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Conceptualising Differentiated Integration: Governance, Effectiveness and Legitimacy

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Abstract

In light of rising internal cleavages and centrifugal tendencies, differentiated integration (DI) has (re)arisen as a major topic in debates on the future of the European Union. As new forms of participation below the threshold of full membership are needed, this paper provides a conceptualisation of effective and legitimate DI. Going beyond existing scholarship's focus on the legal dimension of DI, the paper emphasises its organisational component, meaning the variegated participation of EU member states, sub-state entities and third-country actors in the panoply of EU policy-making institutions, such as regulatory agencies and transgovernmental networks. The paper subsequently discusses how to measure effectiveness of such differentiated arrangements in terms of their output, outcome and impact, before theorising under what conditions we are likely to see effective DI. Finally, the paper turns to the question of legitimacy of DI, discussing its meaning, measurement and determinants.

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Introduction

After six decades of continuous deepening and widening, the European integration project is facing the dual challenge of responding to an increasingly heterogeneous membership while at the same time avoiding the creation of sharp boundaries to its neighbours. Recent and ongoing crises of the common monetary system, asylum policy and Brexit provide fertile ground for the rise of right-wing, Eurosceptic political parties, facing the EU with a hitherto unprecedented level of contestation. Against this background, scholars have started to theorise processes of disintegration (Vollaard 2014, Webber 2014) and stagnation in the EU (Hooghe and Marks 2009). According to “post-functionalist” theorising (Hooghe and Marks 2009), the mounting politicisation of the European integration project reflects a new cleavage that divides European societies along identity lines and opposes attachment to the nation state with support for integration. Between the maintenance of the nation state and developing the European project there seems to be no middle ground – a dichotomous vision that is also perpetuated in the heated Brexit debates. The resulting picture of Europe’s future is thus split between a return to a Europe of nations or advancement towards a new kind of federation with core state powers (Genschel and Jachtenfuchs 2013). Such a polarised scenario however neglects the fact that de facto the European Union already accommodates different forms of integration, reaching from the possibility for EU member states to opt out from certain policies to the opportunity for non-member states to be associated to common policies. The task of research on differentiated integration (DI) is therefore to explore “*how much and what form of differentiation is not only compatible with, but is also conducive to a more effective, cohesive and democratic EU*”.¹

In this research paper we propose a framework for analysing effective and legitimate differentiated governance in the EU. As laid down in the EU IDEA proposal, this framework is intended to inspire empirical case studies in the network and provide the basis for comparative conclusions across issue areas. We take our point of departure in the broad definition of differentiation as *any modality of integration or cooperation that allows states (members and non-members) and sub-state entities to work together in non-homogeneous, flexible ways*.² This definition allows for a comprehensive multi-dimensional approach capturing the various shapes that differentiation takes in the EU context. First, it accounts for the commonly held understanding that differentiation occurs when some EU members, potentially joined by non-EU members, cooperate beyond the existing *acquis communautaire*, or partly opt out from it, which creates arrangements whose membership differs from formal EU membership. Second, the definition makes clear that members or actors of differentiation in the EU are not necessarily states but that various sub-state actors, including regulators or local authorities, are involved in these processes. Last but not least, our definition is open to a crucial feature of differentiation that is widely neglected in the literature, namely that differentiated cooperation does not necessarily manifest itself in different levels of legal integration, but also takes place at an organisational level through non-homogeneous participation in the institutional venues where EU-related policies are designed and implemented.

1 See EU IDEA website: *The project*, <https://euidea.eu/?p=58>.

2 EU IDEA website: *Work package 2: Vision and theoretical conceptualization*, <https://euidea.eu/?p=332>.

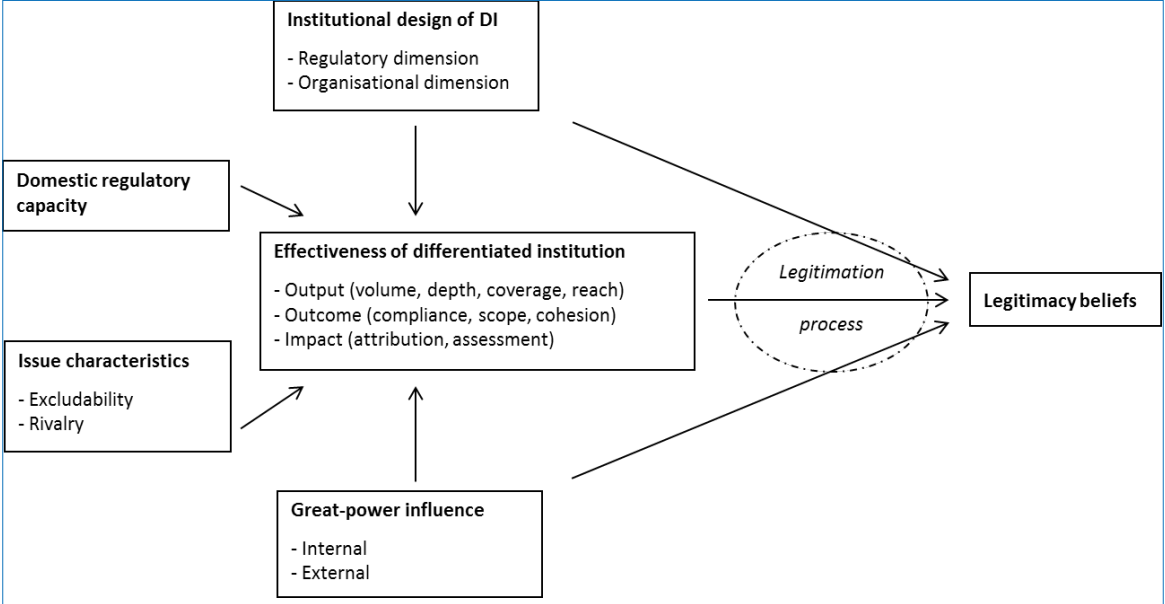
The paper is divided in three sections. The first section refines our definition of DI by examining its institutional design. It proposes an analytical grid for assessing “how much and what form of differentiation” exists in the different policy sectors studied by the EU IDEA network. This analytical grid conceptualises DI along the dimensions of regulatory and organisational differentiation. The grid makes it possible to map the forms and to measure the extent of differentiated governance across policy areas, thereby providing a basis for a comparative assessment of our independent variable across sectoral case studies.

The second section addresses the challenge of effective differentiation. It provides a definition of effective differentiated governance and proposes hypotheses on the possible sources of variation in effectiveness. The section highlights the implications of regulatory and organisational differentiation for effectiveness, and also puts forward alternative explanations, in particular the role of domestic regulatory capacity, issue characteristics and great-power dynamics for the effectiveness of differentiated arrangements.

The third section turns to the challenge of legitimate differentiated governance. Drawing on recent literature on the legitimacy of international institutions, it proposes pathways to measure the phenomenon and highlights factors that sustain or undermine legitimate governance. This section also discusses how the regulatory and organisational configuration of DI and its effectiveness affect legitimacy.

Figure 1 below gives an overview of the analytical framework developed in the research paper.

Figure 1 | Overview of analytical framework

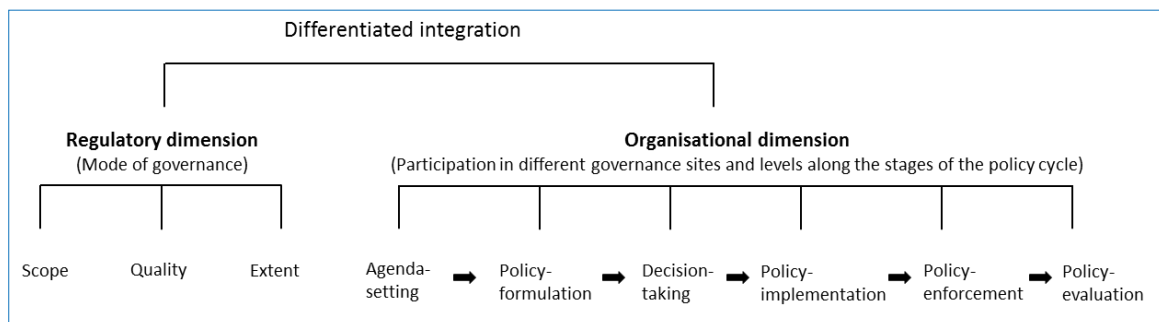


1. Institutional design of differentiated governance

Our conceptualisation of differentiated governance starts from the observation that existing scholarship has made significant progress in theorising and operationalising the concept's legal or regulatory dimension. Fine-grained empirical categories have been proposed for measuring member states' and third countries' differentiated participation under EU primary and secondary law (Duttle et al. 2017, Holzinger and Schimmelfennig 2012, Kroll and Leuffen 2015, Leuffen et al. 2013, Martinsen and Wessel 2014, Schimmelfennig et al. 2015, Schimmelfennig and Winzen 2014, Winzen 2016). The organisational dimension of differentiation, in contrast, referring to member states' and third countries' participation in the political process from decision shaping to decision-making and implementation/enforcement, has received much less attention. Our conceptualisation therefore combines the advances made in the analysis of EU "legal" or regulatory differentiation with approaches emphasising the interplay between this and the organisational dimension in differentiated governance (Lavenex 2009a, 2009b, Lavenex et al. 2009, Lavenex and Schimmelfennig 2009, Lavenex 2011, 2014, 2015, Smith 1996).

This distinction between the regulatory and organisational dimensions of differentiation allows us to grasp differentiated governance comprehensively in a procedural perspective and thereby surpasses the narrow focus on the legal outcome of differentiation predominant in the literature so far. The regulatory dimension of differentiation grasps the *mode of governance* in the respective issue area, including the substantive scope and legal quality of a country's commitment. It thus contrasts differentiation through hard governance, such as the Community method with strongly legalised policy instruments, and differentiation through soft governance, for instance transgovernmental cooperation and the open method of coordination, which are characterised by less legalised and more operational instruments. Scrutinising such softer mechanisms implies that we include in our analysis various informal arrangements as long as they have some link with EU politics, for instance because they are created top-down through an EU legal act, or because they have been designed by their founding members to implement EU objectives, and/or because they are explicitly supported by the European Commission (through funding or otherwise). The organisational dimension of differentiation refers to the country's or subnational entity's opportunities for participation in different *sites of governance*, in particular primary and secondary EU bodies, such as committees, EU agencies, policy networks or programmes (see Lavenex 2015). Such bodies can be situated at different *levels* of the EU governance system (EU, national and sub-national levels), and may have competences in different *stages* of governance, from the development to the adoption and enforcement of common policies. Figure 2 summarises this two-dimensional conceptualisation of DI.

Figure 2 | Concept of differentiated governance



1.1 The regulatory dimension

The regulatory dimension of differentiation has three aspects: the scope of regulations, their legal quality and the extent of legal commitment. For each of these aspects we can distinguish several intensities of differentiation.

With regard to the *regulatory scope* we distinguish:

- Full commitment under the specific policy (i.e., the country commits to all aspects of the policy);
- Partial commitment (i.e., the country commits to most aspects of the policy and only opts out from a few aspects, which hence remain in its autonomy);
- Punctual commitment (i.e., the country has widely opted out from further integration in a policy field and commits, or opts in, only to a few aspects of the policy);
- No commitment.

The *legal quality* of regulatory commitments differs according to the mode of governance and regulation adopted in the respective policy. Here we distinguish between:

- The community method, where regulatory commitment takes the quality of supranational law;
- Intergovernmental cooperation where regulatory commitment takes the quality of international law; or
- Transgovernmental cooperation where regulatory commitment is based on non-legally binding DI arrangements and soft law.

Thirdly, the regulatory dimension of differentiation concerns the *extent of legal commitment*. Thus countries can be bound to the EU policy (or parts thereof) under the terms of:

- Harmonisation to EU law, which implies the replacement of national law through the common EU standard;
- Approximation to EU law, which implies the adaptation of national law to the common EU (minimum) standard; or
- Commitment based on the exchange of information or the exchange of best practices, whereby states agree on mutual learning without commitment to change domestic laws.

1.2 The organisational dimension

The organisational dimension of DI grasps the participation of state and sub-state actors in different governance sites, in which differentiation plays out on an operational level. The respective bodies affecting the organisational dimension include the EU's formal decision-making structures but also secondary organisations involved sometimes only in the preparatory or implementation phases. These can be for instance committees, policy networks, regulatory agencies and non-EU bodies overlapping with the EU's policy (for an application to EU external differentiation see Lavenex 2011, and for participation in EU secondary bodies and agencies see Lavenex 2015). Relevant cases may, for instance, include the EU's Border Guard Agency Frontex, which is responsible for common control standards at the external borders, but also the EU Covenant of Mayors for Climate & Energy, a bottom-up sub-national network of local authorities engaged in the implementation of the EU's climate and energy policy. As these examples illustrate, pertinent bodies of DI can be located at different levels of governance (from EU to sub-national levels), and they may be involved in different stages of the policy cycle.

It is therefore useful to specify and analyse the participation of actors in relevant bodies of the EU's multilevel system according to the different stages of the policy cycle. The latter include agenda setting, policy formulation, decision taking, policy implementation, policy enforcement and policy evaluation (e.g., Young 2010, Knoepfl et al. 2007). Agenda setting and policy formulation can be seen as preparatory phases, which imply "deciding what to decide" (Young 2010: 52). Participation in agenda setting hereby refers to the ability of actors to (co-)initiate new topics that are to be discussed within a relevant body, while involvement in policy formulation corresponds to the ability of making specific proposals. The latter builds the basis for narrower discussions that lead to decision taking, where usually those actors with a right to vote are involved. Policy decisions are then put into practice in the implementation phase, where often specific bodies or networks are in charge of translating broader policy decisions into detailed measures on the ground, as practiced for instance through the EU's comitology procedure. Closely connected, the enforcement phase relates to the "prosecution of violations of EU norms, or national/local transposition norms, both vis-à-vis the Member States and third parties" (Luchetta 2012: 562). Finally, actors may be involved in the evaluation of existing policies, which feeds back into the phase of agenda setting for new policy initiatives.

Obviously, this policy cycle perspective does not reflect one-to-one the complex real-world dynamics of policy making in the EU. It instead serves as a heuristic tool, which allows us to distinguish various types of EU-related bodies and differentiated participation of EU actors therein. We focus here on formal entitlements of actors as laid down in the bodies' regulations or cooperation agreements with third countries (de jure), but of course it may also be important to look at de facto participation which may differ significantly from the formal provisions. For each of these bodies formal participation can again be situated across a range of participatory levels:

- Full participation with equal rights as full members;
- Partial participation (for instance as observers with full right to speak and collaborate but without the right to vote);

- Punctual participation (for instance in the sense of having the right to be consulted);
- No participation.

For both the regulatory and organisational dimensions, differentiation implies that (some) EU states or sub-state entities pursue cooperation in a constellation that does not perfectly match the territorial scope/boundary of the EU. Internal differentiation thus refers to the phenomenon that some EU members do not take part in cooperation arrangements adopted by other EU members, whereas external differentiation means that some third countries selectively join existing EU arrangements (e.g., Lavenex 2011, Schimmelfennig and Winzen 2019). In a specific policy sector, internal and external differentiation may occur simultaneously, and they may play out in terms of legal commitments and/or organisational involvement. In this vein, Table 1 allows us to situate the regulatory commitment and organisational participation for: (1) “normal” level of integration, i.e., those EU members that are committed/involved in line with the current *acquis communautaire* (benchmark); (2) differentiated members beyond and below the “normal” level, i.e., those EU members that have opted for further integration as well as those EU members that have opted out or are excluded in some way (internal differentiation); and (3) non-members that have opted in to some extent (external differentiation). The table thus covers internal and external differentiation, and sets the EU *acquis* in a policy as the benchmark of integration.

The basic unit of analysis for filling out the table is the policy sector in question, e.g., competition policy, asylum policy or macroeconomic policy, which may be further divided into sub-policies. Analysing to what extent EU-internal and -external actors participate in the respective policies (from the perspective of regulatory commitment and organisational participation) provides the basis for a comparative assessment of DI across policy sectors. The delimitation of a policy sector’s governance structure is not always straightforward and will need to be defined case by case, including for instance the identification of sub-sectors. For the sake of illustration, Annex 1 provides a preliminary application of the framework to the field of competition policy by positioning full members and differentiated non-members under the European Economic Area (EEA) treaty. The basic unit of analysis is here the policy sector of EU competition law, while differentiation in the organisational dimension takes place via participation in the European Competition Network (ECN), a transgovernmental network involving competition agencies from the EU and (to some extent) from the EEA countries.

Table 1 | Grid for mapping differentiated integration in sectoral case studies

Definition of the policy studied	Members (“normal” level of integration between EU members without differentiation)	Differentiated members (differentiated level of integration of EU members beyond or below the “normal” level)	Differentiated non-members (level of integration by non-EU members)
Regulatory dimension: commitment to			
Regulatory scope - Full - Partial - Punctual - None			
Legal quality - Community method (supranational hard law) - Intergovernmentalism (intergovernmental hard law) - Transgovernmentalism (soft law)			
Extent of legal commitment - Harmonisation - Approximation - Information			
Organisational dimension: participation in			
Agenda setting - Full - Partial - Punctual - None			
Policy formulation - Full - Partial - Punctual - None			
Decision taking - Full - Partial - Punctual - None			
Policy implementation - Full - Partial - Punctual - None			
Policy enforcement - Full - Partial - Punctual - None			
Policy evaluation - Full - Partial - Punctual - None			

2. Measuring and explaining effective differentiated governance

Differentiation is, of course, not an end in itself, but can rather be seen as an instrument to handle the challenges facing the EU in a more effective way, and this by introducing a certain amount of flexibility in the complex EU policy-making apparatus. Increasing effectiveness is thus a major ambition behind the establishment of differentiated institutions in the EU. Based on our conceptualisation presented above, a differentiated institution is hereby defined as a formally or informally organised arrangement, (1) which is constructed by an internally or externally differentiated EU-related group; (2) which in a more or less legalised way provides guidance on how its members should behave in a specific sector (regulatory commitment); (3) and which establishes one or more dedicated governance bodies to sustain and move forward the cooperation arrangement (organisational dimension) (for related broader definitions of international institutions, see Keohane 1988, Koremenos et al. 2001). Relying on this definition, we next discuss the conceptualisation and measurement of effectiveness of differentiated institutions (2.1), and in a second step we develop a number of explanatory hypotheses expressing the conditions under which differentiated governance is likely to be effective (2.2).

2.1 Benchmarks for analysing effectiveness

Empirical studies of DI have hitherto focused on mapping and measuring the phenomenon. In contrast, the effectiveness of differentiation in the EU has so far hardly been systematically assessed. We therefore turn towards research on international regimes (e.g., Underdal 2002, Young 2014) and the performance of international organisations (Gutner and Thompson 2010, Tallberg et al. 2016), which is more advanced in terms of how to conceptualise and measure effectiveness of international institutions.

From the outset, it is worth noting that different benchmarks can be used to evaluate the effectiveness of a differentiated institution. Drawing and expanding on Underdal (2002: 7ff), we distinguish three points of reference (or standards/benchmarks), namely no policy change, no differentiation and ideal solution. First, the *no policy change benchmark* focuses on the “relative improvement” caused by the presence of a DI framework compared to “the hypothetical state of affairs” that would have occurred if the differentiated institution had not been established (Underdal 2002: 7ff). Our causal approach here consists of developing a counterfactual scenario on how a policy area would have evolved in the absence of the differentiated institution but with all other factors equal. Next to this “pure” counterfactual scenario development, researchers may also choose to compare the state of affairs before and after the DI framework has been put in place, in order to measure whether the newly introduced DI mechanism has been effective in terms of policy making, policy implementation and problem solving. When using this intertemporal comparative approach, analysts need to be prudent about other factors that have also changed over time (some of these factors are presented in section 2.2).

Second, the *no differentiation benchmark* assesses relative improvement as well, but takes another point of reference. It consists of a counterfactual scenario supposing the establishment in the respective policy area of an institution without differentiated membership but otherwise with the same institutional characteristics as observed for the differentiated institution. This benchmark should serve to more precisely assess the proper influence of differentiated membership, i.e., the flexibility character of the DI framework, and exclude the effect of other institutional features. For instance, this may allow separating the effect of the differentiated character of the EU Stability and Growth Pact from the impact of its other institutional characteristics, such as the maximum debt ceiling or the modalities of the deficit procedure. In sum, the *no differentiation benchmark* compares the observed differentiated institution not to the scenario of the absence of any institution (i.e., no policy change), but to the scenario of the establishment of a non-differentiated institution.³

Finally, the third point of reference (benchmark) for assessing effectiveness would consist of “some concept of a good or ideal solution” (Underdal 2002: 8) in order to capture improvement in absolute terms. Here one has to estimate beforehand what level of output, outcome or impact (see below) we expect to see in order to conclude that an institution’s work was sufficient or even ideal (maximally effective). Arguably, the first (and second) benchmark of relative improvement sets a lower bar for measuring DI success because some positive effect compared to the status quo may be easy to achieve, though in absolute terms it does not change much for problem solving. We therefore suggest that scholars seek to measure effectiveness in terms of both relative improvement and closeness to an ideal (or sufficient) type of result.

Following the existing scholarship, the three benchmarks of effectiveness can be applied to three dimensions of effectiveness, namely output, outcome and impact (e.g., Gutner and Thompson 2010). These refer broadly speaking to the effects of DI in terms of facilitating “policy making” (output), “policy implementation” (outcome), and “problem solving” (impact). Empirical studies may, as far as appropriate for their policy field and type of analysis (policy- or research-oriented), apply the three benchmarks to each of these dimensions to evaluate the relative and absolute improvement brought about by DI. In sum, we hence ask:

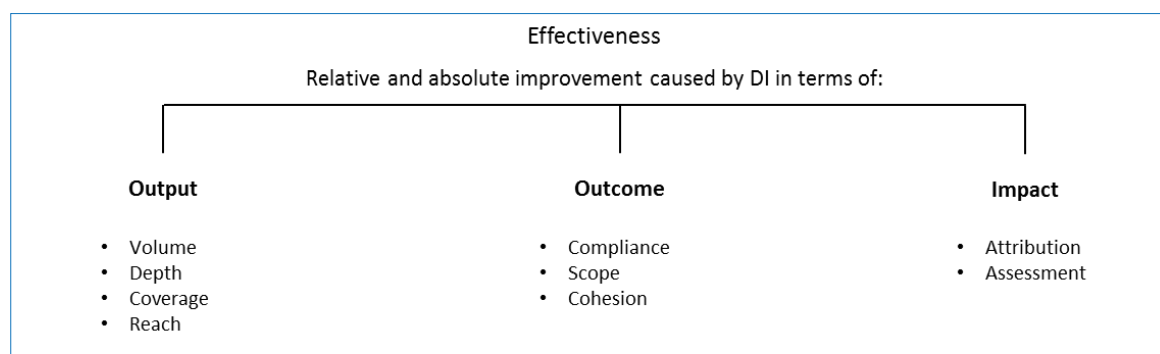
- How does the output/outcome/impact compare to what we would have expected to observe in the absence of the (differentiated) institution? (*no policy change benchmark*)
- How does the output/outcome/impact compare to what we would have expected to observe in the absence of differentiated membership? (*no differentiation benchmark*)
- To what extent is the output/outcome/impact appropriate for solving the underlying problem? (*ideal solution benchmark*)

³ Arguably, the two benchmarks are closely related, at least in cases where a sub-group of EU members moves on with integration. For such cases, if one had not opted for (internally) differentiated membership, it would often not have been possible to establish the institutional framework in the first place because of the veto rights of opposed members. The relative improvement caused by the institution as a whole can thus be interpreted as relative improvement caused by the fact of flexibility (differentiated membership). We leave it therefore to the empirical work packages whether upholding the second benchmark provides added value.

2.2 Conceptualisation and measurement of effectiveness

For a more fine-grained and systematic empirical measurement, the three dimensions of output, outcome and impact can each be further decomposed into several sub-dimensions (see Figure 3). In the following we introduce these different dimensions and illustrate them using the example of EU competition policy and in particular governance in the ECN, which is the central network of national regulators in this field.

Figure 3 | Concept of effective differentiated governance



The first effectiveness dimension is DI's immediate policy *output*: "Here we focus on the specific tasks and narrow functions the organization is intended to perform and assess whether these are successfully carried out" (Gutner and Thompson 2010: 235). For example, the ECN has been tasked to bring together EU and national competition agencies to discuss relevant competition law matters and to allocate cross-border competition cases to the best positioned agency. From a policy output perspective, we would enquire, for instance, whether in line with Council Regulation 2003/1 the ECN effectively disposes of "arrangements for information and consultation", such as guidelines on case allocation and fora for regular meetings between agency representatives.

Policy output may be measured in different ways (e.g., Tallberg et al. 2016), and we suggest focusing on the following aspects:

- *Volume* of the output: What is the volume of output (binding decisions, recommendations, infrastructure for expert meetings, etc.) produced by the differentiated institution in a given time period?
- *Depth* of the output: What is the depth of the output and is it sufficient for solving the underlying problem?
- *Coverage* of the output: Does the institution's output cover all the dimensions/tasks that the institution is expected to deliver (e.g., on some tasks/subfields the institution delivers considerable output, but others are ignored)?
- *Reach* of the policy output: Is the output limited to the members of the differentiated institution or does it reach beyond?

In terms of the ECN example, *volume* may refer to the number of ECN working groups and the frequency of meetings, but also to the number of envisaged decisions that national competition authorities (NCAs) submit per year within the ECN framework (e.g., European Commission 2014: 7). To measure the proper influence of differentiated membership, we may hereby focus, for instance, on the meetings and envisaged decisions in which NCAs from EEA members (as differentiated non-members) have participated. Studying *depth* would imply a preliminary assessment of whether the ECN's output, such as the ECN Model Leniency Programme, appear detailed enough to serve as a useful instrument for domestic efforts to promote leniency applications in their jurisdiction. In terms of *coverage*, we would look at whether the ECN provides output in all relevant dimensions of EU competition law, for instance regarding the sub-issues of cartelisation, monopolistic conduct and international mergers and acquisitions. Finally, under *reach* we would investigate whether the output is applicable or relevant beyond the ECN membership, for instance when the publicly available best practice guidelines on leniency agreements offer useful advice for competition agencies in third countries.

Second, effectiveness may be evaluated in terms of (intermediate) policy *outcomes*. This dimension assesses whether the institution (through its policy output) affects the behaviour of target groups, i.e., whether the latter implement agreed-upon output and comply with it. In the case of the ECN, for instance, we may look at whether NCAs stick to the ECN case allocation procedure and criteria, and whether member states implement policy recommendations drafted in the ECN, such as the recommended guidelines on leniency frameworks (compliance). We may furthermore ask if even competition agencies from third countries opt for implementing ECN guidelines (scope). Overall, the outcome dimension has three aspects:

- *Compliance*: Do participating entities implement and comply with the output of DI?
- *Scope*: Do all participating entities implement the output of DI, do even "outsiders" choose to implement it and to what extent?
- *Cohesion*: This third aspect assesses the dynamics of outcomes in the longer term. To what extent does differentiation create centripetal effects? Do parties that were initially not associated join the framework and become integrated?

Finally, effectiveness of DI can be evaluated in terms of problem-solving *impact* (Underdal 2002) or "macro outcomes" (Gutner and Thompson 2010). This is arguably the most intuitive form of studying effectiveness as it reflects the common definition that effectiveness is about whether an institution solves the problems that led to its creation (e.g., Young 2014, Underdal 2002, Gutner and Thompson 2010). This understanding requires analysing to what extent the overall objectives enshrined in an institution's mandate are met. For the case of the ECN, for instance, one would seek to evaluate (among others) to what extent this institution is successful in eliminating the occurrence of anti-competitive agreements (e.g., cartels) in the EU, which is one of the major objectives of EU competition law.

In line with the benchmarks discussed above, two aspects of the impact dimension are worth considering. The first, attribution, relates to the relative improvement triggered by differentiated governance, i.e., whether the existence of the institution

makes any difference in terms of achieving the underlying objectives. This implies to identify whether there is a positive effect in the first place, and if so, whether it can be attributed to differentiated governance. Second, we have to assess the problem-solving role of differentiation in more absolute terms, namely whether it fully accomplishes its role of solving the underlying problem. In sum, impact has the following sub-dimensions:

- *Attribution*: Can a positive effect for problem solving be attributed to the presence of differentiated governance or would we have observed a similar result without differentiation?
- *Assessment*: Does the impact constitute an appropriate or even ideal solution to the underlying problem, or is it insufficient and maybe only cosmetic?

The sub-dimensions listed above offer avenues for how to observe and assess output, outcome and impact effectiveness. Ideally, empirical studies would analyse all dimensions and sub-dimensions of effectiveness in their respective policy areas. To be sure, some of the indicators may be more adapted than others for the analysis of specific issue areas. The list is thus to be considered as a toolbox to be used in a flexible way in empirical work.


2.3 Explaining variation in effectiveness

With a view to investigating *under what conditions* DI “facilitates policy making, problem solving and policy implementation” and drawing on existing theories of International Relations and European Studies, we put forward issue-related, institutionalist and power-based explanations for DI effectiveness.

Character of the issue area

A first factor that might impact on the effectiveness of DI relates to the nature of the issue area (or policy field) in question. Relying on public goods theory, we here emphasise the role of *excludability* in a policy area, which “measures whether free-riding is possible, that is, whether or not outsiders can be excluded from the benefits of a specific good” (Kölliker 2001: 130). With regard to DI, three situations can be distinguished. First, a policy area may be characterised by low excludability, which we expect to render DI rather ineffective. If actors benefit from the problem-solving solutions provided by the DI framework even if they are not members, then they have an incentive to forego cooperation in order to free-ride on the efforts of others. Such positive externalities of DI for non-members are likely to be harmful for policy making, implementation and problem solving, because not all relevant actors would participate in the first place, and the DI mechanism as such may be unsustainable.

Second, an issue area may be characterised by high excludability, meaning the benefits of cooperation can be confined to those who participate in the DI framework. In this setting, DI is expected to be more effective because free-riding is not an option and the DI mechanism brings together those EU members who are willing to advance on policy making (output) and to implement the decisions that have been taken (outcome), which in turn should be conducive to problem solving (impact).



Furthermore, under conditions of high excludability from the benefits of cooperation, DI is likely to promote further integration and is thus compatible in the longer term with maintaining the EU's unity. This is because high excludability creates centripetal effects by inducing "outsiders" to join and implement the DI mechanism for the sake of obtaining the gains from cooperation. As pointed out by Kölliker (2001), such centripetal effects are particularly likely to occur when the consumption of the excludable good is complementary (and not rival), in other words when there are increasing returns to consumption.

For instance, the Schengen Information System (SIS) provides valuable data to all its members for security and law enforcement purposes. The system is excludable in the sense that its benefits (access to pertinent information) can be restricted, and at the same time there are increasing returns to cooperation as new members increase the amount of valuable information, which is to the benefit of all participants (i.e., no rivalry in consumption). The centripetal effects of the SIS have thus been high since it was implemented in the 1990s by five EU members (see Kölliker 2001: 145). In sum, these insights suggest that high excludability in a policy field is conducive to effective policy making, implementation and problem solving, in particular when paired with high complementarity in consumption.

Third, there may be situations where the role of excludability is neutral, that is, not a point of reference for DI. In particular, the choice for DI may be triggered by the fact that only a subset of EU members (and potentially some non-EU jurisdictions) are affected by a specific policy problem. Whether outsiders are excluded is therefore not a category of concern, because DI reflects the boundaries of interdependence that induce cooperation on an issue. This vision echoes ideas present in functionalist scholarship of European integration, namely that cooperation in the EU does not necessarily need to take place in an issue-encompassing way under a centralised EU authority but could also thrive on a task-specific basis between those actors who are interdependent with regard to a specific policy. As put by Schmitter (1996: 136):

Instead of one Europe with recognized and contiguous boundaries, there would be many Europes. Instead of a Eurocracy accumulating organizationally distinct but politically coordinated tasks around a single centre, there would be multiple regional institutions acting autonomously to solve common problems and produce different public goods.

We expect that absent excludability concerns, DI has a positive effect on policy making (output), implementation (outcome) and impact (problem solving), because it is geared to bringing together those actors that are strongly affected by an issue within and beyond the formal EU system. These interdependent actors have the incentive to make hard choices and implement policies that favour problem solving, and in a DI framework they are not held back by less involved (less interdependent) EU members who may lack commitment to discuss issues of low priority to them. At the same time, such an approach is not geared towards advancing EU unity. Indeed, this functionalist perspective does not even pretend that EU integration should aim for a federal-type architecture where all members transfer their policy-making competences in a homogenous way to a higher, centralised unit.

Finally, it is conceivable that in one issue area, several sub-issues are characterised by different levels of excludability. In this case, we would imagine that a DI framework that contains objectives on all these sub-issues displays unequal depth and orientation of policy output. In short, on sub-issues with higher levels of excludability, the depth of policy output should be more advanced.

Institutionalist explanations

Drawing on various strands of institutionalist research, we posit that the effectiveness of DI hinges on the institutional design of the DI framework and on domestic institutional characteristics of participating states.

Institutionalist accounts in International Relations suggest that international institutions can help governments to overcome collective action dilemmas that hamper efforts to solve common problems through cooperation. Following on from the previous section, in the case of non-excludable public goods or common pool resources, states have a collective interest to cooperate (for example to drastically reduce CO₂ emissions), but each state has an interest to defect (to maintain its pattern of energy consumption) and free-ride on the efforts of others. Institutionalist scholars have argued that under such conditions, the transfer of monitoring and sanctioning authority to an international institution can facilitate member compliance, and hence help to sustain international cooperation (e.g., Keohane 1984, Simmons 1998). The expected compliance effect hereby stems not only from the risk of suffering material penalties, but also from the loss of reputation for the infringing member.

This suggests that DI mechanisms with a strong regulatory dimension are more likely to ensure member compliance, which, in turn, should enhance the prospects of problem solving. For instance, when the legal quality of a DI framework is positioned at the supranational level of “hard law” through the Community method, non-compliance by members may induce the European Commission to initiate the infringement procedure. The latter may potentially lead to financial penalties for the non-compliant member, who in addition incurs reputational costs. To avoid such costs, DI members are expected to comply with the agreed requirements, at least more so than would be the case in the absence of “hard law” obligations.

From the perspective of individual member states, we furthermore expect that domestic institutional capacity influences the effectiveness of DI frameworks. Scholarship on the “regulatory state” in Europe and beyond has highlighted the role of regulatory capacity for effective domestic policy implementation and for the ability of states to participate in rule making at the international level (e.g., Bach and Newman 2007, Farrell and Newman 2014, Lavenex 2014, Lavenex et al. 2019, Križić 2019). Regulatory capacity has been defined as “a jurisdiction’s ability to formulate, monitor, and enforce a set of market rules” (Bach and Newman 2007: 831). It hinges in particular on a sufficient level of regulatory expertise (e.g., technically proficient and experienced staff as well as sufficient budgetary resources) and coherence of regulatory authority (e.g., a clearly identified government unit articulating the state position on regulatory matters) (Bach and Newman 2007: 831). If such regulatory

capacity is missing in DI member states, we expect negative implications for policy making, implementation and problem solving. This proposition is backed, for instance, by research on EU Neighbourhood policy, where the implementation records in EU partner countries have been found to heavily depend on their domestic regulatory capacity (Langbein and Börzel 2013, Lavenex 2008).

Research on transgovernmentalism suggests that issue-specific networks can help improve the level of capacity in the participating jurisdictions (Lavenex 2014, Križić 2019). Transgovernmental networks, such as the ECN in the field of competition law, provide a platform for domestic regulators to regularly meet and discuss relevant subjects, which facilitates the diffusion of “best practices”. In such contexts, actors with initially low regulatory capacity are likely to learn from their more mature counterparts and get socialised into common norms and practices. These insights shed light on the role of the organisational dimension of DI. By participating in various committees throughout the policy cycle, from agenda setting to policy evaluation, it is suggested that regulators can learn from their counterparts, which tends to improve effectiveness in terms of policy implementation (outcome) and problem solving (impact). We therefore suppose that differentiated institutions with a more open framework for organisational involvement show higher levels of effectiveness. For example, if agencies from differentiated members or non-members, who have made little or no regulatory commitments, are nevertheless allowed to participate in agenda setting and policy formulation, this may help to socialise them into the virtues of the DI framework and hence spur their willingness to implement DI output and to eventually become full DI members themselves.

On the other hand, the combination of strong regulatory commitment and low organisational involvement creates a mismatch with negative repercussions for effectiveness. Indeed, in such a DI framework, the regulatory requirements for differentiated actors may be stringent, yet these actors are not able to shape the agenda and to learn by participating in the policy process. In other words, we expect that regulatory commitment alone is insufficient to spur effective implementation on the side of differentiated members and non-members, but that organisational commitment is equally required.

Power-based explanations

Power-based accounts suggest that international outcomes are crucially shaped by the preferences of the most powerful actors in a system (e.g., Krasner 1976, Drezner 2007). Relying on their enormous market size, great powers can, for instance, use economic coercion in order to align recalcitrant counterparts with their policy preferences. While great powers can induce smaller counterparts to adapt their rules, coercive capabilities cancel each other out when two or more players have relatively equal economic power. Therefore, scholars have suggested that great-power agreement on common rules is required to effectively shape global rules (Drezner 2007).

With regard to the effectiveness of DI, the power-based account can be approached from an internal and an external perspective. On the EU-internal side, it is suggested

that a DI framework requires support from the most powerful EU members in order to be effective. In particular, the Franco-German axis is commonly seen as the linchpin of European integration, and appears equally important for the success of DI projects. If the joint leverage of France and Germany is not enough to spur a common European approach, at least they are supposedly able to push through policies and their implementation in the narrower framework of DI.

From an EU-external perspective, the success of DI may hinge on the positioning of foreign great powers such as the United States, Russia or China. If the preferences of these actors go against the objectives of a differentiated EU institution, they may seek to distract the process by exerting various sorts of pressure. For instance, the development of an independent European security and defence architecture has been curtailed by, among others, the US's preference to maintain NATO as the focal point of Western defence cooperation with the aim of "safeguarding direct US influence on European security affairs" (Pohl 2014: 31).

3. Measuring and explaining legitimate differentiated governance

In order to be sustainable, DI must not only produce effective governance, it must also be considered legitimate in the eyes of the affected societies. In this section, we define and present options for measuring legitimate DI (3.1), we theorise potential explanatory factors of legitimacy perceptions regarding DI (3.2) and we discuss legitimisation practices as intervening variables influencing legitimacy beliefs (3.3).

3.1 Definition and measurement of legitimacy

Drawing on Tallberg and Zürn (2019: 585), we define legitimacy as "beliefs within a given constituency or other relevant audience that a political institution's exercise of authority is appropriate". Following this definition, we approach legitimacy from a sociological perspective focusing on citizen beliefs and perceptions, rather than reflecting on "the normative goodness of an institution" as practiced by political theorists (Tallberg and Zürn 2019: 585, see also Bühlmann and Kunz 2011: 319). For our purposes this implies that we have to analyse legitimacy from the perspective of different audiences, notably citizens in EU member states that participate in a DI framework, citizens in EU member states that have opted out, and citizens in differentiated non-member states (i.e., non-EU members having opted in).

Existing literature and cross-national surveys provide some guidance on how to operationalise legitimacy beliefs. Most empirical scholarship relies on one of three proxies, namely questions on public "support", "trust" or "confidence" in the respective institution, e.g., the EU or some other global governance framework (see Dellmuth 2018, Dellmuth and Schlipphak 2019). Dellmuth and Tallberg (2018), for instance, measure the legitimacy of international institutions by asking "respondents

to indicate their confidence [in the respective institution] on a quasi-continuous scale from no confidence at all (0) to complete confidence (10)". Some studies go further in trying to measure different aspects of legitimacy. For example, in a survey experiment Anderson et al. (2019: 673) asked respondents to give their opinion on several statements, which were considered to "capture both deference to the decisions of a global governance institution and respondents' social affinity with the institution". Annex 2 provides more detail on this and other examples of legitimacy operationalisation in cross-national surveys and recent literature.

3.2 Sources of variation in legitimacy

The explanatory framework proposed by Tallberg and Zürn (2019) suggests that legitimacy depends on three features of an institution (in our case, of a differentiated EU institution): its authority, its procedural standards and its effectiveness in terms of impact. To these factors we add a more political one, the role of great powers in fostering differentiation.

The transfer of decision-making *authority* to an international institution risks creating legitimacy deficits because "international authority challenges the sovereignty and autonomy of nation states – the traditional locus of legitimate authority for citizens and elites" (Tallberg and Zürn 2019: 593, Lake 2010). Authority is hereby defined as "the recognition that an institution has the right to make decisions and interpretations within a particular area" (Tallberg and Zürn 2019: 586). With regard to our focus on DI, the extent of authority corresponds to the regulatory dimension of our DI concept, which measures the legal scope, quality and extent of member state commitments within the DI framework. This leads to the expectation that differentiated institutions with a stronger regulatory dimension (i.e., higher authority) tend to have a lower level of legitimacy in the eyes of citizens.

Second, Tallberg and Zürn (2019) argue that the legitimacy of an international organisation hinges on its respect of *procedural standards*. For our purposes, we focus on one widely recognised procedural ideal in democratic systems, namely the right of participation of relevant actors. This procedural standard is reflected in the organisational dimension of our DI concept, which measures the participation rights of differentiated EU and non-EU members for the whole policy cycle from agenda setting to policy evaluation. We expect, first, that differentiated institutions with higher procedural/organisational openness have higher legitimacy in the eyes of citizens from differentiated non-members and from EU members that do not fully participate in the regulatory dimension. Yet, such differentiated institutions should entail lower legitimacy beliefs on the side of citizens from full DI members because granting access rights without legal commitments may be perceived as giving an undue advantage to less committed EU members and non-members.

Finally, Tallberg and Zürn (2019) argue that an international organisation's legitimacy depends on its performance or *impact*. More specifically, scholars have suggested that the legitimacy of international institutions heavily relies on their capacity to deliver effective problem solving, and that a lack of effectiveness puts in danger

“the right to rule” of international institutions in the eyes of relevant stakeholders (Buchanan and Keohane 2006: 405). As put by Buchanan and Keohane (2006: 422):


The basic reason for states or other addressees of institutional rules to take them as binding and for individuals generally to support or at least to not interfere with the operation of these institutions is that they provide benefits that cannot otherwise be obtained. If an institution cannot effectively perform the functions invoked to justify its existence, then this insufficiency undermines its claim to the right to rule.

We therefore expect that differentiated institutions with higher levels of problem-solving effectiveness (impact) have greater legitimacy in the eyes of citizens.

To this account, we add a fourth, power-based explanatory factor that appears relevant in the EU context. As developed in the previous section, pressure from EU *great powers* is supposedly conducive to DI effectiveness, and in particular Germany and France are arguably able to provide leadership by exerting leverage in DI-related policy making and implementation. Yet, such coercive behaviour by great powers is likely to have an inverse effect on legitimacy, because it easily creates the impression of hegemonic repression in other EU member states. For instance, Germany's insistence on strict enforcement of Eurozone rules during the financial crisis undermined EU legitimacy in Greece and other debtor countries (Matthijs et al. 2019: 220, Michailidou 2017). Likewise, German-led efforts to establish a quota system for the reallocation of refugees were widely seen as an act of hegemonic imposition in the Visegrad countries and beyond (e.g., Rupnik 2015). In sum, we expect that when the EU's great powers too aggressively push their own preferred outcomes in the formation process of a DI framework or in subsequent policy making, then the legitimacy of the framework is likely to be damaged. Besides such EU-internal power dynamics, foreign great powers may also influence legitimacy beliefs among EU citizens. A striking example relates to Russia's increased efforts over the past years to influence European public opinion to its favour, relying on various means such as media campaigns and close connections with Eurosceptic parties (e.g., Braghiroli and Makarychev 2018, Orenstein and Kelemen 2017). We thus suggest that when DI frameworks/policies strongly affect the interests of foreign great powers, these states will seek to influence legitimacy beliefs in Europe to their favour.

3.3 Legitimation practices as intervening variables

Next to the factors highlighted above it is important to note the role of actors' practices in producing or curtailing legitimacy. Legitimacy studies suggest that actors – such as EU member states, supranational institutions, business lobbies and non-profit activists – may use different (de-) legitimation practices or strategies in order to shape citizens' legitimacy beliefs. The extant literature commonly distinguishes between discursive, behavioural and institutional practices of legitimation (Bäckstrand and Söderbaum 2018, Gronau and Schmidtke 2016, Tallberg and Zürn 2019, Zaum 2013).



Discourse is essential for shaping beliefs in legitimacy, as it allows communicating to a relevant audience why it ought to trust in the appropriateness of an institution. Discursive practices take various forms such as public speeches, press releases, newspaper articles, social media communication or the participation in academic debates. Discursive practices usually go along with the second type, behavioural legitimisation, where the focus is on the actions undertaken to convince an audience, for instance in the organisation of public events and conferences, workshops, campaigns or street protests. Finally and closely connected to the discursive and behavioural types, some scholars have emphasised the role of institutional reform as a prominent legitimisation strategy (Bäckstrand and Söderbaum 2018, Zaum 2013). Examples include increasing access for civil society actors in international organisations (Tallberg et al. 2014), or institutional rearrangements to accommodate demands from recalcitrant constituencies – e.g., the recalibration of voting rights at the IMF and the World Bank, which has been spurred by the increasing weight of “emerging powers” in the global economy.

Tallberg and Zürn (2019) treat the legitimisation process as an intervening variable between the previously discussed determinants of legitimacy (authority/procedure/performance) and the actual legitimacy beliefs of relevant audiences. They suggest to analyse legitimisation practices in terms of their *intensity* (“the number of legitimisation or delegitimisation events (e.g., statements, reforms, protests) within a given time frame”), their *tone* (framing the international institution positively (legitimation) or negatively (delegitimation)), and their *narrative* (Tallberg and Zürn 2019: 589).

Conclusion

Combining insights from existing research on differentiated integration, international relations and institution theory, this paper proposes an innovative framework for mapping and measuring differentiated integration along its regulatory and organisational dimensions and introduces a toolbox for assessing and explaining effectiveness and legitimacy. The proposed grid for mapping the institutional design of differentiated integration provides the basis for a comparative assessment across policy areas. This allows the identification of different types and extents of differentiation. We further propose common definitions for effective and legitimate governance which draw on a number of identifiable indicators. Finally, the proposed analytical framework highlights how the institutional design of differentiated integration can affect its effectiveness and legitimacy, in addition to other variables such as domestic institutions, characteristics of the issue area, power constellations, and the legitimisation strategies of political actors.

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Annex 1 | Conceptualisation of differentiated integration using the example of Competition Policy & External Differentiation vis-à-vis the EEA

	Members	Differentiated members	Differentiated non-members
Regulatory dimension: commitment to			
Regulatory scope - Full - Partial - Punctual - None	Full commitment to prevent distortion of competition (see Honnefelder 2019): - Comprehensive ban on anti-competitive agreements (Article 101 TFEU) - Abuse of dominant market positions (Article 102 TFEU) - Merger control (Regulation 139/2004) - Prohibition on state aid under Article 107 TFEU		Full commitment by EEA members "The competition rules in the EEA Agreement essentially replicate the EU competition rules." (European Commission 2014: 74, para 254)
Legal quality - Community method (supranational hard law) - Intergovernmentalism (intergovernmental hard law) - Transgovernmentalism (soft law)	Community method		Intergovernmental hard law
Extent of legal commitment - Harmonisation - Approximation - Information	Harmonisation		Harmonisation Agreement on the European Economic Area
Organisational dimension: participation in			
Agenda setting - Full - Partial - Punctual - None	Punctual Discussions in the ECN and other international competition fora may influence the policy agenda, which is set by the Commission (e.g., Kassim and Wright 2010)		Partial Partial participation in the ECN, which contributes to agenda setting: "The EFTA Surveillance authority and the competition authorities of EEA Member States Norway, Iceland and Liechtenstein may participate in horizontal discussions in the ECN and contribute to the ECN Brief." (ECN 2010: 4, see also European Commission 2014: 75)

<p>Policy formulation</p> <ul style="list-style-type: none"> - Full - Partial - Punctual - None 	<p>Full</p> <p>Community method (consultation or ordinary procedure)</p>		<p>Punctual</p> <p>Through public consultations conducted by the European Commission prior to drafting reform proposals (e.g., European Commission 2000, 2017)</p>
<p>Decision taking</p> <ul style="list-style-type: none"> - Full - Partial - Punctual - None 	<p>Full</p> <p>Community method (consultation or ordinary procedure, qualified majority in Council)</p>		<p>None</p> <p>Not formally involved in decision-taking, which follows the consultation or ordinary procedure</p>
<p>Policy implementation</p> <ul style="list-style-type: none"> - Full - Partial - Punctual - None 	<p>Full</p> <p>Participation in the ECN: "Together, the NCAs and the Commission form a network of public authorities that apply the Union competition rules in close cooperation (the 'European Competition Network')." (Directive 2019/1)</p>		<p>Partial</p> <p>"ESA and the competition authorities of the EEA EFTA States are not formally members of the ECN but participate in ECN meetings for the purpose of discussion of general policy issues, with a view to ensuring consistent interpretation and application of the EEA and EU competition rules. On this basis, ESA and the competition authorities in the EEA EFTA States contribute actively in a range of ECN fora." (European Commission 2014: 75, para 260) [...] "Some parts of Regulation 1/2003 have not, however, been implemented in the EEA Agreement. For example, ESA and the competition authorities in the EEA EFTA States are not part of the operational co-operation mechanisms for the handling of cases."(ibid., para 257) [...] "The EEA Agreement contains detailed rules and procedures on co-operation and exchange of information between the Commission and ESA. ESA also carries out inspections in the EEA EFTA States on behalf of the Commission." (ibid., para 259)</p>

<p>Policy enforcement</p> <ul style="list-style-type: none"> - Full - Partial - Punctual - None 	<p>Full</p> <p>Via ECN</p>		<p>Partial</p> <p>“The EFTA Surveillance Authority (‘ESA’) enforces the EEA competition rules in the EEA EFTA States and has equivalent powers and similar functions to those of the European Commission.” [...] “The Commission is competent to apply the competition provisions in the EEA Agreement when Article 101 and/or Article 102 TFEU are applicable to a given set of facts. This means, in practice, that in many competition cases the Commission is also competent to apply the EEA competition rules.” (European Commission 2014: 75, para 255)</p>
<p>Policy evaluation</p> <ul style="list-style-type: none"> - Full - Partial - Punctual - None 	<p>Full</p> <p>“The Member States’ competition authorities (‘national competition authorities’) have been closely associated with the preparation of this Report and have provided detailed input.” (European Commission 2009: 7)</p>		<p>Punctual/Partial</p> <p>Internal Commission evaluation report is preceded by public consultation. In addition, EEA competition authorities are potentially consulted in preparation of the report (European Commission 2009)</p>

Annex 2 | Examples for the operationalisation of legitimacy from cross-national surveys and recent literature

Standard Eurobarometer*	<p>- I would like to ask you a question about how much trust you have in certain institutions. For each of the following institutions, please tell me if you tend to trust it or tend not to trust it. ... The European Union (1997-2019)</p> <p>- Have you ever heard of (European Institutions)? ... and for each of them, please tell me if you tend to trust it or tend not to trust it. (1999-2018)</p> <ul style="list-style-type: none"> • The European Parliament • The European Commission • The Council of Ministers of the European Union • The (European) Court of Justice (of the European Union) • The European Ombudsman • The European Central Bank • The European Court of Auditors • The Committee of the Regions of the European Union • The (European) Social and Economic Committee (of the European Union) • The Convention on the future of the European Union
Flash Eurobarometer	<p>Punctual surveys conducted on various issues, and containing potentially relevant survey items, e.g., Flash Eurobarometer 473 (2018) on "The euro area": "Do you think that the degree to which economic policy, including budgetary policies, is coordinated in the euro area is appropriate? Should there be more or less coordination among euro-area governments? (Appropriate / There should be more coordination / There should be less coordination)" (European Commission 2018: 44)</p>
European Social Survey**	<p>B2-8 Using this card, please tell me on a score of 0-10 how much you personally trust each of the institutions I read out. 0 means you do not trust an institution at all, and 10 means you have complete trust. Firstly... ..the European Parliament? (2002-2016)</p>
World Values Survey***	<p>I am going to name a number of organizations. For each one, could you tell me how much confidence you have in them: is it a great deal of confidence, quite a lot of confidence, not very much confidence or none at all? ... The European Union (1994-2012)</p>
Pew Research Center****	<p>Public opinion data with various potentially relevant survey items, e.g.:</p> <ul style="list-style-type: none"> - Do you approve or disapprove of the way the European Union is dealing with ____? c. the United Kingdom leaving the EU, also known as Brexit (2018) - Thinking about some issues, do you approve or disapprove of the way the European Union is dealing with ____? b. the refugee issue (2016-2018) - Thinking about some issues, do you approve or disapprove of the way the European Union is dealing with ____? a. European economic issues (2016-2018) - Do you think the European Union is intrusive? (2014, 2018) - Please tell me if you have a very favorable, somewhat favorable, somewhat unfavorable, or very unfavorable opinion of...the European Union (2002, 2004, 2007, 2009-2018)

Anderson et al. 2019: 673	<p>“A broad conceptualization of legitimacy is that the actions of an institution are regarded as appropriate within some socially constructed system of norms, values, and beliefs (Suchman 1995, Tallberg and Zürn 2019). [...] We tried to capture both deference to the decisions of a global governance institution and respondents’ social affinity with the institution. We thus asked survey participants whether they <i>agree, somewhat agree, somewhat disagree, or disagree</i> with the following statements:</p> <ul style="list-style-type: none"> • <i>I think the Global Climate Conference serves an important role in society.</i> • <i>The Global Climate Conference should continue to make decisions in the future.</i> • <i>The principles of the Global Climate Conference match my own.</i> • <i>I sympathize with the goals of the Global Climate Conference.</i> • <i>I believe the Global Climate Conference is necessary.”</i>
Dellmuth & Tallberg 2018	<p>“... we used questions about ‘how much confidence do you personally have’ in the respective institutions (see Online Appendix A). For the legitimacy of international institutions, we asked the respondents to indicate their confidence on a quasi-continuous scale from no confidence at all (0) to complete confidence (10).”</p>
Harteveld et al. 2013: 551	<p>“The dependent variable trust in the EU is measured using the dichotomous question of whether respondents tend to trust or not to trust the EU. This measure is robust to alternative operationalizations. Trust indicators are often used as operationalizations of diffuse support (e.g. Gabel, 1998). They tap into a more diffuse support than (rather ad hoc and temporary) support for specific EU policies, policy fields, institutions or politicians.”</p>

* For Standard Eurobarometer please see the website of the Leibniz Institute for the Social Sciences (GESIS): *Trust in National and International Institutions*, <https://www.gesis.org/eurobarometer-data-service/search-data-access/eb-trends-trend-files/list-of-trends/trust-in-institutions>. See also, more generally: *The Eurobarometer Survey Series*, <https://www.gesis.org/eurobarometer-data-service/survey-series>.

** European Social Survey: <http://nesstar.ess.nsd.uib.no/webview>.

*** World Values Survey: <http://www.worldvaluessurvey.org/WVSDocumentationWVL.jsp>.

**** Pew Research Center: *Global Attitudes and Trends*, <https://www.pewresearch.org/global/question-search>.



EU Integration and Differentiation
for Effectiveness and Accountability

Differentiation has become the new normal in the European Union (EU) and one of the most crucial matters in defining its future. A certain degree of differentiation has always been part of the European integration project since its early days. The Eurozone and the Schengen area have further consolidated this trend into long-term projects of differentiated integration among EU Member States.

A number of unprecedented internal and external challenges to the EU, however, including the financial and economic crisis, the migration phenomenon, renewed geopolitical tensions and Brexit, have reinforced today the belief that **more flexibility is needed within the complex EU machinery**. A Permanent Structured Cooperation, for example, has been launched in the field of defence, enabling groups of willing and able Member States to join forces through new, flexible arrangements. Differentiation could offer a way forward also in many other key policy fields within the Union, where uniformity is undesirable or unattainable, as well as in the design of EU external action within an increasingly unstable global environment, offering manifold models of cooperation between the EU and candidate countries, potential accession countries and associated third countries.

EU IDEA's key goal is to address **whether, how much and what form of differentiation is not only compatible with, but is also conducive to a more effective, cohesive and democratic EU**. The basic claim of the project is that differentiation is not only necessary to address current challenges more effectively, by making the Union more resilient and responsive to citizens. Differentiation is also desirable as long as such flexibility is compatible with the core principles of the EU's constitutionalism and identity, sustainable in terms of governance, and acceptable to EU citizens, Member States and affected third partners.



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