

Editors' introduction to the Special Issue

The Member States and Differentiated Integration in the European Union¹

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Differentiated Integration in the European Union

European integration has never been a 'uniform' process, with one set of rules applying equally to all Member States. Instead, from Rome (1958) to Lisbon (2009), the treaties establishing the European Union (EU) and its predecessors have all contained exceptions from common provisions. The literature refers to this phenomenon as differentiated integration (DI). While DI has always been a feature of European integration, the absolute number of exceptions in EU treaties and secondary law has increased over time (Schimmelfennig and Winzen 2020a). The Lisbon Treaty, for example, is considered a milestone for DI (Koller 2012; Brunazzo 2019). As such, the EU has become an increasingly differentiated political system in recent years (Leuffen et al. 2013; Dyson and Sepos 2010).

Despite this, there is surprisingly little research about the attitudes of political actors – such as governments – towards DI. Five contributions in this special issue investigate this gap in the literature. Putting a focus on smaller and less studied EU Member States, they develop in-depth case studies of Austria, Finland, Portugal, Romania, and

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Slovenia. For better comparability, these papers follow a common approach (see below). In addition, the special issue contains a thematic contribution which explores whether the EU's differentiated Banking Union will ultimately converge in uniform integration or see further differentiation.

Theory and conceptualization

Five contributions in this special issue follow a joint approach² in exploring how much governments debate differentiated integration and about the way they view it. The approach conceptually distinguishes between policy differentiation, polity differentiation, and mechanisms of differentiation. This conceptualization disentangles previously conflated dimensions of DI and helps to generate a clearer understanding of what drives differentiation in the EU.

Policy Differentiation

Policy differentiation refers to the differentiated participation of Member States in specific EU policies, such as the Eurozone or the Schengen Area. The literature explaining policy differentiation distinguishes between demand-side and supply-side factors (Leuffen, Rittberger, and Schimmelfennig 2013; Schimmelfennig and Winzen 2020b). *On the demand-side*, DI is seen as rooted in the heterogeneity of the Member States with regard both to their integration preferences and their integration capacity. Repeated EU enlargements and treaty revisions are seen as the main sources of increasing heterogeneity in the EU. *On the supply-side*, EU decision rules are crucial. The combination of increasingly diverse Member States and demanding decision rules can lead to decision-making gridlock. By exempting or excluding Member States from participation in common policies, differentiated integration offers a way to increase decision-making effectiveness. In addition, differentiated integration can serve to accommodate the concerns of reluctant Member States and to protect the quality of common policies. In short, by allowing reluctant and underprepared Member States to refrain from cooperation temporarily or permanently, the willing and able Member States can deepen their cooperation in specific policy fields. The result is that not all Member States participate in all EU policies at the same time or to the same extent, hence *policy differentiation*.

Polity Differentiation

We distinguish policy differentiation from *polity differentiation*. Polity differentiation refers to the nature and functioning of a differentiated EU as a whole. This perspective builds on Alexander Stubb's (1996) influential categorization of differentiated integration in terms of space, matter, and time. Differentiation always involves the dimensions of space (Member States) and matter (policies). Depending on whether membership in various policy regimes is overlapping or not, polity differentiation can take two different shapes: In the first scenario, the EU would comprise a deeply integrated core surrounded by 'concentric circles' of less integrated Member States. In the second scenario, the EU would consist of multiple policy regimes with partially overlapping membership, a 'Europe à la carte'.

² This framework was developed for the Horizon 2020 project InDivEU on differentiated integration in the EU. More information and project outputs are available here: <http://indiveu.eui.eu/integrated-database/>

Moreover, differentiation can be either temporary or permanent. Temporary differentiation means that while not all Member States participate in all EU policies at the same time, all will ultimately reach the same level of deep cooperation. While temporary differentiation is compatible with the idea of an ‘ever closer Union’, permanent differentiation is not. Hence, the former type of polity differentiation would result in a ‘multi-speed Europe’, while the latter would produce a ‘Europe of multiple end points’.

Polity differentiation is an outcome of policy differentiation. However, the policy and polity objectives of Member States may not always overlap. While policy differentiation can achieve immediate policy objectives, the accumulated effect of these exceptions may undermine the effectiveness and legitimacy of the EU as a whole. Conversely, Member States may also seek to protect the effectiveness and legitimacy of the EU polity by excluding unprepared Member States from common policies. Finally, due to domestic electoral pressures, Member States may pursue exceptions from EU rules even if they worry about a loss of influence in a differentiated EU. In short, due to ill-aligned national objectives, capacity concerns, and time inconsistencies, Member States are likely to engage in more policy differentiation than their polity preferences regarding the functioning of the EU would suggest. To the extent that this is the case, polity differentiation can be thought of as an unintended consequence of policy differentiation.

Mechanisms of Differentiation

In practical terms, DI can be realized via a variety of legal mechanisms (De Witte 2018, 2019). The most common of these are ‘opt-outs’ from common policies and ‘enhanced cooperation’. Opt-outs can be distinguished as voluntary exemptions or discriminatory exclusions from community rules (Schimmelfennig and Winzen 2014). Voluntary opt-outs are seen as rooted in Member State preferences and usually occur in the context of EU treaty change (deepening integration). Discriminatory opt-outs are rooted in concerns about the capacity of a Member State to implement a common policy. They usually occur in the context of EU enlargements (widening integration). But Differentiation also results from demand for *more* integration. Such ‘enhanced cooperation’ allows Member States to pursue deeper integration in a small avant-garde group, usually requiring the consent of the non-participating states, while also generating a certain pressure for ‘laggard’ states to catch up.

Table 1 *Conceptualization of differentiated integration*

DI dimension	Explanation	Examples
Policy DI	Variation in participation in EU policies due to diverse integration preferences/capacities of member states	Eurozone Schengen
Polity DI	Effect of differentiation on the nature and functioning of the EU	‘Multi-Speed Europe’ ‘Multi-End Europe’
DI mechanisms	Instruments which realize Member State demand for more or less integration	‘Opt-outs’ ‘Enhanced cooperation’

Methodologically, authors in this special issue analyse key documents in the period between 2004 and 2019. First, a list of DI-related keywords (see Appendix 1) is

translated into the relevant national languages. The salience of DI is assessed by counting the frequency of references to DI keywords in parliamentary debates, assuming that more debated issues are politically more relevant. To assess governmental positions on differentiated integration, the authors code mentions of DI keywords which were made by members of the government/governing parties in parliamentary debates. To capture indirect references to DI, the authors also read government programs and key speeches by Prime Ministers/Presidents at the national and European level.

Key findings of the Special Issue

The first five contributions of this special issue look at several smaller and less studied EU Member States. Specifically, these contributions assess the salience of DI in the political debates, as well as the positions of governmental actors on this topic over the period 2004 and 2019.

Looking at the Austrian case, Katrin Auel shows that, overall, DI has not been a salient issue in this country – at least with regard to general concepts and models. While the political actors have often debated policy integration, the general implications of DI, particularly for the EU polity, were largely absent from political debates. In Austria, the fairly critical attitudes of citizens towards the EU did not translate into political attempts to obtain opt-outs from EU policies.

The pattern was similar in Finland. Salla Heinikoski clearly shows that Finland has discussed DI mainly with regard to approving specific instances of differentiation, such as the Prüm Convention or the adoption of the PESCO. In contrast to its Scandinavian neighbours, which have opted for non-participation in certain key EU policies, Finnish governments seek to participate in all EU initiatives. Nevertheless, there has been little debate in Finland about DI's systemic consequences for EU integration.

In Portugal, as Frederico Ferreira da Silva shows, the salience of differentiated integration was generally low. However, it was enhanced during the euro crisis, when domestic and European politics intersected. The position of Portuguese governments regarding DI during the period analysed was overwhelmingly negative. In general, this stance was also shared by the opposition parties: DI models were considered to be against both the European and the national interest. Specifically, there was concern that DI may push Portugal into an even more peripheral position. However, the enhanced co-operation mechanism was seen in a generally positive manner, recognising its potential to promote advances in European integration when the EU faced gridlock.

The case of Romania, presented by Claudia Badulescu, shows how DI is perceived in a country which is involuntarily excluded from both the Schengen Area and the Eurozone. In the period considered, a relatively low salience of DI models and DI mechanisms was evident, though the salience of Schengen and the Eurozone was high. Notably, all Romanian governments have shown strong opposition to DI for fear of being left behind in a 'second-tier' Europe.

The analysis of the Slovenian case by Maja Bučar and Boštjan Udovič shows that the keywords associated with the salience of DI are seldom used in parliamentary debates, coalition programmes or prime ministerial speeches. In Slovenia, the issue of DI is

more a topic in academic discussion than in daily politics. Slovenian politicians perceive a strong and united EU as a factor of key importance for the country, and fear that a multi-tier EU would mean fewer opportunities for smaller and/or less developed countries.

Finally, the article on the European Banking Union (EBU) written by Eva Hanada concludes this special issue of ANZJES. This is an original topic (EBU was only recently adopted) and rarely considered in the literature on DI. The research shows that some non-Euro countries look at EBU opt-in as the first step toward the adoption of the common currency, while others prefer to protect their national sovereignty in financial supervision.

Concluding remarks: Beware of unintended consequences

This ANZJES special issue seeks to complement the literature on DI by looking at the national debates on this topic in some of the smaller EU Member States and in the recent decision concerning the adoption of EBU. While, on the one side, DI typologies, mechanisms and rationale have been the focus of a significant amount of research, on the other side the literature on government positions and, more generally, political debates about DI are far more limited.

The first five articles clearly demonstrate that DI is not a salient issue in the smaller Member States analysed. While DI has definitely entered onto the EU's political agenda, as the 2017 *White Paper on the Future of Europe* clearly illustrates, it received less attention at the Member State level. This is especially true for polity differentiation. Indeed, when national government and parliaments did discuss DI, the focus was predominantly on specific policies. This confirms the notion that the member states primarily view DI as a means to achieve policy objectives. At the policy level, the formation of Member State preferences was strongly influenced by existing or expected European interdependencies. Moreover, in some countries, the opposition parties instrumentally used DI to question the EU policy of the government, thus politicising the topic. Finally, the policy-focus of the Member States also means that they are paying little attention to the potential long-term effects of DI on the nature and functioning of the EU. Arguably, this myopia increases the chances that DI may have unintended negative consequences for the integration process in the long run.

It remains to be seen if differentiated integration will receive more prominent attention in national political debates in the future. Regardless, political actors would do well to consider some of the following questions regarding the impact of DI on the nature and functioning of the EU: how much differentiation is possible without putting at risk the sustainability of the integration process? Where does differentiation end and disintegration begin? Does DI increase the complexity of the EU and exacerbate its democratic deficit? And, finally, is the future of the EU inevitably more differentiated? Of course, there remains much food for thought and research for several other special issues.

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Appendix 1

Keywords

Polity DI	Multi-speed EU		Multi-end EU	
	<ul style="list-style-type: none"> ▪ Two-speed Europe / EU ▪ Multi-speed Europe / EU ▪ Coalition of the willing 		<ul style="list-style-type: none"> ▪ variable geometry ▪ core Europe / European core ▪ two-tier Europe ▪ concentric circles + EU ▪ à la carte + EU 	
DI mechanisms	<ul style="list-style-type: none"> ▪ Enhanced co-operation 		<ul style="list-style-type: none"> ▪ Opt-out 	
Policy DI	Inter se agreements	External agreements	Enhanced cooperation	Opt-out policy fields
	<ul style="list-style-type: none"> ▪ Prüm Convention ▪ European Stability Mechanism ▪ Fiscal Compact ▪ Unified Patent Court ▪ Single resolution mechanism 	<ul style="list-style-type: none"> ▪ EEA ▪ Customs union + Turkey ▪ Eastern partnership ▪ Euromed 	<ul style="list-style-type: none"> ▪ Rome iii ▪ Unitary patent ▪ Matrimonial property regimes ▪ Financial transaction tax ▪ European public prosecutor ▪ <i>Pesco</i> 	<ul style="list-style-type: none"> ▪ Schengen ▪ Economic and Monetary Union ▪ Security and defence policy ▪ Area of freedom, security, and justice ▪ Charter of fundamental rights ▪ Social chapter