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Virtues and Perils of Forum-Shopping in European Security

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ABSTRACT

A prominent characteristic of contemporary global governance is simultaneous involvement of multiple regional and international organisations in governing a policy issue. When these organisations overlap without established hierarchy and differentiation between them, their member states can choose those organisations that are most favourable for their interests. Existing studies often approach this forum-shopping strategy as an opportunistic behaviour that prevents international cooperation. However, using insights from international relations and law scholarships, this article argues that a broad notion of forum-shopping is insufficient to account for the multiple and complex effects of forum-shopping on international cooperation. By examining the EU and NATO member states' strategies in these two organisations' overlapping crisis management operations, this article shows that the implications of forum-shopping for interorganisational cooperation depend on the type of forum-shopping taking place. As the analysis suggests, multiple and overlapping venues of governance can create opportunities for international cooperation when these venues are used based on their practical rather than political aspects.

Introduction

A key question within the regime complex literature of international relations scholarship is how states choose between different multilateral organisations that are involved in the governance of the same issues. As an answer to this question, forum-shopping is a frequently used strategy by the member states of such multilateral organisations (Gehring and Oberthür 2009, Alter and Raustiala 2018). By forum-shopping, member states strategically use those organisations that are most favourable for their policy objectives.

Besides the benefits that forum-shopping presents to states in terms of moving among the most convenient venues, it is often argued that forum-shopping also prevents effective cooperation between multilateral organisations. Accordingly, when member states opportunistically select the venues that are most compatible with their policy objectives, collective organisational goals are compromised. Put differently, "too many sets of rules are equivalent to no rules at all–each actor can then simply follow the

rules it prefers" (Lake 2021, p. 346). Focusing mostly on the negative connotations of forum-shopping, however, these approaches do not leave much room for alternative implications of forum-shopping for international cooperation.

Therefore, in contrast to a necessarily negative connotation that the concept suggests, this article argues that the implications of forum-shopping for international cooperation are based on the ways in which forum-shopping takes place. While agreeing with existing studies on the basis that states' overarching rationale for forum-shopping is to strategically choose those multilateral organisations that are most convenient for their policy objectives, this article diverges from these existing approaches in terms of the implications of forum-shopping for international cooperation. In doing so, rather than a broad notion of forum-shopping, the article identifies two types of this strategic behaviour: operational forum-shopping and political forum-shopping. Operational forum-shopping refers to states' moves among multilateral organisations based on the practical aspects of the organisations. This article's analysis shows that to make the most of the practical aspects of multiple organisations operating in the same areas, states often seek ways to create synergies between these overlapping organisations. Political forum-shopping, on the other hand, refers to states' choices between overlapping organisations based on a political logic. As demonstrated in this article, such forum-shopping has less to do with the organisational activities, and thus it is not always substantiated by efforts to establish meaningful interorganisational cooperation.

In developing this argument, this article examines the strategies of member states of the EU and NATO as the two key organisations within the security governance in Europe. In the last few years, the focus on security governance in Europe shifted increasingly to the interplays between these organisations at the core of European security (e.g. Schleich 2015, Koops 2017, Schuette 2022). In particular,their crisis management operations, which are among the main tools through which their member states seek to address external security crises, have simultaneously undertaken similar tasks in same places with separate chains of command and forces. In various theatres including Sudan, Afghanistan, the Gulf of Aden and the Mediterranean, member states of the EU and NATO decided to launch parallel but separate crisis management operations (Schleich 2014). Importantly, despite such simultaneous involvement of both the EU and NATO in the same crises, there remains a lack of formal hierarchy and often a lack of functional differentiation between the two organisations in the field of crisis management, leading to what this article refers to as operational overlap.

Particularly, this article seeks to identify the strategies of France and Germany across the naval operations of the EU and NATO in the Mediterranean, respectively Operation EUNAVFOR Med Sophia (hereafter Operation Sophia) and NATO's Operation Sea Guardian. France and Germany have been among the major member states within both organisations' naval operations in the Mediterranean, especially in terms of their active political and military engagement in regional issues ranging from counterterrorism to development aid. Furthermore, an analysis of the selected operations in the Mediterranean contributes to our understanding of member state preferences in the context of overlaps between the EU and NATO crisis management operations: Previous research examined member states' strategies within the operational overlap between the EU and NATO in Afghanistan (e.g. Çelik 2020, 2021) and the Gulf of Aden (e.g, Brummer 2013, Fahron-Hussey 2019), without much attention to member state strategies in the context of the

operational overlap between the two organisations in the Mediterranean. The evidence base of this article includes 14 semi-structured interviews with national, EU and NATO level officials, as well as primary sources including government and parliament reports, policy documents, proposals and action plans at the national, EU and NATO levels, speeches, press declarations.

The next section presents a review of scholarship on the division of labour and overlap between the EU and NATO, with a focus on the concept of forum-shopping. Subsequently, the article outlines the analytical framework that will guide the empirical investigation based on an understanding of different forum-shopping types. This follows the analysis of member states' choices across the EU and NATO operations in the Mediterranean. In the concluding section, the article summarises key findings, their implications for the concept of forum-shopping and provides avenues for future research.

Overlap and forum-shopping between the EU and NATO crisis management operations

Research on the overlap between the EU and NATO in the field of crisis management sparked considerable interest in the last decade. Observers diverge on the outcomes of this overlap. For some, thanks to a "functional overlap" (Biermann 2008) or "functional convergence" (Galbreath and Gebhard 2010) between the two organisations, their member states have been able to explore informal cooperation mechanisms that partially overcame the obstacles for formal cooperation between the two organisations (Græger 2014, 2016, 2017, Gebhard and Smith 2015, Smith and Gebhard 2017, Mayer 2017). For others, due to member states' often conflicting strategies across the EU and NATO, overlap between the two organisations has impeded an efficient division of labour between the two organisations and brought about insufficient inter-organisational coordination mechanisms (Hofmann 2009).

Despite different perspectives about the outcomes of the overlap between the EU and NATO, there are a number of common points made in the existing scholarship. First, existing research shows that this overlap is a result of a lack of formal hierarchy and often a lack of an established division of labour between the EU and NATO. While the EU and NATO interact informally by sharing information, joint declarations and cross-representation on their decision-making bodies, these informal practices do not establish hierarchy in the absence of an explicit mutual understanding on the question of whether the EU or NATO would prevail in areas of overlap (Henning and Pratt 2020, p. 10).

Second, scholars converge around the idea that the overlap between the two organisations' crisis management operations presents forum-shopping opportunities for member states (Alter and Meunier 2009, Gehring and Faude 2014, Hofmann 2019, Fahron-Hussey 2019, Ewers-Peters 2022). Originally used in legal studies, the concept of forum-shopping refers to individual litigants' tactic of selecting the most favourable jurisdictions to resolve their case (Stiles 2006, p. 52). International relations scholarship applied this notion of forum-shopping to examine actors' strategic choices between multiple venues in areas such as genetic resources (Raustiala and Victor 2004), international trade disputes (Busch 2007), human rights promotion (Hafner-Burton 2009), climate change (Keohane and Victor 2011), maritime piracy (Struett *et al.* 2013), energy governance (Urpelainen and van de Graaf 2015) and the relationship between the EU and

NATO (e.g. Hofmann 2009, 2011, 2019, Koops 2017, Fahron-Hussey 2019, Ewers-Peters 2022).

Scholarship on EU-NATO relations adopts a rather broad definition of forum-shopping, arguing that member states select the operational arrangements that align with their policy objectives (Hofmann 2009, 2011; 2019). In terms of the factors influencing member state's choices between the EU and NATO operations, analysts focused on a variety of factors, such as member states' preference for the arrangements that are most suitable for a specific task (Fahron-Hussey 2019), the differences between the crisis management roles of the EU and NATO, divergences across member states' "strategic cultures" in terms of the importance they attach to the use of force and to the organisations themselves (Zyla 2011), the resources required for specific operations (Dijkstra 2013), and the legitimacy of an organisation in the eyes of the host community (Bassuener and Ferhatovic 2008).

Despite these differences in terms of the rationales of member state choices across the EU and NATO operations, a third and related common point in the existing studies is that member states' forum-shopping between the EU and NATO often negatively affects the two organisations' ability to attain their respective goals (Hofmann 2013). The reason is that member states seek out the most favourable venues to fulfil their interests without necessarily trying to establish effective cooperation between the EU and NATO, or even to undermine such cooperation. In short, existing definitions of forum-shopping in the European security studies approach forum-shopping as an opportunistic behaviour that often prevents interorganisational cooperation between the EU and NATO.

However, this article argues that, in the context of the overlapping EU and NATO crisis management operations, this approach to forum-shopping overlooks the multiple outcomes of the particular ways in which states move between multilateral organisations, including not only those which prevent but also those which facilitate international cooperation. In legal studies, where the concept of forum-shopping is originally used, forum-shopping does not only refer to a misconduct where litigants seek to steer their cases towards "favourable laws, sympathetic judges, generous juries, or some combination of these" (Block-Lieb 2018, p. 2). As some scholars argue, the availability of multiple venues also means more opportunities to access to justice (Bookman 2017). Similarly, in international relations, "the existence of multiple arenas, while undoubtedly creating challenges for global governance, also provides opportunities for progressing the development of multilateral […] agreements" (Kellow 2012, p. 329). To address this issue, this article engages with the concept of forum-shopping not only by looking at its use in law and in international relations studies. As will be shown below, such an attempt reveals more variants of forum-shopping, while exposing multiple and more complex implications of this strategic behaviour for international cooperation.

Two caveats should be noted about using insights on forum-shopping in legal contexts for an analysis of member state strategies among the EU and NATO crisis management operations. First, litigants' forum-shopping across various courts is different from member state's moves among the EU and NATO operations. For instance, in the EU and NATO operations, member states are often less restricted than individual litigants in a legal context in terms of the norms about available forums. Indeed, member states can select operations that are most suitable to their goals without facing judicial constraints, such as the *forum non conveniens* principle where courts may prevent litigants' forum-shopping "by refusing to take jurisdiction over matters where there is a more

appropriate forum available to the parties" (Kellow 2012, p. 337). Second, whilst it is possible to speak of vertical and horizontal forum-shopping across different courts in a legal sense (for example, choosing between state and/or federal courts), member states' moves between the EU and NATO operations do not fit neatly into a vertical forum-shopping logic due to a lack of clearly established hierarchy between these organisations.

Despite these different forum-shopping contexts between legal settings and EU-NATO relations, an investigation of member states' strategic moves across the overlapping EU and NATO operations can still draw on insights from the forum-shopping research within not only international relations but also law studies. Using perspectives from these strands of scholarship, the next section first identifies the different ways in which forum-shopping takes place in the overlapping EU and NATO operations. It then shows that different types of forum-shopping have different implications for the cooperation between these operations.

Varieties of forum-shopping across the EU and NATO crisis management operations

Recognising the potentially varied implications of forum-shopping for inter-organisational cooperation, this article proposes two types of forum-shopping: operational and political. Before elaborating on these variants of forum-shopping, it is worthwhile to note that they are relevant to the member states of both the EU and NATO, known as dual members (Hofmann 2019). Being a member of both organisations allows these states to pursue their preferred policy options both in the EU and NATO through various cross-organisational strategies (Verdier 2022). Importantly, such "dual membership" also makes it possible for these member states to pursue strategies beyond a zero-sum logic that considers only one of the two organisations as a forum for crisis management operations (Hofmann and Mérand 2012).

Operational forum-shopping

Like litigants' simultaneous or successive filing of cases to different courts, member states can allocate operational resources such as funds or hardware to both overlapping EU and NATO operations either simultaneously or at different times (Ruiz-Chiriboga 2020, p. 64, Henneberg and Plank 2020, Alter and Raustiala 2018). Similar to the distinction between forum-shopping based on different *procedures* of different jurisdictions and forum-shopping based on different *courts* (Bookman 2017, p. 598), operational forum-shopping recognises that when member states decide to address a given issue, they consider not only the available venues, but also the available practices of doing so (also see Wiegand and Powell 2011, p. 41, Mondré 2015, p. 19). Therefore, through operational forum-shopping member states allocate their resources to the overlapping EU and NATO operations by focusing on the operations' practical aspects. For instance, member states can place their crisis management capabilities to the EU and NATO operations by focusing on the two organisations' different crisis management tools and expertise, with the EU focusing on civilian and long-term development tools and NATO on military and tactical operations (Whitman 2011, p. 13).

In this sense, operational forum-shopping presents multiple implications for the cooperation between the overlapping EU and NATO operations. Similar to legal contexts

where litigants' forum-shopping across jurisdictions may lead "courts to interact with each other, providing occasions for them to learn about other legal systems" (Bookman 2017, p. 619), member states' use of both overlapping operations by focusing on the operations' practical aspects may lead to increased inter-operational interaction and thus provide opportunities for the EU and NATO to coordinate their capabilities and resources (Eilstrup-Sangiovanni and Westerwinter 2022, p. 251, Murphy and Kellow 2013). For instance, despite the obstacles for formal cooperation between the two organisations' crisis management operations due to member states' political preferences, such as the strained relationship between Cyprus and Turkey, member states can seek to establish synergies or division of labour between the EU and NATO operations mainly through informal mechanisms (Mayer 2017, Smith and Gebhard 2017). Member states can in this way use different but overlapping EU and NATO operations to develop more effective responses to the crises at hand. This resonates with the argument in regime complex literature that "skilful international entrepreneurs shift issues from venue to venue in order to advance ([not only] block) negotiations" (Kellow 2012, p. 349).

Yet, operational forum-shopping can also compromise interorganisational cooperation. Referring again to legal studies, which argue that alternative venues available for litigants may lead to different outcomes for similar cases (Bookman 2017, p. 597), member states may allocate their scarce resources to both operations without considering the other overlapping operation. Due to the absence of institutionalised hierarchy and formal division of labour between the EU and NATO, member states' separate commitments to different operations can result in each operation pursuing its own mandate not only independently from each other, but also without effective cooperation (Abbott and Faude 2022, p. 285, Zürn and Faude 2013, Henning and Pratt 2020, Çelik 2021).

Political forum-shopping

Whilst operational forum-shopping covers member states' resource allocation to the overlapping operations based on the practical aspects of these operations, political forum-shopping takes place based on the consideration of the forum itself based on the political aspects of each venue. There are a number of ways through which political forum-shopping between the overlapping EU and NATO operations can take place. At a most basic level, the decision for member states is not always about under which organisation to address an issue, but also about whether to address an issue by taking part in the operations in the first place. Thus, member states can merely support the deployment of the overlapping EU and NATO operations without allocating specific resources to these operations. The basis for this option lies in the decision-making system within the EU and NATO crisis management operations, where deployment of the operations requires unanimous member state voting, though member states do not have to commit resources to the operations once they are deployed.[1]

Furthermore, member states may support the operations diplomatically as a legitimisation of intervention to tackle a given crisis. For example, member states may support the involvement of the EU in addressing an issue in which NATO is already involved, to use the subsequent EU involvement as an extra layer of legitimatisation for NATO's presence in the same operational context (Kellow and Zito 2002, p. 47, Karlsrud and Reykers 2020, p. 1524). Relatedly, member states may also support an operation by seeking to draw

international legitimacy to that operation at the UN level. This is relevant for the mandates of the EU and NATO operations, which may make references to the implementation of various UN Security Council resolutions. In this sense, especially in the context of overlapping EU and NATO operations, a member state may prefer to focus on one of the operations to allocate its operational resources and support the operation politically for international legitimisation of its involvement. Member states can exercise political forum-shopping also by allocating resources to the operations. For instance, member states can deploy "token contributions" to the two organisations' operations to indicate their support to the EU and NATO. Political forum-shopping also covers what analysts called "trojan horse tactic", where states take part in an initiative of an organisation to narrow these initiatives to specific fields (Kellow and Zito 2002, p. 47). This has been a tactic that, for instance, France applied during the NATO operations in Afghanistan following its return to NATO's military structures. France supported these operations to limit NATO's activities to the military field, thereby not only increasing France's own influence in NATO but also leaving the civilian domain of Afghanistan's security sector reform to the EU (Çelik 2021).

In this sense, political forum-shopping may have different implications for the cooperation between the EU and NATO operations. If member states support one of the operations only politically and focus their resource allocations to the other operation, this might allow for a division of labour between the operations. Put simply, in this case member states' resources would be used under one operational mandate rather than two overlapping, even potentially conflicting, mandates. Furthermore, deploying resources to only one of the overlapping operations can allow for this operation to address the same issue with more capabilities. However, it should also be noted that, because member states are often aimed at indicating their political support for the EU and/or NATO through political forum-shopping, this strategic behaviour is not always substantiated with member state efforts to establish complementarity between the two organisations' operations. Moreover, member states can still use their organisational veto powers during the operations to effect operational mandates without taking part in them, thereby hindering cooperation between the EU and NATO operations. As outlined above, member states' political forum-shopping through strategies such as the "trojan horse tactic" can also prevent effective cooperation between these operations.

Overall, whilst both operational and political variants depart from the assumption that forum-shopping is a strategic choice where states choose the most favourable venue to their policy objectives, they differ fundamentally on the basis of support that states offer to the overlapping organisations. In operational forum-shopping, states move along the overlapping organisations based on the practical aspects, whereas in political forum-shopping states focus on the political aspects of the organisations. Furthermore, as outlined above, each type of forum-shopping has varying implications for cooperation between the operations (Table 1). It is also important to note that, in the context of this article's analysis, these strategies are situated within the dynamic processes within the EU and NATO crisis management operations, meaning that member states can change forum-shopping strategies throughout the operations (Weiffen et al. 2013).

Importantly, operational and political forum-shopping complement rather replace the existing notions of the concept of forum-shopping. Indeed, both types of forum-shopping and the concept of forum-shopping itself represent member states' strategic choices between the EU and NATO in line with their own policy objectives. The key difference

Table 1. Key details of forum-shopping's two variants.

	Operational forum-shopping	Political forum-shopping
How is forum-shopping exercised?	Using overlapping organisations based on their practical aspects	Using overlapping organisations based on their political aspects
Implications for interorganisational cooperation	May lead to increased inter-organisational interaction, provide opportunities to coordinate separate capabilities and resources, but lack of institutionalised hierarchy and formal division of labour between the organisations may lead to uncoordinated state commitments	May allow for division of labour if states focus on a specific organisation to address an issue, but states can still use organisational veto powers or "trojan horse tactics"

between these two variants of forum-shopping and a broader notion of forum-shopping is that while the latter approach often views this strategy as an opportunistic behaviour that prevents cooperation between the EU and NATO, the types of forum-shopping as outlined above may not only prevent but also encourage effective cooperation between the overlapping EU and NATO operations.

In this understanding, the next section shows how operational and political forum-shopping are used by France and Germany between the EU and NATO operations in the Mediterranean, and the extent to which how these member states' forum-shopping sought to establish complementarity and cooperation between these operations.

Assessment of member state strategies in the Mediterranean

This section examines the strategies of France and Germany within the operational overlap between the EU and NATO in the Mediterranean. It starts with a background of this operational context, followed by each member state's engagement with the operational overlap. In addition to primary sources listed the Introduction, this section's analysis is based on evidence from 14 semi-structured interviews with national as well as EU and NATO officials, including current and previous ambassadors, desk officers, mission and operational commanders, and civilian and military advisers as well as independent analysts who monitored the decision-making processes regarding the operations of interest. Interviewees were selected on the basis of their direct or indirect involvement in the cases of member state decision-making of interest as well as their temporal closeness to the investigated decision-making environments.

Background of the operations

The EU's Operation Sophia was launched in June 2015 in response to the surge in migration to Europe across the Mediterranean, which was often undertaken through perilous sea crossings in the Mediterranean Sea, resulting in more than 3,000 individuals attempting such crossings (UNCHR 2019). The EU operation's overall objective was to disrupt the business model of human smugglers that facilitate these crossings (Council 2015). Before the launch of the EU operation, NATO was already involved in the Mediterranean through its Operation Active Endeavour (de Guttry *et al.* 2017). As Operation Active Endeavour was an "Article 5 operation" of NATO (deployed mainly as a counterterrorism operation for "collective defence" purposes) rather than an operation against

human smuggling, in July 2016 NATO members announced the replacement of Active Endeavour with a maritime security operation called "Sea Guardian" (Allied Maritime Command 2020). Whilst carrying on some of its predecessors' tasks such as maritime situational awareness, counterterrorism and capacity building, the new NATO operation sought to respond to irregular migrant flows through the Eastern Mediterranean (NATO 2016).

The overlap between these EU and NATO operations was based on issues ranging from illegal human and arms trafficking to capacity building (Cordy 2018). As a NATO Parliamentary Assembly report stated, the NATO operation had "overlapping equities" with the EU operation in addressing illegal migrant trafficking from Libya (Moon 2016, p. 14). For instance, the EU operation took some characteristics of a naval situational awareness and capacity-building operation, similar to the NATO operation. Throughout its mandate expansions over time, the EU operation included two additional tasks of supporting the implementation of the UN-imposed oil and arms embargoes on Libya and providing training to Libyan Coast Guard and Navy (Council 2016, 2017, 2018, 2019). While a formal hierarchy between these EU and NATO crisis management operations would have potentially guided member states as to which of the two organisations would prevail in areas of overlap, such hierarchy has never been established between the EU and NATO operations in the Mediterranean. As a result, the simultaneous involvement of the two organisations not only resulted in overlap, but also generated options for the member states of both organisations to use different forum-shopping strategies.

France

The French government of the time perceived Mediterranean as a "strategic space" and a "strategic border", where terrorism and trafficking were seen as significant security concerns for the Mediterranean and southern Europe (Ministère de la Défense 2013, p. 53, Premier Ministre 2015, p. 30). Especially with incidents such as the Paris attacks in November 2015, which the French government linked with the broader unrest in the Middle East and North Africa, the instability in Europe's southern neighbourhood was seen as a security threat for France (Assemblée Nationale 2016a, Rieker 2018). Against this background, French forces joined the EU's Operation Sophia in its first phase by assuming the operational command of this operation, coordinating member states' efforts to gather intelligence on the business model of human smuggling networks (Assemblée Nationale 2015; Interview 11: French official[2]). French forces were at the forefront of the EU operation's efforts to intervene in the smuggling boats and arrest suspected smugglers in the Mediterranean (Sénat 2016b).

Importantly, the French government argued that the EU operation should, in addition to tackling human smuggling, also contribute to the implementation of the United Nations (UN) arms embargo on Libya (Die Welt 2016). For key decision-makers in France, "[the EU's operation] Sophia will not fulfil the mission for which it was created until its units can act in Libyan territorial waters" (Assemblée Nationale 2017). This concern to expand the EU operation's scope from international waters to Libyan territory was key for the French government also because the weapons stocks of the Gaddafi regime, which fell after the civil unrest that broke out in the context of the "Arab Spring" of 2011, have reportedly reached to areas of strategic importance such as the Sahel and the rest of North Africa

by various militia groups (Kaim and Schulz 2020, p. 2). Arguing that "there was a political need to implement more thoroughly the arms embargo on Libya", French policymakers believed that the EU operation was a suitable platform to not only tackle human smuggling networks in the Mediterranean, but also to support the enforcement of the UN's arms embargo on Libya (Interview 9: French official).

When NATO's Operation Sea Guardian was launched in addition to the existing EU operation, the French government approached the simultaneous involvement of the EU and NATO in the Mediterranean as a tool for strengthening security of Europe's southern neighbourhood (Ministère de la Défense 2016, p. 58). French policymakers welcomed NATO's renewed focus in the Mediterranean, which was based not only on arms and human trafficking in the region, but also on other issues that aligned with France's willingness to address the aforementioned security risks in the region, such as counterterrorism and protection of critical infrastructure, fight against weapons of mass destruction, and maritime interdiction (Interview 12: French official). Furthermore, NATO's Operation Sea Guardian provided some "flexibility" to French forces in the region by not limiting them to a particular area in the Mediterranean (Interview 8: NATO official). While the EU operation's limited geographical scope led the EU operation to keep an overarching focus on human smuggling and training within "its own operational box", the NATO operation was undertaking tasks more directly related to stability and deterrence in the Mediterranean (Interview 8: NATO official; Jopling 2019, p. 14).

In line with operational forum-shopping, the French government aimed to use the distinct practical advantages of the EU and NATO operations in terms of tackling human smuggling networks and fulfilling intelligence and situational awareness tasks (Sénat 2016b, Assemblée Nationale 2020) by taking active part in both operations. Crucially, to make the most of each operation's assets and expertise in addressing its own security concerns in the region, France also supported efforts to create complementarity between the EU and NATO operations in the Mediterranean. For instance, France supported the idea of authorising NATO's Operation Sea Guardian to support EU's Operation Sophia in the latter's efforts in "accompanying suspicious vessels" (EU and NATO 2019, p. 4, Lațici 2019, pp. 76–77). Indeed, French decision-makers valued the overlap between the EU and NATO operations in the Mediterranean by referring to these operations' complementarity to the fight against arms trafficking networks in the region (Assemblée Nationale 2016b). For French officials, the differences between these operations' mandates and capabilities could be seen as potential areas of complementarity between the operations, and they could be used to implement the arms embargo on Libya (Interview 13: NATO official; Interview 12: French official). As a result, France was a key NATO member that supported the EU's involvement in implementing the relevant UN Security Council resolutions (Kaunert and Wertman 2019, p. 68). French officials also participated informal working groups with the EU and NATO staff, such as the Shared Awareness and De-Confliction in the Mediterranean (SHADE MED), and these meetings explored opportunities for enhanced cooperation between the two organisations' operations (interview 9: French official).

France's forum-shopping was not limited to contributing to the overlapping EU and NATO operations on a practical basis. Indeed, there are also examples of France's political forum-shopping between these operations. For instance, as a penholder of the UN Security Council resolutions supporting the EU operation, French diplomats believed that implementing an arms embargo through the EU was easier to justify at the UN Security

Council than carrying out this task through NATO, as the latter's role in the Southern Mediterranean was contested by Russia (Interview 11: French official). Furthermore, France's venue choice had a symbolic value in terms of indicating its support for the security and defence integration in the EU, as well as a demonstration of the EU's ability to take external action and increased momentum for the EU integration in security and defence policies (Interview 9: French official; Interview 10: French official). For senior French decision-makers, the EU operation also reflected the implementation of the EU's foreign policy vision as laid out in the 2016 Global Strategy by demonstrating that "Europeans could take responsibility" to ensure "European strategic autonomy" (Sénat 2016a; Interview 14: EU official). Despite the French government's political forum-shopping, however, it was through operational forum-shopping that France encouraged complementarity between the EU and NATO operations in the Mediterranean.

Moreover, France's forum-shopping between the EU and NATO operations was challenged by disagreements during the force generation processes of the two operations (Assemblée Nationale 2018). First, France ceased its operational support to the NATO operation following the disagreement between France and its NATO partners on whether to impose sanctions against Turkey, whose activities in the Eastern Mediterranean have been an area of contestation within NATO (Interview 1: UK official). In parallel, following the failed attempts to extend the EU operation's mandate into the Libyan territorial waters, France also withdrew its operational support from the EU operation. Instead, and in line with political forum-shopping, France supported the overlapping EU and NATO operations politically, particularly the extension of the two operations' mandates (Assemblée Nationale 2020). Although not deploying resources to neither of the operations, French decision-makers believed that both operations should still remain in place through other member states' contributions to monitor the UN arms embargo on Libya, and in the case of the EU operation, also to train Libyan security forces (Interview 9: French official). Although France's withdrawal of its assets from both operations while maintaining the diplomatic approval to maintain the operations in place resembles political forum-shopping, in this case the French government refrained from being as vocal an advocate (operationally or politically) for the EU and NATO operations in the Mediterranean.

Germany

When the EU operation was launched in June 2015, "migration was a topic that Merkel had a personal interest in" (Interview 6: German official). Indeed, then Chancellor Merkel emphasised that recurrent "tragedies" in the Mediterranean had to be avoided at all costs, stressing that "everything […] must be done in order to save lives" (Deutsche Welle 2015). Following what a German official termed "the spirit of 2015" in Europe, Germany underlined the importance of a cooperative response to loss of lives at sea (Interview 3: German official).

Similar to France's initial strategy, Germany engaged with operational forum-shopping to make use of the distinct practical advantages of the EU and NATO operations and by seeking to establish a division of labour between the two operations. The German government's support for the EU operation was based on avoiding a far-reaching military intervention due to the criticisms raised by the domestic opposition on the grounds that

Germany's support to a military operation would mean embracing the EU's "unilateral military strategy" (Bundestag 2015b, pp. 1–2). Therefore, the German government saw the EU operation as part of a broader response to long-term humanitarian issues stemming from North Africa and more particularly Libya (Interview 6: German official). Indeed, statements from key officials consistently highlighted Germany's contribution to the EU operation to "avert the humanitarian catastrophe of the refugee movements across the Mediterranean" (e.g. Bundestag 2015a, p. 11645; Interview 7: NATO official). With a growing interest in public opinion on issues such as the relocation of refugees rescued at sea, in Germany the EU's Operation Sophia became the most popular overseas military deployment (Interview 2: German official).

The German government of the time ascribed a different role to the NATO operation. It argued that NATO's Operation Active Endeavour was "outdated" and that it should be replaced with a non-Article 5 operation to address the new security challenges in the Mediterranean (Interview 3: German official). For German diplomats, a new NATO operation should focus on providing military security and stability in the region, in contrast to the aforementioned role of the EU operation around more civilian roles (Bundestag 2016b, p. 12). In doing so, the German government emphasised the distinct features of NATO's capabilities and experience in the region, such as presenting a robust response to regional security issues (Interview 4: German official). Furthermore, the NATO operation would have the advantage of the expertise it gained from Operation Active Endeavour in terms of situational awareness, which could then be used in the new NATO operation (Interview 4: German official). Similar to France's perception, another practical advantage of the NATO operation from the German government's perspective was its geographical coverage that was broader than its EU counterpart (Bundestag 2019, p. 6).

Given this focus on these distinct practical aspects of the overlapping EU and NATO operations, it was important for Germany to establish a complementary division of labour between these operations. Therefore, in line with operational forum-shopping strategy, German officials have been instrumental in drafting and negotiating memorandums of understanding between the EU and NATO operations "to establish a process of exchanging information" (Interview 4: German official). Indeed, the German government supported the NATO operation to fill the operational gaps of the EU operation in terms of intelligence gathering that is required to trace human smuggling networks in the Central Mediterranean (Interview 3: German official). For instance, Germany led the Maritime Surveillance project under the European Defence Agency to help bring together the different information on maritime situational awareness, which contributed towards enhanced interoperability and cooperation between the EU and NATO operations in the Mediterranean (EDA 2017). Germany was also instrumental in an EU-NATO agreement in 2017, which authorised the two organisations' operations to share information with each other and provide mutual logistical support for the implementation of the UN arms embargo on Libya (European Parliament 2023, p. 11). These initiatives reflect the German government's focus on the practical aspects of the overlapping EU and NATO operations, where the EU operation's key task of disrupting human smuggling networks required NATO's situational awareness capabilities. In the words of a German official, "in practical terms, you [*sic*] often find [German] ships deployed to Sea Guardian and then chopped to Sophia and vice versa to appease the perception of others" (interview 2: German official). Germany's subsequent allocation of resources to both operations, and

its attempts to explore synergies between the EU and NATO operations, are thus in line with operational forum-shopping.

In addition to operational forum-shopping based on the practical aspects of the two operations, the German government also engaged with political forum-shopping by using its contributions to the two operations as an indicator of Germany's support to both organisations. As both the EU and NATO are among the key tenets of Germany's security and defence policy, the two organisations' overlapping operations offered the German government an opportunity to show that its efforts are placed both within the EU and NATO at the same time (Interviews 28 and 30: German official). The EU operation was a platform for Germany to show its commitment to CSDP, "which is a key part of Germany's foreign policy and military planning" (Interview 6: German official). As the government officials highlighted on numerous occasions, participation in the EU operation helped fulfil Germany's commitment to CSDP (Bundestag 2017, p. 24331, Bundestag 2018, p. 7). In parallel, the NATO operation helped the government to demonstrate Germany's commitment to NATO when the US administration of the time was pressuring Berlin to increase its military commitment to international security. At various NATO meetings, US representatives were constantly asking their German counterparts to improve Germany's contributions to regional and transatlantic security (Interview 7: NATO official). Furthermore, the then US President Donald Trump singled out Germany as a "free rider" in European security. As a result, German officials wanted to ensure that Germany's contributions to the EU would not send "wrong signals" to NATO (Interview 2: German official). However, in contrast to Germany's operational forum-shopping that sought to ensure inter-operational cooperation between the EU and NATO, these "token contributions" to the two organisations' operations were not substantiated by efforts to create synergies or division of labour between the operations. Instead, Germany's participation to these operations was informed by a political logic of indicating the German government's support to the EU and NATO, without considering the operational dynamics.

Conclusion

The above analysis suggests that states' strategic forum-shopping does not always block cooperation between the multilateral organisations operating in the same areas. Indeed, there are forms of forum-shopping that encourage international cooperation, just as the types of forum-shopping that prevent such cooperation. Therefore, this article highlighted the need to distinguish between different types of forum-shopping for a better understanding of how this strategic behaviour affects cooperation between multilateral organisations.

This line of argument was developed through an examination of French and German strategies across the overlapping EU and NATO operations in the Mediterranean. Both member states initially sought to use the practical aspects of the two organisations' operations. For the French government, operational forum-shopping among the EU and NATO operations was in line with its security interests, especially in terms of containing threats that are perceived to be stemming from North Africa and the Sahel regions. To this end, France contributed towards complementarity between the two operations to fulfil critical tasks such as implementing the UN arms embargo on Libya. Whilst France engaged with political forum-shopping too by using the EU operation as a symbol of strong integration of European security and defence policies under the EU, such political forum-shopping

was not complemented by meaningful efforts to create cooperation between the EU and NATO operations. The analysis of France's engagement with the EU and NATO operations also showed that forum-shopping is not inevitable. Indeed, France did not actively forum-shop between the EU and NATO operations following its dissatisfaction with operational arrangements in the EU and its disagreements with its NATO partners.

Similarly, for the German government, each operation presented practical instruments to deal with human smuggling and broader security issues in Libya. While moving between the EU and NATO operations in the Mediterranean, Germany led initiatives for enhanced interoperability and cooperation between these operations, such as information sharing and logistical support. At the same time, German forces' participation in both operations also allowed the German government to show its support to the EU and NATO as the two organisations among the key tenets of Germany's security and defence policy. Yet, this latter type of forum-shopping based on the political, rather than practical, value of the two operations and therefore it was not substantiated with an ambition to seek complementarity between the EU and NATO operations.

Overall, the article's analysis has shown that when used on the basis of their practical rather than political aspects, multiple and overlapping venues of governance can create opportunities for international cooperation. The effects of forum-shopping between such different platforms for international cooperation depend on the way in which forum-shopping is exercised. Unlike a broad understanding of forum-shopping that focuses on the concept's negative connotations for international cooperation, the two types of forum-shopping offered in this article (operational and political) allow us to think about how cooperation within and between multilateral organisations can be prevented or encouraged through member states' choices between them. In operational forum-shopping, member states seek to make the most of the overlapping organisations' capabilities. Whilst member states' motivation in doing so is often to accomplish their own policy objectives, they seek to establish synergies between overlapping organisations to avoid inefficient and ineffective use of their resources in addressing the issue at hand. In political forum-shopping, however, member states support overlapping organisations through a logic of showing political and diplomatic support to these organisations. Unlike operational forum-shopping, this type of forum-shopping is not supported with an ambition to create complementarity between overlapping organisations.

This understanding of forum-shopping complements rather than replaces the existing notions of the concept. Whilst both operational and political variants of forum-shopping represent states' strategic behaviour to choose the organisational venues that are most suitable for their own policy objectives, they acknowledge the forum-shopping practices that facilitate international cooperation. Another implication of this article's analysis is that forum-shopping not only shapes, but is also shaped by, the relationships between multilateral organisations. For instance, the EU and NATO operations examined in this article affected the ability of their key member states in strategically using the overlapping capabilities of these two organisations.

This article has analysed the states' forum-shopping strategies. At the same time, the involvement of non-state and non-governmental actors, such as private security companies, is also a common feature of today's complex security governance (Gómez-Mera 2016, Eilstrup-Sangiovanni and Hofmann 2020). After all, overlaps in security governance have developed in part due to the limitations of individual states and international

organisations to address today's multidimensional issues such as food, energy and water security (Alter 2022). To provide a more comprehensive understanding of the implications of forum-shopping for international cooperation, future research could therefore examine the forum-shopping behaviour of actors beyond states, as well as contexts beyond crisis management operations. Furthermore, strategies other than those that presented in this article may shape international cooperation in different ways. These strategies include creating a geographical division of labour between elemental institutions within a regime complex, creating new institutions, changing the design of existing ones and using intermediary actors to plug-in capability gaps (Karlsrud and Reykers 2020, Viceré 2021, Hofmann and Yeo 2023). In this vein, future research could also identify alternative strategies that states, international institutions and non-state actors can employ.

List of interviews

Interview 1: UK official (Former senior official at Foreign, Commonwealth and Development Office, 5.08.2020)

Interview 2: German official (Desk officer at the Permanent Representation of Germany to the EU, 7.10.2020)

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Interview 4: German official (Senior officer in German Navy, 4.11.2020)

Interview 5: UK official (Senior official at Foreign, Commonwealth and Development Office, 4.11.2020)

Interview 6: German official (Desk officer at Federal Foreign Office, 4.11.2020)

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Interview 8: NATO official (Senior official at NATO, 14.12.2020)

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Interview 10: French official (Desk official at the French Ministry of Europe and Foreign Affairs, 25.01.2021)

Interview 11: French official (Senior official at the French Ministry of Armed Forces, 04.02.2021)

Interview 12: French official (Desk officer at French Ministry of Armed Forces, 04.02.2021)

Interview 13: NATO official (Senior official at NATO, 16.02.2021)

Interview 14: EU official (Desk officer at EU Military Staff, 30.04.2021)

Notes

1. Because this article examines the operational overlap, member states' vetoing of an operation is beyond its scope. Although vetoing the operations is also an option, member states' approval to launch both two given operations is required for an operational overlap to occur. This is because proceeding along the operational decision-making stages in the EU and NATO requires a unanimous political approval of member states (Europa 2020, NATO 2005).
2. Interviews are numbered according to their chronological order. A full list of interviews can be found at the end of the paper.

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