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# Differentiated Cooperation in European Foreign Policy: The Challenge of Coherence

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## Abstract

This paper addresses the central question of the interplay between mostly informal differentiated cooperation formats in European foreign policy, and the foreign policy of the EU. It provides an overview of the Treaty-based mechanisms enabling differentiation in EU foreign policy and assesses why these arrangements have hardly been used. It then outlines the ways in which EU member states operate through flexible mechanisms and applies this analytical approach to two case studies covering important dimensions of European foreign policy – the Western Balkans and the Middle East Peace Process. The paper notes that the coherence between the initiatives of various groups of member states for on the one side, and EU decisions and goals on the other, is critical to advance the EU foreign policy agenda. It finds that the willingness of EU member states to let some of them play a leading role to attain broadly shared goals, the presence of established EU positions and instruments, the role of third powers and the involvement of EU institutions in arrangements for differentiated cooperation, are key factors for differentiation to effectively foster EU foreign policy.

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# Executive summary

Differentiated cooperation is the norm in European foreign policy. National initiatives, cooperation through flexible groups of EU member states (and non-EU countries), and the common foreign and security policy of the EU coexist and interact. The coherence between the various formats of differentiated cooperation and the decisions and objectives adopted at the EU level is critical to advance the EU foreign policy agenda.

Successive treaties have introduced an EU legal framework for differentiated cooperation in foreign and security policy. Treaty-based arrangements consist of provisions for so-called constructive abstention, which allow one or more member states not to commit to decisions engaging others, and for enhanced cooperation among a subset of countries. These provisions enable groups of member states to work together beyond the stifling constraints of unanimous decision-making, while also including various clauses to ensure that differentiated cooperation is open, inclusive and intended to advance the interests and objectives of the Union.

In practice, Treaty-based arrangements have almost never been used. For one, they proved too cumbersome in a policy domain that often requires fast decisions. For another, member states may find them too inclusive in a context where capitals may not be prepared to address or narrow their differences. Beyond the treaties, however, EU member states have experimented with a range of mostly informal differentiated cooperation formats. These include regional groupings, contact and lead groups, flexible cooperation within international bodies and the option of the High Representative tasking national foreign ministers to act on behalf of the EU.

Differentiated cooperation can relate to EU foreign policy in several ways. It can fill gaps when decisions cannot be taken at the EU level, help pave the way towards convergence among member states, be instrumental in implementing common decisions, complement and therefore reinforce EU foreign policy or, lastly, undermine it, when flexible initiatives are not consistent or are even divergent.

A short review of European foreign policy on the Western Balkans (including crisis diplomacy, support to regional cooperation and the enlargement agenda) and the Middle East Peace Process reveals commonalities and differences. In both cases, various formats for differentiated cooperation have played an active role over the years, taking initiatives that decision-making at EU level would have precluded, diluted, or excessively delayed. External differentiation has often occurred too, with flexible formats involving both EU members and non-EU countries. However, if most of the formats of differentiated cooperation addressing the Western Balkans have broadly complemented EU foreign policy and objectives, those dealing with the Middle East Peace Process have mirrored growing divergence among EU member states, including initiatives that detract from long-established common EU positions.

The case studies show that a range of factors can affect the coherence between various formats of differentiated cooperation and EU foreign policy. These include the readiness of EU member states to strive for compromise, at least in terms of letting others take the lead in pursuing broadly shared EU objectives; the existence of an established EU-level policy framework that can help frame the activities of flexible groupings and raise the political

cost of departing from common positions; the role of third countries in sustaining or weakening EU cohesion; and, finally, the involvement of EU institutions in flexible cooperation arrangements, to promote transparency and ensure consistency.

## Introduction

Differentiation is in the DNA of European foreign policy.<sup>1</sup> Contrary to other policy areas, such as the Single Market, where the Community method and legislative acts apply to establish uniform or compatible rules, differentiated cooperation in foreign policy is the norm, not the exception. With a view to framing the analysis carried out in what follows, two preliminary remarks are in order.

For one, this paper refers to differentiated cooperation, not differentiated integration, since differentiation in the domain of foreign policy takes place outside formal institutional structures or legal frameworks. More broadly, there is little indication that EU member states see foreign policy cooperation as a vector towards integration, understood as pooling sovereignty at the EU level. National capitals remain jealous of their prerogatives in foreign and security policy and, as illustrated below, look at the European Union as one important platform, among others, to operate in this domain.

For another, this analysis addresses both Treaty provisions for differentiated cooperation within the EU Common Foreign and Security Policy (CFSP) and a range of other, mostly informal, frameworks through which member states (and third countries) work together. The scope is therefore larger than the EU's CFSP proper, since it encompasses various forms of multinational initiatives taken beyond the CFSP institutional arrangements. This paper accordingly addresses not just EU foreign policy but European foreign policy at large, understood as including national foreign policies, the initiatives of flexible groupings and coalitions, and EU foreign policy – the CFSP.

Within this complex landscape, the practice of differentiation in European foreign policy reflects the distinctive features of this policy area. Firstly, while devising strategies and acting preventively can help improve the effectiveness of foreign policy, a large part of it is inherently reactive, as it depends on developments that escape planning and anticipation, and on the positions taken by third parties. Secondly, foreign policy is traditionally a domain of executive decision where governments and, increasingly, heads of state and government play a pivotal role. It requires a degree of flexibility and political choices based on calculations that respond to respective national interests. Thirdly, and related, given their different histories and geographical locations, member states have different sets of priorities, strategic cultures and threat assessments.

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<sup>1</sup> In line with the definition adopted by the EU IDEA project, differentiation encompasses any modality of integration or cooperation that allows states (EU members and third countries) and sub-state entities to work together in non-homogeneous, flexible ways.

Given these features of foreign policy, it is not surprising that EU member states operate at different levels, through different channels and arrangements, as they see fit to advance their interests. In practice, they take action at national level, bilaterally, through coalitions or lead groups (whether involving only member states or including third countries as well), at the EU level or through other organisations. If that is the case, however, these various levels or frameworks for action are not necessarily neatly separated or mutually exclusive. EU member states may decide to act at the EU level, with a view to taking common decisions and initiatives, while also operating through other arrangements or informally.

The degree of coherence among these various initiatives is a key factor for the performance and output of EU foreign policy. The implications of differentiation for CFSP very much depend on the relationship between instances of informal, differentiated cooperation among member states and the positions, decisions or guidelines taken at the EU level (Blockmans 2017). Clearly, the more these different levels and tracks of European foreign policy are connected and consistent, the more they can contribute to EU foreign policy in terms of achieving collective goals.<sup>2</sup>

This paper briefly illustrates the Treaty-based mechanisms enabling differentiated cooperation in the foreign policy domain, assessing the reasons why they have almost never been used in practice. It then charts the ways in which EU member states cooperate through flexible, informal arrangements, outlining five main categories of differentiated cooperation in European foreign policy and unpacking the ways in which flexible initiatives can interact with EU foreign policy. This outline paves the way for an overview of the experience of differentiated cooperation with a focus on two case studies – the Western Balkans and the Middle East Peace Process (MEPP). The paper ends with an assessment of the findings and broad recommendations on how differentiated cooperation can help advance EU foreign policy.

## 1. Treaty-based arrangements for differentiation in EU foreign policy

The EU treaties encompass three principal forms of differentiation in the EU legal framework (Tekin and Wessels 2008). The first comprises predefined forms of flexibility, where Treaty provisions define the scope, objectives and rules of arrangements that include a subset of member states, such as the Economic and Monetary Union. The second involves case-by-case flexibility through the so-called constructive abstention in the CFSP. Lastly, there is the mechanism of enhanced cooperation, which enables a group of member states to establish cooperation among themselves and lays out related conditions and procedures.

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2 The effectiveness of differentiated cooperation formats is therefore understood as their impact in terms of advancing the EU foreign policy agenda by facilitating policy making, fostering policy implementation and attaining shared EU objectives (Lavenex and Križić 2019).

Treaty-based arrangements for differentiated cooperation initially did not apply to the CFSP and to the Common Security and Defence Policy (CSDP). For one thing, differentiated cooperation was simply a matter of fact. For another, it was contested. Many of the smaller EU countries have always favoured decision-making through common institutions to maintain access to agenda-setting and information, and to contain the role of so-called *directoires* in foreign policy. The latter are informal arrangements where large member states take the lead on foreign policy dossiers with limited consultation with other countries or EU bodies. Some member states were therefore concerned that extending Treaty provisions on differentiated cooperation to foreign policy would both encourage and somewhat institutionalise the primacy of large member states in this intergovernmental domain. Others, like Germany, were cautious not to appear as defining foreign policy priorities through exclusive formats.

Following successive reforms, today the treaties include two main enablers of differentiated cooperation in the domains of CFSP and CSDP, namely enhanced cooperation and constructive abstention.<sup>3</sup> Both were introduced by the Treaty of Amsterdam in 1997 but, back then, enhanced cooperation did not apply to foreign policy matters. Over time, the Treaty regime of enhanced cooperation has expanded to include CFSP at first, with the Treaty of Nice, and then CSDP also, with the Treaty of Lisbon. However, the provisions applying to foreign policy differ in various ways from those governing enhanced cooperation in other policy areas, given the different roles of EU bodies and the specific features of security and defence policy in particular. This evolution responded to two sets of broad political considerations, stemming from the experience of the early years of CFSP in the 1990s. For one, despite the concerns outlined above, it was felt that Treaty-based arrangements could help frame differentiated forms of cooperation through various clauses, including common principles of action and a role for EU institutions. This would help better link differentiated cooperation to the main tracks of EU foreign policy and to common objectives. For another, given the already apparent limitations of EU foreign policy, heavy on process and burdened by differences between member states, there was a need to provide more flexibility for joint action at the international level, beyond the requirements of unanimity.<sup>4</sup>

Concerning the mechanism of constructive abstention, Article 31.1 TEU stipulates that one or more member states (up to one third of the member states comprising up to one third of the EU population) can abstain from a CFSP decision and therefore

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3 In addition, specific mechanisms apply to the security and defence field only. These are the so-called Permanent Structured Cooperation (Article 46 TEU) and a separate clause permitting the Council to entrust a group of member states with the implementation of a certain task (Articles 42.5 and 44 TEU). Defence-related provisions for differentiation are addressed in a separate policy paper under the EU IDEA project. See Biscop (2020).

4 Provisions concerning the application of qualified majority voting to CFSP are often considered as part of Treaty-based arrangements for differentiation in this domain. This article takes a different approach. The application of qualified majority voting to foreign policy, which the Treaty allows in limited cases and which has never been used, would of course break with the stifling requirement for unanimity and bring about more flexibility in decision-making. However, these decisions would still be taken by all member states within the Council and would still commit all of them to their implementation. In practice, therefore, they do not per se lead to a form of differentiated cooperation.



not be bound by it, while refraining from actions that might undermine it. According to the provisions on enhanced cooperation, a group of member states can decide to launch it in areas of non-exclusive competence of the Union, provided that at least nine of them take part and that the initiative remains open to all the others (Article 20 TEU and Articles 326 to 334 TFEU). This mechanism is described as aiming to advance the objectives and interests of the Union and to reinforce its integration process, indicating that authorisation to proceed with enhanced cooperation has to be given as last resort. All member states can take part in the deliberations of the countries participating in enhanced cooperation, but only the latter group can vote on decisions pertaining to it. The provisions concerning enhanced cooperation in CFSP matters differ in various ways from those applying in other policy areas. The Council and the High Representative for EU foreign and security policy and Vice-President of the Commission (HRVP) play a central role in the authorisation process, while the Commission only provides an opinion and the European Parliament is informed. Moreover, in the CFSP domain, the Council's authorisation requires unanimity.

Since its introduction with the Treaty of Amsterdam in 1997, constructive abstention has been used only once, by Cyprus in 2008, concerning the decision to establish the CSDP mission EULEX Kosovo. Enhanced cooperation has been implemented by member states only four times, and never in the CFSP domain (Wessels and Gerards 2018). In practice, therefore, Treaty-based arrangements for differentiated cooperation have not applied to foreign policy, which, as illustrated above, escapes the rather tight procedural requirements outlined in the Treaties.

The disconnect between Treaty provisions and policy practice depends on various factors. Member states show a decreasing propensity to achieve compromise. They may prefer to dilute or block EU decisions rather than letting others move forward with positions that they are uncomfortable with, which delimits the use of constructive abstention. When it comes to enhanced cooperation, a group of member states willing to work together may number fewer than nine, and they may wish to proceed without long debates at 27 as to whether their initiative is a last resort compared to other, more inclusive courses of action. Besides, countries collaborating on a foreign policy initiative may or may not wish all the others to be part of their deliberations or entitled to apply to join their group. Sometimes, the benefit of differentiated cooperation may lie precisely in its exclusive nature, and in the confidence inspired by a small, likeminded group. At the same time, however, all EU member states, through whichever framework they operate, are supposed to act "in a spirit of loyalty and mutual solidarity" in support of EU foreign policy (Article 24 TEU), to mutually consult before taking national positions in areas where the EU has taken CFSP decisions (Article 28 TEU) and to coordinate their actions in international bodies (Article 34 TEU).

## 2. Differentiated cooperation by other means

If the cumbersome Treaty regime on enhanced cooperation has proven unfit to channel differentiated cooperation in European foreign policy, member states undertake cooperation through a variety of formats (Delreux and Keukeleire 2017). These arrangements can be more or less institutionalised, ad hoc or permanent. In practice, these multinational initiatives take a variety of shapes, which can hardly be framed through rigid categories since they are determined by the politics surrounding their launch and the issues they aim to address. Given the experience of European foreign policy since the end of the Cold War, however, five principal categories or modalities of differentiated foreign policy activities can be identified.

First, member states work through regional groups such as the Benelux, Baltic, Nordic or Visegrád countries, based on stable arrangements for regular consultation and covering, at least potentially, the foreign policy agenda at large. Second, ad hoc contact groups can be set up, normally bringing together a range of EU member states and third countries engaged in tackling international crises, such as those in the Balkans, Afghanistan, the Democratic Republic of the Congo and Somalia (Keukeleire 2006).

This category can be differentiated from a third, and similar, form of cooperation, namely the lead groups. These can be defined as mechanisms through which EU member states take the lead on key issues on the international agenda through tight coordination and shared initiatives. The E3 (France, Germany and the UK, then an EU member) that shaped Europe's Iran policy and the engagement of France and Germany in the so-called Normandy format on the conflict in Ukraine are the principal examples of lead groups.<sup>5</sup> A common feature of these groups is that "insiders" advance foreign policy objectives that are in line with EU goals, with the broad consent of other member states (Alcaro 2018).

Fourth, differentiated cooperation among member states can occur in international fora where only some of them are represented, such as the G7 or G20 (which also involve EU institutions), or among the EU countries sitting in the United Nations Security Council, whether with a permanent (France) or rotating seat. This often takes place in parallel to coordination at the EU level, to prepare and advance shared initiatives on the multilateral stage, as provided for in Article 34 TEU.

Finally, differentiated cooperation can happen when the HRVP tasks the foreign ministers of one or more member states to carry out a specific diplomatic task on behalf of the EU. For example, in November 2019 the Finnish Foreign Minister Haavisto led the EU delegation to the ACP-EU Joint Parliamentary Assembly and delivered a statement on behalf of the HRVP. This is a form of differentiated cooperation that is closely connected to the implementation of EU-level foreign policy.

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5 Lead groups will be subject of a separate policy paper under the EU IDEA project.



This last instance of differentiated cooperation points to another approach to assess the experience of variable cooperation formats in European foreign policy. The key question here concerns, as noted above, the coherence between various differentiated initiatives and shared EU goals and decisions (where they exist). By taking this vantage point, initiatives involving separate groups of member states can fulfil five main functions.

First, member states may operate in (geographic or thematic) areas where there is no clear EU foreign policy line or initiative. In these cases, differentiation is a sort of placeholder for CFSP. Second, differentiated cooperation may take place alongside EU foreign policy and be complementary to it, or mutually reinforcing. Third, alternatively, member states may pursue initiatives that run in parallel to those taken under CFSP but are disconnected from it, or depart from earlier common positions, which can weaken the credibility of the EU as an international actor. Fourth, differentiated cooperation can pave the way to EU positions and actions, playing a sort of bridging role given the slow consensus-building process at the EU level and, sometimes, acting as a catalyst for the convergence of national positions. Fifth, cooperation through variable geometry can occur when implementing common positions, as it happens when EU bodies delegate member states with some tasks.

The categories of differentiated cooperation in European foreign policy, and the functions that they fulfil, as outlined above, are mobilised in what follows to review the activity of variable cooperation formats, and their interaction with EU foreign policy or external action. This assessment applies to two case-studies that illustrate important dimensions of European foreign policy. One is the Western Balkans – a region where the EU and its member states have been deeply invested for the last 30 years, with mixed results, coping with conflict and instability and seeking to promote reform on the way to EU accession. The other is the Middle East Peace Process, concerning the Israeli-Palestinian conflict, which has been central to EU foreign policy cooperation since its early days and that has become an increasingly contested issue among EU member states.

### **3. The Western Balkans: Broad convergence amidst differentiation**

Following the efforts to stop the wars in the former Yugoslavia throughout the 1990s, the EU's strategy towards the Western Balkans has pursued two closely related objectives, namely to ensure stability and economic development in the region and to gradually integrate the countries of the Western Balkans into the EU. The Stabilisation and Association Process, launched in June 1999, has been the primary vector of the EU's approach, while the 2003 Thessaloniki Declaration underscored the EU's commitment towards the European integration of the Western Balkans. In 2011, Brussels initiated a high-level dialogue between Pristina and Belgrade aimed at normalising the relations between Serbia and Kosovo.

Despite some recent positive developments,<sup>6</sup> the progress of the six Western Balkan countries (WB6)<sup>7</sup> on the road to reform and EU accession has been slow and uneven. At the same time, the multiple crises that have engulfed the EU over the last ten years and the different positions among EU countries on issues ranging from the future of enlargement to the status of Kosovo, have often weakened the Union's approach towards the region and affected the EU's profile and influence there. In this context, various forms of differentiated cooperation among EU member states have contributed to advancing the EU's strategic goals in the Western Balkans – seeking to strengthen stability and foster reforms on the road to enlargement. What follows provides a non-exhaustive overview of key arrangements and initiatives.

### 3.1 Ad hoc and contact groups

Ad hoc groups and contact groups have played an important role in European foreign policy towards the Western Balkans since the 1990s. Following years of bloodshed after the collapse of Yugoslavia, the Balkan Contact Group, bringing together the key powers involved in crisis diplomacy, played a pivotal role in both negotiating and implementing the peace agreements in Bosnia and Herzegovina (BiH) (Schwegmann 2000).<sup>8</sup> At a time when CFSP was still in its infancy, the Contact Group was instrumental in not only putting an end to the conflicts but also giving European countries a seat at the negotiation table alongside the US and Russia, thereby safeguarding the interests of the Union as a whole.

EU member states have also joined forces through the *Quint* Group (the Contact Group minus Russia), which was set up in March 1999 (Ekengren 2018). The Quint has been operating both on the ground, in the countries of the Western Balkans, and at the capital level, and has been instrumental in steering political initiatives in the region. The main added value of the Quint as a format of differentiated cooperation is to mobilise the political weight of key EU countries and the US in dealing with political crises and preserving stability in Western Balkans countries and the region at large. Given its limited size, the Quint can operate in a faster and more decisive way than would be possible for the EU at 27. The EU institutions and the members of the Quint regularly interact. EU representatives attend Quint meetings held at both the local and the capital level, and EU bodies sometimes associate themselves to Quint statements.<sup>9</sup> EU institutions also play an important role connecting the “ins” and the “outs”, seeking to avoid the emergence of divides between the group and the EU member states that are not part of it. The Quint represents an instance of external differentiated cooperation, as it involves not only the US but also the UK,

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6 These include the adoption of a new EU strategy for the Western Balkans in February 2018, the Prespa Agreement between North Macedonia and Greece in June 2018, the agreement on a revised methodology for enlargement and the opening of accession negotiations with North Macedonia and Albania in March 2020.

7 Albania, Bosnia and Herzegovina, Serbia, Montenegro, Kosovo, North Macedonia.

8 The Balkan Contact Group was established in April 1994 and consists of the US, Russia, France, the United Kingdom, Germany and (since 1996) Italy.

9 Online interview with an EU official, 19 June 2020.

with the latter showing interest in maintaining this arrangement after having left the EU.<sup>10</sup>

## 3.2 Multinational initiatives

EU member states have undertaken various multinational initiatives, involving different groups of countries, to advance European foreign policy and external action towards the Western Balkans. On balance, these initiatives have proven instrumental to further collective EU goals in the region, notably in relation to the enlargement agenda. In November 2014, following growing concerns over reform gridlock and political turmoil in BiH, German Foreign Minister Frank-Walter Steinmeier and his British counterpart, Philip Hammond, announced a new policy initiative which helped pave the way for Bosnia's EU accession application two years later (Steinmeier and Hammond 2014).

Building on the EU Compact for Growth and Jobs published earlier in 2014, the joint initiative by Berlin and London focused on structural economic reforms while postponing key political issues to a later stage in the accession process (Weber 2017). Despite the fact that reforms have continued to stall in BiH, the initiative helped shift the narrative away from confrontation and provided a platform for cooperation among local leaders, creating the conditions to foster negotiations with the EU.<sup>11</sup> The Anglo-German initiative was endorsed by the Foreign Affairs Council in December 2014 (Council of the European Union 2014) and led, in the following months, to the adoption of the BiH Reform Agenda 2015–2018<sup>12</sup> and to the entry into force of the long-delayed Stability and Association Agreement with BiH in June 2015.

The Berlin Process, which Germany launched in August 2014, is an important example of member states taking the lead to establish an informal regional dialogue and cooperation framework encompassing some EU countries and the WB6.<sup>13</sup> Following the statement by then European Commission President Jean Claude Juncker in July 2014 that no country would join the Union for the following five years (while confirming the European perspective of the Western Balkans), the launch of the Berlin Process sent an important message of engagement and support for reform in the Western Balkans. With no summit between the EU and the Western Balkans taking place between 2003 and 2018, the convening power of key EU member states through the Berlin Process helped engage all the countries from the region. Besides, thanks to the flexibility of this intergovernmental framework, various EU countries have joined and actively contributed to the Process over the years.

The strategic objectives of this format of differentiated cooperation and those of the EU, such as fostering regional connectivity, are closely aligned.<sup>14</sup> The European

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10 Online interview with an EU official, 19 June 2020.

11 Phone interview with an EU official, 23 June 2020.

12 Text available online at: <https://europa.ba/?p=36143>.

13 Austria, Bulgaria, Croatia, France, Greece, Germany, Poland, Slovenia, Italy, former EU-member UK and the WB6 take part in the Berlin Process.

14 Phone interview with an EU official, 23 June 2020. Some of the key initiatives undertaken

Commission is closely involved in the Berlin Process and participates in the annual summits.<sup>15</sup> In short, the Berlin Process turned out to be an effective complement to the EU's approach, with an emphasis on fostering regional cooperation (Burazer 2018). In other words, "once again, the flexibility, 'variable geometry' approach and innovative capacity of the EU institutional structure was demonstrated where a group of member states, organised in an intergovernmental forum, were able to establish a side way to lead to the enlargement mainstream" (Nechev et al. 2018b: 1).

Germany and France have also played an important role to relaunch the EU's engagement in the dialogue between Pristina and Belgrade, at a time when the US had taken centre-stage in seeking to unlock the stalemate. In April 2019, German Chancellor Merkel and French President Macron held a summit in Berlin which was joined by the WB6, Croatia, Slovenia and then HRVP Mogherini, while a new summit was planned for Paris in July 2020. Through the personal engagement of respective leaders, Berlin and Paris have managed to rally other EU member states behind a renewed push for the EU role in facilitating this complex dialogue.<sup>16</sup>

Germany and France operate in close consultation with HRVP Josep Borrell and the newly appointed EU Special Representative for the Belgrade-Pristina Dialogue, Miroslav Lajčák.<sup>17</sup> Despite Belgrade and Pristina agreeing to resume talks, scope for progress in the negotiations remains uncertain. In this challenging context, it will be critical for the Special Representative to count on the backing of key EU member states, alongside EU institutions, to overcome political obstacles.

### 3.3 Regional groups

Besides ad hoc contact groups and multinational initiatives, differentiated cooperation among EU member states has also taken place through established regional groupings. In particular, the Visegrád Four (V4)<sup>18</sup> have been among the main advocates of EU enlargement to the Western Balkans (Juzová et al. 2019). V4 engagement in the Western Balkans has ranged from regular meetings at the level of foreign ministers to technical assistance, financial support via the International Visegrád Fund established in 2000 and a range of other initiatives.<sup>19</sup> Through these

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within the Berlin Process, such as the EU–Western Balkans connectivity agenda, the Regional Youth Cooperation Office, and the Southeast Europe Transport Community, reflect established EU policy priorities. Many key aspects of the Berlin Process, for instance in the areas of connectivity and reconciliation, have been integrated into the Six Flagship Initiatives proposed by the Commission in February 2018, and in the Sofia Declaration in June 2018 (Nechev et al. 2018a).

15 These summits have taken place in Berlin (2014), Vienna (2015), Paris (2016), Trieste (2017), London (2018) and Poznan (2019).

16 Online interview with an EU official, 19 June 2020.

17 Phone interview with an EU official, 23 June 2020.

18 Poland, Czech Republic, Slovakia and Hungary.

19 These include, for example, the 2012 initiative "Western Balkans Expert Network on Rule of Law and Fundamental Rights", and cooperation on migration and border management issues. The V4 have also supported the establishment of the Tirana-based Western Balkans Fund, set up in 2015, which aims to enhance regional cooperation by financing various projects on, inter alia, mobility, cross-border cooperation and strengthening civil society organisations (Juzová 2019).

initiatives, the cooperative frameworks launched by the V4 have complemented EU policies in the Western Balkans. That said, the influence of the V4 in shaping the EU's approach to enlargement has been limited (Orosz 2017).

In recent years, in particular, pressing issues such as the migration and refugee crisis have ranked at the top of the EU's political agenda, and have complicated relations between the V4 and other EU countries. At the same time, highly contested measures taken by the governments of Hungary and Poland affecting the state of the rule of law in both countries have met with strong criticism across Europe, as breaching EU values and rules, and are the subject of infringement procedures launched by the European Commission. If, therefore, the trajectory of the V4 towards accession to NATO and the EU was regarded as providing a useful experience for reform and cooperation in the Western Balkans (Madhi 2018), these and other political developments have affected both the unity of the V4 group and its credibility as an advocate for political reforms throughout the region (Juzová 2019).

### 3.4 Implications for EU foreign policy

Most differentiated formats addressing the Western Balkans appear to operate as catalysts for EU external action towards the WB6 countries. While actual progress with reform and regional cooperation in the Western Balkans has been modest, these initiatives have sought to help advance established EU goals. The initiatives of the Quint group dealing with the Western Balkans or the engagement of Germany and France in support of the Pristina–Belgrade dialogue have sometimes raised reservations among other member states. However, member states have mostly opted for not opposing the initiatives of others but rather getting involved, launching parallel initiatives or, in practice, abstaining from intervening.<sup>20</sup> The management of differences also owes to the close involvement of EU bodies in most of the differentiated formats dealing with the Western Balkans, which allows for a better exchange of information and for promoting overall consistency with shared EU goals.

## 4. The Middle East Peace Process: Differentiation mirroring divisions

The EU's role in the Arab–Israeli conflict and, more specifically, the Middle East Peace Process has attracted considerable attention.<sup>21</sup> Since the 1970s, the EU's

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20 Spain, for example, maintains its position concerning the non-recognition of Kosovo but takes a constructive, if critical, attitude towards the EU approach, which is also part of its broader pro-European orientation. Cyprus, for its part, has used for the first and last time the clause on constructive abstention in CFSP to dissociate itself from the launch of the EULEX Kosovo mission, while not preventing it.

21 This includes scholars focusing on European Foreign Policy (Allen and Pijpers 1984, Aoun 2003, Tocci 2007, Cavatorta and Tonra 2007, Bulut Aymat 2010, Bicchi 2016), on national foreign policies of major EU member states (Behr 2008, Voltolini 2018, Busse 2018) and the extent to which those policies respond or have contributed to the Europeanisation process (Müller 2012, Aggestam and

positions on the conflict between Israel and Palestine have been an indicator of the Union's capacity to develop an autonomous and united foreign policy, as shown with the launch of the Euro-Arab Dialogue in 1973 and, above all, the adoption of the Venice Declaration in 1980.<sup>22</sup> Since the start of the MEPP after the Madrid Peace Conference of 1991 and the Oslo Agreements in 2003, the EU has sought to increase its influence on this important issue. Despite not having been the driving force behind those diplomatic negotiations, it aimed to play a considerable role in their implementation.<sup>23</sup>

However, this is only one part of the story. The other part consists of the frequent and visible divisions among EU member states, reflected for instance in different voting behaviour in the UN. Well-known examples are the vote of the United Nations General Assembly resolution 67/19 on upgrading Palestine's status in the Assembly to non-member observer state in November 2012 as well as the vote at UNESCO in 2011 to admit Palestine as a full member. On both occasions, EU countries failed to achieve a unified position.<sup>24</sup>

Consensus on issues related to the MEPP proves elusive to this day. Given disagreement among member states, the Foreign Affairs Council can neither amend nor restate previously agreed principles and policies, which weakens the capacity of the HRVP or the EU Special Representative for the MEPP to put pressure on the conflicting parties.<sup>25</sup> This stalemate exposes not only different (and increasingly incompatible) views inside the Council but also the deliberate efforts by third actors – in this case the Israeli government and the Trump administration – to break the EU consensus and avoid commonly agreed EU measures that could be contrary to their interests.<sup>26</sup>

## 4.1 Regional groups

When it comes to the MEPP, regional groups have mostly exposed the existence of

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Bicchi 2019) and its impact on the dynamics of this regional conflict (Bouris 2014, Del Sarto 2014, Colombo et al. 2019).

22 This declaration, unanimously agreed by the then nine members of the EEC, acknowledged Palestine's right of self-determination and the need to associate the Palestinian Liberation Organization (PLO) to the negotiations to find a solution to this conflict. This position differed from that of the US which considered the PLO a terrorist group and favoured an Arab solution (annexation by Arab neighbouring states of Palestinian territories) rather than creating a new Palestinian state.

23 For example, the EU created the figure of the special envoy in 1996, became the largest financier of the Palestinian National Authority, deployed two CSDP missions in Palestine and, since 2002, became one of the four members of the Quartet (together with the US, Russia and the UN).

24 In the UN General Assembly, 14 out of the then 27 members voted favourably, 13 abstained and one – the Czech Republic – opposed. The picture was even more fragmented regarding Palestinian membership in UNESCO in the 2011 vote. Then, five countries, including Germany, opposed while 12, including France, voted in favour and ten others, among which the UK, abstained. Intense discussions took place among EU member states about the risks of projecting themselves as a disunited group on such a central issue.

25 Phone interview with a former EU official, 16 June 2020.

26 Phone interview with an official from an EU member state, 9 June 2020.

different positions among EU countries rather than performing as incubators of EU actions or initiatives. The most evident example is the V4, but it is not the only one and is less cohesive than often portrayed. Among the four members of the Visegrád Group, the Czech Republic was traditionally the most outspoken pro-Israeli voice in the EU, but more recently Hungary has taken over this position. It was at Victor Orban's initiative that Benjamin Netanyahu joined the Annual Summit of the Prime Ministers of the V4 in 2017.<sup>27</sup>

The support expressed by some of the members of the V4 to controversial Israel and US policies on matters related to Palestine and the MEPP has often prevented the adoption of common declarations or positions at the EU level.<sup>28</sup> Whereas Hungary plays a pivotal role in mobilising blocking coalitions on MEPP-related issues, it is occasionally joined by countries that are not part of the Visegrád Group. For instance, in May 2018 Romania joined Hungary and the Czech Republic in blocking an EU statement condemning the US decision to transfer the capital to Jerusalem and, in February 2020, four additional member states joined Hungary and the Czech Republic in objecting to an EU declaration opposing Trump's peace plan (TOI and AP 2020).

Another regional group that has a growing influence in the EU positioning regarding the MEPP is the one formed by Cyprus and Greece, and occasionally joined by Italy, in the framework of the East Med Gas Forum. Although this platform formally deals with the development of energy projects, it can also be seen as part of the broader geopolitical competition taking place in the Middle East, as it also includes Israel and Egypt. This initiative took shape through successive summits, starting with the first tripartite summit in Cairo between Greece, Cyprus and Egypt, which was followed by regular trilateral meetings with Israel.<sup>29</sup> Athens and Nicosia's increasingly pro-Israeli stance is seen by other EU countries as a defence of national interests in relation to energy disputes in the region rather than the expression of a firm political stance concerning the MEPP and related controversies among EU member states.<sup>30</sup>

The existence of different views within the Med7, Benelux or the Nordic group has prevented them from acting cohesively in EU internal discussions on the MEPP. However, the members of the Nordic group have joined forces on practical issues, particularly regarding humanitarian assistance in the West Bank, in cooperation with EU institutions. The relevance of the Nordic group as an instance of differentiated cooperation concerning the MEPP is owing to the fact that it also includes non-EU

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27 As a result of this meeting, the five leaders issued a Joint Statement advocating for a reinforced EU-Israel partnership. See *Joint Statement on the Occasion of the Annual Summit of the Prime Ministers of the Visegrád Group and the Prime Minister of the State of Israel Benjamin Netanyahu*, Budapest, 19 July 2017, <http://www.visegradgroup.eu/calendar/selected-events-in-2017-170203/joint-statement-on-the>.

28 An example of this is the veto by Budapest to a joint EU statement in November 2019 criticising the US policy shift regarding Israeli settlements in the West Bank. See Ahren (2019).

29 This trilateral format has occasionally been enlarged to the US, as with the sixth Trilateral Greece–Cyprus–Israel Summit in Jerusalem in March 2019.

30 Phone interviews with a former EEAS official (11 June 2020) and a diplomat from an EU member state (10 June 2020).

countries, namely Iceland and Norway. Oslo has been, and remains, an active player in the MEPP and currently chairs the Ad Hoc Liaison Committee, which is one of the platforms where Norwegians cooperate regularly with the EU.<sup>31</sup>

## 4.2 Ad hoc groups and lead countries

Ad hoc groups have emerged in dealing with the MEPP for two main reasons: steering the EU policies in a certain direction and projecting a degree of unity among subsets of influential EU countries, even when blockages persist at 27. Two ad hoc groups have been particularly active in this context. The Quint, which comprises the E3 – France, Germany and the United Kingdom – plus Italy and Spain, was created in the early 1990s to support the Peace Process. The role of this group evolved as a result of four dynamics. The first was the entry into force of the Treaty of Lisbon. Traditionally performing as the main incubator of EU-wide initiatives addressing the MEPP, the Quint has had to adjust to the new institutional environment where the HRVP, supported by the European External Action Service (EEAS), is attributed the power of initiative and agenda-setting alongside member states – a process that has not been without friction.<sup>32</sup> The second factor has been the stalemate of the Peace Process and the evolution of the security landscape in the broader Middle East and North Africa region. The focus of the group has adapted accordingly, with the five members currently consulting on a broader scope of topics than the MEPP.

The third dynamic consists of the increasing divergence among member states and the consequent gridlock at the Council level, which has impeded the adoption of common declarations. This has sometimes pushed the five countries to go it alone.<sup>33</sup> More recently, these countries have started to invite other countries to join initiatives that were first agreed at a Quint level, as occurred with the April 2020 demarche by 11 European ambassadors alerting on the risks of unilateral annexation by Israel of parts of the West Bank.<sup>34</sup> The fourth factor is Brexit, and the consequent uncertainty about the UK's participation in the group. Some coordination meetings without the UK have already taken place. But, at the same time, the aforementioned demarche not only included the UK but was actively promoted by the British ambassador.<sup>35</sup> While there is appetite in London to be part of this group, there are mixed feelings in other capitals.<sup>36</sup>

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31 The Ad Hoc Liaison Committee was set up under the Oslo Agreements. It is the main policy-level coordination mechanism for development assistance to the occupied Palestinian territory. It has 15 members including states and international organisations, is chaired by Norway and is co-sponsored by the EU and the USA.

32 Phone interview with a former EU official, 17 June 2020.

33 Their joint statement regarding the demolition of the Palestinian village of Khan al-Ahmar in area C is one example. See Italian Ministry of Foreign Affairs (2018).

34 This group included the ambassadors of the Quint countries and those representing the Netherlands, Sweden, Belgium, Denmark, Ireland and Finland, alongside the EU Special Representative for the MEPP. See Bassist (2020).

35 Phone interview with a European diplomat serving in Israel, 9 June 2020.

36 Many countries appreciate the added value that the UK can bring to joint action but some EU countries that are not members of the group may resent the influence of the UK through this format of external differentiation. Phone interviews with a diplomat from an EU member state (16 June 2020),

The second group corresponds to the so-called “likeminded” countries. It brings together those EU members that have been more sympathetic to the Palestinian cause and that would like the EU to play a more prominent and autonomous role in the MEPP. While the Quint was the result of the hopes raised by the launch of the Peace Process, the “likeminded” can be seen as the expression of frustration with its failure.<sup>37</sup> The group of the likeminded encompasses two of the members of the Quint – France and Spain – and several smaller member states from Northern and Western Europe, such as Ireland and Sweden. Although some have described it as a weak and loose group,<sup>38</sup> until 2016 it managed to coordinate strategies and positions before important EU or UN meetings, trying to achieve a common negotiating stance.<sup>39</sup> In a context in which, as explained above, common declarations or positions have become increasingly difficult to agree on at the EU level, this group acts as a low-profile pressure group, seeking to offer a counternarrative to the pro-Israeli positions of other member states.

Beyond the practice of more or less consolidated lead groups, the recognition that it is increasingly difficult to reach a common position at the EU level concerning the MEPP is pushing several EU countries to explore alternative options for cooperation. Whether at the United Nations or in other multilateral fora, for example, the practice of reading statements approved by a certain number of EU countries only, often referring to previously agreed EU positions, is one of the few possible ways of bypassing vetoes by a limited number of member states.<sup>40</sup>

## 4.3 Implications for EU foreign policy

When it comes to the MEPP, differentiated cooperation reflects growing divergence among EU member states on the approach to the Israeli-Palestinian conflict. Some of these initiatives, such as those of the Quint and of the so-called “likeminded group”, can be seen as taking forward longstanding EU positions (i.e., support for the two-state solution based on internationally agreed parameters) at a time when consensus on such positions within the EU has weakened. By contrast, the activities of some member states that depart from these common stances and sometimes openly back Israeli or US decisions that are incompatible with previously EU-agreed positions (such as on the status of Jerusalem or the Israeli settlements) are detrimental for the overall coherence and consistency of EU policies. In this context, EU institutions struggle to reconcile different approaches and initiatives, and to carve

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a former EEAS official (11 June 2020) and a London-based researcher specialising in the MEPP (12 June 2020).

37 Phone interview with an EEAS official, 17 June 2020.

38 Phone interview with a former EEAS official, 11 June 2020.

39 Phone interview with an EEAS official, 17 June 2020.

40 For instance, in a statement delivered in April 2019, the upcoming Finnish Presidency of the EU explicitly mentioned speaking on behalf of 27 EU countries, which were listed, omitting Hungary. The statement also invoked on several occasions the EU policies and positions on this conflict, further reinforcing the idea that the Presidency was speaking on behalf of the EU, despite the objection of one of its members. For more details see Rettman (2019).

out a proactive role to attain a shared EU position.

Two alternatives have been tested when obstruction persists, namely issuing statements on behalf of a limited number of countries or individual statements by the HRVP, in both cases referring to previously agreed positions and commenting on events in light of these positions. These initiatives may work as a stopgap solution but are not a sustainable option, because they can lead to uncompromising positions on the part of obstructing states. Conversely, should obstruction persist, some member states may be tempted to further explore formal or informal mechanisms for differentiated cooperation that would include the members of the Quint (with or without the UK) and extend these mechanisms to other likeminded member states and actors, while strengthening cooperation with EU bodies.

## Conclusion

Member states have always sought to retain control of CFSP and CSDP, with decisions taken, for the most part, through unanimity and consensus. The veto rights of member states and the different strategic cultures and foreign policy interests across the EU have often led to disappointing results when it comes to the capacity of the EU to speak with one voice on the international scene or to achieve the status of a true global power.

Yet, precisely because EU member states are unwilling to abandon unanimity in this domain, flexible and collaborative frameworks are of the essence for European foreign policy. The practice of differentiated cooperation in foreign policy did not initially emanate from Treaty-based provisions, which explicitly ruled out differentiation in CFSP and CSDP. Formal arrangements such as enhanced cooperation and constructive abstention were only introduced at a later stage but have almost never been used. Instead, differentiated cooperation has been implemented through other, more informal means, such as groupings of member states working together to pursue common foreign policy goals.

The case studies explored in this paper, the Western Balkans and the MEPP, show how flexible arrangements have often been used to overcome the constraints of consensus-building at the EU level, given the different positions among member states. In both cases, ad hoc coalitions of leading member states, contact groups operating over the years, and established regional formats within the EU have played an important role in allowing for more rapid or more effective action than what unanimity-based decisions would have achieved. Arrangements for differentiated cooperation have also involved non-EU countries, particularly pivotal actors such as the US or the UK, to reinforce the diplomatic punch of key initiatives, or partners in other regions, as it has been the case with the WB6 or Israel.

Both case studies show, however, that the practice of differentiation does not always translate into more effectiveness in terms of achieving the goals of EU foreign policy. Four interrelated factors affect the level of coherence between separate formats



of differentiated cooperation and, therefore, their implications for the effectiveness of EU foreign policy. First is the extent to which member states are prepared to reconcile their positions, or at least not to make their differences a stumbling block for the initiatives of lead groups pursuing EU objectives. While this tendency is much more pronounced in the case of the MEPP than concerning the Western Balkans, some member states are less and less inclined to strive for compromise, which may pave the way for forms of differentiated cooperation that reflect and accentuate divergence, as opposed to helping convergence.

Second is the existence of a strong track record of EU foreign policy, including consolidated positions and well-established policy instruments, which can increase the political cost of obstructing joint EU initiatives or departing from shared positions. While this factor appears to play a role in the case of the Western Balkans, the longstanding EU common stance concerning the MEPP has not prevented some member states from taking alternative positions and initiatives in recent years. The third factor is the role of external powers, which may engage or cooperate with one or more EU member states to prevent the adoption of EU positions perceived as contrary to theirs. From this standpoint, the US and Israel appear to have played a role in weakening the EU consensus concerning the MEPP. Fourthly, the engagement of EU institutions in arrangements for differentiated cooperation can help improve transparency, prevent the deepening of fault lines between those “in” and “out” of leading groups, and effectively match national and EU resources.

The combination of unanimity in decision-making and growing differences in foreign policy priorities among member states makes differentiation in EU foreign policy more necessary than ever. However, as the case studies of this paper have shown, Treaty-based provisions regulating enhanced cooperation and other forms of differentiation are not attractive to member states, which prefer the flexibility of relatively informal coalitions or regional processes. With a view to overcoming political and institutional obstacles, differentiation through informal arrangements is likely to remain a core feature of European foreign policy.

Since unanimity will likely continue to apply to CFSP decisions, informal mechanisms are the most promising route to further develop differentiated cooperation in EU foreign policy. Groupings of member states should continue to advance shared priorities and positions in areas that can benefit EU foreign policy as a whole. The HRVP should further explore the benefits of deputising to ministers of foreign affairs to obtain positive sum dynamics for the advancement of the EU agenda. When pursued in consultation and cooperation with the Commission and other EU institutions, and with a view to advancing shared EU goals, these forms of differentiated cooperation can contribute to the effectiveness and coherence of EU foreign policy as well.

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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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