

editorial

I The future of the EU-UK relationship: from bad to worse to catastrophic?

By **Fabian Zuleeg**, Chief Executive of the European Policy Centre (EPC)

In the Political Declaration, the EU and the UK agreed to aim for a future relationship that is “an ambitious, broad, deep and flexible partnership across trade and economic cooperation with a comprehensive and balanced Free Trade Agreement at its core, law enforcement and criminal justice, foreign policy, security and defence and wider areas of cooperation”. Two years later, the relationship is far away from that ambition. While a free trade agreement was concluded at the end of 2020, the Trade and Cooperation Agreement (TCA), this has not heralded a stable and frictionless relationship, let alone the more ambitious partnership envisaged in the Political Declaration. There has been near continuous political friction, with a variety of flashpoints including on trade, security cooperation, fisheries and, most intractably, on the Northern Ireland Protocol (NIP). At the beginning of the process, London signalled strongly that it would be willing to leave without a deal and, now, the threat to bring down the whole agreement if certain demands are not met still stands in the room.

Current conflict

The current iteration of the dispute centres around the NIP, with a UK threat to trigger Article 16, a safeguard clause only to be used in case of serious difficulties, which would effectively suspend parts of the existing arrangements. While the UK Government (UKG) claims that the thresholds for its use have been met, the EU disagrees and has warned that there would be serious consequences for the entire relationship, including the TCA. There are ongoing negotiations around a set of concrete proposals from the EU to ease implementation but this stands in contradiction to the more fundamental implications of a UK Command Paper, which implies a need to renegotiate elements of the protocol and to remove the reach of the European Court of Justice (ECJ) on the Single Market provisions now in force in NI. Indications are that the UKG will be guided in its action by this Command Paper, rather than the mutually agreed provisions enshrined in the NIP. While UKG threats should be taken with a pinch of salt – in the end, both in the Withdrawal Agreement and NIP and in the TCA negotiations, the UKG discarded its red lines to get a deal – it demonstrates that the EU-UK relationship is not in a good place. Some have stipulated that these are inevitable teething problems, in part caused by the painful experience of the negotiations and divorce, but that, over time, the relationship will improve, sharing at its core continued economic interdependence and common interests and objectives at the global level.

A brighter future?

In this more optimistic scenario, the current dispute on the NI Protocol will be settled and, crucially, the

solution will be sold jointly by the Commission and the UKG in NI, in particular with the unionist community, providing a stable basis for the future, which could lead to further cooperation across a range of other areas. Over time, the memories of the painful divorce will fade, providing a new model of cooperation between the EU and a European third country. This would enable the EU and the UK to jointly tackle the many areas of shared interests and values, including on migration, internal and external security, foreign policy, climate action and multilateralism, where a joint approach is more needed than ever in an increasingly contested global environment.

Unfortunately, this is highly unlikely, at least in the short to medium term. The EU will remain united on this issue and will not simply give in to UK demands. Neither UK divide-and-conquer tactics, nor the use of threats as a negotiation tool have worked in the past or will move the EU on its red lines in future. Much trust has been lost, and most, if not all, member states believe that the UK acted in bad faith during the negotiations and in its aftermath, for example with regard to implementing the compromise enshrined in the NIP. In particular, the agreement of the UK to the sequencing of the negotiations, i.e. concluding on the withdrawal issues before negotiating the long term relationship, has been de facto negated by the UK going back at this stage to question the NIP. Consequently, the willingness to compromise and accommodate the UK is extremely low, especially in those countries where the dispute with the UK impacts on domestic politics. EU positions and likely actions and reactions continue to be misunderstood and disregarded by the UK, with diplomatic relations damaged by grandstanding of UK officials for their domestic audiences.

The dispute on the NIP has been rolled up in the wider UKG 'sovereignty-first-Brexit' agenda, as evidenced by the questioning of the role of the ECJ, an issue far removed from the concerns that have been raised in NI. There is a real question about what future the current UKG envisages. At best, there is a (mistaken) view that threats and non-cooperation help the UK to get what it wants, at worst there is an ideological opposition to cooperation with the EU (or both), with a more constructive approach seen by many in UKG as a sign of weakness. Either way, for domestic political reasons, it is unlikely that the UKG will switch to a more cooperative mode any time soon, even if a compromise on NI is found. The future will remain precarious as there is no willingness on the UK side to confront the reality of this form of Brexit: that there are significant unavoidable political and economic costs that will have to be borne by the UK.

A downward spiral

But the situation could easily deteriorate even further. If the UK decides to trigger Article 16, potentially in the mistaken belief that this will force further concessions from the EU, undoubtedly the EU and individual member states will put counter-measures in place. This will be both at the formal level, including targeted tariffs, and, potentially, in terms of the practical implementation of the TCA, for example altering the level and speed of border controls in certain EU ports. The EU has made it clear that the agreement on NI is a precondition for the operation of the TCA, and anything that threatens Ireland's place in the Single Market will result in a strong reaction.

Such a situation also carries the potential of an escalation, driven by domestic political reactions on both sides. This could result in the TCA being effectively suspended, resetting the EU-UK economic and political relationship almost to a no-deal type of state, especially if the separate and binding legal provisions of the NIP are not honoured. None of this will help to resolve the issues in NI, which, even if there is a significant deterioration in the TCA, will still be bound by the NIP enshrined in the Withdrawal Agreement. It remains to be seen in how far the UK is willing to break an international treaty it has signed, with the global fall-out that would entail, and in particular the negative reaction this would draw from the Biden Administration.

The end of the road?

Of course, it doesn't have to come to that. But even in the best possible future, we will see the continuation of the difficult relationship that has been deteriorating ever since the UKG chose a path of maximum divergence and confrontation. At worst, the underlying difficulties will erupt into open conflict, even leading to the suspension of the TCA. For the EU, this implies that, beyond working towards a constructive solution, there also needs to be contingency planning to deal with a breakdown in this precarious relationship, which might go from bad to worse to catastrophic in a very short time.

EU IDEA PUBLICATIONS

RESEARCH PAPERS

The Impact of Differentiation on EU Governance: Effectiveness, Sustainability and Accountability

Nicoletta Pirozzi, Head of the “EU, Politics and Institutions” programme and Institutional Relations Manager at the Istituto Affari Internazionali (IAI), Scientific Coordinator of EU IDEA project and Associate of European Governance and Politics Programme at the European University Institute (EUI) and **Matteo Bonomi**, Research Fellow at the Istituto Affari Internazionali (IAI) and member of the Balkans in Europe Policy Advisory Group (BiEPAG).

This research paper aims to offer an innovative and comprehensive assessment of the impact of differentiation on EU governance. It addresses the organizational, constitutional and socio-political factors affecting differentiation and integration in the EU in order to assess the effectiveness, sustainability, accountability and legitimacy of differentiated arrangements within the EU and between the EU and participating third countries. The ultimate aim is to provide an overall appraisal of how much and what form of differentiation propels European integration forward – as a whole and for specific policy areas – and what kinds of differentiation should be avoided to prevent disintegration in the future. The empirical research shows that formal arrangements of differentiation are not only compatible with, but also conducive to a more effective, cohesive and democratic Union when they have a direct link to EU institutions, are established with clear objectives in line with EU core values, and are equipped with adequate mechanisms to ensure accountability and to connect ins and outs. On the contrary, excessive flexibility entailed in looser forms of differentiated cooperation that are established outside the EU Treaties are likely to produce fragmentation dynamics and ultimately jeopardise the EU’s political unity and normative consistency.

EU IDEA MULTIMEDIA

VIDEOS



Euidea - “Differentiation in ASEAN, ECOWAS and MERCOSUR – A comparative analysis”



Euidea - “Migration Challenges in Europe”



Euidea - “Migration challenges and the effectiveness of differentiation”



Euidea - "Differentiated integration as a deliberate choice to foster European unity"



Euidea - "Differentiated Europe 2035: Elaboration and Evaluation of Five Potential Scenarios"



Euidea - "Public Opinion on an Ever More Differentiated EU"

PODCAST



Euidea #8: Differentiated integration as a conscious public policy choice. The way forward

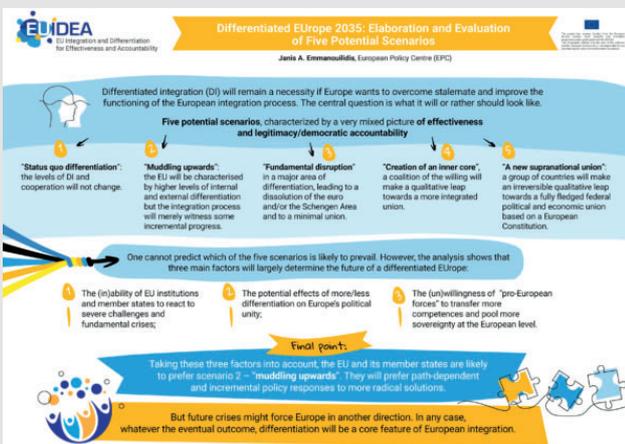


Euidea #7: How effective is differentiation in the EU's economic policy field?

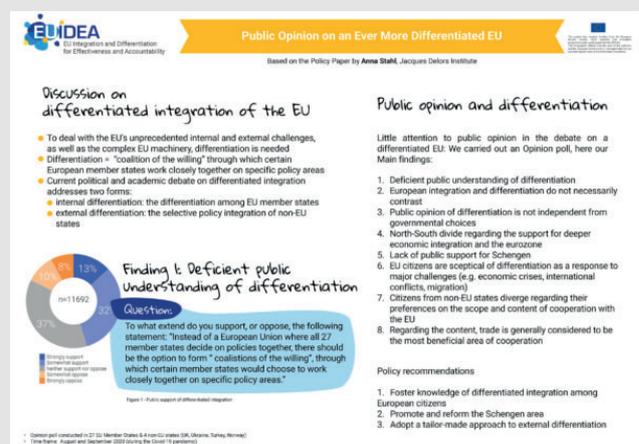


Euidea #6: Differentiation and the European Union's foreign and security policy

INFOGRAPHICS



Differentiated Europe 2035: Elaboration and Evaluation of Five Potential Scenarios



Public Opinion on an Ever More Differentiated EU

EVENTS

| Past events

The future of European integration: What lessons to draw from Brexit?

30 November 2021 - **European Policy Centre**

This Online Policy Dialogue took stock of the post-Brexit landscape: the transition period, the limits of negotiation, and the issue of the Northern Ireland border. Speakers discussed the consequences of Britain's departure from the EU for the future of European integration and the lessons learned. A particular focus was placed on the implications for differentiated integration and the way in which the EU cooperates with third-party countries in the post-Brexit era.

This event was part of the Observatory on Brexit, a workstream within the EU-IDEA project. The Observatory monitors the Brexit process and outputs with a focus on the potential economic, political, institutional and social implications, and assesses the challenges and opportunities for differentiated integration and cooperation.

Recording available [here](#).

Taking stock 1 year after the EU-UK Trade Agreement

6 December 2021 - **European Policy Centre**

This Policy Dialogue took stock of the post-TCA landscape: the situation with regard to trade in goods and services, capital and labour mobility, digital trade, logistics and supply chains, and the UK's participation in European programmes. Speakers focused on the potential challenges and the restrictions that have occurred in trading relations in the post-Brexit period. Has the TCA brought stability to the EU-UK relationship, and how will it further develop? How will the remaining gaps on trade be addressed? Will there be a breakthrough in negotiations on the Northern Ireland Protocol, and how will this issue influence the overall relationship? What are the implications of the developing EU-UK relationship for differentiated integration and cooperation between the EU and third countries? The Online Policy Dialogue discussed these and other issues.

This event was part of the Observatory on Brexit, a workstream within EU-IDEA project. The Observatory monitors the Brexit process and outputs with a focus on the potential economic, political, institutional and social implications, and assesses the challenges and opportunities for differentiated integration and cooperation.

Recording available [here](#).

Workshop: European integration outside-in. Third country influence on EU law and policy making

4 and 5 December 2021 - **University of Geneva**

Debates on differentiated integration in Europe acknowledge the existence of external differentiated integration, i.e. third country inclusion below the threshold of membership. However third country inclusion is usually examined from an "inside-out" perspective: that is the extent to which and the processes through which third countries are subjected to parts of the EU *acquis communautaire*. In this workshop we turned the vector around and examined from the "outside-in" the venues and mechanism through which associated third countries gain agency and exert influence on EU law and policy making.

Two observations motivated this new research agenda. Firstly, with the institutionalisation of its 'external governance' the EU has become increasingly dependent on third country cooperation. This vulnerability grants third country governments potential leverage in their relations with the EU, and thereby open the door to reversed influence on EU law and policy making. This vulnerability is evident in sensitive policy fields such as migration but also in more technical areas such as energy relations or in the wider sphere of foreign and security policy if one considers the situation in Ukraine or Turkey.

Second, the dense web of technocratic cooperation in the policy areas covered by the association agreements has given third country regulators access to EU secondary bodies dealing with the daily refinement and implementation of EU law and policies such as decentralized agencies, comitology committees or policy networks. In these venues, third country representative actively participate in the EU's wider administrative space and may inspire common solutions via their expertise and administrative capacity.

In the meantime, the rapprochement of third countries to the EU's law and policy making is not without legal and political controversy as concerns the integrity of the legal and political order.

Assessing EU foreign, security and defence policy co-operation with its neighbours

16 December 2021 | Online - **Centre for European Reform, Istanbul Policy Center and Norwegian Institute of International Affairs**

This webinar on differentiation in foreign, security and defence policy co-operation between the EU and neighbouring countries was organised by the CER, IPC and NUPI. The webinar is part of Work Package 5, which looks at differentiation in Foreign Security and Defence Policy. The webinar included participants from some of the EU's main foreign policy partners: Norway, Serbia, Turkey and Ukraine. Speakers discussed the way in which foreign policy co-operation between their country and the EU functions and how it may be improved. Topics discussed included the different mechanisms for consultation with the EU, including the format of consultations; the modalities of participation in EU Common

Security and Defence Policy operations; the relationship between the EU and NATO; and defence industrial co-operation between partners and the EU.

EU IDEA project: differentiated integration has to be used "very carefully" in the Western Balkans

17 December 2021 - **Institute for Democracy 'Societas Civilis'**

"We have to be very careful, because if we go too far with differentiated integration outside the European Union, it can bring to disintegration". Dragan Tilev, State Counselor at the Secretariat for European Affairs of the Republic of North Macedonia, is convinced that the path to EU accession for the Western Balkans has to follow "a new methodology, addressing all the open issues with more unity and pragmatism".

In a nutshell, these are the challenges for the European Union dealing with the enlargement process and with the future EU membership of the Western Balkans' countries. Tilev gave a keynote speech during the conference Differentiated Integration and the Western Balkans, organized by the Institute for Democracy 'Societas Civilis' (IDSCS) today (Friday 17 December) within the framework of EU IDEA – Integration and Differentiation for Effectiveness and Accountability.

FROM THE NETWORK

EU-UK relations: there is no steady state

By **Sam Lowe**, senior research fellow at the Centre for European Reform

The current crisis over the Northern Ireland protocol will pass, but tensions between the EU and the UK are not going away.

Opening Pandora's box: what the Eu-UK trade deal means for trade and conditionality

By **Sam Lowe**

The EU-UK Trade and Co-operation Agreement includes world-leading sustainability commitments. But the EU can't expect to replicate these in other trade deals without conceding more market access.

THE CONSORTIUM



The project has received funding from the European Union's Horizon 2020 research and innovation programme under grant agreement No 822622.

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