EU60: RE-FOUNDING EUROPE

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Differentiated Integration: A Way Forward for Europe

Nicoletta Pirozzi, Pier Domenico Tortola and Lorenzo Vai

16 March 2017

ISBN 978-88-9368-038-7

Differentiated Integration: A Way Forward for Europe

by Nicoletta Pirozzi, Pier Domenico Tortola and Lorenzo Vai*

Abstract: The idea of differentiated integration (DI) has gained ground within the pro-EU camp, by which some member states can move forward in selected policy areas, possibly involving the remaining countries at a later stage. The notion of DI is increasingly embraced as a sensible and pragmatic way to revive the integration process not only among European politicians, but also among EU institutions themselves. While the concept of DI is straightforward, its application is rather complex both politically and institutionally. Any differentiation initiative should tackle several key issues and questions head on if it hopes to succeed. This paper will outline five broad questions and corresponding guiding principles for differentiation and then apply them to three policy macro-areas: economic governance, defence and freedom security and justice. For each area, a specific path to differentiation and a roadmap are defined by referring to three existing "institutional anchors", namely: the Eurozone, Permanent Structured Cooperation (PeSCo) in the field of defence and Schengen.
Keywords: EU integration | Economic governance | Psdc | Defence industry | Migration | Refugees | Schengen

Introduction – Weathering the perfect storm

For almost a decade now, the European Union has faced a deep and multiple crisis. Stagnation, high unemployment, increasing inequality, the (perceived

* Nicoletta Pirozzi is Senior Fellow in the European Affairs area and Institutional Relations Coordinator at the Istituto Affari Internazionali (IAI) and Adjunct Professor at the "Roma Tre" University in Rome. Pier Domenico Tortola is Research Fellow at the University of Milan and the director of the EuVisions Observatory. Lorenzo Vai is Researcher at the Centro Studi sul Federalismo (CSF) and IAI.

· Paper prepared within the context of "EU60: Re-Founding Europe. The Responsibility to Propose", an initiative launched by the Istituto Affari Internazionali (IAI) and the Italian Ministry of Foreign Affairs and International Cooperation (MAECI), in cooperation with the Centro Studi sul Federalismo (CSF) and in the framework of IAI's strategic partnership with the Compagnia di San Paolo, on the occasion of the 60th Anniversary of the Treaties of Rome.

or real) perils of uncontrolled immigration and the threat of terrorism are just the most visible of the problems threatening the Union's economies, societies and security. The convergence of these challenges puts enormous pressure on the EU's politico-institutional order. Many member states are experiencing an unprecedented rise of Euroscepticism, which advocates the dismantling of many if not all the structures of integration as a solution to Europe's predicament. In this sense, Brexit may turn out to be the harbinger of worse things to come for Europe over the course of 2017.

At the opposite end of the political spectrum, Europhiles agree that the EU is no longer viable in its current form, but call instead for further integration to fix the challenges, for they see the European project's problem as one of incompleteness. It is increasingly evident, however, that integration cannot realistically proceed through one-size-fits-all solutions – all the more so if these are to be implemented through cumbersome Treaty reforms. Accordingly, the idea of differentiated integration (DI) has gained ground within the pro-EU camp, by which some member states can move forward in selected policy areas, possibly involving the remaining countries at a later stage. The notion of DI is increasingly embraced as a sensible and pragmatic way to revive the integration process not only among European politicians,[1] but also among EU institutions themselves.[2]

To be sure, DI is nothing new: the European Monetary Union (EMU), the Schengen area, the Bologna process, and more recently the Fiscal Compact, the European Stability Mechanism (ESM) and the Banking Union are all examples of DI already existing within the Union. More often than not, however, to date differentiation has been implemented through *ad hoc* arrangements and/or considered as a necessary evil to swallow when integration *tout court* fails (DI as a last resort).[3] So a change of perspective

[1] "EU Founders Speak of Possible 'Multispeed' Future after Brexit", in *Reuters*, 3 February 2017, http://reut.rs/2k513NS; Eric Maurice, "Germany and France Endorse Multi-Speed Europe", in *EUobserver*, 2 March 2017, https://euobserver.com/institutional/137080.

[2] In its June 2014 conclusions, for instance, the Council recognized that "the concept of ever closer union allows for different paths of integration for different countries, allowing those that want to deepen integration to move ahead, while respecting the wish of those who do not want to deepen any further." European Council, *Conclusions*, 26-27 June 2014, para. 27, http://data.consilium.europa.eu/doc/document/ST-79-2014-INIT/en/pdf. More recently, differentiated integration was listed among the scenarios outlined by the Commission. See European Commission, *White Paper on the Future of Europe. Reflections and Scenarios for the EU27 by 2025* (COM/2017/2025), 1 March 2017, http://dx.doi.org/10.2775/32364.

[3] Witness Schimmelfennig and Winzen's description of differentiation as "driven by comparatively Eurosceptic countries that are opposed ideologically, or fear popular resistance, to supranational centralization". Frank Schimmelfennig and Thomas Winzen,

is needed, to turn DI into an opportunity for generating new public goods and efficiencies and, as such, deserving to be rationally planned. This paper aims to contribute to such a perspective shift by proposing a strategy of differentiation for the near future that can make the Union more resilient and responsive to the needs of its citizens (DI as a strategy).

The paper proceeds as follows: in section 1 we outline five broad questions and corresponding guiding principles for differentiation. In section 2 we apply this framework to three policy macro-areas – economic governance, defence, and freedom security and justice – defining for each a specific path to differentiation. In section 3, the final section, we outline an EU based on differentiated integration.

1. Guiding principles for differentiation

DI is easier said than done: while the concept of DI is straightforward, its application is complex both politically and institutionally. Here we want to dissect the topic by highlighting five key issues that any differentiation strategy should tackle head on if it is to succeed. Some of these have relatively easy solutions, while others present dilemmas calling for compromise between different interests and values. For each, we formulate some guiding principles and recommendations.

1.1 Differentiated integration for what, and with whom?

The first issue is, simply, for whom and in what policy areas DI should apply. While DI simplifies integration as it involves only willing member states, it adds a "degree of freedom" to the integration equation which complicates political scenarios. For different groups of participants entail, at least in principle, different sets of integration objectives and tools. The relationship between the "who" and the "what" of integration is often seen as inversely proportional. But the widening trade-off is only a starting point for DI: for one thing, it does not always hold empirically.[4] For another, it overlooks the possibility of linking different issues in negotiations, which has traditionally played a role in the shaping of integration deals.

"Instrumental and Constitutional Differentiation in the European Union", in *Journal of Common Market Studies*, Vol. 52, No. 2 (March 2014), p. 355.

[4] For instance, Dirk Leuffen, Berthold Rittberger and Frank Schimmelfennig, *Differentiated Integration. Explaining Variation in the European Union*, Basingstoke, Palgrave Macmillan, 2013.

With the above in mind, DI should be built on a small number of "institutional anchors" already in place or under way in the EU, so as to reduce uncertainty concerning the membership of differential agreements, ensure consistency with existing levels of DI and facilitate issue linkages. In particular, we suggest three such anchors: (1) the Eurozone; (2) the Permanent Structured Cooperation (PeSCo) in the field of defence; (3) the Schengen area.

1.2 Temporary vs permanent differentiation

The DI literature has distinguished between time-based differentiation – for example, "two-speed" or "multi-speed" Europe – in which the first movers are expected to be followed by other states later on, and more static models such as "variable geometry" and "*à la carte*" integration.[5] While this distinction has conceptual value, it should not be overstated. Empirically, what is meant to be temporary can become permanent (think of Sweden and the euro), and vice versa. Normatively, planning DI in any way other than temporary – that is, envisaging the permanent exclusion of some member states – would not only be a political non-starter but also violate the spirit and principles of the Treaties.

We propose an alternative approach, which does not try to plan – let alone predict – the ultimate nature of differentiation but tries to take advantage of both models. In planning DI, one should strive for maximum openness to future new entries, but at the same time be prepared for differentiation to last for a long (or indefinite) time. This has important consequences for the way differentiation is formulated and implemented, the foremost of which is that the promoters of DI individual arrangements should refrain from watering down their political and institutional ambitions based on the second-guessing of outsiders' future moves vis-à-vis the DI arrangement.

1.3 Legal framework of differentiation

Legally speaking, DI can be built in several ways. Simplifying somewhat, we are faced with three models: (1) working within the Treaties (e.g. using the enhanced cooperation procedure); (2) reforming the Treaties (as was the case for the EMU); (3) operating outside the Treaties (as was done for the ESM and the Fiscal Compact). Choosing one road instead of another has a number of consequences in terms of, for example, procedural simplicity (which is probably higher in the first and third models), institutional coherence (higher

[5] Alexander C.-G. Stubb, "A Categorization of Differentiated Integration", in *Journal of Common Market Studies*, Vol. 34, No. 2 (June 1996), p. 283-295.

in the first and second models) and the potential extent of reform (higher in the second and third models).

While each DI case presents specific legal requirements and challenges, in general we recommend keeping differentiation within the existing Treaties (model 1), with the addition of more ambitious Treaty reforms (model 2) when necessary. This approach would ensure greater transparency, legitimacy and consistency with existing arrangements,[6] three requirements that greater adherence to the Community method in structuring DI can help to achieve. In a previous study, we have shown how the current Treaty configuration offers significant opportunities for further integration and differentiation in several fields.[7] This position has recently been restated institutionally by the Bresso-Brok report, which presents a number of important reform ideas, many of which imply some form of DI.[8] Operating outside of the Treaties can be seen as an option to pursue as a transitory solution, preparing the ground for future incorporation within the EU legal framework.

1.4 Ensuring the governability of differentiation

As differentiation proceeds further, questions are likely to be raised about how to best coordinate DI nuclei both with the "outer rings" and with one another to minimize inefficiencies and negative externalities. This issue is, in turn, composed of two parts. The first relates to the Union's decision-making structures, and particularly the Commission-Council-Parliament triad. Here our broad guideline is to limit institutional duplication as much as possible, by establishing new institutional configurations only within the Council where they can be accommodated more easily (along the lines of the Eurogroup). Duplications should be avoided altogether in the Commission, for which we recommend structural streamlining – perhaps by reducing the number of Commissioners – and strengthening the role of those Commissioners in charge of DI areas. For the European Parliament (EP) the conflicting principles of institutional integrity and representativeness

[6] On this see also Gian Luigi Tosato, "New Institutional Solutions for Multi-Tier Governance?", in Ingolf Pernice et al., *Challenges of Multi-Tier Governance in the European Union. Effectiveness, Efficiency and Legitimacy*, Brussels, European Parliament, March 2013, p. 152-160, http://www.europarl.europa.eu/thinktank/en/document.html?reference=IPOL-AFCO_ET(2013)474438.

[7] Lorenzo Vai, Pier Domenico Tortola and Nicoletta Pirozzi (eds.), *Governing Europe. How to Make the EU More Efficient and Democratic*, Brussels, P.I.E. Peter Lang, 2017.

[8] Mercedes Bresso and Elmar Brok, *Report on Improving the Functioning of the European Union Building on the Potential of the Lisbon Treaty* (A8-0386/2016), European Parliament Committee on Constitutional Affairs, 9 January 2017, http://www.europarl.europa.eu/sides/getDoc.do?type=REPORT&reference=A8-2016-0386&language=EN.

should be borne in mind. A solution might be found, at the horizontal level, by differentiating at the committee levels – for example by creating special sub-committees, as once proposed for the Eurozone[9] – while retaining unity at the plenary level. Whereas, at the vertical level, the cooperation with the National chambers could be strengthened through inter-parliamentary committees on specific policy areas.

The second part of the coordination issue concerns policy instruments, and in particular the financial resources for differentiated arrangements. Contrary to the foregoing, our guideline here is to keep the general budget of the Union and the more specific budgets arising from DI – which might in some cases take the form of special funds – clearly distinct, so as to maximize transparency and accountability in the management of resources, and eliminate financial opacities which might lend themselves to being exploited politically.

1.5 Making differentiation legitimate

The issue of legitimacy in the EU goes well beyond the topic of differentiation. However, some aspects are particularly applicable to the case of DI. In the first place, the *process* of differentiation itself needs to be legitimate. This should be achieved not only legally, by implementing DI consistently (in keeping) with the existing legal setup of the Union,[10] but also politically, by making DI both participatory and inclusive (for instance by inserting DI into wider agendas for the relaunch of the EU) as well as institutionally by allowing outsiders to participate as observers in the decision-making processes of DI nuclei.[11]

In the second place, the *results* of DI should be legitimate. This means, on the one hand, that differentiated deepening must be accompanied by the strengthening of instruments and channels of input legitimacy, for example by extending the Community method (and therefore the role of the EP), as already mentioned, but also by encouraging the consolidation of mechanisms of transnational representation, most notably Europarties.[12]

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[9] Benjamin Fox, "Would a Eurozone Committee Enrich the EU Parliament?", in *EUobserver*, 12 February 2014, https://euobserver.com/news/123054.

[10] See Thomas Beukers, "The Eurozone Crisis and the Legitimacy of Differentiated Integration", in *EUI Working Papers*, No. MWP 2013/36 (December 2013), http://hdl.handle.net/1814/29057.

[11] On the political legitimacy of DI see Yves Bertoncini, *Differentiated Integration and the EU: A Variable Geometry Legitimacy*, Rome, IAI, March 2017, http://www.iai.it/en/node/7411.

[12] On this see also Nicoletta Pirozzi and Pier Domenico Tortola, "Negotiating the European

On the other hand, DI legitimacy should be reinforced on the output side by making the links between differentiation and citizens' well-being as evident as possible. This means, among other things, that priority should be given to DI solutions with a direct and visible impact on people.

2. Three paths to differentiation

Based on the principles just outlined, we sketch here differentiation scenarios in three macro areas – economic governance, defence and freedom, security and justice (AFSJ) – based on the aforementioned institutional anchors: the Eurozone, PeSCo and the Schengen area. While we conceive the three paths as pursuable independently of one another, we do not see them as entirely equal. To the extent that one area should be prioritized, we believe this should be economic governance, for two closely connected reasons. First, as the EU's most advanced DI experiment, the Eurozone provides the most solid political and institutional bedrock for further integration and therefore presents the greatest chances of successful DI in the near future. Second, the Eurozone's economic governance is the one area most urgently in need of further integration, given not only its institutional imbalances – which have contributed to exacerbating the euro crisis – but also its centrality for the future viability of the European project as a whole. In this sense, completing the Eurozone's institutional architecture can also play an important role in improving the prospects of DI in the other two areas – defence and freedom, security and justice – ultimately injecting new dynamism into the integration process and making the EU more resilient.

2.1 Eurozone consolidation

Why?

The EMU has proved to be an imperfect construction that has now to be reformed in order to survive. At the same time, the economies of the Eurozone countries need a higher degree of convergence through national structural reforms to become sustainable within the EMU. The dilemma between more integration and more national reforms is illusory: to make the EMU more stable and resilient both goals have to be pursued simultaneously. To put it simply: a stronger Eurozone requires stronger national economies and vice versa. But what is simple theoretically it is not so politically.

Union's Dilemmas: Proposals on Governing Europe", in Lorenzo Vai, Pier Domenico Tortola and Nicoletta Pirozzi (eds.), *Governing Europe. How to Make the EU More Efficient and Democratic*, Brussels, P.I.E. Peter Lang, 2017, p. 225-243.

What is needed is to strengthen the architecture and functioning of the EMU and clarify the rights and obligations of the member states who want to be part of it. Such a process should aim at a comprehensive set of priority goals: making the EMU more solid in facing crises and macroeconomic shocks; guiding and promoting the convergence of national economies; enhancing the supranational governance; supporting investments plans; extending the European social dimension.

If "efficiency" is the first goal of this consolidation, the second one has to be "legitimacy". Before the crisis Eurozone decision-making suffered from a damaging lack of democratic legitimacy and public debate. The prevalence of the intergovernmental method (under-scrutinized at the national level) and technocratic procedures has decreased input legitimacy, whereas the inability of the EU to deal effectively with the impact of the economic crisis has eroded output legitimacy. The combination of these two factors has impacted negatively on public support for the euro as a core project of the EU, creating a breeding ground for the rise of Eurosceptic and nationalist movements.

If the Eurozone (and more in general the European project) is to be safeguarded, some changes at the EU and national level are urgently required. The status quo is unsustainable in the medium and long run.

How?

The consolidation of the Eurozone requires a wide number of actions and institutional adjustments that can be enacted without Treaty changes, as well as others that could necessitate them. Experiments in DI outside the Treaty framework worked only as transitional mechanisms as they do not ensure effective governance and democratic control. Additionally, a pick-and-choose approach does not seem to be suited for the EMU. In this specific area a further differentiation should be avoided for economic and political reasons. A permanent diversity between the Eurozone member states regarding their level of economic integration could generate new problems for the functioning of the monetary union and the political cohesion of its members. So, the member states of the Eurozone should proceed together towards a more integrated EMU, although the possibility of granting temporary derogations or transitional periods could be envisaged on the basis of an agreed roadmap for those countries unwilling or unable to move forward immediately. The consolidation roadmap has already been outlined by the Five Presidents' Report, from which a list of concrete actions should

be prioritized.[13]

• Improve the economic and fiscal convergence during the European semester through constant monitoring, consultation and cooperation between EU bodies – namely the Commission, the National Productivity Boards, the Fiscal Board – and the member states. The Macroeconomic Imbalance Procedure remains essential to detect imbalances and foster structural reforms. The latter might be incentivized by an incentive-based system financed by a Eurozone budget.[14] The Fiscal Compact, with the appropriate modifications, should be integrated into the EU legal framework after a careful assessment of the results of implementation.[15]

• Establish an *ad hoc* Eurozone budget to finance an incentive-based reforms system, support the Commission's investment plan (or the creation of a Eurozone investment plan), and new macroeconomic stabilizers such as a common unemployment benefits scheme.[16] The Eurozone budget would constitute a fund separate from the EU budget and it will be used only for the EMU. New own resources can be generated by providing the Eurozone with a fiscal capacity or the power to issue European bonds. Many feasible options, each with its pros and cons, are currently on the table.[17] The proposals and recommendations put forward by the High Level Group on Own Resources chaired by Mario Monti mainly concern the EU budget, but they offer an excellent starting point for a wider debate on differentiation on these issues as well. As stated by the report, a certain degree of differentiation should be considered, especially for the further development of the Eurozone.[18]

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[13] Jean-Claude Juncker et al., *The Five Presidents' Report: Completing Europe's Economic and Monetary Union*, June 2015, p. 11, http://europa.eu/!cY66kX.

[14] Steven Blockmans and Sophia Russack, *Regroup and Reform. Ideas for a More Responsive and Effective European Union*, Report of a CEPS Task Force, Brussels, Centre for European Policy Studies (CEPS), February 2017, p. 22-23, https://www.ceps.eu/node/12248.

[15] Mercedes Bresso and Elmar Brok, *Report on Improving the Functioning of the European Union Building on the Potential of the Lisbon Treaty*, cit., p. 17.

[16] For instance, Miroslav Beblavý and Karolien Lenaerts, "Stabilising the European Economic and Monetary Union: What to Expect from a Common Unemployment Benefits Scheme?", in *CEPS Research Reports*, No. 2017/02 (February 2017), https://www.ceps.eu/node/12229.

[17] Eulalia Rubio, "Federalising the Eurozone. Towards a True European Budget?", in Lorenzo Vai, Pier Domenico Tortola and Nicoletta Pirozzi (eds.), *Governing Europe. How to Make the EU More Efficient and Democratic*, Brussels, P.I.E. Peter Lang, 2017, p. 169-190.

[18] High Level Group on Own Resources, *Future Financing of the EU. Final Report and Recommendations* (Mario Monti Report), December 2016, p. 14, http://ec.europa.eu/budget/mff/hlgor.

• Complete the Banking Union by implementing a European deposit insurance and establishing an adequate fiscal backstop to support the Single Resolution Mechanism scheme alongside the Single Supervisory Mechanism, as proposed in the Five Presidents' Report.

• Establish a Eurozone executive, in charge of managing the Eurozone budget, supervising the implementation of the rules, mobilizing resources in exceptional circumstances, leading negotiations between the member states, and representing the Eurozone in international institutions and fora (e.g. the International Monetary Fund).[19] The most appropriate form for this executive would be a Eurozone treasury led by a "multi-hatted" European Financial Minister, who will represent both the participating member states – as a President of the Euro group and the Euro summit – and the European Commission – as a Commissioner for Economic and Monetary Affairs and Vice-President of the Commission.

• Redefine the role of the European Parliament by strengthening its oversight of Eurozone decision-making institutions (especially the European Council, and the Euro group) and broadening its involvement in the European semester and in the scrutiny of the macroeconomic adjustment programmes (a Eurozone sub-committee could assume these tasks).[20] In this sense, the current Treaties allow various forms of possible participation that should be accompanied by a power of approval and amend the Eurozone budget, and a continuous cooperation and shared scrutiny by national parliaments.

With whom?

All current and future Eurozone members. If, due to the political implications, this is not immediately possible, temporary derogations or transitional periods might be negotiated to make the process more inclusive, in the longer term, and avoid any Eurozone *à la carte* through a process of differentiation within differentiation. These temporary derogations and transitional periods can also facilitate the convergence (political and economic) of the current non-Eurozone countries without an opt-out but that are not ready or willing to join a reformed EMU. Relations and coordination between the Eurozone countries and the other EU member states should be led by the multi-hatted European Financial Minister.

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[19] See Henrick Enderlein and Jörg Haas, "What Would a European Finance Minister Do? A Proposal", in *Jacques Delors Institute Policy Papers*, No. 145 (October 2015), http://www.delorsinstitute.eu/011-22033.

[20] See Cinzia Alcidi, Alessandro Giovannini and Sonia Piedrafita, *Enhancing the Legitimacy of EMU Governance*, Brussels, European Parliament, December 2014, http://www.europarl.europa.eu/thinktank/en/document.html?reference=IPOL_STU(2014)536312.

The next steps for this consolidation can be outlined as follows: (1) a dedicated section in the declaration of the 60th Anniversary of the Treaties of Rome in which Eurozone heads of state affirm their will to proceed with the EMU consolidation through the roadmap outlined by the Five Presidents' Report; (2) by 2020: complete the banking union, improve the economic and fiscal convergence revamping the European semester and assessing the integration of the Fiscal Compact, strengthen parliamentary control, launch a political debate on the revision of the next Multiannual Financial Framework and the creation of a Eurozone budget; (3) 2020-2025: establish a Eurozone executive, redefine the role of the EP, create a Eurozone budget to foster economic growth and convergence among the Eurozone countries through an incentive-based system aimed at fostering domestic reforms.

2.2 Europe in defence

Why?

Today's EU is caught in a double crisis: a general crisis that risks undermining the international order and liberal democracies, and a more specific one that relates to its identity and the process of integration. The latter is exacerbated by Brexit and threats to the founding principle of the rule of law by governments in Hungary and Poland. Against this background, the EU finds itself in a condition of extreme vulnerability at the very moment when it is confronted with a vast array of security challenges, which range from international terrorism to the confrontational attitude of Russia, to the destabilizing dynamics and conflict in its neighbourhood and beyond. The prospect of disengagement by the new US administration from the defence of the continent raises serious concerns, in that it questions the main pillar of the transatlantic security system and places a huge strain on the post-Second World War structures designed to sustain it.

At this juncture, deepening cooperation in the field of common security and defence policy is a priority for the EU. The Trump administration is likely to confirm its commitment to the North Atlantic Alliance; nevertheless, the new US administration is characterized by a high degree of volatility and its European allies are constantly reminded of their pledge to spend at least 2 percent of their gross national product on defence. It would be wise for European countries to reinforce their role within NATO and at the same time further develop a defence capability outside NATO to cope with a changed and insecure global context.

Internally, the Union must be able provide security for European citizens, which has been a growing challenge, especially after the recent wave of

terrorist attacks. Increased integration in key sectors such as cybersecurity, counter-terrorism, intelligence, satellite surveillance and rapid response capabilities is needed to cope with current transnational threats. Moreover, further pooling and sharing in these areas would allow member states to rationalize their national expenditures.

The time is ripe to launch a more advanced project of integration in European defence. After all, a rethinking of the defence architecture and capabilities is mandatory in the wake of Brexit and will be an asset in the hands of member states in their negotiations for a post-Brexit agreement with the UK. Recent proposals from the High Representative[21] and several key member states, namely France, Germany, Italy and Spain,[22] have unanimously urged for greater defence integration involving those countries willing and able to proceed along this path, according to their levels of ambition and material possibilities.

How?

Going forward with 27 members seems more and more unlikely. The defence landscape within the EU remains extremely variegated since military capabilities continue to be developed at national level, or in small clusters of like-minded countries at best, on the basis of historical, geographical and strategic considerations. Moreover, it has become increasingly difficult for the EU to reach internal consensus on the use of available capabilities to launch timely and effective interventions outside its borders, especially military operations at the high end of the spectrum. Aware of these shortcomings, EU legislators paved the way in the Lisbon Treaty for the establishment of a Permanent Structured Cooperation (PeSCo) for those member states whose military capabilities fulfil more stringent criteria and which have made more binding commitments to one another in this area with a view to the most demanding missions (Article 42.6 TEU).

PeSCo is a ready-made tool of differentiation enshrined in the Treaties and a possible game changer for realizing effective integration in the defence field: it should be seen not only as an advanced form of cooperation such as those already implemented within the EU (e.g. the projects coordinated by European Defence Agency, EDA), within NATO (e.g. the Framework Nation

[21] European External Action Service (EEAS), *EU Global Strategy Implementation Plan on Security and Defence* (14392/16), 14 November 2016, http://europa.eu/!yG86DK.

[22] The Defence ministers of the four countries sent a letter to their European counterparts on 11 October 2016, building on a Franco-German informal paper on EU defence produced on 11 September 2016 and following an Italian proposal circulated before the Bratislava Summit, on 27 September 2016.

Concept), or outside EU and NATO (e.g. European Air Transport Command and Eurocorps).

However, in order to launch a meaningful PeSCo with real added value compared with existing initiatives that go beyond a network of core groups realizing specific defence projects, three elements need to be taken into account:

- legal and institutional aspects: PeSCo cannot be merely an umbrella for an uncoordinated range of projects, but has to ensure cohesion and coherence among the various "modular" projects and contributions. This objective can be achieved by creating a solid system of governance, with the High Representative/Vice President (HRVP) chairing PeSCo and EDA providing support and a secretariat, and by establishing links with the intergovernmental Coordinated Annual Review on Defence (CARD) or "Defence Semester";[23]
- concrete projects: PeSCo should prioritize the development of new capabilities and the maintenance of existing ones with a view to addressing European military shortfalls, on the basis of the EDA's Capability Development Plan (CDP) and by ensuring maximum coherence with NATO Defence Planning Process. These capability development projects should include, but not be limited to, medical command, a logistic hub and remotely piloted aircraft systems capabilities. At the same time, PeSCo should ensure "security of disposal" of pooled and shared assets and infrastructures, so as to ensure that capabilities are actually available for interventions;
- financial matters: PeSCo should provide adequate incentives for participating member states, including through the "capability window" of the European Defence Fund managed by the European Commission, thus counting the investments made for PeSCo projects as "one-offs" exempted from the Stability and Growth Pact.

With whom?

In order to be effective, PeSCo should be inclusive, but without prejudice to its level of ambition, in keeping with the Treaties which foresee that member states willing to participate in PeSCo should fulfil more stringent criteria and accept more binding commitments. These criteria, to be assessed by the

[23] The Implementation Plan on Security and Defence introduces CARD as a tool for EU member states to "foster a gradual synchronisation and mutual adaptation of national defence planning cycles and capability development practices, which should also enable more systematic cooperation". Proposals on its detailed scope, modalities and content should be presented by the HRVP to ministers in spring 2017. See European External Action Service (EEAS), *EU Global Strategy Implementation Plan on Security and Defence*, cit., p. 22.

EDA on the basis of an EU methodology, should apply to both input – for example investment commitments (i.e. 20 percent of defence spending on procurement and 35 percent of this expenditure on cooperative programmes) – and output, for example troops' deployability and sustainability parameters. For those member states that are willing to enter PeSCo but unable to pay this "entry ticket" immediately, a probation period can be foreseen.

If the above parameters are applied, there are likely to be below 26 participating member states, as foreseen by the Treaties, and probably only 10 to 15. In order to seize the moment to launch PeSCo, the milestones of a possible roadmap are: (1) inclusion of a dedicated paragraph on PeSCo in the joint declaration by all the 27 members states for the 60th Anniversary of the Treaties of Rome; (2) a Council decision at the Foreign Affairs Council after the French elections and before summer (May-June) 2017; (3) launch of PeSCo by the end of the year. This roadmap, however, implies that member states agree on a PeSCo that represents substantial progress on defence integration and not merely an umbrella for old projects under a new label. If so, 2017 could be the year when European defence is at last secured!

2.3 A deepened Schengen area

Why?

Among the four freedoms on which the EU single market is built, the freedom of movement across EU internal borders is today the most symbolic and relevant. In the face of the threat of terrorism, in particular, security has become a priority in Europe that impacts directly on people's freedom of movement. Moreover, criminal organizations have taken advantage of freedom of movement without being challenged by a stronger and more structured cooperation among the police, intelligence and justice sectors at the European level. Additional common measures and instruments have to be developed, especially between the EU member states that constitute the Schengen area.

On Europe's external borders the migratory phenomenon and the refugee crisis have revealed other deficiencies. An evident source of inequality among member states is the existence of a common space and a set of common migration and asylum rules without adequate mechanisms for sharing the tasks and costs associated with their management and implementation. In order to function in a proper and equal manner, freedom, security and justice require that those benefitting from it accept a higher level of integration.

Restricting the right of free movement in order to counter security menaces and contain the flow of migrants and refugees would be counter-productive

for economic and political reasons. Firstly, it would threaten the European Single Market, which is at the core of the entire European construction. Secondly, it would dramatically reduce the sense of belonging and solidarity among Europeans. An EU with closed internal borders would cease to be a true union (it would be anything but a union). A more cooperative, integrated and shared management of the EU's internal space and external borders is key to ensuring European domestic security and full respect of the fundamental rights of all non-Europeans who knock at the Europe's doors. because of its nature and scope the Schengen area, which is composed of 22 EU member states and four external associated countries,[24] is the best framework in which to tackle these political issues. As in the case of the Eurozone, the Schengen area represents an example of existing differentiated integration that can be further deepened by implementing a set of new measures.

How?

In recent months, the Commission has launched, with varying degrees of success, important initiatives such as the refugees relocation system and the European border and coast guard agency. These projects represent a first step towards a deepened integration of the Schengen area, but they cannot be considered decisive in solving the key issues concerning security and migration. Political initiatives will have to follow on the basis of a coherent, forward-looking and inclusive vision.

• A constant and wider cooperation between national police and security agencies is essential to combine the fight against transnational crime with shared responsibility and solidarity. A structured information-sharing between the member states' intelligence services and the EU bodies, or the establishment of a European public prosecutor's office in charge of dealing with cross-border organized crime, would be two relevant steps forward in this direction.

• Creation of a permanent European system of border and coast guards composed by EU personnel and equipped with EU capabilities (possibly linked with PeSCo projects) and digital infrastructure (e.g. common border agencies databases and a reinforced Eurodac system) that would operate side by side with the national agencies and corps.

Reforming the Dublin system adopting, in the short run, a financial and operational support scheme for those EU countries that bear the greatest burden of asylum applications. In the long run the objective should be the

[24] Namely Iceland, Liechtenstein, Norway and Switzerland.

design of a genuine common asylum system among the 27 (preferably) or among the members of the Schengen Area. The reform could follow the guidelines of the recent Commission's proposal which envisages a refugee relocation system based on quotas to be triggered under certain circumstances (e.g. a disproportionate inflow of third countries nationals in a member state) and calculated on specific criteria such as the refugee population in a member state and its unemployment level.[25] The entire system can be supported by a common asylum fund financed by the member states and the EU budget (the existing Asylum, Migration and Integration Fund [AMIF] should be considerably scaled up).

• The functioning of the new system has to be supported by an EU Agency for Asylum that can be established by giving an enhanced mandate to the existing European asylum support office (EASO). This new agency would assume different roles (implementing, monitoring, operating) in order to ensure the proper functioning of the EU common asylum system.[26]

• Refugee flow is always caused by external crises. The activation of the EU's crisis management structures is therefore essential to combat human trafficking and smuggling. In this sense, an option is the creation of a military/civilian intervention force devoted to offering field assistance in those countries with a major refugee presence.[27] Such an initiative does not pertain to the AFJS, but may be taken within the Common Foreign and Security Policy (CSDP) framework through an enhanced cooperation or – more easily – with a CSDP initiative led by a coalition of member states.

With whom?

The higher the number of participating member states, the greater the common benefits. Therefore, if it is politically viable, all members of the Schengen area should participate in these initiatives. As in case of the consolidated Eurozone, temporary derogations should be guaranteed to those not ready to move in this direction. For the non-EU countries participating in the Schengen system these changes may not apply; alternatively, if they agree to proceed together with the EU member states, the mixed committee established by the association agreements can be

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[25] European Commission, *Towards a reform of the Common European Asylum System and Enhancing Legal Avenues to Europe* (COM/2016/197), 6 April 2016, http://eur-lex.europa.eu/legal-content/en/TXT/?uri=celex:52016DC0197.

[26] Ibid.

[27] Susi Dennison and Josef Janning, "Bear Any Burden: How EU Governments Can Manage the Refugee Crisis", in *ECFR Policy Briefs*, April 2016, http://ecfr.eu/page/-/Bear-Any-Burden_Dennison-Janning.pdf.

tasked with implementation.

A possible roadmap could be: (1) solidarity and shared responsibilities should be reaffirmed by the 27 as guiding principles in tackling internal security and migration issues. As noted above, the coming March declaration represents a good opportunity; (2) by 2020: deepen police and intelligence cooperation between member states, ensure full application of the current refugee relocation system and reform the Dublin regulation; (3) by 2020-2025: establish a European public prosecutor, build a complete EU common borders control and an effective unified asylum system.

3. Towards the Rome Declaration: united in differentiation

Differentiated integration is already in the DNA of the EU, as witnessed by the two leading projects of the euro and Schengen. However, as we celebrate the 60th Anniversary of the Treaties of Rome, DI acquires a special meaning for the Union. It is a chance to save the European project from disintegration and set out a way forward as an established method of integration. This requires quitting the case-by-case logic often followed in the past, through *ad hoc* arrangements and specific opt-out mechanisms, and a thorough reflection on the *finalité*, the member states' rights and responsibilities, the roadmap for implementation, general governance and its legitimacy.

The final goal of such a process would be to preserve the unity of the EU at 27 while allowing willing and able member states to go ahead along the path of integration. This would make the EU more resilient both internally and externally. The EU remains a landmark model of a common space based on a historical legacy, shared values, the four freedoms (goods, capital, services and people), and culture as elements of the European identity. At the same time, its credibility, effectiveness and appeal lie in its capacity to ensure security, welfare and social inclusion. In order to achieve these objectives, more advanced policies and actions must be implemented which not all member states are prepared to accept. Those who want to and can do so should become a new vanguard of Europe, exploiting the mechanisms that are best fit to fulfil this aim, from enhanced cooperation to qualified majority voting, while being open to welcoming new partners as soon as they meet the required conditions.

The DI scenarios in the areas of economic governance, defence and freedom, security and justice show that *rights are inextricably linked to responsibilities*. A prospect of deeper integration is incompatible with free riding and unequal burden sharing. Therefore, further integration in the Eurozone goes

hand in hand with increased convergence among member states through national structural reforms; PeSCo cannot work without clear commitments of participating countries to defence spending, investments in procurement and research projects, deployability of forces; freedom of movement has to be anchored to a common system of rules for asylum and joint management of external borders. The *principle of solidarity* enshrined in the Treaties is the glue to shore up this house of cards.

A roadmap for implementation is needed both for DI projects in the different policy areas and for the EU's overall governance, which will include adapting institutions and rules. If DI is to be a permanent process, some benchmarks would need to be achieved by a vanguard groups of countries by 2025, as suggested by the European Commission in its recent White Paper,[28] while transitional arrangements should be foreseen for others that might join at a later stage. Most of these developments might be realized within the existing legal framework, but in the medium term a revision of the Treaties might be necessary to incorporate the relevant changes into the EU legislation.

The political drive for the various DI projects rest in the hands of member states, in accordance with their identities, interests and incentives. Nevertheless, *the role of EU institutions has to be safeguarded* both in the different DI projects and in the overarching architecture as the only protection against fragmentation. In the various DI projects, this can lead to the creation of a Eurozone Treasury or a European public prosecutor's office, or take the form of a chairing role for the HRVP in PeSCo. In designing the overall governance of a differentiated EU greater adherence to the Community method should be ensured. Whilst differentiation can be applied to the decision-making process in various ways, for example through differentiated configurations of the Council based on the model of the Eurogroup, the responsibility of the Commission as guarantor of the Treaties and the political role of the EP should be reinforced.

Last but not least, DI poses a serious challenge to *democratic legitimacy and the ability of European citizens to hold decision-makers to account*, as it adds complexity to the integration process. In a scenario of increased differentiation, the role of the European Parliament and national parliaments risks being diminished and should be compensated by adequate mechanisms. These can take the form of specific committees (for example the Euro committee) in the European Parliament, or enhanced forms of inter-parliamentary cooperation in specific areas (defence, freedom, security and

[28] European Commission, *White Paper on the Future of Europe*, cit., p. 20-21.

justice) so as to amplify the role of the national parliaments, alongside the consolidation of mechanisms of transnational representation, most notably Europarties. But this will not work without governments and institutions genuinely engaging with people across the Union through information and dialogue.

Updated 21 March 2017

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2017 is set to be a crucial year for the European Union (EU) and its Member States. Multiple crises, key electoral appointments and the celebrations of the 60th anniversary of the signing of the Treaties of Rome are among the most important events in the EU agenda. Against this backdrop, the Istituto Affari Internazionali (IAI) and the Italian Ministry of Foreign Affairs and International Cooperation (MAECI), in cooperation with the Centro Studi sul Federalismo (CSF) and in the framework of IAI's strategic partnership with the Compagnia di San Paolo, have launched a new research project: EU60: Re-founding Europe. The Responsibility to Propose. The initiative seeks to re-launch the EU's integration process, and will involve researchers from leading European think tanks who will contribute policy papers analysing specific political or institutional dimensions of the EU.

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Compagnia di San Paolo | International Affairs

IAI
Istituto Affari Internazionali | Via Angelo Brunetti, 9 - 00186 Roma
T +39 06 3224360 | F + 39 06 3224363 | iai@iai.it | www.iai.it