Governing Differentiation and Integration in the European Union: Patterns, Effectiveness and Legitimacy

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**ABSTRACT**
We present here the key theoretical underpinnings and general approach of the Special Issue “Governing Differentiation and Integration in the European Union: Patterns, Effectiveness and Legitimacy”, which collects contributions of a group of experts and scholars from the Horizon 2020 EU IDEA – Integration and Differentiation for Effectiveness and Accountability project. The key concepts for the analysis are clarified, namely differentiation, differentiated integration, effectiveness, legitimacy and sustainability. The basic claim of the Special Issue is that differentiation is not only necessary to address current challenges more effectively by making the Union more resilient and responsive to citizens. By introducing a useful degree of flexibility in the complex EU machinery, differentiation is also desirable, so long as such flexibility is compatible with the core principles of EU constitutionalism and identity, sustainable in terms of governance and acceptable to EU citizens, member states and affected third partners.

Differentiation, in the form of derogations and exceptions granted to some member states, has been part of the European integration project since the early days of the Treaty of Rome, although in a bland and transitory way (Hanf 2001). In fact, according to the Monnet Method, European integration would proceed by functional means towards an ever closer Union (Monnet 1978). However, it soon became evident that European integration was not heading towards a homogeneous outcome. Rather, it was advancing towards a plurality of differentiated integration arrangements that varied across policy sectors, included different groups of members and presented an array of distinctive decision-making methods.

The rise of differentiation as one of the most enduring, if not defining, features of European integration can be ascribed, in particular, to the dual transformation undergone by the European Communities from the late 1980s and early 1990s – first, from an economic community to a (differentiated) political union, including core state powers (Genschel and Jachtenfuchs 2015); and second, through the adoption of the new, ambitious enlargement agenda that followed the end of the Cold War. Differences between groups of member states and in decision-making procedures were crystallised, above all, by the establishment of the Economic and Monetary Union (EMU) in 1992 and

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a treaty-based recognition of differentiation, first with the Maastricht Treaty (in 1992/1993, which allowed for opt-out clauses) and then with the Amsterdam Treaty (in 1997/1999, which allowed for closer/enhanced cooperation). At the same time, differentiation became an instrument to accommodate different priorities and concerns of EU and candidate countries in the run-up to and after the 2004-2007 ‘Big Bang’ enlargement and, eventually, to accommodate EU relations with third countries that cannot or do not want to join as full members.

Today, for good or ill, differentiation has become the new normal in the European Union (EU) as an established feature of European integration (Leuffen et al. 2013). The Eurozone and the Schengen area, in particular, have consolidated into long-term projects of differentiated integration among EU member states. In an important recent development, Permanent Structured Cooperation (PESCO, Arts. 42(6) and 46 Treaty on European Union [TEU]) has been launched in the field of defence, enabling groups of willing and able member states to join forces through new, flexible arrangements. The diverse and often conflicting reactions of member states to the challenges posed by the economic and financial crisis and migration reinforced the belief that uniformity is unattainable in times of political, social and economic turmoil. The risk of Grexit first and the occurrence of Brexit later debunked the idea held by most European leaders and scholars that the process of European integration be irreversible, bringing to the fore new critical questions concerning the relationship between the EU and a former member state. This also connects to the debate on the design and evolution of manifold models of cooperation between the EU and its member states as well as accession and other neighbouring countries, and beyond – an increasingly important dimension of differentiation given the unstable strategic environment of the EU.

EU institutions and member states recognised this evolution, as witnessed by the European Commission’s White Paper on the Future of Europe (European Commission 2017) and the Rome Declaration (European Council 2017) adopted in March 2017. The initial reaction to the Covid-19 pandemic further reinforced the trend towards increased differentiation, as some member states unilaterally decided to close their borders, effectively suspending the Schengen Agreement, or to block the supply of protective medical equipment. Later on, the establishment of the Next Generation EU recovery plan and a Union-wide vaccination strategy suggested the inception of a process of de-differentiation. Nevertheless, it is still early days, and we cannot exclude risks of fragmentation linked to the asymmetrical consequences of the Covid-19 crisis in economic and social terms. In fact, new patterns of differentiation may emerge in the upcoming debate about the reform of the EU’s economic governance framework (Eisl and Rubio 2021).

Hence, the time has come to adapt the conceptual tools to the new political, institutional and policy trends and move on from the ‘black-and-white’ debate about differentiation as poison or panacea in a way that allows us to evaluate it in light of its causes, dynamics and impact. The political, institutional and economic challenges that Europe is facing pose a serious risk but also present a great opportunity. While making the unravelling of the EU a real possibility, political fluidity and turmoil have also opened a window for a leap forward in integration. The question arises whether the proliferation of differentiation mechanisms over time contributed to the EU’s fragility or, on the contrary, enhanced its resilience by introducing a useful degree of flexibility in the
complex EU machinery. This leads to the related question of how much and what form of differentiation propels European integration forward – as a whole and in specific policy areas – and under what conditions differentiation should be avoided instead to prevent incoherence, political tensions and potential disintegration.

With a view to discussing these questions, this Special Issue edited by Nicoletta Pirozzi, Matteo Bonomi and Sandra Lavenex collects a number of contributions of experts and scholars from the Horizon 2020 EU IDEA – Integration and Differentiation for Effectiveness and Accountability – project.\(^1\) The basic claim underpinning the various articles is that differentiation is not only necessary to address current challenges more effectively by making the Union more resilient and responsive to citizens. By introducing a useful degree of flexibility in the complex EU machinery, differentiation is also desirable, so long as such flexibility is compatible with the core principles of EU constitutionalism and identity, sustainable in terms of governance and acceptable to EU citizens, member states and affected third partners.

In line with these premises and objectives, the articles will conduct an historical investigation of the origins of differentiation from the beginning of the EU integration process (Brunazzo 2022, this Special Issue); propose a framework to study differentiation governance, effectiveness and legitimacy (Lavenex and Križić 2022, this Special Issue), including at sub-national level (Tortola and Couperus 2022, this Special Issue); analyse narratives of political unity in times of differentiation (Tekin and Meissner 2022, this Special Issue); investigate the practice of differentiation in key policy areas, including economic policy (Eisl and Rubio 2022, this Special Issue), foreign and security policy (Siddi, Karjalainen and Jokela 2022, this Special Issue) and migration (Comte and Lavenex 2022, this Special Issue), as well as in light of Brexit (Wachowiak and Zuleeg 2022, this Special Issue). A final contribution (Pirozzi and Bonomi 2022, this Special Issue) will propose a multi-dimensional and innovative approach that accounts for different models, dimensions and actors of differentiation.

This introduction first offers an overview of the relevant literature that focused on differentiated integration over time, including the most recent contributions, with a view to identifying main trends, topics and gaps. It then defines the key concepts that will be the subject of analysis in the Special Issue, namely differentiation, differentiated integration, effectiveness, accountability and sustainability. It goes on to point out the underlying approach of the Special Issue and finally provides an overview of its content.

**Overview of the literature on differentiated integration**

Differentiated integration has been part of the political debate about European integration from its very beginning. As shown by Marco Brunazzo’s (2022) contribution in this Special Issue, the notion of differentiated integration has always been present in the ideas and concepts used by politicians to deal with the major crises and dilemmas of European integration. Terms such as *core Europe* (Wolfgang Schäuble and Karl Lamers), *avant-garde* (Jacques Chirac), *centre of gravity* (Joschka Fischer) and *directories* (Charles de Gaulle) all refer to different forms and interpretations of differentiation. And yet, the

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\(^1\)More information on the EU IDEA project can be found at [https://euidea.eu/](https://euidea.eu/).
academic investigation of differentiated integration emerged relatively late, and only as part of the overall efforts to conceptualise, understand and explain the profound changes that followed the relaunch of the European integration project after the mid-1980s.

Indeed, academic articles (in English) on the issue of differentiated integration in the EU started to appear gradually after 1995, but their number grew dramatically only after 2007, reflecting the increasing differentiation of EU policies (Leruth et al. 2019). Nonetheless, this growing interest has been multifaceted and has not mirrored or simply followed institutional and political change in the EU. Over the years, different definitions of and approaches to differentiated integration have been proposed, as part of the overall effort to theorise the deepening and widening moments of integration, as well as studying the EU as a peculiar – differentiated – system of policymaking, as it emerged especially after the Maastricht Treaty.

The first phase of research on differentiated integration began as part of the renewed debate among political scientists about European Economic Community (EEC)/EU institutional changes. The Single European Act (1986/1987) and the Maastricht Treaty (1993) provided the first two major sets of amendments to the Treaties of Rome, whereas a third set was negotiated during the 1996-1997 Intergovernmental Conference. In this context, new reflections about ‘flexible’ integration emerged in an effort to deal with three main issues. First, opt-outs in the form of ‘subjective’ (that is, as a result of a political choice by opting-out countries) and ‘objective’ (that is, due to some countries not meeting the requirements for participation in certain arrangements) derogations to EU primary law were granted to some member states at Maastricht (see Brunazzo 2022, this Special Issue). These opt-outs challenged common assumptions on EU membership, as they were making the boundaries between integration and non-integration less clear-cut (Howarth 1994). Second, there was the perception of a loss of homogeneity as the new institutional architecture of the EU was breaking the unity of its decision-making by coupling the ‘supranational method’ (in the first pillar) with intergovernmental cooperation in the second and third pillars, covering the newly acquired domains of Justice and Home Affairs and Common Foreign and Security Policy respectively (Wallace and Wallace 1995). Third, the new ambitious enlargement agenda exposed the Union to an even greater degree of heterogeneity both internally, in terms of membership, and externally, as new countries were entering the EU’s neighbourhood. All this seemed to require the Union to acquire even greater flexibility (Centre for Economic Policy Research 1995).

Against this backdrop, one of the first tasks for EU scholarship was to bring some clarity to the concept of differentiated integration (Wallace and Wallace 1995; Stubb 1996). In this regard, one of the first attempts was made by Alexander Stubb (1996), who defined the concept as “the general mode of integration strategies which try to reconcile heterogeneity within the European Union (EU)” (283). Stubb suggested pegging the concept of differentiated integration to three variables, namely time, space and matter, corresponding to temporal, territorial and sectoral differentiation. These variables were associated with three main categories of differentiated integration – multi-speed, variable geometry and à la carte – that corresponded to three groups of preferences among the member states at the intergovernmental conferences of those years (Stubb 1996; 2002). Still, it was the adoption of the provision for closer cooperation in the Treaty of Amsterdam, then mutated into “enhanced cooperation” in Nice, that was the real catalyst
for the academic discussion on differentiated integration (Wallace 1997; Wessels 1998; Philippart and Edwards 1999). Although the new provision immediately appeared unpractical, it attracted a lot of attention as it was giving “constitutional entrenchment” to the concept of flexibility (Philippart and Edwards 1999, 87). The provision in fact underlay the new philosophy and principles of differentiated integration, giving scholars the occasion to think about the rising demands to accommodate diversity within the EU (Warleigh 2002) and ponder under what conditions flexibility could become an instrument that triggers integrative dynamics among the member states rather than disintegrative forces (Kölliker 2001; 2006).

At the same time, at the turn of the century, various new perspectives started to appear in EU studies that brought the attention of a number of scholars away from the classical focus on European integration theories. This second phase of research on differentiated integration can be associated with the so-called “governance turn” in EU studies, which, while missing a clear focus on differentiated integration, provided a number of empirical insights on the practice of differentiation. Indeed, beyond the rare moments of crisis and change that were “the peak”, the vast majority of “the EU policy iceberg” was in fact happening “below the water line” and deserved to be studied on its own (Richardson 1996, 5). Thus, a new generation of comparative research (Richardson 1996; Marks et al. 1996; Hix 1998) started to occupy the field of EU studies, looking at the EU as a complex, multi-level political system. Within such a context, some interesting insights on differentiated integration emerged from studies that were looking at the interaction between European and national structures and provided some country-focused empirical analyses of ‘variable Europeanisation’ (Börzel and Risse 2003; Kohler-Koch and Larat 2009). In particular, some important case studies were undertaken covering specific policy fields, for example, by looking at Euro-outsiders (Miles 2005; Marcussen 2009) or at practices of opting out in Justice and Home Affairs (Adler-Nissen 2009). With the completion of EU enlargement to Central and Eastern Europe, another important aspect that started to attract scholars’ attention was EU external governance relations and regulatory ties with third countries, which began to be seen as the external face of EU differentiated integration (Lavenex 2004; 2011). During this period, however, efforts to assess the impact of differentiated integration as a whole remained rare. Some exceptions were the works that tried to link the literature on Europeanisation to studies on European integration through an organisational perspective, inquiring into the systemic impact of differentiation on the sustainability of EU structures (Andersen and Sitter 2006). There were also studies that explicitly left aside the governance perspective in order to look at the politics of differentiated integration among the member states (Dyson and Sepos 2010).

A turning point in the research on differentiated integration was undoubtedly the emergence of the so-called ‘Swiss-German’ school, which can be seen as the third phase in the study of differentiated integration that tried to provide a synthesis of the first two periods. In a foundational article for this new research agenda, Katharina Holzinger and Frank Schimmelfennig (2012) pointed to the limitations of previous studies, namely their lack of a systematic approach, which did not allow making progress in the understanding of differentiated integration. In more detail, these limitations included the lack of analytical clarity, an unsystematic approach to empirical analysis and limited engagement with theories aiming at explaining differentiated integration. In particular, they criticised Stubb’s original categorisation as not providing clear criteria for classification
on which to build upon. Indeed, Holzinger and Schimmelfennig stressed that the only distinction proposed by Stubb that had an analytical value was the one “between temporary and permanent differentiation”, whereas “space and matter are by definition involved in all types of differentiation” (296). By contrast, they proposed six criteria for binary classification of differentiated integration across different policy fields that should lay down the foundations of a more systematic approach to the study of differentiated integration:

(1) permanent v. temporary differentiation; (2) territorial v. purely functional differentiation; (3) differentiation across nation states v. multi-level differentiation; (4) differentiation that takes place within the EU treaties v. outside the EU treaties; (5) decision-making at EU level v. at regime level; (6) only for member states v. also for non-member states/areas outside the EU territory (297).

This type of research agenda made a substantial step forward just one year later (Leuffen et al. 2013). In line with comparative approaches that had developed in the meantime within the EU Studies, a system of three variables was introduced to classify differentiated integration and compare any polity type according to its level of centralisation, functional scope and territorial extension. In contrast to both unitary states and international organisations, the EU appears to have no congruence between the three variables, as the level of centralisation and territorial extension vary from function to function. Therefore, Leuffen et al. concluded that the EU constitutes a self-standing type of polity, which can be described as a system of differentiated integration. Moreover, this classification allowed for a systematic classification of the level of centralisation (or vertical integration) and the territorial extension (or horizontal integration) for each policy area of the EU, thus making it possible to capture and quantify both integration and differentiation dynamics over time. Finally, this kind of systematic empirical analysis gave enough ground to test and evaluate different theories of integration (Ibid.).

Still, with the EU entering a continuing period of successive crises with the economic and financial crisis (2008-2012), migration governance crisis (2015-2016), Brexit (2016-2020) and Covid-19 pandemic (2020-2022), the perspective offered by integration theories, explaining the EU as an outcome, suddenly appeared as telling only part of the story. In fact, as a consequence of these crises, the EU had become “more institutionally complex, less territorially coherent, and also less elite-driven than it used to be” (Genschel and Jachtenfuchs 2015, 14). The need to broaden the research agenda on differentiated integration accordingly was highlighted, already in 2015-2016, by two special issues on the topic that discussed the challenge to study differentiated integration in a post-crisis EU as a concept, a process, a system and a theory (Leruth and Lord 2015), and to look at differentiated politicisation of EU governance by enquiring various mechanisms of politicisation and their impact on EU decision-making (de Wilde et al. 2016). The impression was that the crises forged an even more differentiated EU that could experience accelerated integration, disintegration and differentiation all together and at the same time (Fossum 2015). As part of this line of thinking, Sergio Fabbrini (2015) argued that, within the EU, multiple Unions co-existed that were the product of original governance differentiation between the supranational and intergovernmental regimes, as defined in the Maastricht Treaty.
The altered geopolitical environment that followed the Arab uprisings (2011) and the Russian illegal annexation of Crimea (2014), the more manifest divisions within the EU following the Euro and migration crises, and, finally, the rise of Euro-scepticism and the 2016 UK referendum on Brexit certainly confirmed these trends. All these posed further questions on the trajectory of European integration. It was proposed that EU theories of integration and differentiated integration should at least be complemented by a theory of disintegration and differentiated disintegration (Schimmelfennig 2018; Gänzle et al. 2020). More generally, EU studies started to shift the focus from differentiated integration to the concept of differentiation as such, to express the open-ended nature of a multi-status or structurally differentiated EU, which could be eventually described as “a segmented political order” (Bátora and Fossum 2020). At the same time, this shift emphasised the need to go beyond existing scholarship’s focus on the regulatory dimension of differentiation to also encompass its organisational component, that is, looking at the multifaced participation of EU member states, sub-state entities and third-country actors in the panoply of EU policymaking institutions, including regulatory agencies and transgovernmental networks (see Lavenex and Križić 2022, this Special Issue).

Definitions and theoretical underpinnings

Our literature review shows that differentiated integration has been the subject of an intense academic debate, and the discussion around it is currently undergoing a revision linked to traumatic events in the recent history of the EU. These include the emergence of a challenging geopolitical environment, the breakdown of migration governance (see Comte and Lavenex 2022, this Special Issue), Brexit as a process of differentiated disintegration (see Wachowiak and Zuleeg 2022, this Special Issue) and the consequences of the Covid-19 pandemic on European integration. It is therefore of utmost importance to define some key concepts that represent the overall theoretical underpinnings of this Special Issue.²

Differentiation

The central concept of our analysis is differentiation, defined as any modality of integration or cooperation that allows states (members of the European Union and non-members) and sub-state entities to work together in non-homogeneous, flexible ways.

This broad definition allows for a comprehensive, multi-dimensional approach capturing the various shapes that differentiation takes in the EU context. First, it accounts for the commonly held understanding that differentiation occurs when some EU members, potentially joined by non-EU members, further integrate within the EU acquis, or cooperate beyond the existing EU acquis, or partly opt out of it, which creates arrangements whose membership differs from formal EU membership. Second, the definition makes clear that members or actors of differentiation in the EU are not necessarily states but that various sub-state actors, including regulators or local authorities, and transnational networks may be involved in these processes (see Tortola and Couperus 2022, this

²For a more complete elaboration of differentiated integration from the perspective of its governance, effectiveness and legitimacy see Lavenex and Križić’s (2022) contribution in this Special Issue.
Special Issue). Last but not least, our definition is open to a crucial feature of differentiation that is widely neglected in the literature, namely that differentiated cooperation manifests itself not necessarily in different levels of legal integration, but also at an organisational level, through non-homogeneous participation in the institutional venues where EU-related policies are designed and implemented.

On this basis, we assume that differentiation has become the new normal in the EU as an established feature of European integration. At the same time, we do not link a (pre-) determined end state to differentiation: it can be a tool for progressive convergence and integration, a symptom of political fragmentation or simply a solution for managing diversity. In other words, in our view, differentiation is inherently neither integrative nor disintegrative.

**Differentiated integration**

Differentiated integration is defined by the European Commission (1997) as a process of integration in which the member states, potentially joined by non-EU members, opt to move forward at different speeds and/or towards different objectives, in contrast to the notion of a monolithic bloc of states pursuing identical objectives at one speed. Examples of differentiated integration are the EMU, the Schengen system, PESCO in the field of defence.

In our conceptualisation, though, differentiated integration is to be treated as one possible outcome of differentiation (as defined above). Other possible outcomes are differentiated cooperation – such as in the field of foreign and security policy, where coordination of national policies in restricted groups of member states (potentially joined by non-EU members) occurs in the margins of or outside EU institutional structures or legal frameworks (see Siddi et al. 2022, this Special Issue) – and differentiated disintegration – such as in the unprecedented experience of Brexit, which was described as a “selective reduction of a member state’s level and scope of integration” (Schimmelfennig 2018).

Going back to our definition of differentiation, differentiated integration can also involve actors beyond states, including for example transnational networks of local authorities. Moreover, traditional approaches that focused exclusively on the regulatory aspects of differentiated integration do not grasp the entirety of the process, which involves different stages of the policy cycle, from agenda-setting to policymaking and policy implementation, and thus need to be complemented by the organisational dimension (see Lavenex and Križič 2022, this Special Issue).

Therefore, differentiated integration is here defined as a formally organised EU arrangement that (i) is constructed by a differentiated group of EU national and/or sub-national actors, potentially joined by non-EU actors; (ii) identifies legal commitments that provide guidance on how its members should behave in a specific sector (regulatory commitment); and (iii) establishes one or more dedicated governance bodies to sustain and move forward the integration process (organisational dimension).

**Effectiveness**

Our analysis considers differentiation not an end in itself, but rather a tool to handle the challenges facing the EU. Our comparative analysis therefore aims to assess to what extent each form of differentiation is effective – inasmuch as it introduces a degree of flexibility that facilitates policymaking, policy implementation and problem-solving –
sustainable – inasmuch as it preserves the homogeneity required to avoid disintegration – and legitimate – inasmuch as it is recognised by EU citizens, member states and affected third partners as appropriate.

The effectiveness of differentiation is measured in terms of output – the degree to which it facilitates policymaking; outcome – the degree to which it facilitates policy implementation; and impact – the degree to which it facilitates problem-solving. Thus, effectiveness entails generating policy outputs whose outcome is to solve policy problems (Lavenex and Križić 2022, this Special Issue). In order to define differentiation as effective, it should be assessed against two main benchmarks: (i) a relative policy change scenario – did differentiation produce an improvement compared to a hypothetical state of affairs without differentiation? And (ii) an ideal scenario – did differentiation constitute an appropriate or even ideal solution to the underlying policy issue? (Underdal 2002; Lavenex and Križić 2022, this Special Issue). Also, the effectiveness of differentiation should be evaluated both within the various differentiated arrangements and for the Union as a whole.

For each case, it should be possible to measure the effectiveness of differentiation by isolating it from other factors affecting the effectiveness of that specific policy arrangement. For example, in the Joint Comprehensive Plan of Action (JCPOA) negotiations for the Iranian nuclear programme, it should be possible to isolate the assessment of the effectiveness of the EU’s lead group (that is, by looking at its role in the negotiations) from other factors (that is, the US stance before and after Trump).

Possible variations in effectiveness are linked to a number of factors: excludability, which “measures whether free-riding is possible, that is, whether or not outsiders can be excluded from the benefits of a specific good” (Kolliker 2001, 130); compliance effect, which stems from the risk of suffering material penalties, but also from the loss of reputation for the infringing member; and great powers’ positioning, which exert influence on the objectives of a differentiated policy or institution with their preferences (see Lavenex and Križić 2022, this Special Issue).

Sustainability

The sustainability of differentiation is addressed to identify the scope and form of homogeneity that is required to make heterogeneity a tool for (internal and external) integration rather than disintegration. The sustainability of differentiation should be measured with reference both to a single differentiated policy or institution and to its compatibility with the resilience of the overarching EU governance.

Possible variations in sustainability are linked to: normative criteria, namely the objectives of the commitment and their compatibility with the core constitutional elements of an ever closer Union; regulatory criteria, namely the scope of the commitments, their legal quality and the extent of legal commitment; and organisational criteria, namely the existence of pertinent bodies at different levels of governance that are in charge of the different stages of the policy cycle, from agenda-setting to policy evaluation.
**Legitimacy and accountability**

*Legitimacy* is defined as “beliefs within a given constituency or other relevant audience that a political institution’s exercise of authority is appropriate” (Tallberg and Zürn 2019, 585). *Accountability* is defined as “a relationship between an actor and a forum, in which the actor has an obligation to explain and justify his or her conduct, the forum can pose questions and pass judgement, and the actor may face consequences” (Bovens 2007, 450).³

Our analysis will detect and analyse mechanisms of democratic scrutiny and participation to assess the legitimacy and accountability of different degrees and types of differentiation. In order to assess the legitimacy and accountability of a differentiated policy or institution, we take into consideration the perspective of different constituencies and audiences, notably citizens in EU member states that participate in a differentiated policy or institution, citizens in EU member states that have opted out and citizens in differentiated non-member states (that is, non-EU members having opted in). Our framework is based on the analysis of models of accountability that exist in supranational, intergovernmental, regulatory and other arrangements of differentiated governance; as well as discursive, behavioural and institutional practices of legitimation in accountability fora.

Possible variations in legitimacy and accountability are linked to: *authority*, defined as “the recognition that an institution has the right to make decisions and interpretations within a particular area” (Tallberg and Zürn 2019, 586); *procedural standards*, based on the participation rights in the whole policy cycle, from agenda-setting to policy evaluation; *impact*, namely the capacity to deliver effective problem-solving and provide benefits that cannot otherwise be obtained; and *great powers’ positioning*, which might produce hegemonic repression or influence on a differentiated policy or institution.⁴

**Analytical approach**

In this Special Issue, these concepts are applied to propose an up-to-date and policy-oriented approach to differentiation in the EU, based on the following assumptions.

While recent scholarship has made important progress in conceptualising and measuring the legal or regulatory dimension of differentiated integration (that is, who is bound by which policies and why), we claim that a comprehensive account needs to address also its organisational dimension (that is, who participates in the production of these policies and why) – as well as the interplay between the two (see Lavenex and Križić’ 2022, this Special Issue). We do so by addressing differentiation at the level of both legal commitments and organisational involvement in EU governance. In other words, we put the politics and organisational forms of differentiation at the core of our work, focusing both on the processes leading to different modalities of differentiation and on the implementation of the latter.

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³For a systematic analytical framework to assess accountability in various differentiated integration formats see Nguyen (2020).

⁴See Lavenex and Križić’s (2022) contribution in this Special Issue.
The academic debate on differentiated integration is characterised by the proliferation of different concepts, ranging from 'concentric circles' to 'core groups' to 'multi-speed Europe' to 'Europe à la carte', which has added confusion among the general public. At the political level, differentiated integration has often been presented as a path towards the creation of first- and second-class member states or, more recently, as a way to accommodate British and other national claims for exceptionalism. With a view to bridging the divide between the conceptual debate and the reality of differentiation through an inter-disciplinary and policy-oriented approach, we analyse differentiation as a policy choice and practice within specific policy sectors. In order to highlight opportunities, benefits and risks of more or less differentiation, we focus on three main policy areas, which are at the core of the European construction: the EMU and the Single Market; foreign, security and defence policy; and Justice and Home Affairs, including migration.

In particular, the analysis in this Special Issue focuses on the outcome, output and impact of differentiation in order to assess its effectiveness. With a view to appraising the sustainability of different degrees and types of differentiation, the policy analysis investigates their interplay with the following (non-mutually exclusive) outcomes: centripetal forces that lead to further and accelerated integration among some EU members (differentiated integration); centrifugal forces that lead to fragmentation among EU members (differentiated disintegration); and cooperation between EU member states and non-EU countries (external differentiation). Moreover, it considers whether and to what extent the various forms of differentiation are in line with the foundational elements of EU constitutionalism and identity, such as political unity, legal uniformity and core values like rule of law and solidarity. Finally, it also looks at institutions and mechanisms of democratic scrutiny and participation in order to assess the legitimacy and accountability of different degrees and types of differentiation.

Adding differentiated disintegration as a possible pattern alongside differentiated integration and external differentiation allows us to capture the experience of Brexit as an unprecedented case in the history of the European project. The UK's departure from the EU represents a unique process of disintegration with a far-reaching impact on the EU's capacity and effectiveness to pursue its goals, as well as implications for the Union's political unity. Even though the concrete shape of the future EU-UK relationship is still uncertain, it has become clear that it will be far more distant and potentially conflictual than originally envisaged. The lack of a deep and comprehensive partnership covering all areas, from financial services to foreign and security policy, will have economic, political and geopolitical implications for the EU and the UK. Therefore, it is crucial to assess how the new EU-UK arrangements fit into the existing picture of EU external differentiation and look into the effects of the Brexit process and the emerging EU-UK relationship on the EU's principles and political unity, as well as the implications of a more distant EU-UK relationship for attaining shared goals.

Finally, the analysis presented in this Special Issue also aims at mitigating the state-centric logic of differentiation in scholarship and political debate by focusing on experiences initiated and conducted by sub-national actors through the creation of transnational networks.
Overview of content

The Special Issue begins by looking at “The Politics of EU Differentiated Integration: Between Crises and Dilemmas”. In this first article, Marco Brunazzo provides a historical overview of the debate about differentiated integration from the beginning of the EU integration process to the 2017 White Paper on the Future of Europe. This debate can be divided into three different periods, according to the main dilemmas that policy-makers tried to address respectively: (i) a political dilemma about the ‘final destination’ of the EU integration project between the 1950s and the 1980s; (ii) a legal dilemma about the mechanism to adopt to promote differentiated integration in the 1980s and the 1990s; and (iii) an institutional dilemma about the growing complexity of EU institutions, begun in the 2000s and encapsulated in the Lisbon Treaty (2007). As Brunazzo shows, every period of debate coincided with a specific type of crisis – respectively, a crisis of design, a crisis of (foreseen) enlargement and a crisis of economic adaptation.

The following contribution on “Governance, Effectiveness and Legitimacy in Differentiated Integration: An Analytical Framework”, by Sandra Lavenex and Ivo Krizic, develops a comprehensive analytical framework for studying differentiated governance in practice and the conditions under which this is effective and legitimate. Going beyond existing scholarship’s focus on the legal dimension of differentiated integration, the article first emphasises its organisational component and the interplay between the legal and organisational dimensions of differentiated integration. It subsequently introduces measures for assessing and conditions for explaining the effectiveness and legitimacy of differentiated integration by drawing on insights from European Studies and International Relations theory.

The contribution by Pier Domenico Tortola and Stefan Couperus on “Differentiated Cooperation through Local Authority Networks: Challenges and Opportunities” focuses specifically on transnational networks of local authorities as an established and growing phenomenon in Europe, where they perform a number of (soft) governance functions for their membership, often in direct connection with EU institutions. It examines networks from the angle of institutional differentiation – an inherent trait of these organisations – in order to expand the analysis of this concept beyond its state-centric confines. The article also adds to the study of (differentiated) integration more traditionally defined, both by analogy and insofar as networks are part and parcel of the Union’s system of multi-level governance. Building on original empirical data, it identifies three dimensions of differentiation generated by networks – insider-outsider, compound and multi-level differentiation – and discusses their implications for the efficiency, effectiveness and legitimacy of these networks’ actions.

Heterogeneity among EU member states has continuously grown through enlargement processes or the outbreak of specific crises. After reaching important outcomes such as the EMU or the Schengen Agreement, in the face of the Big Bang enlargement of 2004, both national and EU representatives committed to the motto ‘united in diversity’, confident that the European project would progress and deepen. Nevertheless, the subsequent crises in the Euro area posed a number of new internal and external challenges to the European integration process as well as the EU’s political unity, making permanent forms of differentiated integration more likely. The article by Funda Tekin and Vittoria Meissner, titled “Political Differentiation as the End of Political Unity?
A Narrative Analysis”, outlines how the EU narrative of political unity changes in times of increasing political differentiation and consequent differentiated integration. As such, it conducts a narrative analysis of two cases, the period 2000-2004 preceding the Big Bang enlargement as well as the years of the crises in the Euro area between 2010 and 2014. Although the existing narrative of political unity in the EU changed in response to the crises to the more sceptical narrative ‘divided in unity’, the analysis shows that differentiation is not a threat to political unity.

The following section of the Special Issue includes three articles that each focus on a particular policy area in order to analyse the practices of differentiation, their performance in terms of effectiveness and accountability, as well as their impact on integration, coordination, fragmentation and disintegration dynamics. So far, research on differentiation in the EU has focused on explaining why a sub-set of member states and/or countries beyond the EU decide to integrate and cooperate more deeply. Less work has been devoted to assessing the effectiveness of such arrangements, potentially creating more complexity and problems of accountability or endangering the EU’s cohesion in the long run.

In this direction, the article by Andreas Eisl and Eulalia Rubio on “What Makes Economic Differentiation Effective? Insights from the EU Energy Sector, Banking Union and Third-Country Access to the Single Market” applies a public-policy approach and aims to understand under what conditions differentiated procedures and institutions prove to be effective in the field of economic policy. In doing so, the authors first develop an encompassing and dynamic definition of policy effectiveness that allows them to assess and compare the performance of economic differentiated integration arrangements. Second, they identify a number of institutional factors that positively influence the effectiveness of EU differentiated economic policy arrangements: namely, the presence of (i) a good ‘fit’ between their institutional design and policy objectives; (ii) institutional mechanisms to adapt them over time; and (iii) institutional provisions to prevent or mitigate negative side effects for the EU as a whole.

Differentiation is a frequent modus operandi in European foreign and defence policy. EU treaties introduced legal frameworks for various types of formal differentiated integration in these areas, but they have rarely been used in the field of foreign policy and only recently launched in the field of defence policy. At the same time, EU member states have engaged in a range of informal practices of differentiation, such as regional groups, contact and lead groups, and various defence initiatives. The article “Differentiated Cooperation in the EU’s Foreign and Security Policy: Effectiveness, Accountability, Legitimacy” by Marco Siddi, Tyyne Karjalainen and Juha Jokela assesses the effectiveness, legitimacy and accountability of differentiated cooperation practices in EU foreign and security policy. Drawing on the cases of EU foreign policy in the Western Balkans, the Middle East Peace Process, negotiations on Iran’s nuclear programme and the Ukraine crisis, 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.

Moving to the field of migration, Emmanuel Comte and Sandra Lavenex address the patterns of “Differentiation and De-Differentiation in EU Border Controls, Asylum and Police Cooperation” since the 1980s. They argue that differentiation in the fields of border, asylum and police cooperation in the EU has traditionally been explained
through the opposition of Euro-sceptic member states and sovereignty concerns. Starting with a historical overview, the article emphasises the role played by the main proponent of cooperation, Germany, in kickstarting and maintaining integration through differentiation. For roughly two decades, this approach proved effective in ultimately triggering a process of ‘de-differentiation’, that is, gradually integrating differentiated cooperation in this area into EU structures, producing joint policy output and enlisting the cooperation of non-EU member states. Yet, in recent years, growing external migration challenges have undermined the effectiveness and legitimacy of existing arrangements, ushering in disintegration tendencies.

As mentioned, the UK’s departure from the EU represents a unique process of disintegration with a far-reaching impact on the EU. While it is still uncertain how the EU-UK partnership will be implemented, the relationship will clearly be far more distant and potentially conflictual than originally envisaged. The article “Brexit and the Trade and Cooperation Agreement (TCA): Implications for Internal and External EU Differentiation” by Jannike Wachowiak and Fabian Zuleeg first examines the effectiveness, sustainability and legitimacy of the TCA, to then look into what sets the EU-UK relationship apart from previous forms of differentiation and how this affects the notion of differentiation in Europe. It finally highlights the changes that Brexit has implied for external differentiation and the potential future consequences for both external and internal differentiation.

In the final contribution of this Special Issue, titled “Differentiation and EU Governance: Key Elements and Impact”, co-guest editors Nicoletta Pirozzi and Matteo Bonomi provide a multi-dimensional approach that accounts for different models (integration, cooperation), dimensions (horizontal/vertical, internal/external) and actors (EU member states, non-EU countries, sub-national actors) of differentiation. This final article offers an innovative and comprehensive assessment of the impact of differentiation on EU governance. It addresses the organisational, constitutional and socio-political factors affecting differentiation and integration in the EU in order to assess effectiveness, sustainability as well as accountability and legitimacy of differentiated arrangements within the EU and between the EU and participating third countries. The final 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.

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