Integrating Diversity in the European Union

Differentiated Integration in Numbers

Differentiated Integration (DI) describes the territorially unequal formal validity of EU legal rules. It is possible to distinguish two forms of DI, depending on whether it involves only EU member states (internal DI) or also non-member states (external DI). The Integrating Diversity in the European Union (InDivEU) project has tracked the fine-grained evolution of Differentiated Integration (DI) in the European Union across time, member states, and policy area.

Internal Differentiation

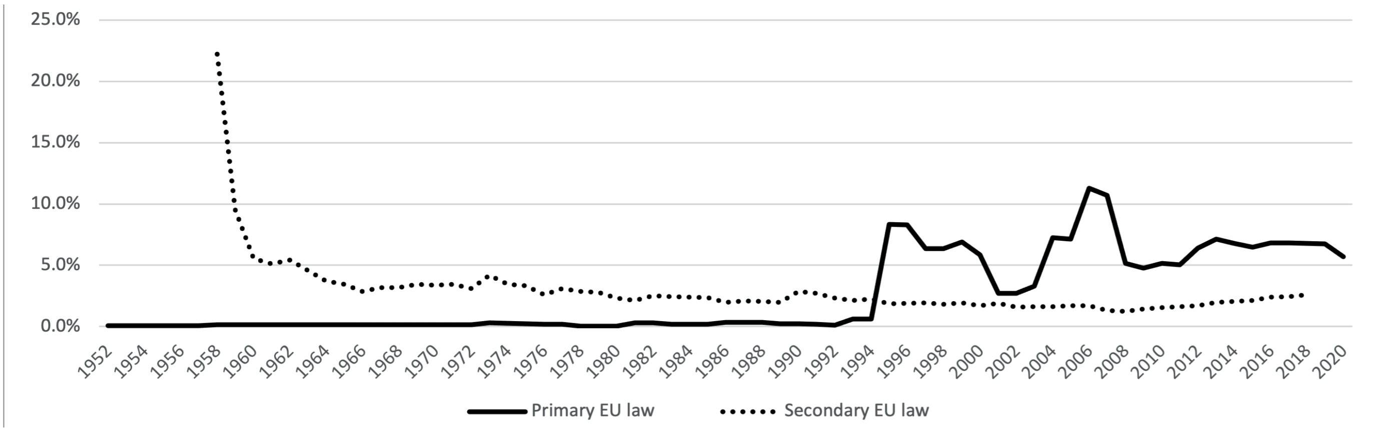
Internal Differentiated Integration derives from exceptions from the EU's primary (i.e. EU treaties) and secondary (i.e. regulations, directives, and certain decisions) legislation. While differentiation of primary law is driven by treaty revisions and EU enlargements, treaty revisions do not produce significant increases in the differentiation of secondary law. Well known examples are the Eurozone, the Schengen Area, Permanent Structured Cooperation (PESCO), or the European Public Prosecutors Office (EPPO).

Internal DI over time

Internal DI is a feature of EU law, but it only affects a minority of legal norms and opportunities. Differentiations in individual articles of EU-related treaties (**Figure 1, dark line**) make up 4.6% of all opportunities from 1952 to 2020.

They were extremely rare until 1994, rose to a peak of 11.3% in 2006 and declined again to 5.7% in 2020. Differentiations in individual EU legislative acts (**Figure 1, dotted line**) make up 2.0% of all opportunities from 1958 to 2018: very frequent in the 1950s, they declined to a trough of 1.2% in 2008 and slightly increased again to 2.6% in 2018. The recent increases in the differentiation of both primary and secondary law are mainly explained by the more Eurosceptic Northern member states (i.e. Denmark, UK, Ireland) asking for exemptions from EU policies which touch on 'core state powers' (i.e. monetary policy or justice and interior policy).

Figure 1. Internal differantation over time (% of opportunities)

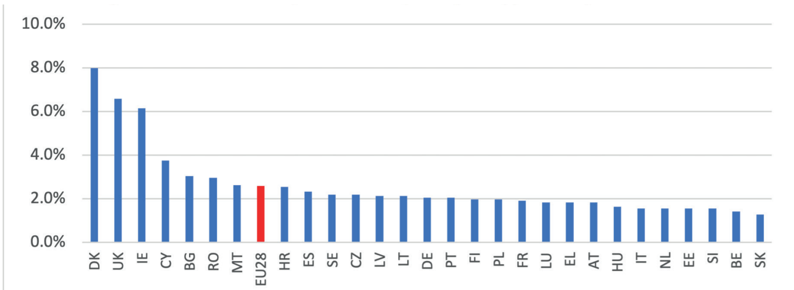


Source: EUDIFF1 and EUDIFF2 datasets

Internal DI by member state

Internal DI affects, to different degrees, all member states. Legislative differentiation in 2018 by country (Figure 2) ranges from 1.3% of all opportunities in Slovakia to 8.0% in Denmark. In fact, six countries (Denmark, the UK, Ireland, Cyprus, Bulgaria, and Romania) are responsible for 42.0% of all differentiations.

Figure 2. Legislative differentation by member state, 2018 (% of opportunities)

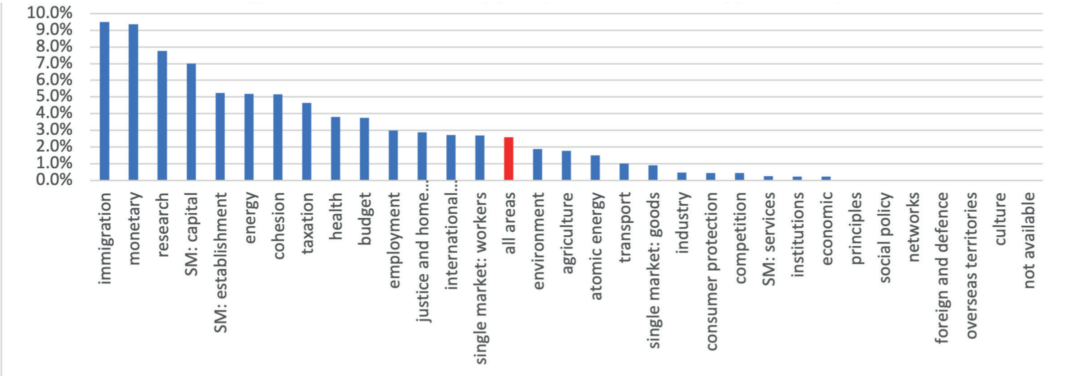


Source: EUDIFF2 dataset

Internal DI by policy area

Legislative differentiation in 2018 by policy area (**Figure 3**) is absent in seven domains and present in twenty-five of them, particularly in those related to core state powers and the single market. However, five areas (immigration, agriculture, monetary policy, freedom of establishment, and justice and home affairs) are responsible for 59.9% of all differentiations.

Figure 3. Internal differantation by policy area (% of opportunities)



Source: EUDIFF2 dataset

External Differentiation

External Differentiated Integration refers to the selective extension of the validity of EU legal norms to non-members. It predominantly takes the form of formal bi- or multi-lateral agreements between the EU and third countries (**Figure 4**). But it can also result from the unilateral adoption of EU internal acts having an external effect (e.g. the 2016 General Data Protection Regulation) or the participation of non-member states in EU institutions or programs. External DI is a constitutive feature of the external relations of the European Union; it creates a complex network of differentiated relationships between the EU and third countries, each characterised by a stronger or weaker degree of integration and legal alignment. At the lowest level, the EU has concluded at least 2,183 international agreements with virtually all countries of the world. Closer relationships (association, partnership, and trade agreements) have been established with around 125 countries. Preferential trade agreements, often providing for comprehensive free trade, exist with around 78 countries. Finally, a handful of neighbours have been largely integrated in the single market and other core EU regimes: Turkey (customs union), Switzerland (bilateral agreements), Iceland, Liechtenstein, and Norway (European Economic Area), and four European microstates (*de jure* or *de facto*).

Figure 4. Overview of EU's main external agreements

Type of agreement	*Name of agreement*	*Non-member states*
Multilateral	European Common Aviation Area	Albania, Algeria, Bosnia and Herzegovina, Georgia, Jordan, Iceland, Israel, Kosovo, Lebanon, North Macedonia, Moldova Montenegro, Morocco, Norway, Serbia and Tunisia
	Energy Community Treaty	Albania, Armenia, Bosnia and Herzegovina, Georgia, Kosovo, North Macedonia, Moldova, Montenegro, Serbia, Turkey, Ukraine
	European Economic Area	Norway, Iceland and Lichtenstein
Bilateral	Swiss Sectoral Agreements	Switzerland
	EU-UK Withdrawal Agreement	United Kingdom
	Ankara Agreement	Turkey
	AAs with Deep and Comprehensive Free Trade Area	Ukraine, Georgia, Moldova
	Stabilisation and Association Agreements (Western Balkans)	Albania, Bosnia and Herzegovina, Kosovo, Montenegro, North Macedonia, Serbia
	Euro-Med Association Agreements	Tunisia, Morocco
	Enhanced PCAs	Armenia, Kazakhstan
	PCAs	Russia, Azerbaijan
Institutional	Participation in EU agencies	Albania, Belarus, Georgia, Nigeria, Switzerland, Turkey
	Participation in EU programmes (Horizon 2020)	Israel, Faroe Islands, Switzerland