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Contesting procedural norms: the impact of politicisation on European foreign policy cooperation

Abstract

While there is increasing evidence in the literature of politicisation in the area of European foreign policy, we know less about how this has affected dynamics of cooperation among EU member states and, specifically, the procedural norms that govern this policy. This paper is concerned with how politicisation and contestation manifest at the micro-level and how they might shape everyday EU foreign policy negotiations. It seeks to establish to what extent politicisation – resulting from the emergence of a new political cleavage centred around issues of identity and supranational integration – has driven normative contestation within EU foreign policy negotiations and whether this has led to the erosion of long-standing procedural norms in European foreign policy. Our findings suggest that despite CFSP Council committees being an institutional arena, characterised by intergovernmental, relatively insulated, and technical-level of decision-making, current processes of politicisation linked to the rise of populism and the increasing transfer of authority to the EEAS have increased contestation of norms at the EU level. However, procedural norms have remained relatively resilient to these challenges.

Introduction

That European integration is increasingly politicised and contested is a well-established argument in the scholarship (Grande and Hutter 2016, de Wilde and Zürn 2012). Politicisation can be defined as “an increase in polarisation of opinions, interests or values and the extent to which they are publicly advanced towards policy formulation” (de Wilde and Zürn 2012, p. 140). Growing politicisation in European societies has been animated by the emergence of a new political cleavage centred around issues of identity and supranational integration (the so-called gal-tan axis or “integration-demarcation” cleavage), which has disrupted the “permissive consensus” that characterised European integration for many decades and replaced it for a new “constraining dissensus” (Hooghe and Marks 2009). It is also important to distinguish politicisation, as a long-term process, from contestation, as an instance or an act of opposing certain views, policy positions or norms (see Biedenkopf *et al.* forthcoming). While the introduction to this Special Issue sees contestation as a driver of politicisation (Biedenkopf *et al.* forthcoming), in this paper, we switch this logic around and seek to determine whether politicisation is creating an opportunity structure that might favour contestation in the Common Foreign and Security Policy (CFSP). In other words, does politicisation increase norm contestation and if so with what effects?

Although in different ways and to different degrees, politicisation has been said to affect most EU policies, from economic and monetary integration to immigration to EU trade policies (Schimmelfenning *et al.* 2015,, Young 2017). For a long time, foreign and security policies appeared to remain insulated from such developments, not least because of the intergovernmental and secretive nature of this policy domain (Bickerton 2011, Smith 2004, Sjursen 2012). However, there is increasing evidence in the literature of politicisation in this policy area (see Biedenkopf *et al.* forthcoming, Chryssogelos 2019, Costa 2019). The politicisation of EU foreign and security policies has been linked to the emergence of new populist parties (Balfour *et al.* 2016, Dennison and Pardijs 2016, Martill and Rogstad 2019, Liang 2008), especially where those parties are in government, and become “challenger governments” (Hodson and Puetter 2019). Increasing politicisation of the CFSP is also evident in strategic documents such as the EU Global Strategy of 2016, although in this case,

politicisation has resulted in more (rather than less) integration in EU security and defence policies (Barbé and Morillas 2019). Even when it comes to “hard politics” such as military operations, Wagner et al. (2018) have shown that the deployment of peace and security missions is not exempt from such dynamics.

Thus, to date, we have a generally good picture of the potential impact of politicisation on a range of EU foreign and security policies, but we know much less about how this has impacted the dynamics of foreign policy *cooperation* between member states. In this paper we contribute to the study of politicisation of EU foreign policymaking by establishing how politicisation affects the procedural norms that sustain cooperation. In other words, we focus on how politicisation manifests itself at the micro-level, in negotiations within CFSP committees, and whether it might foster normative contestation. While different norms might be contested in European foreign policy, the paper focuses specifically on procedural norms (norms regulating diplomatic “ways of doing”), and in so doing, addresses a key gap in the literature, since “little consideration has been given to the possibility that the regulatory as well as constitutive norms that underpin EU external relations might themselves be the object of political conflict.” (Costa 2019, p. 790). In order to study the dynamic relationship between politicisation and normative contestation, one first needs to establish whether contestation of procedural norms has increased in recent years; and second, whether this can be linked back to the politicisation of European foreign policy.

It is also important to point out that negotiations within CFSP committees represent a hard case of politicisation in EU foreign policy: as relatively insulated, intergovernmental and institutional arenas operating at the lowest level (or expert level) of decision-making, we would expect a lesser impact of politicisation than in other areas of European integration. Firstly, one of the key assumptions has been that intergovernmental policies have been less impacted by politicisation than those covered by the community method (Costa 2019) as politicisation increases with the transfer of authority to supranational institutions (de Wilde and Zürn 2012). This also links to another issue raised in the literature regarding the distinction between low vs high politics and levels of politicisation. When it comes to high politics (or “core state powers”, see Genschel and Jachtenfuchs 2014), states will prioritise national sovereignty rather than issues of national identity, so politicisation might be less evident in these areas, especially if unanimity is still the prevailing decision-making rule (Schimmelfennig *et al.* 2015).

Second, when it comes to politicisation, it is easier to detect politicisation in citizen and intermediary arenas – through the inclusion of new actors into public deliberations – than in institutional arenas, which are generally dominated by the executive and bureaucratic elites (Hurrelmann *et al.* 2015). The Brussels-based committees, which constitute the focus of this paper, should in theory be relatively insulated from politicisation as public mobilisation is more difficult (Costa 2019, p.794). This is also related to a third point, here we focus on the lowest level of decision-making, CFSP committees, including CFSP geographical and thematic working groups and the Political and Security Committee, which are often also perceived as less politicised and thus more amenable to compromise than higher levels of decision-making such as the Committee of Representatives and the Council of Ministers (see Checkel 2001 Juncos and Pomorska 2011). Last, but not least, foreign policy has been considered as an area of low politicisation or even de-politicisation as member states seek to keep deliberations beyond the scrutiny of public audiences (Chryssogelos 2019). Secrecy tends to “cut slack” as representatives do not need to defend their positions before domestic audiences, facilitating co-operative styles of negotiation (Lewis 2010, p. 655). This also aligns with arguments that “security enacts a special kind of politics that closes down political

debate, escapes public scrutiny and constrains societal deliberation” (Hegemann & Schneckener 2019, p. 135).

Our argument is that despite the CFSP Council committees being an institutional arena characterised by intergovernmental, relatively insulated, and technical-level of decision-making, one can observe ongoing processes of politicisation due to the rise of populism and the increasing transfer of authority to institutions such as the EEAS. We argue that this politicisation has led to increased contestation of procedural norms at the EU level. Yet, the evidence presented here suggests that procedural norms remain rather resilient in the face of normative contestation from “challenger governments”. In order to explore these processes, we start by discussing more generally how politicisation affects European foreign policy and the factors that drive politicisation at the international, European and domestic level. We then explain how we understand the relationship between politicisation, normative contestation and norm robustness, drawing on constructivist scholarship. Empirically we proceed in three steps: we first examine the extent of normative contestation of procedural norms in CFSP; second, we investigate whether this is linked to politicisation and more specifically polarisation; third, and finally, we assess how this has affected the robustness of procedural norms in this policy area.

The increasing politicisation of European foreign policy

Politicisation is related to the emergence of a new political cleavage centred around issues of identity, one that sets in opposition cosmopolitans and communitarians (De Wilde *et al.* 2019). In European foreign policy, this cleavage drives politicisation at three levels: international, European and national.

At the global level, there has been a gradual politicisation of governance beyond the nation state and globalisation as a broader phenomenon (Zürn and de Wilde 2016). Contestation of globalisation has been accompanied by the rise of populist movements and political parties and the contestation of (Western) liberal democracy across the world. As a consequence, we have witnessed an increasing backlash and contestation, with populists blaming globalisation “for a dilution of national distinctiveness and loss of jobs” (Zürn and de Wilde 2016, p. 280). To quote Chrissyogelos (2019, p.608), the process of de-politicisation associated with globalisation has carried with it “the seeds of its own re-politicisation”. Politicisation has been linked to the increasing transfer of authority to supranational institutions (de Wilde and Zürn 2012), but also to the rejection of traditional Western liberal norms such as democracy, human rights, and the rule of law (Sandholtz and Stiles 2009).

At the European level, continuous progress in authority transfer from the nation state to the EU has also resulted in politicisation in the post-Maastricht period, including in the area of foreign and security policy. Eurosceptic parties have opposed the gradual transfer of competences to European institutions in the name of national sovereignty. These arguments have been recently fuelled by the eurozone debt crisis, the refugee crisis and, more recently, the Covid-19 pandemic, leading to border closures and nationalist responses (Borriello and Brack 2019, Braw 2020). Yet, at the same time, the fallout of these crises has also resulted in new integrationist moves, whether in the area of migration (with the creation of the European Border and Coast Guard Agency) or the Covid-19 pandemic (with the Next Generation EU recovery fund), feeding the politicisation cycle. In the case of foreign and security policies, even though CFSP is still presented as a textbook example of intergovernmental governance, the Treaty of Lisbon which entered into force in 2009 was considered by many insiders as revolutionary (Duke 2008). It introduced the possibility of more supranational integration in defence, which is currently taking shape in the form of PESCO (Permanent Structured Cooperation). The creation of the double-hatted High Representative for Foreign Affairs and Security Policy (HRVP)

and the European External Action Service (EEAS) both strengthened the Brussels-based system of European foreign policymaking, while the Commission Delegations were transformed into EU Delegations around the world. For instance, both the HRVP and the EEAS were given agenda-setting powers (Vanhoonaeker and Pomorska 2014) posing a key challenge to national diplomatic services (Adler-Nissen 2014). In the post-Lisbon period, the European Commission has expanded its so far modest role in the field of security, including with the launch of the European Defence Fund (Haroche 2019). All these developments have the potential to increase the politicisation, and thus contestation, in CFSP as they represent the removal of traditional member states' functions to the European level in the areas of "core state powers" (Genschel and Jachtenfuchs 2014, Hofmann 2013). Thus, while institutional changes point towards a more supranational CFSP, we have also seen a "backlash" on the part of the member states resorting to informal channels (Aggestam and Bicchì 2019).

Simultaneously, at the domestic level, we have witnessed populist parties coming into power over the past decade. This has been the case with the Fidesz party led by Viktor Orbán in Hungary since 2010 and the Law and Justice Party (PiS) in Poland since 2015, although other populist parties have achieved positions of authority in governments such as the ANO party in the Czech Republic, Greece's Syriza government, Italy's League and Five Star Movement coalition or Austria's ÖVP/FPÖ coalition. The emerging literature on populism and foreign policy shows that populist right radical parties tend to be opposed to EU integration, citing migration issues and "the loss of sovereignty" (Verbeek and Zaslove 2017, p. 19, see also Varga and Buzogány 2020). Some fundamental norms behind European foreign policy are likely to clash with the domestic agendas of far right populists, especially those related to questions of solidarity. For example, sovereignty is often defined in countries like Hungary or Poland as opposed to the EU's "interfering" in domestic politics especially in the areas of the rule of law and migration (Coman and Leconte 2019). Yet, recent research has also noted that there is still a high degree of divergence regarding these parties' policy preferences in foreign policy (Falkner and Plattner 2019). Moreover, an initial study of the impact of populism on Indian foreign policy (Plagemann and Destradi 2018) has shown that the arrival of populist parties affected procedural norms rather than constitutive norms in the area of foreign policy. This article contributes empirically to this literature by looking at the case of CFSP negotiations.

The preceding discussion shows how the politicisation of EU foreign policy in the post-Lisbon era is driven by the opening of the communitarian vs cosmopolitan divide across these three different levels rather than a single one of them. It already points out to the fact that politicisation in CFSP negotiations is likely to take the form of a more intense political conflict or polarisation as positions between different actors move further apart from each other (Biedenkopf *et al.* forthcoming). But before we examine the potential impact of politicisation on normative contestation in CFSP, it is important to clarify what we mean by normative contestation and norm robustness.

Conceptualising norm contestation and norm robustness

Rather than seeing norms as static, this article seeks to understand whether and to what extent increasing politicisation has challenged, undermined or transformed CFSP procedural norms. This is in line with current research on norms, which has examined the dynamism, changes and strength/robustness of norms in different periods and across contexts (Zimmerman 2017). Norm contestation can be understood as a relevant factor explaining variation in norm robustness and potential norm erosion. Here we draw on the work of Antje Wiener who defines norm contestation as an "interactive social practice" which expresses "disapproval" of particular norms. She also distinguishes between fundamental, organising principles and standardised procedures (Wiener

2014, p. 2). In this article, we follow a slightly different categorisation of norms by distinguishing between procedural and constitutive norms (see Michalski and Danielson 2019, Thomas 2009).

Constitutive norms refer to the “foundational values and principles” of the EU (Michalski and Danielson 2019, p. 334) and include norms such as peace, liberty, democracy, rule of law and human rights (Manners 2001) or the “support for democracy and the rule of law, human rights, conflict prevention, the strengthening of multilateral institutions, free trade and the promotion of development” (Thomas 2009, p. 344). By contrast, procedural norms refer to the “code of conduct” or rules of the game; in other words, the appropriate behaviour an individual should adopt within a particular group in a particular situation (Juncos and Pomorska 2006). According to Michael E. Smith, what started as “informal customs [...] that emerged in day-to-day interactions among EPC officials” would become codified into “explicit, written norms” over time (Smith 2004, p. 117). The development of these practices was the result of a trial and error process. Among these procedural norms, co-ordination reflex, consensus-building and *domaines réservés* are most frequently mentioned in the literature. They are said to have been at work since the 1970s with the creation of the EPC (Juncos and Pomorska 2006, 2011). It is worth mentioning that some of these practices such as consensus-building are not exclusive to CFSP policy-making, but can be found in other EU policy areas (Lewis 2010). The fact that there are no enforceable mechanisms in this field and that unanimity is the rule, however, makes their existence ever more significant. Other practices have been documented in the literature such as confidentiality and the prohibition of hard-bargaining (Smith 2004, p. 122-124); the obligation to justify national positions (Winn and Lord 2001, p. 27); respect for “agreed language” (Smith 2004, p. 124); or those mentioned by the interviewees such as ensuring vertical and horizontal consistency. Thomas (2009, p. 344) also argues that there are two “meta norms” that guide EU foreign policy negotiations: “joint action as an intrinsic value, including support for the functionality and credibility of the EU as a global actor; and consistency and coherence in EU policy-making across time and issue-areas”.

According to Wiener (2014, p. 2), normative contestation can be performed either explicitly (by directly challenging or questioning a norm) or implicitly (by ignoring or disregarding it); it can be “voiced or voiceless” (2014, p. 2). Wiener understands norm contestation as intrinsically linked to social change, rather than the maintenance of the status quo, as “it always involves a critical redress of the rules of the game” (Wiener 2014, p. 2). Normative contestation is a particularly relevant and expected phenomenon in international relations as diversity makes the shared recognition of normative meanings less likely and increases the potential for clashes about norms (Wiener 2014). In this paper we argue that by increasing value divergence among EU member states, politicisation in the form of polarisation makes normative contestation more likely.

There is no agreement in the literature, however, on whether normative contestation strengthens or weakens norms. Wiener (2014) has a more positive understanding of contestation as it can trigger processes that legitimise norms. In other cases, normative contestation has been seen to strengthen norms, such as in the case of the Responsibility to Protect, by clarifying its scope of application (Badescu and Weiss 2010). Yet, too much contestation can also undermine norms (Panke and Petersohn 2012). For instance, norm contestation from powerful “norm challengers” can result in the decline of some norms (McKeown 2009). Hence, this paper also contributes to research that seeks to determine the impact of contestation on norm robustness.

Following Deitelhoff and Zimmermann (2019, p.3), norm robustness is understood here in terms of validity and facticity: “norm robustness is said to be ‘high’ when its claims are widely accepted by norm addressees (validity) and generally guide the actions of these addressees (facticity).” The impact of contestation on norm robustness varies depending on a number of actor-related factors

(e.g. how powerful the challenger or group of challengers is) and structural-related factors (the degree of institutionalisation, normative embeddedness, legal quality) (Deitelhoff and Zimmermann 2019, pp. 9-12). Both actor and structural-related factors will be explored in this article when examining norm robustness.

To determine the impact of contestation on norm robustness, we use empirical indicators of norm robustness/erosion that combine both discursive (e.g. third party reactions to norm violation) and practice approaches (e.g. behaviour consistent with the norm) since focusing only on one or the other is not enough to determine whether contestation has undermined the norm (Deitelhoff and Zimmermann 2019, pp. 6-7). The empirical evidence for this paper comes from qualitative interviews conducted by the authors in Brussels between 2017 and 2019. The data was collected through interviews with national representatives to the thematic and geographical CFSP/CSDP Council working groups and committees, as well as officials working for the European External Action Service (EEAS), who had regularly chaired those working groups or committees and/or attended such meetings. In total, 40 interviews, lasting approximately one hour were conducted for the purposes of this research. Interviews are coded to maintain the anonymity of the interviewees.

The contestation of procedural norms in EU foreign policy

It is important to remember that there has always been contestation of specific decisions in CFSP negotiations and that, as many interviewees mentioned, there is always room for voicing ones' objections within Council meetings. As one of the diplomats put it: "the thinking that we can always have consensus is idealistic" (22; also 28). Yet, while there was agreement on the importance of procedural norms, interviewees also noted a pattern of increasing contestation in day-to-day negotiations in CFSP committees in the post-Lisbon period. The most expressed irritation was caused by incidents where the consensus-building norm was not respected, with some representatives summing up their frustration as: "It is impossible to come up with a common position!" (37). Interviewees were not only frustrated with the blocking of particular decisions, but with the fact that the usual "way-of-doing-things" was not being respected, in other words, procedural norms themselves became the object of contestation. By contrast, while some countries might often block decisions, they were still considered to be acting in a "professional" way if they respected these norms:

Some member states have issues blocking; others not so much. France is happy to threaten to block at any level – but they are very efficient using other means of influence. The Netherlands is a middle size country, they are outspoken, but [there are] no negative perceptions because they block lots of things (enlargement, debt-eurozone), because they are very professional, so it is difficult to criticise them (30).

Since there have always been member states opposing particular decisions, whether some behaviours challenge long-established norms or just constitute the "normal" in European foreign policy cooperation requires careful examination. In order to establish whether a discourse or behaviour amounts to normative contestation, one needs to look at how contestation operates. Drawing on our empirical evidence, it became clear that interviewees saw these as instances of non-compliance with the norm of consensus-building when 1) national diplomats challenged the consensus without any clear justification; 2) it was always the same representatives that became isolated within the group; 3) the national representative went against previously agreed positions within the committee. In this respect, the interviewees singled out Hungary and, to a lesser extent, Poland - both of them with far right populist parties in government - as the norm violators (e.g. 21, 27, 39, 40).

Firstly, it is generally accepted that member states can threaten the use of veto in the intergovernmental arena of CFSP where national interests might be compromised, the so-called “red lines” (32, 34). It happens to most representatives that, from time to time, they will have instructions putting them at odds with the vast majority of national positions due to vital national interests. In those situations, they can contest the majority’s agreement as long as they publicly justify their position. This would not fall within the category of norm contestation (i.e. contesting the norm of consensus-building) as it is covered by one of the exceptions (protecting a vital national interest). As one interviewee put it: “You can challenge consensus if there is a clear national interest, then this is accepted” (28). Opposing where there is a long-standing national interest at stake is perceived to be reasonable (see also Michalski and Danielson 2019, p. 13), but needs to be justified (29). By contrast, interviewees considered that contestation was unjustified if, despite an issue not being politically salient, it was used by a national government for domestic political reasons (22, 37). Thus, the perceived reason for undermining the consensus was considered important. As Aus puts it, EU negotiations are usually driven by the logic of “if you oppose, you have to speak up” (in Smeets 2015, p. 300). It also explains why officials also tend to avoid being isolated as it is more difficult to justify one’s position when no other country supports it.

Second, if it is always the same representatives opposing decisions, this will also be considered to breach the code of conduct. Scholarship on CFSP negotiations had, for instance, identified an established norm of “not making trouble” and not becoming regularly isolated within one’s group (Juncos and Pomorska 2006). According to an interviewee: “you never want to be the last one to say no. You feel the pressure, so you try and build consensus.” (29). Or another one: “We need to be in coalitions, otherwise you look like a troublemaker.” (24) This is closely linked to the norm of “keeping everyone on-board” in the process of consensus-seeking. Officials need to “pick their battles’ and cannot ‘raise their flag on too many issues” (Smeets 2015, p. 300; also interview 28) as this might reduce their legitimacy and effectiveness within the group. Although it was acknowledged that larger member states might be forceful during negotiations, there is a limit to what they can do: “If they press too much, the others will resent that” (24).

Finally, another important procedural norm is the need to maintain horizontal and vertical consistency. This means not re-opening issues that were once closed within the committee or at a lower level of negotiations, i.e. agreed at other thematic or geographical committee meetings. National diplomats also need to respect the “agreed language” within the group and previous compromises on a specific issue. As explained by a diplomat:

You should never be in a position that you do a U-turn, this would undermine your credibility. You can change your position because you are forced by others or because other issues are linked. But U-turns are not good because they undermine the reputation of the representative and the nation. (34).

Post-Lisbon developments provide evidence of contestation of longstanding norms in CFSP. This is especially the case when it comes to Hungary, whose “capital did not mind being isolated” (21). One of the interviewees described the behaviour of Hungarian diplomats as though “they are not afraid of anything” (18), which may be interpreted as not being afraid of social pressure and violating the well-established procedural norms. Alongside Hungary, Poland was also mentioned as contesting the agreed norms. A diplomat saw this as “blocking for blocking” (28) and yet another one expressed in the following manner: “There is silly and disruptive behavior of Hungary and Poland. They have no interest in taking into account the opinion of others. It’s sad.” (21). Another added: “For Hungary and Poland it is true that it is more important what they say than what they achieve” (25). A Polish diplomat put this rather bluntly: “It is not that important whether we achieve anything, but it is

important that our voice is heard” (19). For many of these representatives, the performative and symbolic nature of these actions (especially vis-à-vis domestic audiences) was more important than achieving a particular policy outcome. Michalski and Danielson (2019, p. 10) also found that certain PSC ambassadors did not mind being “seen as obstructive” and blocking decisions even where the national interest was not at stake. A similar attitude could be observed in a much higher setting, during the vote on the extension of the mandate for the European Council President Donald Tusk, when Poland seemed relaxed about being isolated and called for a formal vote, which they lost 27-1 (37).

Moreover, vertical and horizontal consistency was now seen as not respected by countries who, once issues were agreed, would “come later and block” (22). A diplomat explained the case of a proposal that had been negotiated during months and where the Hungarian representative had not raised any issues during those long negotiations. A sudden change in the country’s position was described as “taking the issue hostage at the political level at the last minute” (40). According to this official this undermined the credibility of the country. “Unpredictability” was highlighted as a recurrent problem, for instance, regarding Hungary’s position on Belarus and Russia (27). Again, the context of these actions was considered important. It was not just the blocking, but also the perception that the reason was not linked to the specific item but to domestic politics (and for domestic audiences) and that those representatives had failed to properly explain the national interest at stake at given situations.

As mentioned in the literature, breaking these norms incurs costs on the national representative, but also the member state as a whole (Lewis 2005, Juncos and Pomorska 2006, Smeets 2015). According to Mai’a Cross (2011, p. 51) “making an intervention has costs associated with it, in terms of political capital”. Obstructing becomes politically costly when it results in excessive exposure (Smeets 2015, p. 300). The interesting thing is that countries such as Hungary do not seem to care about costs at the European level. On the contrary, they seem to relish the possibility of obstructing things at the EU level for domestic gains. But costs there are, particularly, reputational costs which also result in the reduced effectiveness of national representatives in EU negotiations. For instance, their strategies within Brussels-committees have had a negative impact on the effectiveness of Hungarian representatives and perceptions among other colleagues (20; 25). As mentioned by one official, “Hungary at the moment has a very negative image; while a country such the Netherlands might block as much as Hungary”, yet their image is not so bad (30). According to another: “The present [Hungarian] government puts migration higher; Czechs too but they don’t behave like this.” (36). As a result of this behaviour, Hungary has become the “black sheep” or a pariah state in EU foreign policy circles because of the lack of compliance with long-established procedural (and substantive) norms. In a survey carried out by the European Council of Foreign Relation on coalition building, it was concluded that “[d]espite the often frustrating cluelessness of the United Kingdom in its Brexit negotiations, Hungary has still managed to surpass Britain as the most ‘disappointing’ member state, in the eyes of respondents. Disappointment with Hungary ranked especially high among the EU’s founding members and its affluent mid-sized states.” (Vegh 2019). A Polish representative also acknowledged that “issues regarding the rule of law in Poland, complicate our ability to build coalitions” (30; also 18, 20). Meanwhile, the Polish and Hungarian governments have often argued that they are held to different, higher, standards than the rest of the Union. For example, Poland’s Prime Minister, Mateusz Morawiecki, argued that some member states are treated differently and that EU officials treat Poland as a ‘scapegoat’ (Business Insider 2019). In sum, behaviour that clashes with procedural norms has resulted in reputational costs and sometimes impatience on the part of other member states. Yet, these diplomats from far right populist governments might be leveraging losses at EU level for symbolic gain at the domestic level and so are happy to blame the EU.

Why does normative contestation occur?

To what extent does politicisation explain the increase in normative contestation in CFSP negotiations? Several reasons might explain the contestation of procedural norms, all of which can be linked back to increasing politicisation. First, contestation can happen because procedural norms are misunderstood or their significance is not well-appreciated either in the Brussels-based Permanent Representations or in the capitals (or both). However, considering the evidence from the literature on enlargement and socialisation processes within the Council (Cross 2011, Juncos and Pomorska 2008, Lewis 2010), it is hard to ascribe contestation to ignorance or misunderstanding of the norm in the Brussels realm. Member state capitals have always been slower in taking onboard the informal ways-of-doing-things, but Brussels-based diplomats have been acting for decades as “transmission belts”, explaining the negotiating environment to their masters back at home. Having said that there was a perception by some diplomats that the understanding of the EU at “higher levels” had decreased in some countries where radical right populist governments are in place (19). In Poland, it was mentioned that “the current government has an anti-elitist profile – civil servants are seen as the elite and critical to the government [...] more than expertise they value loyalty” (30).

The second reason to consider is the normative clash between norms in Brussels and those at home. It has been mentioned in the literature that national diplomats operate in hybrid settings (Lewis 2005). While the Janus-face nature of diplomatic work has remained a constant, in a more polarised world, especially where populist governments are in power, the trade-offs of following European vs domestic norms has been significantly altered. If the consensus-building mode of negotiations is considered inappropriate or as sign of weakness at home, the national representative will then face a dilemma of which norm to follow. As her/his career is usually tied to a national Ministry of Foreign Affairs, there is a strong incentive to follow domestic norms. This is especially the case when diplomats feel that their effectiveness (understood in terms of achieving a compromise) is only secondary to the need to make their voices heard (18, 19). Again, Hungary and Poland were mentioned as cases in point. In the eyes of these governments, blocking is “not a weakness” (19) but “about heroism back at home” (21). Gains at the domestic level outweigh any political or reputational costs at the EU level.

The third reason for contestation is the view, among some representatives, that further integration, especially with the ratification of the Lisbon Treaty, has reduced the ability of member states to control foreign policy: “we have now the EU in more areas, removing the space for member states after Lisbon.” (37), remarked one interviewee. This supports the argument that politicisation has been fuelled by increasing transfers of authority at the EU level. As Aggestam and Johansson (2017) have also shown, national and EEAS diplomats have divergent expectations (or role conflicts) about who should exercise leadership in relation to different tasks (e.g. agenda-setting, delivering proposals or external representation). Agenda-setting and chairing of the meetings are particularly sensitive for national diplomats. For instance, member states complain that with the HRVP and the EEAS now taking up this responsibility, they have lost ownership of the agenda and are less compelled to find an agreement:

Before the EEAS, we knew we had to find solutions. [...] Now, with the EEAS, member states just say: “this is not acceptable – you find the way!” The EEAS complicates things, always applying different rules and you never know which they will apply so you don’t focus on the substance (23).

As member states realise the consequences of the transfer of competences to EU institutions such as the EEAS, they have sought to “roll back” or informally take back control by moving negotiations

to higher (and more politicised) levels such as COREPER and the FAC or via bilateral negotiations or like-minded groups (see Aggestam and Johansson 2017). Moreover, there is a feeling that only some countries are able to influence EU institutions and that this increases the power imbalances within the EU (big member states vs small member states; old vs new member states; North vs South). As summarised by an interviewee: “There is an unequal access to the institutions [...] and this is partly why these countries have become assertive” (24). The replacement of the rotating Presidency has had the effect of decreasing the sense of ownership among EU member states and previous expectations of reciprocity and solidarity:

when you were in the chair [pre-Lisbon], you learnt a lot about the system. There was a learning effect with the Presidency [...] As colleagues rotated, there was a sense of solidarity [...] You realised: “I will be in that chair and I’ll need to be solution-oriented”. [...] The fact is that the Hungarian colleague will never be in the chair now [...] Gone is the necessity to play this game, diminished by the fact that there is an impersonal institution at the helm. (39)

By removing this sense of reciprocity and solidarity, the increasing transfer of authority at the EU level has thus contributed to increasing levels of polarisation, with member states positions moving further apart from each other. It is in this context that we can expect increasing contestation of procedural norms such as consensus building.

Last, but not least, contestation of procedural norms is linked to domestic politics, namely, the rise of populism and the arrival of far right populist parties to government (Meunier and Vachodova 2018, Michalski and Danielson 2019, p. 12). As one interviewee stressed: “For a populist government, it is good to be seen at home as the one blocking consensus” (28). Polarisation in the area of CFSP has led to the emergence of two distinctive poles in relation to liberal values, especially where they touch upon issues of immigration and human rights. During the interviews, some national diplomats expressed their frustration with countries blocking or vetoing decisions on issues relating to immigration, the rule of law or human rights, including sexual reproductive health rights (21, 25, 26, 30, 40). Again, it is worth noting that diplomats do not question the right of an EU member state to block decisions where a national interest is at stake, but they question the lack of support/compliance with longstanding EU norms. As expressed by one diplomat: “There is a tendency from a few countries of going towards less value-based interventions.” (21) Another national representative said: “it is a nuisance when blocking happens on issues we should all believe in, on gender [equality], on values, on the position we take on human rights” (25).

While “constructive ambiguity” might allow EU member states to arrive to a consensus on issues as controversial as these ones, there have been several instances where some member states have not even made the effort. The most prominent example being Hungary, which has become very assertive on “human rights, LGBT, migration.” (24; 23; on migration also 26). “In the case of Hungary they are only vocal on one issue (migration) and they see everything we do through those lenses (e.g. CSDP operations).” (29) One official stated: “Hungarians are less constructive, for example on migration, it is a translation of domestic politics” (36).

Disagreements over core values (including rule of law issues and LGBT rights) have also increased the divide between Eastern and Western member states where these policies might be seen to clash with domestic pro-family oriented policies (see Eurobarometer 2018). As mentioned by one representative, “a set of countries in Central and Eastern Europe now try to soften the EU’s voice on human rights. This didn’t use to be the case some years ago” (29). While older member states see with suspicion and even contempt what they perceive as threats to the EU’s core liberal values,

Eastern member states resist what they see as an attack from the EU on domestically salient conservative principles. CEEs assertiveness also evidences a gradual process of learning: “It is a product of direct experience of these states that led them to be like this” (24) or “They (the CEEs) did not use to speak so much, but now they are more confident, more used to EU negotiations.” (29).

Several interviewees referred to the impact of far right populist governments on EU decision-making, the agenda and negotiations, particularly at higher levels (FAC, European Council) (23, 29, 31). These governments tend to conduct a foreign policy that is more driven by “isolationist nationalism” (we can do it on our own) (25). In the case of Poland, it was mentioned that “the narrative in Poland has changed. We are now saying that Europe should be a conglomerate of nations. This change of narrative made a difference also at the lower level [...] We have instructions not to move beyond what is necessary” (20). As summarised by an interviewee: “Some governments don’t care about their reputation. Their domestic situation is more important. They use their blocking here to gain advantage at home. It is not the same atmosphere now.” (37). This impact has been particularly felt in some areas: “CSDP [is now] at the service of migration control. And making a link between migration and security, saying that they are directly linked when they are not.” (31; also 35).

In sum, we can conclude that while there might be issues regarding coordination or misunderstanding between diplomats at home and those at the EU level, most of the explanations above relate to the increasing politicisation of European foreign policy and can be seen as specific expressions of the conflict between cosmopolitans and communitarians (e.g. policies of far right populist governments, resistance against the expansive role of the High Representative and the EEAS), which make the clash between EU norms (including procedural norms) and domestic norms more likely. The question remains to what extent these developments have eroded procedural norms. It is to this issue that the final section turns.

Assessing the robustness of procedural norms

Despite the increasing contestation of procedural norms, most national diplomats acknowledged the continued prevalence procedural norms such as consensus building or reflex coordination and did not question the validity of these norms, even though there were differences in how certain norms were interpreted or prioritised by national diplomats. Most procedural norms were said to be informal in character and therefore no legal “punishment” was foreseen for acting against the spirit of the norm. However, there was a strong sense of social control and peer-pressure to respect the norms into which newcomers are socialised. As summarised by an interviewee: “The norms in the PSC show themselves when someone does not comply. Most of the people are seasoned diplomats, polite, good observers but there is resistance when someone does not observe the norms” (25). Hence, the facticity of the norm (behavioural compliance) is still strong, both in terms of what they think about their own behaviour and that of others. As summarised by a representative “there are some rules of the game, there is a consensus rule” (38). Finding a compromise continues to be the strongest incentive for most representatives, and while contesting particular issues is possible, representatives need to achieve a compromise at the end of the day: “we need to move forward, we need to have a common agenda, so this cannot happen a lot. That realisation is shared by everyone.” (31).

Even though normative contestation has happened, rather than weakening procedural norms or being understood as a valid exemption, it has actually reinforced those norms by triggering condemnation by other states. Specific instances of non-compliance do not always amount to contestation if they go unnoticed or are not explicitly presented as violations of the norm, but in the

examples mentioned in the previous sections, officials repeatedly acknowledged the relevance of procedural norms and tried to “shame” Hungary and other member states that might be seen to breach the norms. National diplomats are also able to identify “appropriate” and less appropriate ways to challenge consensus and ways of behaving accordingly.

To explain the impact of contestation on norm robustness in this case it is worth looking into actor-related and structural factors (Deitelhoff and Zimmermann 2019, pp. 9-12). Regarding the first category, normative contestation of procedural norms has been mostly limited to a number of member states: Hungary, Poland and to some extent, Italy and Greece. In contrast to substantive norms such as the protection of human rights or the rule of law, where an increasing number of countries have joined the challengers (especially in relation to migration), procedural norms have only been contested by a handful of states. That it is always “the same countries” matters as it is not just a case of non-compliance due to lack of knowledge or experience. This is also how it is perceived by others: “it becomes more irritating if it is the same countries. For example, if you say something contrary to the agreed language, then once it is OK, twice is nagging” (25). That it is only a small group of member states and that the biggest member states (i.e. France and Germany) have not joined the group of challengers might also explain why these instances of norm contestation have not undermined the robustness of the norms.

Structural factors might also go some way in explaining why these procedural norms remain relatively resilient in the face of contestation. Here, it is interesting to compare contestation of substantive norms with that of procedural norms, with the latter generally showing a higher degree of robustness than the former for a number of reasons. Firstly, and more obviously, substantive norms such as democracy or human rights are more political in nature than procedural norms, and that makes the former more likely to be the target of contestation, especially in the current context of populist politics. As we mentioned earlier, where procedural norms have been contested, it is because of their links to substantive norms. For their part, procedural norms are better defined (less vague) than substantive norms, which also invites less contestation. Procedural norms tend to be better specified and have a narrower scope of application, while many of the substantive norms are not so well specified, and they require specification or operationalisation in each case. The operationalisation of substantive norms means that they are always subject to contestation (Puetter and Wiener 2007, p. 166). One might also advance another explanation, which is that procedural norms are transmitted through professional training (diplomatic training) and they become routinised/habits (Pouliot 2008), making them more resilient to contestation (Percy 2019, p. 136). Finally, it might just have to do with the very nature of CFSP cooperation, with process being more important than substance in the work of the Council (or at least it might be seen this way by the participants). National diplomats see compliance with procedural norms as a necessary form of managing complex multilateral negotiations, making compromise possible or easier (29, 33, 35). Ultimately, these norms are critical to what CFSP is about: a system of cooperation.

Conclusion

This paper has shown that the polarisation resulting from the rise of populism and an “illiberal turn” has increased the likelihood of normative contestation in CFSP. It has shown the implications of the intergovernmental institutionalisation of the cosmopolitan – communitarian cleavage at the EU-level and, in particular, in EU foreign policy. While contestation over specific policy decisions is normal in EU foreign policy negotiations, especially where vital national interests are at stake, in recent years we have witnessed more instances of contestation of procedural norms, e.g. consensus building, the need to consult with or inform others, to avoid becoming isolated within the group or to maintain horizontal and vertical consistency at different stages/levels of the decision-making process.

Developments post-Lisbon provide evidence of such occurrences, particularly involving Hungary, Poland and other representatives from far right populist governments. The empirical examples discussed in this paper point to an increasing reluctance or even disregard on the part of diplomats from these countries to follow “the rules of the game”.

In line with the literature on norms, this article has shown that when norms at the EU level clash with domestic norms, and when they become salient, then we can expect contestation to happen. Procedural norms are more likely to be contested if there is a ‘misfit’ with how far right populist governments (re-)define domestic norms. For instance, the norm of consensus-building may be seen by these populist governments as opposed to strong national sovereignty. Polish politicians, for example, have questioned the fundamental principle of solidarity, proposing instead “flexible solidarity”, which underpins European political cooperation. Being ready to accept compromise is thus understood as a “weakness”, rather than as part of effective European decision-making process, especially regarding issues or debates which might reach the public.

Populism has also altered the cost-benefit calculation, whereby breaking procedural norms at the EU level resulted in excessively high costs (policy-related, reputational or both) for national representatives. Instead, radical right populist governments seem to welcome the domestic benefits of being a “trouble-maker” in Europe. Nowadays it is more salient to signal to their electorate that were ready to fight for the national interest such in the case of the Polish vote on the prolongation of term of office for European Council president Donald Tusk. In a similar vein, at the lower levels of decision-making, representatives may be expected to act more as “national champions”, rather than compromise-seeking negotiators. In sum, a lot of the contestation of procedural norms in CFSP negotiations has to do with the “domestication” of foreign policy, with EU foreign policy debates being hijacked by domestic issues.

Yet, despite the increasing polarisation in European foreign policy, procedural norms appear, so far, rather resilient to such attacks. A lot has to do with the (habitual) nature of these norms, their more specific content and their transmission through diplomatic training. The fact that a majority of national representatives still acknowledges the existence of these norms and are willing to shame those that break the standing rules of the game also provides evidence of their resilience to date. Whether this will remain the case in the long term will depend on whether other more powerful member states choose to join the group of norm challengers.

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