

Qualified majority voting in EU foreign policy: A cost of non-Europe report

Study

The following study deals with qualified majority voting (QMV) and the common foreign and security policy (CFSP) of the European Union (EU). As the EU develops into a geopolitical actor, it is necessary to analyse its existing and future foreign policy decision-making procedures. However, a series of high-profile instances have called into question the EU's ability to act in a rapid and effective manner, especially as the need for unanimity has in practice obstructed EU action on human rights, restrictive measures and common security and defence policy (CSDP) missions and operations. This study shows how unanimity affects the operation of CFSP and how divergences among EU Member States can be managed, before considering what costs and benefits could result from applying QMV in the areas of human rights, restrictive measures and civilian missions under the CSDP. To this end, it employs four case studies focusing on human rights in Hong Kong, restrictive measures on Belarus, the EULEX Mission in Kosovo* and restrictive measures on Russia following its invasion of Ukraine.

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Executive summary

This study assesses the benefits and costs of Qualified Majority Voting (QMV) and unanimity in the area of the European Union's (EU) Common Foreign and Security Policy (CFSP). To this end, this study focuses on four case studies including: human rights and Hong Kong, sanctions on Belarus, the deployment of the EU Rule of Law Mission (EULEX) and sanctions on Russia following its invasion of Ukraine. Accordingly, it draws on academic research, official documentation, a specialist workshop and 20 interviews to uncover the costs and benefits of QMV and unanimity in relation to human rights, restrictive measures and Common Security and Defence Policy (CSDP) civilian missions. As part of the assessment of each of these cases, the study develops a typology that contains four individual categories that are said to form part of the Union's overall credibility in international affairs: timeliness, effectiveness, unity and its ability to dissuade any undue foreign influence. Based on these categories and the four case studies, the following research is divided into two main parts. While the first part analyses the status quo of EU actions in each case and assesses the benefits and costs of unanimity in each instance, the second part analyses potential counterfactual scenarios to ascertain the hypothetical costs and benefits of QMV in each case.

The first case study assessed focuses on the EU's failed attempt to condemn China's 'national security law' for Hong Kong on 30 March 2020. The proposed law curtailed the rights of citizens, led to a security crack-down and tested the Union's commitment to human rights. Having consistently published human rights declarations, a single Member State objected to a statement on 10 May 2021, even if this decision did not stop the Union from applying sanctions on security-related exports to Hong Kong. In this instance, a veto proved detrimental to the EU's human rights position vis-à-vis Hong Kong and China. It impacted the Union's ability to maintain unity and adherence to its founding principles, values and norms, but it did not affect the Union's continued application of sanctions for exports of security-related equipment to Hong Kong. In this case, the study surmises that QMV would have helped the EU overcome the veto and to adhere to its core principles, while also diminishing China's ability to influence EU policy.

The second case study centres on the delay to impose sanctions on Belarus on 21 September 2020. The delay occurred due to disagreement in the Council of the EU about whether the parallel sanctions on Turkey should be implemented. Although the EU eventually did agree to sanctions on Belarus, the case is an interesting example of where an EU Member State seeks to use one issue in CFSP to draw attention to another CFSP matter (e.g. use the Belarus crisis to draw attention to Turkey's actions in the eastern Mediterranean sea). Whereas unanimity slowed down the EU's decision-making process, it ultimately did not stop the Union from imposing sanctions on Belarus. To this end, QMV would have made a difference in the case of a persistent veto on sanctions on Belarus by potentially speeding up the decision-making process, although QMV would have raised questions about EU unity.

The third case investigates the Union's decision to deploy a civilian CSDP mission to Kosovo* in 2008, despite the fact that five Member States did not recognise Kosovo's declaration of independence. The study surmises in this instance that unanimity was overcome by a constructive abstention, and, while this helped with the deployment of EULEX Kosovo, it revealed divisions between Member States and this further challenged the resources available for the mission. QMV may certainly have helped to launch EULEX Kosovo as fast as constructive abstention allowed for, but questions of EU unity and effectiveness would still have arisen in this particular instance.

* This designation is without prejudice to positions on status and is in line with the United Nations Security Council resolution 1244/1999 and the International Court of Justice opinion on the Kosovo declaration of independence.

Finally, the fourth case considers the EU's sanctions on Russia following Moscow's invasion of Ukraine. It analyses the eight sanctions packages, agreed unanimously by the Union from February-October 2022. The study argues that unanimity greatly enhanced the EU's unity and speed of action, while also dissuading Russia from trying to influence EU policy. Even if the effectiveness and implementation of the sanctions packages are open to questions, it shows that in cases of war or rivalry unanimity has greater benefits than QMV, but only to the extent that a veto is not used or where there is a minimal risk of a veto being exercised. In fact, in an alternative scenario where QMV is used for the Union's response to Russia's invasion of Ukraine, the study shows how QMV would have helped overcome Russian influence and led to faster action in case of a veto. However, QMV would not have contributed to EU unity, and it may have called into question the effectiveness of sanctions on Russia.

Table 1: The benefits and costs of unanimity and QMV in specific cases

	Unanimity and QMV
Human rights and Hong Kong	<p>Unanimity severely undermined EU unity and effectiveness and exposed the EU to the risk of undue foreign influence, although it did not impede the timely application of sanctions.</p> <p>QMV would have allowed the EU to maintain its consistency on human rights and speed of action while lowering Chinese influence on EU policy. It would have made little difference to sanctions in this case as they were agreed upon anyway.</p>
Sanctions on Belarus	<p>Unanimity eventually resulted in effective restrictive measures but it did not lead to the timely imposition of sanctions on Belarus due to a slight delay.</p> <p>QMV would have allowed for the faster imposition of sanctions and would not have undermined effectiveness, even if it would test EU unity.</p>
Deployment of EULEX Kosovo	<p>Unanimity was not possible due to the non-recognition of Kosovo by five Member States, and constructive abstention was used instead.</p> <p>QMV would have ensured the deployment of EULEX Kosovo but at the cost of EU unity and possibly the mission's effectiveness.</p>
Sanctions on Russia	<p>Unanimity enhanced EU unity, ensured speed of action, resulted in effective measures and dissuaded Russian foreign influence.</p> <p>In case of a veto, QMV would have helped retain the speed of action and dissuaded Russian influence, but it would have raised questions about the EU unity and effectiveness.</p>

Source: authors' own compilation, 2023.

Overall, the study concludes that the benefits and costs of unanimity or QMV can only be gauged in context-specific cases. There is no general formula that can be applied, and neither can one simply say unanimity or QMV are best suited across every form of EU action. Neither unanimity nor QMV are without faults and hence both approaches cannot be presented as panaceas to the challenges of forging a timelier and more effective CFSP that maintains unity among Member States, while also fending off any undue foreign influence. Nevertheless, the EU's response to the war on Ukraine has shown how Member States are increasingly likely to use constructive abstention or a simple abstention to mitigate having to use a veto.

Based on the four categories and the analysis of each case study, it is possible to state unanimity does not necessarily have to slow down EU action, but, in cases where a veto is threatened or exercised, the biggest cost is to the speed of action and *timeliness* under CFSP. The authors also surmise that unanimity has sizeable benefits in terms of the *effectiveness* of EU action under CFSP. In essence, having all Member States engaged in a policy measure such as sanctions or civilian missions ensures that the widest possible application of measures is achieved. Nevertheless, this study also

argues that the Union faces a bigger challenge of effectiveness, regardless of what decision-making framework it employs (e.g., the implementation of sanctions is a question of enforcement rather than political agreement). As far as *unity* is concerned, unanimity symbolises the highest level of unity among EU Member States and ensures that the Union is a credible actor and one that abides by its fundamental values, norms and principles. QMV challenges the idea of EU unity, even if may lead to more timely and effective EU action. Finally, this study finds that one of the benefits of QMV is how it can help dissuade malign foreign influence in EU affairs. In other words, a veto may be used to block an EU decision and this may be welcomed by potential rivals and competitors.

This study shows how any introduction of QMV in CFSP would not necessarily mean an end to consensus, as governments would likely see QMV as a last resort if unanimity and consensus break down. QMV would also allow for a greater deal of transparency in CFSP decision-making, although the implications of this are unclear today. QMV also has the potential of lowering the risk of undue foreign influence in EU decision-making frameworks, especially if it helps overcome vetoes that may serve the interests of foreign rivals or competitors. Nevertheless, both unanimity and QMV require a more focused assessment of the effectiveness of EU policy, as the case studies reveal that the agreed policy is not always applied in a uniform or stringent manner due to national concerns and exemptions. Thus, this study calls for further investigations into whether existing possibilities under the EU treaties can be exploited (i.e., the Commission or High Representative making human rights statements on behalf of the Union rather than the Council of the EU).

Finally, this study dispels some of the concerns usually mobilised against QMV. For example, it shows that QMV would not be the cause of coalition formation within the EU because such coalitions already exist, even under unanimity. True, disagreement or the use of a veto under unanimity may increase the risk of ad hoc coalitions operating outside the formal structures of the EU, but not having access to the Union's processes, tools and resources would be a disincentive for such action. This study also argues that QMV would not remove issue-linkage in CFSP. Regardless of what decision-making structure in CFSP is favoured, Member States will continue to try to bargain positions for their own interests. However, what is particularly detrimental to the EU is when a veto is exercised in such a way as to imperil the EU's fundamental principles, norms and values.

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List of abbreviations

CFSP	Common Foreign and Security Policy
CJEU	Court of Justice of the European Union
CoNE	Cost of Non-Europe
COREPER	Committee of Permanent Representatives
CSDP	Common Security and Defence Policy
EEAS	European External Action Service
EPP	European People's Party
ESDP	European Security and Defence Policy
EU	European Union
EULEX	European Union Rule of Law Mission
EUPT	European Union Planning Team
HR/VP	High Representative of the Union for Foreign Affairs and Security Policy / Vice-President of the European Commission
LNG	Liquefied natural gas
MEP	Member of the European Parliament
NATO	North Atlantic Treaty Organization
PRC	People's Republic of China
TEU	Treaty on European Union
QMV	Qualified Majority Voting
RRP	Recovery and Resilience Plan
PISG	Kosovo Provisional Institutions of Self-Government
UK	United Kingdom
UN	United Nations
UNMIK	United Nations Interim Administration Mission in Kosovo United
UNSC	Nations Security Council
UNSG	United Nations Secretary-General
US	United States
USA	United States of America

1. Introduction

The Common Foreign and Security Policy (CFSP) of the European Union (EU) is a domain traditionally governed by the principle of unanimity. However, since the treaty of Lisbon there has been a drive towards the greater integration of CFSP and this has resulted not only in the creation of new institutional bodies such as the European External Action Service (EEAS) but also in a recognition that under specific circumstances the Council of the EU could make CFSP decisions through Qualified Majority Voting (QMV). A series of high-profile incidents have lent greater support to this, including the EU's delayed agreement on restrictive measures against Belarus in 2020 and its inability to publish an EU human rights statement criticising China's imposition of a 'national security law' on Hong Kong. Overall, proponents of QMV have argued that the veto power of individual EU Member States stymies rapid and effective EU decision-making, thereby calling into question the international credibility of the EU.

Based on these experiences, the leaders of both France and Germany have voiced their support for introducing QMV in the field of CFSP (in addition to other areas such as fiscal and tax policy). Indeed, French President Emmanuel Macron used his closing speech at the conference on the Future of Europe to call for continuing efforts to 'generalise the use of qualified majority voting across the board' in EU policy (Macron, 2022). German chancellor, Olaf Scholz, in his keynote speech at Charles University in Prague on 29 August 2022 urged the EU to overcome the principle of unanimity so as to ensure more effective decision taking within an enlarged future Union. As he stated, 'in those areas where unanimity is currently required, the risk increases with each additional Member State that a single country will use its veto to prevent all the others from moving forward' (Scholz, 2022).

Yet not all Member States accept the idea of introducing QMV into the area of CFSP. Koenig (2020) showed that 10 out of 27 Member States were opposed to QMV for CFSP in 2019, with only 6 being in favour and 11 having ambiguous or sceptical positions or other/imprecise approaches. Such a diversity of views can be explained in part by different understandings and attachments regarding national sovereignty (Kaca, 2018). However, the size of the Member State and specific constitutional arrangements such as neutrality also matter. Smaller Member States have not been supportive of the idea of QMV with countries such as Austria, Hungary, Latvia, Malta and Poland fearing that any removal of veto power would diminish their influence (Balzan, 2021; Pisklová, 2023: 11). Other Member States, such as the Czech Republic and Slovakia, have either a more pragmatic approach to the question or have not yet formulated a clear national position (Pisklová, 2023: 11).

Nevertheless, EU Institutions and senior EU officials have voiced their support for the introduction of QMV in CFSP. In 2019, the European Commission proposed exploring the use of QMV in the areas of human rights statements, restrictive measures and EU civilian missions (European Commission, 2018; European Political Strategy Centre, 2019). The Commission made the case that rapid and unprecedented societal, technological and geopolitical change required more responsive and agile EU decision-making. In this respect, it called for the full use of the Lisbon Treaty and, specifically, greater reliance on QMV for key policy areas such as CFSP, taxation and social policy (European Political Strategy Centre, 2019). As far as CFSP is concerned, the Commission stated that QMV could help unblock EU action in decisive international moments and lead to more speedy action by the Union in global affairs (European Political Strategy Centre, 2019).

More recently, a number of senior EU officials and EU institutions have reiterated the case for QMV, with the European Commission president, Ursula von der Leyen, restating her desire to see the EU shift to QMV in foreign policy (Herszenhorn, 2022). High Representative of the Union for Foreign Affairs and Security Policy/Vice-President of the Commission (HR/VP) Josep Borrell Fontelles has stated that there is a contradiction between wanting the EU to be a geopolitical actor while also

maintaining QMV (Borrell Fontelles, 2020 and 2022). As HR/VP Borrell Fontelles has argued, '[i]f countries know in advance that the final decision can be taken by a qualified majority vote, they have a strong incentive to negotiate, to create alliances and to shape the consensus. If they know that they can block everything – and are sometimes even compensated for it – they do not have the incentive to invest in a healthy compromise' (Borrell Fontelles, 2022).

Even the Conference on the Future of Europe boldly called for 'all issues decided by way of unanimity' to be changed to the qualified majority (Conference on the Future of Europe, 2022: 170). In its Communication on the conference, the European Commission clearly supported exploiting the 'untapped potential within the existing Treaties [...] notably by using the 'Passerelle clauses' to move to qualified majority voting in certain policy fields' such as 'energy, taxation, and for important aspects of the Common Foreign and Security Policy such as sanctions and human rights' (European Commission, 2022b: 4). However, such conclusions are yet to be supported by citizens in the EU. To date, the Eurobarometer has uncovered that EU citizens have consistently supported the CFSP, with no fewer than 61 % of citizens supporting CFSP consistently since 1992 (European Commission, 2020a: 144; European Commission, 2022a: 17). However, this public sentiment has yet to be translated into a specific articulation on whether or not citizens would support greater use of QMV in the area of CFSP (European Commission, 2020a: 144).

The European Parliament has also played an important role in advancing reflection on QMV in CFSP. For example, the parliament used one of its annual reports on CFSP to call directly upon 'Member States to use QMV for CFSP decision-making' (European Parliament, 2022a). Beyond these political calls, however, the European Parliament has commissioned and published a number of relevant pieces of analysis on the topic. One major study published in 2020 conducted an article-by-article analysis of the EU Treaties to weigh up the pros and cons of moving beyond unanimity in CFSP (Bassot, 2020: 98-99; see also Latici, 2021). Another study commissioned by the European Parliament looked at the legal dimensions of QMV and CFSP (Wessel and Szép, 2022). It concluded that the EU Treaties offer a number of under-used legal possibilities that move beyond unanimity, including constructive abstention and enhanced cooperation (Wessel and Szép, 2022: 84).

1.1. Academic literature

A number of academic and think tank analysts have also highlighted the benefits that could be derived from greater use of QMV in CFSP (e.g., EPRS, 2020a: 127; Novaky, 2021; Lehne, 2022). In particular, some scholars have warned that unanimity could threaten the Union's ability to act in a unified manner during major international crises. For example, Lehne (2022) has suggested that the EU's reaction to Russia's invasion, while highlighting the virtues of unanimity, was made possible only because of consensus surrounding the Kremlin's brutal aggression and pressure placed on European governments by the Biden administration. The flip side, however, is that any international crisis that does not have the United States (US) government's hand guiding European governments would reveal that 'the EU's coherence is not in great shape' (Lehne, 2022).

Scholars have criticised QMV as being 'too naïve a solution to overcome' the fundamental problems within the CFSP, including a lack of consistency between Member States (Pomorska and Wessel, 2021: 357). While they acknowledge that the EU Treaties allow for QMV in the area of CFSP (see Table 1 below), they argue that the default position of deliberately using unanimity masks a more profound challenge. Here, it is argued that the link between QMV and a more efficient and speedy decision-making process is an assumption that requires more research. Such accounts point out that the introduction of QMV in CFSP does not necessarily remove any issues concerning the Union's international credibility. Indeed, a question would have to be asked as to how a decision that does not have the confidence of all 27 Member States, even if agreed to in a speedy manner, could

command the respect of the Union's partners and adversaries (Bendiek, Kempin and von Ondarza, 2018: 7).

Some analysts remain unconvinced that QMV could be useful in most cases. For example, Schuette (2019) argues that QMV could really be beneficial in only one of the three key areas, namely restrictive measures. He claims that in terms of human rights statements and civilian missions, there would be no discernible benefit (Schuette, 2019: 7). Human rights statements are by definition declaratory and they would hold less weight if subject to majority agreement only. The use of QMV in the area of civilian missions is also questionable, as in essence Member States should not be expected to majority vote on a decision that could lead to the loss or injury of citizens being deployed on missions (Schuette, 2019). In any case, civilian CSDP missions are already set up in such a way that no Member State can approve any initiation decision without the consequent dedication of personnel and resources. In this sense, there would be no discernible benefit from using QMV in civilian CSDP missions because there is a gap between decision-making and resourcing these missions (Schuette, 2019).

However, other analysts contend that the use of QMV could lead to political trade-offs and debate within the Council of the EU and European Council, which in turn could lead to the development of a common strategic culture for the EU. Such an argument is based on the notion that QMV could 'push EU Member States to view foreign-policy challenges more from a common European perspective than from 27 national ones' (Novaky, 2021: 14). However, even this view is contended by other analysts that suggest it is more beneficial to focus in the medium term on developing a shared strategic culture through the establishment of collective European threat analysis and intelligence (Bendiek, Kempin and von Ondarza, 2018). This implies that creating a shared strategic culture at the level of the EU27 is an essential task if CFSP is to become more robust and decisive.

Nevertheless, in the context of growing great power competition, other accounts underline how QMV may ensure the EU is less vulnerable to the divide-and-rule tactics of foreign powers. The underlying logic here is that individual Member States could fall prey to undue foreign influence and hence veto EU decisions. Despite acknowledging the importance of individual national sovereignty and interests, there is a risk that external pressure by rivals or adversaries could defenestrate EU officials working on behalf of the Union in international fora. As Türkmen and Björklund (2021) show, the Union was unable to make a statement condemning China's human rights abuses at the United Nations (UN) Human Rights Council in June 2017 because of a Greek veto. Other cases of foreign interference that have influenced EU decision-making include Hungary blocking EU common actions and positions on China's human rights abuses, France blocking an EU statement condemning General Haftar's offensive against the UN-backed government in Libya and Italy blocking an EU statement recognising the opposition leader, Juan Guaido, as the legitimate ruler of Venezuela (Türkmen and Björklund, 2021; see also Baczynska and Guarascio, 2019; Rettman, 2019).

Yet beyond the potential role of QMV in dampening foreign interference, the academic literature has focused on the challenge QMV could pose to EU unity and the Union's established decision-making framework. On EU unity, one analyst has stated that, while QMV has been present within debates about CFSP from the outset, 'Member States favouring such reform did not push hard enough, and a number of smaller countries resisted, as they feared that their particular national interests could not be protected without a veto' (Lehne, 2022). The scholarly literature is clear in stating that any increased use of QMV can be interpreted as a loss of national sovereignty and an increase in supranational power for the EU (Sieberson, 2010). On this basis, it is perhaps no surprise to learn that the President of the European Council, Charles Michel, has been cautious about EU-wide calls for QMV in CFSP. As he stated during a speech in 2020:

'it is true that requiring unanimity slows down and sometimes even prevents decision-making. But this requirement pushes us to work unrelentingly to unite the Member States. And this European unity is also our strength. Unanimity promotes a lasting commitment by the 27 countries to the strategies which have been developed together. So I wonder: would abandoning unanimity really be such a good idea?' (European Council, 2020a).

In certain cases, however, any idea of moving beyond national sovereignty with QMV may hit national constitutional limits (Mintel and von Ondarza, 2022). In this respect, certain Member States may not necessarily be concerned with the application of QMV in CFSP, but they could be concerned about the QMV applying to multiple policy domains including CFSP, tax and fiscal policies. For example, both France and Germany have called for QMV to be applied to tax and fiscal policy as well as CFSP (Vallée, 2022). This makes it even harder for some smaller- and medium-sized states to sign up for the idea of QMV in CFSP, especially if they see it as setting a precedent for the use of QMV in tax and fiscal policy – arguably policy areas of far greater importance to them than the Union's foreign and security policy.

Connected to the issue of national sovereignty is democratic legitimacy. Here, it is pointed out that QMV may raise questions about the democratic legitimacy of decisions if certain governments – and by extension, national parliaments – are effectively excluded from policy decisions. Here, one is reminded that when QMV has been extended to EU policy areas, it has gone hand-in-hand with increased co-decision powers for the European Parliament (Pomorska and Wessel, 2021: 354-355). Should QMV ever be extended to CFSP, then questions about the role of the European Parliament could be raised. Indeed, some analysis has already highlighted how the European Parliament could receive co-decision power in CFSP (Bendiek, Kempin and von Ondarza, 2018: 6). However, questions could also arise over the relationship between the European Parliament and national parliaments. Currently, national parliaments ensure democratic legitimacy in CFSP but a move towards QMV could raise questions about the balance between national- and European-level democratic representation.

What do the EU treaties say about deviating from unanimity in the area of Common Foreign and Security Policy?

Even without changing the existing EU treaties, there are a number of possibilities through which deviation from unanimity in the area of CFSP could be achieved. It is important to note though that the consolidated version of the Treaty on European Union (TEU) underlines that unanimity is the rule when it comes to decision-making in CFSP. This has also been underlined by scholars who state that 'CFSP remains largely in the hands of the Council and of the representatives of member states' governments' (Blockmans, 2014: 48). As it states under Article 31(1), decisions related to CFSP 'shall be taken by the European Council and the Council acting unanimously' (European Union, 2012: 33). However, Article 31(1) does provide for some decision-making flexibility in certain circumstances. Looking at the TEU, these exceptions are:

- 1) Article 31(1) of the TEU allows for the possibility of '**constructive abstention**'. In other words, a Member State could abstain in a vote but yet in doing so signify the tacit acceptance that 'the decision commits the Union'. Consequently, abstaining in a vote would mean that the Member State in question would 'not be obliged to apply the decision' but nevertheless should not then go on to act in a way that would 'conflict with or impede' with the decision abstained from. In essence, the Member State that abstains is not bound by the decision, even if it commits the Union to a decision or action (Llorente-Saguer, Malherbe and Bouton, 2015). Finally, Article 31(1) clearly states that if at least one-third of Member States, comprising at least one-third of the EU's population abstain on a vote, then the decision will not be adopted.
- 2) Article 31(2) of the TEU allows the Council of the EU to make decisions by QMV in '**specific circumstances**' including the appointment of an EU Special Representative (EUSR), which was the case when the EUSR to the Sahel was appointed or when a decision based on a proposal from the HR/VP is adopted that follows a specific request from the European Council. However, Article 31(2) also makes clear that an 'emergency brake' exists whereby if 'A member of the Council declares that, for vital and stated reasons of national policy, it intends to oppose the adoption of a decision to be taken by a qualified majority, a vote shall not be taken' (European Union, 2012a: 34).
- 3) The '**Passerelle clause**' or Article 31(3) of the TEU allows the European Council to decide – albeit unanimously – on the use of QMV in specific policy areas but not those pertaining to military or defence matters. This provision of the Treaty has never been activated (European Parliament's Policy Department for Citizens' Rights and Constitutional Affairs, 2022) but would allow the 'European Council to adopt by unanimity a decision authorising Council to act by QMV' (EPRS, 2020b: 30).
- 4) Article 329(2) of the Treaty on the Functioning of the EU (TFEU) introduces the possibility of '**enhanced cooperation**', whereby Member States may wish to 'establish enhanced cooperation between themselves within the framework of' the CFSP. Here, it should be noted that Article 333 of the TFEU allows the Council of the EU to act by a qualified majority following a unanimous decision to do so (European Parliament's Policy Department for Citizens' Rights and Constitutional Affairs, 2022: 80; Cremona, 2009).

Source: authors' own compilation.

Furthermore, QMV could also disrupt the EU's well-established informal decision-making procedures that centre on consensus building (Pomorska and Wessel, 2021). In particular, there is research to show that unanimity acts as an important political tool during negotiations (Novak, 2013). Novak, for example, argues that unanimity serves as a mechanism for the avoidance of blame when political decisions are taken by the EU. In this sense, consensus allows individual governments to avoid a situation where they have to disclose how they would have formally voted on a policy matter. This lack of transparency, in turn, allows ministers to avoid being 'blamed by their constituencies for having failed to defend national interests' (Novak, 2013: 1092).

Finally, the scholarly literature also indicates that QMV could lead to groups of Member States pushing forward issues, which could not only risk leaving other Member States behind but also present implications for policy enforcement and consistency (Pomorska and Wessel, 2021). For example, QMV may carry a decision on behalf of the Union but some states could simply refuse to implement this decision. Such accounts also point to possible groupings or coalitions of Member States working outside the EU structures in foreign and security policy. One could assume that no agreement on the use of QMV would lead to this path of extra-EU decisions. However, 'coalitions of the willing' in European foreign policy areas are not new and sometimes carry significant costs in terms of trust and legitimacy within the Union's formal institutional and decision-making structures (Amadio Viceré, 2022). In any case, the literature on coalitions in CFSP shows that informal coalitions of Member States already exist today under unanimity (Amadio Viceré, 2022).

1.2. Scope of the study

The purpose of this study is to assess the potential benefits and costs of QMV in the area of CFSP. It, therefore, follows the logic of a Cost of Non-Europe (CoNE)² report. In this respect, this study contributes to an understanding of what change could be brought about in the EU's foreign and security policy through the use of QMV. More concretely, CoNE reports ask what EU added value exists for a specific action. For the purposes of this study, 'EU added value' is defined as whether or not the introduction of QMV in CFSP could lead to more *timely, effective* and *unified* actions and positions, considering also whether or not *foreign actors* could be able to influence the Union's position. Hence, a focus is maintained on the *status quo* of CFSP decisions (i.e. how have unanimous decisions affected CFSP to date?) and alternative scenario analysis (i.e. how could these decisions have played out differently had QMV been used?). Thus, by combining the *status quo* with a forward-looking analysis this study aims to answer the following questions:

- 1 In what ways has the application of unanimity affected the conduct of EU CFSP?
- 2 How, in practice, has the Council of the EU managed unanimity when divergences between EU Member States exist?
- 3 What are the parameters through which the EU's decision-making should be assessed? and;
- 4 What are the benefits of using QMV in CFSP for human rights statements, sanctions and CSDP civilian missions?

To answer these questions, the study is developed through two key sections. The first section aims to outline the costs and benefits of using the unanimity principle as related to four specific cases of EU foreign policy: (1) human rights statements on Hong Kong; (2) restrictive measures on Belarus; (3) the deployment of European Union Rule of Law Mission (EULEX) Kosovo; and (4) restrictive measures on Russia due to its invasion of Ukraine. The second section then builds on these four cases by presenting a series of 'alternative scenarios' that show how the use of QMV could have altered EU CFSP decision-making outcomes. Here, the study will also focus on the implications of these alternative outcomes with regard to the timeliness, effectiveness and unity of EU actions and positions and how the EU could help manage potential foreign interference in the CFSP decision-making framework.

² For example, in April 2019, EPRS published a CoNE report that studied 50 EU policy areas, and it concluded that over EUR 2.2 trillion worth of gains could be achieved through a more rational allocation of resources and better spending coordination at the national and EU levels (EPRS, 2019).

1.3. Methodology

To answer this study's four research questions, a mixed methodological approach is adopted. The study draws on 19 semi-structured individual interviews with EU officials and experts. It also integrates comments and observations made at a closed-door, online, expert workshop held on 31 January 2023, which included feedback on the study from 13 experts and officials. Finally, the study has analysed primary sources and an assessment of secondary materials. This methodology (see Figure 1 below and section 1.2.3 for full details on the interview selection process) has been the most effective way of securing the views of EU policy-makers, as well as offering a comprehensive assessment of the costs and benefits connected with using QMV in CFSP. Finally, this study has undergone three separate rounds of peer review, two rounds were conducted by the Trans European Policy Studies Association and one round was conducted by EPRS.

1.3.1. Case studies

As outlined above, four case studies will be drawn on, which accompany Section one on the '*status quo*' of EU CFSP decision-making, covering CFSP areas such as *human rights statements*, *restrictive measures* and *CSDP civilian missions*. The authors have selected each of the case studies in line with their dependency on decisions taken in the Council of the EU and their relevance to CFSP. In regard to the two case studies which are related to restrictive measures, the relevance is further strengthened by the fact that approximately 80% of all CFSP decisions pertain to the adoption of restrictive measures such as sanctions (European Parliament's Policy Department for Citizens' Rights and Constitutional Affairs, 2022: 51; Wessel et al, 2020). These case studies will serve a dual purpose: firstly, they will be used to describe the *status quo* of CFSP actions and positions; and secondly, they will be used to help build alternative scenarios of EU action and positions where QMV would have been possible. By adopting this approach, the reader will not only better understand the current state of play regarding CFSP action but will also be able to assess how action may have been different had QMV been used. Although the second section will develop these four case studies hypothetically, the study will still offer an assessment of the costs and benefits for each of them.

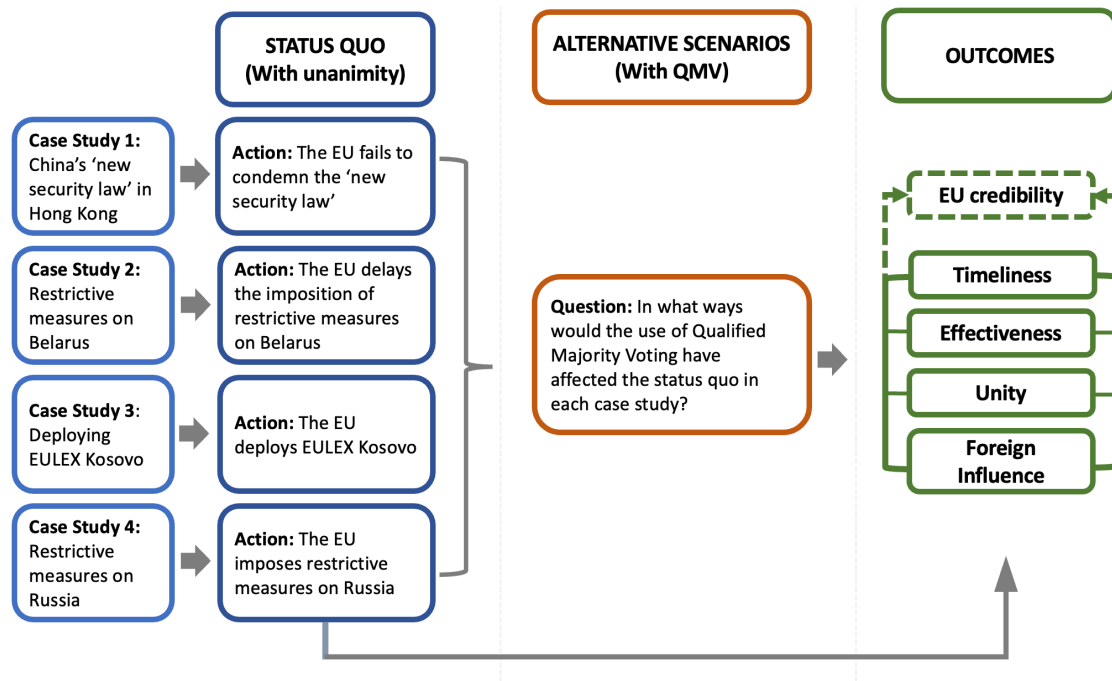
The four case studies focus on different aspects of EU CFSP decision-making:

- 1 The first case study focuses on how the EU failed to condemn a 'national security law' that was imposed by China on Hong Kong on 30 March 2020. The new law was roundly condemned for curtailing the rights of citizens, with the ensuing security crack-down in Hong Kong raising questions about civil liberties and human rights. Although the United States of America (USA), Canada and the United Kingdom (UK) each condemned these new measures and immediately imposed restrictive measures, the EU was unable to agree unanimously on either a common position or the imposition of restrictive measures. This case study has been selected because it displays an instance of EU action based on unanimous decision-making and further, it relates to the Union's most important political objectives: support for democracy, rule of law and human rights. This case study is also salient because it relates to China, which is seen as an external actor with a growing influence on EU policy.
- 2 The second case study looks at the delay in imposing restrictive measures on authorities and individuals in Belarus following the regime's brutal crackdown on citizens in September 2020. The HR/VP of the European Union has publicly stated that the delay in swiftly agreeing to sanctions during negotiations in the Council of the EU led to questions about the Union's international credibility. The case study is also illuminating in that it touches upon questions of EU unity. Indeed, one of the major reasons given for why Cyprus delayed its decision on sanctions was that Nicosia wanted to ensure a parallel track of restrictive measures for Turkey. At the time, Cyprus was notably concerned with the Union's hesitance to sanction Turkey

for of its illegal activities in the eastern Mediterranean sea. Interestingly, therefore, this case study allows us to analyse the EU's delayed action with regard to Belarus while also assessing how it was linked to considerations for the EU's response to Turkey.

- 3 The third case study investigates the Union's decision to deploy a civilian EU Rule of Law Mission to Kosovo (EULEX Kosovo) in 2008. It was the first and largest – and remains so today – undertaking of its kind and EULEX Kosovo was also seen as an important part of the EU's broader approach to dealing with conflict in the region (de Wet, 2009). Politically, the fact that the CSDP civilian mission was deployed at all is remarkable, especially given that five Member States (Cyprus, Greece, Romania, Slovakia and Spain) did not – and still do not – recognise the unilateral independence of Kosovo. Indeed, whilst the Council of the EU decided to deploy EULEX Kosovo on 4 February 2008, 13 days later Kosovo formally declared independence. This case study is pertinent because it highlights an instance where Member States were disunited on the issue of Kosovo's independence but nevertheless still pursued the deployment of EULEX Kosovo through constructive abstention by Cyprus (Spernbauer, 2019).
- 4 The fourth and final case study analyses the EU's imposition of restrictive measures on Russia in light of Moscow's invasion of Ukraine on 24 February 2022. Since the invasion, the EU has worked with international partners such as the USA to impose restrictive measures which are aimed at: crippling the Kremlin's ability to finance the war; imposing clear economic and political costs on Russia's political elite and those responsible for the invasion; and diminishing Russia's economic base (European Commission, 2022b). At the time of writing, over 1 212 individuals and oligarchs together with 108 economic entities have been subjected to the EU's restrictive measures and the Union has also worked to cut off Russia from energy markets and financial systems. Moreover, the Union's restrictive measures have stopped the delivery of dual-use technologies that can be used by Russia's military and police forces (European Commission, 2022b). This is not only a noteworthy case study because it signifies an instance of EU unity through unanimity but it is also a policy decision that comes at an economic cost for Member States. In this regard, maintaining restrictive measures on Russia over a long period is a test of the Union's unity. Readers should note that because this is an ongoing and evolving case, the study analyses events up to and including the EU's eighth round of restrictive measures.

Figure 1: Methodology



Source: authors' own elaboration, 2022.

1.3.2. A typology of outcomes

The four case studies mentioned in section 1.2.1 will be used to focus on four sets of specific outcomes that can be used to determine the costs and benefits of unanimity and QMV in the area of CFSP. Furthermore, this study will provide a typology of outcomes that can be used to assess the costs or benefits of using unanimity or QMV in any particular foreign and security policy scenario. In this regard, the objective is not to use the typology of outcomes to argue in favour of either unanimity or QMV, but rather to provide a more solid set of criteria that are grounded in existing academic literature and empirics. The hope is that this typology can be used for the analysis of other CFSP case studies in the future. The authors developed all four sets of specific outcomes based on the academic literature on 'credibility'. From this literature, two key strands have emerged: (1) a focus on the EU's ability to use its available resources and capabilities in an effective manner (Hill, 1993: 316); and (2) a focus on the EU's ability to pursue its values and norms in global affairs (Manners, 2002).

In its own right, 'credibility' could be seen as an important explanatory factor in how the EU undertakes diplomacy and international engagement. However, the authors found that this word can be nebulous and at times difficult to comprehend. For example, the EU Global Strategy understands credibility to imply unity between Member States, the Union's power of attraction and adherence to its core values in international affairs (Smith, 2016). Yet such a definition does not help us understand how consistency in policy can be achieved or whether attractiveness and values do indeed lead to a higher degree of performance in global affairs by the EU. In this sense, this study argues that any examination of unanimity and QMV in CFSP needs to be built on more solid foundations than a reference to 'credibility'.

Accordingly, in this study the EU's 'credibility' will be understood in relation to four specific factors: (1) the timeliness of EU action and positions; (2) the effectiveness of CFSP; (3) the unity among Member States; and (4) the EU's ability to dissuade foreign interference in CFSP in decision-making. The authors argue that looking at each of these four categories is necessary so as to gain a better grasp of what exactly is meant by 'credibility' in practice – in other words, timeliness, effectiveness,

unity and protection against foreign interference are considered to be the core hallmarks of credibility. Each category is now developed in more detail:

- 1 **Timeliness:** this study understands 'timeliness' to mean an ability to agree on or act in response to a crisis within a timeframe that allows political outcomes to be shaped effectively (Buena de Mesquita, 2004). The study borrows from a range of academic literature and policy statements that place an important emphasis on rapid CFSP decisions. In this sense, the threat of a veto through unanimity may slow down the EU's response time to international crises. Of course, timeliness does not automatically equate to effective policy, but a relatively fast decision is perceived to improve the Union's international credibility.
- 2 **Effectiveness:** this implies the degree to which the EU can achieve its stated policy goals, as well as how far it plays an active role in responding to crises and setting realistic policy objectives (Oberthür and Groen, 2015). Effectiveness relates to the timeliness of EU action, but it is distinct in that it allows us to recognise the difference between a political agreement on a course of action and its effective enforcement.
- 3 **Unity:** this implies the degree to which EU Member States can act in unison in CFSP. A lack of unity would, therefore, imply contestation and conflict between Member States and an inability to agree on policy measures (Maurer and Wright, 2021). This third category invites us to ask whether QMV can actually ensure EU unity or whether the unity achieved through unanimity leads to greater or less EU credibility in international affairs.
- 4 **Foreign influence:** this is defined as the direct and indirect actions of a non-EU state or non-state actor that seeks to influence CFSP decision-making. Foreign influence is a growing area of concern for policy-makers (e.g., Lavenex and Lutz, 2023). For this fourth category, the stress is placed on understanding whether the use of unanimity or QMV increases or decreases the risk of undue foreign influence.

1.3.3. Data sources

In addition to the four case studies, this study triangulated data and research findings from four main sources:

- 1 **Primary sources such as official EU and Member State documentation:** the study will draw on official speeches by senior EU officials and also analyse secondary sources such as academic literature and speeches or media comments made by senior representatives from the EU Member States.
- 2 **Semi-structured interviews with officials and experts:** 19 semi-structured, fully anonymised interviews were conducted with officials from the European Commission, the Council of the EU, the EEAS and various research institutes and think tanks. When selecting interviewees, a balance between seniority and relevance to the research question was ensured. For the full list of interviewees, see Annex I. In addition to EU officials, the authors attempted to conduct semi-structured interviews with government officials in EU Member States. Out of nine specific requests for interviews with Member State representatives, only two responded positively, six never responded and one had a change of agenda. Thus, one of the weaknesses of the data collection for this study is that only two government officials (both from Belgium) were interviewed. To compensate for this, the study has interviewed a further 18 individuals from EU institutions and research institutes to gather additional data on national positions. The authors have also avoided using the interview results from both interviews with Belgian officials as evidence of other Member State positions. Finally, in accordance with GDPR rules the authors have

ensured that all interviewees were aware of data protection procedures and how their interview answers would be used, stored and destroyed by the authors.

- 3 **An expert meeting:** all empirical and conceptual findings from this study have been discussed with a range of experts and officials. On 31 January 2023, the authors organised a closed-door, online meeting with 13 individuals from academic institutions in the EU, as well as four observers from the European Commission and European Parliament. At the expert meeting, the overall thesis of the study was presented and participants provided feedback on the methodology, the four case studies and conclusions. The expert meeting was an opportunity to validate key findings.
- 4 **Secondary materials and specialised academic literature on QMV and EU foreign policy-making:** the final part of this study's methodology relies on relevant secondary and specialised material.

As a further point, it is important to recognise that this study has certain analytical limitations. Firstly, the case study selection reflects relatively recent events where the debate about the merits or costs of QMV has been raised, having been flagged up by the European Commission and/or European Parliament in official communications (European Political Strategy Centre, 2019). The authors are, though, aware of additional cases that could have been analysed, including: the veto that blocked an EU declaration in the case of the Israeli-Palestinian conflict in May 2021; or the threat that one Member State could block the delivery of financial aid to Ukraine in 2023. Future research can hopefully apply the typology outlined in this study to those cases.

Secondly, the typology of credibility in this study is open to further reflection and critique. Although the authors believe that the typology is useful for any study on EU CFSP decision-making, they would welcome future conceptual innovation that could lead to the introduction of further categories related to (1) the legitimacy of EU actions in Member States, as seen through the views of national parliaments; (2) the Union's ability to provide leadership on international matters and how the EU is able to coalesce partners around an agreed position; or (3) the role of resources' availability (e.g., finances, personnel) has in enabling and restraining EU policy outcomes.

2. Analysing the 'status quo' in CFSP

2.1. Introduction to the 'status quo' in CFSP

This section will focus on the 'status quo' in the EU's CFSP, which here refers to the tools and decision-making processes that the Union has already used in response to different international crises. To date, the EU has employed and emphasised the principle of unanimity in CFSP decision-making. Accordingly, within the context of four specific case studies, this section applies the four outcomes outlined earlier, namely timeliness, effectiveness, unity and foreign influence. In doing so, the authors aim to assess the functioning of unanimity in each specific case study and hence draw conclusions on whether or not specific international circumstances affect how the Union agrees with its policies under CFSP. This section also aims to uncover the intricacies of using unanimity in CFSP and here stress will be placed on whether or not unanimity improved the timeliness and effectiveness of EU policy, as well as whether or not it contributed to enhancing unity, as well as fending off any harmful foreign influences.

2.2. Case study 1 – human rights and Hong Kong

2.2.1. The situation in Hong Kong

On 30 March 2020, the People's Republic of China (PRC) voted on a controversial 'national security law'. This law, which came into force on 30 June 2020, was widely seen as a measure to reduce Hong Kong's autonomy, thus making it easier for authorities to prosecute protesters and deal with civil disobedience. In more specific terms, though, the law's 66 articles not only strictly forbid secession, subversion, terrorism or collusion with foreign actors but also establish a prominent position for the PRC to hold primacy over the law's interpretation. Moreover, Hong Kong's chief executive council will have its own autonomous powers to appoint or remove judges associated with national security cases (Tsoi and Cho Wai, 2022). While the Basic Law agreed upon at the end of Britain's colonial rule over Hong Kong in 1997 enshrined the concept of 'one country, two systems' (Tsoi and Cho Wai, 2022), the PRC nevertheless decided to test its principles in 2019 by introducing an extradition law that would allow citizens of Hong Kong to stand trial in mainland China. Protests against this measure in effect led to the PRC's decision to enact the new 'national security law'.

Mass protests broke out in Hong Kong over the course of 2019 and 2020 as authorities there sought to push through the new laws or at least marginally amended versions thereof. Half a million people took to the streets on 9 June 2019 following a failure by Hong Kong lawmakers to withdraw the extradition law indefinitely. During the summer of 2019 protests, a new norm emerged, comprising: public violence in the form of mass arrests and clashes; the loss of life; the firing of live rounds on protestors and student activists; as well as a ban on face masks. Although pro-democracy parties won by a landslide victory in local elections in November 2019 (Bradsher, Ramzy and May, 2021), the crisis continued in 2020 with the PRC's decision in May to push ahead with the 'national security law'. Further protests ensued, which resulted in police intervening to arrest not only key opposition politicians who had protested about Beijing's interference but also more than 10 200 individuals for their involvement in the protests (Kang-Chung, 2021; Reuters, 2020a).

Table 2: A timeline of EU human rights statements and Hong Kong

Date	Event
9 June 2019	Half a million people take to the streets after a failure by Hong Kong lawmakers to withdraw the extradition law indefinitely.
18 July 2019	The European Parliament calls on China and Hong Kong to uphold human rights, democracy and the rule of law in a resolution on the situation in Hong Kong.
30 March 2020	China votes on the 'national security law'.
29 May 2020	First EU declaration on the situation in Hong Kong.
30 June 2020	China's 'national security law' comes into force.
1 July 2020	Second EU declaration on the situation in Hong Kong.
28 July 2020	The Council of the EU agree to restrictive measures for sensitive equipment and technology.
12 November 2020	Third EU declaration on the situation in Hong Kong.
7 January 2021	Fourth EU declaration on the situation in Hong Kong.
11 March 2021	Fifth EU declaration on the situation in Hong Kong.
10 May 2021	EU declaration on the situation in Hong Kong blocked.

Source: authors' own compilation, 2023.

2.2.2. The EU's response and the veto

The 'national security law' was widely condemned for severely curtailing the civil rights of Hong Kong citizens and the EU took a strong declaratory stance against China's moves, even if it was unable to follow this through with restrictive measures (Grieger, 2020). Indeed, there is evidence to suggest that initial discussions on whether to apply strict sanctions on China were divided between Member States that wanted harsh sanctions and those that wanted a milder reaction. For example, it was reported that Finland wanted a suspension of extradition treaties with Hong Kong to avoid detainees being transferred to mainland China, but other states such as Germany, Greece and Hungary were concerned about strong EU measures for fear that it would disrupt diplomatic relations with China (Emmott, 2020). In fact, during the 44th session of the UN Human Rights Council, where the 'national security law' was discussed, only 15 out of 27 Member States openly criticised the new law through an official statement (Lawler, 2020) but others choose to remain silent (Rudolf, 2020).³ In this respect, there was disagreement between the Member States on how harshly the EU should position itself on China's actions.

On 18 July 2019, the European Parliament called on China and Hong Kong to uphold human rights, democracy and the rule of law in a resolution on the situation in Hong Kong (European Parliament, 2019; Grieger, 2020). The resolution called on Carrie Lam to withdraw the extradition bill, stating that it was utterly opposed to any bill that 'could facilitate the rendition to China of people for political reasons' (European Parliament, 2019). The European Parliament stated that China's judiciary lacks independence from the government and the Chinese Communist Party; hence this could lead

³ Including Austria, Belgium, Denmark, Estonia, Finland, France, Ireland, Germany, Latvia, Lithuania, Luxembourg, Netherlands, Slovakia, Slovenia and Sweden.

to 'arbitrary detention, torture and other ill-treatment' (European Parliament, 2019). Finally, in seeking a response the Parliament called for an EU imposition of export controls on technologies that could be used to violate human rights in Hong Kong (European Parliament, 2021a) and asked the HR/VP to raise EU's concerns with the Chinese authorities.

For its part, the Council of the EU has been able to support declarations by the HR/VP on behalf of the EU on at least four occasions since the upheaval in Hong Kong began. Most of these declarations stressed the Council's opposition to China's actions in Hong Kong and underlined that the EU 'attaches great importance to the preservation of Hong Kong's high degree of autonomy, in line with the Basic Law and with international commitments' (Council of the EU, 2020a). At this stage, given that the proposed 'national security law' had not been endorsed by authorities in Hong Kong, the EU did not outline any action that it could take and ended its declaration by stating that the 'EU will continue to follow developments closely' (Council of the EU, 2020a). Another EU declaration was published on 29 May 2020 expressing the Union's 'grave concern at the steps taken by China on 28 May, which are not in conformity with its international commitments (Sino-British Joint Declaration of 1984) and the Hong Kong Basic Law' (Council of the EU, 2020b).

Whilst the 29 May 2020 declaration did not pursue the idea of retaliating with restrictive measures, the HR/VP instead stated that the Union 'will raise the issue in our continuing dialogue with China' (Council of the EU, 2020b). Subsequently, at the Foreign Affairs Council on 13 July 2020, ministers did start to outline detailed support measures including restrictive measures, scholarships, asylum and visa measures and a revision of extradition arrangements with Hong Kong (Council of the EU, 2020c). Thereafter, on 24 July 2020, they called for the HR/VP to review what impact any EU response package would have (Council of the EU, 2020c). Finally, on 28 July 2020, the Council agreed to restrictive measures on sensitive equipment and technology that could be exported to Hong Kong for use against the civilian population (Deutsche Welle, 2020). While these sanctions were welcome, however, there is a question as to whether they deterred China's actions, and evidence appears to suggest that the sanctions had little effect on China's behaviour.⁴

At this point, the Council of the EU had made its opposition to China's actions publicly known and restrictive measures had also been imposed. However, efforts to take any further action were thwarted on 10 May 2021 by Hungary using its power of veto and hence the Council was prevented from delivering any EU declarations opposed to China's actions in Hong Kong. German officials publicly lambasted Hungary's stance with Berlin demanding a move to QMV in CFSP decision-making (Chalmers and Emmott, 2021; Von der Burchard and Barigazzi, 2021; Deutsche Welle, 2021; Euractiv, 2021). More specifically, in a May 2021 statement, the then-German foreign minister, Heiko Maas, called it 'absolutely incomprehensible' that Hungary should veto a common EU approach (Von der Burchard and Barigazzi, 2021).

However, it is important to note that Hungary's decision to veto the EU declaration did not occur in a political vacuum. Indeed, during 2021 the European Commission had been monitoring the Hungarian government for rule of law deficiencies and abuses, as well as claims of corrupt practices in public procurement (Bayer and Wanat, 2021). Such a development directly impacted deliberations between the Hungarian government and the European Commission over Hungary's Recovery and Resilience Plan (RRP). At the time of the European Council's deliberations about the situation in Hong Kong, the Hungarian Prime Minister, Viktor Orbán, was also meeting the Commission President in Brussels to discuss the country's RRP (Hungarian Ministry of Foreign Affairs, 2021). Here, it is worth noting that the European Commission was due to take a decision on the matter by October 2021 and in November 2022 it eventually decided to release the funds subject to

⁴ Interview, researcher, Mercator Institute for China Studies, 24 March 2023.

27 'super milestones' that must be met, including the need to address rule of law issues (European Commission, 2022c).

The link between Hungary's decision to veto the EU declaration and the broader questions of its adherence to EU rule of law criteria was important to this case. Indeed, during interviews conducted for this study, it was pointed out that Hungary saw an opportunity to use its veto in CFSP as a way of signalling its displeasure with the Commission's broader actions on the rule of law and the RRP.⁵ Yet, there was also a particular disagreement between Hungary and Germany here. Not only did Germany publicly react to Hungary's veto decision but, as of mid-October 2020, the head of Prime Minister Viktor Orbán's office was publicly criticising the stance taken by Germany in relation to the link between the rule of law and EU funding (Hungary Today, 2020). It was confirmed during interviews, though, that such antagonism ran deeper than this due to ideological differences between Hungary, Germany and other EU Member States on issues such as sexual reproductive rights and the rights of the LGBTIQ+ community.⁶ Indeed, interview respondents stated that part of Hungary's refusal to agree to another human rights declaration was also linked to its ideological stance on certain issues related to human rights, which respondents felt were at odds with the EU's value system and norms.⁷

However, the context in which Hungary exercised its veto in May 2021 was even more complex, as this was also the year in which parties in Hungary were gearing up for national parliamentary elections on 3 April 2022. Hence, the need for electioneering played a role in the decision to veto the EU declaration, especially given that Hungary had already signalled its intention to block the EU statement in April 2022. Furthermore, one should also note that in March 2021 Prime Minister Viktor Orbán tried to pull his Fidesz party out of the European People's Party (EPP) Group in the European Parliament just before the EPP Group were about to expel Fidesz.⁸ This context was also highlighted during interviews, with respondents stating that the Hungarian veto – plus other actions the Hungarian government decided to block – results from an authoritarian turn in the country.⁹ In this sense, interviewees stated that the other EU Member States were ready to approve the May 2021 EU declaration on Hong Kong and China. Hungary was an outlier in wanting to use the veto to express its frustration with other areas of EU policy.¹⁰

2.2.3. Timeliness

As outlined above, the EU was able to move relatively quickly in agreeing to declarations on the situation in Hong Kong. Even while protests and riots were ongoing, four of the five were published by the HR/VP on: 29 May 2020, 1 July 2020, 12 November 2020, 7 January 2021 and 11 March 2021. As described above, the Council of the EU even went beyond declarations by agreeing to restrictive measures on 28 July 2020 for sensitive equipment and technology. Hence, until the May 2021

⁵ Interview, official, European External Action Service, 1 December 2022; interview, official, Secretariat-General, European Commission, 1 December 2022; interview, official, Secretariat General, European Commission, 15 December 2022.

⁶ Interview, official, European External Action Service, 1 December 2022; interview, official, Secretariat-General, European Commission, 1 December 2022; interview, official, Secretariat General, European Commission, 15 December 2022.

⁷ Interview, official, European External Action Service, 1 December 2022; interview, official, Secretariat-General, European Commission, 1 December 2022; interview, official, European External Action Service, 1 December 2022; and interview, official, Secretariat General, European Commission, 15 December 2022.

⁸ See K. Novák, [Tweet](#), 3 March 2021, 11:06 am.

⁹ Interview, official, European External Action Service, 1 December 2022; interview, official, Secretariat-General, European Commission, 1 December 2022; and interview, official, Secretariat General, European Commission, 15 December 2022.

¹⁰ Interview, official, European External Action Service, 1 December 2022; and interview, official, European Commission, 1 December 2022.

Hungarian decision to veto the EU declaration, it can be seen that the Union had acted in a timely fashion. For example, the United Kingdom (UK) government extended the arms embargo it already had on mainland China to Hong Kong in July 2020 (UK government, 2020), so, in comparative terms, there was no major delay to the EU imposing its own restrictive measures in the face of the 'national security law'.

It can, nevertheless, be argued that Hungary's decision to block the EU statement in May 2021 effectively brought to a halt the momentum that the EU had hitherto picked up with regard to the Hong Kong situation. This question of speed appears to be one of the main reasons behind the Commission President's desire to introduce QMV in foreign policy. As President von der Leyen remarked in June 2022, 'the speed at which things happen [...] the world wants to hear the European voice' and this means that for a 'voice' to be effective in world affairs, messages must be delivered quickly (Herszenhorn, 2022). This emphasis on speed, though, was not at the forefront of Prime Minister Viktor Orbán's mind when he vetoed the May 2021 declaration. Indeed, he remarked how 'there must be an end to the preoccupation in Brussels with concocting and flaunting declarations' (Hungarian government, 2021a). He underlined that speed was not the question, but rather the fact that repeated EU declarations were having minimal effect and were largely performative for domestic European audiences. As the Hungarian premier went on to remark if a declaration 'is presented another hundred times, the same result will be repeated a hundred times over' (Hungarian government, 2021a).

2.2.4. Effectiveness

This decision in May 2021 to block the EU declaration had an impact on the Union's foreign policy effectiveness. Firstly, it put an end to consistency in the Union's hitherto proactive line towards the crisis in Hong Kong. In this sense, one could question the robustness of the EU's approach, and it highlighted the vulnerability facing the Union in constantly needing to agree, unanimously, on an approach to China. Secondly, the veto decision had an impact on the Union's ability to stand shoulder-to-shoulder with partners such as the USA and the UK. For example, in July 2021 the US government ramped up its approach towards China by imposing restrictive measures on seven Chinese officials involved in the crackdown on democracy in Hong Kong in July 2021 (US department of the Treasury, 2021). Thus, at a time when the USA was pressing ahead with more robust measures against China, the EU was locked in a discussion about the limits of unanimity and the nature of its foreign policy decision-making architecture.

Of course, it is possible to question the overall relevance of EU declarations in this regard. In fact, one of the responses given by the Hungarian government in relation to its veto was that the 'EU has so far issued a number of declarations on China and Hong Kong. None has proven to be so successful that now another one should be issued' (Baczynska and Escritt, 2021). In this regard, even with a Hungarian veto of the proposed declaration in May 2021, it was still clear where the EU was positioning itself vis-à-vis the crisis in Hong Kong. Furthermore, vetoing the EU declaration was not intended to block existing restrictive measures towards China or Hong Kong.

However, one cannot easily dismiss the importance of the consistency of human rights statements. One interviewee for this study argued that human rights statements are important because they provide the victims of abuses with a 'lifeline of hope' and they dent China's ambitions to create new global norms that go against established human rights principles and fundamental freedoms (Drinhausen and Legarda, 2022).¹¹ In this regard, it was pointed out during an interview that the decision to block the EU's human rights statement on Hong Kong also affected a more prolonged

¹¹ Interview, researcher, Mercator Institute for China Studies, 24 March 2023.

focus on China's actions.¹² This is not to say that the EU delegation to Hong Kong and Macao does not raise the issue of fundamental freedoms and China's actions (e.g., EEAS, 2022), but there is according to one interview a difference between such approaches and high-profile EU statements on human rights.¹³ For example, in late July 2022, the EEAS publicly aligned the EU with a UN Human Rights Council report damning the human rights situation in Hong Kong and this not only sent an important political signal to China but also underlined the Union's solidarity with the people of Hong Kong.

2.2.5. Unity

Hungary's veto in May 2021 did lead to a break in the Union's unity. This applied to unity not only between Member States but also with the citizens of Hong Kong, particularly those who had already fallen victim to violence and/or abuse of rights. Furthermore, vetoing the EU declaration in May 2021 led to some disruption of consistency with regard to the Union's overall approach, with a mismatch between politically and unanimously agreeing to restrictive measures as opposed to the declarations that underpinned these measures. Unity of action is important for its inherent symbolic value, even if one can question the overall effectiveness of EU declarations on the crisis in Hong Kong. Nevertheless, several interviewees did underline that Hungary's decision sent a negative signal to the citizens of Hong Kong and it turned the focus to EU decision-making rather than the Union's continued unity with Hong Kong.¹⁴ In this respect, it was pointed out that the HR/VP did produce his own statements on the situation but clearly, this action would not be viewed as strongly as a declaration agreed unanimously by the Council of the EU.¹⁵

The case of Hong Kong also reveals how unity is not defined narrowly in terms of common endeavours under CFSP, but rather as an overall approach to EU policy and action – even beyond CFSP. For example, Hungary's veto occurred when facing punitive measures for a break-down in its rule of law coupled with accusations of corruption. Linking EU foreign policy decisions with more general questions about EU funding and the rule of law clearly makes any discussion about unanimity and QMV more difficult. Additionally, in the public disagreement between Germany and Hungary, Prime Minister Viktor Orbán revealed that he blamed the 'European left – led by the German left' (Hungarian government, 2021a), which points to the fact that party loyalties and ideologies play a role in the formulation (or not) of CFSP. Of course, this raises a general question about adherence to core values as enshrined in EU Treaties, but one must be careful not to conflate a party-political disagreement between governing parties in the EU with a fundamental difference in values.

The case here is confronted with a mixture of issue-linkage between CFSP and the rule of law, a difference in political stance by two different Member States and ideological differences about the extent to which the Union should take a stance on human rights in third countries. Clearly, in this case, veto power stopped the Union from publishing a joint declaration on human rights and this was damaging not just in terms of the consistency of EU policy but also its adherence to and support for human rights globally. Concretely, Article 2 of the Treaty on European Union underlines the Union's commitment to the rule of law, human rights and democracy. Hungary's veto undermined

¹² Interview, official, European External Action Service, 1 December 2022.

¹³ Interview, researcher, Mercator Institute for China Studies, 24 March 2023.

¹⁴ Interview, official, European External Action Service, 1 December 2022; interview, official, European Commission, 1 December 2022; interview, analyst, Martens Centre for European Studies, 6 December 2022.; and interview, researcher, Mercator Institute for China Studies, 24 March 2023.

¹⁵ Interview, official, Belgian Ministry of Foreign Affairs, 1 December 2022; interview analyst, Munich Security Conference, 8 December 2022; interview, analyst, Martens Centre for European Studies, 6 December 2022; and interview, researcher, Mercator Institute for China Studies, 24 March 2023.

commitments to these founding principles, but the veto nevertheless did not do much to assuage Hungary's concerns about not having access to EU funds because of its rule of law breaches.

2.2.6. Foreign influence

One of the key arguments that emerged against Hungary's actions in May 2021 was that China was placing undue pressure on Budapest to soften the Union's approach to the crisis in Hong Kong. In fact, the then-German foreign minister openly proclaimed that Hungary had blocked the statement only due to Budapest's close economic ties with China (Von der Burchard and Barigazzi, 2021). Such ties include cooperation on healthcare products and vaccines during the COVID-19 pandemic as well as increased foreign direct investment with Chinese companies such as Huawei, Bank of China and Lenovo along with others which have based their EU operations in Hungary (Hungarian government, 2021b). Indeed, it was reported at the time that Prime Minister Victor Orbán was communicating with President Xi Jinping in between the Council of the EU meetings in Hong Kong (Von der Burchard and Barigazzi, 2021). The Hungarian Prime Minister is also reported to have a 'strong personal rapport' with the Chinese President (Lau, 2021).

One must be careful here to apply the correct perspective to Hungary's economic ties with China, given that over 90 % of the country's inward foreign direct investment flows since 1989 have come from the EU and the USA (US department of State, 2021). It is true though that in the context of Hungary's recent economic woes, it has sought closer economic ties with Asian countries, resulting in China, India, Japan and South Korea accounting for almost 40 % of Hungary's new foreign investment projects during 2020 (US department of State, 2021). Hence, it comes as no surprise to learn that Prime Minister Viktor Orbán has spoken specifically of a need to 'prevent the re-emergence of Cold War policies and culture in world politics', with Hungary seeking 'cooperation, investment, trade and cultural and scientific relations – not boycotts, sanctions, sermons and lectures' (Hungarian government, 2021a). In this sense, as well as the EU's concerns about the rule of law in Hungary, the role of external actors should not be excluded as a contributing factor in determining why the EU could not take a position on human rights in Hong Kong. As interview responses made clear, there was certainly a perception inside the Council that the Hungarian Prime Minister was trying to soften the EU's stance towards China.¹⁶

2.3. Case study 2 – restrictive measures and Belarus

2.3.1. The situation in Belarus

On 9 August 2020, Alexander Lukashenko was for the sixth time declared the winner of the presidential elections in Belarus. However, these elections did not fulfil basic international requirements (Benedek, 2020) and sparked unprecedented demonstrations over the next four days, during which time the police used force to suppress protests and shut down the internet. Around 3 000 protestors were killed, 7 000 were arrested, many of whom were subsequently tortured, and a great number of journalists from local and international media were detained (Human Rights Watch, 2020). The HR/VP condemned the Belarusian government's actions and called the EU to reassess its relations with Belarus (Borrell Fontelles, 2020).

2.3.2. The EU response to the crisis in Belarus

Five days after the 9 August 2020 elections in Belarus, EU foreign ministers condemned the excessive use of force against protestors, labelled the election as neither free nor fair and announced their intention to sanction those responsible for violence, repression and falsifying election results. This

¹⁶ Interview, official, European External Action Service, 1 December 2022; and interview, official, European Commission, 1 December 2022.

was confirmed by conclusions adopted during the emergency summit of the European Council on 19 August (European Council, 2020a).

EU Member States were discussing a first set of 10 to 20 names to be targeted. Debates among Member States were mainly focused on the possibility of including Alexander Lukashenko on the list. If some states, including Lithuania and Estonia (Reuters 2020), were more vocal about the necessity of adding him to the list, others, such as France, Germany and Italy, were less convinced, arguing that the channels of communication must remain open (Viačorka, 2020) as aligned with the usual EU practice of not targeting top political figures with travel bans (Reuters, 2020b). Despite a declared political agreement and widespread support for restrictive measures on Belarus, said measures could not initially be imposed by the EU as of 21 September 2020. This was not due to disagreement over the names to be included, but rather because Cyprus refused to sign off on the plan during the Foreign Affairs Council (Herszenhorn and Barigazzi, 2020). The veto imposed by Nicosia was not due to the nature of these measures *per se*, but rather an opportunity to link two separate foreign policy issues. In exchange for its support, the Cypriot government asked the EU to impose parallel restrictive measures on Turkey over its illegal gas drilling activities in the eastern Mediterranean sea (Bosse, 2021).

Table 3: A timeline of EU sanctions on Belarus

Date	Event
9 August 2020	Alexander Lukashenko is declared the winner of the presidential elections in Belarus for the 6th time.
14 August 2020	EU foreign ministers condemn Belarus and announce their intention to sanction those responsible for violence there.
19 August 2020	The European Council has an emergency summit to talk about Belarus.
31 August 2020	The Baltic states impose restrictive measures on Belarus on their own before the EU.
17 September 2020	The European Parliament calls on Member States in the Council to implement restrictive measures.
21 September 2020	Cyprus vetoes sanction plans on Belarus.
29 September 2020	The EU announces the imposition of Sanctions against Belarus.
2 October 2020	Cyprus agrees to sanction Belarus.
12 October 2020	The Council scales down bilateral cooperation and recalibrates financial assistance to Belarus.
23 May 2021	The Belarus regime engineers the forced landing of Ryanair Flight 4978 to Minsk to detain an opposition figure and a journalist.

Source: authors' own compilation, 2023.

Agreement on imposing restrictive measures against Belarus was finally achieved the following month (European Council, 2020b). Initially adamant about its stance, Nicosia eventually agreed to sanction Belarus on the night of 2 October. In exchange, leaders debated the eastern Mediterranean situation and in its final statement, the EU reiterated its support for Cyprus and Greece, as well as warned Ankara that it would face punitive measures if illegal undersea drilling activities persisted (European Council, 2020b). In addition, European leaders made statements on the issue, with the European Commission President Ursula von der Leyen reiterating to Turkey that positive negotiations should continue otherwise the EU would be ready to take action. Furthermore, French

President Emmanuel Macron stated that the EU would observe solidarity with Cyprus and Greece in its dispute with Turkey (Cook, 2020).

2.3.3. Timeliness

The delay in adopting restrictive measures on Belarus highlighted the challenge created by issue-linkage in a regime of unanimity voting. The HR/VP Borrell claimed that the initial inability to agree on restrictive measures against Belarus put the EU's credibility at stake (Herszenhorn and Barigazzi, 2020). Moreover, according to some the EU's delay gave Lukashenko time to regain the initiative and retaliate brutally against Belarusian citizens (Leukavets, 2022). In addition, the need for timely action was also coming from US intelligence, which was already signalling the need for increased vigilance in case Belarussian and Russian oligarchs tried to evade export restrictions (US government, 2022: 6). Despite creating frustration and often being presented as a topical example of the issue-linkage problem with unanimity voting, its associated risks combined with the delay caused by Cyprus did not translate into any tangible discussion among Member States.

2.3.4. Effectiveness

As noted above, Cyprus' behaviour determined which item Member States needed to prioritise in the monthly debate among ministers. It also pushed EU leaders to use their political capital to address the crisis in Belarus and Turkish tensions. With questions about the EU's effectiveness and credibility being raised, not surprisingly, Turkish President Recep Tayyip Erdoğan used this opportunity to label the EU as an 'ineffective, horizonless and shallow structure, a slave to the conceit of Greece and Cyprus' (Cook, 2020). Discomfort for Cyprus' behaviour was also present among EU officials after their first attempt resulted in failure to find an agreement on restrictive measures. They saw Cyprus' behaviour not only as a threat to EU credibility but also warned that the EU could even risk becoming irrelevant if it were not able to act swiftly on critical issues such as restrictive measures or human rights (quoted in Euractiv, 2020a).

Similar discomfort was also present among Member States' representatives. Dutch Prime Minister Mark Rutte said, 'It is bad that we cannot make it work' (Cook, 2020) and the Latvian foreign minister Edgars Rinkevics defined Nicosia's position as 'hostage-taking' (Euronews, 2020). In particular, various individuals interviewed raised the point that one of the smallest Member States could effectively slow down and curtail the actions of the Union. At the same, Cyprus' legitimate security concerns with Turkey were readily acknowledged.¹⁷

In this case, the EU failed to project the image of a united and reliable partner. Frustrated by this slow course of action that followed the announcement of the European Council on 19 August (European Council, 2020a), the three Baltic states decided to already impose restrictive measures on 31 August without waiting for the rest of the EU (Smith, 2020). On 17 September, the European Parliament – following a resolution with the support of 574 Members of the European Parliament (MEPs) – called on Member States in the Council to implement restrictive measures without delay, in close coordination with international partners (European Parliament, 2020). EU partners, including the USA, the UK and Canada, coordinated their discussion about which restrictive measures to impose on Belarus but wanted to wait for the EU before moving to their imposition (Aslund, 2020). They finally announced the imposition of sanctions on 29 September, with British foreign minister Dominic Raab stating, 'We expect others will follow but I think time is of the essence because of that narrow window of opportunity to influence what is playing out' (Reuters 2020a). Ultimately, the EU's deadlock resulted in the entire process being slowed down.

¹⁷ Interview, official, European Commission, 1 December 2022; and interview, analyst, Martens Centre for European Studies, 6 December 2022.

Following the September 2020 impasse, the EU thereafter presented a united front on Belarus – in this respect, it could be said that the delay brought about by the veto did not ultimately irreparably damage the effectiveness of the EU's action, even if it did initially slow down decision-making and adversely affect EU unity. Travel bans and asset freezes were imposed on 40 Belarussian officials deemed responsible for election tampering and the violent crackdown on protestors. On 12 October, not only did the Council officially scale down bilateral cooperation and recalibrate financial assistance away from the Belarussian authorities, but the European Investment Bank and European Bank for Reconstruction and Development also reviewed their operations in Belarus (Council of the EU, 2020c). At the end of October, the European Parliament awarded the 2020 Sakharov Prize for Freedom of Thought to the democratic opposition in Belarus (Euractiv, 2020a).

2.3.5. Unity

The pressure imposed by Nicosia on the EU to ensure that discussion on restrictive measures against Belarus moved in parallel with those against Turkey, raised questions about the legitimacy of this behaviour. On the one hand, Cyprus' stance could be perceived as breaking EU unity. Member States were pushed into uncomfortable territory, in that while most were in favour of imposing restrictive measures on Belarus, the situation with Turkey was different (Wintour, 2020).¹⁸ The general appetite to use such a 'heavy stick' as restrictive measures to resolve the ongoing eastern Mediterranean sea issue was more limited. Germany, which was holding the rotating presidency of the Council of the EU at the time, was exploring alternative solutions to calm the dispute with Turkey, a North Atlantic Treaty Organization (NATO) ally and host to more than 3.6 million Syrian refugees (Rankin, 2020). Other countries, such as France, sought to display its unity with Cyprus even if it did not object to sanctions for Belarus. A month before the decision to link the Belarus and Turkey sanctions, France promoted its bilateral defence deal with Cyprus (Vavasseur, 2020) as well as sailing its flagship vessel (the Charles de Gaulle aircraft carrier) to the eastern Mediterranean sea in August 2020 (Tomaras, 2020).

On the other hand, Cyprus invoked EU unity to link the two issues. From Nicosia's point of view, acting against Belarus without at the same time censuring Turkey's behaviour demonstrated the lack of unity between Member States (Cyprus specifically on this occasion). However, one interviewee suggested that Cyprus had opted for a 'counter-productive' approach in linking the Belarus and Turkey issues because those Member States geographically close to Belarus (Poland and the Baltic States) were 'always less likely to support Cyprus' concerns', especially with Turkey being a NATO ally.¹⁹ A number of respondents confirmed that they were unprepared for Cyprus' strategy, with many Member States experiencing ambivalence, in being sympathetic to the country's concerns, whilst at the same time wanting to act swiftly against Belarus, a position which was neither acknowledged nor appreciated at the time.²⁰

2.3.6. Foreign influence

The eastern Mediterranean region is prone to Russia's influence because of geographic proximity, common cultural and historic legacies as well as dependence on Russia's hydrocarbons, investments and tourism (Stronski, 2021). Even if it is difficult to prove any direct influence from Russia, the tensions between Cyprus, Turkey and Greece have often directly implicated Moscow because of its energy and financial interests in the eastern Mediterranean (Christou, 2011; Proedrou, 2021).

¹⁸ Interview, official, European Commission, 1 December 2022; and interview, official, Inspire, Debate, Engage and Accelerate Action (I.D.E.A.), European Commission, 16 December 2022.

¹⁹ Interview, official, European Commission, 1 December 2022.

²⁰ Interview, official, Belgian Ministry of Foreign Affairs, 1 December 2022; Interview, official, European Commission, 1 December 2022; and interview, analyst, Martens Centre for European Studies, 6 December 2022.

Yet the role of Russia in the case of sanctions on Belarus can also be detected less directly. For example, while Russia may have actually wanted to encourage EU sanctions on Belarus,²¹ to help increase Belarus' economic and political dependence on Moscow. However, such theories are counteracted by the fact that Belarus is already sufficiently dependent on Russia without EU sanctions.²² Even if continued sanctions allow Russia to instrumentalise the narrative by accusing the EU of being a 'servant' of the USA, hard sanctions on Belarus are not in Russia's interests because the country has served as a way for Moscow to circumvent the sanctions it itself faces from the EU (see for example, Miadzvetskaya and Challet, 2022).²³ It is for this reason that Member States such as Latvia have called for an alignment of sanctions for Belarus and Russia (Latvia Ministry of Foreign Affairs, 2023).

The policy linkage between Turkey's illegal activities in the eastern Mediterranean and the crisis in Belarus served as a new twist in the extant tensions between Cyprus and Turkey (Rettman, 2020). At the time, the EU was locked in discussions to diffuse tensions with Ankara and the EU and Turkey were discussing a possible update to the 2016 statement of cooperation and action plan on stopping the flow of irregular migration via Turkey to Europe. While EU and Turkish leaders met to discuss migration and security in the eastern Mediterranean in September 2020, Ankara had little influence on EU decisions in this specific case. In fact, the Union maintained restrictive measures on Turkey for its activities in the eastern Mediterranean sea. Still, Turkey would eventually work with the EU on the Belarus crisis by helping the Union monitor and block flights headed to Belarus from Turkish territory (Nardelli, 2021).

2.4. Case study 3 – deploying EULEX Kosovo

2.4.1. The situation in Kosovo

The armed conflict in Kosovo had started in February 1998, and it subsequently saw intervention from NATO in March 1999 under Operation Allied Force to force the regime of Slobodan Milošević to end its repression of Kosovo – NATO's air campaign ended in June 1999. In fact, on 10 June 1999, the United Nations Security Council (UNSC) adopted resolution 1244, establishing the UN Interim Administration Mission in Kosovo (UNMIK) and authorising an international civil and military presence in the (former) Federal Republic of Yugoslavia (United Nations, 1999). UNSC resolution 1244 provided the framework for a political resolution of the violence and repression perpetrated in Kosovo. The resolution superseded an agreement which had been reached on 8 June between the President of Yugoslavia, Slobodan Milošević, and the former Prime Minister of Russia, Viktor Chernomyrdin, mediated by the President of Finland, Martti Ahtisaari.

²¹ Interview, analyst, EU Institute for Security Studies, 27 March 2023.

²² Interview, analyst, EU Institute for Security Studies, 27 March 2023.

²³ Interview, analyst, EU Institute for Security Studies, 27 March 2023.

Table 4: A timeline of the deployment of EULEX Kosovo

Date	Event
November 2005	UNSG Kofi Annan appoints Martti Ahtisaari as the new UNSG special envoy for Kosovo's future status process.
December 2005	Presentation of a report to the Council concerning EU engagement in Kosovo.
February 2006	Organisation of a joint Council-Commission Fact Finding Mission.
April 2006	Establishment of an EU planning team to help develop the ESDP Policy to advise Kosovo on the rule of law.
2007	The Council labels the status of Kosovo a 'sui generis' case.
March 2007	Ahtisaari presents his proposal for an independent Kosovo.
December 2007	The Council of the EU underlines its readiness to play a role in strengthening regional stability and implementing a settlement defining Kosovo's future status.
4 February 2008	The EU established a European Union Rule of Law Mission in the territory of Kosovo (EULEX Kosovo).
17 February 2008	Kosovo unilaterally declares independence from Serbia.
December 2008	The EULEX mission to Kosovo reaches initial operational capability.
March 2009	Spain withdraws troops from the Kosovo force.
April 2009	The EULEX mission to Kosovo reaches full operational capability.
September 2011	Romania withdraws from the EULEX mandate.
2016	Cyprus changes their attitude and sends one police officer to the mission.
June 2021	EULEX Kosovo mandate is amended for an extension until 14 June 2023.

Source: authors' own compilation, 2023.

However, UNSC resolution 1244 was envisaged only as a temporary solution. In 2001, the promulgation of the Constitutional Framework (UNMIK, 2001) marked the beginning of a progressive transfer of powers and responsibilities from UNMIK to the Kosovo Provisional Institutions of Self-Government (PISG). Despite this decision, the local law enforcement sector was not yet considered ready to fulfil its functions, with the departure of international judges and prosecutors being considered premature (see the report by Kei Eide, Special Envoy of the UNSG, 2005). In the Thessaloniki Declaration of 21 June 2003, the EU confirmed that the Western Balkans' future, including Kosovo, lay within the EU and stressed its desire to support the region in implementing the necessary steps in coming closer to the Union. Specifically, the Declaration underlined its support for UNSC resolution 1244 (1999) (European Commission, 2003).

In 2005, the European Council underlined its support for resolution 1244 by stating that it would continue to support UNMIK's work at a time when 'the situation in Kosovo was entering a critical phase' that 'could lead to the opening of negotiations on the future status of Kosovo' (European Council, 2005). It is in this context that the UN Secretary-General (UNSG) Kofi Annan appointed Martti Ahtisaari as the new UNSG Special Envoy for Kosovo's future status process in November 2005. Despite the parties' unwillingness to compromise on the future status of Kosovo in March 2007, Ahtisaari nevertheless presented his comprehensive proposal for an independent Kosovo, to be supervised by the international community (UNSG, 2007). As part of this proposal, he suggested

the deployment of a European Security and Defence Policy (ESDP) Mission to monitor, mentor and advise on all areas related to the rule of law in Kosovo (point 12), and thus established an EU Planning Team (or EUPT Kosovo) in anticipation of this in April 2006.

2.4.2. EU involvement and the 'constructive abstention'

On 17 February 2008, Kosovo unilaterally declared independence from Serbia. The EU had previously adopted a decision on 4 February 2008 to establish a European Union Rule of Law Mission in the territory of Kosovo (EULEX Kosovo), details of which were published in the EU Official journal a day before Kosovo's formal declaration of independence on 16 February (Council of the EU, 2008). This decision was adopted by using 'constructive abstention', Cyprus having foregone the CSDP decision by making a formal declaration of abstention based on Article 31(1) TEU. Even though, as of today, five countries, including Cyprus, Greece, Romania, Slovakia and Spain, still do not recognise Kosovo as an independent state, the EULEX Kosovo mission is still active, and its mandate has been amended in June 2021 for an extension until 14 June 2023 (Council of the EU, 2021).

This was the first case in which a Member State had used constructive abstention to forego a decision adopted by the Council of the EU in the context of CSDP, but other more recent cases include Austria, Ireland and Malta's constructive abstentions from the provision of lethal military equipment to Ukraine under the European Peace Facility²⁴ and Hungary's decision in October 2022 to abstain from the decision to deploy an EU Military Assistance Mission to Ukraine (Gubalova et al, 2022: 17). After a formal declaration for constructive abstention, the abstaining Member State is not obliged to apply any decision adopted by the Council of the EU but yet must accept that such a decision commits the EU. Hence, the Member State would be expected to refrain from any action likely to conflict with or impede the Union's action based on that decision.

In this case, one should keep in mind that Cyprus, Greece, Romania, Slovakia and Spain agreed to the deployment of EULEX Kosovo one day before Kosovo officially declared independence, which made it easier for Greece, Romania, Slovakia and Spain to agree to the mission without exercising a constructive abstention. Cyprus, in effect, exercised the constructive abstention alone, albeit its absence did not unduly affect the launching, staffing and resourcing of the mission. Beyond Cyprus, it is interesting to note that among those countries that did not recognise Kosovo some Member States adopted a softer position than others. As noted by Armakolas and Ker-Lindsay (2020), if Cyprus and Spain could be classified among the 'hard non-recognisers', Greece, Slovakia and Romania could be placed among those non-recognisers that are nevertheless willing to engage with Kosovo (Armakolas and Ker-Lindsay, 2020: 5).

2.4.3. Timeliness

The deployment of EULEX Kosovo was timely. Ideas on possible EU engagement had already been advanced by the joint paper presented by Javier Solana, EU High Representative for CFSP and Olli Rehn, European Commissioner for Enlargement, on the future of the EU's role and contribution in Kosovo. This was followed by a further report presented to the Council in December 2005 (Council of the EU, 2005). Subsequently, a joint Council-Commission Fact Finding Mission was organised in February 2006, which recommended the establishment of a European Union Planning Team (EUPT) to be deployed in Kosovo. Hence, the EUPT Kosovo was set up in April 2006 (Council of the EU, 2006). Despite the failure of negotiations led by the Troika (USA, Russia and the EU) in December 2007, the Council of the EU underlined its readiness to play a role in strengthening regional stability and implementing a settlement defining Kosovo's future status.

²⁴ Constructive abstention has been used recently by Ireland, Austria and Malta to abstain from the decision to send lethal assistance to Ukraine in the framework of the European Peace Facility instrument. The three countries agreed to support only the non-lethal support (see Council of the EU, 2022b).

Indeed, it tasked the General Affairs and External Relations Council with defining modalities for the launch of an ESDP mission to assist Kosovo, following which High Representative Solana would discuss these modalities with authorities in Kosovo and the UN. In its conclusions, the Council also underlined that the pending status of Kosovo should be considered a 'sui generis case that does not set any precedent' (European Council, 2007).²⁵ Despite Cyprus' abstention, on 4 February 2008, the Council of the EU established the EULEX mission on the territory of Kosovo. On 13 February, the Council of the EU initiated a 'silent- procedure' to formalise the mission. The formal deployment started on 16 February 2008, the day before Kosovo's unilateral declaration of independence (Goldirova, 2008). The day after the unilateral declaration, EU foreign ministers met to discuss the possibility of adopting a common position on the recognition of Kosovo.

Even if Greece, Romania and Slovakia rejected Kosovo's unilateral declaration of independence, they were not averse to continuing their 'pragmatic engagement' with Kosovo. Greece was the most engaged among the non-recognisers, but it did not want to endorse a unilateral declaration of independence also because of its strong ties with Cyprus (Armakolas and Ker-Lindsay, 2020). Slovakia wanted to remain engaged to avoid any marginalisation from the discussion on the future of the Western Balkans. Still, its position on Kosovo's independence was shaped by its historical ties with Serbia (Nič, 2020). Romania's position was explained by the separatism concerns related to its Hungarian minority, as well as neighbouring Moldova and Transnistria. Yet, Bucharest did want to maintain a certain level of engagement with Pristina to avoid alienating their relations with partners, including the United States (Ivan, 2020). Spain and Cyprus were – and remain – the hard-liners on Kosovo's recognition, as they are both directly concerned by the secessionist sentiments of the Basque region and Catalonia in the case of Spain and by the 1983 unilateral declaration of independence by the 'Turkish Republic of Northern Cyprus' in the case of Cyprus. Yet, Spain agreed to the mission, while Cyprus constructively abstained.

The sequencing of events played a primary role in the launching of the EULEX Kosovo mission.²⁶ The fact that the mission was approved before the unilateral declaration of independence, allowed Member States to avoid linking the debate on the mission with the one on independence (Goldirova, 2008). Also, during an interview, it was recounted how High Representative Solana played a central role in pushing forward EULEX Kosovo.²⁷ As a Spaniard, and thus from a Member State opposed to Kosovo's independence, Solana shifted the focus from a debate about independence into one focused on the immediate security needs of the Western Balkans. It was this mental shift in deliberations that also helped convince Member States opposed to Kosovo's independence at least to agree on the provision of a civilian mission sooner rather than later.²⁸ As soon as Cyprus looked isolated during the Council of the EU meeting, Nicosia agreed to abstain and not veto the mission. As Ioannides (2020) has observed, Cyprus was eager to rebuild its relations with the EU after the rejection of the UN peace plan by the Greek Cypriots, which resulted in the failure to reunify the island in 2004.

²⁵ The message was also reinforced by the European Parliament. Indeed, after Kosovo's declaration of independence, MEPs were keen to stress the unique situation that was unfolding there. Many were keen to underline that the experience of Kosovo was truly unique and it could not be used as a precedent for separatist or independence movements within Member States (European Parliament, 2008).

²⁶ Interview, analyst, Istituto Affari Internazionali, 21 March 2023.

²⁷ Interview, official, European External Action Service, 12 December 2022; and interview, academic, London School of Economics and Political Science, 22 March 2023.

²⁸ Interview, official, European External Action Service, 12 December 2022; and interview, academic, London School of Economics and Political Science, 22 March 2023.

2.4.4. Effectiveness

The effectiveness of the mission was dependent on the Member States' position on Kosovo's status and the mission's perceived role, rather than in terms of capabilities. The EULEX mission to Kosovo reached initial operational capability in December 2008 and was regarded as a 'stepping-stone' initiative in enhancing the EU's credibility as a security actor (Grevi, Helly and Keohane, 2009). Although the mission reached full operational capability in April 2009 and took over substantial elements of UNMIK's mandate, the mission was affected by the broader scope of its mandate (including policy, justice and customs) and because its deployment was made possible despite the challenging context discussed above. Yet those challenges did not stop as soon as the mission became active. Indeed, consequences for the mission's actions on the ground resulted not only from discrepancies between the EU's willingness to launch a security mission under the CSDP in the Balkans to prove its ability to act (Bretherton and Vogler, 1999) but also from its lack of consensus on the broader aspects of Kosovo's independence (Economides and Ker-Lindsay, 2010).

Although the mission did reach a viable level of staff on the ground with approximately 3 000 employees (Jacqué, 2015: 64), the major problem stemmed from an inability to manage the mission's executive tasks and its training objectives effectively (Korski and Gowan, 2009: 27) and understand the long-term consequences of Kosovo's EU integration process (Vila Sarrià and Demjaha, 2021). In addition, because of EU Member States' disagreement on Kosovo's status, EULEX Kosovo was not perceived as a 'strong, dedicated and capable' actor in the region (Zupančič et al, 2018: 605). Yet one should be careful in pinning the blame for all of the issues surrounding EULEX Kosovo on the disagreement between those Member States that recognised Kosovo's independence and those that did not.

There is, of course, evidence to suggest that those opposed to Kosovo's independence did try to block cooperation between EULEX Kosovo and the EU Special Representative at the time, Peter Feith (Korski and Gowan, 2009: 34). Peter Feith was double-hatted. On the one hand, he was appointed EU Special Representative (EUSR) in April 2008, with a 'status neutral' mandate. Still, on the other hand, he was also appointed as the International Civilian Representative, which was mandated to oversee the implementation of the Ahtisaari Plan for Kosovo's independence. Despite all this, it must be recognised that a myriad of issues conditioned the effectiveness of EU action, including: a lack of experience in conducting rule-of-law missions; difficulties in handling the transfer of administrative powers from the UN to the EU; and a lack of commitment even from those Member States supporting Kosovo's independence (Korski and Gowan, 2009).

Furthermore, there is no evidence that the absence of a common position about Kosovo's status resulted in any direct critical force-generation issue for the mission. Among the non-recognisers, the Romanian UNMIK contingent moved from the UN mandate to the EULEX one and was reinforced with additional personnel. Romania withdrew in September 2011, however, after frustrations caused by the refusal of some of the EU Member States to accept Romania in the Schengen Area (Ivan 2020). Despite its abstention, since 2016 Cyprus has changed its attitude towards EULEX following the appointment of Alexandra Papadopoulou, a Greek diplomat, as head of the mission. This change of attitude resulted in the contribution by Cyprus of one police officer to the mission (Ioannides, 2020). Overall, this was part of a more general change of attitude that characterised Cyprus' foreign policy in that period.²⁹ The case of Spain is different. Despite formally approving the EULEX mission, Spain not only did not contribute to the mission but also withdrew Spanish troops from the Kosovo Force mission in March 2009. This triggered an intense debate in Parliament over the issue, not least because it caused considerable discontent among NATO partners (Ferrero-Turriòn, 2020).

²⁹ Interview, academic, London School of Economics and Political Science, 22 March 2023.

2.4.5. Unity

Cyprus abstained from the decision by appealing to 'constructive abstention', Article 31(1) TEU. Cyprus was already among the five Member States that did not recognise Kosovo's declaration of independence in February 2008, mainly because they feared that such a development might encourage secessionist initiatives in their own countries.³⁰ Cyprus joined the EU in May 2004 following the 2003 Accession Treaty's entry into force. Under Protocol 10, the treaty clarified that EU legislation is suspended in those areas of the Republic of Cyprus where the government does not exercise effective control (European Union, 2003). Since 1983, following the Turkish military invasion, the northern part of the island has been controlled by the self-declared Turkish Republic of Northern Cyprus, which is recognised only by Turkey. According to Cyprus, Kosovo's independence does not set any precedent and should be considered a *sui generis* case. Nevertheless, in its decision to abstain, Cyprus made clear that it respects the wishes of partner Member States to play a constructive role in delivering peace and security to the Western Balkans (Beneyto et al, 2009: 87).

Despite that, Cyprus remains opposed to Kosovo's unilateral declaration of independence, which is seen as falling outside of the UN framework. It is against this backdrop that Cyprus' appeal to 'constructive abstention' should be read. In fact, Cyprus was advocating for an explicit decision from the UNSC to provide an official mandate for the CSDP mission to Kosovo (Council of the EU, 2008). This UNSC decision for adopting the Ahtisaari Plan to replace UNSC Resolution 1244 never materialised, thus strengthening the argument for those opposing Kosovo's declaration of independence. Yet despite their opposition to Kosovo's declaration of independence, Spain, Slovakia, Greece and Romania decided not to stop the EULEX deployment, even in the absence of a UNSC mandate. Here, one should recall again that the decision to deploy EULEX Kosovo officially had been taken a day before Kosovo declared independence.

In this way, each Member State opposed to Kosovo's independence could claim that the EULEX mission was deployed before the declaration of independence. Nevertheless, Cyprus' 'constructive abstention' in the case of Kosovo is perceived as a way of showing unity with the EU without compromising national priorities. Cyprus' national priorities were made clear by Tassos Papadopoulos, President of Cyprus until the end of February 2008, who stated that Cyprus would not recognise Kosovo 'even if Serbia does' (quoted in Ker-Lindsay, 2013). Nicosia's attitudes started changing with the new leadership in power,³¹ and the increasing pressure of the financial crisis (Christou and Kyris, 2017). Indeed, experts have attributed the progressive change of Cyprus' attitude towards Kosovo and the EULEX mission to its willingness to 'become increasingly Europeanised in its foreign policy' (Ioannides, 2020: 199) and to support the notion of 'European consensus'. This was practically translated into Nicosia's tendency not to veto any decision if it was the only country adopting that position (Ioannides, 2020).

2.4.6. Foreign influence

Launching the EULEX Kosovo mission and Cyprus' appeal to 'constructive abstention' seem not to have created any cases of 'negative' foreign influence. On the contrary, the potential influence from external actors, such as the USA or the UN, can be seen here as having played in favour of EU unity. Indeed, the USA played a lot of 'lobbying behind the scenes', in particular with the non-recognisers.³² For example, the US embassy in Bucharest made several attempts to convince the Romanian government to change its position and recognise Kosovo's independence. Even if Romania did not change its position, arguing it was defending its national interest, Bucharest

³⁰ The other Member States that do not recognise Kosovo are Spain, Slovakia, Romania, and Greece.

³¹ Interview, academic, London School of Economics and Political Science, 22 March 2023.

³² Interview with expert, London, 22 March 2023.

reassured the USA that it would stay engaged in Kosovo. In practice, it did so by moving the Romanian UNMIK contingent from the UN mandate to the EULEX one and by maintaining its liaison office in Pristina (Ivan, 2020).

It is also a case of demonstrating the EU's ability to exert some degree of influence on neighbouring regions such as the Western Balkans. In any case, this specific situation shows that, even with the constructive abstention exercised by Cyprus, the Union was still divided in its overall approach to Kosovo because there were four other EU Member States that did not recognise Kosovo's independence (Economides and Ker-Lindsay, 2010). Here, there is little evidence to suggest that external actors sought to instrumentalise this division for the purposes of undermining security in the Western Balkans.

2.5. Case study 4 – EU sanctions following Russia's invasion of Ukraine

On 24 February 2022, Russia invaded Ukraine, following its previous seizure of Crimea in 2014 as well as supporting separatist groups in the Donetsk and Luhansk oblasts. This large-scale military invasion of Ukraine saw the Kremlin deploy forces to the Ukrainian capital city, Kyiv, in an attempt to gain a quick advantage and overthrow Ukrainian President, Volodymyr Zelensky and his government. Whilst President Vladimir Putin called his military onslaught a 'Special Military Operation', clearly his country was orchestrating a full-blown invasion of Ukraine with the hope of removing its government. Ukrainian armed forces and citizens managed to hold on to their besieged cities and force the Russian military back. By March, with Russia's attempt to seize Kyiv having failed, the Kremlin turned its attention to the south of the country with the objective of invading Kherson and several Black sea cities such as Odessa. Russian forces took Mariupol in May and intensified their military operations in the Donetsk and Luhansk oblasts.

By June, Ukrainian armed forces had sunk Russia's Black sea fleet flagship – the Moskva – and driven Russian forces from Odessa. While the city of Lysychansk (Luhansk) fell to Russian forces in July following weeks of bombardment, the summer marked a turning point with Ukrainian forces launching a counteroffensive in August to take Kherson back and strike Russian targets located in Crimea. Ukraine's counteroffensive was proving so successful that by September, Russia was forced from the northeastern region of Kharkiv with its forces surrendering and fleeing from Kherson in mid-November. Since Russia's invasion of Ukraine, it has become clear that its forces are disjointed, demoralised and completely unprepared for Ukraine's defensive measures and military force (Kofman and Lee, 2022). While some analysts were concerned that Russia would still defeat Ukraine despite its poor performance in Kyiv (French, 2022), by September Ukrainian armed forces had reclaimed some 1 200 square miles of its territory in what could be seen as a possible sign that Russia can be defeated (Detsch, 2022).

2.5.1. The EU's response and unity

Since Russia's military invasion of Ukraine, the EU has responded in a comprehensive manner through a range of policies designed to support Ukraine and halt Russia's military actions.³³ When the war broke out the EU put in place a temporary protection measure for the reception of Ukrainian refugees and also *inter alia*: provided education for Ukrainian children; upped its diplomatic efforts to isolate Russia globally; countered the disinformation spread by Russia's state-owned media; transferred EUR 3.1 billion worth of military equipment to Ukraine under the European Peace Facility; delivered humanitarian and food aid to Ukrainians; provided support for the investigation

³³ This study analyses the EU's response to Russia's war from February 2022 to November 2022. Thus, up to and including the eighth 'sanctions package'.

of Russian war crimes; agreed to temporary trade liberalisation for Ukraine; and granted EU candidate status to Ukraine. Additionally, on 26 July the EU announced that it would lower its dependency on Russian gas by decreasing demand by 15% over the winter months. This was a major shift for the EU, and Germany in particular, which had been planning to extend its energy pipeline connections with Russia before its 2022 invasion of Ukraine through the Nordstream II project.

Table 5: A timeline of the EU sanctions on Ukraine

Date	Event
23 February 2022	The EU imposes restrictive measures on Russia for its illegal recognition of the Donetsk and Luhansk oblasts.
24 February 2022	Russia invades Ukraine.
24 February 2022	The EU agrees to the 'first package' of sanctions on Russia including sanctions on individuals and the energy, financial and transport sectors in Russia.
27 February 2022	The EU agrees to the 'second package' of sanctions on Russia including a ban on military goods and the supply of dual-use goods.
2 March 2022	The EU agrees to the 'third package' of sanctions including a SWIFT ban for seven Russian banks.
15 March 2022	The EU agrees to the 'fourth package' of sanctions on Russia including travel bans on oligarchs and sanctions on aviation, military and shipbuilding companies.
8 April 2022	The EU agrees to the 'fifth package' of sanctions on Russia including a full ban on freight road operators and coal imports.
3 June 2022	The EU agrees to the 'sixth package' of sanctions on Russia including a ban on oil imports.
23 June 2022	The EU grants Ukraine EU candidate status.
21 July 2022	The EU agrees to the 'seventh package' of sanctions on Russia including measures on the Russian defence sector.
6 October 2022	The EU agrees to the 'eighth package' of sanctions on Russia including an oil price cap and restrictions on state-owned enterprises.

Source: authors' own compilation, 2023.

One of the most swift and decisive areas of action against Russia that was pursued by the EU was in relation to restrictive measures. These measures, usually grouped under the term 'sanctions packages' include travel bans and asset freezes on individuals, the prohibition of access to financial payments systems such as SWIFT and importation restrictions and bans on energy sources such as oil and gas (Council of the EU, 2022d).

On 23 February, literally one day before Russia's invasion, the EU agreed to restrictive measures in response to Russia's illegal recognition of the Donetsk and Luhansk oblasts as independent entities, as well as the Kremlin's decision to send troops into these two regions (Council of the EU, 2022b). This 'sanctions package' targeted 351 members of the Russian Duma and a further 27 individuals involved in the illegal action, as well as restricting economic relations with the regions and ensuring that Russia's access to EU capital as well as financial markets and services was denied (Council of the EU, 2022c). A day later the EU agreed to sweeping restrictive measures against Russia within the financial, energy and transport sectors, as well as imposing restrictions on dual-use goods, visa policy, export controls and financing together with additional restrictive measures on individuals

(European Council, 2022). These restrictive measures were also personally directed towards President Vladimir Putin and Russia's foreign minister, Sergey Lavrov.

From February 2022 to October 2022, the EU introduced eight packages of restrictive measures including sanctions, travel restrictions and asset freezes. These include measures aimed against: Russia's central bank and commercial banks; Russia's state-backed broadcasting companies such as Russia Today and Sputnik; the maritime and air sectors with a ban on access to EU airspace and ports; the Russian defence-industrial base; the energy sector in Russia; a host of senior officials in the Kremlin; and former pro-Russian officials from Ukraine such as former President Victor Yanukovich and his son Oleksandr Yanukovich. In many cases, though, the Union has had to be creative about managing the economic shock associated with sanctioning key sectors of the Russian economy.

One should note that Russia's war on Ukraine was new political terrain for the EU and its Member States and it entailed all Member States suffering a degree of economic hardship in order to respond to Russia's aggression. For this reason, even though there was a high degree of unity in response to Russia's actions there were nevertheless reservations amongst Member States on the severity or extent of the measures agreed upon over the eight packages. For example, several Member States called for any targeted measures against Russia to take into account domestic specificities – this was certainly the case for energy. Countries such as Austria, Bulgaria, Cyprus, Czech Republic, Germany, Greece, Hungary, Malta and Slovakia all called for additional flexibility given their domestic levels of dependency on Russian energy supplies. This included the time needed to adapt energy infrastructure to be able to import non-Russian sources of energy.

Member States such as Belgium, Bulgaria, France and Italy also objected to EU measures that covered precious minerals such as diamonds, rubber components, steel or nuclear energy. Furthermore, other Member States were concerned about the unintended consequences of EU actions. For example, when the EU sought to sever Russian banks' access to SWIFT banking services Austria, Cyprus, Germany, Hungary and Italy initially objected to the move for fear that Russia would cut-off gas supplies in retaliation. Additionally, issue linkages were also observed in the case of Hungary. It threatened to make its support for measures against Russia contingent upon the European Commission agreeing to release EU funds to Hungary after concerns about rule of law and fundamental rights in the country.

2.5.2. Timeliness

The EU was drawn into this conflict from the outset, working quickly and comprehensively to support Ukraine. Indeed, at an emergency European Council summit organised on 24 February, the EU condemned 'in the strongest possible terms the Russian Federation's unprovoked and unjustified military aggression against Ukraine' and it confirmed 'its unwavering support for the independence, sovereignty and territorial integrity of Ukraine within its internationally recognised borders' (European Council, 2022). On this basis, the European Council underlined that it would impose the harshest possible restrictive measures on Russia and work towards providing Ukraine with political, financial, humanitarian and military support to defeat Russia in Ukraine. In particular, the Union was taking aim at Russia's financial, energy and transport sectors with its restrictive measures but would also take the unprecedented steps of providing lethal military equipment to Ukraine and cutting its dependency on Russian fossil fuels (European Council, 2022).

Such was the shock and audacity of Russia's actions, that Member States were collectively very clear in stating that Moscow should receive retribution for its actions as soon as possible. In particular, the EU's swift decision-making married with that of the USA and other key partners around the world – the USA imposed its first restrictive measures on Russia after the invasion on 25 February 2022 (US government, 2022). During the early stages of Russia's war, there were even political calls from within the Union for Member States to move more quickly on the imposition of restrictive measures with Italy's then Prime Minister, Mario Draghi, calling for the EU to impose such measures robustly

as there was evidence that not all Member States were doing so (Reuters, 2022). Although analysis has questioned whether or not the need to agree on extending EU restrictive measures every six months lends itself to continued timely action (Taran, 2022), it is clear that the initial phase of the war saw a relatively rapid EU response.

Yet one should recognise that timely action by the EU, in this case, was tested by the enormous strains on the Union's energy policy and infrastructure. For example, while EU restrictive measures on oil deliveries received unanimous backing from Member States, the specific needs of countries such as Austria, Cyprus, Greece, Hungary, Malta and Slovakia needed to be considered as they faced a potentially disproportionate energy shock due to the specific composition of their energy market and supplies (Brzozowski, 2022).³⁴ There was general agreement in the Council that any transition away from energy dependence on Russia required a careful balancing of stringent measures on the Kremlin and the management of the European energy sector. For example, two days before Russia's invasion of Ukraine Germany announced a halt to the certification process for the now defunct Nordstream II gas pipeline (Marsh and Chambers, 2022) and it announced a halt to Russian oil imports in January 2023 (Sorge and Longley, 2022).

This move by Germany was unprecedented given how the previous federal government resisted pressure from allies such as the USA to close down the Nordstream II gas pipeline. From 2019, and thus before Russia's military invasion of Ukraine, Germany was asked to abandon Nordstream II. For example, back in December 2019 – under the Trump administration – the US government sanctioned companies involved in the construction of the Nordstream pipeline. Additionally, in the wake of the poisoning of the Kremlin opposition figure Aleksei Navalny and his imprisonment the European Parliament issued a joint motion for a resolution calling for the suspension of the pipeline (European Parliament, 2021b). During this period, the previous federal government resisted pressure to close Nordstream II and argued that the pipeline would help with energy supply and prices (Brzozowski, Pistorius and Gröll, 2021). Although the Biden administration would waive its sanctions on Nordstream II in May 2021, it continued to object to the pipeline project and it was only ultimately suspended following Russia's invasion of Ukraine in February 2022 (White House, 2022a and 2022b; German federal government, 2022b).

During interviews, it was revealed that the timeliness of the Union's sanctions on Russia was in large part driven by how fast Europe could adapt its energy infrastructure.³⁵ For countries such as Spain and Lithuania, which had already invested in liquefied natural gas (LNG) terminals before Russia's invasion of Ukraine, the switch away from Russian energy via pipelines had less of an economic impact.³⁶ However, for countries such as Germany, the Czech Republic, Hungary and Slovakia it took additional time to adapt energy infrastructure to import non-Russian sources of energy.³⁷ In fact, one can read Germany's initial hesitation to ban Russian imports of oil and gas as a concern about how fast its national energy infrastructure could be adapted.³⁸ Additionally, one of the other reasons why EU Member States were able to agree to timely sanctions against Russia relates to the goods that were not included in packages. For example, throughout the negotiations, Member States such

³⁴ Interview, analyst, German Council on Foreign Relations, 22 March 2023.

³⁵ Interview, analyst, German Council on Foreign Relations, 23 March 2023; and interview, analyst, German Council on Foreign Relations, 22 March 2023.

³⁶ Interview, analyst, German Council on Foreign Relations, 23 March 2023.

³⁷ Interview, analyst, German Council on Foreign Relations, 23 March 2023.

³⁸ Interview, analyst, German Council on Foreign Relations, 22 March 2023; and interview, analyst, German Council on Foreign Relations, 23 March 2023.

as Belgium, Bulgaria, France or Italy worked to ensure that sanctions would not cover nuclear-related energy, steel, rubber components or precious minerals such as diamonds.³⁹

So, while EU Member States managed to swiftly act against Russia's actions they did so by collectively managing their specific national concerns. In fact, one can interpret the Union's strategy of imposing 'packages' of sanctions as a way to effectively balance the need to act against Russia with the management of Member State concerns. This interpretation was confirmed by one interviewee who suggested that the EU was fully aware of Russia's atrocities in Ukraine, but it chose to stagger its sanctions packages rather than impose them all at once.⁴⁰ This strategy was followed in order to maintain political leverage and to ensure the political space needed to accommodate specific Member State concerns related to energy and critical economic supplies and materials.⁴¹

Finally, it is also noteworthy to understand the specific nature of EU negotiations in the context of the restrictive measures imposed on Russia. In this sense, it was stated during one interview that the European Commission and the Committee of Permanent Representatives (Coreper) played a vital role in reducing the time spent deliberating sanctions packages in Council working groups and committees (e.g., the Working Party of Foreign Relations Counsellors).⁴² Given that sanctions touch on various areas of EU policy and the risk of 'spill-over' across policy areas is high, the packages imposed on Russia were 'pulled through the institutional process with low internal consultation' by the Commission and Coreper to speed up policy decisions.⁴³ It was also revealed by interviewees that the Commission played a crucial role in negotiating the terms of sanctions packages bilaterally with individual Member States.⁴⁴ This had the effect of lowering the opportunities for bargaining and horse-trading between governments, and it also meant that the Commission could present bold proposals.⁴⁵

2.5.3. Effectiveness

As a united reaction to Russia's aggressive moves, it is remarkable how quickly the EU's restrictive measures were applied. Nevertheless, one should ask whether the measures unanimously adopted by the EU were effective or not. Clearly, EU restrictive measures are having a direct impact on the Russian economy with as much as a 4 % decline in the second quarter of 2022; decreased levels of budget revenues to the Russian state; and a 22.4 % year-on-year contraction in Russian imports (Taran, 2022: 5). The EU's sanctions are also greatly reducing Russia's ability to produce military capacity (Rácz, Spillner and Wolff, 2023). Buoyed by continued oil and gas exports to new importers such as China and India, as well as profiting from high global energy prices, the Russian economy has been able to cushion some of the blow from restrictive measures. Ever since Russia's invasion of Ukraine, EU Member States have moved in a phased approach to decoupling from Russian energy. The Baltic states stopped importing Russian gas in April 2022 and Bulgaria, Netherlands and Poland cut gas contracts with Gazprom in the same month (Shagina, 2022: 106). Countries such as Germany and Italy opted to increase energy imports from Algeria and Qatar (Shagina, 2022: 106).

³⁹ Interview, analyst, German Council on Foreign Relations, 22 March 2023.

⁴⁰ Interview, analyst, German Council on Foreign Relations, 22 March 2023.

⁴¹ Interview, analyst, German Council on Foreign Relations, 22 March 2023.

⁴² Interview, analyst, German Council on Foreign Relations, 22 March 2023.

⁴³ Interview, analyst, German Council on Foreign Relations, 22 March 2023.

⁴⁴ Interview, analyst, German Council on Foreign Relations, 22 March 2023, interview, analyst, German Council on Foreign Relations, 23 March 2023; interview, analyst, Polish Institute for International Affairs, 24 March 2023; and interview, official, Secretariat-General, European Commission, 15 December 2022.

⁴⁵ Interview, analyst, German Council on Foreign Relations, 22 March 2023, interview, analyst, German Council on Foreign Relations, 23 March 2023; and interview, analyst, Polish Institute for International Affairs, 24 March 2023.

Despite such moves, however, there are concerns about the implementation of sanctions on Russia (Taran, 2022). First, for the successive agreement of EU sanctions packages, it has become clear that Member States require some flexibility in adjusting their economies to a new reality. For example, the study looked into how in the summer of 2022, Member States agreed on restrictive measures on Russia's oil and gold but not on gas (Rauhala and Ariès, 2022). Although Member States did agree to a gas price cap in December 2022, the effectiveness of the EU sanctions packages was conditioned by how fast Member States could diversify supply chains and adapt their energy infrastructure. In many cases, national campaigns to conserve energy such as Germany's *'Deutschland macht's effizient* ('Germany makes it efficient') helped with cushioning the blow to energy stocks (German federal government, 2022a). However, the EU was initially ill-prepared to reorient its energy sector.

For example, countries such as Spain already had in place LNG infrastructure to be able to import non-Russian sources of gas, so the main concern for Madrid was the additional costs associated with new sources of gas, but this in no way hampered its agreement on sanctions.⁴⁶ Unlike Spain, however, Member States such as Austria, Cyprus, the Czech Republic, Germany, Slovakia and Malta required additional time to adjust – not least due to their unique geographical positions in Europe.⁴⁷ Even those Member States in the avant-garde of pushing for the harshest possible sanctions, such as Poland and the Baltic states, recognised that lowering EU dependence on Russian gas would take additional time.⁴⁸ Furthermore, there appeared to be complications in ensuring coherence between the various measures agreed by the EU under its 'sanctions packages'. For example, in March 2022 the EU prohibited the provision of SWIFT banking services to several Russian banks (Council of the EU, 2022d), but, before this, Germany – initially along with Austria, Cyprus, Hungary and Italy – objected to the move for fear that it could result in Russia cutting-off gas supplies to Germany (Von der Burchard, 2022).⁴⁹

Yet other Member States also sought to temper the extent of the 'sanctions packages' in other ways. For example, during interviews, it was revealed that countries such as Bulgaria and France wanted to avoid stringent sanctions on Russia's nuclear sector.⁵⁰ This was due to the technical expertise and components required to ensure the continued functioning of Soviet-era nuclear plants and to maintain Russian imports of uranium (Mouterde and Cessac, 2023).⁵¹ Furthermore, while countries such as Poland and the Baltic states attempted to have precious minerals such as diamonds included in the EU sanctions packages, Belgium had raised concerns that this would disproportionately affect its economic interests in the sector (Rankin, 2022).

2.5.4. Unity

The EU's round of eight 'sanctions packages', agreed by unanimity, displays a relatively high degree of unity not only among Member States but also between the Union and Ukraine. Due to the EU having adopted a strong position on restrictive measures, it was able to work with international partners to exert increasing pressure on the Kremlin. In this sense, despite having to manage national concerns during negotiations, the Union could agree on eight 'sanctions packages' that aimed to deter Russia's actions in Ukraine. Thus, while the first 'sanctions package' targeted Russian finance and banking, the 'fourth package' agreed on 15 March targeted Russia's defence industrial

⁴⁶ Interview, analyst, German Council on Foreign Relations, 23 March 2023.

⁴⁷ Interview, analyst, German Council on Foreign Relations, 23 March 2023.

⁴⁸ Interview, analyst, Polish Institute for International Affairs, 24 March 2023.

⁴⁹ Interview, analyst, Polish Institute for International Affairs, 24 March 2023.

⁵⁰ Interview, analyst, German Council on Foreign Relations, 22 March 2023; and interview, analyst, German Council on Foreign Relations, 23 March 2023.

⁵¹ Interview, analyst, German Council on Foreign Relations, 22 March 2023; and interview, analyst, German Council on Foreign Relations, 23 March 2023.

base, as well as state-owned companies in the energy sector (Council of the EU, 2022f; 2022g). Despite the specific needs of EU Member States in having to adjust to the new reality of the invasion of Ukraine, the Union still ultimately agreed to both an oil and gas price cap for Russian energy (Abnett, 2022).

The study explored how individual Member States had specific national concerns about the extent of sanctions. Some measures were deemed relatively cost-free for the EU, including the suspension of Russia Today and Sputnik (Council of the EU, 2022e). Other measures implied higher costs for EU governments but, until now, this has not stopped Member States from unanimously agreeing to restrictive measures. For example, Belgium abstained on the 'eighth package' of sanctions due to fears of pressures on its steel industry (Malingre, 2022). Yet Prime Minister Alexander De Croo made it clear that Belgium did not want to 'break European solidarity' and so this is why a simple abstention rather than a veto was exercised (Georis, 2022).

Hungary holds up the agreement on the fifth and sixth packages, but only until it gained recognition from other EU governments for the specific needs of its energy sector.⁵² Indeed, Hungary had initially objected to the aims contained within the Union's sixth 'sanctions package' because the planned complete import ban on all Russian crude oil and petroleum products would have meant a cut in oil pipeline supplies from Russia – Hungary's principal source of oil imports. However, in other respects Hungary's threat to veto EU decisions with regard to Russia is also linked to wider concerns about the rule of law and fundamental rights in the country. Indeed, at the end of 2022, the European Commission announced that it would withhold EUR 22 billion in Cohesion Funds to Hungary for its actions on academic freedoms, the independence of the judiciary, asylum and LGBTQI rights (Abnett and Strupczeski, 2022). Hungary thereby made its consent for sanctions on Russia throughout 2022 dependent on the European Commission agreeing to the full dispersal of EU funds to Budapest under the Cohesion Funds and RRP (Tamma, 2022).

Hungary was not alone with specific national concerns about energy supplies, and countries such as Austria, Bulgaria and Germany with pipelines to Russia also called pragmatic solutions.⁵³ Other Member States such as Greece, Cyprus and Malta are traditionally seaborne importers of Russian oil, and so they called for mitigating measures to dampen the economic pain of foregoing Russian oil imports by sea. Accordingly, on 6 October 2022, the Union agreed to a price cap for the maritime transport of Russian oil to third countries, further restricting exports into the EU but leaving enough margin for economic manoeuvring by affected Member States (Council of the EU, 2022h; 2022i; Calleja, 2022; Michalopoulos, 2022). During interviews, it was revealed that even though countries such as Poland, the Baltic states and the Netherlands wanted a complete end to Russian oil imports, there was nevertheless a recognition among Member States that certain countries faced unique economic and geographical positions.⁵⁴

Ultimately, even with specific national concerns Member States still agreed to successive sanctions packages. It is also noteworthy that these national interests became more pronounced during domestic elections. As two interviewees revealed, directly after Russia's invasion of Ukraine there were presidential elections in both Hungary (on 10 March 2022) and France (in April 2022), so domestic concerns about the possible economic fall-out from the war became especially

⁵² Interview, analyst, German Council on Foreign Relations, 23 March 2023.

⁵³ Interview, analyst, German Council on Foreign Relations, 22 March 2023, interview, analyst, German Council on Foreign Relations, 23 March 2023; and interview, analyst, Polish Institute for International Affairs, 24 March 2023.

⁵⁴ Interview, analyst, German Council on Foreign Relations, 22 March 2023, interview, analyst, German Council on Foreign Relations, 23 March 2023; and interview, analyst, Polish Institute for International Affairs, 24 March 2023.

amplified.⁵⁵ These concerns tended to resurface every time there was a significant domestic election, as was the case in Malta (on 26 March 2022), Hungary (in April 2022), Slovenia (on 24 April 2022) and more.⁵⁶ Yet with the exception of needing additional resources and time to adjust energy infrastructure in the EU, none of these domestic political campaigns led to disunity at the EU level. One of the core reasons why EU unity was maintained throughout the negotiations for sanctions packages, stems, according to an interviewee⁵⁷, to the severity and unique nature of Russia's war on Ukraine. In concrete terms, the war had led to close media scrutiny of Member State actions and events such as the Bucha massacre in March 2022, which concentrated governments' minds in continuing to agree to sanctions packages in a timely fashion.⁵⁸

2.5.5. Foreign influence

The high level of EU unity in agreeing to 'sanctions packages' against Russia has drastically reduced the potential for the Kremlin to exert influence over the EU's decision-making framework. Although Russia enjoyed a degree of influence over EU governments due to energy interdependencies, the decision to cut or lower energy supplies from Russia considerably dampened the risk of Russian foreign influence. There were only a few cases where Russia was suspected of attempting to influence EU policy. For example, Germany's investment in the Nordstream II pipeline before the war, and the country's initial reluctance to end its contract of supply with Gazprom – a Russian state-owned company – despite Russia's actions in Ukraine since 2014, prompted fears of Russian influence (Boute, 2022; Siddi, 2016). Despite Germany's prior dependency on Russian energy, however, Berlin took a bold decision in cutting energy ties with Russia in February 2022, although it took some time for the German economy to adjust itself to lower consumption and new sources of fossil fuels and renewable energies.⁵⁹

Another example relates to Hungary's insistence on removing certain high-level Russian individuals from the EU's sanctions list. Indeed, in June 2022 Hungary was successful in having Patriarch Krill – the head of the Russian Orthodox Church – removed from the Union's restrictive measures list (Liboreiro, Koutsokosta and Murray, 2022). During interviews, the reasons for removing Patriarch Krill from the sanctions list remained unclear, even if it was seen as an example of the Russian government's pressure on Budapest.⁶⁰ Hungary also objected to EU restrictive measures on three Russian oligarchs Alisher Usmanov, Petr Aven and Viktor Rashnikov (Moens and Vela, 2022). Prime Minister Viktor Orbán has also undertaken a much criticised 'national survey' on the impact of EU restrictive measures on Russia and its consequences for energy prices in Hungary (Óry, 2022; Brzowski, 2023). However, it should be pointed out again that these instances did not serve ultimately to block the Union's sanctions packages and Hungary did not ever use its veto in this context.

2.6. Observations

Each of the four case studies analysed here highlights the specific international circumstances faced by the EU in the area of CFSP. It may seem obvious but clearly, any discussion about whether the Union uses unanimity or QMV for its decision-making should recognise the specific nature of

⁵⁵ Interview, analyst German Council on Foreign Relations, 22 March 2023; interview, analyst, German Council on Foreign Relations, 23 March 2023; and interview, analyst, EU Institute for Security Studies, 27 March 2023.

⁵⁶ Interview, analyst, German Council on Foreign Relations, 23 March 2023.

⁵⁷ Interview, analyst, German Council on Foreign Relations, 22 March 2023, and interview, analyst, German Council on Foreign Relations, 23 March 2023.

⁵⁸ Interview, analyst, German Council on Foreign Relations, 22 March 2023, and interview, analyst, German Council on Foreign Relations, 23 March 2023.

⁵⁹ Interview, analyst, German Council on Foreign Relations, 23 March 2023.

⁶⁰ Interview, analyst, German Council on Foreign Relations, 23 March 2023.

individual crises faced by the EU. The international and European contexts have a specific bearing on the costs and benefits of unanimity and QMV. It is also necessary to treat the case studies as interdependent with a range of political issues that can influence the credibility and scope of the Union's international actions. For example, supporting human rights in Hong Kong was overwhelmingly about the Union's desire to uphold human rights worldwide but, nevertheless, the overall EU-China context did influence EU decision-making. Indeed, China perceived the EU's actions as interference in its domestic affairs and interpreted the Union's stated aims as being part of the West's 'rivalry' with Beijing. Using unanimity ultimately made it difficult for the Union to maintain its human rights declarations against the situation in Hong Kong. Whereas all of the EU Member States with the exception of Hungary were prepared to continue agreeing to human rights declarations, unanimity did not stop the EU from restricting exports and technologies to Hong Kong.

Table 6: The benefits and costs of unanimity in CFSP

	Benefits	Costs
Timeliness	✓ Unanimity helps if the EU can act in a speedy fashion to an international crisis.	✗ The risk of a veto can hamper or slow down the EU's speed of action in international crises.
Effectiveness	✓ Unanimity helps ensure the effectiveness of the EU's approach during international crises. ✓ Unanimity can lead to more effective international partnerships .	✗ The risk of a veto can damage the effectiveness of EU action under the CFSP. ✗ The risk of a veto can harm the EU's consistency when interacting with partners.
Unity	✓ If achieved, unanimity symbolises the highest level of unity in CFSP. ✓ If achieved, unanimity allows the EU to abide by its fundamental values and norms .	✗ The threat of a veto under unanimity risks undermining EU unity and the credibility of CFSP actions. ✗ Short of EU consensus, action may be pursued outside of the formal structures of CFSP.
Foreign influence	✓ Unanimous decisions deter foreign rivals and competitors from adopting a 'divide and rule' strategy towards the EU Member States.	✗ The use of a veto under unanimity may be a symptom of foreign influence and raises the risk that strategic competitors and rivals will divide the EU.

Source: authors' own compilation, 2023.

In the case of the Union pursuing restrictive measures against Belarus, the EU faced the challenge of issue-linkage, with Cyprus underlining the fact that it saw an inconsistency in the EU's approach to Belarus and Turkey. Again, a specific policy objective was quickly connected to wider policy concerns among Member States, although the geographical proximity of Belarus entailed a greater sense of urgency for EU policy action. This case demonstrated that there can be a mismatch between Member States that want to raise their own national security concerns during crises, which are perhaps mirrored in the Belarus situation and those that would like individual EU decisions to be taken on a case-by-case basis without any interference from issue-linkage. This implies that any potential use of QMV in the future should contend with the challenge posed by issue-linkage. In this sense, while QMV can be used to overcome individual issue-linkage strategies – in this case side-stepping Cyprus linking the Belarus crisis with Turkey's aggressive actions – it may call into question the ability of certain Member States to achieve their national security aims through the EU.

The EU's actions in Kosovo also highlight how broader political considerations can influence decisions taken under the CFSP and CSDP. Although the specific case of EULEX Kosovo shows great flexibility on the part of states such as Cyprus, it also indicates that there is a possibility that Member

States will relax their use of a veto should their own security concerns be respected and officially recognised during any EU decision-making process. Given how the decision to deploy the EULEX Kosovo mission was decoupled from more politically sensitive questions about the recognition of Kosovo, not least because it could be construed to influence debates about the division of Cyprus and Turkey's occupation of the north of the island, Cyprus decided to exercise a constructive abstention and to not block the launch of the mission.

Finally, the EU's wide-ranging restrictive measures on Russia highlight the degree to which an era-defining conflict has influenced EU decision-making in the area of CFSP. Indeed, Russia's illegal invasion of Ukraine in February 2022 is simply too big an issue over which Member States could exercise vetoes for certain policy choices at the start of the war. However, as the war evolved it has been increasingly recognised by Member States that there are economic costs in relation to restrictive measures on Russia. This was certainly the case with regard to restrictions and bans on Russian fossil fuels such as gas and oil, which up-ended the Union's energy security strategy and advanced by many years the need to wean the Union off Russian energy supplies. The study has also seen evidence of the use of a simple abstention in order to safeguard national positions, while not holding back the Union as a whole from acting (e.g., Belgium). The one exception here is Hungary, which has instead publicly threatened to use its veto if its national concerns were not reflected in successive sanctions packages.

In the case of EU sanctions on Russia, therefore, unanimity has proven to not unduly affect the speed and unity of the Union, even if questions about the effectiveness of sanctions remain. Furthermore, foreign influence by Russia on the EU has been greatly diminished since the measures on energy have been put in place. In this case, the political dynamic at play between Member States has seen an avant-garde of states such as Poland and the Baltic states, including the European Commission, push for stringent sanctions against Russia. This can be contrasted by a second grouping of states such as Austria, Belgium, Bulgaria, Cyprus, France, Germany, Hungary, Italy and others that have called for exceptions to how sanctions are applied. Remarkably, despite these different groupings of countries the EU has continued to prevail in agreeing to sanctions against Russia.

Accordingly, the context of each crisis and international event matters and needs to be taken into consideration whenever EU decision-making processes for CFSP are involved. Yet it is also worth distilling from each of the four case studies the main conclusions that relate to the four types of outcomes detailed in section 1.2.2.

2.6.1. The typology of credibility

In the case of the EU's response to China's actions in Hong Kong, the Union issued a relatively rapid declaratory response to the crisis and specific restrictive measures on security technologies. However, after a while, it ultimately became difficult to continue the consistency on human rights due to Hungary's veto of the Union's human rights declaration on China's 'national security law'. However, Hungary's position did not stop the Union from agreeing to impose export bans and technology controls, as called for by the European Parliament in its resolution of 18 July 2019. The lack of consensus in the Council of the EU on the human rights declaration meant that the Union was constrained in terms of its ability to uphold human rights, although it did find a way to support the citizens of Hong Kong by offering them visa-free travel to the EU and asylum (EEAS, 2021). Additionally, the Council of the EU did manage to agree on announcing restrictive measures for exporting sensitive technologies and security equipment to Hong Kong for use on the civilian population.

In this regard, one of the major costs of unanimity in the case of Hong Kong was the disruption to the Union's human rights position. Eventually, the EU was able to agree on a position on restrictive measures but the goal of having a common and consistent position on the situation was thwarted. This was a concern for the Union because it tested the EU's unity and gave way to suspicions that

China was exerting influence over EU decisions on Hong Kong. In this sense, Hungary's veto was based on a mixture of issues: its disagreement over the effectiveness of EU human rights declarations; its political and ideological opposition to left-wing politicians; and its keenness to maintain a favourable partnership with Beijing. Accordingly, greater attention to the role of external actors, such as China, needs to inform the earliest stages of EU decision-making in the area of CFSP and a rational appreciation of whether a particular form of decision-making makes the EU more or less susceptible to undue foreign influence.

The case of Belarus highlights how issue-linkage cannot be ignored in EU CFSP decision-making and it may directly affect the ability of the Union to act in a timely and effective manner. While it is true that the case of Belarus, and Cyprus' initial veto of EU action, can be seen as having hindered the timeliness and effectiveness of EU action, the importance of unity is also highlighted. Indeed, political statements during the Belarus crisis questioned Cyprus' stance and saw it as a major dent in the Union's credibility. However, this case study demonstrates that unity should not simply be defined in terms of an external, non-EU, actor that requires the Union's support, as with the citizens of Belarus. Indeed, Cyprus understood unity differently and sought assurances for itself as a Member State against a rival, Turkey. This is not to say that Cyprus overlooked the plight of Belarus' citizens but it was also keen to draw attention to what it perceived as double standards with many Member States turning a blind eye to Turkey's belligerent actions in the eastern Mediterranean sea. In this sense, a key question is how the EU can balance its response to external crises while also achieving unity among the vast array of Member States.

Cyprus played a different role during the crisis in Kosovo, with its invocation of a constructive abstention going a long way to achieving EU action in the form of EULEX Kosovo. Indeed, Cyprus and the EU were able to find a solution which allowed the EU to deploy the civilian CSDP mission without impinging on the concerns of Cyprus and others about recognising Kosovo's independence. Certainly, the use of constructive abstention allowed the EU to move more rapidly in deploying the civilian mission, thereby adding to the Union's unity. Overall, this demonstrated a high degree of credibility on the part of the EU despite objections by Cyprus. Even so, as this case study showed, political disagreement between those Member States that did not recognise Kosovo's independence and those that had an initial effect on EULEX Kosovo in terms of staffing and resources. In this sense, constructive abstention was largely positive for EU unity even if there remain questions about the actual effectiveness of EULEX Kosovo.

Finally, the EU's response to Russia's illegal war on Ukraine highlights how quickly the Union was able to agree on restrictive measures against Russia. So far, there has been a high degree of unity as Member States have pulled together in unanimously agreeing to sanctions, even though many of them suffered the economic repercussions of doing so. In fact, this case study highlights how the EU moved comprehensively to cut its energy dependency on Russia by introducing fossil fuel import bans and agreeing to a price cap for oil and gas. In this sense, Russia's war on Ukraine has had a seismic effect on the European economy but Member States have nevertheless unanimously agreed to eight packages of restrictive measures from February to October 2022, as well as extending those restrictive measures imposed on Russia after its 2014 seizure of Crimea. The question for the future is whether consensus will continue to prevail. For example, in December 2022 Hungary attempted to block EUR 18 billion in EU financial support for Ukraine, forcing the Council of the EU to find a solution to circumvent Hungary's position (Council of the EU, 2022k).

Even though unanimity ultimately allowed for a unified and timely approach, however, questions remain about the effectiveness of measures. In the case of sanctions on Russia, the study previously assessed that the EU's successive packages have had a sizeable impact on Russia's economy. However, both interviews and desk research revealed that the implementation of sanctions on

Russia requires greater stringency.⁶¹ First, when sanctions packages are agreed an avant-garde of governments such as Poland and the Baltic states push for the strongest possible measures. However, during negotiations, these measures are eventually tempered because of specific Member State concerns related to their economic interests. Second, even when sanctions packages are agreed at the EU level it is difficult to ascertain whether they are being implemented by national authorities. Indeed, today there is no EU-level body responsible for enforcing sanctions and it is arguable whether bodies like the Court of Justice of the European Union (CJEU) could play such a role. It was also revealed during interviews that the shock of Russia's invasion led many Member States to upgrade their national regulations for sanctions implementation in a relatively rapid fashion.⁶²

⁶¹ Interview, analyst, German Council on Foreign Relations, 22 March 2023; interview, analyst, German Council on Foreign Relations, 23 March 2023; interview, analyst, Polish Institute of International Affairs, 24 March 2023; and interview, analyst, EU Institute for Security Studies, 27 March 2023.

⁶² Interview, analyst, German Council on Foreign Relations, 23 March 2023; and interview, analyst, Polish Institute of International Affairs, 24 March 2023.

3. Alternative scenarios

3.1. Introduction to alternative scenarios

This section is interested in providing alternative scenarios for the four case studies outlined above. The focus is, therefore, on how past crises could have evolved had QMV been possible in CFSP decision-making. Again, the authors are interested in understanding the costs and benefits of QMV in specific cases based on the proposed typologies of outcomes, namely timeliness, effectiveness, unity and foreign influence. In this vein, the authors are also interested in uncovering institutional and political avenues or developments that may emerge in the context of greater use of QMV in the area of CFSP. To this end, they now look at how the EU's approach to the situations in Hong Kong, Belarus, Kosovo and Ukraine could have been altered through the introduction of QMV.

3.2. Alternative scenario: human rights and Hong Kong

In the case study on China's actions towards Hong Kong over the 2019-2020 period, the authors saw how the PRC sought to impose a new 'national security law' on the citizens of Hong Kong. Overall, the PRC's actions were internationally condemned and although the 2019 extradition law was eventually dropped, it led to a range of international responses including statements, restrictive measures, export restrictions and changes to visa and citizenship protocols. The EU responded by imposing export restrictions on sensitive technologies that could be used against the citizens of Hong Kong and a series of EU declarations and statements (European Parliament, 2019 and 2021; Grieger, 2020). Even so, in May 2021 an EU declaration was blocked by the Hungarian government. It is worth considering how QMV could have functioned in this case as opposed to unanimity.

3.2.1. Timeliness

In the specific case of the Union's response to the Hong Kong crisis, there is a strong case for arguing that QMV could have led to a faster EU response than was possible under unanimity in May 2021. Hungary's power of veto in this instance could have been ineffective, as no other Member State was found to publicly disagree with continued EU human rights declarations. Interviews revealed that there was no evidence to suggest that any other Member State was thinking of vetoing the declaration along with Hungary in May 2021, and there was no evidence to suggest that any other Member State was conveniently 'hiding' behind Hungary's veto.⁶³ Of course, one can never truly know if removing the veto could have led to an overwhelming vote in favour of an EU declaration but certain indications during interviews suggest that Hungary could have been comprehensively out-voted by other Member States.⁶⁴ QMV could have allowed for continued EU human rights declarations and this would have boosted the EU delegation to Hong Kong's ability to support pro-democracy citizens, as well as push back against the norms China is trying to promote through the 'national security law'. The timeliness of action in this instance could also have allowed the EU to ensure continuity between its past declarations, even if interviewees acknowledged that in this case, an EU declaration could not have substantially altered China's actions.⁶⁵

⁶³ Interview, official, European External Action Service, 1 December 2022; interview, official, European Commission, 1 December 2022; and interview, official, European External Action Service, 12 December 2022.

⁶⁴ Interview, official, European External Action Service, 1 December 2022; interview, official, European Commission, 1 December 2022; and interview, official, European External Action Service, 12 December 2022.

⁶⁵ Interview, official, Belgium Ministry of Foreign Affairs, 1 December 2022; interview, official, European External Action Service, 1 December 2022; interview, official, European Commission, 1 December 2022; and interview, official, European External Action Service, Brussels, 12 December 2022.

3.2.2. Effectiveness

A major question that has emerged in the case of Hong Kong is the relationship between timeliness and effectiveness. One should recall that one of the major publicly declared reasons behind Hungary's decision to veto the EU declaration was that it perceived such declarations to be ineffective. Here, Budapest believed that declarations were a performative aspect of EU policy that led to questionable results, not least in failing to change China's actions in Hong Kong. The public backlash that Hungary faced at the time included the opposite view that the performative elements of CFSP are a crucial part of EU diplomacy and fundamental principles. In this regard, pleas by certain senior officials in the German government at the time to push for QMV in CFSP were seen as a way to guarantee consistency in the Union's approach to China. Additionally, in pursuing a consistent approach the policy objective was not only to influence China's position on Hong Kong but also to position the Union in terms of international opinion on China. Said approach through declarations also meant to signal to the world where the EU stood on human rights, even if the declarations alone could not shift China's actions.⁶⁶ In this respect, it can be said that the use of QMV here could have allowed for the continuation of consistency in the EU's approach to China's behaviour in Hong Kong.

However, there are strong grounds for questioning whether or not the use of QMV and a subsequent EU declaration in May 2021 could have changed China's actions in Hong Kong. In fact, this study has seen how China was undeterred in continuing to push for the introduction of its 'national security law'. In this sense, even with public calls for QMV, there is no guarantee that China would have acted any differently. One could even go further by suggesting that the fall-out from Hungary's veto and the calls for QMV actually deflected attention away from a more substantial issue of whether or not EU declarations and restrictive measures were enough to alter Beijing's behaviour. Even with QMV, therefore, there is no guarantee that the EU could have been able to push for harder measures against China.

However, it is of significance that during interviews it was stated that this case has given rise to thinking about the nature of EU declarations and statements.⁶⁷ Indeed, a number of respondents considered that even without QMV the EU could experiment with alternative declaratory solutions. This could, for example, include the HR/VP simply moving ahead in his own capacity to make a statement on a situation involving human rights abuses. Another option could be for the EU as a majority (i.e. EU26) to issue its own statement. When asked whether or not China could have recognised the difference between an EU declaration agreed at the EU27 and a statement by the HR/VP, various respondents stated that this may be the case even if China values state-backed rather than institutional statements,⁶⁸ but the gains of having a coherent and timely EU statement could have outweighed the costs of Beijing's interpretation of a Union statement.⁶⁹ Looking at why it was vital in this case to push ahead with an EU statement regardless of Hungary's position, one respondent argued that showing that the EU can issue statements despite a veto is a way of signalling to Member States that vetoes over human rights statements would have limited effects.⁷⁰

⁶⁶ Interview, official, European External Action Service, 1 December 2022.

⁶⁷ Interview, official, Inspire, Debate, Engage and Accelerate Action (I.D.E.A), European Commission, 15 December 2022; and interview, official, Secretariat-General, European Commission, 15 December 2022.

⁶⁸ Interview, analyst, Mercator Institute for China Studies, 24 March 2023.

⁶⁹ Interview, official, European External Action Service, 1 December 2022; interview, official, European Commission, 1 December 2022; and interview, official, European External Action Service, 12 December 2022.

⁷⁰ Interview, official, European External Action Service, 12 December 2022.

3.2.3. Unity

In this case, it is unclear how QMV could have led to more unity between Member States. In any QMV on the EU declaration in May 2021, the EU may have agreed to a common position, but this would have come at the expense of unity with Hungary or even any other Member States that may have decided to veto with Hungary – although this was characterised as highly unlikely during interviews.⁷¹ Any EU declaration agreed on this basis could certainly have shown the Union's continued solidarity with the citizens of Hong Kong, even at the expense of EU unity. In any case, all declarations made by the EU towards Hong Kong prior to May 2021 embodied consensus. However, unity started to break down whenever Hungary started to question the relevance of EU declarations on the situation.

However, as already identified in the academic literature (see Pomorska and Wessel, 2021), QMV could not have removed the deep-seated political disagreements between Hungary and states such as Germany. The study explored before how a timely EU declaration on Hong Kong would not automatically have equated to a more effective EU policy. The same is true with EU unity: an EU declaration agreed upon through QMV might not necessarily have led to more unity between Member States. However, a number of respondents claimed that Hungary was not really concerned with EU unity, but rather about protecting its own national interests. There was a clear perception among Member States that Budapest would not have been talked out of exercising its power of veto due to its overriding strategy of wanting to exert pressure on the European Commission to release EU funds being held back because of rule of law concerns in Hungary.⁷²

3.2.4. Foreign influence

Of course, should QMV have led to a greater number of Member States voting against the May 2021 EU declaration on Hong Kong, it is possible that external actors, such as China, could have been able to use such a wider disagreement within the EU to serve their own interests. Interestingly, though, even if QMV had been exercised in this case, it appears exclusively linked to the Union's declaratory policy. At the time, Hungary was not seriously pushing for an end to the restrictive measures imposed on security equipment to Hong Kong. Budapest's key stated concern was related to the value of EU declarations. In this sense, one may question whether or not QMV could have offered external actors, such as China, greater scope to influence EU policy. In other words, just because the Union was further split on an EU declaration after QMV, it may not have necessarily led to any reversal of restrictive measures.

This is certainly a risk for future cases, though. One does not know if the use of QMV here could have resulted in other Member States voting against the May 2021 declaration – the evidence based on interviews appears to say no.⁷³ However, should there ever be an even wider gulf of interests and positions between Member States on future EU declarations, then clearly this could lead external actors to exploit such differences and push for a reversal or at least some modification of restrictive measures. It could be argued, therefore, that unanimity, in this case, stopped such potential difficulties. Thus, having only Hungary opposed to the EU declaration meant that external actors

⁷¹ Interview, official, Belgium Ministry of Foreign Affairs, 1 December 2022; interview, official, European External Action Service, 1 December 2022; interview, official, European Commission, 1 December 2022; and interview, official, European External Action Service, 12 December 2022.

⁷² Interview, official, European External Action Service, 1 December 2022; interview, official, European Commission, 1 December 2022; and interview, official, European External Action Service, 12 December 2022.

⁷³ Interview, official, Belgium Ministry of Foreign Affairs, 1 December 2022; interview, official, European External Action Service, 1 December 2022; interview, official, European Commission, 1 December 2022; and interview, official, European External Action Service, 12 December 2022.

had less opportunity to influence other EU initiatives that were directed towards the crisis in Hong Kong.

Nevertheless, the power of QMV here could have demonstrated to external actors, as explored above, that the Union can make declarations without fear that a single Member State could block decisions. In this sense, a key tool of economic coercion, namely using economic ties (or the promise of economic gains) to influence foreign policy, can be significantly reduced. QMV in this case could have helped the EU signal to external actors that its decision-making structures and its solidarity with Hong Kong were not dependent on economic ties to Beijing. Again, one has to put this specific case in context as Hungary's veto was exercised in relation to an EU declaration, and not in relation to more aggressive actions such as restrictive measures. Nevertheless, economic coercion in the future could be used by external actors to halt or dampen more serious CFSP actions than declarations.

3.3. Alternative scenario: restrictive measures and Belarus

In the case of restrictive measures on Belarus, the study explored how the country's regime used excessive force on protestors and conducted an election that was deemed neither fair nor free. Accordingly, an emergency meeting of the European Council on 19 August 2020 stressed the EU's intention to impose restrictive measures (European Council, 2020a). However, a month later Cyprus refused to agree to a 'sanctions package' against the Belarusian regime during a September meeting of the Foreign Affairs Council (Herszenhorn and Barigazzi, 2020). The authors previously outlined how the veto exercised by Cyprus which was registered against EU restrictive measures on Belarus did not in fact result from Nicosia's opposition to the actions of Lukashenko's regime. If anything, Cyprus went on record through its then foreign minister, Nikos Christodoulides, to state that Cyprus 'supports and does not raise the issue of veto or anything else regarding Belarus. There is no way [Cyprus is] against the adoption of measures against the regime in Belarus' (Koutsokosta and Gill, 2020). Rather, Cyprus exercised its veto for what it perceived as a so-called *à la carte* approach where restrictive measures on Belarus were required but others on Turkey for its illegal activities in the eastern Mediterranean sea were not (Bosse, 2021).

Although an EU agreement on restrictive measures was achieved at the following European Council on 2 October 2020, the case raised further calls for the introduction of QMV in the area of CFSP, mainly related to the practice of linking what were perceived as two separate issues. It is worth considering, therefore, whether or not the use of QMV, in this case, could have made a material difference to the Union's approach to Belarus and Turkey.

3.3.1. Timeliness

The study already discussed how the decision by Cyprus to veto a 'sanctions package' in September 2020 led to a delay in the Union's response to unfolding events in Belarus. Undoubtedly, Cyprus' linking of the cases involving Belarus and Turkey posed a dilemma for Member States that effectively slowed down the Union's ability to act. This caused a delay in imposing restrictive measures, which could have dampened the effect of these measures (e.g., the Belarus regime could have had the time to move assets out of the country before EU restrictive measures hit).

In the face of this delay, the European Parliament called on Member States in the Council of the EU to implement restrictive measures without delay, in close coordination with international partners (European Parliament, 2020). This delay led to a schism between Member States, with the three Baltic States – Estonia, Lithuania and Latvia – deciding to impose restrictive measures without waiting for the rest of the EU (Sytas, 2020). Additionally, close EU partners such as the USA, the UK and Canada coordinated their own position on restrictive measures but decided to wait for the EU before imposing their own (Aslund, 2020). This decision to wait for the EU was soon dropped once Cyprus exercised its veto and the non-EU trio moved together to impose their own restrictive

measures. In this regard, QMV could have provided the Union with the ability to move forward with restrictive measures at the EU26 level.

3.3.2. Effectiveness

In this case, the EU failed to project an image of a united, reliable and effective partner to the people of Belarus. At the time, the European Commission President used her 2020 'State of the Union' speech to call for an end to national vetoes that could see EU 'values delayed, watered down or held hostage for other motives' (European Commission, 2020b). Ultimately, while Cyprus' initial decision to veto EU restrictive measures on Belarus was deemed to dent the Union's effectiveness, the impasse was eventually overcome. In this sense, the EU went on to impose travel bans and asset freezes on 40 Belarussian officials deemed responsible for election tampering and the violent crackdown on peaceful protestors. Furthermore, Cyprus' eventual agreement to restrictive measures on Belarus made it possible for the Council of the EU to scale down bilateral cooperation with Belarus and thus financial assistance was recalibrated away from the Belarussian authorities (Council of the EU, 2020d). In this sense, Cyprus' eventual agreement to restrictive measures made the case of QMV weaker, albeit if Cyprus had continued to oppose restrictive measures, then this form of decision-making may have been the only route to securing EU action.

3.3.3. Unity

The case of restrictive measures on Belarus was an interesting case of EU unity. On the one hand, the EU's failure to impose restrictive measures on Belarus could be interpreted as a failure to show timely and robust solidarity with the people of Belarus and the Union's partners. On the other hand, Cyprus argued that the so-called *à la carte* approach to restrictive measures highlighted the lack of EU unity with Cyprus and its conflict with Turkey. Indeed, this case created a huge dilemma for certain Member States; it was not easy to achieve the right balance between responding to the crisis in Belarus and acknowledging Cyprus' legitimate concerns *vis-à-vis* Turkey. Clearly, most European countries in both the EU and NATO were in favour of restrictive measures against Belarus but not Turkey because it was a NATO ally that was home to over 3.6 million Syrian refugees who had previously sought refuge in the EU (Wintour, 2020; Rankin, 2020). Germany in particular was faced with this dilemma and while the Netherlands expressed regret about Cyprus' decision, others such as Latvia went much further by openly labelling Nicosia's actions as 'hostage-taking' (Euronews, 2020).

In this regard, any use of QMV could have posed serious challenges for the EU in terms of its overall unity. One would expect Cyprus to have lost in any QMV on Belarus' restrictive measures and this would have entailed less reason for the other Member States to seek a robust response to Turkey's actions in the eastern Mediterranean sea. In this respect, for Cyprus, unanimity and the veto demonstrated a way of pressurising reluctant Member States that are in an alliance with Turkey to show greater unity with a fellow Member State. QMV could have removed this ability and it is therefore unclear whether or not other Member States would have voted with Cyprus to reinforce the importance of unity between Member States rather than between NATO allies when it works against the interests of other EU members. In this respect, Cyprus could reasonably claim that the removal of its veto might have opened the door for selective unity between Member States.

3.3.4. Foreign influence

The major external actors that had a stake in the situation *vis-à-vis* Belarus were Russia and Turkey. Any long-term delay in EU restrictive measures on Belarus could have been to its benefit but Russia could have also gained from a close ally being free from EU restrictive measures. Indeed, given that Russia has trade agreements with Belarus for agricultural produce, fertilisers and financial services, restrictive measures on Minsk would have greatly impacted Russia's economy (Glauber and Laborde, 2022). There have also been questions about Cyprus' close economic ties to Russia and

whether or not this is having an effect on Cyprus' foreign policy decisions (Stronski, 2021). For all of the Russian investment flows managed in Cyprus or Russia's growing cultural reach in the country because of its sizeable Russian-speaking expatriate community there, Cyprus eventually agreed to restrictive measures on Belarus and has done so for all rounds of measures imposed on Russia since its invasion of Ukraine in February 2022.

While unanimity eventually won the day in relation to restrictive measures on Belarus, QMV could certainly have been a way for the EU to manage any perceived Russian influence on Cyprus, even though Russian influence appears to have less sway over Nicosia's decisions in the case of Belarus. However, the use of QMV in this instance could have allowed Member States to side-step the difficult discussion about Turkey's illegal actions in the eastern Mediterranean sea. Turkey would have liked nothing more than to see EU division lead to disagreement over a decision to impose restrictive measures on Belarus and Turkey. As it was, Turkey did not have much room to influence EU action because the European Council had already resolutely affirmed its full unity with Cyprus in October 2019. Any QMV vote that would have undermined unity with Cyprus by voting against restrictive measures towards Turkey could surely have handed Ankara a tool to divide Member States further.

3.4. Alternative scenario: EULEX Kosovo

In the case of an agreement to deploy EULEX Kosovo, section 2.3. analysed how this was the first time a Member State used constructive abstention in the context of a civilian CSDP mission. Cyprus exercised this abstention despite profound political concerns about recognising the independence of Kosovo. Following Kosovo's unilateral decision to declare independence on 17 February 2008, EULEX Kosovo was viewed as an important element within the Union's overall approach to peace in the Western Balkans. In this regard, EULEX Kosovo was to support international efforts by assisting the PISG with local law enforcement capacity-building and other rule of law duties. As part of the initiatives to stabilise Kosovo, the EU was regarded as a credible actor that had already gained experience for civilian missions under its then ESDP. Thus, any veto at the time by a single Member State would have had wider repercussions for how the Union was viewed internationally and for security in the Western Balkans.

3.4.1. Timeliness

The deployment of EULEX Kosovo highlights how constructive abstention allowed the EU to move relatively rapidly in response to a major crisis in the Western Balkans. Given the situation on the ground, a failure to act in a timely fashion could have had wider consequences for peace in the region. For example, without EU support in the form of EULEX Kosovo, it is unclear who would have provided security sector reform and capacity-building to the PISG. Rapid reaction on the EU's part was of the utmost importance in this instance. The Council of the EU was able to establish the rule of law mission despite Cyprus' disagreement and opposition to the unilateral declaration of independence by Kosovo. The EU's action in relation to Kosovo could have taken much longer had Cyprus exercised its veto, possibly even in concert with Spain, Slovakia, Romania and Greece, which did not recognise Kosovo's independence either. QMV could, in this case, have provided the Union with a decision-making framework in which to deploy EULEX Kosovo, even at the expense of unity and effectiveness.

3.4.2. Effectiveness

Whether or not QMV would have actually made the EULEX Kosovo more effective is a question of debate. Indeed, at the time of Cyprus' constructive abstention a number of experts and policy-makers wondered if a more extensive use of constructive abstention could make a suitable alternative to QMV (Grevi et al, 2020; Koenig 2020; Novaky 2021). Such reflections were made for good reasons. Indeed, Member States' different positions could have been amplified still further

with QMV and this might have raised questions about the effectiveness of the EU's rule of law capacity-building endeavours in Kosovo. Even with constructive abstention, it is possible to observe how the EU's political stance on the ground was negatively affected. With a handful of Member States not recognising Kosovo's independence, a sort of 'schizophrenic posture' emerged with four out of five of those Member States that did not recognise Kosovo contributing to the mission staffing,⁷⁴ which created direct inefficiencies within the mission (Cadier, 2011). Arguably, the use of QMV in this instance would not have done much to avoid the inefficiencies noted in EULEX Kosovo at the start of its mandate.

3.4.3. Unity

The deployment of EULEX Kosovo was a good test of the Union's unity and ultimately Cyprus' constructive abstention enabled the EU to act in Kosovo despite real political differences between certain Member States. Yet it is worth reflecting on how close the EU came to total disagreement on EULEX Kosovo. Constructive abstention, which was introduced in 1997 by the Treaty of Amsterdam, provides sufficient flexibility in EU foreign policy decision-making but there are inherent risks or limitations in pursuing this form of decision-making. Of key significance here is that constructive abstention reflects the goodwill of those Member States opposing a Council of the EU decision. In other words, it is a precarious tool for building unity between Member States on any given foreign policy issue. The use of QMV could certainly have helped overcome this precarious situation but the costs to overall EU unity would have been unclear. Whilst EULEX Kosovo could nevertheless have been deployed, countries such as Cyprus, Spain, Slovakia, Romania and Greece would still have disagreed with the EU's approach and this is hardly the grounds for unity between Member States.

3.4.4. Foreign influence

Despite its inefficiencies on the ground, EULEX Kosovo was regarded as a success, not only in terms of its specific mission mandate but in making 'positive contributions to conflict prevention' too (Zupančič et al, 2018: 600). It also provided the EU with increased legitimacy as a security provider. The CSDP – or the ESDP as it was then known – benefitted from the Union's political unity and ability to deploy a civilian mission. While it is true that persistent disagreement between Member States over Kosovo's independence negatively affected the mission at the start, there did not appear to be any external actors that wanted to profit from or exploit EU divisions. This may partly be explained by the fact that external actors, such as Russia, struggled to exercise influence in the region following the collapse of the Soviet Union. Furthermore, the EU's rule of law initiatives was backed by the UN and the USA, and this surely played a role in dissuading any external actors from exploiting the clear divisions that existed between Member States over Kosovo's independence. Again, QMV would probably not have made much difference to this situation, save for a situation where one single Member State wanted to veto EULEX Kosovo's deployment. In such a case, QMV would have led to deployment, but it might only have underlined the Union's divisions on Kosovo's independence and not provided external actors with the information they did not already possess.

3.5. Alternative scenario: restrictive measures and Russia

As this study highlighted, Russia's invasion of Ukraine on 24 February 2022 spurred the EU into action in various areas, including: refugee policy; the provision of lethal equipment; financial assistance; EU accession for Ukraine; as well as restrictive measures on Russia. So far, through its restrictive measures the EU has placed 1 238 individuals and 116 economic entities on its asset freeze and travel ban lists including high-profile individuals such as President Vladimir Putin, Sergey Lavrov, members of the Russian state Duma and the Russian National Security Council, several high-

⁷⁴ Spain did not contribute to the mission staffing for the first two years and it maintained a non-interference approach (Vila Sarrià and Demjaha, 2021).

profile oligarchs such as Roman Abramovich together with a number of high-ranking military and political officials (Council of the EU, 2022j). The study also assessed how, with unanimity and consensus, the Union was able to ensure rapid agreement and implementation of restrictive measures. In doing so, the EU was able to agree to unprecedented and wide-ranging restrictive measures on the Russian economy and war machine. However, it is worth exploring whether or not the application of QMV would have made a difference to the timeliness, effectiveness and unity of EU action and its ability to fend off undue foreign influence.

3.5.1. Timeliness

In theory, QMV could have led to more rapid EU action against Russia – through restrictive measures – in cases where a Member State exercised its veto power. For example, if Hungary exercised its veto during negotiations for EU oil and gas embargoes then this would have slowed down the EU's ability to impose restrictive measures in a timely fashion. In this hypothetical case, QMV could have allowed other Member States to push ahead with measures. In reality, however, this study has seen how the brutality and flagrancy of Russia's military actions in Ukraine has so far resulted in consensus between all Member States and the EU has thus agreed that far-reaching action. In cases where the economic interests of Member States had to be managed before restrictive measures on Russia could be imposed, governments have still maintained consensus. In this respect, deviating from any agreed EU line on restrictive measures could have seemingly put a Member State in the 'pro-Russian' camp.

Hypothetically, however, the EU's speed of action would have been greatly reduced had more than one Member State objected to EU measures. For example, the study looked into how countries such as Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Germany, Greece, Italy, Malta and Slovakia all sought exemptions on restrictive measures related to oil and gas or goods and resources such as steel and diamonds. Additionally, how these exemptions were ultimately worked into the Union's restrictive measures through consensus but had a larger grouping of these states exercised their vetoes then the EU agreement would not have been possible. In this hypothetical situation, the speed of the EU's actions towards Russia would have ground to a halt. It would have also divided the EU between veto-wielding countries and the avant-garde of Poland and the Baltic states that sought stringent and timely EU action. In any case, it is questionable whether QMV would help in such a hypothetical situation – if the eleven Member States mentioned earlier voted no against EU measures under QMV then the established minimum voting threshold for the EU population under QMV would not have been met.

3.5.2. Effectiveness

In terms of effectiveness, restrictive measures require continued adherence if they are to have lasting effects on recipients (Oxenstierna and Olsson, 2015). In the case of the EU, restrictive measures are reviewed and extended or abolished every six months. This means that effectiveness cannot be judged in the context of a single decision by the EU but rather over several months and years. So far Member States have continually agreed to extend existing restrictive measures on Russia and they have, up to March 2023, signed off on ten 'sanctions packages', all without QMV. Yet here, one must be careful about confusing a political decision to impose restrictive measures on Russia with the effectiveness of these policies. Indeed, while Member States have agreed to successive rounds of restrictive measures, there are questions about whether or not they are always agreeing to the most robust measures. For example, the study has seen how, in order to achieve consensus, Member States were willing to accommodate specific requests related to oil transportation (i.e. pipelines or seaborne imports), but this accommodation of interests could lead to less effective results on Russia.

Whether QMV would have helped with effectiveness in this specific case is arguable. All Member States are still expected to impose restrictive measures even if they lose out in QMV, so a no vote by

any single or a smaller grouping of Member States under any hypothetical QMV would not have undermined the need to implement sanctions against Russia. More importantly, the study has seen that the real challenge associated with the effectiveness of restrictive measures is enforcement (Olsen and FASTERKJÆR, 2022) – this matter is under both unanimity and QMV. Several interviews conducted reveal that the effectiveness of sanctions is not entirely dependent on the decision-making frameworks of the EU, but rather the lack of EU-level enforcement mechanisms when sanctions are agreed upon.⁷⁵ The reality is that, when Member States agree to restrictive measures, it is up to national legal enforcement mechanisms to apply them – and these are not uniform across the EU. The hypothetical use of QMV in this instance would not have helped overcome the lack of enforcement mechanisms at the Union level.

3.5.3. Unity

The biggest test for the EU's unity has emerged in relation to Russia's fossil fuels. As shown in section 2.5, the EU has been able to agree unanimously on a price cap for oil and gas, but not before the specific economic and geographical concerns of Member States were taken on board. Countries such as Austria, Bulgaria, Cyprus, Greece, Hungary and Malta all sought exemptions for oil supplies to Europe based on whether they received oil via pipelines over land or by sea vessels. The study also looked into how Member States such as Germany were initially wary of moving towards a gas price cap, whereas others such as Italy, Greece, Belgium, Poland, Spain and the Baltic states have been keen to introduce it (Euractiv, 2022b; Baczynska and Chalmers, 2022). Countries such as Bulgaria and France have been able to keep nuclear-related resources and supplies off the EU's sanctions packages so far, and countries such as Belgium and Italy wanted exemptions for the steel industry.

In the specific case of restrictive measures on Ukraine, QMV may arguably have helped overcome the delays and blockages surrounding Hungary's call for religious and business figures to be removed from the Union's asset freeze and travel ban measures. In this sense, a refusal to remove these individuals from the EU's sanctions list could have theoretically led to a veto by Hungary – QMV would clearly have helped overcome any veto, especially if no other Member States agreed with Hungary's position. Yet on the oil and gas embargoes it is arguable whether QMV would have made a contribution to EU unity. Such was the shock of Russia's war on Ukraine and the structural impact on Europe's energy infrastructure, QMV would not have assisted in any meaningful way. Most Member States found the transition away from Russian gas difficult, and with the exception of states like Spain and Lithuania, many did not have in place the port and pipeline infrastructure required to import non-Russian sources of LNG. Here, it is worth recalling that our interviews for this Study revealed that the avant-garde of countries pushing for the hardest possible sanctions on Russia (i.e. Poland and the Baltic states) recognised that other EU Member States needed time to adapt their energy infrastructure.⁷⁶ The use of QMV in this specific instance would not have sped up the introduction of gas infrastructure.

3.5.4. Foreign influence

Not agreeing to restrictive measures immediately and comprehensively could have allowed Russian President Vladimir Putin the space to try and divide the Union at a time when his military invasion was proving much harder than he first thought. In this respect, unity between Member States and between the EU and Ukraine was in its own right an essential part of the response to Vladimir Putin

⁷⁵ Interview, official, European External Action Service, 1 December 2022; interview, official, European Commission, 1 December 2022; interview, official, European External Action Service, 12 December 2022; interview, analyst, German Council on Foreign Relations, 23 March 2023; and interview, analyst, Polish Institute of International Affairs, 24 March 2023.

⁷⁶ Interview, analyst, German Council on Foreign Relations, 22 March 2023; and interview, analyst, Polish Institute of International Affairs, 24 March 2023.

and Russia, as well as a way of fending off Russian pressure and influence. One has to recall that even under unanimity Member States called for exemptions on the way in which the Union imposed sanctions on oil, gas and other economic resources such as steel and diamonds. The use of QMV in this instance would have done little to address these national concerns. Yet in other specific areas of the Union's sanctions, QMV may have made a difference in lowering the potential for Russian influence: for example, Hungary's insistence on removing Patriarch Kirill and three oligarchs from the sanctions list during the 'sixth package' could theoretically have been overcome.

However, here one needs to acknowledge the specific nature of the Union's restrictive measures on Russia: the fact that they are agreed to as 'packages' means that individual Member States have leverage over the shape and extent of measures. For example, in the case of the 'sixth package' any decision on whether to remove Patriarch Kirill and oligarchs from the sanctions list was directly bound up with a package of measures including the oil embargo and more Russian banks being added to the SWIFT ban. Unanimity meant that a bargain between these measures was necessary, or else a veto could have been exercised which would have derailed the whole package of measures. Any Hungarian hypothetical veto to secure its position on Patriarch Kirill could have been seen as evidence of Russian influence. However, using QMV to overcome such a veto would not have helped with the implementation of the oil embargo or blocking Russian access to SWIFT and may have led to the awareness of more deep-seated divisions between Member States on the Union's approach to Russia.

3.6. Observations

Each of these four alternative scenarios highlights the way in which EU decision-making could be affected by the use of QMV. In the case of China's 'national security law' in Hong Kong, it has been shown how the Union was still eventually able to agree on restrictive measures for sensitive goods and technologies to Hong Kong, even though there was no initial agreement on an EU declaration. In any event, Hungary's veto did not stop the EU – as individual Member States or through the HR/VP – from making statements that condemned China's actions. In this instance, it is true that the use of QMV could have certainly led to a more rapid condemnation of the situation in Hong Kong and, as only one Member State was blocking the decision, it could have had only a negligible impact on the EU's unity. It is of course impossible to say whether or not QMV might have led to other Member States coming forward to block the EU statement on China; these are states that may have been hiding behind Hungary's veto under unanimous decision-making, but this study did not uncover any evidence of this. In cases where a larger group of Member States might oppose an EU declaration, this could have a negative knock-on effect for any agreement on restrictive measures in parallel with any human rights declaration. In the case of China's 'national security law', though, opposition by a single Member State would have had a minimal impact on the power of export bans or restrictions.

Regarding the situation in Belarus, the EU's credibility was again tested by Cyprus' reluctance to agree to restrictive measures immediately. The issue-linkage with Turkey's illegal actions in the eastern Mediterranean sea meant that the EU was unable to agree to a timely set of restrictive measures, which can be said to have affected the effectiveness of the EU's approach to the crisis in Belarus. One of the consequences of this situation was that a smaller grouping of Baltic Member States broke from the EU 'pack' to impose their own restrictive measures on Minsk. Hence, in broad terms, the affair can also be said to have affected the EU's unity. In this case, QMV might certainly have led to Cyprus being outvoted on the issue of restrictive measures on Belarus, but it is worth considering the costs of pursuing this path. Firstly, Cyprus had its own interpretation of EU unity which obviously included Cypriot security interests vis-à-vis Turkey. From Cyprus' perspective, there was a clear lack of unity shown towards Nicosia from fellow Member States. In this regard, unity was perceived in a 'give and take' sense, whereas, for other Member States, the focus was squarely on Belarus. Secondly, even if a QMV on this situation had been pursued, the security challenge facing

Cyprus and Turkey would not have disappeared, bringing into question what order of priorities the Union has in security terms.

The alternative scenario on EULEX Kosovo appears to highlight that QMV would not have made much of a difference to the Union's decision to deploy the civilian CSDP mission. In this instance, the case study raises questions about whether constructive abstention rather than QMV may be better suited to certain international crises. Ultimately, whilst countries such as Spain, Slovakia, Romania and Greece did not recognise Kosovo's independence, they nevertheless did not veto the decision to send the civilian mission – indeed, they did not even exercise a constructive abstention. QMV would then have had only a negligible effect on EU decision-making, especially as a qualified majority vote could still have passed even with Cyprus, Spain, Slovakia, Romania and Greece voting against the motion. QMV or not, the case study still highlighted the problems that came from disunity between those Member States that recognised Kosovo's independence and those that did not. It also highlighted that there were material consequences on the ground in terms of staffing numbers and funding. In this sense, despite something close to formal unity being reflected in the EU's decision-making processes, the effectiveness of its actions was undermined.

The case of the EU's response to the war on Ukraine, though, shows that QMV could have had limited effects on EU decision-making. The fact that Member States rapidly responded to Russia's illegal actions with wide-ranging and comprehensive sanctions, as well as other restrictive measures, was a case *par excellence* in favour of unanimity. Of course, it is possible to ask whether or not all Member States would have voted in favour of these restrictive measures in a QMV setting. Although one shall never know, the available evidence points to the fact that all Member States wanted to show unity given the seriousness of the situation. Russia's invasion of Ukraine shook the European security order and so a debate about the Union's CFSP decision-making processes took a backseat to the overall objective of punishing Russia for its actions. However, there are questions about whether or not unanimity made the EU's action more effective. Although the case study has highlighted how unanimity did not automatically lead to the effective implementation of restrictive measures, it remains unclear whether or not QMV could have improved this situation.

Table 7: The benefits and costs of QMV in CFSP

	Benefits	Costs
Timeliness	✓ QMV can help with faster decision-making under CFSP.	✗ Faster decisions under QMV do not automatically equate to effective policy .
Effectiveness	✓ QMV can help the EU act quicker and this may enhance its reputation with international partners.	✗ QMV may risk the effective implementation of agreed measures.
Unity	✓ QMV can lead to enhance solidarity with the victims of crises and partners.	✗ QMV can threaten to undermine the unity of EU Member States.
Foreign influence	✓ QMV can dissuade hostile foreign actors from trying to divide the Union.	✗ QMV can reduce EU unity and allow for partnerships between EU Member States and malign foreign actors.

Source: authors' own compilation, 2023.

Overall, the authors find that the benefits and costs of QMV are highly contingent upon individual cases, particularly with regard to Member States' opposition, support and the types of disagreements that are likely to arise between governments. The four cases presented beforehand reveal a specific set of costs and benefits connected to the use of QMV. They have shown how QMV raises questions about the performance of the CFSP. The results of voting based on a majority of Member States might certainly ensure more rapid EU action but then one could ask what effect such

rapid action would have on the effectiveness of EU policy. In cases where resource-rich Member States were to vote against a CFSP decision, then one could question whether the Union could have the necessary capacity to act. The authors have also outlined how QMV raises questions about EU unity. Admittedly, it always depends on the case at hand, because using QMV to overcome the veto of a single small- or medium-sized state has widely different implications than if a larger group of Member States were to be voting against an EU decision in CFSP. There are grounds to believe that, if a larger group of Member States voted against EU action through QMV, the Union could suffer from a major crisis of unity.

However, the dynamic that could be unleashed by the use of QMV in CFSP should not be underestimated. In fact, most of the interview respondents argued that, even if it were introduced as a decision-making format,⁷⁷ QMV should still be used sparingly. Here, it was pointed out that even with the existence of QMV, Member States would still seek to strive for consensus. As the literature also outlines: since 2010, when QMV has been used in EU policy, it has resulted in a 'consensus rate' of approximately 80% and so '[d]ecisions by QMV in which entire groups of states are outvoted have remained a rarity' (Intel and von Ondarza, 2022: 5). Nevertheless, interviewees claimed that QMV could still introduce an interesting dynamic to CFSP decision-making precisely because it could lead to greater consensus.⁷⁸ One respondent likened QMV to negotiating 'with a big stick behind the door' that could be used to corral Member States into agreeing unanimously on decisions.⁷⁹ The respondent further argued, 'The hope is that we never have to use the big stick but having it behind the door introduces a dynamic that could give Member States a second thought on vetoing EU foreign and security policy decisions.'⁸⁰

⁷⁷ Interview, official, Belgium Ministry of Foreign Affairs, 1 December 2022; interview, official, European External Action Service, 1 December 2022; interview, official, European Commission, 1 December 2022; and interview, official, European External Action Service, 12 December 2022.

⁷⁸ Interview, official, Belgium Ministry of Foreign Affairs, 1 December 2022; interview, official, European External Action Service, 1 December 2022; interview, official, European Commission, 1 December 2022; and interview, official, European External Action Service, 12 December 2022.

⁷⁹ Interview, official, European External Action Service, Brussels, 12 December 2022.

⁸⁰ Interview, official, European External Action Service, Brussels, 12 December 2022.

4. Conclusions

4.1. Summary of the main observations

This study has sought to analyse the costs and benefits associated with unanimity and QMV in the EU's CFSP. One of the general conclusions identified is that there is a place for both unanimity and QMV in the foreign and security policy decision-making framework of the EU depending on the crisis or international situation at hand. Neither unanimity nor QMV are without faults and hence both approaches cannot be presented as panaceas to the challenges of forging a timelier and more effective CFSP that maintains unity among Member States, while also fending off any undue foreign influence. In this respect, the study has been clear that there are costs and benefits to using unanimity in CFSP. In terms of the costs, a single veto under unanimity may stop CFSP action dead in its tracks and it may cause disunity among Member States. The threat of a veto under unanimity can potentially give foreign powers leverage over EU decision-making or, as various interviewees put it, it could 'buy a veto over EU foreign and security policy'.⁸¹ However, if consensus through unanimity is achieved it can increase EU unity, even if unanimously decided actions and policies are not always effective.

As far as QMV is concerned, this study has shown that the benefits include potentially faster decision-making and, by overcoming a veto, less room for foreign powers to influence EU foreign and security policy through one single Member State. Of course, even decisions taken by QMV are no guarantee of more effective EU policy and actions. In this regard, the study has not been able to determine a stable link between different decision-making formats and more effective policies. QMV may allow the EU to act faster, with a majority of Member States. However, there is no guarantee under QMV that EU declarations or sanctions will become more effective or that resources and personnel will automatically be made available for CSDP civilian missions. Arguably one of the major costs associated with QMV is in relation to unity: this is the idea that QMV would take away from the inherent unity of unanimity when it is not subject to the threat or use of a veto. However, this study suggests that a more nuanced picture is emerging where Member States are increasingly making use of constructive abstention to mediate between the extremes of unanimity and QMV, which allows for EU unity by not having decisions blocked by a veto.⁸²

4.2. Key findings

Beyond the general observations in the previous section, this study has given rise to various key findings related to the EU's CFSP decision-making procedures. Such findings emerge not just from the analysis of the four case studies and the typology of EU credibility, but also from the 19 interviews conducted with officials and representatives from the EU institutions, Member State governments and think tanks. Both insights stemming from the January expert workshop and observations validated there are included in the following section. Additionally, this section will also compare the study findings with observations generated in existing scholarly work. In this sense, the following findings are not directly linked to the four abovementioned case studies and they may touch upon or raise issues that did not clearly emerge during their analysis. Accordingly, this section

⁸¹ Interview, official, European External Action Service, 1 December 2022; interview, official, European Commission, 1 December 2022; interview, analyst, Munich Security Conference, 8 December 2022; interview, analyst, Mertens Centre for European Studies, 6 December 2022; and interview, official, European External Action Service, 12 December 2022.

⁸² Interview, official, Belgium Ministry of Foreign Affairs, 1 December 2022; interview, official, European External Action Service, 1 December 2022; interview, official, European Commission, 1 December 2022; interview, analyst, Munich Security Conference, 8 December 2022; interview, analyst, Mertens Centre for European Studies, 6 December 2022; and interview, official, European External Action Service, 12 December 2022.

should be read as a broader contribution to analyse CFSP decision-making, that is informed but not restricted by the case study analysis of the status quo or alternative scenarios.

- **Transparency:** based on the authors' research and interviews it is clear that EU Member States still overwhelmingly value consensus. However, some interviews revealed that unanimity can potentially act as a political cover for governments to not publicly have to justify their national positions.⁸³ Here, QMV could lead to greater transparency because governments would have to justify their opposition to any EU measure rather than 'hide' behind the potential veto of a single state. Of course, all four cases reveal that objections by individual or smaller groupings of Member States did make it into the public domain. Yet what is not revealed under unanimity is whether individual Member States engaged in free-riding by relying on another state's potential veto to secure their own interests. This was confirmed during interviews, which indicated that it is impossible to determine if governments publicly express support for an EU measure while secretly hoping that another state will exercise a veto or threaten to do so.⁸⁴
- **Foreign influence:** one of the findings is that external actors have an interest in influencing the Union's decision-making in CFSP. As geopolitical competition intensifies this is likely to increase. However, the analysis and interviews have revealed that QMV may help decrease the chances of malign foreign influence.⁸⁵ This is especially so in a context where EU governments may change after elections (i.e. become closer to external rivals) or where EU trade and investment relationships change (i.e. reshoring or diversifying trade and investments away from strategic competitors). As one interviewee stated, 'QMV could be a vaccine against foreign interference and manipulation of [EU] policy'.⁸⁶ In this sense, QMV might make it harder for foreign powers to help engineer a single veto and it could offer diplomatic cover for those Member States that have economic interests to defend. Indeed, during interviews, it was made clear that QMV could allow Member States to signal to foreign powers that they do not agree with an EU position even though they have no intention of actually blocking it.⁸⁷ Constructive abstention would enable Member States to avoid obstructing EU action without being obligated to comply with EU measures. However, this could potentially be exploited by hostile foreign actors.
- **Effectiveness and decision-making:** a recurring theme that emerged was that debates about the EU's shortcomings as an international actor all too often focuses on decision-making frameworks and not on the effectiveness of EU policy (see for example Koenig, 2020). While QMV may help speed up decision-making (Koenig, 2022: 8; Schuette, 2019:

⁸³ Interview, official, European External Action Service, 1 December 2022; interview, official, European Commission, 1 December 2022; interview, analyst, Munich Security Conference, 8 December 2022; interview, analyst, Mertens Centre for European Studies, 6 December 2022; and interview, official, European External Action Service, 12 December 2022.

⁸⁴ Interview, official, Belgium Ministry of Foreign Affairs, 1 December 2022; interview, official, European External Action Service, 1 December 2022; interview, official, European Commission, 1 December 2022; interview, analyst, Munich Security Conference, 8 December 2022; interview, analyst, Mertens Centre for European Studies, 6 December 2022; interview, official, European External Action Service, 12 December 2022; and interview, analyst, German Council on Foreign Relations, 23 March 2023.

⁸⁵ Interview, official, I.D.E.A., European Commission, 16 December 2022; and interview, official, European External Action Service, 12 December 2022.

⁸⁶ Interview, official, European External Action Service, 12 December 2022.

⁸⁷ Interview, official, Belgium Ministry of Foreign Affairs, 1 December 2022; interview, official, European External Action Service, 1 December 2022; interview, official, European Commission, 1 December 2022; interview, analyst, Munich Security Conference, 8 December 2022; interview, analyst, Mertens Centre for European Studies, 6 December 2022; interview, official, European External Action Service, 12 December 2022; and interview, analyst, German Council on Foreign Relations, 23 March 2023.

7), this study has shown how QMV may not necessarily result in more effective policy outcomes. As one interviewee put it in relation to restrictive measures, 'if QMV is used in sanctions then non-compliance in implementing them could be higher'.⁸⁸ In this respect, the case studies related to restrictive measures on Russia and Belarus highlight the relationship between declared policy and the implementation of that policy. Regardless of the decision-making framework (QMV or unanimity), there is a need to ensure the implementation of agreed CFSP measures and actions and to follow it up with an enforcement mechanism if implementation breaks down.

➤ **Experiment with new forms of action:** many interviewees claimed that there is scope for the EU to alter its foreign and security policy practices without introducing QMV⁸⁹. The most common example provided was EU declarations and statements. Here, it was argued that the EU could simply forego a declaration at the level of the EU27, if consensus cannot be found, by relying on a statement by the HR/VP or President of the European Commission instead.⁹⁰ This would require more assertive action on the part of senior EU officials, but it could nevertheless allow the Union to react more rapidly to international events and crises. Interestingly, interview respondents argued that a statement by the HR/VP, Commission or Parliament would not necessarily weaken the EU's position.⁹¹ As one reflected, 'the world is not paying attention to what part of the EU's bureaucratic machine a declaration or statement comes from, but it is interested in the 'EU' making a statement'.⁹² This would appear to be an opportunity for other parts of the EU institutional set-up to take the lead when the Council of the EU fails to achieve consensus. This opens the door for institutional experimentation and could lend weight to the idea that the Commission President, HR/VP and/or European Parliament speak on behalf of the EU on their own initiative.

➤ **EU Integration and coalitions:** during interviews, many respondents were asked about the potential for Member State coalitions forming in CFSP under QMV.⁹³ Again, while most Member States want to achieve a consensus it is possible that coalitions will be formed under QMV that seek to pursue different aims and approaches. Such coalitions are also prevalent under unanimity, with groupings of Member States seeking to pursue region- or issue-specific issues (Amadio Viceré, 2022). However, given the shifting balance of power within the EU there is a risk that QMV might expose or antagonise different coalitions that form around specific CFSP issues and decisions. This could, as

⁸⁸ Interview, analyst, SWP Berlin, 2 December 2022; and interview, analyst, Munich Security Conference, 8 December 2022.

⁸⁹ Interview, analyst, Stiftung Wissenschaft und Politik (SWP) Berlin, 2 December 2022; interview, analyst, Martens Centre for European Studies, 6 December 2022; and interview, analyst, Munich Security Conference, 8 December 2022.

⁹⁰ Interview, official, Belgium Ministry of Foreign Affairs, 1 December 2022; interview, official, European External Action Service, 1 December 2022; interview, official, European Commission, 1 December 2022; interview, analyst, Munich Security Conference, 8 December 2022; interview, analyst, Mertens Centre for European Studies, 6 December 2022; interview, official, European External Action Service, 12 December 2022; and interview, analyst, German Council on Foreign Relations, 23 March 2023.

⁹¹ Interview, official, Belgium Ministry of Foreign Affairs, 1 December 2022; interview, official, European External Action Service, 1 December 2022; interview, official, European Commission, 1 December 2022; interview, analyst, Munich Security Conference, 8 December 2022; interview, analyst, Mertens Centre for European Studies, 6 December 2022; interview, official, European External Action Service, 12 December 2022; and interview, analyst, German Council on Foreign Relations, 23 March 2023.

⁹² Interview, official, European Commission, 1 December 2022.

⁹³ Interview, official, Belgium Ministry of Foreign Affairs, 1 December 2022; interview, official, European External Action Service, 1 December 2022; interview, official, European Commission, 1 December 2022; interview, analyst, Munich Security Conference, 8 December 2022; interview, analyst, Mertens Centre for European Studies, 6 December 2022; interview, official, European External Action Service, 12 December 2022; and interview, analyst, German Council on Foreign Relations, 23 March 2023.

two observers noted, potentially lead to more rigidity and conflict in CFSP decision-making.⁹⁴ As a worst-case scenario, disagreement under the framework for CFSP could run the risk of *ad hoc* coalitions forming outside the EU. While coalition formation is a long-standing norm in Europe, decisions taken outside the EU structures would raise questions about a commitment to formal EU decision-making structures (Bendiek, Kempin and von Ondarza, 2018: 5).

- **QMV and issue-linkage:** one of the observations raised beforehand is that issue-linkage is a major part of CFSP decision-making. Issue-linkage functions at two levels: firstly, between CFSP and other EU policy domains; and secondly within CFSP itself. Many respondents believed that QMV would not end issue-linkage, but it could put an end to a situation where one Member State can veto EU action based on an issue that is not directly connected to foreign and security policy⁹⁵. For example, QMV could greatly diminish blackmailing by certain governments in linking the threat of a veto in CFSP with objectives in other policy domains (e.g., threatening to veto CFSP decisions unless the EU releases funding that had been withheld due to breaches of the EU's rule-of-law). However, other studies have called for the greater use of QMV in CFSP on the basis that it is increasingly difficult to differentiate between CFSP and other external policy areas such as trade (where QMV is already utilised). Our case studies on sanctions also underlined this point, with the Commission moving into a more central position in decision-making in order to manage the economic implications of sanctions, especially where they relate to the single market. In this respect, these studies point to a discrepancy in using QMV in one policy domain and unanimity in CFSP (European Parliament's Policy Department for Citizens' Rights and Constitutional Affairs, 2022: 84).
- **QMV and large Member States:** one of the common objections to QMV in CFSP is that the larger Member States could use it to advance their own interests. In this respect, it was noted during interviews that QMV advocates usually link CFSP and tax policy as areas where QMV should apply in the future, which can instil fear in many of the smaller Member States.⁹⁶ However, in other areas of EU policy where QMV already applies the evidence appears to contradict the idea that larger Member States will always gain from QMV in CFSP. One study found that while Hungary and Poland have been outvoted the most since Brexit, it is Germany that 'has been regularly outvoted over the longer term since 2010' (Intel and von Ondarza, 2022: 7). This observation is particularly relevant for discussions about EU enlargement, where there could be fears that the introduction of larger states into the EU might disrupt the balance of decision-making power. However, the literature has suggested that QMV would be a necessary evolution – even a fundamental pre-condition – for EU enlargement, to ensure that a veto would not block the decisions of an even larger number of states and citizens (Intel and von Ondarza, 2022: 2).

4.3. Thematic and contextual implications of QMV

In addition to the specific observations above, it is worth reflecting on the thematic- and context-specific nature of CFSP decision-making. Indeed, this study has shown that questions related to the costs and benefits of unanimity or QMV are dependent on the nature of specific foreign policy cases.

⁹⁴ Interview, official, Belgium Ministry of Foreign Affairs, December 2022; and interview, official, European External Action Service, Brussels, 1 December 2022.

⁹⁵ Interview, official, European External Action Service, 1 December 2022; interview, official, European Commission, 1 December 2022; and interview, official, European External Action Service, 12 December 2022.

⁹⁶ Interview, analyst, Stiftung Wissenschaft und Politik (SWP) Berlin, 2 December 2022; interview, analyst, Munich Security Conference, 8 December 2022; and interview, analyst, Martens Centre for European Studies, 6 December 2022.

Each of the four cases analysed shows the unique nature of individual EU decisions. Despite this, it is worth reflecting on the general conditions under which unanimity or QMV can result in costs and benefits for CFSP (see a summary of the costs and benefits of QMV in Table 4 below). Hence, what follows is a number of pertinent thematic issues that may confront the EU, CFSP and its decision-making structures. The by no means exhaustive list of themes below is derived from observations in the four case studies, but they also emerged during the interviews and the 31 January 2023 expert workshop. It is hoped that these themes can be of use for further reflections on the costs and benefits of QMV and unanimity and contribute to a more coherent, focused and structured understanding of the contexts in which different CFSP decision-making formats could apply in the future.

- **War and rivalry:** clearly, the critical importance of the war in Ukraine for Europe has provoked a much greater commitment to unanimity. In this sense, it could be argued that EU responses to questions such as war and fundamental challenges to the European security architecture lend greater weight to unanimity. As Lehne (2022) has already observed, and confirmed during interviews, the Kremlin's actions were so flagrant and brutal that EU governments unanimously agreed to a common Union approach to Russia. If one can draw a general conclusion from Russia's war on Ukraine and how it has affected CFSP, it is that Member States place a political value on consensus as a way to position the Union internationally and to respond to military aggression. Of course, consensus is the basis of unity between Member States. As such, the authors have shown how, in response to Russia's war, a compromise was needed in areas such as energy supplies and infrastructure.

One can, however, argue that when war and rivalry emerge QMV has limitations. On the one hand, QMV could lead to more timely action by the EU but questions related to the effectiveness of policy and EU unity can be raised. As the study argued in the alternative scenarios section, QMV would not remove the risk of foreign interference and the case of sanctions on Russia revealed that consensus and unity have a quality of their own when responding to rivals like Russia. However, while unity at the level of EU-27 is important the costs and benefits of QMV in the case of war should be measured on the basis of specific contexts. Hence, while the authors may generally conclude that unanimity provides greater benefits to the EU than QMV in wartime, the costs of not responding speedily or robustly due to a veto under unanimity should be considered.

- **Foreign influence:** this study has argued that QMV could be an effective tool for reducing harmful foreign influence on the EU. It has been shown how in contexts where individual Member States are susceptible to economic coercion or political pressure, QMV can be a useful tool. For example, in cases where a Member State is dependent on energy or financial investments from a strategic competitor and a CFSP decision impinges on national interests, QMV can allow the Member State in question to vote against that decision without blocking it and save face with external actors. In such contexts, QMV could reduce the undue foreign influence and help change the strategic calculus of external competitors and rivals who view a veto under unanimity as a weak point of CFSP decision-making. As a general observation, one can argue that the benefits of using QMV to dissuade foreign influence in specific cases outweigh the costs that QMV may entail in terms of effectiveness or unity.
- **Values and norms:** as analysed in the case of the EU's human rights declaration for Hong Kong and China, ideological differences between Member States can stymie the Union's efforts to take a stance on international affairs. In particular, unanimity may not necessarily be well-suited to consistently upholding the EU norms and values when individual Member States disagree with or deviate from established EU principles on democracy, human rights and the rule of law. QMV may be seen as an antidote to this dilemma but, as already expressed by Pomorska and Wessels (2021), this would be to

avoid confronting a deep-seated issue. If the EU is to uphold the principles and values enshrined in the EU Treaties and the European Convention on Human Rights for its external action, then a veto that directly calls into question these principles and values is harmful – in fact, in such a case the damage would go beyond CFSP and represent a major issue of EU law. This, in turn, could raise important questions about whether or not a veto that would breach fundamental rights and principles should ever be considered a legitimate reason to block CFSP decisions.

- **Restrictive measures:** the study argued that unanimity on restrictive measures is no guarantee of their effective implementation or enforcement. Where QMV could be applied to restrictive measures in the future, Member State(s) that vote against a measure would not be able to prevent their adoption and would – depending on the measure – even be bound by a Council Decision and Regulation to implement the measures agreed. However, should any Member State(s) decide not to implement a decision they have failed to stop through QMV, there is no solid infringement action that could be enforced against recalcitrant Member States in the area of CFSP. This may pose even greater issues for QMV than is currently observable under unanimity because the CJEU can only be called upon exceptionally in the area of CFSP (Moser and Rittberger, 2022). The case of sanctions on Russia, however, has given rise to the Commission as a central actor in designing and bargaining sanctions packages: yet, even with the cooperation between the Commission and Coreper in this specific case, there is not a viable enforcement mechanism for sanctions.

Nevertheless, it has been argued through this work that QMV could help with the speed of EU decision-making and agreement on restrictive measures, especially if it helps overcome the possible use of a veto through unanimity. In the specific case of restrictive measures, speed is certainly of the essence given that any delay on the EU's part can result in regimes or individuals moving financial assets out of a country/bank accounts before restrictive measures bite. In such circumstances, any delay caused by a veto could give the perpetrators of negative actions time to divert, hide or transfer financial assets. Furthermore, this study has provided evidence that consistency is crucial when applying restrictive measures too. Accordingly, should several rounds of unanimously agreed restrictive measures be suddenly vetoed then the EU's credibility would be strained. In this respect, QMV could be used as a bridging framework in cases where long-standing consensus on restrictive measures suddenly disappears.

- **Civilian missions:** one aspect of this study that is perhaps too context-specific to draw general conclusions relates to EU civilian missions. The case study on EULEX Kosovo embodied a specific context where questions of deployment were conditioned by questions about Kosovo's declaration of independence. This is not to say that cases involving a separatist or independence movement will not influence future EU civilian mission deployments. Should such cases emerge, then the lessons drawn from launching EULEX Kosovo would be instructive. More generally, though, EU Member States can still make good use of constructive abstention in cases involving deployments of civilian missions. Whether there are more costs than benefits under QMV in the case of civilian missions can be answered only on a case-specific basis. Should QMV result in the bulk of EU Member States agreeing to launch a civilian mission, then the impact on resources and capacities should be negligible. However, in cases where the 55 % threshold in QMV is only just met, then this could pose questions about available resources if larger Member States are not bound by the QMV vote.

Table 8: Costs and benefits of QMV in specific circumstances

Circumstances	Costs and benefits of unanimity vs QMV
Where the EU faces major war and rivalry:	On balance, the benefits of unanimity are higher . Although the risk of a veto is always present, unanimity can lead to faster and more robust action, greater unity and a lower risk of foreign interference.
Where the EU is subject to undue foreign influence:	On balance, the benefits of QMV are higher as it can help dissuade and diminish foreign interference in CFSP decision-making in case of a veto under unanimity through rapid action, even if it would symbolise EU disunity.
Where fundamental EU values and norms are challenged:	On balance, the benefits of QMV are higher if it helps overcome a veto under unanimity that would imperil fundamental EU values and norms, and this helps reduce foreign interference.
Where the EU seeks to impose restrictive measures:	On balance, the benefits of QMV are higher as it leads to more EU rapid reaction, even if questions of unity, implementation and effectiveness remain.
Where the EU seeks to deploy a civilian mission:	On balance, the benefits of unanimity are higher because it can ensure sufficient resources and capacities for CSDP civilian missions, even if there is a risk of slower action.

Source: authors' own compilation, 2023.

4.4. Institutional and resource implications

This Study has focused on the costs and benefits of unanimity and QMV in the area of CFSP. The costs and benefits in each case have been underlined and in the last section, an attempt was made to connect the discussion about costs and benefits to thematic- and context-specific areas of CFSP. In parts of the study, some of the institutional and resource implications of using unanimity or QMV in CFSP have been highlighted but this Study will now conclude with a more systematic assessment of these factors and how they relate to CFSP. To be clear, there is a direct interplay between the type of decision-making framework used for CFSP and the institutional make-up of the EU, as well as its available resources and capacities. Provided below are certain preliminary observations on the institutional and resource aspects of CFSP decision-making.

A first consideration is, what happens when the EU's fundamental values, norms and principles are broken during CFSP decision-making processes. More specifically, should a veto be exercised under unanimity that clearly contradicts the legally-enshrined principles which the institutional body should be principally responsible for responding to the breach? While the Council of the EU might be capable of undertaking such a function, it may not want this role given that its focus is on achieving consensus. In this respect, it is justified to ask what role the European Commission, the European Parliament or even the CJEU should play in adjudicating whether a veto that undermines EU fundamental principles, norms and values is legally permissible. Clearly, this is a politically sensitive question that evidently goes beyond CFSP, although scholars have studied recent judgments by the CJEU that contest the complete exclusion of the Court in CFSP matters (Zelyova, 2021; Koutrakos, 2017). The political implications of the Commission, Parliament or CJEU deciding on whether or not a fundamental breach has occurred would be substantial, not least because the

Commission and Parliament would need to be intimately involved in the Council's deliberations from the start of negotiations.

Secondly, it may be possible to experiment with novel institutional ways of working around a veto under unanimity. For example, EU bodies and institutions could be empowered to make human rights declarations on their behalf. The HR/VP, President of the European Commission and/or President of the European Parliament could be empowered to speak on behalf of the Union whenever the Council cannot agree on a joint statement. This course of action would not necessarily require any major change to the treaties. Using the powers given to the office by the Lisbon Treaty, the HR/VP could use the power of initiative to release a declaration on behalf of the Union and such a declaration could be jointly agreed with the Commission and Parliament to enhance its effectiveness. In this sense, even without a radical move towards QMV in CFSP, there is scope for the HR/VP to display greater boldness whenever unanimity and consensus break down in the Council (Amadio Viceré, Tercovich and Carta, 2020; Morillas, 2011).

Third, the question of foreign interference also gives rise to questions about the institutional structures of CFSP. In particular, it is the Member States today that are responsible for dissuading any potential malign foreign interference in the Council of the EU or CFSP negotiations. The cases of human rights in Hong Kong and the EU's response to the war on Ukraine have revealed some evidence for the growing importance of foreign interference. The study has also seen instances in other institutions where foreign interference is present: for example, the allegations of interference by Qatar and Morocco in the work of the European Parliament (European Parliament, 2022c). In this respect, it is worth asking whether or not the EU is institutionally geared to effectively dissuading foreign interference and should not a collective EU-wide system be introduced for detecting and responding to foreign interference. If such a system were deemed necessary, it could serve to trigger an automatic use of QMV in CFSP whenever foreign interference has been detected. Again, this would rest on the assumption that all EU institutions become more closely involved in the formulation of CFSP decisions.

Fourth, one should also reflect upon the potential resource constraints that may emerge due to QMV in CFSP, as this may unduly impact the effectiveness of EU action. While it is true that Member States are still bound by decisions taken under QMV even when they vote against a measure, certain areas of policy such as the deployment of CSDP civilian missions still raise concerns about proper resourcing. The case study on EULEX Kosovo highlighted how resource constraints tested the civilian mission's performance. One way around these potential resource constraints is to experiment with the thresholds currently available under QMV (e.g., 55 % of Member States and 65 % of the EU population). Conceivably, in the future, these thresholds could be adjusted to ensure that a higher number of Member States would be required to ensure an effective response in the cases of civilian missions and restrictive measures (e.g., 80 % of Member States and 95 % of the EU population) – the so-called 'super QMV'. In such cases, any smaller grouping of Member States that vote against a CFSP decision under QMV would have a negligible impact on the Union's overall effectiveness.

However, another solution, in this case, could be to enhance EU contributions to the resource and financial basis needed for civilian missions. To avoid a situation where Member States withhold resources for civilian missions even in the case of QMV, a more federated approach to equipment and the financing of missions could be considered. Fortunately, EU civilian missions are financed out of the EU budget and there have been important steps forward in developing stockpiles of civilian equipment through the CSDP Warehouse II initiative. In theory, therefore, even if QMV did apply to launch a new civilian mission the EU would have in place common assets and equipment such as vehicles that could be used and deployed, even in cases where 45 % of Member States vote against the civilian mission in question. However, further reflection is required on how this same approach could apply to personnel who are still seconded by Member States to civilian missions.

4.5. Further research

This study has provided a critical examination of the costs and benefits attached to unanimity and QMV in the area of CFSP. At the outset of this analysis, four main interrelated research questions were posed. In answering these questions it has been found that in certain cases the application of unanimity has worked to the detriment of the CFSP, albeit in some cases unanimity can lead to timely action and EU unity. However, in other cases, questions have been raised about the effectiveness of policies agreed unanimously. In each of them where a veto was threatened or used, the Council of the EU found it difficult to design alternative means of action for the EU. The study also found that the CFSP decision-making structures need to be assessed in light of different political contexts. In cases of war and rivalry, unanimity is an effective approach but, in contexts where foreign interference or EU values and norms prevail, QMV holds a number of advantages. There can be no fixed rule to applying unanimity or QMV in specific cases of external action, but it is hoped that this study has shed light on when QMV and unanimity might be better suited.

Concretely, this study has comprehensively answered three of the four questions posed at the start. The study has shown how unanimity has affected the conduct of EU CFSP (Question 1) and outlined the benefits of using QMV in areas such as human rights, sanctions and CSDP civilian missions (Question 4). The study has also highlighted the parameters through which the EU's decision-making should be assessed and it has done so through the development of a typology of EU credibility in CFSP composed of four categories: timeliness, effectiveness, unity and foreign influence (Question 3).

Nevertheless, the authors believe that future research should be conducted to better address the ways in which the Council of the EU has managed unanimity when divergences between EU Member States exist (Question 2). The authors believe that this study is the most comprehensive account, to date, of the differences that exist between EU Member States when negotiating CFSP measures and responses. Through the interviews conducted and secondary materials consulted for this study, the authors could provide a decent account of the interplay of Member State interests in each case study, even though this was a difficult task. The authors believe that future research should rely on a more substantial data set based on further interviews with a wider number of Member States, government representatives and observers.

Throughout this work, 19 semi-structured interviews were conducted with academic and think tank specialists, EU policy-makers and Member State officials. As highlighted at the beginning of the study (see details in section 1.2.3) the sample size of Member State officials would benefit from being expanded. Although the authors did invite several Member State officials (from a further 8 EU Member States) for an interview, the majority of invitations were not responded to or, in a minority of cases, interviews had to be cancelled due to official agenda changes during the research period (e.g. Foreign Affairs Council or Political and Security Committee meetings). To remedy this, the authors organised an expert workshop on 31 January 2023 with 13 individuals from academic institutions and think tanks and four observers from the European Commission and European Parliament.

Additionally, the authors also believe that future research could focus on cases not covered in this study. Such cases could include the veto that blocked an EU declaration in the case of the Israeli-Palestinian conflict in May 2021 or the threat that one EU Member State could block the delivery of financial aid to Ukraine in 2023. Other cases will no doubt emerge in the future, and it is also believed that further research on the EU's response to the war on Ukraine is required. This study analysed the case of Russia and Ukraine up to (and including) the eighth round of restrictive measures, so future research beyond this point is welcome and necessary.

From a conceptual perspective, it is hoped that the typology presented here can be of use for future empirical work. Hence, specialists and scholars are invited to experiment with other categories that

can be added to the broader concept of 'EU credibility' in the area of CFSP. For example, one such category could relate to the 'legitimacy' of CFSP actions taken under either unanimity or QMV. Future studies could build on existing literature focusing on democratic legitimacy and CFSP (Müller, Pomorska and Tonra, 2021; Cardwell and Jančić, 2019; Newsome and Riddervold, 2019; Raube and Tonra, 2018; Koenig-Archibugi, 2008), with further analysis on how far CFSP decisions taken by QMV could be considered democratic and representative of Member States and citizens alike.

From a more political or normative perspective, the authors recognise that Member States will continue to favour consensus in the area of CFSP. Yet the geopolitical challenges facing the EU today are such that questions about the decision-making and/or institutional set-up of the Union are certainly warranted. In this study, the analysis has not lent exclusive support to unanimity or QMV and what emerges, therefore, is the need for a more pragmatic and less dogmatic approach to CFSP decision-making. QMV may indeed be the catalyst needed to introduce a more political dynamic between Member States and in many cases, the potential – rather than concrete – application of QMV in a particular case might be enough to alter the political dynamic. Furthermore, a less dogmatic approach to CFSP decision-making could help meet the very real challenges facing the Union given a deterioration of fundamental rights and values within some Member States and the threat posed by undue foreign influence. In this regard, greater flexibility in decision-making and more institutional imagination may lead to a stronger and more flexible Union at a time when it is not only enlarging but also entering an era marked by great power competition.

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