Differentiated Integration in Europe: Navigating Heterogeneity

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Abstract

This article explores the concept of differentiated integration (DI) and its implications for the process of European integration. Originating from the necessity to manage heterogeneity and prevent conflict in post-World War II Europe, DI addresses how member states with varying interests and capabilities can integrate at different levels and speeds. The article begins by defining DI and examining its categorisation into multi-speed, variable geometry, and à la carte models. It then delves into the theoretical and practical strengths and weaknesses of DI using the fiscal compact and Schengen agreement's implementation and case studies. On one hand, DI facilitates progress by allowing some states to advance more rapidly than others, thereby avoiding political deadlock. On the other hand, it raises concerns about creating divisions among member states and eroding solidarity. The article critically assesses DI's role in deepening integration while managing the EU's expansion, concluding that despite its drawbacks, DI remains a crucial mechanism for overcoming obstacles to European integration. It suggests that the benefits of DI, in facilitating negotiation and progress within a diverse union, generally outweigh its risks.

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Particularly after the violence of the second world war, European integration has been viewed as a necessity to limit conflict. Considering the strengths and differences of European nation-states, the process of European integration has faced many challenges. On this dilemma, a question posed by academics has been: how can integration be achieved when each state has different characteristics leading to different interests? This is the main issue that differentiated integration (DI) addresses, which is explored in this article. Although adopted to define a cultural dimension, the European Union's motto "united in diversity" can also be symbolically viewed as an embrace of the requirement for special arrangements to move the European project forward. This article will first present a simple definitional core which will be followed by the contributions of academics who expanded and categorised DI into a wider mechanism; this will give us a foundational understanding of DI while highlighting its complexity. Beyond taking a descriptive approach, we will also offer a critical outlook on the definition of DI. In the second section, this article will explore the strengths and weaknesses of DI. The theoretical strengths and weaknesses of DI will first be presented, followed by an assessment of these advantages and disadvantages in practice by taking concrete examples. Multiple key cases will be presented including the fiscal compact which illustrates the advantages of DI, and I will also include examples, like the Schengen acquis, which show how its positive and negative aspects are interconnected, highlighting the complexity of DI. On the positive side of DI, this article will focus on its ability to circumvent political deadlock. To assess DI's weaknesses, this article will mainly tackle two issues: the creation of two classes of member states, and the erosion of solidarity between member states. This article will attempt to balance depth of analysis and scope in order to cover a variety of definitions and critical assessments while exploring certain aspects which I consider key in greater detail.

Defining Differentiated Integration

In a simple sense, differentiated integration is a mechanism that gives states the possibility to opt-out of certain EU policies while other states can further engage and adopt them. This mechanism which permits states to integrate at different degrees and speeds addresses a key issue. It prevents policies that may be in the interest of most states to get blocked or only get adopted in a weaker form (Bellamy and Kroger, 2017). As a result, policies are not implemented uniformly in the EU. It should be noted that in some definitions of differentiated integration, it is legally codified in EU acts and treaties, mainly through the enhanced cooperation procedure, but it can also be the result of treaties which have been agreed to externally to the EU's framework, for example in the case of the Schengen agreement (Schimmelfennig and Winzen, 2014, p. 357).

To better understand DI in the context of European integration, this article will look at Alexander Stubb's 1996 work. In an attempt to resolve some of the confusion around the many kinds of differentiated integration, Stubb categorised the mechanism into three distinct concepts: multi-speed, variable geometry, and à la carte. Each is respectively pegged to a corresponding variable: time, space, and matter (Schimmelfennig, 2019, p. 4).

In Multi-Speed DI, objectives are carried by a core group of states who are willing and able to achieve them (Bellamy et al, 2022, p. 9-10). Member states who cannot achieve them in the short term are expected to fulfil those same goals at a later time. This approach is supranational in nature. It assumes a clear integrative direction by default for all participating states with the differentiation being time.

Variable-Geometry has a much less optimistic vision. It starts with the assumption that European states are so different from one another that most common objectives are unattainable. Irreversible separation from one state to another in the process of integration is therefore

accepted and permitted, the differentiation here being space. The expected result of this approach is a solid core of states who have gone far in the integration process with peripheral states who have engaged much less in integration.

In À La Carte DI, states can choose the policy area they wish to participate in. The matter variable in this context refers to policy areas. This approach is fundamentally intergovernmental in nature (Stubb, 1996, p. 284-288).

Stubb's categorisation of DI into different models helps us understand its function and gives us a glimpse into its advantages and the issues it could bring which this article explore later. We should point out that Stubb's work can be considered outdated as it does not take into account facets of DI which have more recently been outlined by academics.

Expanding on our core definition and on Stubbs' work, some academic literature includes de facto differentiated integration and informal opt-outs focusing on the different ways member states comply with uniform EU rules (Andersen and Sitter, 2006), others look at groups of member states forming informal differentiated cooperation (Dyson and Sepos, 2010). Two kinds of differentiated integration can be separated: firstly, internal referring to the level of participation of EU members in implementing policies, and secondly, external which looks at the participation of non-member states in implementing EU policies. Furthermore, one can also distinguish horizontal to vertical differentiation, the former analysing the differences in integration from one state to another, the latter looking at integration from one policy area to another across the EU (Leuffen et al, 2013, p. 17).

Efficacy and Challenges of Differentiated Integration

To tackle the strengths and weaknesses of differentiated integration, this article will take a sequentially logical approach. First, does it effectively resolve the initial problem it was meant to solve? Reaching consensus with a growing number of EU member states seemed to

pose challenges to the European project. In a way, DI can be viewed as a solution to deepening integration while widening the EU. It can be argued that DI can circumvent large practical challenges in European integration. In the context of the Eurozone crisis, the Fiscal Compact, for example, was seen as a treaty that would enable states that wished to reform the Eurozone without being blocked by other states who did not wish to do so in the same manner (The Robert Schuman Centre for Advanced Studies, 2020). This article will therefore first look at one of the fundamental purposes of DI: to avoid political deadlock. I will then look at the negative consequences of DI on cohesion in the European Union potentially leading to disintegration. This article will explore two negative effects: the creation of two classes of member states, and the erosion of solidarity between member states.

Strengths of Differentiated Integration

The main practical strength of differentiated integration is its ability to move negotiations forward in the context of a heterogeneous Europe. This claim is self-evident, simplistic, and sometimes overlooked, but is important to highlight since it is seen by many academics as the main benefit of DI (Kroger and Loughran, 2021). There may be multiple reasons for political impasses to arise. A member state may not wish to join or engage in implementing a policy that is being negotiated by multiple European states. They may also be unable to meet expected imposed criteria at a certain time. This is a key example where Multi-Speed DI can be seen as an effective solution. If unanimous agreement must be met, policies may be dictated by the lowest common denominator or be confronted by political deadlock. Article 20 of the Treaty of the European Union states that “enhanced cooperation shall be adopted by the Council as a last resort when it has established that the objectives of such cooperation cannot be attained within a reasonable period by the Union as a whole”.

There have been many cases where DI has been effective in resolving deadlock. Under John Major, the British government did not wish to be part of the common currency nor the proposed social policy in 1992 during the Maastricht Treaty negotiations. The eventual flexibility offered by other member states and EU institutions regarding these key issues for the UK brought two advantages. First, it made it possible for the other states to proceed in negotiation, and second, it relieved political pressure from the British government (Hrbek, 2011). This is an example of À La Carte DI where policy specific opt-outs are carried out by a member state (Stubb 1996).

There may be cases where offering opt-outs within the EU's framework is not an accepted path to resolve a political impasse. In these cases, as stated earlier, DI can take place outside the EU's framework. The 1985 Schengen agreement is the product of DI through separate treaty making (Winzen and Schimmelfennig, 2016, p. 7). This example of a variable geometry DI (Stubb 1996) satisfies the wish of both groups. The first group of states could open their borders to each other, deepening the process of integration much further while the states who did not want to participate in this aspect of integration had total freedom to control their borders. Thus, the process of integration can proceed with little obstruction and most parties could fulfil their perceived national interest (Ondarza, 2013, p. 15-16).

Weaknesses of Differentiated Integration

The ability to resolve political deadlock is possibly the strongest aspect of DI, but it also brings forward issues that may involve severe consequences in the medium to long term. These concentric circles in Variable-Geometry DI and overlapping circles present in the À La Carte model entail reinforcing division and potentially alienating states from each other. Does this exacerbate conflicts between Member States? We must note that this issue has been explicitly pointed out by states who felt were being pushed out of negotiations through the use

of the enhanced cooperation process. The introduction of EU patents is one such case. Italy and Spain, who had some reservations regarding the language in which patents were to be submitted, explicitly stated that "the envisaged enhanced cooperation does not aim to further the objectives of the Union but to exclude a Member State from the negotiations" (C-274/11 Case before the Court of Justice of the European Union - Kingdom of Spain v Council of the European Union) when they appealed before the EU Court of Justice.

Expanding on what we discussed on the Schengen agreement earlier, we can take this example forward to highlight the weakness of DI. In the context of future accession to the EU, Schengen creates two possible paths; firstly, if future EU member states are expected to accept the Schengen agreement, non-Schengen EU states may be more alienated from the rest of the EU, it could even cause current states within the Schengen area to leave it. Secondly, if future EU member states are not expected to accept the Schengen agreement, DI would bring discrimination towards these new members and may put into question the EU's authority and legitimacy (Wang, 2016, p. 715). In both cases, DI brings new long-term challenges.

It could also be argued that DI introduces issues regarding solidarity between member states. States that choose to opt-out of certain policies remove themselves from shared risks. Continuing the Schengen case, in 2011, the states directly affected by migration coming from north Africa were those who did not opt-out of the Schengen agreement. At first, solidarity between states that opted-in seemed to have been the core issue, namely between France and Italy. This was mainly due to Italy granting temporary residence permits to migrants who could then move freely within the Schengen area which led France to introduce internal border checks (Carrera et al, 2011). This crisis even led the Italian prime minister to question the value not only to membership of Schengen but also to the EU (Pop, 2011). In this example, division of Schengen states was indeed present regardless of DI, but more importantly, non-Schengen states did not show solidarity as they distanced themselves from the crisis since the beginning.

Solidarity of all EU member states could have contributed positively to resolving the crisis, but DI in this case absolved certain states from finding common solutions (Ondarza, 2013, p. 27).

Conclusion

DI has a wide range of complex facets, both definitionally, and in its implementation. As we have seen through this article, the theoretical negative and positive aspects of DI carry significant weight and validity in practice. In conclusion, the necessity to use DI to deepen while widening integration in Europe cannot be understated. When aggregating the opinions of DI, most academics will agree with my assessment that its benefits outweigh the risks (Bellamy and Kroger, 2017). Taking a step back, we must look at the larger picture, to further cement this critical assessment. One could ask: Could European integration have gone this far without the DI mechanism? Despite its many weaknesses, DI has ultimately been an effective remedy to European sclerosis. Experts could disagree on how far it could have gone, but it is clear that without DI many of the political impasses would remain present, most likely leaving the continent much more fragmented.

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