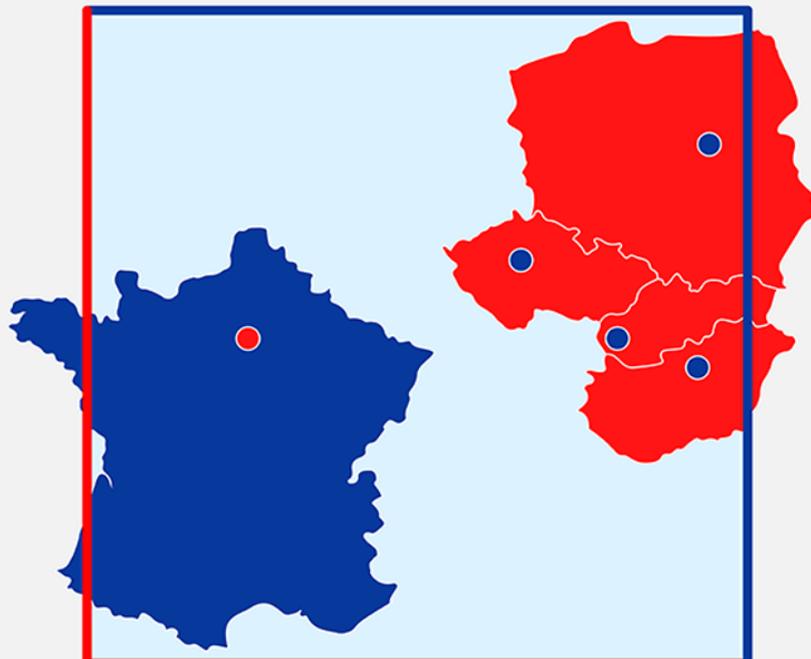


POLICY PAPER

Differentiated Integration in the Defense Cooperation in Europe

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- **The objective of this paper is to assess tectonic shifts taking place in the area of EU's security and defence policies and to analyse consequences of these developments on the overall EU's integration process. Progress in the defence cooperation could be subscribed to 3 intervening variables occurring more or less at the same time.**



Introduction

Firstly, Brexit has undermined the idea of European unity and if successful, EU would most likely lose one of the most important military, defence and intelligence contributor. At the same time, Britain's traditionally sceptical view on further deepening in areas other than the single market is opportunity for France or Germany to proceed in boosting integration also in sensitive areas. Second reason is connected to current US administration approach to Europe and what many perceive as a weakening of trans-Atlantic partnership. President Trump touched upon the issue which his predecessor avoided at all costs – how serious are NATO members in their commitments, if they are unable to contribute to agreed common budget with their fair share? Third, activity of French president Macron reinvigorated debates about the future of the EU integration in many aspects, including defence. Hence, the momentum favours pro-integrationist forces in the Union and it seems progress might be achieved also in sensitive areas such as deeper defence cooperation. In other words, what has been traditionally perceived as an intergovernmental area heavily guarded by the nation states, has now been increasingly penetrated by communitarian logic.

Related to that, the flexibility of the EU Treaties allows countries to participate in the project of European integration at different depth and breadth. Tools such as Enhanced Cooperation and Permanent Structured Cooperation (PESCO) encoded in the Treaties are apt examples of the flexibility given to Member States in deciding what kind of institutional ties they want to develop with the rest of the bloc. In past years the area of defence was subject of deeper cooperation also outside the EU Treaty framework. Latest example of this is the European Intervention Initiative (EI2) spearheaded by French President Macron which has now become reality.

This paper focuses on the formation of the two latest initiatives in defence integration – PESCO and EI2. Generally speaking, both initiatives could be seen as a part of overall

package to strengthen the area of defence and security cooperation in the European Union (EU). They provide political framework for countries willing to commit to deepening the defence cooperation. Since both initiatives represent an example of differentiation in European defence, aim here is to understand their effects on the mechanism underlying the process of European integration.

Paper first starts with the discussion on differentiated integration by distinguishing among three related but at the same distinct dynamics of differentiation in Europe. Then it goes on by analysing development and potential political ramifications of both initiatives on the process of integration in defence and security areas. Third part analyses shortcomings of both initiatives in terms of their democratic accountability. Conclusion follows.

European Differentiation vs. Differentiated Integration vs. Differentiated Disintegration

Notion of differentiation reminds to students of European integration that the EU is composite of varying states differing in their cultures, histories or habits of ordering their political matters. Multi-faceted internal structures of administration manifest in different forms of organizing agenda along sectoral or territorial lines. This causes certain distinct form of differentiation. Thus, Fossum (2013) is right to argue, that in an attempt to disentangle conceptual variances in EU's post-crisis institutional order, it is important distinguishing first between differentiation and differentiated integration. The former is more general, it refers to how societies became more differentiated during their evolution along political, socio-economic, functional and sectoral lines, while differentiated integration refers to specific features within the European integration process where in effort to centralize and govern policy fields vertically, states come together and form new political

¹ This work was also supported by the Slovak Research and Development Agency under the contract No. APVV-15-

0732.

systems (Fossum, 2013, see also Schimmelfennig et.al. 2015).²

It is widely recognized by both academics and practitioners of the European politics that combination of concurrent crises and security threats created asymmetries and tensions in the EU's institutional structures (see Leruth and Lord, 2015). Abrupt crises generated nuanced institutional responses and amplified embedded structural variations within the Member States' administrative set up. These processes augmented differentiated integration where centralization of authority and its scope of territorial influence vary across policy fields (see Fossum, 2013; Laufen et.al. 2013).³

It has become clearly evident that the EU that emerged from the crises (financial, migration, security) is more nuanced. This raised questions whether the increasing differentiation is the answer or symptom accompanying crises. It also inspired further investigation, whether increasing differentiation is institutionally sustainable, democratically legitimate and politically acceptable form of ordering governance in EU's multilevel political order. As a consequence, it has become uncertain whether Member States still follow the same integrationist scenario and move in the same direction.

Thus, in the EU, particularly after the crises, context of debates about European integration shifted from the vision pursuing unified integrationist scenario to scenarios where countries follow integration in multiple directions leading to all but the same end (cf. Stubb, 1996; see Holzinger and Schimmelfennig, 2012). The concept of differentiated integration had undergone significant foundational changes in last decade. Before the crisis, the differentiated integration was usually used as an analytical device helping to explain why some member states are getting involved in additional sectoral policies while others

stand by. Simply put, political systems, constitutional rights, level of socio-economic development or level of accountability of respective executives greatly varies across the Union, hence some countries are more prepared to take up tasks stemming from deeper integration, while others need more time. Generally speaking, differentiated integration was supposed to lead to concurrence – all Member States would reach the same destination but at different speeds. While the concept of differentiated integration initially sought to understand the dynamics of homogenization of policies and politics across the EU, now we actually witness increasing heterogeneity among the Member States commitments vis-à-vis the EU institutions.

Differentiated integration could be perceived as a EU's coping mechanism with increased heteronomy of international environment that manifests itself in EU's internal institutional setup. Union's current constellation combines three distinguished dynamics. For some Member States it allows to unshackle from stagnation and accelerate the integration process, for others it means disintegration (or fragmentation); and it represents overall greater differentiation in committing to EU institutions and its policies for all (Fossum, 2013).

Furthermore, it is also important to add, that the process of differentiated integration is closely tied to differentiated disintegration, i.e. "selective reduction of a member state's level and scope of integration" (Schimmelfennig, 2018). Recent empirical evidence of differentiated disintegration is Britain's decision to leave the EU. However, it should be reminded that this does not necessary manifest only in this extreme form. History of European integration reminds us that countries had used this instrument as a defensive mechanism against further deepening when they were granted several opt-outs, allowing them to negotiate looser affiliation with the EU

² Schimmelfennig, F., Leuffen, D. and Rittberger, B. (2015) 'The European Union as a system of differentiated integration: interdependence, politicization and differentiation', *Journal of European Public Policy*, doi:10.1080/13501763.2015.1020835

³ Leuffen, D., Rittberger, B. and Schimmelfennig, F. (2013) *Differentiated Integration. Explaining Variance in the European Union*, Basingstoke: Palgrave Macmillan.

however, only members of the Council representing the participating Member States take part in the vote based on qualified majority rule (Art. 46, (3) TEU). Treaties also allow for possible termination of the membership in PESCO to a Member State which “no longer fulfils the criteria or is no longer able to meet the commitments” included in the Articles 1 and 2 of the Protocol on PESCO (Art. 46 (4) TEU). All decision and recommendation made by the Council within the PESCO framework are adopted by participating Member States under the unanimity rule.

Important element included in the Treaties concerning the PESCO initiative is its emphasis that all Member States respect their obligations and see their common defence being realised under the NATO. PESCO is by no means an attempt to undermine or duplicate NATO capabilities, rather the opposite, it envisages compatibility with the common security and defence policy established under the framework and is by this designed to strengthen NATO's European pillar.

Since the Member States opted for PESCO to be as inclusive as possible, it might go on expense of its effectiveness. There are no meritorious requirements for country to fulfil in order to join the initiative. Very vague wording of the whole provisions opens for interpretations of who is actually capable to become a member and at the same time it is difficult to elucidate whose presence would actually make the difference. Moreover, due to PESCO's legal ambiguity, for the time being, it is unclear what would happen if national elections produce euro-sceptic leaders, who might eventually back off from the initiative and decide to reverse their defence policy.⁶ Moreover, it is also difficult to determine in future on what grounds should country be suspended from the initiative. Despite these issues, would countries decide the PESCO to have non-inclusive character, as originally envisaged by Paris and later projected in the

EI2, it would institutionalize already existing broad divide in the area of defence between participating Member States.

Defense cooperation in the EU and differentiated integration

PESCO arguably pertains to one of the EU's latest initiatives which increases differentiation in the level of participation in the EU integration process among the member states (see Fiott et. al. 2017). With 25 members states on board however, one can argue the opposite, that this form of cooperation has rather unifying character as it includes overwhelming majority of the member states (see Figure 1 below).⁷ Whilst this might be true on the surface, looking closer on the PESCO initiative I'll try to explain here that it should be rather considered as an instrument of differentiated integration which allows variation from within.

⁶ Fiott Daniel, Missiroli Antonio and Tardy Thierry, Permanent Structured Cooperation: What's in a name?, Chaillot Paper No. 142, European Union Institute for Security Studies: November 2017, p. 53.

⁷ Great Britain, Denmark and Malta are not participants in the PESCO. Great Britain from obvious reasons connected to ongoing Brexit decided to stand by. Denmark negotiated opt-out from defense cooperation during its accession to the EU and Malta's Constitution might be in conflict with participating in PESCO.

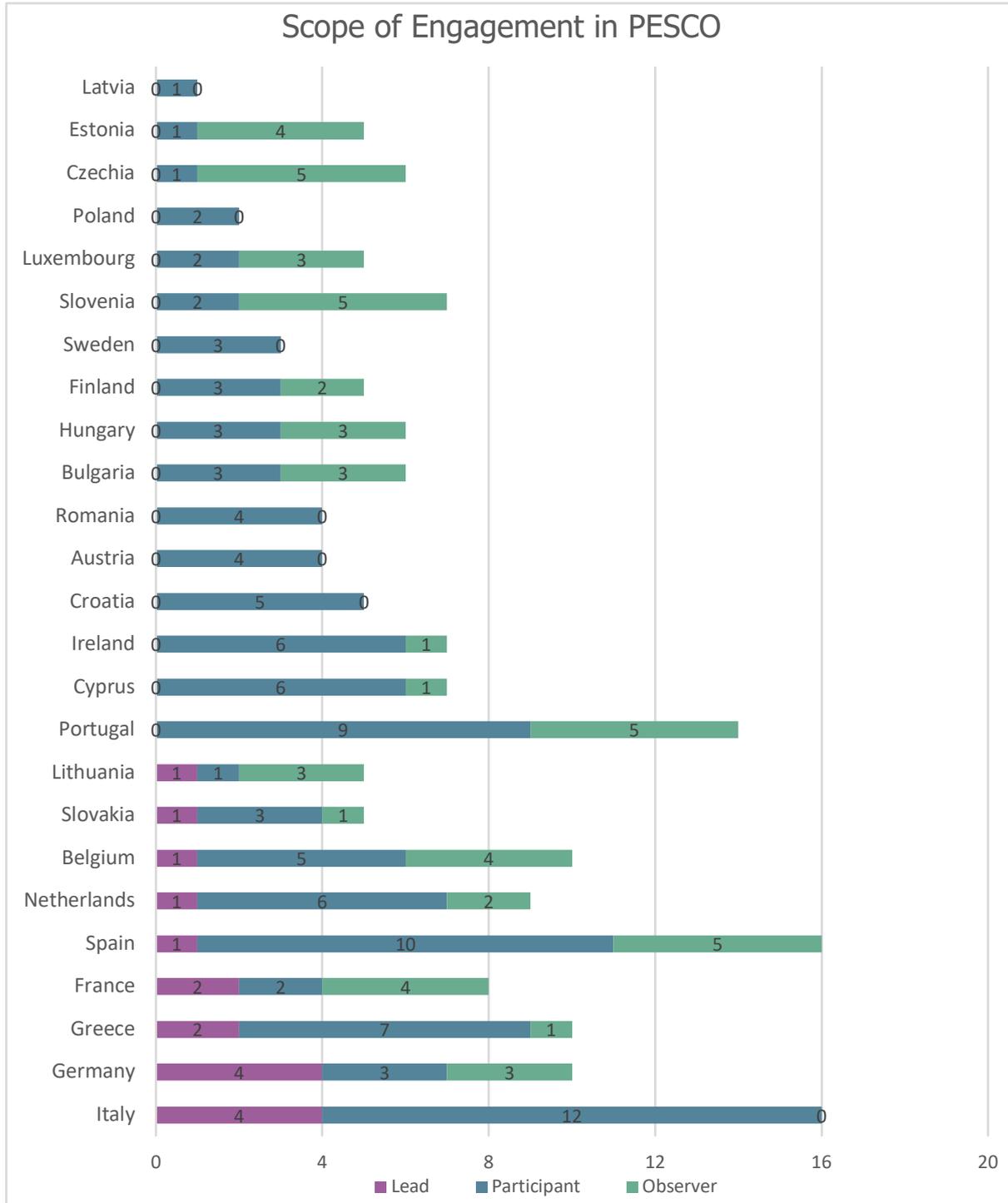


Figure 1 Scope of Engagement in PESCO

As envisaged in the Treaties establishing PESCO, participating member states could choose their level of engagement. On the other hand, enhanced cooperation (Unified Patent Court, Divorce Law or European Public Prosecutor) and other instruments of differentiated integration created outside the existing treaty framework (European Stability Mechanism or Fiscal Compact) are dichotomous, i.e. they envisage a uniform application of agreed rules and gave no option for participants to choose extent to which they are included in the initiative in terms of their scope of engagement.

Member States can participate in PESCO in three forms: assertive Member States can propose and take lead in agreed projects; Member States can choose and actively participate in projects suitable for them; or they can choose passive engagement and have status of observer. In other words, PESCO allows to Member States to be formally included in the initiative while creating loosely coupled ties with others. Further engagement in projects is solely up to the Member State and in this way differs from other instruments used to advance differentiated integration. Moreover, it also allows participation for non-EU Member States (possibly opening way into initiative for London, if Brexit is about to happen and other non-EU countries). Thus, PESCO should be referred to as an instrument that allows member states further differentiation *within* ongoing differentiated integration.

European Intervention Initiative

Only after political pressure from German Chancellor and European Commission, who both envisaged PESCO to have inclusive character, France eventually gave in.⁸ Initially it seemed that Paris came to terms with creating inclusive PESCO. France even proposed relatively high number of projects on which has also taken lead. But

⁸ See Council conclusions on Security and Defence in the context of the EU Global Strategy, 9178/17, 18 May 2017, para. 16. and European Council, European Council conclusions on Security and Defence, Press release 403/17, 22 June 2017, para. 8.

⁹ <https://euobserver.com/news/25667>

¹⁰ At the time of writing Letter of Intent establishing EI2 was sent and signed by 10 countries (Belgium, Denmark, Estonia,

despite that, Macron reinvigorated years old French idea of creating European intervention forces (EI2).⁹ Naturally, this raised questions about “the complementarity of French efforts vis-à-vis PESCO” (Duke 2019).

Macron’s perception of progress in defense cooperation consisted of vision to form exclusive club of few willing member states capable to deliver.¹⁰ French frustration with the effectiveness of decision making at the EU level is understandable and historically well documented. Two examples from recent past are quite telling: France required more burden sharing from the EU in form of financial support to operations in Central African Republic in 2013 and required assistance in Sahel and sub-Saharan Africa and in fight against the Islamic state in the wake of Paris terrorist attacks in 2015. Both calls fell short when the Member States held position that the EU could not finance military operation unless they are involved also in the operation’s decision-making processes in case of the former, or when France received relevant contribution only from handful of Member States, in case of the latter (Nováky 2017). Furthermore, just in recent years French armed forces have been deployed at home as a cautious measures to protect sensitive areas in France, abroad in the Sahel region, areas of Burkina Faso, Chad, Mali, Mauritania; and in the Middle East as a part of international coalition fighting Islamic State in Iraq and Syria (Nováky, 2018). As a consequence, French Chief Defense Staff General raised concerns about the overstretch of armed forces and further defense cuts from Macron’s administration, what has ensued into his resignation in 2017.

As the letter of intent establishing EI2 sent to selected defence ministries reads, the EI2 is a “flexible, non-binding forum of European participating states which are able and willing to engage their military capabilities and forces when and where necessary to protect European security interests, without prejudice to the chosen institutional framework”.¹¹

Finland, France Germany, Netherlands, Portugal, Spain and United Kingdom).

¹¹

<https://www.bmvg.de/resource/blob/25706/099f1956962441156817d7f35d08bc50/20180625-letter-of-intent-zu-der-europaeischen-interventionsinitiative-data.pdf>

This is confirmation of French Defence and Security Strategic review (2017). Furthermore, Paris openly admitted that in order to move things further in defence cooperation it is necessary to adopt “differentiated approach” in defence matters with the “highest priority being given to the more willing and able European nations” and in this in mind the EI2’s goal should be to develop “shared doctrinal corpus, a credible joint military intervention capability, and appropriate common budget tool” (pp.60-61). Clearly, the EI2 is a French attempt to overcome dissatisfaction with the slow progress and lethargy in defence cooperation at the EU level. By establishing the EI2 outside the EU Treaty framework Paris believes it could surmount EU’s institutional rigidity in times when deployment is needed and not waste time with deliberation and attempts to build coalition of willing in the time of crisis. Moreover, it could engage with the UK which possess necessary military capacity for the EI2 to become operational and could rely on Denmark which has well documented history credibility in defence cooperation within the NATO framework, but opt-out from military cooperation within the EU framework prevents Copenhagen further integrate in this field.

If potential weakness of the initiative are adequately addressed, EI2 has indeed potential to fill the gaps of existing frameworks, be it NATO or the EU and to converge strategic culture among the core European group. In this regard, with Germany on board, the operational flexibility of the initiative raises few concerns. Due to its complicated history, Berlin is reluctant to use its military muscle and usually relies on softer approach and diplomatic solutions. German abstention in the UN authorising air-strike against Gaddafi in Libya or Assad in Syria are case in point. Another friction could arise from the fact that EI2 is over-focused on the Sahel and Sub-Saharan region. This could potentially limit the interest in other, mainly Central European countries, in the initiative, as they see it as an attempt of colonial powers to fill the power vacuum created after the decolonization period. Nevermind the crisis management could stabilize the ongoing conflict in these regions of Africa

and potentially decrease inflow of refugees fleeing their countries for Europe - approach advocated mainly by leaders of Central Europe in the wake of migration crisis.

Executive governance in defence and democratic accountability

PESCO and the EI2 represents a policy initiative that could streamline diverging strategic cultures and place where countries could cooperate on the basis lowest common denominator. As explained above, one of the main reasons for lack of progress in integration of defence cooperation was that this is also arena where communitarian logic clashes with the intergovernmental one. PESCO’s legal provisions as currently set out, situate locus of decision making and de facto political powers into the European Council. European Commission, represented by the European Defence Agency (EDA) basically “acts under the Council’s authority, and benefits from direct political guidance from Defence Ministers and high-level national defence stakeholders”.¹² Thus, current institutional set up creates situation where area of security and defence policy are being centralized and has seen considerable “Brusselsization”, because European Parliament (EP) is largely excluded from these processes (Fossum, 2013, pp. 7). In this way, the only democratically directly elected supranational institution has only limited access to and control over policies decided at the EU level. Looking at the political reality on the ground, lack of controlling mechanism over decision-making processes in the Council in the security and defence by directly elected body, have potential of increasing democratic discrepancies. Consequently, this trend has serious political implications for overall democratic accountability of the Union.

The EI2 which is designed outside the existing EU Treaty framework also raises important political, legal and legitimacy questions. This form of agreement among the Member States, or “satellite treaty” complements EU integration but is located outside the supranational legal

¹²

https://www.eda.europa.eu/docs/default-source/documents/2017-09-25-sede-meeting_itr.pdf

and institutional framework (see Thym, 2017). By contrast to enhanced cooperation or PESCO, this approach advances differentiation among the Member States areas without the EU competencies. Differentiated integration pursued beyond the existing EU treaty framework could be perceived by intergovernmental account as following state interests, what consequently impedes on the idea of integrating Member States in the field of defence and security and complicates creation of common strategic culture. And similarly, as is the case of PESCO, processes controlling the actions of government by national parliaments is not addressed.

From strictly democratically normative perspective, member states' executives should be held accountable to the directly elected national parliaments which exercise control and oversight over funding of defence policy. Deliberations on defence and military spending is in most of the countries exerted by national parliaments in budgetary or defence committees. Role of national parliaments acting as control mechanisms is in these questions indispensable. Hence, if the defence spending related to PESCO becomes closely monitored, coordinated and decided upon on the EU level it might create additional democratic discrepancy and grant more power to the Council via national executives. The EI2 is in this regard problematic as well, because for the sake of efficiency, questions of military deployment would be most likely decided again by executives without needed oversight of the parliaments.

On the other hand, if executives would have to consult national parliaments, effectivity of decision making in PESCO or EI2 would greatly suffer. Nevertheless, without rigorous democratic control of directly elected supranational body i.e. the EP in case of PESCO and limited control of national parliaments in security and defence questions in case of PESCO and EI2, both initiatives could be easily undermined and turn into "executive federalism" in European defence sector.¹³

¹³ Wolfstädter, K.M. and Kreiling, V. (2017). European integration via flexibility tools: The Case of EPPO and PESCO. Jacques Delors Institute Berlin, Policy paper.

Conclusion

This paper tries to shed some light on ongoing integration in European defence cooperation. In doing so, it analysed establishment of two latest initiatives in this area – PESCO and EI2. These initiatives are quite distinct when it comes to their legal foundations. However, what they have in common is the uncertainty about how democratically accountable both initiatives actually are. Paper asked if the differentiated integration leads to progressive domination of executives in defence cooperation in Europe and if so, what ramifications does this have on overall democratic accountability of the project? Clearly, differentiated integration is not only a way how to overcome technical difficulties in further integration, but has broader ramifications on the European project. To paraphrase Thym, differentiation signifies co-existence of different visions of the future of Europe: how compatible are national preferences with the supranational integration and what are the repercussions for the legitimacy infrastructure of the whole EU's institutional setup (2017). Lastly, what would both initiatives benefit from is increase of democratic control by directly elected institutions, be it national parliaments in case of EI2 and both in case of PESCO, national parliaments and the EP.



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Co-funded by the
Europe for Citizens Programme
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The European Commission support for the production of this publication does not constitute an endorsement of the contents which reflects the views only of the authors, and the Commission cannot be held responsible for any use which may be made of the information contained therein.

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