

# Differentiated integration and the WB

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## *2.4. Differentiated integration and the WB*

With the time and development of the European Union, it was seen and understood that not all countries part of the Union can follow the same approach. Thus within Europe, itself sees some important divisions such as the Schengen area where from 27 EU member states currently, only 22 of them are part (Austria, Belgium, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden). Four other EU member states (Bulgaria, Croatia, Cyprus, and Romania) are obliged to become part of this free movement zone in the future. The other country Ireland, due to its border with the United Kingdom has chosen not to be part of this area, based on opt-out. Despite this, it turns out that four other countries, part of the European Free Trade Association (EFTA), are part of the Schengen area (Iceland, Liechtenstein, Norway, and Switzerland), although they are not officially part of the EU.

Another example is the Eurozone or officially called the Euro Area and which includes 19 European Union countries (Austria, Belgium, Cyprus, Estonia, Finland, France, Germany, Greece, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Portugal, Slovakia, Slovenia, and Spain) which have applied Euro as their currency. In principle, other countries are obliged to become part of the Eurozone once they meet the relevant criteria. However, Denmark in this case makes an exception, as it will not become part of this area. Andorra, Monaco, San Marino, and Vatican City have formal agreements with the EU to use the euro as their official currency and issue their coins. Kosovo and Montenegro have adopted the euro unilaterally, but these countries do not officially form part of the eurozone and do not have representation in the European Central Bank (ECB) or in the Eurogroup.

Another differentiated integration approach is the possibility of opt-out. In general, the law of the European Union is valid in all of the twenty-seven European Union member states. However, occasionally member states negotiate certain opt-outs from legislation or treaties of the European Union, meaning they do not have to participate in certain policy areas. Currently, three states have

such opt-outs: Denmark (three opt-outs), the Republic of Ireland (two opt-outs), and Poland (one opt-out). The United Kingdom had various opt-outs before leaving the Union.

The integration is differentiated if the individual EU norms are not applied to some member states; the individual EU norms are applied to some non-member states; or both. The specialists in European Studies, together with politicians or members of international organizations believe that the territorial and functional enlargement of the EU increased the need for differentiated integration.<sup>1</sup>

The result? Various solutions were designed for various member states, with different priorities and different capacities, to move on the path of progress towards deeper integration, at various speeds.<sup>2</sup> A first agreement: any group of member states entering deeper cooperation should remain open to accept other member states that are willing and capable to join the initial core. Joschka Fischer and Jacques Delors were firm in denying any intention to erect walls within the enlarged EU. A second agreement: all leaders agree that any initiative on the part of member states should not affect the *acquis communautaire*. Joschka Fischer insisted on this issue asking to create coordinating mechanisms between these countries, to stimulate a better integration. Romano Prodi made clear that the uniformity of the legal framework and the coherence of the *acquis communautaire* must be preserved.<sup>3</sup> In 2002, Michel Barnier and Antonio Vitorino asked the fundamental question, as a corollary of a long going debate: “*What is that we want to do together?*”. The answer will dictate whether a common political project can provide the basis for further integration, or if different projects can coexist. Michel Barnier went further, arguing that the question should not be addressed only in terms of economic policy or security policy, but there is a need to expand the debate to the future of the internal market, regional policy, and competition.<sup>4</sup>

To some extent, this approach that exists within the EU was also applied to new countries that wanted to join the EU, especially for the countries of the Western Balkans. Most studies of differentiated integration are limited to the European Union, to the relations between the existing Member-States, and the various institutional arrangements. The relationship between the European

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<sup>1</sup> <http://www.eup.ethz.ch/research/diffintegration>, viewed at 29.08.2013

<sup>2</sup> Differentiated Integration in an Enlarged Union, published on March 27, 2002, revised on January 29, 2010, available at <http://www.euractiv.com/future-eu/differentiated-integration-enlarged-union/article-117073>, viewed at 29.06.2013

<sup>3</sup> *ibidem*

<sup>4</sup> Contribution de Michel Barnier et António Vitorino à la Convention européenne sur „La méthode communautaire” (3 septembre 2002), available online at: <http://www.cvce.eu/collections/unit-content/-/unit/d5906df5-4f83-4603-85f7-0cab24b9fe1/356d1e8d-3396-4cf0-9031-e6939faf75f1/Resources#6605c830-7a2d-451e-a4de-3f27d49d19e8>, last viewed on 25.09.2013

Union and the Western Balkans offers support for testing the concept of differentiated integration on the dynamics recorded between the EU and a group of foreign states. Different Balkan states signed different contractual agreements with the European Union, with the expressed wish to consolidate their “European perspective”. (Dyson, Sepos, 2010: 5-8).

EU policy towards the Balkans is framed by two essential spatial questions. What is the territory we are involved with (what is/are the Balkans)? Where do we want our own (EU) territorial limits to be? These questions are important for two reasons. First, the EU formulates policies that address Balkan states as a territorial cluster and urges these states to adopt and promote regional co-operation as a key step in their ‘European perspective’, while simultaneously differentiating between states in their approach to candidacy or prospective membership of the EU.

Second, this policy of differentiated integration results both from perceived differences between Balkan states and an upsurge in the debate within existing EU members as to the limits of Europe and EU enlargement. If indeed the EU is trying to build states in the Balkans, tie them together regionally, both at the inter-state and transnational levels, and transcend ethnic and national rifts to bring them closer to the European mainstream, these are being undermined by European hostility to further enlargement, especially as it is partly based on issues of identity and religion.

From the territory point of view, the EU defines the Western Balkans partially from location and proximity reasons, but mostly from a shared recent violent past. Various policies could be designed based on the economy of these countries, but the regionalism promoted by the EU is based on pushing the hostile states towards cross-border cooperation while their accession to the EU is postponed until local problems are somehow mitigated.

Different states at different moments have entered contractual agreements with the Union in order to consolidate their European perspective. (Leuffen; Rittberger; Schimmelfennig, 2013: 2-6). The states of the Western Balkans are on different trajectories in what concerns their EU accession. The Union has a large range of initiatives running for the Western Balkans. One key initiative is the regional approach through which the EU pushes the states of the Western Balkans towards forms of regional cooperation that must be attained as a condition to move forward with the contractual agreements with the EU. Thus the region of the Western Balkans is not one to share regional characteristics, either in terms of identity, culture, or political and economic development. (Leuffen; Rittberger; Schimmelfennig, 2013: 26-28) Albania is different from Croatia, which is different from North Macedonia. What connects the dots between these states are geographical proximity, a common and agitated history, a political and economic development in a post-communist society, and most importantly, the EU policy to bring and maintain together.

If differentiated integration has any relevance to the EU/Balkan relationship, or in the Balkans itself, three key points need to be made. First, differentiated integration in the Balkans results from the interests and policy preferences of the existing EU members. Balkan states, if given the option, would choose immediate and full membership of the EU, they would not willingly adopt policies of differentiated integration. If part of the accepted definition of differentiated integration is, 'the process whereby European states ... opt to move at different speeds', in the case of the Balkans it should be amended to read, 'the process whereby European states ... opt for other (non-EU) states to move at different speeds' towards European integration. The range and depth of EU involvement in the Balkans have been such since 1991, that it could be said that there has been an imposition of differentiated integration on the region by the EU.

Second, if differentiated integration in the Balkans is to be cast in the context of enlargement, we then have to emphasize the essentially political nature of this process. In other words, there is very little that is technical or functional in the EU's decisions to treat the Balkans through a process of differentiated integration. Differentiated integration is a direct manifestation of political strategies for managing a range of so-called Balkan problems – ethnic rivalries, irredentism, separatism, war, democratization, institution-building. This complex set of problems in the Balkans, in conjunction with the range of interests of EU members and the lack of applicable instruments in the EU, has been the cause of differentiated integration.

Third, is the EU's insistence on treating the Balkans as a region. There are historical and psychological reasons why this is the case: some of them emanating from Yugoslavia's wars of disintegration, others from the more distant past; some real and some perceived. Differentiated integration in this regionalist context has two implications. On the one hand, the Balkans are treated differently from other European regions in the course of European enlargement. On the other hand, even though there is, as we shall see, a great raft of regionalism embedded in the EU's Balkans policies, the EU differentiates between parts of the Balkans in terms of integration. In effect, we have a double differentiation which is a key component to understanding the location of the Balkans in the EU's orbit (Economides 2008).

In this new regional context, the EU found it easier to initiate separate sets of relations with separate states and groups of states in the region. The Eastern Balkans, that is Romania and Bulgaria, were granted their distinct route to EU membership. Romania and Bulgaria applied for EU membership in December 1995, the Luxembourg European Council of December 1997 issued a favorable avis, and negotiations for full membership began in early 2000. Their accession took place in 2001, and their only form of cooperation was the Stability Pact launched in 1999.

Nevertheless, there are opinions that their acceptance is more for political interests and not because of meeting the criteria. This is based on the fact that issues such as corruption and the rule of law are still a problem in these two countries.

Slovenia too had followed a different path following its split from federal Yugoslavia and its approaches to the EU were viewed much more favorably both because of its ability to meet accession criteria and the *acquis* but also because of strong support from within the EU, (despite strong Italian objections), and the general belief that this was a central European state and not a Balkan one (Gow and Carmichael, 2000).

The Balkans, which to many is a fictitious region, is being broken down into more basic elements. By the end of the crisis in Kosovo, we moved firmly from a general Balkan region, or that of Southeastern Europe, to a very specific policy-relevant region known as the Western Balkans (WB). The formulaic, ‘the WB is the states of former Yugoslavia minus Slovenia and plus Albania’ became a mantra among EU officials dealing with SEE. In reality, the WB became the Balkans in terms of the EU and in terms of our concern with differentiated integration (Delevic, 2007).

The integration of Croatia and then other countries was done based on a completely different approach. These countries are legally linked to the EU through the Stabilization and Association Agreements, which in addition to common things also take into account the specifics of each country. In this regard, their integration has taken different steps. While Croatia performed well and achieved its EU integration in 2013, other countries have had their problems, with Serbia being asked to co-operate with ITCY on handing over war crimes indictees. On the other hand, Northern Macedonia has had occasional blockades by Greece as well as its internal problems. Other countries such as Montenegro and Albania have had their weaknesses in the internal system and have made slow progress in meeting the objectives.

With these countries on different paths, echoes were not late to appear. There are several implications of the differentiated integration within the regional context: on the one hand, the Balkans are treated differently from other European regions undergoing enlargement, and on the other hand, notwithstanding the great inclination that the EU has for regionalism, the Union does differentiate between certain parts of the Balkans in terms of integration.

### ***Differentiated integration: Pros***

Differentiated integration, in one form or another, has long been practiced. Like any concept put in practice, it can present both advantages and disadvantages. Differentiated integration does not

prevent progress, but rather unifies the integration results in relation to the whole (i.e. the entirety of the member states). Differentiated integration is a consequence of the diversity and plurality of the member states and provides not only a legal framework for countries that want to submit their application but also ways of expressing individual will, by separating from the whole (see the case of the opt-out). In general, differentiated integration is addressed to the states that are not integrated (see the cases of Macedonia, and Serbia), or states that are excluded (see the case of the UK before it was accepted to join). If differentiated integration provides different ways and different speeds for membership and/or living in the Union then it also offers a reversed potential for separation from the Union, at one level or more (see the discussion regarding Greece and Spain, the eurozone, etc.).

### ***Differentiated integration: Cons***

A first reaction to the differentiated integration policies enforced in states that have not yet received permanent membership status is that the progress within the EU (especially regarding EU enlargement) is hindered by several uneven policies. If we regard this issue through the lens of local realities seen by comparison with European realities, it can be argued that differentiated integration policies were issued and applied precisely in response to these local realities (see the case of Romania and Bulgaria - corruption, or Serbia - human rights). Another argument against differentiated integration is the uneven enforcement of European rules only in some of the states and addressed only to some European citizens (see the Schengen area or the cooperation in security and intelligence exchange between states). The most serious objection relates to obtaining benefits from differentiated integration without assuming the costs of participation in such integration (see the differentiated monetary policy or the safety and defense case, especially in the context of EU-NATO relations).

#### ***2.4.1. Avant-Garde Europe***

One of the most popular approaches towards the “revolutionizing” of the EU is the concept of avant-garde Europe, predominantly promoted by Joschka Fischer, Hans-Dietrich Genscher, Jacques Delors, etc. **This approach directly derives from the Kerneuropa concept (Core Europe), meaning that the future of the EU should be established on the scheme of core (avant-garde) and orbit. The core would need to be founded by those EU Member States who are most prepared and interested in European integration, and the orbit would be constituted only by those EU Member States, who are not prepared, or do not want to involve themselves in deeper European integration. The core Member States would develop single and coherent foreign policy, and thus, playing the role of an avant-garde of the European**



**integration. The others would join them when willing or able to do so. The core will create a federation, and the orbit, an association. But they will continue to communicate and cooperate with each other, on certain issues.** This concept has many terms and labels, or as authors, Funda Tekin and Prof. Dr. Wolfgang Wesseles emphasized: the best-known terms have been ‘Core Europe’, ‘avant-garde’, ‘center of gravity’, and ‘directoire’, but these represent **only an excerpt from a broad catalog of such concepts**” (Tekin and Wessels 2008, 1). Although “often used synonymously, these terms imply different forms of integration, with politically very different consequences for the EU and its Member States” (Ondarza 2013, 7).

As is stated by Joschka Fischer, the **“only possibility is a European avant-garde, a group of EU countries willing and able to advance. The willing and able participate, but the others shall not block progress anymore”** (Fischer 2008). The avant-garde will be a **“decisive factor in driving forward the integration process, which will finally culminate in a European federation”** (A Core, Avant-garde or Centre of Gravity).

The former President of the European Commission, Jacques Delors, goes more ahead with his thinking about avant-garde Europe, urging for the establishment of a “Great Europe”. The “Great Europe”, according to Delors would need to: “provide its members with an area of active peace, a framework of sustainable development and, lastly, an area of shared values lived out in the diversity of our cultures and our traditions” (Pusca 2004, 131). **In an institutional sense avant-garde Europe: “would take the form of a federation of nation-states with its two dimensions: federal, for clarifying powers and responsibilities; national, for ensuring the durability and cohesion of our societies and our nations. This would of course be an application of the healthy principle of subsidiarity. The link with the Great Union would be ensured with the existence of a joint Commission, responsible for coherence between the two entities and compliance with EU regulations and *acquis communautaire* [and *acquis politique*]. The avant-garde, however, would have its own Council of Ministers and its own Parliament”** (Pusca 2004). Namely, the “center” (or the “core”) Member States “would conclude a new European framework treaty, the nucleus of a constitution of the Federation (...) The Federation would develop its institutions, establish a government which within the EU should speak with one voice on behalf of the members of the group on as many issues as possible, a strong parliament and a directly elected president” (Pusca 2004, 132). The avant-garde group of Member States is **““not élitist’ but rather stands for and allows ‘reinforced co-operation’.”** (Delors 2001, 3). The main idea is that the members of a smaller group would be both able and willing to go ahead immediately, while this would not be possible for all. Or as the former German Foreign Minister Hans-Dietrich Genscher emphasized: **“no Member State can be forced to go further than it is able or willing to go, but that those who do not want to go any further shall not prevent others from doing so”** (Fischer 2000, 9). Considering

the current state of the EU, it can be stressed that the future upgrades of the EU should be directed towards the creation of avant-garde Europe, as most possible and logical direction, taking into account the current (internal or external) differences between the EU Member States, and their attitude towards the EU future.

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Namely, the ‘center’ (or the ‘core’) Member States ‘would conclude a new European framework treaty, the nucleus of a constitution of the Federation [...]. The Federation would develop its institutions, establish a government which within the EU should speak with one voice on behalf of the members of the group on as many issues as possible, a strong parliament and a directly

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<sup>5</sup> J. Fischer, *Vive l’ Avant-Garde!*, ZEIT ONLINE, 2008, <http://www.zeit.de/online/2008/27/joschka-fischer-europa> (last visited 18.08.2017).

<sup>6</sup> *ibidem*

<sup>7</sup> A. Pisca, *European Union: Challenges and Promises of a New Enlargement*, Idea Sourcebooks on Contemporary Controversies, 2004, p. 131.

<sup>8</sup> *ibidem*



elected president'.<sup>9</sup> The avant-garde group of Member States is “not elitist” but rather stands for and allows “reinforced co-operation”.<sup>10</sup> The main idea is that the members of a smaller group would be both able and willing to go ahead immediately, while this would not be possible for all. Or as the former German Foreign Minister Hans-Dietrich Genscher emphasized: ‘no Member State can be forced to go further than it is able or willing to go, but that those who do not want to go any further shall not prevent others from doing so’.<sup>11</sup>

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<sup>9</sup> Ibidem, p. 132.

<sup>10</sup> J. Delors, An ‘Avant-garde’ driving the European unification process forward, Jacques Delors Institute, 2001, p. 3, <http://www.delorsinstitute.eu/011-681-An-Avant-garde-drivingthe-European-unification-process-forward.html> (last visited 18.08.2017).

<sup>11</sup> J. Fischer, From Confederacy to Federation: Thoughts on the Finality of European Integration, 2000, p. 9, <http://www.federalunion.org.uk/joschka-fischer-from-confederacy-to-federation-thoughts-on-the-finality-of-european-integration/> (last visited 18.08.2017).