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Abstract

Differentiation is a frequent *modus operandi* in European foreign, security and defence policy. EU treaties have introduced legal frameworks for various types of formal differentiated integration in this policy area. However, they have rarely been used in the field of foreign policy and were only recently launched in the field of defence policy. On the other hand, empirical analyses show that EU member states have engaged in a range of informal practices of differentiation, such as regional groupings, contact and lead groups, and various defence initiatives. This article reviews the scholarly literature and recent empirical analyses of differentiation in EU foreign, security and defence policy. In doing so, it assesses their legitimacy and accountability, and calls for a more explicit focus on effectiveness. Drawing on case studies of differentiated cooperation with non-member states, the article argues that effectiveness depends on shared interests rather than on the level of institutionalisation of the partnership. In a second step, the paper focuses on EU foreign policy in the Western Balkans, the Middle East and the Eastern neighbourhood. It contends that differentiated cooperation has had largely positive outcomes when it has adhered to common EU values and positions. Conversely, when this has not been the case, differentiation has undermined EU foreign and security policy.

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Introduction

Differentiation is an essential aspect of the European Union's foreign, security and defence policy. In this research paper we broadly define differentiation as "any modality of integration or cooperation that allows states (members or non-members) and sub-state entities to work together in non-homogenous, flexible ways" (Lavenex and Križić 2019: 3). This definition encompasses both instances of integration – meant as pooling sovereignty at the EU level – and of looser, intergovernmental cooperation. In the realm of EU foreign policy, it is often more accurate to speak of "differentiated cooperation" rather than of "integration" because differentiation often occurs in the margins or outside EU institutional structures or legal frameworks (Grevi et al. 2020: 4). Moreover, member states do not see differentiated foreign policy cooperation as a vector towards integration, but rather as a way of complementing the initiatives of EU institutions and of compensating for the shortcomings of unanimity-based decision making in EU foreign policy (Alcaro and Siddi 2020). For instance, a restricted number of member states can informally join forces and cooperate in *ad hoc* contact groups or lead groups in order to enable a European response in the context of urgent conflict management or complex international negotiations.

In the realm of defence policy, some notable instances of differentiation have taken place in accordance with the formal provisions of the Treaty on European Union – most notably Articles 42.6 and 46. This is the case for Permanent Structured Cooperation (PESCO), which is "a framework and process to deepen defence cooperation between those EU Member States who are capable and willing to do so".[1] PESCO was established in 2017 and 25 member states (all but Denmark and Malta) have joined it since then (Howorth 2019: 269). As PESCO aims to "jointly arrive at a coherent full spectrum of defence capabilities" and involves legally binding commitments for members, it is a case of differentiated integration, rather than just an instance of cooperation (see also Biscop 2020).

A relatively small but recently growing body of scholarly literature exists on differentiation in EU foreign, security and defence policy. As we shall illustrate below, these works tend to focus on the treaty-based and informal mechanisms of differentiation (e.g., Aggestam and Bicchi 2019, Biscop 2008, Blockmans 2014 and 2018, Howorth 2019, Groenendijk 2019, Wessel 2007). This paper contributes to and complements this literature by discussing the accountability, legitimacy and, most notably, by assessing the *effectiveness* of differentiation in European foreign, security and defence policy.

Assessing accountability and legitimacy is important because differentiation causes an incongruence between those who take decisions and those who are affected by them. Citizens and sometimes even governments may have only marginal control over policies that affect them because their countries can be underrepresented or absent in the differentiated structures that make decisions (Nguyen 2020: 3). Hence, differentiation raises questions regarding both the accountability of decision makers to the broader, affected political body, and the legitimacy of the decision-making process. Accountability can be defined as "a relationship between an actor and a forum, in which the actor has an obligation to explain and to justify his or her conduct, the forum can pose questions and pass judgement, and the actor may face consequences" (Bovens 2007: 450). In

1 See the official website: https://pesco.europa.eu.

the context of EU foreign policy, a differentiated structure may need to justify its conduct to some EU-wide institutions (i.e., the European Council, the Parliament) and occasionally – as foreign policy rarely becomes a key issue in broader societal debates – to the European citizenry.

The concept of legitimacy is closely related to accountability, as it partly depends on the good functioning of accountability mechanisms. Following Tallberg and Zürn (2019: 585), legitimacy is defined as the "beliefs within a given constituency or other relevant audience that a political institution's exercise of authority is appropriate". Assessing this in the context of foreign and defence policy is particularly difficult because, as argued, relevant decisions are often confined to deliberations among political and diplomatic elites and are only occasionally the subject of broader public discussion (Sjursen 2018). Legitimacy depends on several factors including the authority of an institution, namely the recognition that it has the right to make decisions in a particular policy area, and its respect of procedural standards in decision-making processes (Tallberg and Zürn 2019). In EU foreign policy, the recognition of authority to make decisions is reflected in the support or the consent of member states for a particular policy-making structure (for instance, the Franco-German duo in the negotiations on Ukraine) and the set of decisions it takes.

The legitimacy of a supranational organisation such as the EU is also tied to its capacity to deliver effective problem solving, and thus to its effectiveness. Before turning to a more specific definition of effectiveness, it is important to stress that, in an EU policy context, effectiveness does not always lead to greater legitimacy. For example, if effectiveness is achieved as a result of political pressure from a restricted group of larger member states, it can have an inverse effect on legitimacy because it may create the impression of hegemonic repression among the political establishment and the citizens of other members (Lavenex and Križić 2019: 20). Furthermore, the legitimacy of EU policies may also be affected by the actions undertaken by third countries, particularly great powers that have the means and connections to influence political actors and the public opinion in the EU (Lavenex and Križić 2019: 20). External powers such as the United States or Russia can both strengthen the legitimacy of EU policies, if they acknowledge and support them, or undermine it, if they take an opposing stance and persuade some EU members to follow suit.

Effectiveness is conceptualised and evaluated based on two main aspects identified by Lavenex and Križić (2019: 13-14), attribution and assessment. Attribution concerns the *relative* policy change (improvement, worsening or no change) caused by differentiation compared to a hypothetical state of affairs without differentiation. In other words, can any identified improvement or worsening in foreign and defence policy outcomes be attributed to the presence of differentiated cooperation? The second aspect, assessment, involves an evaluation of the problem-solving role of differentiation in more *absolute* terms: Does the policy impact of differentiation constitute an appropriate or even ideal solution to the underlying foreign policy issue, or is it insufficient to resolve it?

Based on the empirical findings and case studies presented in four EU IDEA policy papers on EU foreign and defence policy (Alcaro and Siddi 2020, Aydın-Düzgit et al. 2021, Biscop 2020, Grevi et al. 2020),[2] this paper argues that differentiated cooperation usually has a positive impact on EU policy making in relative terms, both by generating internal consensus – and hence, legitimacy – and by spurring the Union into action on specific issues. In particular, this happens when differentiation initiatives adhere to *common European values and identity* (as expressed in established EU foreign policy discourse) and build on *long-established common EU positions*. Consistency with EU values and previous foreign policy positions also enables a framework for accountability to EU institutions that have endorsed them and corroborates the legitimacy of differentiation initiatives within such institutions. However, when formats of differentiated cooperation depart from this common base (as in the Middle East Process), they can undermine EU foreign and security policy. Furthermore, differentiated cooperation appears less effective when it is assessed in absolute terms, based on whether it provides an appropriate or ideal solution to a foreign or defence policy issue. In this regard, limitations in the material and power capabilities of the EU and its member states are often serious constraints in the pursuit of an ideal solution.

The paper proceeds as follows. First, we provide an overview of the existing scholarly literature on differentiation in EU foreign and security policy. We highlight the main themes that emerge from a review of this literature, as well as the need to focus on policy effectiveness, a topic that has not been researched extensively thus far. We then review the different formal and informal mechanisms of differentiated cooperation in EU foreign policy, including cooperation with neighbouring countries. In the central part of the paper, we present the main empirical findings through an analysis of case studies, including EU differentiated cooperation in addressing the Middle East Peace Process and conflicts in the Western Balkans and EU lead groups in negotiations concerning Ukraine and Iran. We compare and contrast the empirical findings of the case studies and assess the benefits and drawbacks of differentiation in EU foreign and security policy in terms of accountability, legitimacy and particularly effectiveness. The concluding section draws a general outcome-focused assessment of differentiation in the EU's Common Foreign, Security and Defence Policy (CFSDP) and suggests avenues for further research.

1. Analysing differentiation in EU foreign, security and defence policy

The study of EU foreign, security and defence policies through the prism of differentiation has remained the mission of few scholars, and only a handful of recent publications focus specifically on differentiated integration (DI) in EU CFSDP. This shortcoming appears striking given that DI had become a focus of analysis in

2 These studies are based on anonymous interviews with policy makers working in EU institutions and national foreign ministries conducted within the framework of the EU IDEA project.

European Studies already in the 1990s, and attracted growing academic attention in the 2010s (Faure and Smith 2019: 3, see also Lavenex and Križić 2019). The existing debate on DI in CFSDP has revolved around mapping and assessing the treaty-based mechanisms (most notably PESCO), informal flexible cooperation such as EU lead groups, and external differentiation with non-members.

The main focus of these studies has been on whether DI is and will be a feature of the EU's Common Foreign and Security Policy (CFSP). Some scholars have highlighted that differentiated cooperation in foreign policy raised objections from its inception (Wessel 2007). However, recent scholarship is unanimous in arguing that DI is deeply rooted in the foreign and security policy of the EU (cf. Aydın-Düzgit et al. 2021, Grevi et al. 2020, Koutrakos 2017). Differentiation is found as an innate element of foreign policy integration in the Union, characterising the process in which CFSP developed from the beginning (Łazowski and Blockmans 2016). Many recent publications have taken the stance that differentiated integration is likely to further increase in EU foreign policy in the near future (e.g., Bassiri Tabrizi 2018 on informal groups; EU IDEA project).

Some scholars have argued that DI is not a salient aspect of the Common Security and Defence Policy (CSDP). For example Schimmelfennig et al. (2015: 778-779) maintained that DI is more widespread in other EU policy areas, whereas in CSDP internal differentiation (between a group of EU members) is modest and external differentiation (involving non-members) is non-existent. Nonetheless, most recent analyses claim that CSDP is characterised by DI to a considerable degree (e.g., Hoeffler 2019, Groenendijk 2019). They also view differentiation as a starting point for future defence policy integration in the Union (Howorth 2019) or argue that it has enabled the EU to act despite the failure to achieve unanimity and the different approaches of member states to CSDP (Jokela 2014).

An interest in assessing the desirability of DI in CFSDP cross-sections the relevant literature. Especially the early works on the topic viewed coherence and consistency potentially at risk if too much differentiation was allowed in policy making (e.g., Wessel 2007: 247). Subsequent publications have more often argued that DI can add visibility, legitimacy and effectiveness to EU CFSDP as long as certain principles such as consistency are followed (see for instance Blockmans 2014: 56) and especially when not all member states have enough political will to proceed (Blockmans 2017, Keukeleire 2006). Many recent analyses view DI as the most feasible (or only) way forward in the CFSDP (for instance Kempin and Scheler 2015). Their focus has been on assessing the added value of different types of DI to the Union, for instance by comparing the treaty-based and informal modalities of DI.

Scholarly literature has analysed extensively the legal dimension of differentiation in the EU framework (Lavenex and Križić 2019). The treaty-based mechanisms for DI in the CFSDP have provided theoretical case studies for numerous analyses (e.g., Koutrakos 2017, Jokela 2014, Blockmans 2014, Törő 2014, Cremona 2009, Missiroli 2000). Schimmelfenning and others (2015) focused on mechanisms for differentiation in primary law, whereas Hoeffler (2019) argued for the inclusion of secondary law in the study of DI in CSDP. One treaty-based form of DI, PESCO,

has acquired relevance in recent policy debates and scholarly literature especially in conjunction with its launch in 2017 (cf. Hoeffler 2019, Calcara 2019, Blockmans 2018, Biscop 2017, Bogzeanu 2017, Fiott et al. 2017, Törő 2014). Assessments on the significance of PESCO for EU defence integration vary. While Martill and Sus (2018), Fiott et al. (2017) and Bogzeanu (2017) have offered somewhat positive assessments, Howorth (2019) argues that PESCO has only made a very limited contribution to EU defence policy thus far. Moreover, Biscop (2020) maintains that PESCO has great potential but it is not functioning properly due to shortcomings in addressing concrete, strategically relevant priorities and the "culture of non-compliance" that characterises CSDP in general.

Most authors have concurred in the view that, despite the extensive legal framework, differentiation in CFSDP typically takes place informally, outside the treaty-based arrangements (cf. Grevi et al. 2020, Koutrakos 2017, Delreux and Keukeleire 2017). The relevance and added value of informal groups of member states for EU foreign policy has been one of the main topics of interest (cf. Aggestam and Bicchi 2019, Bassiri Tabrizi 2018, Alcaro 2018, Delreux and Keukeleire 2017, Törő 2014). Bassiri Tabrizi (2018) contends that cooperation between informal groups of states will become a more frequent practice in the EU after Brexit because it enables *ad hoc* cooperation between the EU and the UK. According to her, the performance of the E3/EU in the negotiations on Iran's nuclear deal has increased the appreciation of informal groups of states as a form of EU foreign policy action. On the other hand, Aggestam and Bicchi (2019) highlight the post–Lisbon Treaty fragmentation of consensus whereby informal groups of member states gained increasing relevance in shaping EU foreign policy. They suggest that "Europe" might be increasingly constructed by member states, rather than by supranational processes. This scenario would see the prevalence of centrifugal tendencies within EU foreign policy, with member states escaping from accountability to EU institutions and from the quest for legitimacy of their decisions at the European level.

Some recent works have explored mechanisms of external differentiation in CFSDP, namely cases in which non-member states joined EU policies and frameworks. Most of them focus on the engagement of candidates for membership such as Turkey (e.g., Szymański 2019, Cianciara and Szymański 2020, Aydın-Düzgit and Marrone 2018, Turhan 2018, Müftüler-Baç 2017) and Norway (e.g., Hillion 2019, Rieker 2017). Several analyses have reflected on the UK's future link to the CFSDP in terms of (external) differentiated integration (e.g., Cladi and Locatelli 2020, Svendsen 2019 and 2020, Svendsen and Adler-Nissen 2019, Martill and Sus 2018, Schimmelfennig 2018, Chopin and Lequesne 2016). Martill and Sus (2018) argue that EU security policy will be characterised by increasing integration and decreasing differentiation, and that the UK will not have a significant role in defining the EU security policy-making after Brexit. This may lead to growing divergence between the development of the CSDP and British national interests (Whitman 2016: 47). Conversely, Schmidt (2019: 307) argues that the UK could even play a leading role in CSDP in the future thanks to its nuclear deterrent.

While most of the existing literature focuses on the technicalities and coherence of formal and informal mechanisms of DI in the CFSDP, the issues of policy

effectiveness, accountability and legitimacy have not received sufficient attention. Several authors have explored effectiveness in EU foreign policy more broadly, but not in relation to DI (see Bickerton 2011, Edwards 2013, Niemann and Bretherton 2013, Thomas 2012). A few scholars did explore the effectiveness of differentiated cooperation in CFSDP, but mostly from a conceptual and abstract perspective, rather than through empirical case studies. For instance, Keukeleire (2006) argued that, under certain conditions, more effectiveness and legitimacy in EU foreign policy could be achieved through specialisation and division of labour among member states. He also maintained that EU core groups can increase the potential of the EU to be an effective foreign policy player because they allow bringing together relevant actors, the creation of "a small, informal and flexible framework" (Keukeleire 2006: 14) and increased vertical and horizontal consistency. Similarly, Blockmans (2014) contended that coalitions of member states contribute to the effectiveness of CFSP if they act consistently with EU interests and objectives, and Delreux and Keukeleire (2017: 1483-1484) argued that an informal division of labour in EU foreign policy strengthens effectiveness.

The issues of accountability and legitimacy in EU CFSDP have also gained relevance in European Studies literature (see e.g., Chelotti and Gul 2015), especially in relation to CSDP operations and missions (e.g., Moser 2020), but they have not been investigated in the context of differentiated CFSDP cooperation. The potential legitimacy deficit of informal groups of states has received some attention (e.g., Bassiri Tabrizi and Kienzle 2020, Alcaro 2018, Delreux and Keukeleire 2017). Especially the link between accountability, legitimacy and effectiveness has not been explored sufficiently, even though many scholars refer to an assumption that informal CFSDP cooperation features a trade-off between effectiveness and legitimacy (Delreux and Keukeleire 2017: 1474). In contrast to this assumption, Delreux and Keukeleire (2017) concluded that increased legitimacy, understood from the point of view of host states and member states, can also coincide with increasing effectiveness. Another of the few accounts on the topic, a recent study by Bassiri Tabrizi and Kienzle (2020), introduces sources and strategies for legitimating lead groups by drawing on legitimisation strategies used by the E3 group in the Iranian nuclear negotiations. Bassiri Tabrizi and Kienzle conclude that it is possible, yet difficult, for a lead group to overcome the efficiency-legitimacy dilemma, also in the eyes of third states. Despite the contribution made by these few analyses, the link between accountability, legitimacy and effectiveness seems inherently complex and non-linear, and in need of further enquiry.

This paper addresses this gap by examining the policy effectiveness of DI in CFSDP through an investigation of highly relevant case studies. It relates the analysis of effectiveness to the legitimacy and accountability of differentiation initiatives in EU foreign policy. As discussed in the previous session, legitimacy and accountability are central to the debate on DI and can play a role in the effectiveness of DI in CFSDP. We argue that a comprehensive assessment of effectiveness can only be conducted by means of a focused analysis of policies and empirical case studies. As we shall see below, this analysis cautions us against making overly generalised claims about the effectiveness of DI. It shows that DI can lead to effective or ineffective outcomes in CFSDP depending on context-specific factors, the policies pursued by proactive

EU members and, most notably, their stance vis-a-vis established EU positions, if there are any.[3]

2. Differentiation in the CFSDP

Before assessing the effectiveness of differentiation in EU foreign, security and defence policy, it is necessary to review briefly the various forms which differentiation can take in this policy field. To begin with, we can distinguish between two main types of arrangements for differentiation: those that are based on EU treaties and those that are not. Constructive abstention, enhanced cooperation and – in the defence field – permanent structured cooperation (PESCO) are the main treaty-based mechanisms enabling differentiated cooperation.

The mechanism of constructive abstention allows the European Council to adopt a decision in CFSDP even if there is no unanimity and one or more EU member states (up to a third of them) abstain in a vote.[4] Abstaining members are not obliged to apply the decision, but shall accept that the decision commits the Union and "refrain from any action likely to conflict with or impede Union action based on that decision" (Article 31.1 TEU). Furthermore, Articles 20 TEU, 326 TFEU and 334 TFEU allow a group of at least nine member states to proceed with enhanced cooperation in areas of non-exclusive competence of the Union, thus including CFSDP, provided that their initiative remains open to other members.[5] Enhanced cooperation must be authorised by a unanimous decision of the Council and should only be adopted as a last resort, when "the objectives of such cooperation cannot be attained within a reasonable period by the Union as a whole" (Article 20 TEU).

PESCO can be established by member states "whose military capabilities fulfil higher criteria and which have made more binding commitments to one another" in the area of defence (Article 42.6 TEU). These member states intend to develop their defence capacities more intensively in cooperation with other EU members, most notably through participation in multinational forces, in the main European equipment programmes and in the activities of the European Defence Agency (Articles 46 TEU and Protocol 10 of TEU on Permanent Structured Cooperation).

Due to the tight procedural requirements outlined in the treaties and their disconnect from policy practice, treaty-based differentiation arrangements have almost never been used in the CFSDP. Enhanced cooperation was never implemented in this policy area. Constructive abstention was used only once by Cyprus in the decision to establish the EULEX mission in Kosovo in 2008 (Grevi et al. 2020: 7). PESCO was

3 If the EU common position has not been agreed previously or remains unclear, a differentiated cooperation format is more likely to face difficulties; its objectives are not clearly defined and its effectiveness and legitimacy are more difficult to assess.

4 However, a decision is not adopted if abstaining members represent at least one third of the member states comprising at least one third of the population of the Union.

5 Other members can also participate in related deliberations, but cannot vote on decisions taken unless they fully join the enhanced cooperation framework. Decisions only bind participating states.

introduced with the Lisbon Treaty in 2009, but the mechanism was left in limbo for nearly a decade due to differences between member states on the form and composition it should take. The construction of PESCO was only revived after the Brexit vote and the election of Donald Trump as President of the United States. Especially the latter development increased uncertainties related to the transatlantic security relationship and highlighted the need for European states to invest more in defence (cf. Howorth 2019). Biscop (2020) has provided a preliminary evaluation of the initial implementation of PESCO by arguing that it has great potential, but it is not functioning properly due to the lack of strategically relevant priorities and the "culture of non-compliance" that characterises CSDP in general. However, providing a comprehensive assessment of PESCO's effectiveness is premature at this stage, as its binding commitments and capability development projects are expected to produce tangible outcomes in a longer-term perspective.

Most instances of differentiated cooperation in CFSDP have taken place through informal mechanisms that are not based on EU treaties. Drawing on Grevi et al. (2020), five modalities of such differentiated cooperation can be identified. First, member states have established *regional groups* where they regularly meet to discuss foreign policy at large; examples include the Benelux and the Visegrad countries. Second, *ad hoc contact groups* including both EU members and third countries have been formed to tackle international crises such as those in the Western Balkans and the Democratic Republic of Congo. A third category encompasses *lead groups* of member states that take a prominent role on key issues of the international agenda, such as the E3 in the Iranian nuclear negotiations and the Franco-German duo in the Normandy format talks on Ukraine. Lead groups advance EU foreign policy objectives with the support of European institutions and the broad consent of other members (Alcaro and Siddi 2020).

A fourth instance of differentiated cooperation occurs *in international fora* where only a few EU members are represented, such as the G7 and the G20, or between France and EU members holding a rotating seat in the Security Council of the United Nations. Finally, differentiated cooperation happens when the EU's High Representative for Foreign Affairs and Security Policy tasks the foreign ministers of one or more member states to perform a specific diplomatic task. For instance, in November 2019 Finnish foreign minister Pekka Haavisto was tasked to lead the EU delegation and deliver a speech on behalf of the EU High Representative at the ACP-EU Joint Parliamentary Assembly (Grevi et al. 2020: 8).

As we shall see below, while differentiated cooperation in CFSDP can occur in various formats, a few preconditions are always important to ensure that it is effective and that it makes a positive contribution to EU foreign policy. Most notably, cooperation needs to adhere to common European values and identity as expressed in established EU foreign policy discourse, and to build on long-established common EU positions. Consistency with EU values and established positions is also functional to the internal legitimacy of EU foreign policy and to its credibility in the eyes of other international actors.

3. External partners in CFSDP differentiated cooperation

As stated in our initial definition, the practice of differentiation involves both cooperation between EU member states (internal differentiation) and participation by non-members in the policy fields of the EU (external differentiation) (Lavenex and Križić 2019). The EU has numerous international partnerships, some of which – particularly those with the United States and NATO – are seen by many member states as essential for their security. As discussed below, the US has often cooperated with groups of EU member states in tackling international crises, from the Balkan Contact Group to the negotiations leading to the signing of the Joint Comprehensive Plan of Action (JCPOA) with Iran. When the US agrees with and supports common EU positions, as in the case of the JCPOA until 2016, it contributes to the effectiveness of EU foreign policy. It also contributes to its legitimacy, not least because it would be very difficult for individual member states to make a compelling argument opposing a policy line agreed upon in both Brussels and Washington and showing that the EU's exercise of authority has been inappropriate. On the other hand, when the US takes a different stance from the EU, as in the policy vis-à-vis Iran and the Israel-Palestine conflict after 2016, it can undermine the effectiveness of EU foreign policy and even influence negatively its domestic legitimacy – for instance, by lobbying some member states to disavow common EU positions (see also Alcaro and Siddi 2020).

Besides relations with the US, the EU and its member states have prioritised foreign policy partnerships with neighbouring countries, including both those that are candidates for EU accession – Albania, Montenegro, North Macedonia, Serbia and, at least officially, Turkey – and those that are not, most notably the United Kingdom and Norway. Another group of neighbouring partners includes the Eastern Partnership countries that have Association Agreements with the EU: Georgia, Moldova and Ukraine. Cooperation with neighbouring states can enhance the legitimacy of EU foreign policy, both within the EU and in partner countries (Aydın-Düzgit et al. 2021: 9). Joint action towards commonly agreed goals also contributes to the effectiveness of EU foreign policy.

The degree of foreign policy cooperation between EU members and these external partners varies depending on several factors. Closeness of relations and foreign policy alignment are key factors, whereas the degree of institutionalisation of relationships is not always important (Aydın-Düzgit et al. 2021: 14). For instance, despite Brexit, foreign policy cooperation between the United Kingdom and groups of EU members (most notably Germany and France) remains very important and contributes to the effectiveness of EU foreign policy in key international contexts such as negotiations on Iran's nuclear programme (see Alcaro and Siddi 2020 and below). Conversely, although Turkey is a candidate for EU membership, its cooperation with both the EU and member states has deteriorated considerably after the attempted coup d'état in Ankara and the ensuing repression; indeed, Turkey is now subject to EU sanctions (Wintour 2020).

Norway provides an example of "deep" differentiated integration with the EU in CFSDP. While the EU and Norway do not have a formal cooperation agreement, they cooperate intensely on a flexible and *ad hoc* basis. Thanks to their shared values and foreign policy outlook, EU-Norway cooperation has contributed to the effectiveness of the Union's foreign policy. Norway has participated in a dozen CSDP missions, most notably the anti-piracy Operation Atalanta off the Horn of Africa. It has also taken part in several projects of the European Defence Agency (Aydın-Düzgit et al. 2021: 9-11) and has been invited to participate in the PESCO project on military mobility, together with the US and Canada. Cooperation with Norway also highlights how the inclusion of a non-member in EU foreign policy structures can make the latter accountable to a broader range of actors and enhance the legitimacy of EU decisions in the neighbourhood.

Differentiated cooperation with Western Balkans and Eastern Partnership countries tends to be assessed primarily in terms of foreign policy alignment with CFSP decisions, as these countries are seeking EU integration and currently have limited capabilities to actively contribute to the Union's CSDP missions and global diplomacy. In the Western Balkans, Albania, Montenegro and North Macedonia have a very high level of alignment with EU foreign policy, whereas Serbia makes the most sizeable contribution to CSDP missions. Among the Eastern partners, foreign policy alignment is higher with Ukraine than with Moldova and Georgia. Cooperation with Ukraine has received special attention in EU foreign policy because of its geopolitical relevance and the conflict with Russia. Some EU members, particularly the Visegrad Group, have argued for deeper cooperation with Ukraine and have held regional group meetings with Ukrainian counterparts (Aydın-Düzgit et al. 2021: 7-8, 12-14).

4. Effective differentiation? Contrasting evidence from the Western Balkans and the Middle East Peace Process

An analysis of EU foreign policy in the Western Balkans and the Middle East Peace Process (MEPP) illustrates how differentiated cooperation can be effective or ineffective depending on whether member states adhere or not to common EU values and identity, as expressed in established EU foreign and security policy discourse, and to long-standing common positions. Adherence to these aspects is also functional to securing the consent of other member states – and thus to the intra-EU legitimacy of a differentiation initiative – and to obtaining the support of EU institutions, which act as the forum where differentiated structures "explain and justify" their conduct (cf. Bovens 2007: 450) and are therefore held accountable to the broader EU polity. In both contexts, EU member states have engaged in various types of differentiated cooperation – *ad hoc* and contact groups, regional groups and (in the Western Balkans) multinational initiatives (Grevi et al. 2020: 9-18). Both in the Western Balkans and in the MEPP, the EU aimed at profiling itself as a key player in stabilising and solving the conflicts and in facilitating regional economic

development. In its policy towards the Western Balkans, where it arguably has greater leverage and interests (also compared to other external actors), the EU intended to facilitate the gradual integration of the region into the Union.

4.1 The Western Balkans

In the Western Balkans, differentiated cooperation has occurred especially between a group of larger EU members – France, Germany, the United Kingdom and Italy – that participated in the Balkan contact group (together with the US and Russia) and in the Quint *ad hoc* group (with the US) from the 1990s onward. The involvement of the four largest member states (at a time when the EU still had 15 members) and their cooperation with key external powers bolstered the legitimacy of the differentiation initiative within the EU. Since the 2000s, and following the EU's Eastern enlargement of 2004–07, regional groups of smaller EU members have also contributed to EU foreign policy goals in the region. For example, the Visegrad Four (Czech Republic, Hungary, Poland and Slovakia) have been among the main advocates of EU enlargement to the Western Balkans. Furthermore, in 2014 Germany launched the Berlin Process, an informal regional framework including nine EU members, the United Kingdom and the six Western Balkan countries. The Berlin Process has been an effective complement to the EU's policies by engaging Western Balkan countries and promoting regional cooperation (Nechev et al. 2018). The flexibility of this intergovernmental framework has allowed various EU countries to join and actively contribute over the years, which in turn made the Process accountable to a broader group of member states and strengthened its legitimacy within the EU.

Overall, differentiated cooperation between EU members in the Western Balkans has complemented and catalysed EU external action in the region. While progress in internal reforms and regional cooperation has been modest, differentiated cooperation has been effective and led to positive change, at least in relative terms – for instance, by contributing to the stabilisation of the region and to its approximation to the EU. This was possible because the initiatives of proactive member states have built on shared EU values (i.e., the promotion of peace and of the rule of law) and long-standing EU policies and common goals, while other members have either supported them or abstained from intervening (Grevi et al. 2020: 13).

When assessed in absolute terms, namely against an ideal solution, differentiated cooperation in the Western Balkans appears less effective. An ideal outcome would have encompassed the settlement of regional conflicts and the accession of Western Balkan states to the EU. Instead, the enlargement process has stalled, particularly after a group of EU members led by France opposed EU accession talks with North Macedonia and Albania in October 2019 (Peel and Hopkins 2019). Although over 20 years have elapsed since the end of the wars in Bosnia and Herzegovina and Kosovo, EU-induced reforms in both countries have been modest and slow, and internal conflicts have not been solved.[6] Differentiated cooperation has not made a substantial contribution in this respect.

6 Moreover, five EU member states – Spain, Slovakia, Cyprus, Romania and Greece – have not recognised Kosovo's independence.

4.2 The Middle East Peace Process

Differentiated cooperation has been much less effective, in both relative and absolute terms, in the context of the MEPP. Since the 1990s, the EU has sought to increase its influence in the MEPP. The Quint group of member states – an *ad hoc* group including France, Germany, the United Kingdom, Spain and Italy – was created in the early 1990s to support the Peace Process and the EU's stance in it. Initially, in an EU of 15 member states that generally agreed on a common policy line (the support of a two-state solution), this relatively broad group enjoyed EU-wide legitimacy and appeared as an effective instrument to support the Union's stance and values – most notably, the peaceful settlement of a conflict within the respect of human rights. However, since the 2010s in particular, gridlock in the European Council has prevented the adoption of common declarations and pushed Quint countries to go ahead on their own (Grevi et al. 2020: 16). The initiatives of some member states have undermined common EU positions and the effectiveness of EU external action. Differentiated cooperation in regional groups has exposed the different stances of EU members.

The Visegrad Four provides the clearest example. The group has taken the most outspoken pro-Israeli positions and even invited Israeli prime minister Benjamin Netanyahu to join their meetings (Gotev 2019). Members of the Visegrad Group also prevented the adoption of EU common positions in line with established support for a two-state solution. For instance, in May 2018 the Czech Republic and Hungary – together with Romania – blocked an EU resolution stating that Jerusalem should be the capital of both Israel and Palestine and condemning the US decision to move its embassy in Israel to Jerusalem (Fulbright 2018). These initiatives and policy positions of the Visegrad Four have not aimed at acquiring intra-EU legitimacy, and most other EU members see them as national positions that are not accountable to EU institutions and do not further the common EU interest. If their goal was improving relations with Israel, they have had dubious success, as highlighted for instance by recent political crises between Tel Aviv and Poland, the largest of the Visegrad Four (Lazaroff 2019). They have, however, been highly disruptive to EU foreign policy toward the Israeli-Palestinian conflict, and have thereby contributed to the impasse of the international community before the repeated escalations of the conflict.

Greece and Cyprus have also taken an increasingly pro-Israeli stance as a result of the geopolitical competition over control of energy resources in the Eastern Mediterranean (Grevi et al. 2020: 15). Conversely, a different group of countries including France, Spain and several smaller members from Western and Northern Europe, such as Ireland and Sweden, have been somewhat more sympathetic to the Palestinian cause. However, this is a looser group that originated partly as a result of frustration with the failure of the EU to take common positions, and partly as an attempt to provide a counternarrative to the pro-Israeli positions of other member states (Grevi et al. 2020: 17).

Thus, differentiated cooperation between EU members in the context of the MEPP has been ineffective and, in some cases, has even undermined EU foreign policy.

While the diplomacy of the Quint group can be seen as conveying long-standing EU positions and values, regional groups such as the Visegrad Four have departed from these positions and openly backed decisions taken by Israel and the Trump administration that are incompatible with previous EU policy (Grevi et al. 2020: 14-17). These instances of differentiated cooperation have affected EU foreign policy negatively and have complicated the path to achieving the "ideal solution" of resolving the Israeli-Palestinian conflict.

5. Lead groups on Iran and Ukraine: Effective, but no ideal solution

EU lead groups in negotiations on the Iranian nuclear programme and the Ukraine crisis provide examples of how differentiated cooperation between groups of member states can spur the EU into diplomatic action and create a new policy that enjoys intra-EU legitimacy and is accountable to European institutions. The two lead groups under analysis highlight how the engagement of the larger EU members in major international crises can lead to positive policy change, at least in relative terms. This is possible when lead countries follow an established EU policy line, act with the broad consent of other members and cooperate with external partners in the multilateral arena. At the same time, the two case studies show that, due to limited power and capabilities, EU lead groups cannot achieve an ideal solution on their own in such complex international contexts. For the latter purpose, cooperation with and the willingness of other major powers is essential.

5.1 The E3/EU and Iran's nuclear programme

In 2003, the European lead group on Iran – including Germany, France and the United Kingdom (the E3) – created the diplomatic framework for negotiations on the Iranian nuclear programme, which was joined by the United States, China and Russia in 2006. The Union's High Representative (HR) for Foreign and Security Policy was also invited to join the negotiations and became the chief interlocutor of the Iranians on behalf of the other participants in the format (Alcaro and Siddi 2020: 8). The inclusion of the HR has been also important in that it has provided more accountability of the lead group to the EU Council, which the HR is mandated to keep informed about progress (Alcaro 2018: 161-164). While the United States was the main driver of the negotiations leading to the signing of the JCPOA in 2015, the E3 and the High Representative played an essential role by creating normative ground for the UN Security Council to adopt a "dual track" approach that combined sanctions with diplomacy. The signing of the JCPOA testified to the effectiveness of a diplomatic effort initiated and sustained by the E3 for over a decade.

Rather than on the greater resources of the E3, the intra-EU legitimacy of the E3/EU's diplomacy on Iran depended on its consistency with an established normative framework that focused on values broadly shared within the Union, such as the quest

for a peaceful resolution to the dispute through negotiations. The E3's continuous reassertion of their intra-EU leadership on the Iran nuclear file, while other members showed no willingness to take over such a complex task, was also an important factor (Alcaro and Siddi 2020: 9). The participation and cooperation of Russia, China and especially the United States (until 2016) in the framework created by the E3 further strengthened the legitimacy of the E3's diplomacy by adding international political endorsement.

On the other hand, the US withdrawal from the JCPOA during the Trump presidency revealed that the effectiveness of EU foreign policy towards Iran is heavily dependent on Washington's stance. Following Trump's reintroduction of US sanctions against Teheran in November 2018, Iran's external trade collapsed and the Iranian economy fell into severe recession. US sanctions had extraterritorial effect as they also targeted companies based in other countries (including the EU) that conducted trade with Iran. Moreover, the Trump presidency attempted to undermine intra-EU unity through bilateral channels with member states. For instance, in early 2019, the US persuaded Poland to co-host a US-sponsored conference that was widely perceived to be an anti-Iran event. However, the E3 managed to maintain intra-EU unity through the formulation of a position stressing Europe's concerns about Iran's human rights record, regional activities and ballistic programme while at the same time expressing firm commitment by all EU member states (including Poland) to the JCPOA (Alcaro and Siddi 2020: 9).

On the other hand, European attempts to circumvent US sanctions through a barter system called Instex have largely failed. Since mid-2019, Iran has responded to the sanctions by decreasing its compliance with the nuclear commitments of the JCPOA (Katzman 2021). However, European diplomacy played a role in Iran's decision not to quit the agreement altogether, and thus preserved an important diplomatic framework for restarting cooperation after the end of Trump's presidency (Alcaro and Siddi 2020: 10).

5.2 The Franco-German duo in the Normandy format

The Normandy format for negotiations on the conflict in Eastern Ukraine was also the outcome of efforts conducted by European – and particularly German and French –diplomacy. The Normandy framework was created in June 2014 and includes the leaders of France, Germany, Russia and Ukraine. Following several failed international attempts to de-escalate the conflict in the regions of Donetsk and Lugansk, German Chancellor Angela Merkel and French President François Hollande conducted the shuttle diplomacy with Moscow and Kiev that led to the signing of the Minsk II agreement in February 2015. Other EU members supported this achievement of Franco-German diplomacy by agreeing that EU sectoral sanctions on Russia (imposed in the summer of 2014) would be tied to the implementation of Minsk II (Alcaro and Siddi 2020: 11).

The Franco-German duo paid close attention to making their actions in the Normandy format accountable to EU institutions. They reported extensively to European Council meetings on the progress of negotiations and gave their assessment of the way forward. Although EU diplomatic actors did not play a role in the Normandy format, the Franco-German lead group needed the EU's institutions and networks for the internal coordination of European diplomacy, especially on sanctions (Natorski and Pomorska 2017). The accountability of the Franco-German duo to EU institutions has also contributed to its intra-EU legitimacy. Eastern members, particularly Poland, occasionally voiced some criticism of the Normandy format, but no member state seriously questioned the authority of France and Germany to negotiate on behalf of the EU. Their legitimacy was boosted by the fact that the parties to the conflict, Russia and Ukraine, as well as the United States also recognised Berlin and Paris as the appropriate European interlocutors in the crisis (Alcaro and Siddi 2020: 12).

The Minsk II agreement has not solved the conflict in Eastern Ukraine, and most of its provisions have not been implemented. Hence, the "ideal solution" of resolving the Donbass conflict has not been achieved. However, the agreement did contribute to de-escalating military conflict. This is no insubstantial feat for the EU lead group, particularly if the failure of earlier attempts at de-escalation led by the OSCE and the US are taken into account. At least in relative terms, the diplomatic action of the Franco-German duo was effective. It led to a relative improvement of the situation on the ground, which evolved from large-scale battles in the winter 2014–15 to lower-intensity clashes in subsequent months. All parties involved in the conflict and mediators continue to refer to the implementation of Minsk II as the only way to solve the crisis, even though perspectives differ on how implementation should take place (see for example International Crisis Group 2017).

The main criticism directed at the EU lead groups on Ukraine and Iran concerns their legitimacy and emphasises that they can turn into *directoires* where larger EU members make decisions on behalf of smaller members (Alcaro and Siddi 2020: 15-16). However, these lead groups continue to enjoy the broad consent of other members, not least because alternative formats of European diplomacy appear highly unlikely to achieve better outcomes. Leading countries regularly brief other EU members and usually coordinate their diplomatic action within EU institutions, which contributes to the sustainability of lead groups (Natorski and Pomorska 2017: 64). On the other hand, the main challenge to the effectiveness of lead groups stems from their limited economic and/or political power vis-à-vis major external players such as the United States and Russia. The case studies presented in this paper illustrate that the diplomacy of EU lead groups cannot be fully effective if it is challenged by these actors.

Conclusions

This paper has had two main objectives. First, it has reviewed existing scholarship on differentiated integration in EU foreign, security and defence policy. Second, it has analysed the accountability, legitimacy and, in particular, the effectiveness of

differentiation in this policy field by drawing on the empirical findings of the four relevant EU IDEA policy papers. This concluding section reviews the key findings of the paper and connects them with the broader policy and scholarly discussion on different modalities of differentiation in EU CFSDP.

The empirical findings, covering several highly relevant cases of EU foreign policy, point to a relatively positive general assessment of DI in this field. Different modalities of informal differentiated cooperation among EU member states have had a predominantly positive impact on the effectiveness and legitimacy of EU foreign, security and defence policy. Differentiated cooperation has generated internal consensus and spurred the EU into action on specific foreign policy files concerning the Western Balkans, Iran and Ukraine, for instance. The positive impact has been strongest when differentiated cooperation has adhered to common European values and identity (as expressed in established EU foreign policy discourse) and built on long-established common EU positions. However, when differentiated cooperation has departed from this common base (as in the case of the Middle East Peace Process), it has undermined EU foreign policy and made it ineffective. Cooperation with (or opposition by) other major powers, particularly the US, has also been an important driver of (or challenge to) effectiveness. Furthermore, differentiated cooperation appears less effective when it is assessed in absolute terms, based on whether it provides an appropriate or ideal solution to a foreign policy issue. In this regard, limitations in the material and power capabilities of the EU and its member states are often serious constraints in the pursuit of an ideal solution.

This assessment comes with some caveats, however. Foreign and security policy making often empowers executive offices and operates within limited transparency and accountability mechanisms typical of "high politics" matters. While these are recurrent aspects of foreign policy conduct, informal differentiated cooperation in this area raises some questions on the access of member states to information, policy planning and policy making. This is the case especially when differentiated cooperation takes place within exclusive formats such as the lead groups. To overcome these potential challenges, member states could connect informal modalities of differentiated cooperation to the formal EU foreign and security policy structures. The E3/EU format in the case of Iran provides a good example, which could be followed in other formats. Inclusion of the office of the EU HR/VP in various formats would provide a useful tool to ensure that informal differentiated cooperation feeds into the agendas of the Foreign Affairs Council and the European Council and adheres to the EU's common values and established common positions.

With regard to external differentiation, the paper has underlined the multifaceted character of the EU's partnerships and the participation of non-members in EU foreign, security and defence policy. Importantly, the overview of a high number of cases ranging from candidate and neighbouring countries to a former EU member suggests that the degree of foreign, defence and security policy cooperation between the EU and external partners varies depending on several factors. Closeness of relations and foreign policy alignment seem to be crucial factors, whereas the degree of institutionalisation of relationships is not always important. Despite Brexit and the reluctance of the UK to join a treaty-based and institutionalised framework for foreign

policy cooperation, our findings suggest that EU-UK cooperation can continue and potentially deepen should the largely shared foreign policy interests translate into the political will to do so. However, in the short term, the British stance will probably lead to more informal differentiated (external) cooperation, as in the case of the E3 format on Iran. This further highlights the need to connect informal types of differentiated foreign policy cooperation with formal EU structures and policy processes.

Finally, the paper has sought to conceptualise differentiated integration broadly, also encompassing (informal) differentiated cooperation. This is because EU CFSDP is a less integrated policy area compared to the Single Market, for instance. It also impinges on core state powers, which largely explains why the member states have desired to remain in the driver's seat. Given the intergovernmental nature of decision-making in the CFSDP, differentiated cooperation between member states on foreign, security and defence policy matters is hardly a surprising factor. In order to shed light on its implications, the paper has focused especially on the effectiveness of differentiated cooperation in selected case studies with high policy relevance. While this approach has proved valuable, it also revealed some notable limits that highlight the need for further research.

Our empirical analysis drew on a limited number of case studies. Future studies could expand the scope by assessing the effectiveness as well as accountability and legitimacy of DI in CFSDP in other scenarios. Moreover, the ongoing implementation of PESCO projects calls for an assessment of DI in EU defence policy. Member states have made 20 binding commitments within PESCO (Biscop 2020). In practice, PESCO is largely put into action through 47 capability projects with varying involvement of the participating 25 EU members and three non-members. Accordingly, the added value of the projects and hence the effectiveness of PESCO could be analysed in terms of differentiated defence policy cooperation when the concrete results of the projects are available, as is expected in the near future.

Furthermore, our investigation of informal differentiated foreign policy cooperation could be extended to the different European defence policy initiatives that take place outside or in the margins of EU structures. These include the European Intervention Initiative (EI2) led by France, the UK-led Joint Expeditionary Force, Germany's Framework Nation Concept and the Nordic Defence Cooperation (NORDEFCO) of five Nordic States, for instance. Applying the analytical framework of this study concerning effectiveness, accountability and legitimacy could turn out to be a valuable approach for the analysis of differentiated European defence cooperation.

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EU Integration and Differentiation
for Effectiveness and Accountability

Differentiation has become the new normal in the European Union (EU) and one of the most crucial matters in defining its future. A certain degree of differentiation has always been part of the European integration project since its early days. The Eurozone and the Schengen area have further consolidated this trend into long-term projects of differentiated integration among EU Member States.

A number of unprecedented internal and external challenges to the EU, however, including the financial and economic crisis, the migration phenomenon, renewed geopolitical tensions and Brexit, have reinforced today the belief that **more flexibility is needed within the complex EU machinery**. A Permanent Structured Cooperation, for example, has been launched in the field of defence, enabling groups of willing and able Member States to join forces through new, flexible arrangements. Differentiation could offer a way forward also in many other key policy fields within the Union, where uniformity is undesirable or unattainable, as well as in the design of EU external action within an increasingly unstable global environment, offering manifold models of cooperation between the EU and candidate countries, potential accession countries and associated third countries.

EU IDEA's key goal is to address **whether, how much and what form of differentiation is not only compatible with, but is also conducive to a more effective, cohesive and democratic EU**. The basic claim of the project is that differentiation is not only necessary to address current challenges more effectively, by making the Union more resilient and responsive to citizens. Differentiation is also desirable as long as such flexibility is compatible with the core principles of the EU's constitutionalism and identity, sustainable in terms of governance, and acceptable to EU citizens, Member States and affected third partners.

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