

# The Future of Differentiated Integration

By **Vivien Schmidt**, Boston University and EU IDEA Advisory Board

After moving toward 'ever closer union' during its initial thirty years, the EU has for its subsequent thirty years been slowly differentiating even as it has continued to deepen integration via 'unity in diversity.' The EU response to the Covid-19 pandemic is likely to increase this trend. But this should not be a cause for alarm for those pro-Europeans worried that increasing differentiation through multiple speeds or multiplying opt-outs will lead to a union 'à la carte,' with no *raison d'être* or identity. Nor should it be a cause for joy for those Euroskeptics hopeful that centrifugal forces will break it apart. The EU is here to stay as a differentially integrated supranational union of member-states, or what I have in the past called a 'region-state.'<sup>[1]</sup> As such, it might disappoint those hoping for a future 'hard core' Europe centered around the Eurozone. But it shouldn't, because the EU is already something much better, a 'soft' core Europe constituted by different clusters of member-states participating in overlapping policy communities, the majority of which participate in most if not all such policy communities.

But what does such a soft-core Europe entail with regard to membership in the EU's policy communities? And what of governance across policy communities, including the rules for EU institutions? Who votes and who has voice? These are key questions that need to be addressed, in particular in light of the EU's many crises, and especially the most recent.<sup>[2]</sup>

## The State of EU Differentiated Integration

The EU is already highly differentiated. While all member-states are part of the Single Market, membership in other policy areas is variable, including Schengen borders, Common Security and Defense Policy, the Charter of Fundamental Rights, and the Single Currency. Differentiated integration is also increased by the presence in the EU of 'outside insiders' like Norway, Iceland, and Switzerland that participate in the Single Market as well as in a range of other EU policy communities such as Schengen and Common Security and Defense Policy but don't have a vote. Beyond this are countries benefiting from EU 'neighborhood' policies involving deep and comprehensive free



trade agreements, gradual integration into the EU economy, ‘mobility and security pacts,’ and the promotion of democracy and good governance, but without voice or vote in the EU. But even within the Single Market, while certain policy areas benefit from ‘enhanced cooperation,’ such as divorce, patents, and the to-be-deployed financial transaction tax, others remain without common rules, such as the differentiated tax regimes characterized by ‘beggar thy neighbour’ policy.

## The EU’s Policy Crises

Although such differentiation has long existed, the challenges regarding it have become more acute as a result of the concatenating crises in key areas over the past decade, such as money (eurocrisis), borders (immigration and refugee crisis), security (terrorism and the neighborhood), the continuing integrity of the EU itself (Brexit), and now the health pandemic that has also triggered another economic crisis. With the exception of this last crisis, each previous was an object lesson in the problems of governance in the EU’s differentiated policy communities.

Eurozone governance went too far in deepening integration in the wrong way, by ‘governing by rules and ruling by numbers’ (see my recent book with that subtitle)[3] while failing to institute the mutual risk-sharing instruments necessary for any fixed-currency zone to flourish. In other areas, integration did not go far enough. In security and defense policy, deeper integration is needed along with continued differentiation, with more co-operation and targeted investment through any of the many recently created instruments. Refugee and migrant policy also require deeper integration through EU-wide agreement on principles of treatment, accompanied by more differentiated integration regarding the modalities of implementation—for example with positive incentives in place of imposed quotas—and with a variety of refugee support and EU mobility adjustment funds.

The Covid-19 pandemic has surprisingly enough both intensified all of these policy challenges while pointing the way to possible solutions. The initial crisis response broke with past orthodoxies: in the Eurozone, by suspending the rules on debt and deficit; in competition policy, by relaxing state aid rules; in Schengen border controls, by imposing national border closings across Europe; and in migration and refugee policy, by ending migrant flows through border closures. But after an initial delay that appeared to be ‘déjà vu all over again’ of the Eurozone crisis in terms of the lack of remedies,[4] the member-states took an unprecedented leap forward with regard to EU level initiatives. These initiatives deepened integration in a variety of ways. The Council, pushed by the Franco-German duo, created a European recovery fund based on grants that broke long-standing taboos by being paid for through EU level debt for the first time. The ECB targeted overall liquidity through its major pandemic emergency purchase program (PEPP) which went way beyond its previous quantitative easing. The Commission supported social rights via SURE, a short-term in-work job support program to reinforce member-states’ own efforts in the area, established a new EU health agency, EU4Health, and upped the ante on the Franco-German proposal for a major new European recovery fund with the Next Generation EU Fund, financed through EU level bonds made up of the same level of grants while adding a third more loans, to go to member-states most affected by the crisis. Its focus on the green transition, the digital transformation, as well as social inequalities, promises to provide investment funding serving to reorient the European economy while jump-starting growth.

All of these new measures will serve to deepen European integration. But they do little to reduce the differentiation of the EU's many policy communities. Nor do they address the governance problems, in particular those linked to the unanimity rule. We need only consider the attempt of the 'Frugal Four' (Netherlands, Austria, Denmark, and Sweden) to torpedo the Recovery Fund, resulting in a less favorable balance of grants to loans in the Council's agreement, and the veto by the 'illiberal democracies' of Poland and Hungary of the final agreement between the Council and the EP, because of their opposition to its 'rule of law' clause.

## Governance in the EU as 'Soft Core' Europe

A soft-core EU is made up of the overlapping participation of different clusters of member-states in the EU's many policy communities—all administered by a single set of EU institutions, all with voice across communities but with a vote only in those areas in which they participate. In this context, the decision-making rules would also require revision, with the unanimity rule abandoned in favor of 'constitutional' treaties amendable by two-thirds or four-fifths majorities, and treaty-based laws becoming ordinary legislation, amendable through the co-decision-mode of EU governance.[5]

Seeing the future of EU differentiated integration as consisting of a soft core of multiple clusters of member states, participating in overlapping policy communities, would allow for any duo or trio of member states to exercise leadership in any given 'community'. But while some policy areas, as noted earlier, still require more coordinated integration, such as security and defense or immigration and refugee policy, others demand greater decentralization, such as the Eurozone. This may already be in the works, as the European Semester has shifted to overseeing the more bottom up process of member-states' National Resilience and Recovery Plans (NRRPs).

Moreover, were some members to engage in deeper integration, such as pledging their own resources to a common eurozone budget or a security and defense fund, their representatives would be the only ones to vote, although everyone would exercise voice, on the assumption that many would ultimately join. In addition, where non-EU countries opt-in to certain policy communities, such as the Schengen border-free zone in the cases of Norway and Switzerland, they should have voice and vote in the interests of democratic legitimacy. This could equally apply to their participation in the single market. And the UK, too, would require vote and vote were it to rejoin some policy communities, for example, by reclaiming a leadership role in Common Security and Defense policy, while staying out of others, such as the Eurozone or Schengen borders.

But in the end, soft-core differentiation can only go so far. The EU also has certain common requirements—including one set of laws, overseen by the European Court of Justice and affirmed by national courts, and one set of overarching institutions, including the Commission, Council and Parliament. In other words, there can be no differentiation in the EU's core commitments to the rule of law and democratic principles, guaranteeing free and fair elections, independence of the judiciary and freedom of the press. But in the rest, in the EU's many policy communities beyond the Single Market, differentiation will enable the EU to go deeper faster, while respecting member-states' differing readiness or willingness to join in, or not.

## References

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