

# Comparing formal and material Differentiated Integration in Core State Powers through the EUDIFF-RES Dataset

## Introduction

This document summarises our conceptualisation of Core State Powers (CSP) and main research focus, followed by an overview of the newly collected dataset, EUDIFF-RES. The dataset hereby presented has been created in the context of a H2020 project, InDivEU, focusing on Differentiated Integration in the European Union. The report explains the rationale behind the data collection, and provides a brief outline of the information gathered so far. Moreover, the document includes a descriptive empirical analysis, which will be at the basis of a journal article for a EUP special issue to be submitted in spring.

## A note on concepts: Core State Powers as resources

The study is based on an innovative understanding of core state powers<sup>1</sup>. Rather than limiting to the traditional “high politics” vs “low politics” distinction, this research understands CSPs as resources (i.e. money and staff) mobilized for public purposes at the EU level (Genschel and Jachtenfuchs 2016, 2018). Hence, to identify CSP substantially, research cannot limit to the EU legislative framework, but has to analyse actual resources mobilised in different policy sectors. Given the European Union’s multi-level structure (Hooghe and Marks 2003; Scharpf 1997), resources can be owned and managed by different governance levels. Hence, to detect core state powers the study needs to identify a) whether resources are mobilised for public purposes, and b) at what level (national, joint or supranational) this happens, and who decides upon the allocation of such resources.

## Research aim and empirical focus

Once defined CSP as resources, the study aims at uncovering the relationship between CSP and differentiated integration. As the focus is not on norms, but on resources, our dataset adds on the information provided by EUDIFF 1 and 2 (which look at legislative differentiation) by grasping the differentiation occurring at the material level, e.g. whether certain states are exempted from providing resources while others are not.

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<sup>1</sup> For further information on the conceptualization please refer to Deliverable 5.2

## EUDIFF-RES OVERVIEW

The goal of this data collection exercise is twofold: on the one hand, it seeks to assess by what level of governance core state powers are financed and managed. On the other, it seeks to identify whether the contribution to core state powers in the EU is subjected to differentiation dynamics, or not. Against this backdrop, the dataset is called **EUDIFF-RES** because it aims to analyse **Differentiation** in states' contribution to public **Resources** in the **EU**

EUDIFF-RES covers resources employed in areas that lie at the heart of traditionally conceived state sovereignty, including common foreign and security policy, economic monetary policies and justice and home affairs. For the sake of consistency with EUDIFF 1 (Winzen and Schimmelfennig 2016) and EUDIFF 2 (Duttle et al. 2017), the coding employed to identify the policy areas reflects the one used by Schimmelfennig & Winzen (2014).

The dataset embraces all kinds of institutionalised resources falling within the general definition of “de novo bodies” (Bickerton, Hodson, and Puetter 2015). The early 90s is the benchmark for data collection, given that none of these bodies existed before then. The dataset starts with each body's year of establishment and ends with 2019, as data for the current year (2020) is not available for all units of observation (yet)<sup>2</sup>. As different bodies were established at different times, the dataset structure is unbalanced.

Given the above premises, the main variables of interest of the dataset are three<sup>3</sup>: “Ownership”, that is who owns resources bound to CSP. “Regulation”, that is who decides upon their disposal; and “Material Differentiation”, that is differentiated participation in financing the resources.

- a. **Ownership.** The term refers to who is the owner of the resources. Specifically, resources can be owned, respectively:
  - a. by the member states (**National**)
  - b. by the institution itself/ by the EU (**Supranational**)
  - c. by the member states and the EU/the institution (**Co-owned**)
- b. **Regulation.** The term refers to who decides upon the utilisation of such resources. Specifically, resources can be regulated, respectively:
  - a. by the members states (**Intergovernmental**)
  - b. by the institution itself/ by the EU (**Supranational**)

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<sup>2</sup> Data does not take Brexit into account because the effects of Brexit on agencies' membership are active only from Feb 2020.

<sup>3</sup> See the codebook section for further details

c. by the member states and the EU/the institution **(Joint)**

**c. Material Differentiation.** The term refers to how many EU member states participate in the financing of each body.

a. If all EU member states participate, material differentiation is not present (0)

b. If any of them does not participate, material differentiation is present (1).

The next section overviews different CSP types according to the combination of ownership and regulation categories. It also gives a detailed overview of the classification process and an empirical overview of budgetary trends overtime.

### Classifying Core state powers in practice: Ownership and Regulation

Table 1 lists the bodies falling in each combination of ownership and regulation. They are shaded from light to very dark blue to indicate, roughly, different degrees of supranationalisation for each category. Starting from the top left:

- a) Intergovernmental regulation of national resources is present in military missions, which are managed, staffed and financed by the member states. In the European Defense Agency, which is the only agency in the EU responding to the Council and financed through states' contributions outside the EU budget framework; and in Europol before it become an EU agency in 2010.
- b) Intergovernmental regulation of co-owned resources is present: in the ESM, which is an intergovernmental body drawing its capital through the financial market, but guaranteed by each member state through an initial contribution. And in the SRF, a fund divided in a supranational component, plus a share of "national compartments" which should be fully mutualized by 2023.
- c) Intergovernmental regulation of supranational resources is present in civilian missions: while the decision making is in the hand of the member states, the missions are mainly (although not entirely) staffed and financed by the Commission through the EU budget, except for cases where the Council unanimously decides otherwise.
- d) Joint regulation of co-owned resources is present in the three EU supervisory authorities: their governance includes both the national and supranational level, and their budget comes partly from the EU and partly from the member states. Moreover, Europol after 2010 falls in the co-owned category because, although the budget is drawn from the EU, a considerable amount of staff is composed by national officials.

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- e) Joint regulation of supranational resources is present in most EU agencies: their governance includes both the national and supranational level, and they are mainly financed and staffed through the EU budget.
- f) Supranational regulation of joint resources is present in the EEAS. This institution is supranational in its governance, but draws resources from both the national and supranational level.
- g) Supranational regulation of supranational resources is present in the ECB, a supranational institution endowed with its own staff and funding.

**Table 1: CSP types**

Regulation	Ownership		
	National	Co-owned	Supranational
Intergovernmental	Military Missions; European Defence Agency; Europol before 2010	European Stability Mechanism (ESM) Single Resolution Fund (SRF)	Civilian Missions
Joint		European Banking Authority (EBA); European Insurance and Occupation Pensions Authority (EIOPA); European Securities and Markets Authority; Europol after 2010	CEPOL; European Asylum Support Office; EU-LISA; Eurojust; Fundamental Rights Agency; ENISA; FRONTEX
Supranational		European External Action Service	European Central Bank

### Measuring DI in Core state powers: formal vs material differentiation

Once gathered CSP and the resources employed for their functioning, this section tackles differentiation within and across them. As anticipated in the introduction, this study seeks to grasp the material differentiation existing between states contributing and those not contributing to the financing of the CSP-related bodies analysed in the previous section. The study, ultimately, seeks to provide an overview of the differences between the formal differentiation as set in the treaties, and the material differentiation exemplified by states' financial contributions. The difference between formal and material differentiation is defined as "mismatch".

To measure formal DI in each policy area, the study relies on EUDIFF 1 dataset. To measure the material DI, the study considers whether states contribute uniformly to the financing of a resource or not. If, for example, Denmark does not contribute to military missions, material differentiation will be present, (1). In turn, if Denmark pays for its membership in Europol on top of what it already pays "indirectly" through the EU budget, material differentiation will still be present (1), as the country is, in this case, paying twice in comparison to the others. Contrarily, material differentiation will be absent if all countries contribute uniformly. For example, agencies financed entirely through the EU budget (supranational ownership) are not materially differentiated (0).

Figure 1 displays the evolution of treaty-level Differentiated Integration (DI) vis-à-vis material DI from 1998 to 2019. The graph shows the amount of observations, every year, presenting either type of DI. As the unit of analysis are EU institutions and bodies, and these bodies notably increase overtime, both counts obviously increase, although not in the same way.

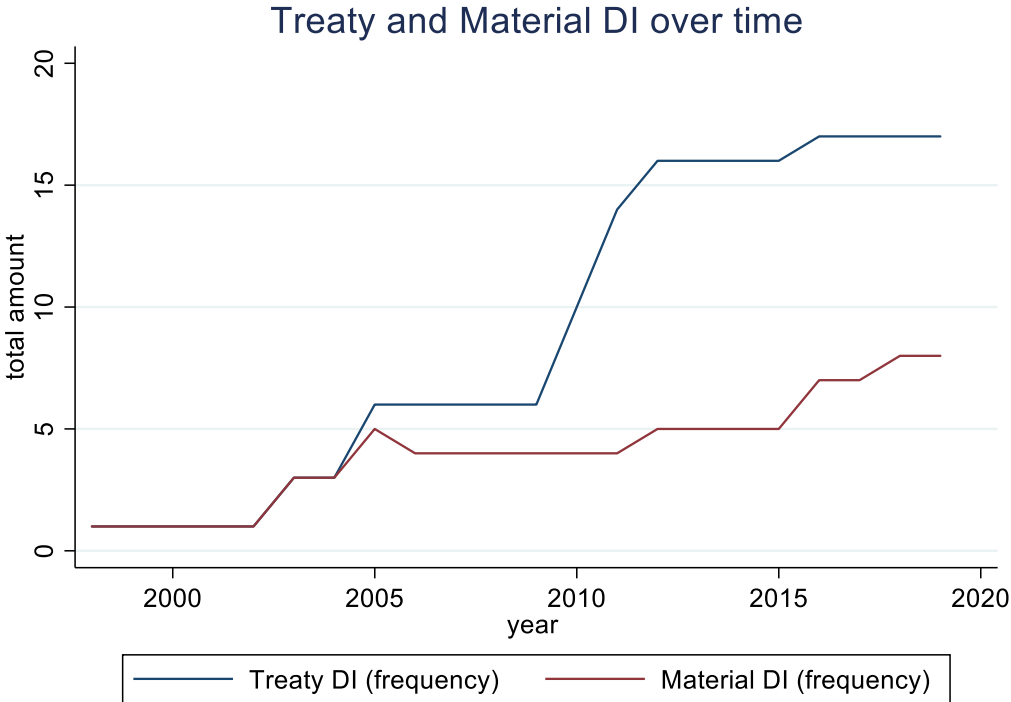
Treaty and Material DI match until 2005. From 1998 to 2003, the only body in the dataset is the European Central Bank: in the case of this institution, Treaty and material DI correspond, because monetary policy has been differentiated since the Treaty of Maastricht, and ECB members are just those EU states taking part to the Eurozone. In 2003, with the launch of first military and civilian missions, the amount of treaty and material DI both increase because missions are both treaty level and materially differentiated.

Material DI increases in 2006 when Ireland and the UK start contributing extra funds to the agency FRONTEX, producing sort of an inverse material differentiation (they pay through both the budget and extra).

The two DI trends diverge even more significantly after the Lisbon Treaty. With its entry into force, UK and Poland got treaty-level exemptions from the Charter of Human Rights (treaty DI), while they kept being members and contributing to the Fundamental Rights Agency (no material DI). Moreover, Lisbon provisions activated the Danish full opt-out from JHA policies, affecting treaty level DI regarding Eurojust, Europol and CEPOL. The same does not apply to material DI, as these agencies are funded through the EU budget and all EU members contribute to them.

The divergence between the two DIs further increases in 2011 with the establishment of supervisory authorities in the economic/financial sector, EBA ESMA and EIOPA, as part of the European system of financial supervision. While the policy area is differentiated at the treaty level, it is not at the material one: all EU countries are members and contribute to these agencies through the EU budget.

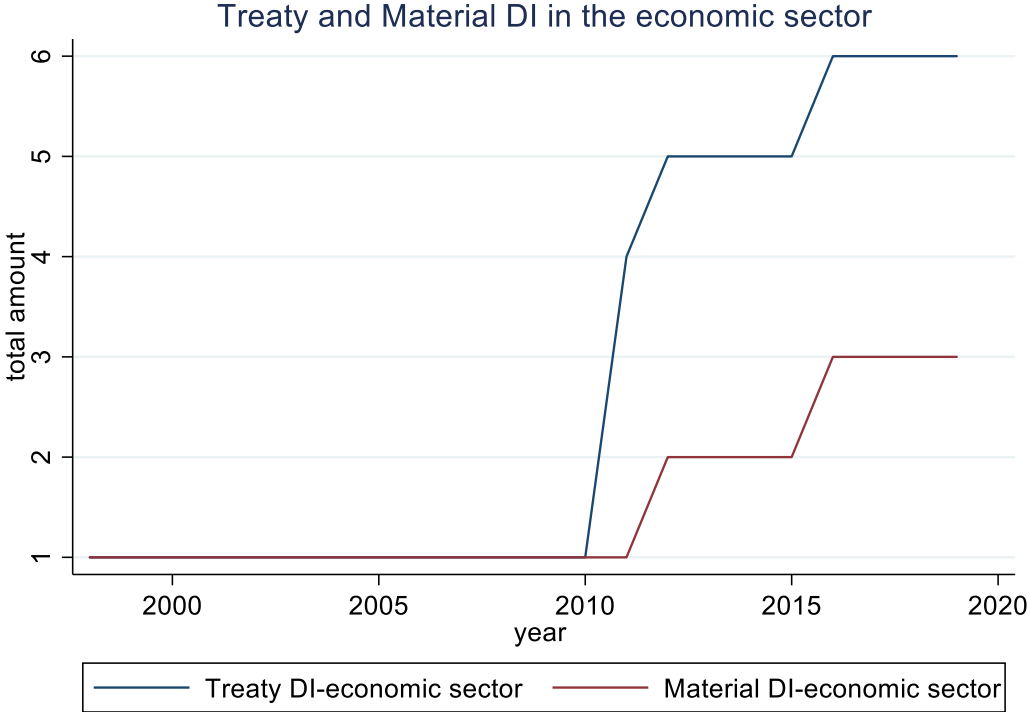
**Figure 1: Overall Treaty and Material DI – yearly trends**



Figures 2 3 and 4 show the trends for each macro CSP areas that is the economic/financial sector, Justice and Home Affairs and Common Foreign and Security Policy. As shown in Figure 35, in the case of the economic sector, treaty and material DI follow a similar trend over time, although treaty DI is overall more frequent than material DI. The main difference in trend is given by the establishment of the above-mentioned EBA, ESMA and EIOPA. After 2012 the

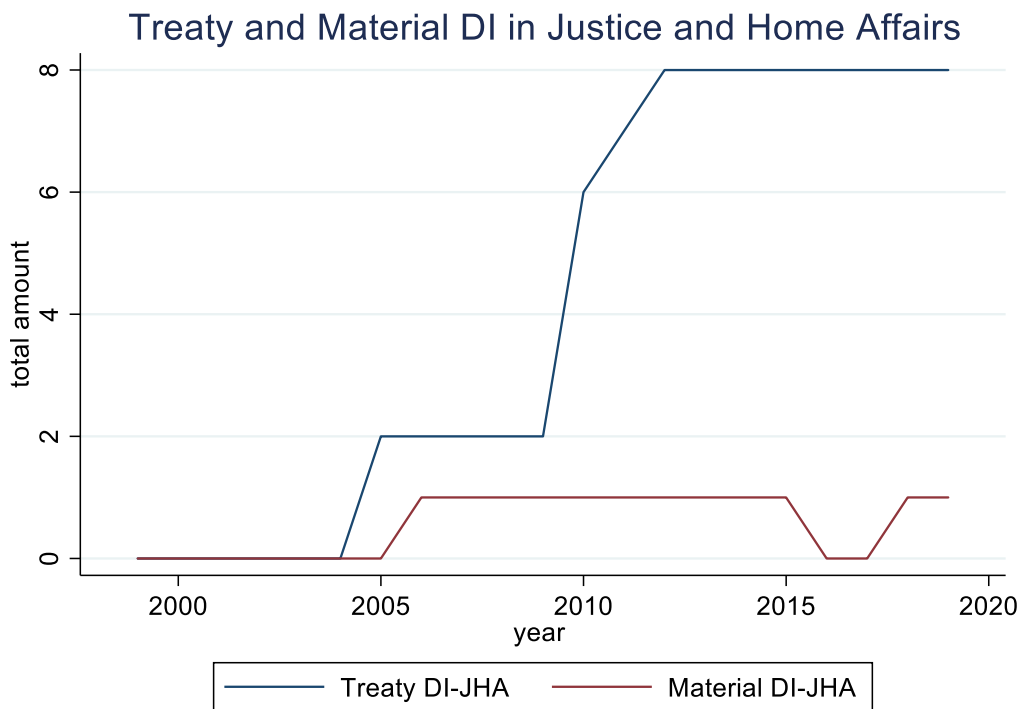
path is the same, as both DIs increase as a result of the establishment of the European Stability Mechanism and the Single Resolution Fund.

**Figure 2: Treaty and Material DI in economic/financial sector – yearly trends**



In turn, the graph in Figure 36 reveals that JHA presents the greatest gap between treaty-level and material differentiation. Between 2006 and 2016 material differentiation does not vary at all. Then, in the period 2016- 2018 it ‘sinks’ as UK and Ireland did not contribute to Frontex extra money, while it increases again between 2018 and 2019 because Denmark gave extra funds to Europol as part of the newly signed agreement between the Danish government and the Agency.

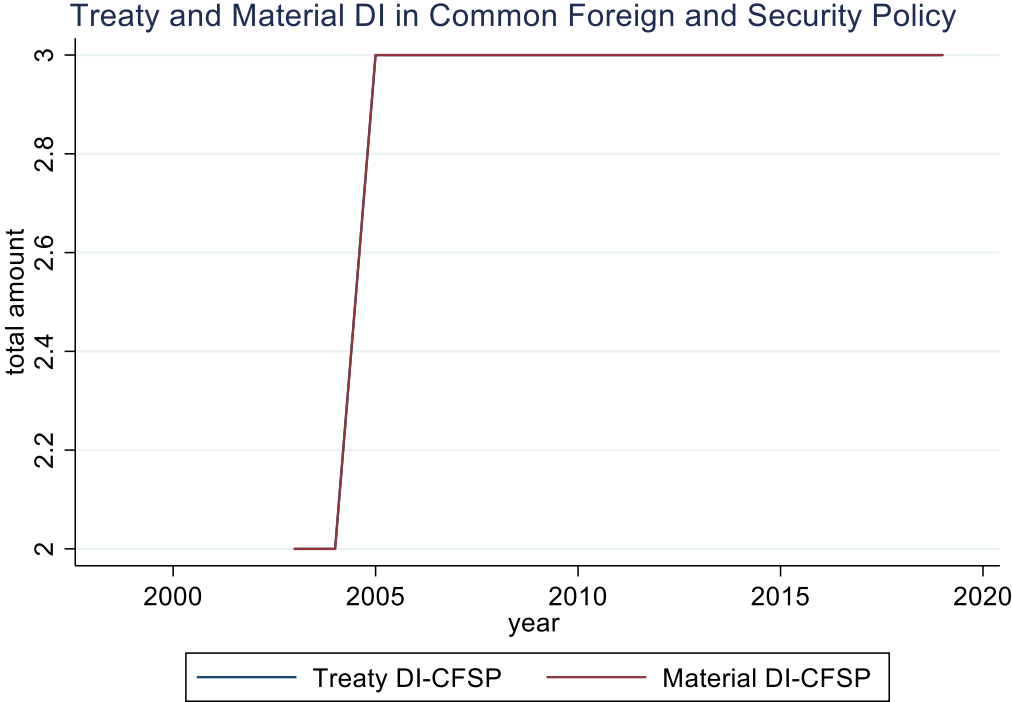
**Figure 3 : Treaty and Material DI in Justice and Home Affairs– yearly trends**



Finally, as regards Common Foreign and Security Policy (Figure 4), the scenario is entirely different: Treaty and material DI match perfectly throughout the whole period under analysis. In fact, while the European External Action Service was set at the Treaty Level and no country opted out of it (neither legally nor in practice), the European Defence agency and military and civilian missions are differentiated at both levels.

**Figure 4: Treaty and Material DI Common Foreign Security Policy – yearly trends**





We need mini case studies for each of the graphs and an explanation for the variance between them.

## References

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