

RSC 2022/09  
Robert Schuman Centre for Advanced Studies  
Integrating Diversity in the European Union  
(InDivEU)

# WORKING PAPER

**Models of differentiated integration:  
past, present, and proposed**

Paolo Chiochetti



European University Institute

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Published in February 2022 by the European University Institute.

Badia Fiesolana, via dei Roccettini 9

I – 50014 San Domenico di Fiesole (FI)

Italy

[www.eui.eu](http://www.eui.eu)

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With the support of the  
Erasmus+ Programme  
of the European Union

The European Commission supports the EUI through the European Union budget. This publication reflects the views only of the author(s), and the Commission cannot be held responsible for any use which may be made of the information contained therein.

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**Integrating Diversity in the European Union (InDivEU)** is a Horizon 2020 funded research project aimed at contributing concretely to the current debate on the 'Future of Europe' by assessing, developing and testing a range of models and scenarios for different levels of integration among EU member states. InDivEU begins from the assumption that managing heterogeneity and deep diversity is a continuous and growing challenge in the evolution of the EU and the dynamic of European integration.

The objective of InDivEU is to maximize the knowledge of Differentiated Integration (DI) on the basis of a theoretically robust conceptual foundations accompanied by an innovative and integrated analytical framework, and to provide Europe's policy makers with a knowledge hub on DI. InDivEU combines rigorous academic research with the capacity to translate research findings into policy design and advice.

InDivEU comprises a consortium of 14 partner institutions coordinated by the Robert Schuman Centre at the European University Institute, where the project is hosted by the European Governance and Politics Programme (EGPP). The scientific coordinators of InDivEU are Brigid Laffan (Robert Schuman Centre) and Frank Schimmelfennig (ETH Zürich).

For more information: <http://indiveu.eui.eu/>



Integrating  
Diversity in the  
European Union

The research leading to this paper was conducted within the InDivEU project. The project has received funding from the European Union's Horizon 2020 research and innovation programme under grant agreement No. 822304. The funders had no role in the study design, data collection or analysis

## **Abstract**

The present paper provides an overview of past, present, and proposed models of differentiated integration (DI) in the European Union. First, it reviews the quantitative and qualitative evidence on the historical use of differentiation from 1958 to 2020, finding that it is a common but relatively secondary feature of European integration and that the three idealtypical models identified in the literature (multi-speed, multi-tier, and multi-menu) are deployed in an eclectic, versatile, and constrained manner, which could be termed 'reluctant differentiation'. Second, it examines and assesses a sample of 21 reform proposals covering the full range of possibilities for the future development of the EU: from total disintegration to a federal union, from maximum uniformity to sustained differentiation, the use of different differentiation models, and other design elements. It finds that differentiation plays an important role in most proposals and may represent an essential tool to increase their effectiveness, popular support, and legal-political feasibility, even though any radical shift toward a more differentiated Europe is unlikely to be implemented.

## **Keywords**

Differentiated integration, differentiation models, European Union.

## Introduction

Over the last three decades, the literature on European integration has increasingly turned its interest to differentiated integration (DI) as an important feature of EU law, governance, and policy as well as a useful design option. Empirical studies have demonstrated the relevance of this phenomenon and the variety of its manifestations (Schimmelfennig and Winzen 2020b). Policy-oriented works have emphasized its capacity to accommodate diversity and overcome political deadlocks as well as its normative and practical pitfalls (Bellamy, Kröger, and Lorimer 2022; Lord 2015; von Oндarza 2013; Schimmelfennig and Winzen 2020b). Finally, positive theoretical research has identified three idealtypical DI models: multi-speed, multi-menu, and multi-tier (Schimmelfennig and Winzen 2020b; Stubb 1996). In this context, two key questions remain unanswered. On the one hand, it remains unclear which theoretical model – if any – past and present empirical patterns of differentiation best conform to. On the other hand, the generic arguments for and against differentiated integration are relatively clear but the specific potential of each model as a design option for future EU reform has yet to be systematically explored and assessed. The present paper fills these gaps by providing a novel analysis of the role played by DI models in the past, present, and future of European integration, thereby contributing to a more accurate and nuanced understanding of differentiated integration.

The analysis is structured as follows. The first section identifies key empirical patterns of differentiation in the European Union from 1958 to 2020 through the use of five quantitative datasets and other quantitative and qualitative sources, finding that it is a common but relatively secondary feature of European integration. The second section tests the three theoretical models against this evidence, finding that they are actually deployed in an eclectic, versatile, and constrained manner which could be termed ‘reluctant differentiation’. The third section examines a sample of 21 recent reform proposals covering the full range of possibilities for the future development of the EU: from total disintegration to a federal union, from maximum uniformity to sustained differentiation, the use of different differentiation models, and other design elements. The fourth section assesses them with reference to their key features, democratic legitimacy, and legal-political feasibility, finding that differentiation plays an important role in most proposals and may represent an essential tool to increase their effectiveness, popular support, and chance of being implemented, even though a radical shift toward a more differentiated Europe remains improbable. Finally, a concluding section summarizes the main findings and draws out their implications.

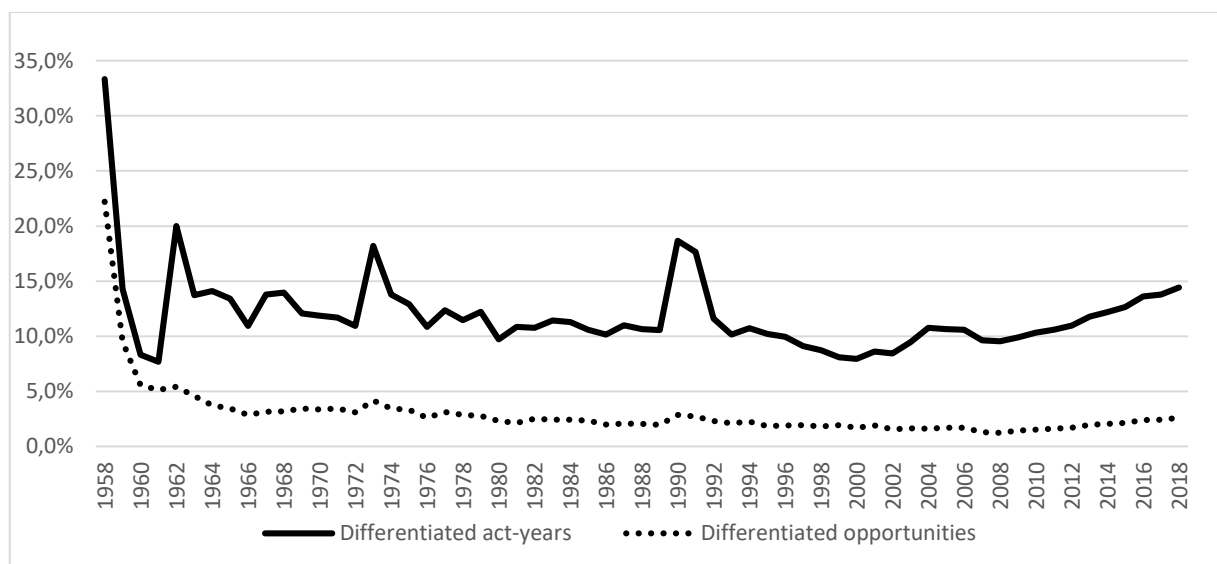
## Empirical patterns of differentiation in the EU, 1958–2020

A substantial amount of empirical data and research on legal differentiation in the European Union has accumulated in the literature and has been partly systematised by the InDivEU project. In this section, I provide a comprehensive overview of its historical development and current relevance based on five datasets (EUDIFF1, EUDIFF2, EUDIFF-RES, FIEU, BID) and other quantitative and qualitative sources. Despite some gaps and uncertainties, the evidence provides a relatively clear picture of the quantitative importance of differentiation over time, space, policy areas, and legal instrument. Specific forms of differentiation and related phenomena can be usefully grouped in four macro-categories.

The first category can be defined as *internal differentiation within EU law* (Chang 2016; De Witte, Ott, and Vos 2017; Howorth 2014; InDivEU 2021; Keukeleire and Delreux 2014; Ripoll Servent and Trauner 2018; Schneider 2009). It includes a variety of different forms, such as Treaty-based differentiations (e.g. the permanent opt-outs of Denmark, Ireland, and Poland or post-accession temporary provisions), the special regimes in the field of economic and monetary policy (e.g. the Euro area), justice and home affairs (e.g. the Schengen *acquis*), and foreign and defence policy (e.g. PESCO), four schemes approved through the ‘enhanced cooperation’ mechanisms (e.g. the 2012 Unitary Patent regulation), and many other ad-hoc exemptions in the secondary legislation. This category can be explored with precision with the EUDIFF2 dataset (Duttle et al. 2017, 2021;

Schimmelfennig and Winzen 2020a), which covers all EU secondary legislative acts – a subset of EU legal acts – from 1958 to 2018, for a total of 4,841 acts, 53,849 act-years, and 962,632 opportunities (acts\*years\*countries). An act is considered differentiated if it exempts at least one country from at least one of its legal rules. The dataset shows that differentiation only affects a minority of act-years and opportunities: over the whole period, respectively 6,015 (11.2 per cent) and 19,119 (2.0 per cent). As depicted in Figure 1, both measures followed a downward trend until 2008 (9.5 and 1.2 per cent) but slightly recovered by 2018 to 204 differentiated act-years (14.4 per cent) and 1,027 differentiated opportunities (2.6 per cent). At present, differentiation interests, to different degrees, all member states and most policy areas. Data for 2018 show that 22.0 per cent of differentiated acts affect only one country, 56.4 per cent two to six countries, and 21.6 per cent more than six. The country-based share of differentiated opportunities, in turn, varies from 1.3 per cent in Slovakia to 8.0 per cent in Denmark, with five countries (Denmark, United Kingdom, Ireland, Cyprus, Bulgaria and Romania) responsible for 42.0 per cent of the total. With reference to policy areas, differentiated opportunities are absent in a certain number of areas and most commonly found in immigration (26.7 per cent), agricultural (11.3 per cent), monetary (8.3 per cent), freedom of establishment (7.3 per cent), and internal (6.4 per cent) policies. In relative terms, the policy-based share ranges from 0 to 9.5 per cent, with values over 5 per cent in immigration, monetary policy, research, free movement of capital, freedom of establishment, energy, and economic and social cohesion.

**Figure 1. Internal differentiation in EU legislative acts, 1958–2018**



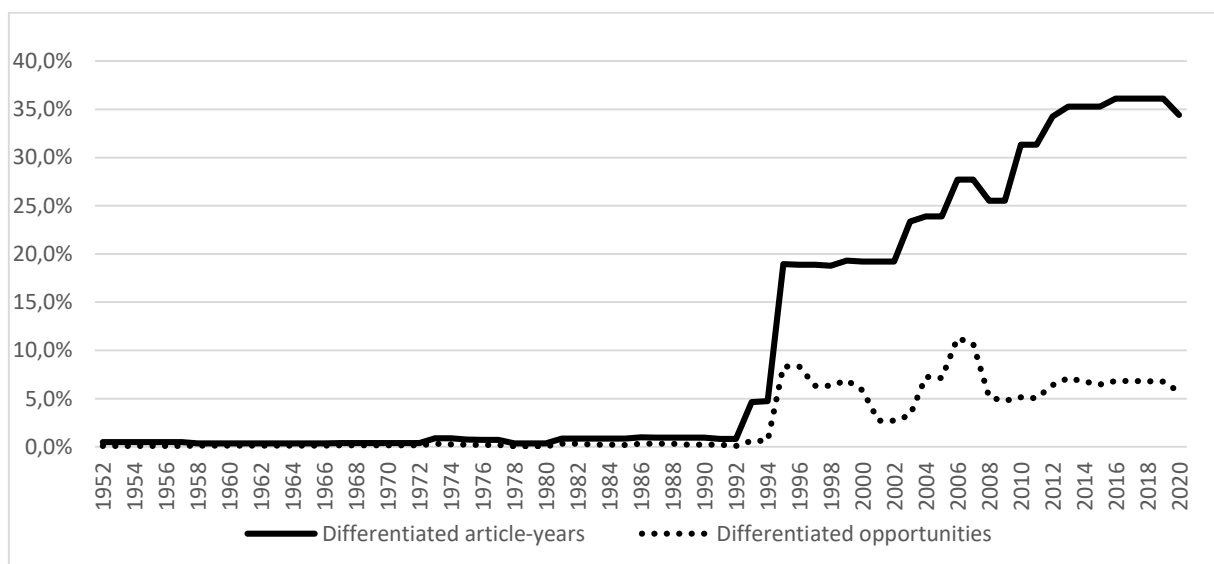
Source: own elaboration from the EUDIFF2 dataset.

A second category can be defined as *internal differentiation outside of EU law* (De Witte 2019; Gebhard and Galbreath 2013). Its status is more controversial, as it is clearly a form of differentiated integration from the point of view of EU member states but does not affect the formal level of integration and differentiation of the EU as an organization; nevertheless, it is increasingly used and advocated as a means to circumvent stalemates in EU decision-making processes. It includes a variety of different forms, such as *inter se* treaties closely connected to the membership, competences, or goals of the EU (e.g. the 1948 Western European Union, the 1985 Schengen Agreement, and the 2013 Fiscal Compact), informal cooperation arrangements (e.g. the 1979 European Monetary System), other bilateral and multilateral treaties (e.g. the 1963 Élisée Treaty between France and West Germany or the 1991 Alpine Convention), and membership in alternative regional or global organizations (e.g. the 1949 North Atlantic Treaty Organization or the 1948 Organisation for Economic Co-operation and Development). International commitments of EU member states must be consistent with EU



law, in light of its autonomy and primacy confirmed by numerous CJEU rulings; nevertheless, these agreements are very common and often differentiated. The precise weight of internal differentiation outside of EU law is difficult to establish. The United Nations Treaties Series lists each EU member state as a 'participant' in slightly less than a thousand international treaties, almost equally divided between bilateral and multilateral ones (United Nations 2021); the search, however, misses a large number of treaties and no quantitative analysis of their impact in terms of differentiation is available. The EUDIFF1 dataset, in turn, codes differentiation in the individual articles of EU-related primary law from 1952 to 2020, encompassing nine EU treaties, six EU-related *inter se* agreements (Charter of Fundamental Rights, Schengen Treaty, Schengen Convention, Prüm Convention, Treaty on Stability, Coordination and Governance, and Single Resolution Fund Agreement), and all relevant amending acts and all accession treaties (Schimmelfennig and Winzen 2014, 2020a, 2021). This results in 1,649 articles, 60,442 article-years, and 920,325 opportunities (articles\*years\*countries). Differentiated article-years represent 13.3 per cent of the total and differentiated opportunities 5.2 per cent. Almost inexistent for many decades, differentiated opportunities boomed in the 1990s and mid-2000s (up to a peak of 11.3 per cent in 2006) but stabilized at a lower level afterwards, reaching 5.7 per cent in 2020 (Figure 2). An alternative calculation aggregating differentiated opportunities by policy areas, to correct for the widely differing number of articles in each treaty and field, provides instead a picture of steady fluctuation around 5 per cent, with peaks right after each enlargement gradually reabsorbed over time (Schimmelfennig and Winzen 2020a, 5). The dataset, however, includes only a small selection of non-EU agreements. Finally, a quick glance at the parties of key relevant treaties and organisations concluded outside of the EU framework reveals a large variation in the number of differentiations: from none (e.g. the 1997 Dublin Convention) to 22 (e.g. the 1996 Organisation for Joint Armament Cooperation, full members), with many cases belonging to the first group.

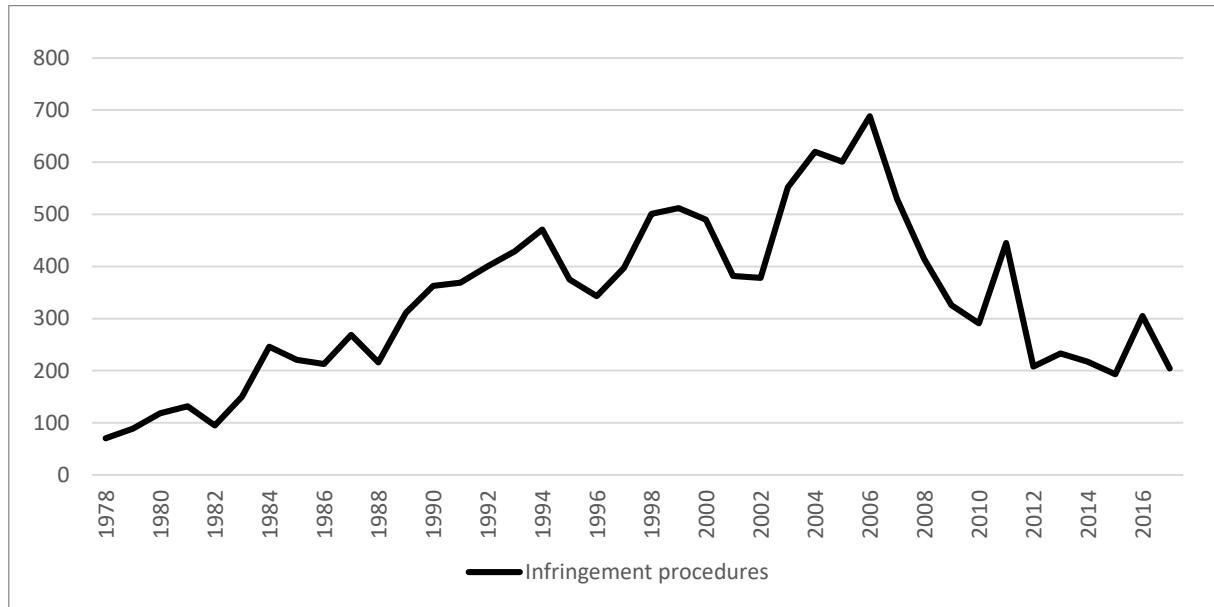
**Figure 2. Internal differentiation in EU-related primary law, 1952–2020**



Source: own elaboration from the EUDIFF1 dataset.

A third category can be defined as *other forms of flexibility within EU law*. These fall outside the definition of differentiation as a formal, legal, membership-based phenomenon generally adopted in the literature (Schimmelfennig and Winzen 2020b) but represent partly equivalent functional alternatives to differentiation which cannot be ignored while discussing it. It includes a broad range of forms: the flexible implementation of EU legislation by national actors (Van den Brink 2017); the executive discretion left to EU organs (Mendes 2019); experimentalist governance mechanisms (Sabel and Zeitlin 2012); sub-national provisions, such as those used in the regulation of dependent

territory, cohesion policy, and territorial cooperation (Medeiros 2018; Piattoni and Polverari 2016; Ziller 2007); and material differentiations deriving from the uneven financial contributions and transfers of each member state to the budget of the EU and of its specific programmes and agencies (Laffan 1997). Absent or incomplete compliance is also a very effective, albeit illegal, form of flexibility (Börzel 2021b). Finally, the rationale behind demands for flexibility can also be achieved through a retrenchment of the scope of EU law, by means of a formal or informal roll-back of EU competences, legislation, ambition, or activity in any given sector. Legislative discretion can be explored through the FIEU dataset (Princen, Smekal, and Zbiral 2020, 2021), which codes provisions in 118 EU directives from 2006 to 2015. Discretion is found to be present in 89.0 per cent of the directives and 22.4 per cent of their provisions, with low values in technical fields such as health or energy and high ones in politically sensitive fields such as justice or social policy. However, the actual flexibility granted to member states is often small and limited by additional constraints, and directives represent a tiny minority of EU legal acts (Toshkov 2014): in 2012, for instance, the EU adopted 52 directives but 1,259 regulations, which are likely to contain a greatly lower level of discretion. The application of the methods of experimental governance to an increasing number of EU domains and issues since the 1990s, for instance social inclusion, energy regulation, and economic governance, has been documented by numerous qualitative case studies (Sabel and Zeitlin 2010; Zeitlin and Rangoni 2021). Depending on the ambition of the commonly agreed goals, their prescriptivity, and their implementation, it can create larger or smaller margins of flexibility for member states. Sub-national provisions tend to affect only small populations and budgetary resources, with one major exception: the many areas classified as ‘less developed’ and ‘transition’ regions, which can benefit from substantial transfers under EU cohesion policy and other forms of regulatory flexibility. An interesting glimpse in the world material differentiation is provided by the EUDIFF-RES dataset, which explores the governance of resources of 18 ‘de novo bodies’ in the area of core state powers from 1998 to 2019 (Genschel, Jachtenfuchs, and Migliorati 2021). It detects a large mismatch between legal and material differentiation, showing that states with formal Treaty opt-outs frequently ‘opt-in’, partially or completely, in the governance and budget of such bodies. In addition, many bodies variously involve additional non-EU states (Norway, Iceland, Liechtenstein, and Switzerland), albeit without voting rights. Non-compliance, in turn, can be explored through the BID dataset (Börzel 2021a, 2021b), which encompasses 13,367 infringement cases from 1978 to 2019. It shows that the number of new infringement procedures opened each year rose from 70 in 1978 to a peak of 688 in 2006 but then dramatically declined to 204 in 2017, despite successive enlargements of the EU (Figure 3). Cases tend to be particularly numerous in some countries (Italy, Greece, Portugal, France, and Belgium) and sectors (internal affairs, environment, media, and health). However, the dataset only captures the ‘tip of the iceberg’ of non-compliance (Hartlapp and Falkner 2009) – the instances reacted upon by the Commission – and does not account for important recent developments such as the post-2015 troubles of the Dublin and Schengen regimes, democratic backsliding in Hungary and Poland, or the partial ‘rebordering’ of many policy areas during the Covid pandemics (Berrod 2020; Genschel and Jachtenfuchs 2021; Kelemen and Laurent 2019).

**Figure 3. New infringement procedures opened against EU member states, 1979 – 2017**

Source: own elaboration from the BID dataset.

A fourth category is represented by *external differentiation*. It includes a wide range of international agreements between the EU, its member states, and external partners (Eeckhout 2011; Pedreschi and Scott 2020; Schimmelfennig and Winzen 2020b). The Council database lists 2,183 such agreements (Council of the European Union 2021). Many of them pertain to limited issues or amendments of existing treaties, but some of them put in place relatively comprehensive forms of selective integration (without membership) of third countries in the EU: these include at least 125 substantial relationships, including 79 preferential free trade agreements and a few ambitious forms of market and regulatory integration such as the European Economic Area (Eriksen and Fossum 2015; Frommelt 2020), the Swiss bilateral agreements (Jenni 2016) and the post-Brexit relationship with the UK (F. Fabbrini 2021; Keating 2021; Peers 2021).

Altogether, it seems reasonable to conclude that the formal international commitments of EU member states toward each other, whether contracted under EU law or international law, are overwhelmingly uniform. In light of the sheer number of EU members, their economic and political heterogeneity, and number and intrusiveness of shared principles (notably, the primacy and direct effect of EU law) and policies (notably, the single market, external trade, competition, monetary union, expenditure policies, and fiscal rules), this is remarkable, even though a direct comparison with other regional blocs or the average nation-state is currently impossible due to the lack of comparable evidence. Nevertheless, differentiated integration is a routine occurrence and plays an important role, being deployed to grant selective exceptions or full opt-outs in both trivial and important matters.

### **Which kind of differentiation? Multi-speed, multi-menu, multi-tier, and ‘reluctant’**

How do empirical patterns of differentiation fit with the expectations of the three models outlined in the literature: multi-speed, multi-menu, and multi-tier?

The available datasets do not allow to distinguish with precision temporary and permanent differentiations, due to conceptual and coding issues: those conceived as permanent can be terminated, those conceived as temporary can be repeatedly extended, countries can enjoy multiple differentiations for the same act (especially temporary ones), and the true nature of active

differentiations will only be revealed in the future. Nevertheless, a manual analysis of the EUDIFF2 dataset on secondary legislation (Duttle et al. 2021) can provide some useful indications. The results seem to indicate a relatively even presence in the total sample of permanently differentiated opportunities (45.0 per cent) compared to temporary ones (19.6 per cent) and a third intermediate category (35.3 per cent): differentiated opportunities initially conceived as permanent but nevertheless subsequently expired. However, the status of some differentiations of the latter category is somewhat unclear, while counting multiple differentiations by individual countries for the same act would increase the share of temporary ones. Considering only the year 2018, finally, only 3.4 per cent of differentiated opportunities can be classified temporary while the rest are in principle permanent, although they may persist or not. If we look at major differentiated regimes, in turn, a tendency toward a certain expansion of their membership can be clearly detected, but does not normally lead to complete uniformity: the Schengen area grew from 7 members in 1995 to 22 members in 2007 (plus four EFTA states), with four countries committed to join and Ireland enjoying a Treaty opt-out; the Euro area grew from 11 members in 1999 to 19 members in 2015, but only two of the remaining eight ‘outsiders’, Bulgaria and Croatia, currently have concrete plans to join; the PESCO cooperation in defence matters was launched in 2017 with an almost uniform membership of 25 countries (only Denmark and Malta opted out), but concrete participation in each of its 47 projects is limited to 20.7 per cent of the potential membership and declining over time (Blockmans and Macchiarini Crosson 2019). Thus, it seems that ‘multi-speed differentiation’ – temporary by design or by termination – has played an important role in the history of European integration, particularly in helping the adjustment to new common policies and EU accessions, but now only to applies to a dwindling minority of cases and is unlikely to gain weight in the near future, due to the path-dependence of Treaty opt-outs and the stalling of EU enlargement.

Strong variations in differentiation across policy areas could be interpreted as evidence of ‘multi-menu differentiation’, but this statement must be qualified in several respects. First, the overall level of differentiation remains low and more limited than what the heterogeneity in state interests, preferences, and capacities would lead to expect, with each country uniformly applying the vast majority of the *acquis communautaire*. Second, opt-outs from entire policy areas are quite rare compared to those from individual norms or legislative acts, and even formal opt-outs are sometimes accompanied by partial opt-ins. Third, the membership in each policy-based grouping (‘club’) is not voluntary, but must be negotiated with all other member states and institutions on the basis of the relevant legal procedures. Fourth, differentiation is almost exclusively unidirectional, allowing countries to opt out from new and higher levels of integration but almost never to terminate or scale back existing commitments. Fifth, club membership tends to be very broad and largely overlapping, with few non-participants (‘outsiders’) concentrated among a small group of states. Finally, clubs are only partially differentiated in legal and institutional terms: they can sometimes avail themselves of separate decision-making bodies (e.g. the informal Eurogroup) and institutions (e.g. the European Central Bank), but their creation and functioning must be compatible with EU law, is normally subject to the scrutiny of undifferentiated supranational institutions (Court of Justice, Commission, Parliament), and always include a range of accession and consultation rights for outsiders. Thus, rather than to integration à la carte, actually existing DI resembles more to a fixed menu with a predetermined number of given courses and price, with some tolerance for individual adjustments: no appetizer, vegan option for the main course, dessert with or without cream.

Strong variations in differentiation across participating countries could instead be interpreted as evidence of ‘multi-tier differentiation’ between an integrated core and a less integrated periphery (Schimmelfennig and Winzen 2020b). This statement must be qualified as well. First, the boundaries of the two groups are not neatly defined: 15 countries take part in all major differentiated regimes (euro core of the Economic and Monetary Union; Area of Freedom, Security, and Justice and Schengen; main initiatives of the Common Foreign and Security Policy) and share a common NATO membership, but the remaining 12 countries do participate in one or several of them. Secondly, especially the periphery but also the core are quite heterogeneous: each country has negotiated

formal differentiations in at least 20 legislative acts, and diverging conditions, interests, preferences, and history create economic and political fault lines between larger and smaller, richer and poorer, more and less integrated, Europhile and Eurosceptical, progressive and conservative countries, as well as between shifting geopolitical coalitions (e.g. Benelux, Visegrád Group, the New Hanseatic League) and between the 'Franco-German motor' and the rest. Thirdly, as remarked above, both groups share a common legal order and predominantly common decision-making procedures, institutions, and budgets. Finally, the numerical, demographical, and political dominance of the core is strong enough to shape the overall functioning and self-understanding of the EU, leading to a perception of the periphery as a collection of disparate and hopefully temporary exceptions and not as a legitimate tier. Thus, rather than conforming to a classic two-tier model, actually existing DI is better described as an 'inverted multi-tier structure with an inclusive core and a small, yet reclusive periphery' (Schimmelfennig and Winzen 2020b, 104) or as a 'soft-core, multi-clustered Europe of overlapping policy communities' (Schmidt 2019).

To sum up, empirical patterns of differentiation in the European Union encompass all three modes but are not fully captured by any of them. On the one hand, differentiation is versatile tool which assumes different forms according to the specific problem to be solved: multi-speed in occasion of enlargements, temporary adjustment problems, or policy experimentations; multi-menu in the presence of vital national interests or sensitivities; and multi-tier to allow a large Europhile core to forge forward despite the objections of a disparate collection of laggard countries. On the other hand, it is used in a highly constrained and pragmatic, rather than principled, manner: to advance integration in the presence of insurmountable legal, political, or capacity problems. It is therefore less prevalent than it could be, unidirectional, inclusive, and a 'last resort' option deployed only after uniform integration has proven to be unfeasible. Such use, which could be termed 'reluctant differentiation', makes it a common, persistent, but relatively secondary feature of European integration.

### **Future DI proposals: overview**

Over the last two decades, a series of developments have questioned the sustainability of the current European Union framework. The 2007–9 great recession has laid bare fundamental problems in the set-up of the Economic and Monetary Union, such as the formal absence of a lender of last resort to state treasuries and banks, the sustainability of private and public debts in presence of interest hikes and capital flights, strong macro-economic imbalances between surplus and deficit countries, the pro-cyclical and deflationary biases of existing EU fiscal rules, and the weak (at best intergovernmental, often technocratic) democratic legitimacy of Eurozone governance. Economic and technological stagnation have led to a relative decline in the living standards of European citizens, social problems, and a weakening competitive position of European firms compared to Chinese and American ones. The Eastern enlargements (2004–13) brought the number of member states from 15 to 28 without adjusting institutions and decision-making procedures, thereby increasing the risk of political paralysis. Rising popular and elite Euroscepticism has subjected further integration to a 'constraining dissensus' (Hooghe and Marks 2009), decreased the feasibility of Treaty reforms, increased intergovernmental disagreements, and led to the withdrawal of the United Kingdom in 2019. Substantial intra-EU and extra-EU immigration as well as the COVID19 pandemics have led to dysfunctions, temporary restrictions, and pressures for renegotiation in several areas (freedom of movement, Schengen, Dublin, access to national benefits). The continued weakness in foreign and defence policy coordination or integration arguably constrains the influence of the EU in the world. Finally, conflicts have emerged with several member states, particularly Hungary and Poland, over issues of judicial independence, democratic standards, fundamental rights, and the primacy of EU or national constitutional law. Beyond these burning issues, the debate naturally continues between supporters of different degrees and types of integration (shallow vs deep, uniform vs differentiated), decision-making procedures (intergovernmental vs supranational, unanimity vs majority), policy orientations (business vs social Europe), and other aspects.

In response to these problems, EU institutions, member states, experts, and political movements have developed a range of reform proposals, some of which see internal differentiation as part of their solution. A selection of 21 recent proposals and their key features is summarized in Figure 4 and discussed below. While differing in their purpose, ambition, design, and specificities, they can be grouped in five main clusters. Proposals with strong multi-speed elements are not classified separately but assigned to other clusters, as the temporary character of differentiations cannot be predicted in advance (and is often but a pious wish or a fig leaf) and does not affect medium-term features and outcomes.

A first cluster of proposals aims at achieving some degree of *disintegration* of the EU, restoring the space for national autonomy in major policy areas. Some plead for a reform of the EU repatriating specific competences (e.g. monetary policy, state aid, migration) to the national level, scaling back the ambition and expanding the flexibility of common rules and regimes, or allowing the possibility for individual countries to renege on existing commitments (e.g. Greek withdrawal from the Euro area). Some advocate a full withdrawal of individual countries from the EU in a negotiated or unilateral manner. Some envisage a negotiated or sequential dissolution of the EU, to be replaced by looser multilateral and bilateral relationships under international law. The European Commission's (2017) scenario 'nothing but the single market' advocates a limited retrenchment of legislation, activity, and budgetary allocations in specific policy areas but no large departures from the *status quo*, no formal repatriation of competences, and further uniform progress on market integration. Majone (2009, 2014) envisages a multi-menu Europe based on voluntary clubs, the unilateral right of states to enter and exit them, the prevalence of differentiated, flexible, and soft forms of coordination, and more regulatory competition between jurisdictions. While the model is open-ended in terms of integration outcomes, the author clearly suggests the desirability of less ambition and competences of the EU in all policy areas beyond the single market, including the Economic and Monetary Union. Lapavitsas (2018; Lapavitsas and Flassbeck 2015) puts forward a left-nationalist case for the exit of Greece and other countries from the Euro area, a negotiated retrenchment of the Economic and Monetary Union as well as of major aspects of the single market and, should this not be politically feasible, the withdrawal from the EU in favour of alternative forms of interstate cooperation. Bootle (2014) explores a variety of scenarios involving the reform of the EU, its complete dissolution, and the withdrawal of the UK. He then advocates the benefits of a Free Trade Agreement Brexit within a more flexible framework of international cooperation, encompassing the options of a revived EFTA, reliance on WTO rules, bilateral FTAs with as many countries as possible, membership of NAFTA, and enhanced Commonwealth ties. Finally, some small Eurosceptic forces (Brexit Party et al. 2020) explicitly advocate a negotiated exit of their country from the EU through the art. 50 TUE procedure along the British example.

Figure 4. Future EU (dis)integration proposals

Proposal	Cluster	Integration	Differentiation	EU legal order	Institutions	Clubs	Club membership	Treaty reform	Short description
Brexit Party et al. (2020)	disintegration	much less	-	withdrawal	-	-	-	-	negotiated national withdrawals through the art. 50 procedure
Bootele (2015)	disintegration	much less	-	unitary / withdrawal	-	-	-	-	EU reform repatriating key competences or national withdrawal
Lapavistas (2018), Lapavistas & Flassbeck (2015)	disintegration	much less	-	unitary / withdrawal	-	-	-	-	EU reform repatriating key competences or national withdrawal
European Commission (2017)	disintegration	less	stable	unitary	unitary	-	-	no	less EU activity in areas outside of the single market
S2 'Nothing but the Single Market'	uniform integration	much more	much less	unitary	unitary	1	unidirectional	yes	'United States of Europe', 'aggards adapt or leave
Schulz (2017)	uniform integration	much more	much less	unitary	unitary	1	unidirectional	yes	post-national 'European Republic', 'aggards adapt or leave
Guérot (2016)	uniform integration	much more	much less	unitary	unitary	1	unidirectional	yes	post-national 'European Republic', 'aggards adapt or leave
Hennette et al. (2019)	multi-tier integration	more	more	dual but compatible	separate	2	unidirectional	additional inter se treaty	additional 'T-Dem treaty' for the Euro area with separate budget, taxes, and assembly
Piris (2011)	multi-tier integration	more	more	dual but compatible	separate	2	unidirectional	additional inter se treaty	Eurozone-based 'two-speed Europe'
Fourth option	multi-tier integration	probably more	more	dual	separate	2	unidirectional	yes, plus additional inter se treaty	decoupling of EU into 'economic union' (less integrated) and 'political union' (more integrated), one-off possibility for states to decide their membership
Fabbrini S. (2019)	multi-tier integration	probably more	more	dual	separate	2	unidirectional	yes, plus additional inter se treaty	decoupling of EU into 'economic union' (less integrated) and 'political union' (more integrated), one-off possibility for states to decide their membership
Fabbrini F. (2020)	multi-tier integration	more	more	dual but compatible	differentiated	2	unidirectional	additional inter se treaty	additional 'political compact' compatible with EU law and institutionally connected with the EU
Majone (2009, 2014)	multi-menu (dis)integration	open / much less	more	unitary	separate	open	bidirectional	yes	'Europe of clubs' with a single market topped by multiple functional clubs, free entry and exit, cooperative competition rather than harmonization
Demertzis et al. (2018)	multi-menu (dis)integration	open / more	more	unitary	differentiated	5	bidirectional	yes	common 'bare-bones EU' topped by four optional clubs
European Commission (2017)	multi-menu integration	more	more	unitary	differentiated	open	unidirectional	no	sustained use of enhanced cooperation in several domains
S3 'Those who want more do more'	multi-menu integration	more	stable	unitary	unitary	-	-	no	moderate uniform integration in most areas
European Commission (2017)	incremental integration	more	stable	unitary	unitary	-	-	no	refocusing of priorities, sustained uniform integration in most of them
S4 'Doing less more efficiently'	incremental integration	more	stable	unitary	unitary	-	-	no	sustained uniform integration in most areas
European Commission (2017)	incremental integration	more	stable	unitary	unitary	-	-	no	sustained uniform integration in most areas
S5 'Doing much more together'	incremental integration	more	more	unitary	differentiated	-	-	no	sustained multi-tier integration in three areas (EMU, defence, Schengen)
Pirozzi et al. (2017)	incremental integration with multi-menu elements	more	more	unitary	differentiated	open	unidirectional	yes	'soft core Europe' of overlapping policy communities with leadership constellations and solidarity mechanisms
Schmidt (2019)	incremental integration with multi-menu elements	more	more	unitary	differentiated	open	unidirectional	yes	'soft core Europe' of overlapping policy communities with leadership constellations and solidarity mechanisms
Macron (2017)	incremental integration with multi-tier and multi-menu elements	more	more	unitary	differentiated	-	-	no	'sovereign, united, and democratic Europe' with one or several vanguard groups leading the way
UEF (2019)	incremental integration with multi-menu elements	much more	less	unitary	unitary	-	-	yes	'federal Europe' with sustained integration in three areas (EMU, defence, Schengen) and more majoritarian decision-making
Voit (2021)	incremental integration with multi-tier elements	much more	less	unitary	unitary	-	-	yes	'federal Europe' with state-like institutions and a two-tier system

Source: own elaboration.

A second cluster advocates a rigidly *uniform integration*, limiting the scope for existing and future opt-outs and differentiations. Very few proposals belong to this group, as various reasons militate against this course: a hope that most differentiations will prove to be merely temporary ('two-speed Europe'); a functional and political reluctance to completely exclude laggard countries from the European project; and insurmountable legal and political obstacles, in light of existing unanimity rules for Treaty reform and a range of decision-making areas. Nevertheless, two interesting examples can be mentioned. The German politician Martin Schulz (2017) has argued for a constitutional Treaty establishing the 'United States of Europe' and expanding EU competences in key sectors including internal security, defence, climate, fiscal and monetary policy, asylum, and development cooperation; states unwilling to ratify it should not be accommodated but instead explicitly invited to leave the EU. The academic Guérot (2016), in turn, advocates the creation of a post-national 'European Republic', with nation-states completely replaced by supranational and subnational democratic institutions (provinces and metropolitan areas) and no formal differentiations or exit mechanisms; the options of reluctant countries are not spelled out but, presumably, they are also expected to either comply or leave.

A third cluster sets its hope on *multi-tier integration* within a two-level framework, allowing an integrationist core to forge ahead without being held hostage by a more cautious periphery. Hennette et al. (2019) propose the creation of a separate parliamentary assembly (with 80 per cent of MPs drawn from national parliaments and 20 per cent drawn from the European Parliament), budget, and taxation for the Euro area through an *inter se* 'democratization treaty' (T-dem). Piris (2011) envisages a substantial further integration of the Euro area countries in a 'two-speed Europe'. The division is coyly conceived as temporary but results in a growing and probably unbridgeable gap between core and periphery. A 'softer' version of the project can be carried out without Treaty change through the enhanced cooperation procedure, secondary legislation, non-legislative measures, and sectoral treaties, but would yield less ambitious and efficient outcomes. A 'bolder' version entails instead a comprehensive (*inter se*) 'additional treaty' between the members of the core and largely separate institutions, albeit subjected to the primacy of EU law and the jurisprudence of the Court of Justice. Sergio Fabbrini (2019) suggests the 'decoupling' of the existing EU structure into a common 'economic community' and a Eurozone-based 'federal union', each with its separate legal order and institutions. The project requires a Treaty reform and allows the one-off opportunity for states to choose between a slightly lower and a much higher level of integration compared to the *status quo*. Federico Fabbrini (2020), in the same vein, favours further integration of a non-specified integrationist core through an *inter se* 'political compact' but without Treaty reform, disintegration options, or a completely separate institutional framework.

A fourth cluster points to a path of multi-menu integration. Some proposals are structurally open-ended but, under favourable conditions (e.g. high functional benefits, complementary and excludable goods, convergent integrationist preferences and capacities, efficient bargaining and institutions), may lead to a high level of integration *à la carte* and even centripetal pressures toward ultimate uniformity. In addition to the above-mentioned Majone, Demertzis et al. (2018) propose the reform of the Treaties to create a 'bare-bones EU' (single market) and four optional clubs (EMU, Schengen, foreign policy, other policies). The five clubs would share a common legal order and institutional framework but have separate memberships, decision-making structures (e.g. Council and Parliament formations), and resources, and countries would always remain free to join or leave any of them. Other proposals have instead a predetermined integrationist character, preserving the existing legal *acquis*, and allowing differentiation only for additional integration steps. The European Commission's (2017) scenario 'those who want more do more', for instance, encourages the creation of voluntary enhanced cooperations in most existing and some new policy areas beyond the single market, but no Treaty reform.

A fifth cluster, which regroups the majority of proposals, pursues a timid or bolder vision of further *incremental integration* along the current pattern of 'reluctant differentiation': while uniform



solutions are the preferred outcome, the continuation and deepening of existing differentiated regimes, temporary differentiations, and opt-outs from new initiatives are pragmatically accepted if unavoidable. Three of the five scenarios of the European Commission's (2017) white paper propose more integration within the existing Treaty framework: 'carrying on' envisages moderate progress in all uniform and differentiated policy areas; 'doing less more efficiently' plans to refocus the priorities of the EU, reducing activity in selected areas but greatly expanding it in most existing and some new ones; 'doing much more together', finally, proposes a sizeable expansion of EU policies and resources in all areas, but without an end to existing opt-outs. In all three cases, the overall degree of differentiation is likely to broadly mirror the *status quo*. Pirozzi et al. (2017) also propose ambitious multi-menu integration steps within the existing Treaties of variable vanguard groups in three already differentiated domains: the Economic and Monetary Union (the 19 current members), defence (10-15 countries), and Schengen (the 22 current EU members). The outcome is likely to be an overall increase of differentiation, even if the need for more legal uniformity within each policy area is strongly emphasized. Schmidt (2019) advocates instead a 'soft core Europe' of overlapping policy communities, spurred forward by policy-specific 'leadership constellations' (e.g. France and a rejoining UK in defense) and substantial 'solidarity mechanisms' (e.g. Eurobonds, unemployment fund, mobility adjustment fund). The French president Emmanuel Macron (2017) has forcefully championed the idea of a more integrated 'sovereign, united, and democratic Europe' to be achieved through secondary legislation, *inter se* treaties, or Treaty reform. While conceived for the EU as a whole, such vision refuses to tolerate vetoes from reluctant countries. It may therefore result either in one (Eurozone-based) or several (policy-based) vanguard groups moving forward with multi-speed, multi-tier, and multi-menu forms of differentiation, or in uniform compromise solutions stimulated by the threat of exclusions. The latter outcome is currently prevailing, as the outcome of the long debates over a separate Eurozone budget and a common recovery package (Next Generation EU) clearly shows (Howarth and Schild 2021; de la Porte and Jensen 2021). Finally, many federalist groups propose further integration through a reform of the Treaties which would transfer additional competences to the EU, facilitate majoritarian decision-making, and streamline the institutional framework, but would not terminate the possibility of selective national opt-outs and differentiations. The Union of European Federalists (2019), for instance, advocates a 'federal Europe' with major transfers of competences in three differentiated areas (EMU, defence, and Schengen) and a deep overhaul of institutions and procedures, such as a generalization of the ordinary legislative procedure with Qualified Majority Voting, but no end to existing multi-menu differentiation. Similarly, the small transnational party Volt (2019) wants to create a 'federal Europe' with a traditional parliamentary structure, majoritarian decision-making, and larger exclusive competences and resources, but it accepts both a (temporary) two-tier structure and the right of secession through a modified art. 50 procedure.

Altogether, the proposals discussed above cover all the key design options available for a reform of the EU treaties, institutions, and policies. They also show the relevance and versatility of differentiation, which can be deployed for integration or disintegration purposes, in a reluctant or bolder manner, and according to multi-speed, multi-tier, or multi-menu patterns.

### **Future DI proposals: assessment**

As shown by Chiocchetti (2021), the evaluation of international integration schemes is a highly uncertain and subjective endeavour: on the one hand, reliable estimates of their empirical outcomes are often very difficult to achieve and are very sensitive to initial assumptions, the specific features of each issue and project, and unpredictable changes in the policy environment; on the other hand, even uncontroversial results must be weighed with normative criteria on which a wide variety of reasonable positions exist, leading to different conclusions depending on the values, interests, and sensibilities of each observer. As a consequence, the present assessment cannot establish the superior or inferior desirability of specific clusters and proposals. It will however identify their

key *features*, which can be understood as either advantages or disadvantages depending on the normative perspective adopted, and then proceed to discuss two important predominantly non-normative aspects: their *legitimacy* in terms of objective levels of popular support, and their *feasibility* in terms of obstacles to their choice and implementation.

The key features of the various clusters of proposals can be summarized as follows. Advocates of disintegration emphasize the functional and democratic advantages of a less intrusive international cooperation framework based on reducing external constraints to national policy autonomy in a uniform or differentiated way. On the one hand, uniform policies at the EU level may not be appropriate ('one-size-fits-none') to every issue and country and may hamper experimentation, innovation, or beneficial competition. In alternative, they may be appropriate in principle but currently based on undesirable (e.g. neoliberal or excessively harmonizing) or dysfunctional rules locked in by the Treaties, which make their reform very difficult and a withdrawal from the EU a suboptimal but nevertheless desirable solution. On the other hand, intrusive EU policies may simply clash with national preferences which are considered to be more legitimate than supranational ones, in light of the comparative strength of national identities, the absence of a common European language and public sphere, and the superior democratic legitimacy and accountability of national institutions. Opponents point instead to the loss of trade and other integration benefits, thought to be generally positive and with increasing returns to scale, to the potential for negative externalities and conflict inherent in national autonomy, to practical problems deriving from excessive differentiation (cherry picking, unstable commitments, path dependent divergence, legal and institutional complexity, inequality between citizens and firms), and to the normative primacy of supranational preferences over national ones. Many federalists are opposed in principle to any scaling back of integration, as even dysfunctional common rules may be seen as a transitional step toward a federal Europe. Finally, additional criticism to the prospect of individual countries withdrawing from the EU points to the economic disruptions and costs of the transition and to the difficulty of negotiating a beneficial future relationship with stronger and potentially resentful former partners. Arguments for and against integration as a whole are exactly specular, while differences emerge in the assessment of different integration models. Uniform integration should be preferable in the presence of homogenous preferences and capacities, positive integration benefits, and a fair distribution of absolute and relative gains but, if these conditions are not met, it is often a recipe for political paralysis or dysfunctional compromises. Multi-tier integration theoretically allows an integrationist core to forge ahead despite the opposition of laggards but may merely reproduce the above-mentioned problems at a smaller scale, as it is quite unlikely that the members of the core all share similar preferences and interests in all policy areas. In addition, it may foster resentment among the excluded countries, threaten cooperation in non-differentiated areas, and make long-term progress in the integration of non-members more difficult. Multi-menu integration should be preferable in the presence of positive but not universal integration benefits and heterogeneous preferences and capacities but is very exposed to the objections against national autonomy and differentiation listed above. Unidirectional differentiation (allowing opt-outs only from planned integrationist rules) may lead to suboptimal policies, particularly in areas relying on uniformity and redistribution, and reduce the ability of reluctant states to extract side-payments for their consent. Bidirectional differentiation (allowing opt-outs also from existing rules) may produce a lower national or overall degree of integration and lead to spirals of retaliatory opt-outs, unravelling key regimes or the EU as a whole. In both cases, multi-menu differentiation leads to an increasingly complex and variegated à la carte integration which is more respectful of national preferences but more similar to free international cooperation under international law than to the uniform federal finality desired by many supporters of the European integration project. Finally, incremental integration seeks to find a feasible balance between uniformity and differentiation but limits the potential benefits of each model. Thus, the assessment of the advantages and disadvantages of different uniform and differentiated proposals largely depends on one's overall views on European integration, sector-specific expected benefits, and feasibility considerations.

The democratic legitimacy of the various clusters can be explored objectively through survey, electoral, and experimental data. While popular preferences are often vague and malleable, may change over time, and are sensitive to the specific framing of questions and issues, existing data provide a fairly clear indication of the general thinking of European citizens on these issues. Firstly, support for radical disintegration achieved through national withdrawals is small at present. According to the Eurobarometer 500 (European Commission 2021), a survey which traditionally tends to overrepresent Europhile opinions, a vast majority of European citizens judges EU membership of their country 'a good thing' (66 per cent) and few 'a bad thing' (10 per cent), with clear majorities or pluralities in all countries and growing values since the 2011 trough (47 vs 18 per cent). Other opinion polls on a withdrawal from the EU return a higher but generally limited number of 'leavers': an average of 34 per cent for 8 countries and a 48 per cent peak for Italy in 2016 (Ipsos 2016); an average of 21 per cent for 9 countries and a 38 per cent peak for Greece and Italy in 2017 (Stokes, Wike, and Manevich 2017); and an average of 23 per cent for 4 countries and a 28 per cent peak for Italy in 2021 (Redfield and Wilton 2021). Altogether, no other country seems to wish to follow in the steps of the United Kingdom, where public opinion was consistently split on the issue and a 2016 in-out referendum resulted in a narrow 51.9 per cent majority for the leave option (Clarke, Goodwin, and Whiteley 2017). Second, support for strong integration aimed at a federal Europe is larger but also minoritarian, even if it is rarely polled. A 10-country survey in 2017, which included the UK, found support for a 'United States of Europe with a central government' at 30 per cent, with 28 per cent neutral and 41 per cent opposed (Raines, Goodwin, and Cutts 2017). A 6-country survey in the same year found support for Martin Schulz' proposal of a 'United States of Europe by 2025' with a 'federal constitution' and the forced withdrawal from the EU of opposing states at 22.4 per cent, with 55.1 per cent neutral and 55.1 opposed (YouGov 2017). Support was higher in the only two large countries polled, France (a plurality of 34.6 per cent) and Germany (a minority of 35.7 per cent), but still far from an absolute majority. Thirdly, overall support for integration and disintegration seems instead to be relatively balanced, pointing to average preferences in favour of selective and moderate integration steps or close to the *status quo*. The above-mentioned 2017 survey (Raines, Goodwin, and Cutts 2017) points to a plurality favouring the return of some powers to member states (48 per cent) as opposed to supporters of the existing distribution (28 per cent) and of more powers to the EU (24 per cent). The Eurobarometer 500 (European Commission 2021) finds instead exactly the opposite, with a plurality favouring more decisions taken at the EU level (42 per cent) and minorities defending the *status quo* (34 per cent) or fewer decisions at the EU level (20 per cent). Additional questions on the appropriate level where sixteen issues can be most efficiently addressed find a consistent predominance of action 'equally at the EU and at the national level' (53.1 per cent), as opposed to action predominantly or exclusively at the EU (24.1 per cent) or at the nation (20.8 per cent) level. Action at the EU level is the second preference in ten policy areas (anti-terrorism, the environment, migration, energy, defence, foreign affairs, research, digitalization, gender equality, and economy) while action at the national level is a plurality in one area (taxation) and the second preference in other five (education and training, employment, health, agriculture, and consumer protection). The Eurobarometer 91.5 (European Commission 2019) also indicate a generally strong overall support for 'common policies' of the EU in nine key policy areas where it is already active (from 46.0 to 83.1 per cent), with one aggregate (enlargement) and some national (single currency, migration, foreign affairs) exceptions, but it is unclear if this should be interpreted as a mere assent to the *status quo* or as a desire for some degree of further integration. Electoral evidence from referendums on new European treaties paint an uneven picture, with most acts ratified without consulting the electorate and the seventeen votes held in Denmark, Ireland, France, Luxembourg, Netherlands and Spain between 1986 and 2012 resulting in rejection only five times (29.4 per cent), but a strongly rising trend (Qvortrup 2016). Finally, evidence on support for various forms of differentiation is less clear. The Eurobarometer 90.2 finds a narrow plurality (48.5 per cent, net +7.0) in support of the principle of a 'two-speed Europe', but opposition prevails in eight countries (European Commission 2018). A 2020 14-country study finds a cautious acceptance of both 'multiple speed' integration (37.1 per cent, net +26.1) and the possibility of 'opt-outs' (31.7 per cent, net +7.8), but with a larger number

of respondents holding neutral or no views (Genschel et al. 2020). In addition, a large plurality also supports the statement that ‘all member states of the EU should eventually join the Euro’ (46.3 per cent, net +27.6), with current Euro area members generally in favour and current non-members generally against. Two regression studies (Leuffen, Schuessler, and Gómez Díaz 2022; Winzen and Schimmelfennig 2021) raise the possibility of an interpretive mismatch between citizens and experts, as the former tend to judge differentiation as a means to avoid undesirable integration steps for their own country (with higher support among Eurosceptic countries and economically liberal groups) while the latter tend to emphasize its broader potential to overcome integration blockades (with most proposals advanced by federalists and including ambitious redistributive components). A recent 8-country conjoint experiment (de Blok et al. 2021) shows that individual support is highly dependent on the specific features of the differentiated schemes, with particularly high levels if the participants include at least 18 states and one’s own country, if everyone is bound to eventually join, if the decision is taken by majority rule, and if specific issues are selected. On balance, popular opinions on differentiation seem likely to be more instrumental than principled and to depend on whether a specific scheme can be expected to help or hinder the (partial) attainment of one’s integrationist and broader political preferences. Thus, public opinion data seem to provide most support for modest incremental integration schemes such as the Commission’s ‘carrying on’ or ‘doing less more efficiently’ scenarios, which avoid excessively ambitious goals and pragmatically deploy different forms of differentiation to avoid deadlocks and accommodate vital national preferences. At the same time, such measures are clearly inadequate to address the challenges described in the previous section and may be insufficient to avoid seriously dysfunctional outcomes, major adverse events (e.g. new Euro area banking and sovereign debt crises), simmering dissatisfaction at both popular and elite level and, in particularly unfavourable circumstances, the withdrawal of further member states.

The feasibility of the various clusters is harder to determine, but a number of expectations can be reached with reasonable certainty. From a legal point of view, the choice of the legal instrument is bound to play an important role. All proposals requiring a Treaty reform (either aiming at more or less overall integration) appear the least feasible at present, in consideration of the need for a unanimous consent of all countries, cumbersome ratification requirements, and possible referendums in several countries. To be successful, such option will inevitably require a substantial increase in both vertical and horizontal (Schimmelfennig, Leuffen, and Rittberger 2015) differentiation and the abandonment of the principles of irreversibility of integration levels, including the introduction of one-off or permanent bidirectional mechanisms for the scaling-back of existing and future commitments (as suggested by Majone, Sergio Fabbrini, and Demertzis) as well as substantial compensatory mechanisms and side-payments for reluctant member states (as suggested by Schmidt). Major uniform integration steps in areas subjected to unanimity (e.g. own resources decisions, enlargement, foreign and defence policy) are also little feasible, although procedural hurdles are lower. The conclusion of separate *inter se* Treaties is much more feasible, but the effectiveness of this solution is constrained by the principle of supremacy of EU law, the costs of institutional duplication or differentiation, and the political conflicts which may arise between the members and the institutions of both organisations. Proposals operating within the existing Treaty framework are most feasible but may not be able to produce sufficient effects, although the history of the EU shows that major changes can often be achieved without a formal amendment of the Treaties: notably, though an innovative jurisprudence of the Court of Justice, discretionary decisions of the Commission (e.g. on fiscal rules) or of the European Central Bank (e.g. the massive purchase programmes launched since 2010), budgetary decisions (e.g. the current Next Generation EU package), or the secondary legislation. From a political point of view, the balance of political preferences among the relevant veto players, particularly national governments, European institutions, and national parliaments, make some solutions more likely than others. Elite support for the dissolution of the EU or national withdrawals is at present almost inexistent, as even notionally ‘Eurosceptic’ parties, movements, and medias overwhelmingly refrain from pursuing it. Proposals for weaker forms of disintegration, such as a selective renegotiation of certain aspects of the *status quo*,

are supported by more actors, but are equally unlikely: Treaty changes require unanimous consent, and the very heterogeneity of national interests driving the demand for disintegration hampers an agreement on non-Treaty changes, as any request by individual states or groups thereof for changed priorities, flexibility, or differentiation is bound to find a resolute opposition from a larger number of countries with opposite preferences. An increase in open or hidden forms of non-compliance cannot however be excluded. Advocates of some kind of (uniform or multi-tier) federal Europe are probably a majority within European institutions and enjoy a more cautious but substantial support in many national ones, but their influence is limited by sceptical public opinions, the hostility of several countries (formerly led by the UK, now mostly found in Eastern and Northern Europe), and divergent national interests and orientations. Uniform unification through a reform of the Treaties seems impossible, due to the above-mentioned unanimity requirements, while partial unification through a separate *inter se* treaty is more feasible but nevertheless improbable. In addition, none of the factors which have historically facilitated the merging of policies – an expansionist hegemon, a vital external security threat, economic bankruptcy, and mass unionist movements – currently obtain to a degree sufficient to overcome institutional path-dependency and political resistances. The option of a continuation *status quo* with no major movement in either direction does not seem realistic, in light of the pro-integrationist preferences of most veto players and the history of the EU, which tends to show an uneven but almost uninterrupted trend toward further integration even in periods of maximum elite disagreement and popular contestation. We are therefore left with less ambitious proposals of incremental integration building on the existing framework as the most likely option. While entailing complex bargaining, slow progress, muddled compromises, dysfunctional rules, and democratically questionable methods, this model is likely to continue to move integration forward, even though its outcomes may not always adequately meet Europe's challenges and needs. Both temporary and permanent forms of differentiation, particularly those of a multi-menu kind (Treaty opt-outs, exemptions and flexibility in the secondary legislation, enhanced cooperation mechanisms), represent an essential tool to this end, greatly facilitating overall progress while partly accommodating vital national interests and preferences. Multi-tier forms, instead, seem less useful, as they tend to reproduce the problems of uniform integration (one-size-fits-none outcomes, absence of a consensus, veto players due to unanimity mechanisms) at the smaller scale of a vanguard group which is itself economically and politically heterogeneous.

## **Conclusion**

The main findings of the article can be summarized as follows.

First of all, formal differentiation is revealed as a common but relatively secondary feature of past and present European integration. Internal differentiation measured in terms of opportunities currently affects 5.7 per cent of articles in EU-related primary law (often in the form of total opt-outs) and 2.6 per cent of EU secondary legislative acts (generally in the form of partial exemptions of minor or major import). The relevance of other forms of flexibility varies but does not seem to trump uniformity outside of areas characterized by the prevalence of non-binding 'soft law' mechanisms, such as the Open Method of Coordination. External differentiation covers a wide range of degrees of integration between the EU and third countries, but always entails a selective extension of the validity of EU rules beyond its borders with no transfer of membership rights. In light of the substantial impact that EU norms have on national legislation and policymaking, these figures seem remarkably low and demonstrate the cohesiveness and resilience of the European project.

Second, empirical patterns of differentiation include elements of all three theoretical models but do not fully conform to any of them. Multi-speed differentiation encompasses between one third and half of the historical cases of the EUDIFF2 secondary legislation dataset but only a small share of current cases. Many patterns fit well with the expectations of the multi-menu model, but this form of differentiation is highly constrained: normally dependent on the consent of other states by

unanimity or qualified majority; exclusively unidirectional (no opt-outs from existing commitments); predominantly affecting specific norms rather than entire acts or policy areas; 'clubs' which are only partially differentiated in institutional terms; and a broad and largely overlapping membership in most areas. Multi-tier differentiation, in turn, is visible in a certain polarization between a more integrated core and a less integrated periphery but is not very pronounced and stable: while around 15 countries take part in all major EU regimes, such 'core' is large, inclusive, institutionally and ideationally undifferentiated, and legally, economically, and politically heterogeneous. Altogether, the eclectic, versatile, and highly constrained use of the three models may warrant the identification of a fourth intermediate one, which I termed 'reluctant differentiation'.

Third, the analysis of a comprehensive range of 21 proposals for the future reform of the EU shows that differentiation plays an important role in most of them and can be deployed with versatility: to promote further integration or disintegration; in a reluctant or bolder manner; and with a prevalence of multi-speed, multi-tier, or multi-menu elements.

Fourth, the assessment of the above-mentioned proposals with reference to their key features, democratic legitimacy, and legal-political feasibility finds that each model and form of differentiation presents specific strengths and weaknesses. Multi-speed elements can be usefully combined with those of other models and are the least controversial, but do not affect medium-term outcomes. Multi-menu elements (Treaty opt-outs, exemptions and flexibility in the secondary legislation, enhanced cooperation mechanisms) may be useful to increase the effectiveness and likelihood of reform proposals, but only in moderate dosage. Multi-tier elements, finally, seem less promising, as they tend to reproduce the problems of uniform integration at a smaller scale and foster political conflict between insiders and outsiders. Altogether, both the current balance of popular preferences and feasibility considerations seem to rule out radical shifts toward any of the three DI models and favour modest proposals of 'incremental integration' avoiding formal Treaty revisions and combining uniform and differentiated elements, selectively stepping up (uniform or differentiated) EU action in some areas and scaling it back in a few others. This course, however, may not be sufficient to adequately meet Europe's challenges and needs and to avoid major functional and political reversals, which might instead require more ambitious (integrative or disintegrative) measures combining a reform of the Treaties, a bolder increase in both vertical and horizontal integration, the introduction of bidirectional mechanisms, and package deals including substantial compensatory mechanisms and side-payments for reluctant countries.

The analysis also suggests a few promising avenues for future research. Theoretical DI models are conceptually clear, appear reasonable, and capture relevant aspects of the empirical evidence, but have yet to be properly operationalized. In particular, clear synthetic indicators should be developed to measure the actual degree of 'multi-speedness', 'multi-menusness', and 'multi-tierness' of any given system and policy area. The collection of comparable quantitative data for other regional blocs, multilateral organizations, and the average nation-state could lead to a better understanding of the relevance, use, and drivers of legal differentiation in international integration schemes. Finally, the empirical evidence on popular and elite support for differentiation seem to indicate the prevalence of highly instrumental, specific, and context-dependent attitudes which are only imperfectly captured by generic survey items, such as preferences for a 'two-speed Europe' or 'opt-outs'; this calls for more survey and experimental research and a more detailed and nuanced measuring of (simple or ranked) attitudes toward explicit alternative options, concrete examples of differentiation, and specific aspects thereof.

From a policy-oriented perspective, the value of differentiation as a useful design feature to increase the effectiveness, democratic legitimacy, and legal-political feasibility of international integration schemes seems unquestionable, but only if it takes into account the preferences of all players, operates in both directions, and is accompanied by policy concessions and balancing mechanisms as part of package deals.

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**Author contacts:**

Dr Paolo Chiocchetti  
Research Associate, InDivEU  
European University Institute  
Robert Schuman Centre for Advanced Studies  
Via Boccaccio 121, Florence

E-Mail: [paolo.chiocchetti@eui.eu](mailto:paolo.chiocchetti@eui.eu)