



Designing differentiated integration: What can we learn from the EEA?

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Christian Frommelt



Definition: Differentiated Integration

The EU is not ‘many Europes’ with task-specific jurisdictions each having their own organization. It is one Europe with ***an organizational and member state core but with a level of centralization and territorial extension that vary by function.*** This is how we define a ‘system of differentiated integration’. (Leuffen et al. 2012: 12)

Definition: Differentiation

Differentiation shall be defined as the ***differential validity of formal EU obligations across countries.***

Definition: Types of differentiation

Framing differentiation: Opt-in in the EU *acquis*; (e.g. EEA Agreement, Schengen association).

Sectoral differentiation: Horizontal opt-out from the EU *acquis* within the scope of an integration regime; (e.g. Liechtenstein's exemptions in the field of foodstuff).

Ad hoc differentiation: Specific opt-out from an EU act; (e.g. Iceland's exemption from the regulation on the registration for crude oil imports).

De facto differentiation: Implicit deviation of the homogeneity of EEA law due to the non-selection or the delayed adoption of EEA-relevant EU legislation.

Definition: Logics of differentiation

Instrumental differentiation: Outcome of intergovernmental negotiation between the EU and the EEA EFTA states on the regulatory capabilities and preferences of an EEA EFTA state to adopt and implement an EU policy; (*e.g. Norway's exemption of snus from the regulation on the sale of tobacco products*).

Constitutional differentiation: Outcome of intergovernmental negotiation between the EU and the EEA EFTA states on the extent, depth and goals of their integration; (*e.g. Adaptations/Declarations to the Citizenship directive*).

Definition: Logics of differentiation

Process-based differentiation: Implicit deviation of the actual integration level from the required integration level due to different polities of the association regime and the EU; (*e.g. different speed of EU and EEA*).

Conclusion 1: Extent of differentiation

Conclusion 1: The EEA is functioning well, allocating only very little *ad hoc* differentiation within the functional scope of the EEA Agreement.

Conclusion 2: Logics of differentiation

Conclusion 2: The small extent of *ad hoc* differentiation within the scope of the EEA Agreement is contrasted by a substantial level of *de facto* differentiation. The *de facto* differentiation, however, is mainly process-based and thus inherent in the system of the EEA.

Conclusion 3: Demand and supply for differentiation

Conclusion 3: The success of the EEA is confined by its current composition of member states which, above all, is determined by an asymmetric policy-interdependence in favor of the EU as well as a high government capacity and autonomy of the EEA EFTA States.

Conclusion 4: Dynamics of the EEA

Conclusion 4: The EEA is effective as long as it is dynamic. To remain dynamic, however, the EEA requires a certain leeway of its institutions to interpret the scope and level of the EEA Agreement. On the other hand, this flexible interpretation will further constrain the legitimacy of the EEA.

Conclusion 5: The EEA as a model?

Conclusion 5: Stipulating the EEA as model, it should be kept in mind that the EEA EFTA pillar does not include any policy-making power. Hence, the EEA EFTA pillar does not provide a substantial contribution to the European agenda-setting and policy-making.

Thank you for your attention

