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Informal Differentiated Integration in EU Foreign and Security Policy: Perspectives of a Small Member State

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Abstract

The last decade has seen a significant increase in the study of mechanisms of informal differentiation, such as lead groups, for conducting EU foreign and security policies. This policy brief examines these groupings from the perspective of small member states based on data collected from 20 interviews with Czech stakeholders. While informal differentiated integration can contribute to advancing EU foreign policy objectives, it should not become the default go-to approach that avoids the potentially lengthy formulation of a common EU position. The consent, at least tacit, of the non-participating member states should be understood as a necessary condition for the emergence and legitimacy of informal differentiation. The involvement of the EU-level policy actors, or at least of an intensive information flow, should be ensured to strengthen accountability.

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1. Introduction: Differentiation in EU foreign, security and defence policies, and challenges for small member states

This policy brief investigates how informal mechanisms of differentiated integration are perceived from the perspective of a small member state, namely Czechia. The EU's foreign, security and defence policies feature various possibilities and practices of differentiation. First, there are forms of internal differentiation in which only a subset of member states participate or some member states are excluded from the integration. Internal differentiation basically takes two forms. On the one hand, there are forms of formal, treaty-based internal differentiation ranging from opt-outs, through constructive abstention and enhanced cooperation to permanent structured cooperation (PESCO) (Siddi et al. 2021). On the other hand, because the legal frameworks for formal differentiation in the Common Foreign, Security, and Defence Policy (CFSDP) are rarely used, member states often resort to informal mechanisms of differentiated integration and/or cooperation, such as ad hoc contact groups, lead groups, regional groupings and other informal groupings of member states (Grevi et al. 2020, Siddi et al. 2021).

Most of the scholarly assessments on the state of differentiated integration in the EU CFSDP agree that differentiation is a defining feature that has characterised EU foreign policy cooperation since its beginning (Aydın-Düzgit et al. 2021). Restricting our focus to the narrower field of informal differentiation, most of the studies argue that ad hoc contact groups, lead groups and similar forms of informal differentiation have an overall positive effect for EU policy-making in those policy fields by (a) generating an internal consensus and (b) spurring the EU into action on particular issues (Alcaro and Siddi 2020, Aydın-Düzgit et al. 2021, Grevi et al. 2020, Siddi et al. 2021). This is particularly the case when informal differentiation mechanisms adhere to the common European values and identity as expressed in the established foreign policy discourse and, at the same time, build on long-established common EU positions towards a particular issue. Fulfilment of these two conditions not only increases the effectiveness of informal differentiation but also ensures intra-EU consent and thus the EU's internal legitimacy and external recognition and credibility. When, however, such differentiation deviates from common EU positions and the established discourse, it can actually undermine the EU CFSDP (Siddi et al. 2021).

On the other hand, several studies show that there are inherent legitimacy deficits connected with the activities of informal mechanisms of differentiated integration (Alcaro 2018, Delreux and Keukeleire 2017). In principle, they argue that informal differentiation features a trade-off between effectiveness and legitimacy which is very difficult to overcome (Delreux and Keukeleire 2017: 1474). Against this backdrop, only a few studies have investigated informal mechanisms of differentiated integration from the perspective of small and medium-sized EU member states. However, these member states are the ones that are less often involved in informal differentiation practices. At the same time, it is particularly small member states which accentuate the perverse effects of these forms of integration on the legitimacy of EU foreign policy-making. In fact, there is a widespread agreement that small member states typically face more challenges in EU policy-making than large member states (Arter 2000, Panke 2011). Specifically, they face these challenges because (a) they lack the necessary political power to shape EU

law in the same manner as their bigger counterparts, (b) they have fewer financial and administrative resources necessary for building up policy expertise and exerting influence due to their lower economic and/or population size, and (c) the majority of small EU member states joined the Union in the last rounds of EU enlargement and hence they have less knowledge, and fewer networks and institutionalised links to EU institutions (Panke 2010, Thorhallsson 2015). Moreover, it is often argued that small states face challenges in EU policy-making particularly in the field of EU CFSDP (Arter 2000, Pedi 2021, Wivel 2005), as its evolution is closely associated with the so-called directoires and the general leadership of the (pre-Brexit) big three, namely the UK, France and Germany (Gegout 2002). Other reasons why the structural disadvantages facing small member states are particularly pronounced in the EU CFSDP include (a) the fact that small states, unlike large ones, more commonly adopt reactive rather than proactive strategies in international affairs, (b) the increasing use of ad hoc informal decision-making processes and ad hoc military coalitions in which small member states participate less frequently than the large ones and (c) power and strategies (and sometimes interests) of small member states that diverge from those of their larger counterparts (Pedi 2021, Thorhallsson 2015, Wivel 2005).

2. The position of a small member state towards the informal mechanism of differentiated integration

Based on evidence from 20 semi-structured interviews with relevant Czech stakeholders and desk research,[1] this section assesses the position of a small member state towards informal differentiation in the CFSDP. Informal differentiation is deemed to be an effective and legitimate foreign policy instrument if it adheres to the established EU foreign policy discourse and builds on long-established common EU positions (Siddi et al. 2021). This sounds logical and empirical reality shows that it can often work, such as in the case of the EU lead group involvement in negotiations on the Iranian nuclear programme or in the Western Balkans crises (Siddi et al. 2021). However, from the perspective of a small member state the approach is not necessarily straightforward, for the reasons elaborated next. The general idea is that informal mechanisms of differentiation, such as lead groups, can be formed to respond swiftly to major international crises (Alcaro and Siddi 2020). The argument is based on the assumption that there is a long-established EU discourse and position towards a particular issue. This is, however, rarely the case at the outset of an international crisis and in many cases even many months after its outbreak. How to treat lead groups if the EU position towards a specific foreign policy issue is not (yet) settled?

1 Interviews were conducted online due to Covid-19 restrictions between 1 October 2020 and 30 November 2021 mostly via conference tools such as Skype and Zoom or via phone. Most of the respondents were national politicians, while the minority were policy-makers and civil servants.

Fears concerning negative impacts of informal mechanisms of differentiation in such a case are multifaceted. For instance, there may be a situation where no relevant long-established EU common position has been formed before an international crisis breaks out, but a lead group or a similar ad hoc contact group is nevertheless established to respond to the crisis swiftly. A small member state may find itself in a situation where it does not have the coalition potential to stop an informal differentiated mechanism from forming, yet it may be sharply critical of its formation and may have a very different position than the one being put forward as the EU common position through the activities of the informal grouping. This criticism was also expressed by several Czech political representatives. In such a situation, a small member state finds itself facing the formulation of a EU position it does not agree with. Yet it is not able to influence, let alone block this position due to the informal nature of the activities of the member states involved in the differentiated cooperation.

Moreover, and this was mentioned multiple times during the interviews, such practices are seen by some as attempts to externalise national foreign policy positions of the large states and upload their foreign policy interests and discourses to the EU level, thereby bypassing the formal EU foreign policy-making process. The reason why large member states are mentioned in relation to uploading of interests via informal groupings is that, empirically speaking, practically all past lead groups and ad hoc contact groups have featured large EU member states, while any participation of smaller states has been the exception (see Alcaro 2018, Alcaro and Siddi 2020, Siddi et al. 2021). As small EU member states often lack the power to set the CFSDP's agenda, they can easily find themselves facing a fait accompli through the activities of informal groupings (Alcaro and Siddi 2020, Pedi 2021).

In addition, in light of this argumentation the idea of existing long-established EU positions, particularly in relation to imminent international developments requiring a swift response, is further complicated given the structural disadvantages of small member states. As argued during the interviews, one of the most common strategies of small member states to tackle these structural disadvantages is to prioritise. Small member states need to selectively prioritise dossiers and concentrate their limited capacities on salient issues, and they do not spend much time, personnel or administrative and financial resources on less important questions because of the small size of their administration (Arter 2000, Panke 2010, Thorhallsson 2015). However, when an international affair requires a swift response, it is often likely that exactly as a result of prioritisation small member states will often not be able to contribute to the quick formulation of a common EU position (if one does not already exist). This is the case not only because active participation in such a formulation process requires having national positions available during early stages as timing here is crucial, but also because officials in the permanent representation of small states often lack information and clear objectives from their capital (Panke 2011, Thorhallsson 2015).[2]

2 Which, however, does not mean that their position, once formulated, cannot deviate from the one formulated at the EU level by large member states, perhaps through a lead or ad hoc group.

While these arguments are primarily based on the interviews and desk research, they are not solely theoretical. From the Czech perspective they have a potentially empirical embedding as well, as mentioned during the interviews. For instance, while the EU position towards the Middle East Peace Process (MEPP) since the 1990s clearly tilted towards a two-state solution, the position of Czechia as well as the other Visegrád countries deviated from the EU position that was formed before these countries joined the Union. The Visegrád Group[3] has taken the most outspoken pro-Israeli positions and prevented the adoption of a common EU position in line with the previously established support for a two-state solution. While the original EU position in favour of a two-state solution was formed before the Visegrád countries joined the EU in 2004, it is difficult to sustain the argument that this has remained the common EU position since that time, as these are now full-fledged member states that legitimately have a different position on the MEPP than many other EU member states. In other words, it is hard to support the existence of a single EU position when at least four countries have a radically opposing stance towards this particular foreign policy issue. Yet differently, one may argue that the established EU position is in the process of being revised since 2004 as a result of the membership of the Visegrád countries in the EU. In any case, the activities of the Quint group of member states, an ad hoc group including France, Germany, the United Kingdom, Spain and Italy, continued in line with the original EU position in support of the two-state solution.

At the same time, the positions of the Visegrád countries were perceived by the other EU member states and the Quint as national positions that are not accountable to EU institutions and do not further the common EU interest (Siddi et al. 2021). However, such argumentation can be problematic from the perspective of certain small member states. If a member state has a different position than the one the lead group advocates, its position is seen as illegitimate, unaccountable, undermining the common EU position, hurting the common EU interest and negatively affecting the effectiveness of EU foreign policy action.[4] Nonetheless, this is where the activity of informal groupings, in bypassing the formulation of a common EU position on the basis of all member states, is perceived as directoires of large EU member states which make decisions on behalf of small ones (Alcaro and Siddi 2020). In the eyes of

3 The Visegrád Group is often considered to be one example of informal (regional) grouping and thus a form of informal differentiation within the EU, as it is based on stable arrangements for regular consultations. While it has foreign policy issues on its agenda at times, particularly the Western Balkans enlargement, the impact of the Visegrád group on EU foreign policy remains rather limited. This is in line with the general weak significance of the group's external and foreign policy dimension of its activities (Grevi et al. 2020).

4 One can, on the other hand, put forward a different perspective. If every new member state were able to nullify a former EU common position if its own deviates from it, this could have negative impacts on the effectiveness of the EU as a foreign-policy actor in relation to the particular issue at hand. Moreover, a group of member states, perhaps with the large ones on board, could decide to conduct policy towards that issue outside the EU framework which could, by and large, weaken the EU actorness in foreign policy. And it is often small member states which benefit the most from EU foreign policy actorness. If member states, including small ones, were able to prevent others from acting via EU foreign-policy instruments such as informal differentiated ones, it would also raise legitimacy issues in the member states agreeing with the majoritarian EU common position. In such a situation, the possible result could be inaction on the side of the EU which would, in turn, raise legitimacy issues in those countries supporting the majoritarian EU position.

Czechia, one of the small EU member states, the fact that after 2010 the Quint went ahead on its own vis-à-vis a deadlock in the Council (Grevi et al. 2020) undermined the legitimacy of the informal differentiation.

3. Reflections and a way forward

Multiple interviewees mentioned that a way to improve the accountability and legitimacy of the mechanisms of informal differentiation is through their (informal) linking to and even direct incorporation of EU foreign policy actors. Some respondents specifically pointed out that the coalitions of the willing undermine the Commission and the HR/VP in favour of the leaders of key EU member states. Hence, according to our findings, both legitimacy and accountability are improved when informal groupings such as lead groups directly include, if possible, the EU's HR/VP. In traditional EU foreign policy-making, the foreign policies of member states tend to be coordinated at the EU level and through EU institutional frameworks, particularly the Council of the EU, the HR/VP and the European External Action Service (EEAS). Informal mechanisms of differentiation do not automatically assume the involvement of EU-level actors. Past experience and interviews suggest that the involvement of EU-level foreign policy actors has a direct bearing on the perception of appropriateness and acceptance of lead groups as well as their wider accountability (Alcaro and Siddi 2020). The involvement of the HR/VP also facilitates accountability through her/his duty to keep the Foreign Affairs Council informed about progress. At the same time, information-sharing through the HR/VP should not be selective, as sometimes happened during the talks with Iran. At times, the E3 requested the HR/VP to selectively pass on information deemed necessary to bolster the intra-EU consensus, while deciding not to share other, less favourable information (Alcaro and Siddi 2020).

If a direct involvement of EU-level foreign policy actors is not feasible, perhaps because an informal mechanism of differentiation also involves non-EU member states that object to the involvement of the HR/VP, an intensive information flow between the participating EU member states and EU-level actors concerning ongoing progress should be ensured and prioritised. For example, the Normandy format, consisting of France and Germany, did not involve the HR/VP in the negotiations with Russia and Ukraine, although the HR/VP was keen to play a more prominent role (Alcaro and Siddi 2020). While from the perspective of a small member state, according to the interviews, it would clearly be beneficial for the accountability and legitimacy of EU foreign policy-making to involve the HR/VP, a positive assessment of the legitimacy and accountability of the lead group was also expressed regarding the rather intensive initiatives of the French and German leaders for information-sharing through EU communication channels. No strong arguments were put forward regarding the impact of involving the HR/VP on the effectiveness of EU foreign policy.

Moreover, a non-involvement of EU institutions and actors or a lack of information-sharing and reporting also strengthens the above-mentioned perception on the part of small member states of lead groups as uploading particular member states'

interests to the EU level, thereby undermining their legitimacy. To address these possible perverse effects on the legitimacy and accountability of the mechanisms of informal differentiation, they should be linked to the formal EU foreign policy structures. In other words, the informal mechanisms of differentiation should ensure a direct involvement of EU institutions and actors to the greatest extent possible.

A note of caution was also raised by Czech representatives regarding the possibility of too frequently resorting to conducting the EU CFSDP through the mechanisms of informal differentiation. In other words, any kind of differentiated integration, especially when informal, should be understood as a second-best option rather than a defining feature of EU foreign policy-making. They argued that mechanisms of informal differentiation should be treated as suboptimal arrangements compensating for the in-built institutional shortcomings of unanimity-based decision-making in the EU CFSDP. According to one interviewee, the building of the CFSDP is gradual; in the short term some form of integration/cooperation may be possible, as it allows the activation of capabilities, but in the long run such approaches should be limited (Alcaro and Siddi 2020). From the perspective of small member states, the threat is that a too frequent utilisation of the mechanisms of informal differentiation will, in the longer term, provide a disincentive to seek greater foreign policy integration, particularly for the large member states which are the drivers of informal differentiation.

The final issue of concern that was raised during some interviews relates to the previously mentioned directoires of large member states with a particular focus on Brexit. Because the UK was among the large EU member states with significant foreign policy ambitions and participated in a number of informal differentiation formats such as the Quint and the E3, there are concerns among relevant Czech stakeholders that a post-Brexit UK will strive to maintain its influence on EU foreign policy-making through the building of special ties with the EU's remaining large members and practices of informal differentiation, thereby externalising the practice of directoires beyond the EU membership. While such an informal integration outside of the EU can be effective for the UK and the member states involved, it risks undermining the legitimacy and accountability of the EU CFSDP. In the eyes of the representatives of a small member state, the above argumentation underlines the need to (formally) involve EU actors in informal mechanisms of differentiated foreign policy cooperation.

References

Alcaro, Riccardo (2018), *Europe and Iran's Nuclear Crisis. Lead Groups and EU Foreign Policy-Making*, Cham, Palgrave Macmillan

Alcaro, Riccardo and Marco Siddi (2020), "Differentiation in EU Foreign and Security Policy: EU Lead Groups in the Iranian Nuclear Dispute and the Ukraine Crisis", in *EU IDEA Policy Papers*, No. 11 (December), https://euidea.eu/?p=1432

Arter, David (2000), "Small State Influence within the EU: The Case of Finland's 'Northern Dimension Initiative'", in *Journal of Common Market Studies*, Vol. 38, No. 5 (December), p. 677-697

Aydın-Düzgit, Senem, Ian Bond and Luigi Scazzieri (2021), "The Role of Differentiation in EU Foreign, Security and Defence Policy Cooperation with Neighbouring Countries", in *EU IDEA Policy Papers*, No. 14 (March), https://euidea.eu/?p=1792

Delreux, Tom and Stephan Keukeleire (2017), "Informal Division of Labour in EU Foreign Policy-Making", in *Journal of European Public Policy*, Vol. 24, No. 10, p. 1471-1490

Gegout, Catherine (2002), "The Quint: Acknowledging the Existence of a Big Four-US Directoire at the Heart of the European Union's Foreign Policy Decision-Making Process", in *Journal of Common Market Studies*, Vol. 40, No. 2 (June), p. 331-344

Grevi, Giovanni et al. (2020), "Differentiated Cooperation in European Foreign Policy: The Challenge of Coherence", in *EU IDEA Policy Papers*, No. 5 (August), https://euidea.eu/?p=1192

Panke, Diana (2010), "Small States in the European Union: Structural Disadvantages in EU Policy-making and Counter-strategies", in *Journal of European Public Policy*, Vol. 17, No. 6, p. 799-817

Panke, Diana (2011), "Small States in EU Negotiations: Political Dwarfs or Power-brokers?", in *Cooperation and Conflict*, Vol. 46, No. 2 (June), p. 123-143

Pedi, Revecca (2021), "Small EU Member States and the European Security and Defence Integration", in George Voskopoulos, ed., *European Union Security and Defence. Policies, Operations and Transatlantic Challenges*, Cham, Springer, p. 55-73

Siddi, Marco, Tyyne Karjalainen and Juha Jokela (2021), "Differentiation and the European Union's Foreign and Security Policy", in *EU IDEA Research Papers*, No. 9 (June), https://euidea.eu/?p=1888

Thorhallsson, Baldur (2015), "How Do Little Frogs Fly? Small States in the European Union", in *NUPI Policy Briefs*, No. 12/2015, http://hdl.handle.net/11250/284448

Wivel, Anders (2005), "The Security Challenge of Small EU Member States: Interests, Identity and the Development of the EU as a Security Actor", in *Journal of Common Market Studies*, Vol. 43, No. 2 (June), p. 393-412

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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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