



Differentiated integration

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Abstract

Not all member states are equally eager or able to participate in all aspects of integration, and the impact of EU policy on the member states varies across states and policy sectors. Whereas much of the literature on *differentiated integration* has focused primarily on formal opt-outs, this article widens the term to capture both the formal and informal arrangements for policy opt-outs *as well as* the differences, or discretionary aspects, associated with putting EU policy into practice. The article draws on sociological organisational theory to elaborate a broad and flexible understanding of European integration that links the literature on integration and Europeanisation, and proceeds to explore different types of European integration. The core question is therefore: what is differentiated integration?

Keywords: European integration; differentiated integration; Europeanisation; policy implementation.

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1. Introduction

The recent French and Dutch referendums have brought questions about the robustness of the European Union to the fore once again. Is the EU about to stagnate, or even collapse? The negative referendum results have prompted questions about all three dimensions of further integration: increasing the use of supranational decision making, extending integration to new policy sectors, and admitting even more new member states. Until the late 1980s the main concern was that integration might proceed too slowly, or not attract new members. Over the last decade the unprecedented deepening and widening of the EU has accentuated two sets of concerns about the variable impact of European integration, i.e. differentiated integration.

The first set of concerns reinforces the debates about whether all states should participate in all policy sectors, as discussed in the literature on differentiated integration. Not all member states are equally eager, let alone able, to participate in all aspects of integration. For example, the 2004 enlargement left all the new member states short of full participation in Economic and Monetary Union and the Schengen arrangement. Sweden, Denmark and the UK have chosen not to take part in EMU, and the latter two also have special arrangements regarding Schengen. These kinds of formal exemptions, whether temporary or more permanent, have been seen as typical examples of differentiated integration. One review of the debates in the early 1990s classified the alternatives as ‘multi-speed’, ‘variable geometry’ and *à la carte* integration (Stubb 1996). Others have suggested that the use of these different mechanisms depends more on the nature of the policy in question than on states’ preferences (Kölliker 2001).

The second set of concerns has more to do with the challenges involved with putting EU policy into practice, and particularly informal opt-outs and the discretionary aspects of transposition and implementation. Expansion into new policy areas and to states with widely different institutional traditions and capacities has come at the price of heterogeneity. We often find considerable

variation in national adaptation of and to EU policy, which reflects the different contexts and trajectories of integration. This is captured in the expanding literature on Europeanisation of member state public policy (Bulmer 2005). Because ‘differentiated integration’ is meant to capture the multiple forms of European integration, we argue that the term should be broadened to encompass also these less formal aspects of differentiation.

Our core question is therefore: what is differentiated integration, and how much the EU can accommodate? Is there a new kind of ‘integration trap’ inasmuch as too much integration may ‘hollow out’ the whole project? In what follows, we draw on organisational theory to develop a broader and more flexible concept of integration that links the literature on European integration and Europeanisation, and explore major types of integration. Thinking about the limits of European integration means addressing two issues. One issue concerns the capacity of the member states to make joint decisions, the other concerns the policy impact of such decisions at the national level. The paper primarily focuses on the latter.

The policy impact of integration is most clearly expressed in the EU’s internal market programme. Here the EU resembles a ‘regulatory state’, as it focuses on regulation rather than redistribution or direct intervention (Majone 1996; McGowan & Wallace 1996). Nevertheless, even in its core activities the EU’s impact is uneven across member states and policy areas, resulting in differentiated integration. Consider the following examples: Competition policy is sometimes lauded as the EU’s first and most solid supranational policy, as *the* classical case of successful and homogeneous European integration, driven from Brussels (McGowan & Wilks 1995). Telecom liberalisation has also been successful and relatively homogeneous, but driven as much by the member states as by the Commission (Schmidt 1998, Eliassen & Sjøvaag 1999). In contrast, important elements of environment policy have been designed to accommodate member state diversity, and therefore ‘successful’ integration has gone together with considerable heterogeneity at the national level (Lenschow 2005). Moreover,

in some cases the member states find it difficult for practical or political reasons to enforce EU directives that they have loyally transposed into national legislation, as for example with respect to food safety.

These four examples illustrate how the term ‘integration’ can refer to very different policy processes and outcomes. We will also demonstrate that this kind of variation is often found within any given policy area. The literature on *European integration* generally focuses on the establishment of common institutions and policies at the EU level. It has paid less attention to variation in the national impact of such processes. The literature on *Europeanisation* that has developed over the last two decades constitutes an effort to explore and explain precisely this kind of variation. Variable Europeanisation is usually explained in terms of the degree of (EU-level) integration, variations in national institutions, or the special dynamics of any given sector (Bulmer 2005). In any specific case, constructing an explanation along such lines may be both fruitful and convincing. Our concern in the present paper is to link this kind of variation at the national level to a *broader concept of European integration*. In other words, this is an attempt to bring together what has become two separate strands of research on the EU – European integration and Europeanisation. In what follows, we revisit some of the assumptions inherent in theories of European integration, and draw on sociological institutionalism to outline a dynamic model of its national impact.

2. The Dynamics of EU Integration – Theory and Practice

Questions concerning the dynamics and limits of European integration date back to the very origins of the EEC in the 1950s, when the British Labour government’s view was essentially that it was not desirable, that it would not be established, and that if established it would not work (Young 1998; Milward 2002). In the 1960s Stanley Hoffmann (1966) found that the limits of European integration could be discerned with the distinction between high and low politics. In the 1970s the combination of inflation and economic stagnation prompted talk

of 'stagflation' and the more ominous 'Euro-sclerosis', and fears of breakdown. Paul Taylor explored the limits of European integration in an eponymous volume (1983).

During this period enlargement was barely a salient issue; at least until de Gaulle resigned as French president in 1969 and ended the French veto on UK membership. When the UK, Ireland and Denmark joined in 1973, the EU enlarged almost to its practical limits. The pool of potential members was limited by the dictatorships to its south and east, as well as the constraints that Cold War neutrality imposed on Sweden, Finland and Austria. Norway rejected membership by referendum, and the issue was not on the agenda in Switzerland, Iceland and Liechtenstein.

This meant that *internal* developments shaped theoretical thinking about European integration. The central question was how to establish and strengthen the authority and capacity of the EU institutions. Much of this discussion centred on the driving forces and parameters of integration. Its impact on the national level was thought to reflect the strength and clarity of common policies. If and when policy was imprecise or lacked enforcement mechanisms, integration would be deemed weak and its expected impact on national policy limited. In other words, the impact of integration was assumed to be more or less uniform across states, although it could vary across policy sectors according to the content of the common policy regime (Wallace, Wallace & Webb 1983). Yet some studies began to link variation across policy sectors to differences in member state institutions and capacities, even prior to the Single European Act (George 1985).

The agreement on the Single European Act in 1986 reopened the debate between neo-functionalists and realists, which had more or less been settled in the realists' favour in the previous decade. The 1970s had demonstrated that national interest took precedence over common policies at time of crisis (Haas 1975). The SEA represented a turning point not only because of the agreement to establish a Single European Market, but also because it envisaged greater use of Qualified Majority Voting in the Council and thus more supranational decision making.

Hence the realist assertion that important decisions remained under the states' control, now in the guise of Moravcsik's liberal intergovernmentalism (1991, 1993, 1998). Others sought to revive neo-functionalism (Sandholtz & Zysman 1989; Tranholm-Mikkelsen 1991). Mixed theoretical approaches included Keohane and Hoffmann's (1991) and Peterson (1995) suggestion that supranational decision making operates between major intergovernmental decisions. Yet this renewed debate did not substantially affect the core concept of integration, let alone address its impact on the member states.

By the time the Maastricht treaty was negotiated in 1991, the EU was changing radically along three dimensions more or less simultaneously. The collapse of communism broke what had until then been almost the 'natural' borders of the EU. It was not even a question of if, but when, the EU would double its number of members (Schimmelfennig 2001, Wallace 1989). The implementation of the SEA meant considerable deepening in terms of more supranational decision making; and Maastricht extended the scope of economic and political integration to new areas. The immediate and obvious implication for students of the EU was the need to handle diversity across EU policy sectors, let alone the three pillars. As policy studies focussing on individual sectors proliferated, the question of how member states are affected by and adapt to EU policy regimes came to the fore (Wallace, Wallace & Webb 1983; Andersen & Eliassen 1993, 2001).

At the same time, the Maastricht treaty prompted new questions about whether European integration had proceeded far enough, most famously by Danish voters. The German Constitutional Court's qualified approval of Maastricht made further integration dependent on increasing the European Parliament's power. The Commission drew widespread criticism from national governments for over-zealous pursuit of integration. German unification, other states' responses to her increased interest rate, and the ensuing currency crisis provided a severe shock to the effort to establish EMU and led to considerable (albeit short-lived) gloom in Brussels. It is perhaps not surprising in this context

that students of the EU added the question of the EU's state-like properties (Taylor 1991) and its corresponding democratic deficit (Andersen & Eliassen 1996) to their growing list of research questions. To be sure, the idea that the EU is more than an international regime but less than a state was not new (Wallace 1983), but the issue now became more salient.

By the mid-1990s the EU was increasingly studied as a political system (Andersen & Eliassen 1993; 2001; Sbragia 1992; Hix 1994, 1999). However, exactly what kind of system this might be was hotly debated (Schmitter 1996). Some went considerably further, suggesting that the EU involved a 'fusion' of the national and supranational (Wessels 1997) or an almost entirely new system of Multi-Level Governance (Kohler-Koch 1996; Kohler-Koch & Eising 1999). Although many of these propositions were put forward as alternatives to the realists and neo-functionalists' 'end-points' of European integration, perhaps the most important effect was to shift the focus toward the *politics* of the EU, and the relationship between the EU-level system and its constituent member states. This includes the impact of European integration on the member states' institutions and policies. During the decade following the SEA the EU research agenda thus underwent a transformation from a narrow focus on integration theory to a much wider spectrum of issues cast in terms of 'normal' social science (Rosamond 2000). This can be considered a response to the pace and scope of developments in the EU, which had in some sense overtaken the traditional theoretical debates. Two developments are of particular relevance to the present paper.

The first development is a shift from integration to Europeanisation. Both realism and neo-functionalism focussed on the mechanisms for creating integration, and this also holds for Moravcsik's liberal intergovernmentalism. Integration theories emphasise a top-down process, where EU institutions and national capitals are the main drivers. The concept of Europeanisation marks a shift to a focus on the impact of integration. Europeanisation has been defined in several different ways, including the EU as a political project, changes in its boundaries, its development of institutions and export of political organisations,

and its penetration of national systems of governance (Olsen 2002). Most attention has been paid to the latter, summed up by Hix & Goetz (2000: 2-3) as changes in the member states' policies, processes and institutions that can be attributed to European integration. In other words, how states adapt to European integration has become a central theme, and integration is increasingly treated as an independent variable (Bulmer 2005). Earlier debates about convergence and divergence (Dimitrova & Steunenberg 2000) have given way to studies that explore the plenitude of variation. These usually provide case- or sector-specific explanations. Eastern enlargement has contributed considerably to increased heterogeneity, and this makes Europeanisation all the more topical.

The second development is the so-called institutionalist turn in EU studies (Bulmer 1994; Aspinwall & Schneider 2001; Pierson 2000). This ranges from 'thin' rational choice approaches through historical institutionalism to 'thick' sociological institutionalism, and these approaches are used to study an ever expanding agenda. For the purpose of this paper the central point is that institutional arguments are increasingly used to explain the dynamics of Europeanisation, i.e. the impact of integration on the member states. This has prompted a raft of studies of national-level institutional and policy change, which demonstrate the diversity in patterns of states' adaptation to European integration. Yet much of the institutionalist literature addresses partial processes or aspects of EU politics. Studies that explain specific instances of Europeanisation tend not to address the relationship between Europeanisation and integration. This is typical for many policy studies, for example telecommunications liberalisation (Eliassen & Sjøvaag 1999). Similarly, efforts to develop institutional theory and explore the mechanisms by which Europeanisation works rarely address the place of these processes in the picture of the EU as a whole. Examples include studies of elite socialisation (Checkel 2001).

Both the literature on Europeanisation and the institutionalist turn therefore represent valuable additions to and development of our understanding of what the EU is and how it works. Nevertheless, they challenge the traditional integration

theorists' view of the EU without offering an equally coherent picture of the integration process and its consequences. Does rapid integration and expansion of the EU generate a new set of challenges? Is it even possible that this constitutes a new kind of 'integration trap', inasmuch as it may 'hollow out' the vision of an integrated Europe? The answer depends, at least in part, on what is meant by integration. In the next sections we seek to bring the question of European integration back in, while building on the insights developed in the 1990s (rather than return to the 'more vs less' integration debates). We draw on the sociological institutionalist literature to outline a more dynamic framework that allows substantial variation in integration.

3. Bringing integration back in – the systemic context

Our starting point is the observation that public policy is often made and implemented at different levels. The EU is generating ever closer and tighter formal and legal commitments, involving an increasingly heterogeneous set of states in cooperation across an expanding set of policy areas. At the same time, policy is hardly implemented uniformly across member states, let alone policy sectors. It is tempting to paraphrase Lenin, and suggest that the European integration generates a regime that is 'European in form but national in content'. A problem with studies of Europeanisation is that they rarely link this to a wider understanding of European integration. The dynamics of integration is replaced with exploration and explanation of empirical diversity. The problem with integration theory is that it takes for granted that the impact of EU legislation is relatively uniform across states. Integration is associated with improved efficiency. In contrast, we turn to organisational theory in an effort to conceptualise integration in a way that can bridge the gap between the overall dynamics of integration and the widely observed variation in the actual impact of EU policy across sectors and countries. This perspective makes no assumptions about the

efficiency of integration, emphasising instead the systemic context in which Europeanisation takes place.

Drawing on organisational theory, integration can be defined as the process of combining or adding parts or elements into a systematic whole. It is characterised by the density, intensity and the nature of relations between the constitutive elements (March 1999: 134-5). In an organisational systems approach, strong integration means that interconnectedness is characterised by tight couplings between elements, and that elements increasingly reflect similar organisational operationalisation of shared ideas and frames. Weak integration entails only interconnectedness and adherence to some general principles and frames. Strong integration takes place if the constituent elements all have to adhere to a common normative framework and practical context. In other words, they share a common set of ideas, which might be expressed in authoritative decisions, and they seek similar practical solutions to common problems. However, contingency theory shows that even in the face of similar challenges there is often no single 'best way', i.e. local solutions are contingent on idiosyncratic experience and competences. Even where the constituent units share common norms, one might expect considerable variation in local organisational practices. In heterogeneous systems, this kind of weaker integration may be the only viable solution.

The EU is a hierarchical system that consists of heterogeneous units, and these units feature strong independent institutional arrangements. The EU therefore represents a strong normative context, but at the same time the member states have very different institutions and may therefore perceive and pursue common objectives in very different ways. From this perspective, integration theories make unrealistic assumptions about the EU as a system. Integration theories tend to assume tight coupling between the EU and national levels, both in the sense of 1) close correspondence between formal EU rules and organisations at the national level, and 2) close correspondence between organisational forms and actual behaviour. The organisation theory perspective challenges both assumptions (Andersen 2004).

1. Most integration theories assume that if there is strong normative agreement this also entails tight organisational coupling between the EU level and the state level (at least as a tendency over time). The normative coupling between the EU and the national level is always tight, because the EU is a political system where the state governments are committed to follow binding decisions adopted according to agreed (and therefore legitimate) procedures; whether these decisions be political, administrative or judicial. On the other hand, organisational coupling may be relatively loose in EU legislation, often as the result of states' efforts to protect their interests or institutions. We therefore allow for variation from 'tight' to 'loose' organisational coupling, even though the normative coupling between the two levels will always remain tight. This is not to say that all national-level actors always perceive all EU decisions as equally legitimate. Far from it. States that are in a minority in the Council, are over-ruled by the Commission or the Court, or have secured opt-outs, may have a weaker commitment to any given policy. Such variation in normative commitment is captured in our second dimension.
2. Integration theories also generally posit that there will be relatively little pressure for de-coupling at the state (local) level, either because spillover is at work or because integration only takes place if the states do not oppose it. However, even when local politics make it imperative that a state secures space for local variation, it may fail to do so for any number of reasons. In such cases strong pressure for de-coupling at the national level may persist. Pressure for de-coupling from binding EU decisions may therefore be the product of local institutions that shape identity, norms and preferences. This may simply lead to slow or reluctant implementation, or even to active resistance or search for ways to circumvent legislation whilst fulfilling formal obligations.

We challenge the idea that there is one basic type of European integration. Allowing for looser coupling between levels and pressure of de-coupling at the national level makes it possible to construct a four-fold typology (Andersen 2004). This is set out in Table 1. Classical theories of European integration represent a special case, which we label *homogeneous integration*. However, we know that the impact at the national level varies widely across countries and sectors. Given the present argument, this should be no surprise. Only in a limited number of cases can we expect convergence in organisational structure and behaviour at the national level in all countries. The three other types of integration – which we have labelled *aligned*, *autonomous* and *deviant integration* – fall outside the scope of traditional integration theories.

Table 1 – Four types of European integration

	Coupling between the EU level and national level:	
	Normative: Tight Organisational: Tight	Normative: Tight Organisational: Loose
Weak pressure for de-coupling at national level	1. <i>homogeneous integration</i> (integration theory)	2. <i>aligned integration</i>
Strong pressure for de-coupling at national level	3. <i>deviant integration</i>	4. <i>autonomous integration</i>

This typology can be used to characterise entire policy sectors in cases where all member states share common characteristics. The four policy sectors mentioned in the introduction; competition policy, telecom liberalisation, environment policy and food safety, are examples of this. However, in most cases it may be more useful to focus on how individual member states relate to European integration. Even within a single policy area we often find variation in national adaptation that reflects the different context and trajectories of integration. In fact this seems to be the norm rather than the exception. Energy liberalisation illustrates this point.

In other words, member states may be more or less eager to participate actively in integration across various sectors, but also within any given sector. This is what we refer to as ‘differentiated integration’.

It is precisely because sector interests and organisations often vary across the member states that integration rarely takes the form of *homogeneous integration*. EU directives often leave considerable room for discretion in local transposition and implementation. To the extent that the states implement directives differently, this makes for within-sector variation that might, in some cases, be as significant as across-sector variation in the EU as a whole. *Aligned* and *autonomous integration*, on the other hand, are both common. It is normally the case that some, but not necessarily all, states strongly support new directives.¹ When one or more states have considerable reservations about a directive, this may be accommodated by making a directive less specific and even by omitting certain issues. The resulting ambiguity creates a looser coupling between the EU and national level. In states which interests are *aligned* with the general gist of an EU directive, there will be weak pressure for de-coupling at the national level. Indeed considerable local pressure for realising the objectives is often observed. *Autonomous integration*, on the other hand, takes place when states take advantage of the scope for discretion written into a directive. The fourth type, *deviant integration*, is less common. It is an anomaly that occurs when a state is (formally) committed to strict interpretation of a directive, but faces strong local resistance to a policy. This resistance may reflect strong local institutions, which legitimate circumvention of EU policy and/or limit the states’ capacity to police or enforce the policy. These four types are explored and developed in more detail in the next section.

¹ The significant exception is Article 86 directives, which the Commission may issue unilaterally to break up national monopolies.

4. Common policies in a heterogeneous system – four types of integration

Homogeneous integration combines tight coupling between the EU level and national level, with respect to normative and organisational requirements, on the one hand, with weak pressures for de-coupling, on the other hand. Integration theories more or less took for granted that this would be the typical form of integration. In such cases EU-level integration can be expected to have uniform effect for all member countries in a policy area. Normative convergence is reflected in acceptance of EU-level decision and incorporation of legal rule. A typical example of this would be competition policy, which McGowan & Wilks (1995) even called ‘the first supranational policy’. Not only is this the oldest supranational policy, it is the sector in which the formal authority of the Court and the Commission is at its greatest. In this sense, the member states have accepted very tight coupling between EU laws and national enforcement. Much competition policy is implemented directly by the Commission, and in cases where states’ acts are ruled illegal the final rulings are always accepted. Moreover, there are close organisational links between national and EU-level regulators, down to and including a shared understanding of legal requirements and practice (From 2002). The pressure for de-coupling is therefore weak, inasmuch as both EU and national regulators usually rely on a shared set of norms and competences, which are mutually reinforcing.

Competition policy therefore provides an example that comes close to the ideal case of homogeneous integration. Yet the EU is composed of member states with different national traditions and market institutions, or a considerable degree of ‘capitalist diversity’ (Wilks 1996). Even among the six original member states it is possible to trace important differences in their approaches to economic regulation, even if they all embrace the EU system (Gerber 2000). Eyre & Lodge (2000) provide a detailed account of the Europeanisation of competition law as reform processes, and describe the tension between convergence and divergence

as countries are increasingly playing a 'European melody', but with distinct 'national tunes'. In the same vein, Sitter (2001:26) suggests that the process of Europeanisation may apply as much to the co-ordination or interrelation between reform processes as to the content of policy. Even in almost ideal-type cases, policy integration therefore allows for some degree of national difference. This does not detract from the point that there is a common European 'regulatory space'. This is by and large a case of European in form and European in content. Other (regulatory) policy sectors that are often referred to in such terms include free movement of goods and services, external trade and, until the recent debacle, the Growth and Stability Pact. Although integration theory assumed that this is the typical form of integration, only a few policy areas fit comfortably into this category.

To be sure, many specific policy sectors (as opposed to cross-sector initiatives such as the single market programme or competition policy) include elements of what we have called homogeneous integration. In principle, competition policy and the internal market could be the basis for regulation in almost all sectors. However, in reality sector-specific regulation is commonly introduced either because the sector involves special challenges and dynamics, or because strong organised interests in some member states demand special consideration. Therefore, the impact of European integration may vary almost as much within as between sectors. For example, gas and electricity markets could have been liberalised by the mid-1990s, but were not. Article 90 (now 86) in principle equipped the Commission with the power unilaterally to break up national monopolies (Andersen 2001). Some states, particularly the UK, supported the Commission's drives for liberalisation, but a majority of states were sceptical if not strongly opposed. The result was a protracted process that allowed some states to progress quickly towards liberalisation while others were required to make at least minimal effort. In effect, homogeneous integration worked with respect to limited policy initiatives such as price transparency for electricity and gas contracts, whereas the main elements of market opening were achieved by way of

piecemeal negotiation. The move to competitive markets in the energy sector, as in many other sectors, is better characterised as aligned or autonomous integration.

Aligned integration relies on mutually reinforcing overlap of state and EU-level interest. The EU directives impose few or no specific organisational and behavioural models, but national pressure for de-coupling is weak. In such situations there are local incentives to enact the spirit of EU-level decision and rules, but alignment can have several different sources. Some countries welcome EU initiatives because they have played an active role in bringing them about. This was, for instance, the case for liberalisation of energy as far as Britain was concerned. EU directives could legitimise national practices that were already in place (Andersen 2001). In the telecommunications case, new technology and international market developments prompted most member states to agree, or at least accept, an active role for the Commission in reforming the sector within the framework of the Single European Market. EU-level decisions and legislation reinforced tendencies that were emerging at the national level (Monsen 2004). EU decisions were welcomed because existing solutions were no longer viable, and there was an ongoing search for alternative solutions. Article 90 (now 86) of the treaty provided Commission with the legal power to break up national monopolies, but the Commission adopted a gradualist approach and left the states to go about liberalisation in their own ways and at their own pace (Thatcher 1997).

The requirement of telecoms liberalisation may have been non-negotiable, but the latitude left to each state and their national regulatory authorities made for relatively loose coupling between the EU and national levels in terms of specific organisational solutions, timing and behaviour. The result was mutual adjustment and adaptation on the part of national regimes and regulators, rather than convergence (Sitter & Eyre 1999). However, given the nature of the common challenges, a strong coalition of actors had incentives to pursue the overall goal of liberalisation. Across the states, big telecoms customers, potential market entrants

and equipment suppliers lobbied for EU-driven liberalisation (Schmidt 1998). In other words, the pressure for local de-coupling was weak, in the sense that most actors were prepared to enact the spirit of EU legislation. Even major incumbents that were originally sceptical, such as France Telecom, eventually came to embrace liberalisation as an opportunity (for expansion abroad) rather than a threat. The telecoms sector is perhaps the most striking example of a broader tendency for states and other actors to accept and enact EU regulations for their own motives, particularly when this is linked to market liberalisation. Over the last two decades, the strong political motivation for specific regulatory regimes has faded in many states, while privatisation and market models have gained more widespread support. EU-driven market reform presented not only a challenge, but also an opportunity and a solution.

Autonomous integration takes place in situations where the central demands for particular organisational and behavioural patterns are weak, and local pressure to maintain existing practices is strong. EU-level decisions often omit sensitive issues and formulate standards that allow considerable flexibility in national transposition and implementation. In many cases, this is done in order to accommodate important interests at the national level. This is the typical context and motive for the much-observed cross-country variation in many EU policy sectors. For example, in the energy sector the controversial question of third party access to transmission networks for electricity and gas was resolved by a combination of ambiguity, omissions and opt-outs. In both cases the member states were allowed to choose between regulated and negotiated third party access, and to develop or maintain their national regulatory models. Germany opted not to establish a regulatory authority for gas. A third 'single buyer' model was specifically tailored to allow France to maintain elements of her national electricity monopoly, although in the event this option (practically an opt-out) was never used. The EU directives were thus designed to accommodate national demands for autonomy and regulatory diversity.

In some cases the solution is simply to introduce symbolic decisions and structures at the national level that formally satisfy an EU directive, but more or less ignore its substance. Sometimes, what appear to be formal rules are intentionally formulated in such a way that some member states are allowed to all but ignore a directive. Regulation of working time is a case in point. Even though the other states could easily have outvoted the isolated British government, they formulated a directive that the UK could accept because it effectively allowed the government to transpose it in a very weak form. In 1993, the UK was effectively given a temporary licence to 'pose but not practice'. Ironically, when the directive came up for revision in 2005, the EU's eastern enlargement had shifted the balance of power in favour of the UK's minimalist position.

When flexibility and voluntary measures replace strict requirements, the result is that states are practically encouraged to go their own way. A directive may be incorporated into national law, but not pursued in terms of attention, resources, action or sanctions. This is the criticism of the Open Method of Co-ordination, which was designed to allow autonomous convergence but featured weak or imprecise instruments. It hardly pressed states to conform even to these (Kok 2004). In so-called flanking policy areas (i.e. not at the core of the internal market) the difficulty in negotiating common standards have prompted search for more flexible mechanisms (Scharpf 1999). EU environment policy includes some examples of this. Attempts to introduce a common CO₂ tax failed in the late 1990s, and as result the EU regulation is a mix of minimum standards and room for each state to introduce additional measures based on the common framework. The sector is therefore sometimes characterised as a mixture of classical regulation and new governance (Lenschow 2005). The point is that this introduces a special context that allows for some sort of integration, but where states pursue it along different trajectories and at different pace.

The last type, *deviant integration*, is less common. Whereas the other three types of integration discussed above are consistent with legal requirements, what we call deviant integration is in principle an illegal circumvention of EU law. This situation features strict EU legal requirements and expectations about loyal national implementation, but at the same time strong local resistance. Even after an EU law has been transposed into national legislation, there may be enduring and strong pressure from affected actors to circumvent or ignore the rule in order to preserve existing practices. This situation may come about as a consequence of states failing to protect their interests or to anticipate important consequences. In some cases the impact of decisions and rules is simply not realised too late. In others, it reflects unsuccessful attempts to influence or lobby. Deviant integration is more likely for new and inexperienced EU countries, or EEA-countries (which are ‘policy-takers’, with limited capacity to influence EU).

Deviant integration may take several different forms. First, there might be conflict between new EU legislation and well-established rights and expectations, whether these are grounded in law or informal arrangements. Even though EU law is superior to national law, it may be problematic to dismantle existing national practices that are perceived as ‘natural’ and highly legitimate. A pertinent example may be taken from EU directives on intellectual property rights that limit consumers’ right to copy music or films from discs (that they have purchased) to electronic storage for personal use. In Denmark, the strict EU rules have been transposed into national law, but no prosecutions have been brought despite obvious and frequent violations. The Norwegian parliament is considering adopting a less strict version of the law, prioritising consumer rights, but potentially violating the strict requirements of the directive. EU law may also clash with established traditions. An example is how the veterinary directive made hunters’ traditional handling of meat unfit for commercial trading. Procedures and controls are in principle strict and penalties tough. However, there is a considerable black market for handling of meat (which incidentally necessitates

further violations such as tax avoidance). Moreover, some forms of butchery that follow religious procedures may also strictly speaking be illegal, but in tolerated.

Second, deviant integration may be the product of limited state capacity. The enforcement of some types of rules depends on private action in the form complaints or litigation. For example patent rights are enforced in court, not by administrative surveillance and sanctions. In some of the new member states, the court systems lack either the capacity or the competence to make it worthwhile for small and medium size companies to exercise their rights and protect their products. This example also touches on a more general point regarding state capacity and competencies, particularly in the formerly communist member states. The Commission's yearly progress reports prior to enlargement regularly identified shortcomings in for example the skills, resources or independence of electricity and gas regulators. The Commission's regular reports on implementation of the single market in energy demonstrate that this is still a concern.

Our starting point in this discussion was that in the EU, public policy is normally made and implemented at different levels and by different actors or organisations. To be sure, such discrepancies, let alone 'implementation gaps' or 'deficits', are also well documented in national public policy studies. The central point here is not that public policy is seldom implemented exactly as planned, but rather that the heterogeneity of the EU system makes for variations and inconsistencies. Even where common directives are faithfully transposed into national law, the impact of integration is not necessarily uniform. The question is how such patterns of variable implementation relate to the larger issue of European integration. European integration has always been a question not only of building common institutions, but also of establishing common policies (Haas 1958). Consequently, the variations in the national impact of EU legislation discussed above can usefully be thought of as variations in types and degrees of European integration. Moreover, all the arguments explored above become more pressing as the EU enlarges to a bigger and more diverse set of member states.

5. Europeanisation and Differentiated Integration

The ambitions of the European project have increased steadily since the Single European Act, but at the same time eastern enlargement has dramatically increased the EU's heterogeneity. The core question set out in the introduction was 'how much differentiated integration can the EU accommodate'? The central concern here has been with policy variation. Even within the Single Market, the policy impact differs across the member states. The causal relationship between integration as the establishment of supranational decision making, authority and legal competence on one hand, and the policy impact across the member states on the other, is more complex than usually assumed in integration theory. We draw on the concept of systemic integration from organisational theory to explore the nature, impact and limits of European integration.

First, thinking about integration from an organisational theory perspective opens for a broader and more flexible understanding of European integration, which links the literature on EU integration and Europeanisation. The relationship between EU-level institutional capacity and decision-making on one hand and member state transposition of EU directives on the other takes centre stage. A problem with classical integration theories is that they tend to take implementation for granted. Much of the literature on Europeanisation replaces the focus on integration with exploration and explanation of empirical diversity. Organisational theory suggests two sources of variation in the links between policy making at one level and implementation at another. First, the hierarchical relationship between levels ranges from tight to loose, because decision making involves political compromises that often lead to general or ambiguous policy formulation. Second, member state institutions vary, and not all are equally compatible with any given EU directive. Pressure for de-coupling from EU requirements may therefore be the product of institutions that shape local identities, norms and even preferences. Consequently, variation across these two dimensions yields four different types of integration, and each one is associated

with its own type and degree of Europeanisation. This holds as much, if not more, for variation across states as for variation between sectors.

Second, therefore, we have also used the term differentiated integration to capture the empirical variation in the impact of EU decisions at the national level. These variations may be the product of formal or informal arrangements, and they may be either intended or unintended consequences. We thus widen the term 'differentiated integration' compared to its narrower use to cover only formal arrangements and their intended consequences, i.e. beyond merely referring to multi-speed or variable geometry EU integration. In this wider sense, differentiated integration is a common and normal phenomenon. A degree of variation in the impact of EU legislation across member states is commonly observed in many, if not most, sectors. Sociological systems theory suggests that this is exactly what we should expect in a heterogeneous multi-level system. Thinking about integration from this perspective provides a solid foundation for exploring and explaining variation in Europeanisation. At the same time, it raises some new questions about how much differentiated integration the EU can accommodate.

Third, then, what are the limits of European integration? Does widening come at the cost of deepening, or are enlargement and deeper integration mutually reinforcing? Under what conditions, if any, might the project falter? The answers to these questions look very different today from the early days of European integration. The principal concern during the first decades was linked to the EU institutions' authority and capacity; today it is linked to a higher degree of heterogeneity and some unevenness in the pace of integration. The old concern was that the project might stagnate and lose momentum; today it seems to be that it might be proceeding too far or too fast. At least this seems to be the message from French and Dutch voters. Is there an 'integration trap' inasmuch as too little integration endangers its momentum, while too much integration may 'hollow out' the whole project? Recent American contributions include a CIA study (2005) that holds that the EU might not survive the next two decades, but

also Jeremy Rifkin's (2004) diametrically opposite message, the celebration of the 'European dream' that stands to replace the hegemony of the 'American dream'.

The tentative answers provided in this article have been developed in the context of the single market, primarily with focus on the EU as a regulatory regime and political system. As a political system it features the kind of political processes, market mechanisms etc. with which we are familiar from the study of comparative politics and sociology. It enjoys most of the strengths of an open system, or a liberal democracy, and may therefore be expected to work to ensure adaptation and evolution. The internal dynamics of the EU mean that we must expect considerable variation in the actual impact of EU decisions at the national level. What we have not discussed here is the possible impact of external challenges. The CIA report holds that the EU's limited capacity to generate economic growth may undermine the project in the face of strong external challenges. Is it possible that the CIA is wrong, again? Could it be that continued economic stagnation combined with external pressure is exactly what is needed to forge broader acceptance of closer coupling between the EU and national levels and to weaken the pressure for local de-coupling?

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