

Sustainable European Integration: *EU for the 21st Century*

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Multi-speed Europe, where respective Member States of the EU integrate at a different pace, has been a commonplace since the Maastricht Treaty. With debates about Brexit, Grexit, and persisting ambiguity about the future of the Eurozone as well as the Schengen Area, the talks about the fragmentation of the European Union are more intense than ever before. On the other hand proposals for further integration in specific policy fields and initiatives for an enhanced cooperation are also coming up. Some say that an *ever closer union* is de facto dead, yet others are still promoting the original federalist ideal. Does fragmentation represent a negative phenomenon per se for the future of the EU? Can we find a narrative which would allow continuation of differentiated integration, yet keep the EU together? Or has the Rubicon been already crossed when it comes to the disintegration of the Union?

This paper argues that the publics in virtually all the EU Member States are more concerned with issues of identity and sovereignty and are more Eurosceptic than they were a decade ago when the referenda against the European Constitutional Treaty took place in France and the Netherlands. Multidimensional integration, with some Member States carrying on with closer cooperation in some areas, yet other countries maintaining their opt-outs, requesting further exceptions or even talking about leaving the EU altogether, is now a reality. Political representatives both at national and European level should acknowledge this new status quo, stop antagonising the sceptical public with federalist rhetoric and rather adopt a new, more consensual narrative of Europe as a *community of the rule of law*. Keeping the EU together in a meaningful and mutually beneficial way is more important than to make it an ever closer, yet smaller union.

1. Introduction:

From Ever Closer Union to Differentiated Integration

The Treaty of Rome establishing the European Economic Community, signed in 1957, referred to the determination of the leaders of the six founding countries to lay the foundations of an *ever closer union* among the peoples of Europe.⁰¹ In almost sixty years since, the entity that we today call the European Union (EU) has undergone enormous change.

Nearly six decades on from the Treaty of Rome, today's EU would in many respects seem unrecognisable to the original "founding fathers", such has been the extent of the transformation both in terms of its widening (the rise in the membership) and deepening (the increase in policy scope and depth of competences) over more than the past half-century. It now has a far wider membership, rising from six to twenty-eight states and involving countries that in 1957 were

firmly shackled behind the Iron Curtain. It also has a far more extensive mandate, significantly surpassing the initial logic of economic integration and spanning a wide range of areas of public policy from foreign policy through defence, monetary, and fiscal policy to internal security.

The ambition of fostering an *ever closer union*, inserted into the preamble of the Rome Treaty, the then European Communities' founding document, by the founding fathers of European integration, speaks of the post-war need for reconciliation in a scarred continent.⁰² Despite the fact that the determination to build an *ever closer union* among the European peoples is proclaimed as a first objective in the preamble of the Treaty of Rome and notwithstanding the recent declaration of the foreign ministers of the six founding Member States – Belgium, France, Germany, Italy, Luxembourg, and the Netherlands – of the EU about their recommitment to constructing an *ever closer union*,⁰³ it is now clear that integration among European states does not follow uniform path across the whole 28-nation bloc. Even the foreign ministers of the "original six" have for the first time backed a "two-speed", or rather "multi-speed" Europe at their meeting on 9 February 2016.⁰⁴

The empirical reality probably makes such acknowledgement inevitable provided that political elite does not intend to turn a blind eye to it, as the non-uniformity of the integration among the twenty-eight countries has been steadily increasing over the past two decades. What exactly, then, does *ever closer union* mean today? Many markets across Europe are still far from being integrated, as a brief look at the service sector will testify. Taxes are not harmonised and there remains intense tax competition between Member States. Moves towards political union have so far, to put it gently, been limited.

First, since the days of the Maastricht Treaty, opt-outs were developed as part of the sequence of European integration to accommodate the British request to stay outside the economic and monetary union as well as the need for the Danes, after the failed first referendum on the Treaty, to stay outside the common defence policy, cooperation in the field of justice and home affairs, the citizenship of the European Union, and the economic and monetary union (see the next section for an overview of the current state of differentiated integration in the EU).

Second and quite interestingly, the proposed Constitution for Europe removed the reference to *ever closer union* perhaps because by the early years of the new millennia political elites were getting more and more nervous about the growth of Euroscepticism in their countries' politics.⁰⁵ Nevertheless, the

02 Charlemagne, "Ever farther union", *The Economist*, [cited 20 April 2016] <http://www.economist.com/news/europe/21693620-principle-ever-closer-union-died-long-britain-demanded-exemption-ever-farther>.

03 Eszter Zalan, "EU founding states pledge deeper integration", *EUobserver*, [cited 20 April 2016] <https://euobserver.com/political/132204>.

04 Tara Palmeri, "Ministers of 'core' Europe plan EU's future", [cited 20 April 2016] <http://www.politico.eu/article/ministers-core-europe-plan-eu-future-rome-meeting-founding-members-integration/>; Georgi Gotev, "EU's founding members seek 'more Europe', even if it is smaller", [cited 20 April 2016] <http://www.euractiv.com/section/central-europe/news/eu-s-founding-members-seek-more-europe-even-if-it-is-smaller/>.

05 Vicki Pryce, "Perhaps the British were right all along about the perils of ever-closer union," *Europe'sWorld*, [cited 20 April 2016] http://europesworld.org/2014/02/24/perhaps-the-british-were-right-all-along-about-the-perils-of-ever-closer-union/#VxOvF3o3F_k.

01 Treaty establishing the European Economic Community, EEC Treaty - original text (non-consolidated version).

catchphrase was reintroduced in the Lisbon Treaty as it took over the language from previous treaties and reformed rather than replaced the older treaties with a new text.

Finally, recent developments heading towards the June referendum on the question whether the United Kingdom will remain a member of the Union has directly touched upon, among other issues, the application of the *ever closer union* clause to the Great Britain. David Cameron has sought and succeeded to get the exception from the EU Treaty commitment to *ever closer union* (including a promise that the exception would be inserted in future into the treaty). What the British Prime Minister was seeking was a reassurance that the phrase did not constitute an obligation to political integration that could be enforced by EU courts and hence that “Britain will never become part of a ‘European super-state’.”⁰⁶

Taken together, the *ever closer union* clause might be the treaty objective proclaimed almost six decades ago. It might also be a matter of fact in the core of the integration process. Nevertheless, the developments over the last two decades clearly show that the pace at which individual Member States participate in different policy initiatives is not uniform and, rather than an *ever closer union*, the EU could increasingly be understood as a process of multi-speed or differentiated integration. Some would even go as far as to talk of “ever more nation-states” as the chief product of the EU in recent times.⁰⁷ In any case, it appears that the principle of an *ever closer union* has been dead long time before Britain demanded an exemption.

2. The Conceptual Basis of Differentiated Integration

The previous section illustrated that the increasingly prominent feature of European integration is its differentiated character. The integration process has been relaunched with the Single European Act and the Maastricht Treaty, after couple of decades of relative stagnation. At the time of Maastricht Treaty, a number of EU Member States demanded opt-outs from sectoral policy integration, monetary integration being the prime example. Conceptually speaking, we may distinguish four qualitatively different constellations of territorial differentiation: (1) the uniform, complete, and exclusive application of treaty rules (no differentiation), (2) external differentiation, (3) internal differentiation, and finally (4) the combination of external and internal differentiation.⁰⁸ In the first constellation, EU rules apply uniformly and exclusively to all member countries. This is the paradigmatic case of integration, which adequately describes the first four decades of the integration process and can be underlined by

the ever closer union clause. The second scenario, external differentiation, is characterised by the situation where EU rules apply uniformly to all EU member countries but non-EU states formally adopt these rules as well. Thus, we may observe an externalization of EU rules. A prototypical example of this constellation is the free movement of goods and services: all 28 Member States of the EU are subject to the provisions governing the free movement of goods, services, labour, and capital. Nonetheless, the non-EU member states of the European Economic Area, notably Iceland, Liechtenstein, and Norway, have also enacted EU legislation on the free movement. Moreover, Switzerland, a non-member of the EEA, has negotiated bilateral agreements with the EU, including those on trade in industrial goods.⁰⁹

In the third constellation, EU rules no longer apply uniformly to all Member States of the EU, since individual Member States decide to opt-out from integration in a particular policy area.¹⁰ This scenario has seen its starting point in the Treaty of Maastricht as it paved a legal way for this form of differentiation. Two Member States, the United Kingdom and Denmark – the former before the final agreement on the Treaty and the latter as a response to failed referendum – negotiated concessions so that they could opt-out from the future introduction of single currency. Moreover, Denmark was also granted an opt-out from defence policy and cooperation in justice and home affairs within the Edinburgh Agreement.

The final scenario, combining internal and external differentiation, occurs when at least one of the EU Member States decides to opt-out from a certain policy field while, at the same time, at least one non-EU decides to opt-in by subjecting itself to EU rules in the very same policy field.¹¹ The archetypical example of this conceptual logic of differentiated integration is the Schengen acquis from which two Member States opted-out (the United Kingdom and Ireland) while four non-EU countries decided to opt-in (Iceland, Liechtenstein, Norway, and Switzerland).

3. The Empirics of Differentiated Integration in the EU

This section presents the overview of the current state of differentiated integration in the EU, focusing on two of the aforementioned conceptual constellations: internal differentiation and combination of internal and external differentiation. These two conceptual scenarios are the most relevant for the discussion of the main topic of this paper as both envisage opt-outs from a given policy field by at least one of the EU Member States.

06 Charlemagne, “Ever farther union”.
 07 Pryce, “Perhaps the British were right all along about the perils of ever-closer union”.
 08 Berthold Rittberger, Dirk Leuffen, and Frank Schimmelfennig, “Differentiated Integration of Core State Powers”, in *Beyond the Regulatory Polity?: The European Integration of Core State Powers*, eds. Philipp Genschel and Markus Jachtenfuchs (Oxford: Oxford University Press, 2013). Thomas Winzen, “From capacity to sovereignty: Legislative politics and differentiated integration in the European Union”, *European Journal of Political Research* 55, 1 (2016).

09 Rittberger, Leuffen, and Schimmelfennig, “Differentiated Integration of Core State Powers”, 192.
 10 Rittberger, Leuffen, and Schimmelfennig, “Differentiated Integration of Core State Powers”, 193.
 11 Rittberger, Leuffen, and Schimmelfennig, “Differentiated Integration of Core State Powers”, 193.

Economic and Monetary Union

The first and probably the most prominent policy field where (internal) differentiated integration is currently a rule is the Economic and Monetary Union (EMU). The EMU was formally established by the Treaty of Maastricht signed in 1991 and effective since 1993. Before the Maastricht Treaty, monetary policy has been a predominantly national competence and it became exclusively EU afterwards. Before the EMU was established, monetary policy integration was a matter of intergovernmental coordination within the European Monetary System introduced in 1979. Within EMU, monetary policy was fully and permanently transferred to the European System of Central Banks with the European Central Bank (ECB) at its head. While completely centralised at the supranational level, monetary policy is also the most internally differentiated policy of the EU. Currently, only 19 out of 27 Member States are part of the Eurozone. Whereas most of the countries have legal obligation to adopt common currency and become fully-fledged members of the EMU, there are three EU Member States, which have deliberately opted-out from the currency union: Denmark, Sweden, and the United Kingdom.¹² The other non-participating countries are legally bound to adopt the single currency in future provided they fulfil the Maastricht convergence criteria.

Justice and Home Affairs / Area of Freedom, Security, and Justice

The second prominent field characterised by (combination of internal and external) differentiation is the Area of Freedom, Security, and Justice (AFSJ) – called Justice and Home Affairs (JHA) under the Treaty of Maastricht. Prior to the 1990s, this policy area was hardly a topic on the EU's political agenda, with the exception of the TREVI group that was established by the European Council Summit in Rome in December 1975 as an intergovernmental forum of national officials from ministries of justice and interior outside the European Community framework. The Treaty of Maastricht provided for the establishment of the cooperation in the field of justice and home affairs as the third pillar of the newly created EU and it has exhibited an impressive dynamics ever since.

This policy field encompasses a broad array of internal security policies, ranging from border checks, asylum and immigration policies, judicial cooperation in civil as well as criminal matters to police cooperation, including the Schengen acquis. All these policies relate to the capacity of states to provide internal security. With the adoption of the Schengen Agreement in 1985, the Schengen Convention

in 1990 and its implementation in 1995, border controls between the Member States of the Schengen Area have been abolished. A protocol annexed to the Amsterdam Treaty then incorporated the Schengen acquis into the legal framework of the EU. Nevertheless, the Schengen Area did not only abolish border controls, but it also established common rules on visas, asylum, police cooperation, and protection of external borders. Over time, participation in the Schengen acquis became attractive for an increasing number of states, including non-EU countries. Currently all EU Member States with the exception of the United Kingdom and Ireland – who have opted-out – and Bulgaria, Croatia, Cyprus, and Romania – who so far did not fulfil the criteria for membership – are members of the Schengen Area. In addition, four non-EU member states Iceland, Norway, Switzerland, and Liechtenstein participate in the Schengen acquis as well.¹³

Nonetheless, the Area of Freedom, Security and Justice is much wider policy field exceeding the Schengen acquis. Beside the internally as well as externally differentiated integration within the Schengen rules, three countries have been granted a complete opt-out from the cooperation in the whole AFSJ.¹⁴ Two of these three countries – United Kingdom and Ireland – have the option of deciding not to participate in the legislative procedures in this field, the so-called opt-out clause. If they decide to do so, they will not be bound by the measures adopted in this policy field. At the same time, these two countries may apply the so-called opt-in clause which enables each of them to participate, on a case by case basis, in the adoption procedure for a measure or the application of a measure already adopted. If they do so, they will then be bound by this measure in the same way as other EU countries. The situation of Denmark is more complicated, as Denmark also disposes of an opt-out clause enabling it not to apply an AFSJ measure at any time. The Treaties also provide for an opt-in clause which would enable Denmark to participate, on a case by case basis, in the adoption procedure for a measure or the application of a measure already adopted. However, this opt-in clause would have to be first approved in a referendum in Denmark and only then could be activated.¹⁵ On 3 December 2015 the referendum on whether to transform Denmark's current full opt-out on AFSJ matters into an opt-out with case-by-case opt-in has been held with the 53% of Danish voters casting ballot against it.

¹² In fact only the United Kingdom and Denmark have legally binding opt-outs from the participation in the EMU and adoption of the common currency. In Sweden, there was a negative referendum on the adoption of single currency in 2003 and the country have deliberately chosen not to fulfil one of the Maastricht convergence criteria, namely the participation in the Exchange Rate Mechanism, fulfilment of which is a precondition for the adoption of common currency. In addition, the Danish Krone is presently pegged to the Euro.

¹³ S. Peers, *EU Justice and Home Affairs Law* (Oxford University Press, 2011).

¹⁴ Anne Breer, "Variable geometry in the area of freedom security and justice: the Danish and British opt-out in practice: To what extent do the opt-outs of Denmark and the United Kingdom in the area of freedom, security and justice limit their influence on its internal development and external projection?" (University of Twente, 2012); Peers, *EU Justice and Home Affairs Law*.

¹⁵ Breer, "Variable geometry in the area of freedom security and justice: the Danish and British opt-out in practice: To what extent do the opt-outs of Denmark and the United Kingdom in the area of freedom, security and justice limit their influence on its internal development and external projection?"; Peers, *EU Justice and Home Affairs Law*.

Common Foreign and Security Policy / European Security and Defence Policy

The last major policy field characterised by (internal) differentiation is the field of security and defence policy. The integration in this policy field is another latecomer to the process of European integration, similarly to the previous two policy fields. It was only the Treaty of Maastricht that introduced the Common Foreign and Security Policy (CFSP) – which constituted the second pillar of the new three pillar structure of the EU. Against the backdrop of the broadly perceived failure of the EU to find a joint response to the wars in the Balkans, a revision of CFSP provisions was introduced in the Amsterdam Treaty (i.e. the creation of the post of a High Representative for the CFSP). A while before the entrance into force of the Treaty of Amsterdam the war in Kosovo erupted, prompting governments of EU Member States to redefine the EU's role in the Balkans. As a result, the Franco-British St. Malo Declaration of December 1998 called for development of capacity for autonomous action, backed up by credible military forces, in order to respond to international crises. At the subsequent Helsinki European Council meeting in December 1999 the EU Member States stipulated to create institutional and military infrastructure for the European Security and Defence Policy (ESDP) which was to be realised and assisted by a range of new institutions.¹⁶

As regards the degree of differentiation, security and defence policy is less differentiated as compared to the previous two policy areas discussed.¹⁷ So far, only Denmark has opted out of this policy area, as a response to the failed first referendum on the Maastricht Treaty since most of the Danish citizens were opposed to further integration in areas of foreign and defence policy.¹⁸ The 1992 Edinburgh Agreement provided for a guarantee to Denmark that they would not be obliged to join the Western European Union. The agreement also stipulated that Denmark would not take part in discussions or be bound by decisions of the EU with defence implications. The Treaty of Amsterdam then included a protocol which formalised this opt-out from the CSDP. As a consequence, Denmark is excluded from foreign policy discussions with defence implications and does not participate in foreign missions with a defence component ever since.¹⁹

The possibility of differentiated integration in the CFSP is further strengthened since the Treaty of Amsterdam provided for the so-called constructive abstention. Normally, decisions taken with respect to the CFSP are adopted unanimously. However, in certain cases under Article 31 of the Treaty on European Union (TEU), an EU country can choose to

abstain from voting on a particular decision without blocking it. In other words, the country can constructively abstain and qualify its abstention by making a formal declaration. Consequently, the country is not obliged to apply this decision, but shall accept that the decision commits the EU.²⁰

4. Explaining Differentiated Integration in the EU:

Core State Powers vs. Non-Core State Powers as an Analogy to High vs. Low Politics

The purpose of this section is, on the basis of relevant scholarly literature, to discuss potential reasons that may explain the process of differentiated integration in the EU regardless of the form of the specific constellation it takes (as discussed in the second section). On this basis the next section will attempt to foreshadow possible future trajectories in differentiated integration in the EU. How can we account for the increasing territorial (internal) differentiation in the EU during the past three decades? Recent scholarship argues that the distinction between core state powers and non-core state powers is a helpful heuristic for understanding differentiated integration in the EU.²¹ This heuristic party builds on the well-known realist explanation of the European integration process on the basis of distinction of policy fields as “high” and “low” politics. The supranational integration was supposed to proceed in the latter field while it should remain stagnant and intergovernmentally structured in the former field.²²

Core state powers are related to key functions of sovereign government including monetary and fiscal policy, security, defence and foreign policy, border control, migration, citizenship, and internal security, including judicial and police cooperation. We may also add employment and macroeconomic policy. On the other hand, non-core state powers are not related to key functions of sovereign nation-states. In the EU, non-core state powers are mainly, but not exclusively, the policies pertaining to the establishment of the common market, including economic external relations, civil matters, culture, welfare, agriculture, territorial, economic and social cohesion, environment, consumer protection, occupational health and safety standards, labour, research and development, economic freedoms, competition and industrial policy, and energy and transportation.²³

¹⁶ The Nice Treaty then incorporated and formalized the existence of the new institutional structures.

¹⁷ Rittberger, Leuffen, and Schimmelfennig, “Differentiated Integration of Core State Powers”.

¹⁸ Sara Binzer Hobolt, “How Parties Affect Vote Choice in European Integration Referendums”, Party Politics 12, 5 (2006).

¹⁹ Ministry of Defence, “EU - The Danish Defence Opt-Out”, [cited 20 April 2016] <http://www.fmn.dk/eng/allabout/Pages/TheDanishDefenceOpt-Out.aspx>.

²⁰ EUR-Lex – Glossary of summaries, “Abstention, constructive (positive abstention)”, [cited 20 April 2016] <http://eur-lex.europa.eu/summary/glossary/abstention.html>.

²¹ Dirk Leuffen, Berthold Rittberger, and Frank Schimmelfennig, Differentiated integration: explaining variation in the European Union (Basingstoke: Palgrave Macmillan, 2013); Philipp Genschel and Markus Jachtenfuchs, “More integration, less federation: the European integration of core state powers”, Journal of European Public Policy 23, 1 (2016); Rittberger, Leuffen, and Schimmelfennig, “Differentiated Integration of Core State Powers”. Winzen, “From capacity to sovereignty: Legislative politics and differentiated integration in the European Union”.

²² Stanley Hoffmann, “Obstinate or Obsolete? The Fate of the Nation-State and the Case of Western Europe”, Daedalus 95, 3 (1966).

²³ Genschel and Jachtenfuchs, “More integration, less federation: the European integration of core state powers”, Rittberger, Leuffen, and Schimmelfennig, “Differentiated Integration of Core State Powers”. Winzen, “From capacity to sovereignty: Legislative politics and differentiated integration in the European Union”.

For the aforementioned non-core state powers, there is a rather small likelihood of internal differentiation. Empirically speaking, we indeed do not see EU Member States opting-out from these policy areas. Quite the contrary, we may observe external differentiation, meaning that non-EU countries opt-in to these fields and make themselves bound by EU rules. On the other hand, as the involvement of the EU institutions increases in the field of core state powers, and thus as policy integration and decision-making in these fields become more centralized, there is a higher likelihood for internal differentiation. As the previous section shows, there is indeed significant degree of internal differentiation in monetary policy, justice and home affairs, as well as in defence policy. So, while exceptions are practically absent in non-core state powers, they are a normal feature of European integration in core state powers. In all these three cases, the formal authority of the EU is limited just to subsets of the full range of its Member States.²⁴

The likely reason for this is that the transfer of sovereignty in the field of core state powers tends to trigger critical reactions by Eurosceptic publics as it profoundly affects identity and sovereignty issues usually compound within the nation-states. But why exactly should be integration of core state powers more differentiated as compared to non-core state powers? What are the reasons that may explain such development? First, it is likely that organisations, nation states, and their institutions included are unwilling to give up or pool those powers that are constitutive for their identity, or are crucial for their autonomy and survival. Correspondingly, states should be unwilling or reluctant to transfer core state powers to supranational organizations.

Second and more importantly, since core state powers significantly touch upon national sovereignty and identity, they are characterized by transnational distributional conflict, and, as a consequence, tend to be more politicized and are less likely to be integrated, in particular in Eurosceptic countries. As a result, the more politicized this policy area is, the more likely integration in a given policy field is differentiated.²⁵

Third, the level of centralisation/supranationalisation of integration of core state powers influences the propensity of differentiated integration to occur. The more centralised integration of core state powers becomes, the more likely it is that it will threaten national identity and sovereignty and that Eurosceptic publics and entrepreneurs will mobilise against it. This may also be the reason why out of the three policy fields characterised by internal differentiation discussed in the previous section, the integration of security and defence matters is the least differentiated. The low level of supranationalisation – as opposed to economic and monetary union and the AFSJ – has probably thus far prevented more

states, besides Denmark, from demanding an opt-out.²⁶

Fourth and related to the previous point, the more integration of core state powers involves capacity-building as opposed to regulation, the higher the propensity to differentiation of integration. Again, if integration of core state powers involves capacity building, it is more likely that it will trigger politicization and mobilisation of the conflict between Eurosceptics and the opposing camp. The reason is that capacity-building involves a visible reallocation of ownership rights over core state powers to the EU level, while regulatory integration merely strengthens EU control rights over power resources that remain at the national level.²⁷

Finally, in contrast to integration of non-core state powers, in particular the creation of common market and European market integration, business interest and lobby groups are not the main drivers of integration. While market integration is often driven by business interest, often even cross-cutting boundaries of Member States, integration of core state powers tends to affect organized business interest to much lower degree, or not at all.²⁸ In contrast, integration of core state powers tends to affect state elites and mass public to much larger degree than it affects business interest and, hence, the likelihood of mass politicization tends to be higher. Taken together, the main drivers of integration process in the area of core state powers are state elites and mass publics rather than sectoral business interests.²⁹ If mass elites are mobilised by Eurosceptic entrepreneurs or party leaders on the basis of identity or sovereignty arguments, identity/sovereignty minded voters tend to oppose the transfer of competences to the EU level.³⁰

Considering these arguments, we would expect the supranational integration of core state powers to occur less likely than integration of non-core state powers. Given that core state powers are integrated at the EU level, integration should rather occur at a lower level of centralization than the integration of non-core state powers and should include regulation rather than capacity building. In sum, differentiation is likely to further increase as long as deeper integration of core state powers occurs as it is likely to meet a growing resistance of increasingly identity-/sovereignty-concerned and Eurosceptic publics.

24 Leuffen, Rittberger, and Schimmelfennig, Differentiated integration: explaining variation in the European Union; Rittberger, Leuffen, and Schimmelfennig, "Differentiated Integration of Core State Powers".

25 Genschel and Jachtenfuchs, "More integration, less federation: the European integration of core state powers".

26 Leuffen, Rittberger, and Schimmelfennig, Differentiated integration: explaining variation in the European Union; Rittberger, Leuffen, and Schimmelfennig, "Differentiated Integration of Core State Powers".

27 Genschel and Jachtenfuchs, "More integration, less federation: the European integration of core state powers"; Philipp Genschel and Markus Jachtenfuchs, *Beyond the Regulatory Polity?: The European Integration of Core State Powers* (Oxford: Oxford University Press, 2013).

28 The counterargument here may be that integration within the economic and monetary union certainly affects the competitive positions of private business, but due to the existence of multiple equilibria, complexity, and indirectness of these effects, it is hard to predict the outcome. Consequently, this tends to decrease the degree of lobbying as compared to other economic integration. See Andrew Moravcsik and Frank Schimmelfennig, "Liberal intergovernmentalism", in *European Integration Theory*, eds. Antje Wiener and Thomas Diez (Oxford: Oxford University Press, 2009). Moreover, in foreign and defence policy and the AFSJ, there is no business lobbying at all due to the lack of any market.

29 Genschel and Jachtenfuchs, "More integration, less federation: the European integration of core state powers"; Genschel and Jachtenfuchs, *Beyond the Regulatory Polity?: The European Integration of Core State Powers*.

30 Liesbet Hooghe and Gary Marks, "A Postfunctionalist Theory of European Integration: From Permissive Consensus to Constraining Dissensus", *British Journal of Political Science* 39, 1 (2009).

5. Credible and Sustainable Narrative for the European Union

We have demonstrated that further integration in the area of what we call here core state powers might be possible, but certainly not symmetrically among all the Member States at the same pace. Moreover, we might expect demands for opt-outs or even debates about leaving the EU altogether. It seems that the ideal of an *ever closer union* is no longer a unifying and sufficiently attractive narrative across the continent. Quite the contrary, the federalist rhetoric generates more antagonism against the EU than any time before. However, if the goal is that the EU must stay together because that is the only way how to make the European nations capable of facing the new challenges in the today's unstable and dangerous multipolar world, we need a certain common narrative, which will be shared by our political representations and ideally also by the peoples of Europe.

For decades the core narrative was that of peace and prosperity. Empirically it is still a fact that the EU is a source of stability, security, and greater wealth for its Member States. However, this account is no longer shared by the majority of citizens in all the countries. The economic crisis put in doubt the idea that membership in the EU somehow automatically brings more prosperity. And the surge of radicalisation, recent Islamist terrorist attacks, migration crisis, and Russian aggression in Eastern Europe questioned the ability of the EU to ensure security. The promise of peace and prosperity simply does not resonate with the public perception any more. The output legitimacy argument in the debate on democratic deficit is seriously endangered nowadays. And indeed, the both external and internal economic and security challenges might be so severe in the years to come that the EU institutions and policies will not be able to mitigate them.

Does it mean that if everything goes wrong internationally, membership in the Union will no longer make sense, because only nationalistic attempts to gain security and prosperity will become credible among the frustrated citizens? Of course not. The EU will remain indispensable even if it cannot ensure security and prosperity, because its main added value is the fact that it constitutes a *community of the rule of law*. The European Union is above all a community of countries and societies which share conviction that common market requires common regulation, different interests are best settled in political institutions, and justice is best achieved by independent courts. These ideals are not universally shared. Regimes to the east and south of Europe prefer survival of the fittest over the rule of law, submission over individual liberty, and oligarchism over free market. Membership in the EU means being part of the exclusive *community of the rule of law*.

The future of the European integration is not in an *ever closer*

union - at least in the old understanding of the term, but rather in a differentiation. However, as long as we manage to keep the EU together as a community of countries which are aware of their different interests, but at the same time appreciate their common values of liberal democracy bounding them together vis-à-vis the neighbouring regions, internal fragmentation is not necessarily a bad thing.

It is necessary to recognise the achievements of European integration up until today. In order to preserve those accomplishments and not to let the EU gradually fall apart because the mainstream politicians will no longer be able to gain the necessary support for their countries' membership vis-à-vis growing public sensitivities for national interests, particularities and differences, the EU leaders should adopt looser model of integration, which will be capable of accommodating also the most Eurosceptic countries.

The ideal to which the European project will aspire in the 21st century should be that of the rule of law. To convince the European public that the EU is still a source of economic growth and security might be difficult now and in the coming years. Precisely because of deficiencies of these two public goods, the EU is losing its popularity today. But what the EU really delivers and must continue to deliver is an environment of legal certainty, of clear rules in the internal market, and mutual cooperation among the Member States. The application of the rule of law is also the main principle which distinguishes European political systems from those we can find south and east of Europe.