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LISBOAN

Linking Interdisciplinary Integration Studies by Broadening the European Academic Network

Workshop report: “A Roadmap for the Future of Europe: Differentiated Integration Within or Beyond the Legal Framework of the Lisbon Treaty”

Institut für Europäische Politik (Partner No. 22)

Workshop venue: Vertretung der Freien und Hansestadt Hamburg,
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Workshop: “A Roadmap for the Future of Europe: Differentiated Integration Within or Beyond the Legal Framework of the Lisbon Treaty”, 19-20.9.2013

Although the Lisbon Treaty was supposed to settle the question of substantial reform in the European Union for the time being, only four years later the EU is forced to tackle the inefficiencies and deficits within its governance structures that have been exposed by the crises of the Eurozone. The Fiscal Compact, the Euro-Plus-Pact and enhanced cooperation with regard to the financial transaction tax point to differentiated integration as a prominent instrument for managing this challenge.

Additionally, the renewed debate on the repatriation of competences initiated by UK Prime Minister David Cameron’s speech in January 2013 and the increasing South-North divide in terms of economic performance and political interests in Europe highlight the need to consider the future perspectives of the European integration process.

Against this background, the aim of the academic conference was to debate a roadmap for the EU's future by analyzing possible ways out of the current crisis and discussing different prospects for the future composition and structure of the European Union. Differentiated integration was chosen as the primary theoretical lens, leading to the following questions that served as a thread for the discussion:

- What is the relationship between the concept of Political Union and differentiated integration? How will the institutional architecture be affected?
- What role does differentiated integration play regarding the different EU policy areas?
- Will the Lisbon Treaty provide a sufficient legal base for further European integration? What are the benefits and perils of substantial treaty revision including a Convention?
- What are the dividing lines in Europe? How can the emerging North-South divide be managed and the UK be kept on board?

The conference was organized into five panels and was complemented by a keynote speech by Arndt Freytag Von Loringhoven, Director for EU Basic Issues, Community, Policies and Strategic Coordination at the German Federal Foreign Office on Thursday night.

After a welcome and introduction by Franz Klein (Landesvertretung Hamburg), Michael Kreile (Institut für Europäische Politik) and Mathias Jopp (Institut für Europäische Politik), the first panel of the workshop dealt with “Differentiated Integration: History and Theory”. Chaired by Rudolf Hrbek (University of Tübingen), discussions were based on three contributions by Wilfried Loth (University of Duisburg-Essen), Frank Schimmelfennig (Swiss Federal Institute of Technology, Zurich) and Wolfgang Wessels (University of Cologne).

The first presentation focused on differentiated integration in the history of European integration. The speaker argued that differentiated integration was practiced long before it was formally introduced in the Maastricht Treaty provisions on Monetary Union. Several proposals were made during the late 1960s and the 1970s to create a new integration dynamic by means of a pioneer group. Especially the prospect of eastern enlargement made the concept popular again in the mid-1990s, and it has recently gained popularity as a reaction to the eurozone crisis. However, the speaker pointed out that from a historical perspective, the core group of countries prepared to integrate further was always seen as a transitional phenomenon. In terms of the motives for differentiated integration, the speaker distinguished between an (in his opinion outdated) strategic and a pragmatic explanations.

The second speaker presented the initial results of an empirical study of differentiated integration. By analyzing over time the number of treaty articles providing for differentiation with a view to



individual Member States, the study shows that the concept has become increasingly common in the Union's legal framework. The speaker argued that there are two main motors of differentiated integration: Enlargement on one hand and deepening (treaty revision) on the other. Summarizing the results of

the study, he put forward two hypotheses: the richer an acceding state, the lower the likelihood of differentiation based on enlargement, and the more eurosceptic a state, the more likely differentiation based on deepening.

The third contribution to the panel argued that there is still no definition of differentiated integration. For instance, did the transitional period granted to Germany for opening its employment market to all EU Member States constitute a case of differentiation or not? Moreover, while the concept may seem to reflect the political reality and the wishes of the Member States, it is unclear why, for example, the possibility of military cooperation has not been utilized to date.

The subsequent discussion addressed various questions. Inter alia, the quality of instances of differentiation was highlighted as an important factor and part of a future research agenda. The duration of exceptions for countries was seen as an unreliable indicator for differentiated integration, as deadlines – if they were part of the provisions at all – were frequently ignored. Other interventions concerned the image of a widely differentiated EU, which would be difficult

to explain both to its citizens and third countries. Looking into the future, participants speculated that a ‘softening’ of integration might supersede the ‘deepening’ of the past decades.

The second panel, entitled ‘Differentiated Integration: Legal Instruments Within and Beyond the Lisbon Treaty’, was chaired by Prof. Hanspeter Neuhold and included presentations by Steven Peers (University of Essex) and Lucia Rossi (University of Bologna). The first presentation focused on the treaty-based procedure of Enhanced Cooperation, a mechanism which has been formally proposed and adopted three times since the revision of the procedure in the Lisbon Treaty (most lately on the Financial Transaction Tax, but this case is not yet implemented because of a legal challenge). According to the speaker, the mechanism was not used more often primarily because of an unfavourable political dynamic (the lack of a consistent group of member states or a permanent presidency as possible motors). The second presentation dealt with the relevant eurozone reforms and their impact on the EU legal order. The speaker emphasised that monetary integration alone is not enough: whereas monetary policy was made an exclusive competence, economic and social policy were not even made shared competencies.

One of the main points in the following discussion was whether a new treaty is necessary to accommodate the deeper integration of the eurozone. However, participants also highlighted the difference between (legal) theory and practice. According to the treaties, CFSP was a domain of differentiated integration. In practice, however, Member States cooperating closer to achieve a specific goal did not use the respective treaty provisions, but opted for cooperation outside the treaties (for example in the framework of NATO when conducting military operations). In this context, the costs (and revenues) of differentiation and their distribution were also mentioned.

The third panel, chaired by Christian Müller-Graff (University of Heidelberg) focused on differentiated integration in the Area of Freedom, Security and Justice. The first contribution by Funda Tekin (Institut für Europäische Politik) outlined a number of characteristics that make the



AFSJ a special case. After summarizing the properties of differentiated integration in that domain, the presentation reviewed the implementation of differentiation and mentioned recent initiatives in that respect. The speaker described the fundamental dilemma for Member States as the benefits of a borderless area on one hand and the cost of losing sovereignty over national borders on the other.

The second presentation by Paul Luif (Austrian Institute for International Affairs) addressed these considerations by analyzing police cooperation through the Prüm treaty. It argued against the ‘textbook knowledge’ that Prüm is no longer relevant and gave a brief assessment of the status quo in the academic debate.

The third presentation by Patryk Pawlak (European Institute for Security Studies Paris) focused on the external dimension of the AFSJ. Arguing that the internal and the external dimensions are inseparable as far as security is concerned, the speaker underlined the importance of a coherent approach to managing foreign affairs and home affairs, which has not received much public (or academic) attention.

The subsequent discussion highlighted different understandings of the term ‘derogation’: some participants argued that in contrast to common usage, a derogation as understood in the treaty does not assume that Member States are bound and then derogate. With regard to the Schengen area, participants discussed the significance for EU differentiated integration of arrangements that include non-EU countries from the outset. There was also debate on whether spill-over could be observed between Schengen and the AFSJ.

Panel four was dedicated to EMU. Providing an ‘Interim Assessment of Instruments and Outcomes’, the speakers Ansgar Belke (University of Hohenheim), Reinhard Felke (Federal Ministry of Finances) and Nicolai von Ondarza (Stiftung Wissenschaft und Politik Berlin) dealt with monetary policy, fiscal and economic policies and financial policy (banking union) and described to what extent differentiation played a role in each of these areas.

In terms of monetary policy, the first speaker argued that differentiation within the eurozone is most visible because the crisis in peripheral countries is still far from resolved. He raised the question whether the Outright Monetary Transaction (OMT) programme deepened integration in the euro area, given that there were doubts as to the costs potentially associated with it.

The second speaker argued that with confidence finally resurrecting after the crisis, the focus in fiscal policy and economic coordination has moved to preventing future crises. Differentiation between the EA-18 and the EU-28 has become more pronounced as a result, although changes in the area of structural reform are insubstantial. The intensity of fiscal coordination, however, has increased markedly in his view, meaning that overoptimistic budget forecasts are no longer possible. In institutional terms, the roles of Commission and Eurogroup have been consequently strengthened.



Turning to the banking union and differentiated integration, the third speaker used the notion of a ‘core Europe with flexible circles’. Beyond the (non-)membership of individual countries, he argued that the design of the supervisory mechanism for banks located at the ECB is of crucial importance. In his view, the ECB’s new competences in the banking union are a clear case of spillover (an unintended consequence of the crisis). He mentioned that from November 2014 onwards, the eurozone countries will have a qualified majority in the Council.

Other participants questioned the importance of this development, asking why eurozone dominance should be regarded as dangerous by other Member States. The idea of a eurozone budget was also discussed: would the existing EU budget be split or would a new pooled budget be created? Finally, participants debated contracts between the EU and the national level as the flip-side of solidarity, considering their impact as higher than previous instruments because of their ability to capture all kinds of reforms.

The fifth and final panel, chaired by Gianni Bonvicini (IAI Rome) was entitled ‘the Eurozone and its Eastern Neighbours’. Attila Agh (Budapest College of Communication), Mats Braun (Institute of International Relations Prague) and Kai-Olaf Lang (SWP Berlin) delivered presentations dealing respectively with the democratic risk due to differentiated integration in Eastern Europe, the strategies underlying the different options for differentiation, and the perspectives of individual countries. The presentations emphasised that the eastern countries cannot be regarded as a homogenous group: there are ‘reform-minded states’, ‘reluctant disbelievers’, states with strong nationalist factions, and ‘passive bystanders’. This categorization would in turn relate to three different strategies of differentiation in European integration: a Europe of two speeds, a Europe of two groups, i.e. the Euro-ins and the Euro-outs, and a positive endorsement of a Europe of multi-tiers.

The discussion, inter alia, addressed the questions of the origins of the lack of democratic behaviour and if there is such a thing as a ‘differentiation by default’ despite the obligation to join the eurozone.

Overall, the debates of this academic conference highlighted that differentiated integration is much more advanced than one would initially expect. This renders the complexity of a potential roadmap for the EU’s future rather high. Therefore, the development of a general definition of and a conceptual framework for the analysis of differentiated integration is crucial. Additionally, a clear vision for the Single Market and the EMU and of what is expected from a single currency is an essential component for such a roadmap.

PROGRAMME**Thursday, 19 September 2013**

- 12:00** **Arrival of participants, registration, sandwich lunch**
- 12:45** **Welcome and introduction into the topic**
- Franz KLEIN, Director, Head of the Representation of the Free and Hanseatic City of Hamburg, Berlin
- Prof. Dr. Michael KREILE, Chairman of the Academic Advisory Board of IEP; Humboldt-University Berlin
- Prof. Dr. Mathias JOPP, Director of the Institut für Europäische Politik (IEP), Berlin
- 13:15-14:45** **Session I: Differentiated Integration: History and Theory**
- Chair: Prof. Dr. Rudolf HRBEK, University Tübingen*
- Prof. Dr. Wilfried LOTH, University of Duisburg-Essen
- Prof. Dr. Frank SCHIMMELFENNIG, Swiss Federal Institute of Technology (ETH), Zurich
- Prof. Dr. Wolfgang WESSELS, University of Cologne
- 14:45-15:15** **Coffee break**
- 15:15-16:45** **Session II: Differentiated Integration: Legal Instruments Within and Beyond the Lisbon Treaty**
- Chair: Prof. Dr. Hanspeter NEUHOLD, University of Vienna/Diplomatic Academy*
- Prof. Dr. Christian CALLIESS, Free University Berlin
- Prof. Dr. Steven J. PEERS, School of Law, University of Essex
- Prof. Dr. Lucia Serena ROSSI, University of Bologna
- 16:45-17:15** **Coffee break**
- 17:15-18:45** **Session III: Lessons from the Area of Freedom, Security and Justice**
- Chair: Prof. Dr. Dr. h.c. mult. Peter-Christian MÜLLER-GRAFF, Ruprecht-Karls-University of Heidelberg*
- Univ.-Doz. Dr. Paul LUIF, Austrian Institute for International Affairs (oiip), Vienna
- Dr. Patryk PAWLAK, European Union Institute for Security Studies, Paris
- Dr. Funda TEKIN, Institut für Europäische Politik (IEP), Berlin
- 19:00** **Keynote Speech**
- Dr. Arndt FREYTAG VON LORINGHOVEN, Director for EU Basic Issues, Community Policies and Strategic Coordination, Federal Foreign Office
- 19:30** **Reception**

Friday, 20 September 2013

09:15-10:45 Session IV: Deepening EMU: An Interim Assessment of Instruments and Outcomes

Chair: Dr. Tobias KUNSTEIN, University of Cologne

Prof. Dr. Ansgar BELKE, University of Duisburg-Essen

Dr. Reinhard FELKE, Federal Ministry of Finance, Berlin

Dr. Nicolai von ONDARZA, German Institute for International and Security Affairs, Stiftung Wissenschaft und Politik (SWP), Berlin

10:45-11:15 Coffee break

11:15-12:45 Session V: The Eurozone and its Eastern Neighbours

Chair: Prof. Dr. Gianni BONVICINI, Istituto Affari Internazionali, Rome

Prof. Dr. Attila ÁGH, Budapest College of Communication

Dr. Mats BRAUN, Institute of International Relations, Prague

Dr. Kai-Olaf LANG, German Institute for International and Security Affairs, Stiftung Wissenschaft und Politik (SWP), Berlin

12:45 Concluding Remarks

Prof. Dr. Mathias JOPP, Director of the Institut für Europäische Politik (IEP), Berlin

Prof. Dr. Michael KREILE, Chairman of the Academic Advisory Board of IEP; Humboldt-University Berlin

13:15 Sandwich lunch