federal from centralised countries, our analysis considers the concrete players that had a say in implementing the TSCG. For example, unlike in France and Italy, in Germany the constitutional court – if consulted – can block a law (e.g., the law ratifying the TSCG) before the President signs it and it enters into force. This procedure of consultation was activated by a few members of parliament, former politicians,

and citizens who questioned the constitutional compatibility of the TSCG. Eventually, the Federal Constitutional Court issued green light to the TSCG, but this consultation delayed the President's signature.

## **Data and methods**

We now elaborate on the cases analysed, the data and methods employed.

### ***Case selection***

Ours is the first study of customisation of an international treaty, the TSCG, which was adopted on 2 March 2012. The euro crisis mattered both for adopting the TSCG and for its implementation. Whereas Germany's crisis interpretation and fiscal preferences shaped the design of the TSCG (Schoeller & Karlsson, 2021), albeit as part of a bilateral compromise with France (Schild, 2013), the treaty was unanimously adopted by the member state governments and supported by the Commission (Tsebelis & Hahm, 2014). As the most stringent fiscal measure ever taken at the EU level, the TSCG commits member states to permanently enshrine the balanced budget rule in their legal systems, preferably at the constitutional level. In addition, the Medium Term Objective (MTO) moves from 1 per cent of GDP in the Six Pack to 0.5 per cent in the TSCG. Lastly, in case of significant deviations from the MTO, the correction mechanism automatically obligates member states to adopt corrective measures (Fabbrini, 2015). Customisation is possible for those TSCG provisions which explicitly require transposition, that is, the creation of new rules at the domestic level or the change of existing ones, but not for those rules that automatically take effect at the national level after ratification.

Based on a systematic content analysis of the TSCG, we analyse the implementation of six such rules: (1) balanced budget rule; (2) MTO; (3) circumstances for non-respect; (4) correction mechanism; (5) independent monitoring institutions and (6) legal tool chosen for transposition. For rules 1–5, we investigate customised restrictiveness. However, member states also chose legal instruments with different degrees of bindingness for transposing the TSCG, ranging from amending the constitution to introducing a law with a legal status lower than the constitution but higher than an ordinary law (so-called 'strengthened law'), or adopting an ordinary law. Rule 6 captures customised bindingness as a special case of restrictiveness.

We study the customisation of six TSCG rules in three countries: France, Germany and Italy, resulting in a total of 18 cases. As the three largest economies of the Eurozone, France, Germany, and Italy share some characteristics: status with regard to the EU budget (net contributors), the European Stability

Mechanism (non-beneficiaries) and the recency of EU membership (founding members). The three cases vary in other theoretically relevant characteristics. They represent different levels of the public deficit (excessive, surplus, low) in the starting year of implementation (2012). Moreover, the political orientation of the governments ranged from socialist to conservative to technical. We can thus observe customised outcomes in countries with varying levels of deficit and approaches to budgetary discipline. We consider Eurozone countries because the TSCG fully applies to them only.

These countries are not representative of a population, but they are influential cases that help us make theoretical sense of the two-way processes that give way to different directions of customisation. These cases help us understand the puzzle that there is no variation in legal compliance as such, even though capacity and preferences as well as uploading and downloading processes varied significantly. This design allows us to make Börzel's (2002) two-way process model fit for understanding variation in customisation, as another outcome of downloading and a crisis response of member states, instead.

### ***Fuzzy-set Qualitative Comparative Analysis***

We employ the method of fuzzy-set Qualitative Comparative Analysis and complement it systematically with targeted within-case studies of typical and deviant cases. FsQCA (Oana *et al.*, 2021) helps us model the theoretically expected interplay of uploading and downloading, capacity and preferences factors and empirically detect causally complex configurations of factors that are necessary and/or sufficient for the outcome. FsQCA helps us compare the 18 cases of interest, which would be challenging with comparative process tracing, using the rich empirical evidence available rather than having to rely mainly on counterfactuals. FsQCA conceptualises the phenomena of interest as sets in which cases can have membership or not, and to different degrees. For instance, some countries did not add restrictiveness to EU rules (NOTMORE), and others did not remove restrictiveness from them (NOTLESS). Explanatory factors are called 'conditions', and the two *explananda* 'outcomes'.

First, necessary conditions (supersets) are assessed. Second, to assess sufficient conditions, all logically possible combinations of conditions are displayed in the rows of a 'truth table'. Each case displays one of these configurations. Truth table rows that are not observed empirically are called 'logical remainders'. When enough cases in a truth table row also display the outcome, the configuration is sufficient for the outcome. Through logical minimisation, the shortest possible logical description of those configurations that are sufficient for the outcome is derived (packages QCA and Set Methods; Dusa, 2018; Oana *et al.*, 2021).

All QCA results must pass three tests: empirical consistency, empirical importance, and substantive importance (Oana *et al.*, 2021). The corresponding consistency, Proportional Reduction in Inconsistency (PRI), coverage, and Relevance of Necessity (RoN) parameters all range from 0 to 1. To deal with limited empirical diversity, we employ the Standard Analysis and make theoretically informed directional expectations about the sufficiency of logical remainders. The details of the analysis are reported in the online appendix, including truth tables, the thresholds applied, assumptions made on logical remainders and the R replication file.

### **Measurement and calibration**

To assess customised restrictiveness, we analysed and compared the legal rules in the TSCG and in each country, considering both pre-existing domestic legal acts and transposition measures introduced during the implementation of the TSCG (European Commission, 2017). For each rule, we assessed whether restrictiveness was added, removed or unchanged compared to the rule of the TSCG, see Table 1, and calibrated the two outcomes NOTMORE and NOTLESS. While these two outcomes overlap empirically by including cases of unchanged restrictiveness, they have separate and empirically non-overlapping explanations.

Table 2 summarises the measurement and calibration of the six conditions, based on qualitative content analysis of parliamentary voting results, plenary debates, Commission's reports and web pages, Eurostat and OECD data, party manifestos, coalition agreements, complemented by secondary literature. To fill informational gaps from the document analysis, we conducted seven in-depth interviews with EU and country experts on fiscal policy, including academics and practitioners between December 2021 and March 2022 (details see Table A1, online appendix). Interviews lasted between 1 and 1.5 hours, and were transcribed and anonymised using transcription software. All legal and other sources and more details on the measurement and calibration are indicated in the online appendix.

### **Results**

Figure 2 shows that all three countries customised the TSCG. Most often (7 cases out of 18), member states added restrictiveness to the EU rule. With six cases, unchanged restrictiveness turned out to be the second most practised customisation strategy, whereas in five cases the original EU rule was watered down (removed restrictiveness). Hence, even when core state powers like fiscal policy are concerned, in a context of crisis, member states sometimes do implement EU rules more restrictively.

The countries varied in the extent to which they customised restrictiveness. France only rendered the legal tool more binding. Other than this



**Table 1.** Measurement and calibration of the direction of customised restrictiveness.

TSCG rule	Measurement of customised restrictiveness in national rule	Calibration thresholds	
		NOTMORE	NOTLESS
<i>Balanced budget rule</i> Article 3.1(a)(b)	<p><i>Removed:</i></p> <ul style="list-style-type: none"> <li>– Rule does not mention ‘in surplus’</li> <li>– Rule does not apply on a structural basis (ordinary cycle)</li> </ul> <p><i>Unchanged:</i> Direct reference to the TSCG’s article</p> <p><i>Added:</i> Rule sets stricter objective</p> <p><i>Removed:</i> MTO is not mentioned</p> <p><i>Unchanged:</i></p> <ul style="list-style-type: none"> <li>– Rule does not specify the 0.5% value but does mention and define the MTO in accordance with EU law</li> <li>– Direct reference to the TSCG’s article</li> </ul> <p><i>Added:</i> MTO is stricter</p>	For rules 1–5 (recoding method): 1 = removed restrictiveness 0.67 = unchanged restrictiveness 0 = added restrictiveness	For rules 1–5 (recoding method): 1 = added restrictiveness 0.67 = unchanged restrictiveness 0 = removed restrictiveness
<i>Medium-term objective (MTO)</i> Article 3.1(b)	<ul style="list-style-type: none"> <li>– Rule does not specify the 0.5% value but does mention and define the MTO in accordance with EU law</li> <li>– Direct reference to the TSCG’s article</li> </ul> <p><i>Added:</i> MTO is stricter</p>	For rules 1–5 (recoding method): 1 = removed restrictiveness 0.67 = unchanged restrictiveness 0 = added restrictiveness	For rules 1–5 (recoding method): 1 = added restrictiveness 0.67 = unchanged restrictiveness 0 = removed restrictiveness
<i>Circumstances for non-respect</i> Article 3.1(c) + Article 3.3(b)	<p><i>Removed:</i> Planning ‘takes into account’ instead of ‘cannot deviate except in case of’ exceptional circumstances</p> <p><i>Unchanged:</i> Direct reference to the TSCG’s article</p> <p><i>Added:</i> Rule mentions circumstances and necessary procedures for non-respect</p>	For rules 1–5 (recoding method): 1 = removed restrictiveness 0.67 = unchanged restrictiveness 0 = added restrictiveness	For rules 1–5 (recoding method): 1 = added restrictiveness 0.67 = unchanged restrictiveness 0 = removed restrictiveness
<i>Correction mechanism</i> Article 3.1(e) + Article 3.2	<p><i>Removed:</i> Rule does not comply fully with the common implementation principles<sup>4</sup> on national fiscal correction mechanisms of the European Commission (Commission’s principles)</p> <p><i>Unchanged:</i> Rule complies fully with the Commission’s principles</p> <p><i>Added:</i> Rule complies fully with the Commission’s principles and adds additional stricter aspects</p>	For rules 1–5 (recoding method): 1 = removed restrictiveness 0.67 = unchanged restrictiveness 0 = added restrictiveness	For rules 1–5 (recoding method): 1 = added restrictiveness 0.67 = unchanged restrictiveness 0 = removed restrictiveness
<i>Independent monitoring institutions</i> Article 3.2	<p><i>Removed:</i> Rule does not comply fully with the Commission’s principles</p> <p><i>Unchanged:</i> Rule complies fully with the Commission’s principles</p> <p><i>Added:</i> Rule complies fully with the Commission’s principles and adds additional stricter aspects</p>	For rules 1–5 (recoding method): 1 = removed restrictiveness 0.67 = unchanged restrictiveness 0 = added restrictiveness	For rules 1–5 (recoding method): 1 = added restrictiveness 0.67 = unchanged restrictiveness 0 = removed restrictiveness
<i>Legal tool</i> Art 3.2	<p>Added index (from 5 to 15) for the bindingness of the legal tool chosen for transposing rules 1–5:</p> <ul style="list-style-type: none"> <li>Constitution (added): 3</li> <li>Strengthened law (unchanged): 2</li> <li>Ordinary law (removed): 1</li> </ul>	For rule 6 (direct method) 1 = 5 0.5 = 10 0 = 15	For rule 6 (direct method) 1 = 15 0.5 = 10 0 = 5



**Table 2.** Measurement and calibration of conditions.

Factor and definition	Operationalisation	Measurement	Calibration threshold
Opposition (OPP) <sup>1</sup> Members of government or members of parliament (MPs) opposed to ratification of (a rule in) the TSCG	Treaty opposition: average of the shares of votes in favour of the TSCG in both chambers of parliament among government's MPs Rule opposition by all MPs, expressed in statements during plenary debates Technical opposition = opposition against minor issues or specific parts of the rule Political opposition = opposition against the entirety or key parts of the rule	Weak: 0.88 or 0.98 Intermediate: 0.72  Weak: technical opposition only Intermediate: political opposition only Strong: political and technical opposition Rule opposition trumps whole treaty Opposition: for OPP to be more present than absent, rule opposition must be at least intermediate	1 = intermediate treaty opposition AND strong rule opposition, OR weak treaty opposition AND strong rule opposition 0.67 = intermediate treaty opposition AND intermediate rule opposition OR weak treaty opposition AND intermediate rule opposition 0.33 = intermediate treaty opposition AND weak rule opposition 0 = weak treaty opposition AND weak rule opposition 1 = long EDP AND no avoided sanctions in past 0.67 = short EDP AND no avoided sanctions in past 0.33 = long EDP AND sanctions avoided in past 0 = short EDP AND sanctions avoided in past
EDP as deterrent (EDP) <sup>1</sup> EDP and no previous avoidance of sanctions	A long or short EDP was going on against a country at the time of implementation  Member state has been under an EDP that reached the sanctions stage but avoided them	Long: EDP covered the entire transition period Short: EDP lasted less than half of the transition period Yes or No	1 = long EDP AND no avoided sanctions in past 0.67 = short EDP AND no avoided sanctions in past 0.33 = long EDP AND sanctions avoided in past 0 = short EDP AND sanctions avoided in past
Compliant deficit (LOWDEF) <sup>2</sup> Deficit below 3% threshold	Public deficit of member states in 2012 (% of GDP). Source: <a href="https://ec.europa.eu/eurostat/databrowser/view/gov_10dd_edpt1/default/table?lang=en">https://ec.europa.eu/eurostat/databrowser/view/gov_10dd_edpt1/default/table?lang=en</a>	Surplus: ≥ 0% Low deficit: ≥ -3% but < 0% Excessive deficit: < -3%	1 = 0% 0.5 = -3% 0 = -5%
Unsustainable refinancing costs (UNSUST) <sup>2</sup> Long-term interest rate significantly above euro area average	Interest rates on the 10-year sovereign bond in 2012 in %. Source: <a href="https://data.oecd.org/interest/long-term-interest-rates.htm">https://data.oecd.org/interest/long-term-interest-rates.htm</a>	Euro area average in 2012 = 3.5%	1 = 5.49 0.5 = 3.5 0 = 1.5 and 2.9

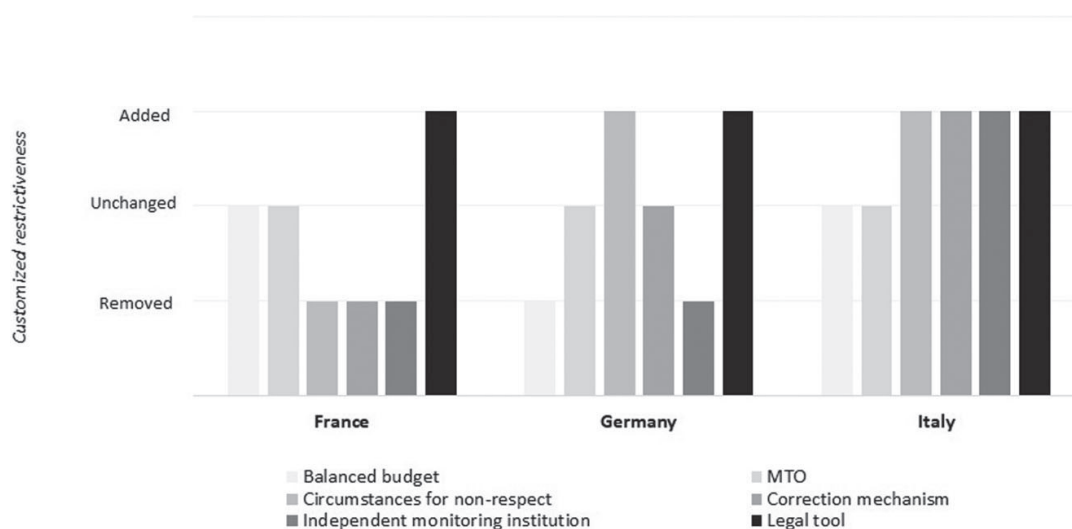
(Continued)

**Table 2.** Continued.

Factor and definition	Operationalisation	Measurement	Calibration threshold
Strong budgetary discipline (DISC) <sup>1</sup>	Party manifestos and coalition agreements; internet research;	Strongly in favour: balanced budget law was already enshrined in national law prior to the ratification of the TSCG AND the government attributed budgetary discipline high salience	1 = strongly in favour 0 = in favour
Government strongly in favour of budgetary discipline	in-depth interviews; balanced budget law already in force	In favour: balanced budget law was already enshrined in national law prior to the ratification of the TSCG, but the government did not attribute budgetary discipline high salience	
Many veto players (VETO) <sup>1</sup>	Number of institutional veto players involved in TSCG transposition Involvement of all three power branches (legislative, executive, and judiciary)	Many: five veto players and three branches involved Intermediate: four veto players and two branches are involved Few: three veto players and three branches involved	1 = Many 0.33 = Intermediate 0 = Few

<sup>1</sup>Recoding method of calibration. <sup>2</sup>Direct calibration method.

Data was gathered for the point in time at which the country transposed the TSCG (mostly 2012).



**Figure 2.** Customised rules and customisation outcome per country.

formal aspect, France weakened three rules (circumstances for non-respect, correction mechanism and independent monitoring institutions) and left two unchanged (balanced budget and MTO). In contrast, Germany applied a range of different customisation strategies: it watered down rules on the balanced budget and the independent monitoring institutions, whereas it left unchanged the MTO and correction mechanism and strengthened the circumstances for non-respect and legal tool. In Italy, added restrictiveness prevailed in four rules (circumstances for non-respect, correction mechanism, independent monitoring institutions and legal tool) out of six. Since the balanced budget rule and the MTO were left unchanged, Italy never removed restrictiveness.

### ***Conditions for customised restrictiveness***

We analyse two distinct outcomes, which indicate the boundaries that the member states set when downloading the EU rules: when member states do not go beyond EU rules (NOTMORE), or when member states do not 'water down' EU rules (NOTLESS).<sup>2</sup> Table 3 reports the two scenarios (paths) in which member states did not add restrictiveness (NOTMORE). For each path, we discuss a typical case and the interplay of uploading and downloading factors.

#### ***Path 1: Opposition through the back door due to general French policy preferences***

In the first path, the combination of not EDP acting as deterrent, not-high budgetary discipline, and easy access to financial markets meant that France did not go beyond five of the EU fiscal requirements, in the context

**Table 3.** Intermediate solution for no added restrictiveness (NOTMORE).

	Consistency	PRI	Coverage	Unique coverage	Cases
<b>Path 1: Opposition through the back door due to general French policy preferences</b>					
~ EDP* ~ UNSUST* ~ DISC* ~ VETO	0.910	0.882	0.376	0.376	fr3,fr5, <b>fr6</b> ; fr1, fr2,fr4
<b>Path 2: Opposition through the back door in Germany's calm macroeconomic circumstances</b>					
OPP* ~ EDP* ~ UNSUST* LOWDEF* DISC* VETO	1	1	0.167	0.167	de1,de5
<b>Solution</b>	0.936	0.923	0.543		

**Bold:** deviant case consistency in kind which displays the opposite outcome (discussed below). Details see Table A10, online appendix.

Notes: Read \* as AND, + as OR, ~ as NOT.

of a reasonable number of veto players. Despite the pre-existing equilibrium objective in French law, centralised France's (~ VETO) loose fiscal discipline of 2012 (~ DISC) gave evidence of its 'dilemma'. The idea of '*gouvernement économique*' embraces the broader objectives of budgetary oversight, yet 'these rules are not allowed to constrain French policy-making when they are inconvenient' (Howarth, 2007, p. 1). Thus, despite public commitment to fiscal discipline, from 2009 to 2016 France never met the 3 per cent deficit threshold. By 2012, new Socialist President Hollande was trying to renegotiate the TSCG. France also had both an excessive deficit and debt and was, hence, under an EDP – however, without deterrent effect: France had already managed to work its way out of sanctions in 2003 (~EDP). After 6 years of EDP, the budget was still at –3.4 per cent in 2015 and 'in the Eurozone, the political inclination [was] growing, to resign oneself to this and to give France another reprieve' (Handelsblatt, 2014, p. 4; own translation). France was also in a decent macroeconomic situation: the government bond's interest rate fell steadily during 2012 to approximately 2.5 per cent, far below Italy, and closing in on the German *Bund* (~UNSUST). Even if enforced, the costs of an EDP would have been much lower than for Italy. Thus the ineffectiveness of European deterrence together with lacking incentives and a lack of political willingness to signal compliance at the downloading stage encouraged France to exercise 'opposition through the back door' and not add restrictiveness to the TSCG.

### ***Path 2: Opposition through the back door in Germany's calm macroeconomic circumstances***

In path 2, opposition to their ratification and a compliant deficit led Germany to not add restrictiveness to two EU rules, but only in the specific context of no EDP acting as deterrent, no unsustainable refinancing costs, strong fiscal discipline, and many veto players.

For example, the *Länder* harshly opposed the establishment of an independent and apolitical monitoring institution (*Beirat*) which they considered an

**Table 4.** Intermediate solution for no removed restrictiveness (NOTLESS).

	Consistency	PRI	Coverage	Unique coverage	Cases
<b>Path 3: Germany as problem-solver</b>					
~ OPP* LOWDEF* DISC* VETO	0.812	0.739	0.481	0.289	de2,de3,de4,de6
<b>Path 4: Italy's need to signal compliance</b>					
EDP* UNSUST* LOWDEF* DISC* ~ VETO	1	1	0.305	0.113	it2,it3,it4,it6; it1, it5
<b>Solution</b>	0.842	0.793	0.594		

Details see Table A13, online appendix.

Notes: Read \* as AND, + as OR, ~ as NOT.

unnecessary duplication of the Stability Council and an unacceptable constraint on their spending autonomy (OPP). The debates in the *Bundestag* and in the *Bundesrat* show that all parties shared this view. Germany was under no EDP (~EDP) when downloading the TSCG in 2012, and in calm macroeconomic waters: German sovereign bonds were considered as a benchmark (triple A+), with comparatively low-interest rates (~UNSUST). The surplus condition epitomised Germany's long-term reputation of solid public finances (LOWDEF). As only 3 years earlier a bipartisan 'federal commission' had introduced a debt brake very similar to the TSCG, the country had already done its 'fiscal consolidation homework' (DISC). Mostly there was consensus on the TSCG which did not require many additional domestic sacrifices. Institutionally, the *Länder* were an influential veto player (VETO) because they needed to approve the TSCG ratification with a two-thirds majority (Behnke & Kropp, 2018). This constellation allowed the *Länder* to strongly shape the parliamentary debates on the transposition of this specific rule on the independent monitoring institutions. The German case outlines how opposition at the uploading stage and incentives from a calm macroeconomic situation during downloading can trigger veto players to resist going beyond EU fiscal rules and subtly exercise 'opposition through the back door'.

The solution has good consistency and covers all but four cases where no restrictiveness was added (see Figure A2, online appendix). The legal tool used in France (fr6) is a deviant case with added restrictiveness, which we discuss below.

We now turn to two constellations of conditions under which member states did not water down the TSCG (NOTLESS; Table 4).

### ***Path 3: Germany as problem-solver***

In this third path, a strong budgetary discipline without opposition contributed to Germany not removing restrictiveness from four EU fiscal rules. The absence of opposition (~OPP) facilitated this: Chancellor Merkel, who

epitomised a central role to budgetary stability, had been the architect of both the debt brake and the TSCG. The pre-existing debt brake, adopted with a high interparty consensus (two-thirds majority in both chambers of parliament), had informed the TSCG's design. A low deficit (LOWDEF) further helped federal Germany (VETO) pushing through the strong fiscal discipline evident in the 2009 coalition agreement (DISC) (CDU Archive, 2009). Fiscal priorities included making non-compliance more difficult and minimising exceptional non-compliance (Schoeller & Karlsson, 2021). Therefore, if the existing debt brake was not sufficient to cover the rules of the TSCG, a direct reference to the treaty was made (unchanged restrictiveness). The EU rules for circumstances for non-respect were rendered even stricter both content-wise and procedurally, requiring the approval of deviations from the MTO by the majority of all members of the *Bundestag*. Hence, a strong consensus on uploading fiscal rules, combined with a domestic context where a similar rule and a sound budgetary outlook already existed, contributed to more ambitious domestic fiscal policies.

#### ***Path 4: Italy's need to signal compliance***

Italy's path representing budgetary discipline in turbulent macroeconomic circumstances fully supports our expectations: EDP as deterrent, unsustainable refinancing costs, and a strong budgetary discipline meant that EU fiscal rules were not watered down in a context of a compliant deficit and a low number of veto players, to signal compliance to both markets and the EU. Unlike France and Germany, in Italy, the EDP worked as a strong deterrent during the whole transposition period, when Italy's deficit was only just compliant (2.9 per cent) with the SGP (LOWDEF). Moreover, Italy's long-term interest had peaked at 5.49 per cent in 2012 (UNSUUST). Coupled with debt out of control and low economic growth due to stagnant productivity (Chang & Leblond, 2015), the enforcement of an EDP would have been too costly for Italy: as a 'final stroke' definitely undermining the market's confidence, it would have brought the country close to national default. Following a peremptory letter from the European Central Bank in August 2011, the Berlusconi cabinet, anticipating the TSCG, was forced to initiate the process of introducing the balanced budget rule into the Italian constitution. In November 2011, the technocratic government led by Monti, supported by a large political majority (~VETO), was appointed for embarking Italy towards credible budgetary consolidation (DISC). Since both right-wing and left-wing parties had already agreed on the new balanced budget rule, Italy did not water down the rules of the TSCG. The balanced budget rule was among several dramatic reforms introduced by the Monti cabinet. Choosing to implement both rules unchanged 'in accordance with EU law', the Italian government aimed to secure compliance with the TSCG and to flexibly adapt to future changes in EU legislation. The triple effect of EU enforcement, a

government pursuing budgetary discipline, and a dramatic macroeconomic situation disincentivised the watering down of EU fiscal rules.

This solution too has a very good consistency and covers most cases of NOTLESS, except three cases of unchanged restrictiveness that were already explained in the previous analysis (Figure A3, online appendix). Using QCA, we explained customisation in no less than 17 out of 18 cases. We now discuss the remaining 'outlier' case.

### **Post-QCA case discussion**

We compare the deviant case of the legal tool in France, with bindingness added to the EU rule (NOTLESS), with a typical case of NOTMORE – the circumstances for non-respect in France (Oana *et al.*, 2021). Although both rules were uncontroversial and shared the same national context of uploading and downloading factors, France chose a more binding legal tool than minimally required by the EU, while it implemented the exceptional circumstances less restrictively. What made the difference?

As other member states went for higher legal provisions, France was peer-pressured into doing the same. Indeed, the French Constitutional Law Association saw the need for a reinforced legal tool since it was ratified with a two-thirds majority in Germany for these exact reasons. In its reasoning, the *Conseil Constitutionnel* favoured 'organic dispositions [the tool chosen] to meet the commitment set out in Article 3(1)'.<sup>3</sup> Why, though, did peer pressure, arguably at the centre of European economic governance, not have the same effect for the exceptional circumstances?

The difference lies in the nature of these rules, and France's need to signal compliance. The TSCG leaves some room for member states in choosing the form and the substance of downloading European rules. Utilising the legal concepts of 'instrumentum' (container) and 'negotium' (content), customisation can happen along both dimensions. For all TSCG rules, France chose to water down the content but not the instrument. This 'clear contradiction between the relatively modest scope of the agreement and the solemn form that was given to it' (Dehousse, 2012, p. 4) served to signal ambitiousness. This signalling dynamic, in a peer pressure context, helps to explain the different customisation outcomes.

### **Two-way processes in EU fiscal customisation**

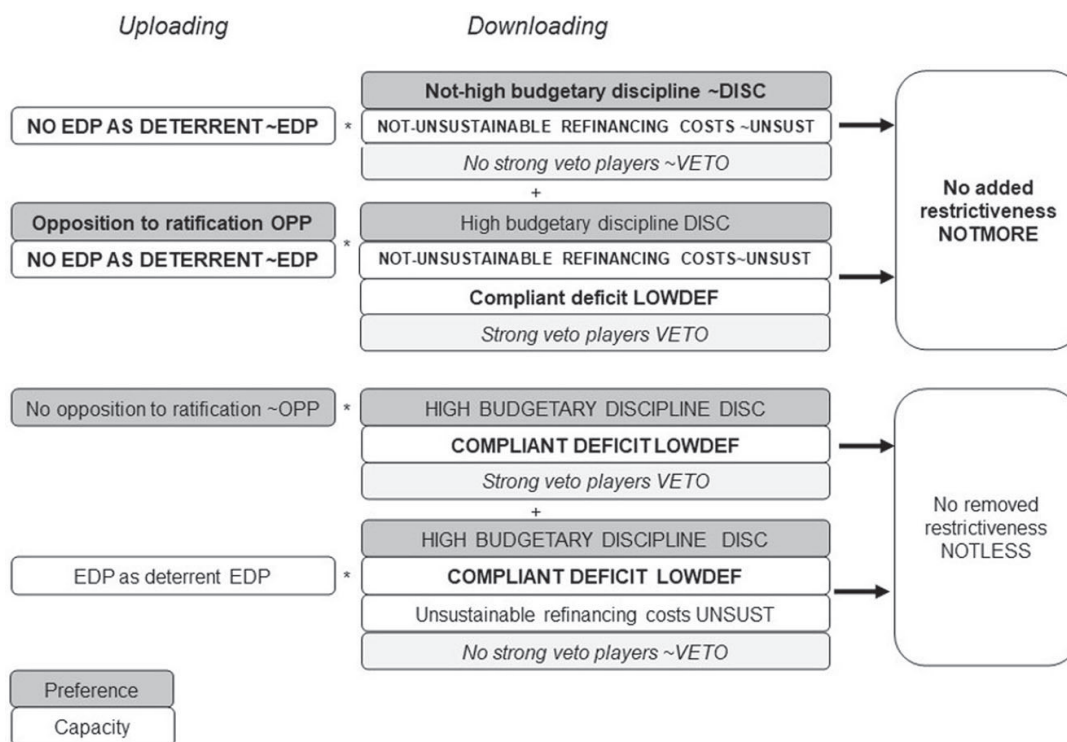
Our analysis delivers four key insights about how member states sought to 'regain control' of their core state power vis-à-vis expanded EU fiscal competences, by either not watering down EU fiscal rules, or not going beyond minimal requirements.

First, *member states abstained from adding restrictiveness to EU fiscal rules in the absence of EU enforcement acting as a deterrent*. Additionally, either the government had only reluctantly delegated the competence (as in Germany), or it had a different preference for fiscal discipline when downloading the EU rule (as in France). The presence or absence of veto players is part of the story explaining why member states did not go beyond minimal EU fiscal requirement in such circumstances (Tsebelis & Hahm, 2014). Second, *member states did not water down EU fiscal rules either because they agreed with the EU policy and already fulfilled the requirements, or because credible EU enforcement and economic factors incentivised them to signal compliance*. The absence of opposition, combined with a strong budgetary discipline, meant Germany used the EU rules as an external constraint to issue strict national rules, even when the macroeconomic situation would have allowed more leeway. In Italy, a technical government praising budgetary discipline, faced with unprecedented pressure from the EU and financial markets, responded by issuing stringent national fiscal rules.

Our third key finding is that in each case we analysed, *the two-way interplay of uploading and downloading factors accounted for customised transposition outcomes, where capacity trumped preferences* (Börzel, 2002).

*Uploading*. As regards capacity, EU enforcement was an effective hierarchical tool for governing EU fiscal policy implementation (Joachim *et al.*, 2007; Knill & Tosun, 2012; König & Mäder, 2014). The absence of a credible EU enforcement threat incentivised France to not go beyond EU fiscal rules, whereas the presence of such a threat constrained Italy's options and made it not water down EU rules. Policy preferences shape Europeanisation outcomes too (Börzel, 2002; Mastenbroek & Kaeding, 2006): opposition to 'uploading' a fiscal competence constrained Germany's leeway to later implement it against the *Länders'* will (Thomson *et al.*, 2020; Zhelyazkova, 2013; 2014), while in other cases the absence of such opposition enabled Germany to go beyond EU minimal rules.

*Downloading*. However, these uploading factors had to combine with domestic downloading factors to trigger customised implementation choices. Willingness to comply, specifically fiscal ideas (Rueschemayer, 2009), played an important role in France and Germany, while the country's economic situation determined the leeway member states had and hence, their capacity to customise (Joachim *et al.*, 2007). In Italy, the leeway for customisation was small. Notwithstanding its pre-crisis history of deficit financing, Italy chose the strictest transposition of the TSCG because committing to harsh budgetary discipline was the 'last call' for the country to avoid a default. Our fourth key finding is that *member states used the customisation of EU fiscal rules to signal compliance both to the EU and to financial markets* (Zhelyazkova & Yordanova, 2015). In France, a signalling dynamic explains



**Figure 3.** Assessment of theoretical expectations. Bold: Condition is expected to result in NOTMORE, not bold: condition is expected to result in NOTLESS, italics: no expectation. Capital Letters: Key configuration for explaining this outcome shared by both paths.

why the more visible rule was strengthened while the less visible rule was watered down.

As Figure 3 illustrates, these results support both of our theoretical expectations. In each path, we find both uploading and downloading factors. Moreover, the member state preference resulted in the expected outcome when capacity conditions allowed for it. The member states would customise EU fiscal rules according to whether the uploading outcome reflected their preferences, if either the EU's enforcement or their domestic economic and actor constellation during downloading suggested it. Results reveal scenarios of competing preferences or capacities. Specifically, the second path for NOTMORE shows that preferences pointing to a different outcome (here: DISC) do not dominate if capacity factors do not align. The two pathways to NOTLESS show that a compliant deficit, while enabling member states to not go beyond EU rules, also does not prevent them from not doing less, if that is the domestic preference in the member state, or if other capacity factors dominate. Two constellations of factors (capital letters in Figure 3) stand out. When member states did not add restrictiveness to EU fiscal rules, capacity was a common thread: there was an absence of effective EU enforcement threat together with no need to signal compliance. Conversely, for member states to not

water down EU fiscal rules, a preference for fiscal discipline combined with an already compliant deficit.

In summary, we find strong evidence that the two processes of uploading and downloading are not independent of each other, which affects the outcomes of fiscal policy implementation (Börzel, 2002; Thomson *et al.*, 2020; Zhelyazkova, 2014). But what can we learn from these findings for the problem-solving capacity of the EU multilevel governance system (Trein *et al.*, 2019) when we see an expansion of the EU's fiscal competences?

## Conclusion

The implementation of the Fiscal Compact highlights the customisation strategies in the political 'two-level game' between member states and the EU. Member states (reluctantly) upload their core state power of fiscal policy formulation and enforcement to the EU (Genschel & Jachtenfuchs, 2016; Jordan, 2002; Radaelli, 2006), but later use implementation to adjust EU policies again – if they can (Thomson, 2010). The 'long shadow' euro crisis severely challenged the fiscal stability of the EU (Dunlop & Radaelli, 2016; Fabbrini, 2015) and offers potential lessons for similar situations when the EU significantly expands its fiscal competences.

We find that member states used customisation to exercise 'opposition through the back door' and not go beyond EU fiscal requirements when uploading outcomes did not reflect their diverging preferences, and did not provide a credible deterrent (Knill, 2015; König & Mäder, 2014; Thomson, 2010) – but they did so strategically, only if their macroeconomic situation allowed for it. The first key lesson here is that EU enforcement needs to entail high potential domestic costs and be credible to effectively make member states work toward EU fiscal goals (Joachim *et al.*, 2007; Knill & Tosun, 2012). But perhaps surprisingly, more often, member states used customisation to *not* water down the Fiscal Compact. Thus, the second key lesson is that even in an area of core state powers member states acted as problem-solvers (Thomann, 2019) or signalled compliance (Thomson *et al.*, 2020) when uploading outcomes reflected their policy preferences or provided a credible enforcement threat. Customisation is thus a strategic reaction to EU enforcement (Kriegmair *et al.*, 2020; Treib, 2014). These strategies depend on the specific political and domestic problem pressures during the euro crisis (Falkner *et al.*, 2005; Mastenbroek & Kaeding, 2006). The formula we find is: capacity trumps preferences. Moreover, we find highly country-specific strategies which emphasise the importance of conditions prevailing on the ground.

Given the limited generalisability of our analysis of three influential country cases, future comparative research should address whether these lessons can travel beyond the context of the 'long shadow' type of crisis,

fiscal treaty law, and the three countries analysed here. Procedurally, the transposition of EU directives involves fewer or different veto players than the transposition of treaty law (Mastenbroek & Kaeding, 2006), which may affect the importance of domestic policy preferences and actor constellations relative to uploading factors. Moreover, EU enforcement may have a different deterrent effect in newer member states or countries that are net beneficiaries from the EU budget. Future research should deepen the 'how' and the 'why' of EU fiscal customisation, go beyond treaty transposition in a crisis context, and address the continuous practical application of EU fiscal rules within the European Semester.

For now, our results suggest that customisation dynamics do not need to undermine the EU's role as a problem-solving system. Instead, they can be a continuation of problem-solving at the operational level of EU governance (Trein *et al.*, 2019; Zhelyazkova *et al.*, 2023). Börzel's (2002) two-way Europeanisation model proves not only useful to analyse integration outcomes but also to explain differentiated implementation more systematically than was previously possible (Zhelyazkova *et al.*, 2023). Research shows that customised implementation influences practical compliance with EU policies as well (Zhelyazkova & Thomann, 2022). Thus, particularly when a core state power is concerned, the implementation stage and how it interacts with EU policymaking appears crucial for the EU's problem-solving capacity. Implementation research should thus consider the time-dependent relation between uploading and downloading empirically.

## Notes

1. See [https://ec.europa.eu/eurostat/databrowser/view/gov\\_10dd\\_edpt1/default/table?lang=en](https://ec.europa.eu/eurostat/databrowser/view/gov_10dd_edpt1/default/table?lang=en) for deficit/debt and <https://data.oecd.org/interest/long-term-interest-rates.htm> for the interest rate.
2. We found no necessary conditions for either outcome (thresholds: consistency 0.9, coverage 0.5, RoN 0.5).
3. Decision no. 2012–653 DC of 9 August 2012.
4. The TSCG directly refers to the Commission's Communication of 20.6.2012 on 'Common principles on national fiscal correction mechanisms'.

## Acknowledgements

We are grateful to three anonymous JEPP referees for their valuable comments and suggestions. We are also grateful to the participants in the seminar held on 8 November 2022 at the ARENA Center of European Studies (University of Oslo).

## Disclosure statement

No potential conflict of interest was reported by the author(s).

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