

# Differentiated integration in the European Union: a concept, a process, a system or a theory?

Benjamin Leruth & Christopher Lord

To cite this article: Benjamin Leruth & Christopher Lord (2015) Differentiated integration in the European Union: a concept, a process, a system or a theory?, Journal of European Public Policy, 22:6, 754-763, DOI: [10.1080/13501763.2015.1021196](https://doi.org/10.1080/13501763.2015.1021196)

To link to this article: <https://doi.org/10.1080/13501763.2015.1021196>



Published online: 24 Mar 2015.



Submit your article to this journal [↗](#)



Article views: 4658



View related articles [↗](#)




View Crossmark data [↗](#)



Citing articles: 25 View citing articles [↗](#)

# Differentiated integration in the European Union: a concept, a process, a system or a theory?

Benjamin Leruth  and Christopher Lord

**ABSTRACT** Differentiation has been a feature of European integration for more than two decades. Nowadays, more than half of European Union (EU) policies are now implemented in different ways. Recent debates over a potential British exit from the EU revived discussions on the future of European integration, offering a potential case for disintegration. Yet scholars and practitioners still find it difficult to define the notion. The introduction to this collection offers a survey of the literature on differentiated integration, its most recent developments and justifies why the study of differentiation needs to move up the research agenda of European integration. It suggests that studying differentiated integration as a concept, a process, a system and a theory is the minimum needed to understand it. Finally, it demonstrates the necessity to study differentiation as a permanent and ‘normal’ feature of European integration.

**KEY WORDS** Differentiated integration; disintegration; European Union; re-integration; United Kingdom

## INTRODUCTION

Ever since the European Union has been studied, scholars have attempted to locate it in the classificatory table of political animals and species. For some the Union may even be a new kind of state (Ferry 2000; Schmidt 2004). For others, it is a non-state political system (Hix 2005). For still others it remains an international organization of a more (Magnette 2005) or less (Moravcsik 1993) original kind.

Whilst, however, these contributions differ on the nature of the beast, they all assume that the Union is just the one beast. Indeed, the beast metaphor began life in the singular when Donald Puchala (1972) famously teased scholars of European integration for confusing the whole with their own narrow research preoccupations in the same way as blind men in a legend mistook an elephant for the ‘hoof, trunk, tail and ear’ they happened to touch. Puchala did not imagine that scholars might need to touch an elephant, a giraffe and a kangaroo to obtain a complete understanding of European integration.

Of course, that was then. The pre-1992 European Community approximated a single institutional order more closely than the post-1992 European Union.

Philippe Schmitter (2000: 21) has argued that the latter really amounts to a ‘plurality of different polities at different levels of aggregation’. Sergio Fabbrini (2015) also argues that there are several different European Unions, both in the heads of political actors and in the reality of different authority structures and decision-rules that the Union uses to aggregate policy inputs into policy outcomes. For Fabbrini, the Union includes an economic Union, an intergovernmental Union, and a parliamentary Union; a Community method and a Union method. On top of all that, monetary union forms an institutional subsystem all of its own.

When we dig down from polity to policy, however, European integration is probably even more differentiated, and in ways that pre-date the Treaty on European Union (TEU). Although the early Communities are often associated with a commitment to a uniform *acquis communautaire* – a single set of policies and obligations that would more or less apply in the same way to all member states at the same time – legal elements of what we now call *differentiated integration* (DI) were apparent in the Treaty of Rome itself (Hanf 2001). The political idea of differentiated integration finds its roots in a report on the future of European integration written by Belgian Prime Minister Leo Tindemans (1975). The general concept of differentiation appeared for the first time in the primary Community law in 1986, as stated in Article 8c of the Single European Act (now Article 27 of the Treaty on the Functioning of the European Union [TFEU]):

When drawing up its proposals with a view to achieving the objectives set out in Article 7a [now Article 26 TFEU], the Commission shall take into account the extent of the effort that certain economies showing differences in development will have to sustain for the establishment of the internal market and it may propose appropriate provisions. If these provisions take the form of derogations, they must be of a temporary nature and must cause the least possible disturbance to the functioning of the internal market.

Early academic discussions on this new form of regional integration then arose in the late 1970s, with Dahrendorf (1979: 20–1) introducing the notion of *Europe à la carte*, i.e., ‘common policies where there are common interests without any constraint on those who cannot, at a given point of time, join them’. By the 1980s, Helen Wallace and Adam Ridley (1985) had already distinguished several exotic varieties of differentiated integration in much the same way as scholars do now: *directoire*; two-speed Europe; two tiers; *Europe à la carte*; variable geometry; differentiation; *abgestufte* integration; subsidiarity; concentric circles; exclusion of the unco-operative and core Community. By 1996, Alexander Stubb (1996) claimed to have identified no fewer than 30 forms of differentiated integration, which he, in turn, classified as creating differences along three dimensions of time, space and policy content.

Nor is the Union only differentiated internally. It is also differentiated in its external actorness and in its boundaries. Whilst scholars of its internal political order have debated how far the Union has characteristics of a state, a political

system or an international organization, Jan Zielonka (2007) has asked how far it functions as an 'empire' in its immediate neighbourhood? That question might seem odd until it is recalled that empire is extraterritorial rule. Many Union policies and laws plainly do apply extraterritorially. Norway, for example, self-applies 75 per cent of Union law. Moreover, as Sieglinde Gstöhl (2015) expertly demonstrates in this collection, the extraterritorial application of Union policy is itself highly differentiated in the political and institutional relationships it entails between 'policy-makers' within the Union and 'policy-takers' outside it. If, then, the Union's external influence is shaped in part by its ability to give outsiders access to its internal policies (Smith 1996: 258), and if it has more than one way of arranging that access, it follows that the Union's character as an international actor is also differentiated.

So, differentiated integration suffuses the institutions, policies and international actorness of the Union. Yet DI is under-studied in comparison with the huge literature on integration as a whole. Maybe its appeal as a field of study has, until recently, been limited by an assumption that differentiated integration would erode over time? Treaties signed outside the treaties would eventually be brought within them. Intergovernmental pillars and methods would converge on community ones. The formal territorial scope of the Union and the actual territorial application of its policies would eventually be re-aligned by enlargements to all but a few micro-states and hold-outs. Member states would converge on the same policies at different speeds (Stubb 1996), rather than divide permanently into 'ins' and 'outs'.

## DIFFERENTIATED INTEGRATION IN PRACTICE

The crisis has changed all this. It is now much harder to assume that differentiated integration may just be 'noise' around an underlying trajectory towards more uniform forms of integration. As John Erik Fossum (2015) argues here, the contemporary Union may even combine all three of the following: accelerated integration for some; outright *disintegration* for others; and greater differentiation in commitments to policies and institutions for all.

Monetary union is, of course, the main example of a policy that appears to be source of 'ever greater disunion' between member states. The 18 euro countries have intensified their fiscal co-ordination, agreed a banking union and established shared bail-out funds. They meet in their own Council. They may, in the future, also have their own budget, their own 'Treasury', and even their own Parliament (or at least their own section of the European Parliament). Yet, even without these possible sources of further divergence, the 'new monetary union' that is emerging from the crisis may already entail somewhat different authority relations to those that govern other Union policies. Those relations are, arguably, more coercive (fines for breaches of fiscal discipline will be automatic in the absence of reverse qualified majorities for forgiveness). They also 'constitutionalize' further obligations (the balanced budget rule under the

fiscal compact); and collectivize risks in ways that give each of the parts an acute interest in the authority of the whole (Lord 2012: 18–21).

The collectivization of risk deserves a special mention. Sure, the eurozone has (so far) avoided any federalization of debt on a scale that led one historian to describe the early United States as ‘one nation created under debt’ (Wright 2008). Yet, even the more limited mutualization of risk entailed by the bail-out funds may have turned the eurozone into a community of fate, bound together not by any affection, but by the shared risks and costs of getting things wrong. The same goes for the decision to use banking union to centralize some responsibility for supervising the scariest, yet least understood, form of risk economic risk: systemic risks where single follies can bring down whole financial systems.

As a distinctive community of fate with its own distinctive commitments, structures and conversations, monetary union could plainly evolve into a union within the Union based on accelerated integration between its members. Yet, it also shows how the study of differentiated integration may now need to be complemented by the study of differentiated *dis*integration. The crisis forced commentators to ask what might happen if some member states, such as Greece, left the euro. Some even proposed splitting the euro into two currencies. However, even the survival and reform of the euro may strain the cohesion of the wider Union. In proposing an in–out referendum by the end of 2017 on whether the United Kingdom (UK) should remain a member of the Union, David Cameron highlighted difficulties that the closer integration of the eurozone could present to the UK’s membership of the Union itself.

Yet any British exit would test differentiated integration in new ways. It is not hard to imagine proposals being made for some continued UK involvement wherever the costs of British exit from particular policies are high to either side. Useful, though, those proposals might be as means of coping with the politics and practicalities of disentangling a state from its existing membership of the Union, they would form the substance of a qualitatively different relationship to any in which DI has been used before. The measure of their success would be how fairly and effectively they can govern the relationship between the EU and an entirely new category of ‘ex-member state’. Given, indeed, that they would be the ‘left-overs’ of an existing membership, they would be more a case of differentiated *dis*-integration, or at best a ‘falling apart’, rather than a ‘coming together’ form of differentiated integration.

In addition, however, to the huge difference between quitting full membership and hitching up selectively to Union policies without becoming a full member, it is unclear how well any of the relationships that presently govern the differential participation of outsiders in Union policies could be made to work for the UK. The UK could follow Norway in seeking assured rights of participation in the single market without membership of the Union itself. That would allow the UK to exit with the fewest implications for market integration. But participation without full membership logically entails participation

without full decision-rights. The Norwegian case, sometimes jibed as ‘fax democracy’, illustrates the European Economic Area (EEA) democratic deficit (Eliassen and Sitter 2003). It may make little sense for the UK to exit the EU in the hope of gaining greater autonomy, whilst re-entering the single market with similar obligations but fewer decision-rights. It may be altogether more coherent for the UK to seek neither decision rights nor obligations, and to rely, instead, on no more than its own bargaining strength to negotiate access to Union policies by bilateral treaties. Yet Swiss experience in operating that model shows that it does not ensure ‘real-time’ convergence between single market law (including the European Court of Justice rulings) and the rules that apply in a country seeking to participate in the single market from the outside. This difficulty is particularly acute in the case of financial market regulation, which needs constant updating. Given that is precisely the form of regulation that the UK would most want to continue to co-ordinate with the EU, the UK might need to seek some differential *re*-integration at an administrative level, rather than through the occasional negotiation of bilateral treaties. Sandra Lavenex’s (2015) contribution to this collection should be read in London.

What, though, if Britain stays in the Union? That too may only increase the importance of differentiated integration. The continued membership of a large member state that is unlikely to join the euro will increase the need for a long-term settlement between monetary union ‘ins’ and ‘outs’. To return to Fabbrini (2015), the Union may need an institutional re-settlement that makes its own character as a union of Unions explicit.

## **DIFFERENTIATED INTEGRATION AS A FIELD OF STUDY**

The idea that differentiated integration amounts to little more than an ephemeral, and even epiphenomenal, process of convergence on similar outcomes at different speeds, seems increasingly questionable. Rather, DI seems to be a permanent, organizational principle of the Union, grounded in a need to manage divisions and disagreements that just do not go away. Thus, the study of DI needs to move up the research agenda of European integration. That, we now suggest, requires attention to differentiated integration as a concept, a theory, a process and a system.

### **Differentiated integration as a concept**

Often used interchangeably with the notion of ‘flexible integration’ (e.g., Kölliker [2001, 2006]; Warleigh [2002]), authors have noted how definitions of differentiated can diverge and even conflict (e.g., Dyson and Sepos [2010]; Kölliker [2001]; Stubb [1996]). Some have suggested more coherence could be gained by studying DI as a whole (e.g., Andersen and Sitter [2006]; de Neve [2007]; Warleigh [2002]), rather than piecemeal. Others have attempted to distinguish different dimensions of DI. Schimmelfennig et al. (2015) propose

that DI should be defined in two dimensions: the one representing differences in centralization (vertical differentiation); the other differences in territorial extension (horizontal differentiation). In addition, they make a distinction between internal (i.e., when member states opt out) and external (i.e., when non-member states opt in) horizontal differentiation. A further possibility might be to distinguish the purposes of DI – for example, as a series of ‘strategies’ aimed at ‘reconciling heterogeneity within the Union’ (Stubb 1996: 2) – from DI as a source of difference in the rights and obligations of member states (Kölliker 2001).

### **Differentiated integration as a theory**

Holzinger and Schimelfennig (2012) have described the study of DI as a field of many concepts, few theories and sparse data. Thus, the study of DI has itself moved at different speeds. Yet ensuring that the theory catches up with the conceptualization poses more than one challenge of theory building.

First, DI can be both *explanandum* and *explanans*. It is not just in need of explanation. It may also itself be an explanation of other aspects of the integration process. In particular, differential integration may establish path-dependencies, forks in the road, where, regardless of whether they have chosen to participate or abstain from a form of DI, there are high costs of reversing member states’ decisions (Pierson 1996). Thus, decisions of the UK and eurozone countries on monetary integration may have been cumulatively divergent, politically and economically, since the 1990s, maybe even from the 1970s.

Second, Schmitter’s (2000) comment that a good theory of European integration should also work as a theory of disintegration prompts the question how far theories of differential integration should be consistent with general theories of integration. When should we expect these theories to cohere with one another? Where, in contrast, should we expect them to be as different as the different things they seek to justify or explain?

Third, theories of DI should not just connect up with theories of European integration; they should also do so with theories of comparative politics. After all, the roots of DI are often in the domestic politics of member states, rather than in the integration process itself. Benjamin Leruth (2015) demonstrates the point through a study in this collection of how differences in party systems have affected the very different approaches Finland, Norway and Sweden have taken to differentiated integration.

Fourth, just as European integration is itself something of a sub-*genus* of multiple attempts in the international system to manage problems of interdependence through regional co-operation, so the EU is not the only regional body that integrates its participating states in different ways. As demonstrated by Alex Warleigh-Lack’s (2015) contribution to this collection, comparing forms of DI across regional bodies is a good starting point for distinguishing explanations that are likely to be generic to regional co-operations and those that are likely to be specific to the Union.

Fifth, there is a need for normative, as well as analytic, theories of DI. Debates about DI are never far removed from normative discussions of desirable forms of European integration. Should DI be valued as a way of allowing each national democracy greater freedom of choice over integration? Or does it devalue ‘fair schemes of co-operation’ at the European level, whilst complicating the evolution of shared democratic politics, deliberations and institutions? John Erik Fossum (2015) looks at problems that DI raises for ‘congruence’ in democratic representation. Christopher Lord (2015) argues that DI should be evaluated by how far it improves the management of externalities between member states, especially where those externalities affect the obligations governments owe their own publics to secure core values of democracy, justice and freedom from arbitrary domination within states.

### **Differentiated integration as a process**

The last two points have discussed the categories, types and theories that scholars may use to understand DI. However DI is also, of course, a real-world process. Thus, the research agenda needs also to include studies of how different forms of DI – opt-outs, enhanced co-operation, constructive abstention and so on – work in practice. Indeed, DI evolves over time through everyday policy practice, and not just by institutional design. Whilst member states uniformly applied most European rules until the late 1980s, more than half of EU policies are now implemented in different ways. Moreover, since the TEU, differential integration has itself taken several institutional forms. In 1997, the Amsterdam Treaty incorporated a form of DI by introducing the enhanced co-operation procedure. In addition, as emphasized by Leuffen *et al.* (2013: 27), ‘[u]nder the threat of non-ratification, recent treaties include or are accompanied by exemptions or other special clauses for individual member states’. This evolution suggests DI is now fully part of European integration and cannot be studied as the exception to the rule. As such, we suggest DI should be studied as a ‘normal’ feature of regional integration (see further, Warleigh-Lack [2015]).

Several factors, such as the different rounds of enlargement, the economic crisis or the rise of Euroscepticism, have played an important role in the development of differentiated European integration over time (Usherwood and Startin 2013). Recent political developments suggest that new forms of differentiation, such as disintegration (e.g., Greece and the UK) or re-integration (e.g., Denmark) could emerge. Similarly to an historical institutionalist account of European integration (Pierson 1996), differentiated integration studied as a process thus suggests it is a moving target, unfolding over time and providing new forms of integration.

### **Differentiated integration as a system**

Leuffen *et al.* (2013: 10) define the EU as a *system* of differentiated integration, i.e., ‘one Europe with an organizational and member state core but with a level



of centralization and territorial extension that vary by function'. Differentiated integration may, in other words, be crucial to how the Union works, a key means by which it secures such effectiveness and legitimacy as it does enjoy. Taking this thought further, we may fill in the system features. One of the features of DI as a system is the critical distinction between the *supply*- and the *demand*-sides of differentiated integration: or, in other words, the capacity of the system to supply DI and the demands actors make for it in its various forms. The British exit debate illustrates these tensions between the supply and demand sides: between the forms of differentiation demanded by the UK and the capacity of the EU to supply differentiated arrangements. Yet a similar supply/demand tension can be found throughout the history of European integration: in recent accession talks in the negotiations that led to the creation of EEA (Leruth 2015).

## CONCLUSIONS

The existing literature on differentiated integration is multifaceted. From a complex set of ideas introduced in the 1970s, DI is now an institutional reality, accounting for more than half of EU policies and expanding beyond the European borders. However, whilst DI has become a field of study, there is little consensus on how it should be studied. Far from attempting to resolve that difficulty, the first aim of this collection is to show that the complexity and plurality of approaches to studying DI is justified by the nature of DI itself. Second, and closely related to the first, the collection aims to show how studying DI as a concept, a theory, a process and a system is the *minimum* needed to understand it. Hence, the collection includes both theoretical and practical contributions. It also aims at no specific audience other than those with a general interest in European integration. Indeed, its third aim is to demonstrate the need to study DI as a permanent and normal feature of European integration. That is especially timely given discussions of British exit, developments within the eurozone and the continuing difficulties that countries like Norway and Switzerland encounter in 'being with but not of Europe', to use Churchill's evocative description of how his own country might attempt differential integration.

**Biographical notes:** Benjamin Leruth is research associate at the School of Social Policy, Sociology and Social Research, University of Kent, and a guest researcher at the ARENA Centre for European Studies, University of Oslo. Christopher Lord is professor at the ARENA Centre for European Studies, University of Oslo.

**Addresses for correspondence:** Dr Benjamin Leruth, School of Social Policy, Sociology and Social Research, Faculty of Social Sciences, Cornwallis North East, University of Kent, Canterbury, Kent CT2 7NF, United Kingdom. email: [b.j.leruth@kent.ac.uk](mailto:b.j.leruth@kent.ac.uk) / Prof. Christopher Lord, ARENA Centre for

**ORCID**Benjamin Leruth  <http://orcid.org/0000-0002-1999-918X>**REFERENCES**

- Andersen, S.S. and Sitter, N. (2006) 'Differentiated integration: what is it and how much can the EU accommodate?', *Journal of European Integration* 28(4): 313–30.
- Dahrendorf, R. (1979) 'A third Europe?', Paper presented at the third Jean Monnet Lecture, European University Institute, Florence, 26 November.
- de Neve, J.-E. (2007) 'The European onion? How differentiated integration is reshaping the EU', *Journal of European Integration* 29(4): 503–21.
- Dyson, K. and Sepos, A. (2010) 'Differentiation as design principle and as tool in the political management of European integration', in K. Dyson and A. Sepos (eds), *Which Europe? The Politics of Differentiated Integration*, Basingstoke: Palgrave Macmillan, pp. 3–23.
- Eliassen, K.A. and Sitter, N. (2003) 'Ever closer cooperation? The limits of the 'Norwegian Method' of European integration', *Scandinavian Political Studies* 26(2): 125–44.
- Fabbrini, S. (2015) *Which European Union? The European Union after the Crisis*, Cambridge: Cambridge University Press.
- Ferry, J.-M. (2000) *La Question de L'Etat Européen*, Paris : Gallimard.
- Fossum, J.E. (2015) 'Democracy and differentiation in Europe', *Journal of European Public Policy*, doi: [10.1080/13501763.2015.1020838](https://doi.org/10.1080/13501763.2015.1020838)
- Gstöhl, S. (2015) 'Models of external differentiation in the EU's neighbourhood: an expanding economic community?', *Journal of European Public Policy*, doi: [10.1080/13501763.2015.1020834](https://doi.org/10.1080/13501763.2015.1020834)
- Hanf, D. (2001) 'Flexibility clauses in the founding treaties, from Rome to Nice', in B. De Witte, D. Hanf and E. Vos (eds), *The Many Faces of Differentiation in EU Law*, Oxford: Hart, pp. 3–26.
- Hix, S. (2005) *The Political System of the European Union*, Basingstoke: Macmillan.
- Holzinger, K. and Schimmelfennig, F. (2012) 'Differentiated integration in the European Union: many concepts, sparse theory, few data', *Journal of European Public Policy* 19(2): 292–305.
- Kölliker, A. (2001) 'Bringing together or driving apart the Union? Towards a theory of differentiated integration', *West European Politics* 24(4): 125–51.
- Kölliker, A. (2006) *Flexibility and European Unification: The Logic of Differentiated Integration*, Oxford: Rowman & Littlefield.
- Lavenex, S. (2015) 'The external face of differentiated integration: third country participation in EU sectoral bodies', *Journal of European Public Policy*, doi: [10.1080/13501763.2015.1020836](https://doi.org/10.1080/13501763.2015.1020836)
- Leruth, B. (2015) 'Operationalizing national preferences on Europe and differentiated integration', *Journal of European Public Policy*, doi: [10.1080/13501763.2015.1020840](https://doi.org/10.1080/13501763.2015.1020840)
- Leuffen, D., Rittberger, B. and Schimmelfennig, F. (2013) *Differentiated Integration: Explaining Variation in the European Union*, Basingstoke: Palgrave Macmillan.
- Lord, C. (2012) 'On the legitimacy of monetary union', *SIEPS Report*, Stockholm: Swedish Institute for European Policy Studies.

- Lord, C. (2015) 'Utopia or dystopia? Towards a normative analysis of differentiated integration', *Journal of European Public Policy*, doi: [10.1080/13501763.2015.1020839](https://doi.org/10.1080/13501763.2015.1020839)
- Magnette, P. (2005) *What is the European Union? Nature and Prospects*, Basingstoke: Palgrave Macmillan.
- Moravcsik, A. (1993) 'Preferences and power in the European Community: a liberal intergovernmentalist approach', *Journal of Common Market Studies* 31(4): 473–524.
- Pierson, P. (1996) 'The path to European integration: a historical institutionalist perspective', *Comparative Political Studies* 29(2): 123–63.
- Puchala, D. (1972) 'Of blind men, elephants and European integration', *Journal of Common Market Studies* 10(2): 267–84.
- Schimmelfennig, F., Leuffen, D. and Rittberger, B. (2015) 'The European Union as a system of differentiated integration: interdependence, politicization and differentiation', *Journal of European Public Policy*, doi: [10.1080/13501763.2015.1020835](https://doi.org/10.1080/13501763.2015.1020835)
- Schmidt, V. (2004) 'The European Union : democratic legitimacy in a regional state', *Journal of Common Market Studies* 42(4): 975–99.
- Schmitter, P. (2000) *How to Democratise the European Union and why Bother?* Lanham, MD: Rowman and Littlefield.
- Smith, M. (1996) 'The EU as an international actor', in J. Richardson (ed.), *European Union Power and Policy-Making*, London: Routledge, pp 289–310.
- Stubb, A. (1996) 'A categorisation of differentiated integration', *Journal of Common Market Studies* 34(2): 283–95.
- Tindemans, L. (1975) 'European Union: report by Mr Leo Tindemans, prime minister of Belgium, to the European Council', *Bulletin of the European Communities*, supplement 1/76.
- Usherwood, S. and Startin, N. (2013) 'Euroscepticism as a persistent phenomenon', *Journal of Common Market Studies* 51(1): 1–16.
- Wallace, H. and Ridley, A. (1985) *Europe the Challenge of Diversity* (Chatham House Papers), London: Routledge.
- Warleigh, A. (2002) *Flexible Integration: Which Model for the European Union?* London: Sheffield Academic Press.
- Warleigh-Lack, A. (2015) 'Differentiated integration in the European Union: towards a comparative regionalism perspective', *Journal of European Public Policy*, doi: [10.1080/13501763.2015.1020837](https://doi.org/10.1080/13501763.2015.1020837)
- Wright, R. (2008) *One Nation under Debt, Hamilton, Jefferson and the History of What we Owe*, New York: McGraw Hill.
- Zielonka, J. (2007) *Europe as Empire. The Nature of the Enlarged European Union*, Oxford : Oxford University Press.