



EU Integration and Differentiation for Effectiveness and Accountability

# editorial

## I Differentiated Integrations

*Giuliano Amato, Constitutional Court of the Italian Republic and EU IDEA Advisory Board*

The first and second generations of supporters of Europeanism would not have liked the “differentiated integrations” spoken of in Europe today. They too conceived, and practiced, more advanced forms of integration for limited groups of Member States, but the meaning was different, and always a function of that “ever closer integration” that from the time of the Treaty of Rome indicated an immanent goal not for some, but for all members of the Community. It is no coincidence that while partial integrations were planned, the groups that sought to realize them were called *avant-garde*, with the transparent premise that they increased the speed, but everyone was to make it to the finishing line. The doors had to remain open for the others.

The best-known and most successful example of this process of multi-stage integration is offered by the Schengen area, born thanks to an agreement between some, which others gradually joined, until the structure became *acquis communautaire*. And while not everyone (fully) took part, this was due not to its original partiality, but to that peculiar institution of “opting out” from regulations and common structures.

In these terms, differentiated integration was codified first by the Treaty of Amsterdam, then by the Treaty of Nice, and ultimately made its way into the Lisbon Treaty. The mechanism is allowed only after the Council has determined that the opposition of some makes it impossible to proceed together (“within a reasonable period”, as we read in Art. 20 of the current Treaty on the European Union). A request is required from the Member States that intend to establish the integration (at least nine) and in any event the Commission must propose it and obtain the green light from both the Council and the Parliament. The doors must be open and the common aims must be respected, along with the competences of the non-participating Member States.

Much more could be said, especially about cooperation relating to the most delicate issues –security and defense– for which the regulation of the procedure is also much more complex. But we will limit ourselves here to recalling that these are the areas for cooperation that have remained on paper, while the ones that have actually been implemented are few, in sectors that are important but not crucial, such as cooperation on the “law applicable to divorce and legal separation”, launched with a decision of the Council of 12 July 2010. It is also useful to stress that the euro zone is not an example of enhanced cooperation (although it looks like one, more and more). The euro has in fact always been considered the Union’s currency, with the consequence that those who were not initially a part of it, were outside because they lacked the requisites to join. The situation has changed since some States were allowed to opt out, but not to the point of denying the euro’s nature as part of the common European order.

Opting out, by itself, signals that the union has changed, that “ever closer integration” has remained a goal for some, but not for everyone (we should recall that, when the United Kingdom was still negotiating its membership, one of the requests was the disappearance of this formula, at least for itself). We now have

difficulty staying together, we even have difficulty due to the divergences that have arisen between us on fundamental questions such as the rule of law. And while the outcome of Brexit has discouraged additional attempts at secession, it certainly has not facilitated the process of integration. There are those who think that the pandemic has facilitated the process, as demonstrated by the Recovery Fund, with the assumption by the Union, for the first time, of a large common debt to finance the plan. This was a new and fruitful moment of common solidarity, but I would wait to conclude that it has become an institution, namely that has inaugurated a new common fiscal policy, destined to remain in the future.

Rather, I would take it as a demonstration of the efficacy, certainly, of steps towards further integration, but as a stimulus for prospects of integration that will most likely be differentiated, for sure destined not to please the old pro-Europeans, because they will be shared only by those who implement them, and thus no longer personified by the avant-garde, but by groups of States more integrated than others in a system no longer located on a single axis.

Some time ago, there was the idea –and perhaps some still think this way– that there could be a maximum of two axes in a two speeds Union. The expectation was founded on the hypothesis that the euro area, that already has forms of more advanced integration in accordance with Art. 136 of the Treaty on the Functioning of the European Union, could also aggregate the additional forms of integration that appeared useful. But the expectation lacks realism entirely. Being together to create new common mechanisms for the stability of the euro is something, doing it to manage immigration, or military commitments, terrorism, or network infrastructure aimed at combatting climate change is something else. In these respects differences emerge, true distances, even between euro countries, that make their common commitment improbable, to say the least; apart from the fact that, on military matters, from the beginning enhanced cooperation has been defined as necessarily involving only the countries having the necessary capabilities (although, here as well, with the doors open to those who may have them in the future).

An inevitable consequence emerges: the more single Member States perceive as necessary common regulations and decisions in specific areas, the more likely it is that the need will be shared among different States each time. The result will be to give rise to a multi-cluster Europe, that in part –we have seen– already exists today, but that tomorrow could affect particularly important areas of governance, like those recalled above. At that point, though, would the common fabric hold? Might not distances arise that would be lacerating over the long term?

There can certainly be various responses, as always when we speak of the future. It will be useful to take into account the fact that what everyone would still share would not only be the common market (which, in any event, is anything but insignificant), but also the many things that have grown outside of it (from personal data protection to the process that is giving life to the European Public Prosecutor's Office). It would be just as important if even a limited number of States participated in all of the cooperations that arise, becoming a sort of common fabric. And in any event, there is the fact that the common decision-making bodies would always and only be those of the Union, perhaps with internal voting rights adapted to the different situations each time.

Ultimately, the scenario is open before us. We must decide what the worst risk to avoid is: that of a Union grappling with increasingly urgent challenges, that it is unable to face because the differences among its Member States paralyze the European Council; or a Union in which clusters are formed that accept those challenges, organize responses that are certainly more effective than what each could do alone, but in doing so generate tension for the common framework.

Those who choose the first path merely have to hope in the future, from meeting to meeting. Those who choose the second must promote it, find partners and set into motion procedures, that fortunately exist. With all of the necessary adaptations, in this case a dose of avant-garde is still needed.

## What type of differentiation in EU economic governance after COVID?

Andreas Eisl and Eulalia Rubio, Jacques Delors Institute

Roughly one year since the beginning of the COVID-19 crisis, the pandemic's long-term consequences on the EU's economic governance are still unclear. Will the crisis lead the EU on the path towards more integration, more fragmentation, or create a push towards further differentiation in the coming years?

The 2007–2012 financial and economic crisis led to more differentiation, in the form of strengthening Eurozone governance, following from the perception of the crisis as partly resulting from the shortcomings of the existing Maastricht EMU architecture. In the current COVID-19 crisis, the establishment of an EU recovery plan supported by all 27 member states and the launch of a Union-wide common vaccination strategy seem to indicate a strong determination on the part of member states and EU institutions to act together. The narrative of this crisis, which puts the focus on an exogenous common threat that requires a common response, has helped in this respect. Yet, one cannot exclude fragmentation risks or the use of differentiated integration as a fallback option in the years ahead.

### Fragmentation risks

To start with, many national COVID-19 measures have been uncoordinated, threatening the integrity of the Single Market. Apart from temporary border closures and mobility restrictions, there has been a large degree of divergence in national health responses, even in cases of very similar epidemiological situations. In addition to that, the economic consequences of the pandemic are asymmetrical and some of the EU's fiscal measures in response to the crisis – particularly the temporary suspension of the EU's fiscal and state aid rules – may exacerbate these economic divides. While the temporary European recovery plan aims at minimising the variations in budgetary capacities between member states, it might not be sufficient to limit or even reduce country divergences in the medium term. Differences in national crisis responses and post-COVID recovery pathways may render it difficult to reach a consensus on making the European recovery plan permanent or to move forward in areas such as health or taxation. As often in the past, differentiated integration (DI) may become the “second-best” solution to overcome deadlock and advance in new areas of European integration.

### New patterns of differentiation may emerge

The Eurozone crisis led to the creation of new EMU differentiated institutions (the European Stability Mechanism, the Single Supervisory Mechanism, the Single Resolution Board) and the strengthening of the EMU-related procedures and rules (reform of the Stability and Growth Pact, creation of a new macro-economic imbalance procedure, etc.). Since the main goal of the new arrangements was risk-prevention and risk-sharing, they had to include, at minimum, all Eurozone countries to be effective. They were also highly institutionalised, as their success depended on strict compliance with commonly agreed rules and decisions.

In the aftermath of the COVID crisis, economic differentiation may take another shape. We might see the renaissance of some “old” Eurozone reform proposals, such as the creation of a European Deposit Insurance Scheme in the framework of the Banking Union project. Yet we also see other cleavages emerge related with new prominent issues such as climate, taxation or the new EU industrial strategy. Brexit has also changed the power relations in the Council and has led some countries to re-define their coalition-making strategies. This may lead to the emergence of new patterns of differentiation. These could be less institutionalised and less centred on the Eurozone, involving different coalitions of EU countries willing to join forces and resources to finance specific projects. We already see these patterns of differentiation emerging in the EU industrial policy field with the creation of “industrial alliances” and “Important Projects of European Economic Interest”.

## How to make post-COVID differentiation work?

Lessons from existing arrangements Even if differentiation is frequently seen as a temporary step forward to overcome the unanimity deadlock, the past shows that, once created, differentiated arrangements have a tendency to persist over time. It is thus important to render them effective in terms of policy-making. In our recent EU IDEA research paper “How Effective Is Differentiation in the EU Economic Policy Field?” we tackled this issue. By analysing and comparing the policy performance of various differentiated integration arrangements in the EMU, the Single Market and in third country access to the Single Market, we identified several institutional factors that are key in achieving policy success in differentiated policy areas. These findings lay a useful foundation for discussions on the design of economic differentiated integration arrangements in the post-COVID era.

First, more institutionalised arrangements are not necessarily synonymous with better performance. Rather, it is important to have an institutional set-up tailored to the specific goals of the differentiated institution. In some cases, a high level of institutionalisation is required to secure the adoption and enforcement of difficult joint decisions. In other cases, compliance is not a major issue of concern. A “softer” and more flexible governance structure may be more appropriate to organise the joint financing of projects, to promote the exchange of information and to foster mutual learning.

Second, well-performing differentiated arrangements typically have some capacity to adapt to changing circumstances and evolving political preferences. Such a capacity is very much related to the existence of appropriate accountability mechanisms, able to legitimise policy-makers’ decisions to recalibrate institutions and procedures in response to new or altered problems.

Third, differentiated arrangements should be designed in a way that minimises undesirable effects on non-participating countries. This may consist of legal safeguards obliging participating members to take the interests of non-members into account when adopting certain decisions, or directly giving some participation rights to non-differentiated countries in the policy-shaping or policy-making process.

Taking these elements into account will help policy-makers to construct differentiated integration arrangements that can better achieve their policy objectives, depending on the concrete policy areas in which differentiation might be necessary to overcome unanimity requirements and to advance European integration.

## EU IDEA PUBLICATIONS

### RESEARCH PAPERS

#### **The EU–UK Partnership and Implications for Differentiation Within the EU and Between the EU and Third Countries**

**Jannike Wachowiak**, Policy Analyst in the Europe's Political Economy programme at the European Policy Centre (EPC), and **Fabian Zuleeg**, Chief Executive of the EPC

The UK's departure from the EU represents a unique process of disintegration that fundamentally changes EU–UK relations. This paper discusses the nature of the Trade and Cooperation Agreement (TCA) as the new basis of EU–UK relations, as well as its sustainability, legitimacy and effectiveness. It finds a thin and unfinished relationship with inbuilt possibility for better or for worse, but with politics pointing to growing estrangement and divergence over time. The loss of trust over the last five years has been bleeding into all levels of the relationship, raising the question whether the technocratic governance structure can work in the high-friction context of EU–UK relations. Given the UK's economic and political weight in Europe, the paper looks at the implications for differentiation within the EU and between the EU and third countries. It illustrates how the introduction of a new mode of external differentiation in Europe – a former member state with no intention of membership in the future – impacts existing modes of differentiation. It finds that the reality of Brexit suggests a more hard-line approach towards third countries, sending the message to members and non-members alike that membership matters. Flexibilities are thus a benefit for EU member states that have signed up to the EU's core principles in full. The paper concludes that the EU needs to stay attentive to evolving perceptions of Brexit, and show that EU membership remains attractive, also for candidate countries, and is a relevant framework for dealing with global challenges that cannot effectively be addressed at the national level.

#### **Differentiation and the European Union's Foreign and Security Policy**

**Marco Siddi**, Senior Research Fellow at the Finnish Institute of International Affairs (FIIA), **Tyynne Karjalainen**, Research Fellow at FIIA, and **Juha Jokela**, Programme Director of the European Union Research Programme at FIIA

Differentiation is a frequent modus operandi in European foreign, security and defence policy. EU treaties have introduced legal frameworks for various types of formal differentiated integration in this policy area. However, they have rarely been used in the field of foreign policy and were only recently launched in the field of defence policy. On the other hand, empirical analyses show that EU member states have engaged in a range of informal practices of differentiation, such as regional

groupings, contact and lead groups, and various defence initiatives. This article reviews the scholarly literature and recent empirical analyses of differentiation in EU foreign, security and defence policy. In doing so, it assesses their legitimacy and accountability, and calls for a more explicit focus on effectiveness. Drawing on case studies of differentiated cooperation with non-member states, the article argues that effectiveness depends on shared interests rather than on the level of institutionalisation of the partnership. In a second step, the paper focuses on EU foreign policy in the Western Balkans, the Middle East and the Eastern neighbourhood. It contends that differentiated cooperation has had largely positive outcomes when it has adhered to common EU values and positions. Conversely, when this has not been the case, differentiation has undermined EU foreign and security policy.

## How Effective is Differentiation in the EU Economic Policy Field?

**Andreas Eisl**, Research Fellow on European Economic Policy, and **Eulalia Rubio**, Senior Research Fellow on European Economic Policy, Jacques Delors Institute, May 2021

So far, most research on differentiated integration has focused either on its causes or on its broader consequences for the process of European integration. In contrast, in this paper we apply a public policy approach. Through an analysis of the functioning of various differentiated governance arrangements that exist in the EU economic policy field (particularly governing the EMU, the EU energy sector and the access of third countries into the Single Market) we aim to understand under which conditions differentiated procedures and institutions prove to be effective in attaining the stated objectives and in adjusting to changing circumstances while minimising undesirable effects. Doing so, we make two contributions to the existing scholarship. First, we develop an encompassing and dynamic definition of policy effectiveness that allows us to assess and compare the performance of economic differentiated integration arrangements. Second, we identify a number of institutional factors that positively influence the effectiveness of EU differentiated economic policy arrangements. These include (1) institutional set-ups tailor-made to the policy objectives of the differentiated organisation, (2) unified, simple and clear governance frameworks, (3) adaptable and flexible institutional designs and (4) institutional provisions to include nonparticipating and third countries. The theoretical framework presented in this paper to study the conditions under which differentiated integration is effective may inspire the research agenda on differentiated integration also beyond the economic policy field.

## COMMENTARY

The Conference on the Future of Europe: Tackling Differentiated Integration, by **Nicoletta Pirozzi**, Head of programme “EU, politics and institutions” and Institutional Relations Manager at Istituto Affari Internazionali (IAI), Scientific Coordinator of EU IDEA project and Associate of European Governance and Politics Programme at European University Institute (EUI), IAI, March 2021

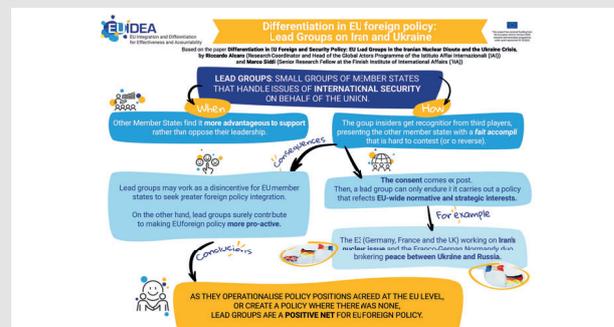
## EU IDEA MULTIMEDIA

### Lead groups on Iran and Ukraine

#### VIDEOS



#### INFOGRAPHIC



#### What lead groups are and why we can consider them as sub-optimal arrangements?

Take a look to our video and infographic, based on the paper by **Riccardo Alcaro** and **Marco Siddi**: *Differentiation in EU Foreign and Security Policy: EU Lead Groups in the Iranian Nuclear Dispute and the Ukraine Crisis*.

## EVENTS

### Seizing the chance: differentiation, democracy and the Conference on the Future of Europe

21 June 2021, Istituto Affari Internazionali (IAI) - under the framework of EU IDEA project

Differentiation has become a normal feature of the European integration process. Depending on the form it takes and how it relates to the overarching European Union's system, it can be a tool for integration, a symptom of fragmentation, or simply a solution for managing diversity. Differentiation and its implications for the governance and accountability of the EU are therefore key elements to be taken into consideration in the context of the broader debate to be conducted at the Conference on the future of Europe.

In collaboration with the projects: Integrating Diversity in the European Union (InDivEU); EU3D – Differentiation, Dominance, Democracy; Differentiation: Clustering Excellence (DiCE).

Recording available [here](#).

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## FROM THE NETWORK

### | Publications

**In Search of EU Strategic Autonomy: What Role for the Western Balkans?**, A Conversation with Odeta Barbullushi, Dejan Jović, Tanja Mišćević, Zoran Nechev, Dušan Reljić and Majda Ruge, edited by Matteo Bonomi, Research Fellow at Istituto Affari Internazionali, IAI, June 2021

**Grand Strategy in 10 Words. A Guide to Great Power Politics in the 21st Century**, by Sven Biscop, Director – Europe in the World Programme; Egmont Professor – Ghent University, June 2021

**Hurrah for the Conference on the Future of Europe!**, by Camino Mortera-Martinez, Senior Research Fellow, Centre for European Reform (CER), June 2021

**Macron's Europe**, by Charles Grant, Director, The Centre for European Reform bulletin, CER, June 2021

**The EU's new trade strategy: Gearing up for competition over values**, by Okko-Pekka Salmimies, Visiting Senior Fellow, and Saila Turtiainen, Senior Research Fellow, Finnish Institute of International Affairs (FIIA), May 2021

**EU foreign, security and defence policy co-operation with neighbours: Mapping diversity**, by Senem Aydın-Düzgit, Professor of international relations, faculty of arts and social sciences - Sabancı University - and academic affairs co-ordinator - the Istanbul Policy Center; Ian Bond, Director of foreign policy - Centre for European Reform; Luigi Scazzieri, Research fellow - Centre for European Reform, CER, May 2021

**Solidarity during Covid-19 at national, regional and global levels: An enabler for improved global pandemic security and governance**, by Mika Aaltola, Director - Editor

in Chief, Ulkopoliitikka (Finnish Journal of Foreign Affairs); Johanna Ketola, Research Fellow; Karoliina Vaakanainen, Research Assistant; Aada Peltonen, Research Assistant, Finnish Institute of International Affairs (FIIA), April 2021

**Strategic autonomy and the transformation of the EU: New agendas for security, diplomacy, trade and technology**, by Niklas Helwig, Leading Researcher – European Strategic Autonomy; Elina Sinkkonen, Senior Research Fellow; Ville Sinkkonen, Postdoctoral Fellow, Finnish Institute of International Affairs (FIIA), April 2021

**How to fight corruption and uphold the rule of law**, by Camino Mortera-Martinez, Senior Research Fellow, Centre for European Reform (CER), April 2021

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## | Past events

### Slovenian Pre-Presidency Conference

17-18 June 2021, Trans European Policy Studies Association (TEPSA)

On 1 July 2021, Portugal will hand over the Presidency of the Council of the EU to Slovenia, which will hold its reigns for the second time since its accession to the EU in 2004. During the next six months, the Slovenian Presidency will have to sail through troubled waters to address some of the most pressing EU issues, such as the recovery from the COVID-19 pandemic, the implementation of the European Green Deal, the digital agenda and EU's relations with its external partners. To scrutinise the priorities and challenges of the Presidency, TEPSA and its Slovenian member institute, Centre of International Relations (CIR) – University of Ljubljana, has digitally hosted the [Slovenian Pre-Presidency Conference](#) on 17 and 18 June 2021.

High-level panellists have spoken in plenary and parallel sessions about current EU affairs, including the European Green Deal, European solidarity, digitalisation, the EU post-pandemic, the Conference on the Future of Europe, Enlargement, and European strategic autonomy.

A panel on differentiated integration and the Conference on the Future of Europe was held by Integrating Diversity in the European Union (InDivEU) and hosting EU IDEA and EU3D projects.

## Strategic autonomy and the transformation of the EU

28 April 2021, Finnish Institute of International Affairs (FIIA)

The increasingly complex and competitive international environment pushes the EU and its member states to rethink some basic tenets of the Union's economic, foreign and security policy. EU strategic autonomy emerged as a guiding, yet contested, principle in the policy debates in Brussels and national capitals. It describes various EU and member state efforts to better handle global interdependencies that might constrain Europe's ability to decide and act according to its own choices. This event marks the launch of the FIIA report [Strategic Autonomy and the Transformation of the EU: New agendas for Security, Diplomacy, Trade and Technology](#) that analyses the EU's actions and options across several policy domains. Based on the recommendations of the report, the speakers will discuss the key trends and major disputes on the path towards a more capable and self-reliant Europe.

Recording available [here](#).

## Europaperspektiv 2021 - vägar till ettuthålligt EU?

14 April 2021, Finnish Institute of International Affairs (FIIA)

The 25th edition of the European Perspective discusses the challenges facing the EU on the path to sustainable political, economic and social development. In the webinar organized together with the Swedish Embassy in Finland, the Network for European Research in Sweden and the Foreign Policy Institute in Finland, the following questions are discussed by the Swedish researchers who wrote in this year's edition and commented on by Finnish experts and researchers.

Recording available [here](#).

## THE CONSORTIUM



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