Proposal for a special issue in **West European Politics**

**Differentiated policy implementation in the European Union**

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# Rationale behind the proposed special issue

The proposed special issue seeks to explore patterns, reasons and consequences of differentiated policy implementation in the European Union (EU). We define differentiated policy implementation as the diversity in the existence and use of discretion during legal and practical policy implementation in the European Union, both in terms of implementation processes and outcomes. This definition deliberately includes compliance with EU policies, but moves beyond it to include questions of discretion and problem-solving that have long been neglected in EU policy implementation research. In doing so, the term differentiated policy implementation includes a range of other concepts that have been used to denote the variety of implementation practices among EU member states, such as customization, domestication, and flexible or “creative” implementation.

We intend to push the boundaries of the field and move the state of the art forward by addressing four core issues in the study of EU differentiated policy implementation:

1. How does the concept of differentiated implementation move EU implementation studies forward, compared to “classical” compliance research?
2. Do member states differ in the implementation of EU policies and how? And how and why do patterns, causes and consequences of EU differentiated policy implementation vary across policy sectors and regions of the EU?
3. How does studying differentiated policy implementation help us gain an improved understanding of the problem-solving capacity of the European Union? Does differentiated implementation enhance or diminish the ability of the EU to solve transboundary problems?
4. What is the relationship between differentiated EU integration (DI) and differentiated policy implementation (DPI)? How do different forms of flexibility (e.g., discretion, differentiated integration) at the EU level interact with one another and translate into distinct policy outcomes at the national level? We see differentiated implementation as an integral part of the EU policy-process and aim to reveal interaction effects between the different parts of the process.

## Why study differentiated policy implementation in the EU?

The EU regulatory state is designed to address shared policy problems through central steering, but largely leaves the “rowing” to the member states implementing EU law (Majone 1999). European governance is currently facing massive challenges, such as disintegration (Brexit), persistent implementation failures (asylum policy, Eurocrisis), and the increasing political mobilization of Euroscepticism (Hungary) (Dinan et al. 2017). These crises test EU integration as an unprecedented effort at jointly governing problemswhich increasingly cannot be resolved within the borders of a single nation state (Majone 1999). In fact, the wish to “take back control” was an often-cited reason why the British electorate voted to leave the EU. In response, there is renewed interest in allowing member states to opt in or out of EU policies, or commit to them at different paces and possibly at different levels (“differentiated integration”; Hooghe and Marks 2001; Leuffen et al. 2012).

The aim of this special issue is to **move beyond the study of decisions to commit to EU policies “on paper”** (Windhoff-Héritier 1999, 2001). Rather, in order to understand what makes the EU work, we need to know **how European integration works in practice** (Bondarouk and Mastenbroek 2018). EU member states have a lot of discretion when applying EU Directives, but also EU soft law. This leads to an immense diversity of “practical policy solutions” in the EU. For example, some countries go much further than what is minimally required by the EU in promoting the rules to reduce air pollution. However, additional requirements can also create red tape and unnecessary burdens that hamper the competitiveness of producers in the single market (“gold-plating”, Voermans 2009). Room for member states to make choices during the implementation of EU policies may lead to arrangements that are better adapted to domestic conditions but they may also lead to fragmentation and suboptimal goal achievement at the EU level. As a result, EU governance is not limited to differentiated participation in EU policy (where different policy regimes apply to different member states) or compliance with EU law. Member states may choose different, yet equally EU law-abiding policies, and they may combine policies with different procedural rules or informal practices. In this special issue, we therefore aim to conceptualize and explore the diversity of policy implementation practices in the EU and to analyse the drivers of this diversity, as well as its consequences.

The question of EU law implementation is of great theoretical and empirical relevance as we almost completely lack theoretical and empirical knowledge about this diversity, its causes, and its implications (Falkner 2016; Fink and Ruffing 2017; Princen 2018). In addition, the question is also of great political and societal relevance as these processes of adaptation offer important opportunities for member states to make EU policies fit domestic contexts and preferences (Richardson 2012). This diversity plays a paramount role in a) how effective EU rules are in practice, and b) how citizens experience “distant” EU policies and their capacity to address important problems.

## State of the art and envisioned innovations

Studies of differentiated integration have exclusively focused on explaining “variations in the level and intensity of participation in European policy regimes” (Wallace 1998: 137; Majone 2009). This literature understands differentiation as the outcome of increased diversity of integration preferences and capacities of the member states (e.g. [Dyson and Sepos 2010: 5-6](#_3rdcrjn); [Majone 2009: 221](#_26in1rg); [Schimmelfennig and Winzen 2014](#_lnxbz9)). Based on the literature, differentiation appears to function as an institutional strategy to overcome heterogeneous member state preferences and capacities at the level of treaty and EU secondary law ([Schimmelfennig and Winzen 2014](#_lnxbz9)). However, there is a lack of theoretical and empirical work regarding the relationship between different levels of participation in the EU and national policy outcomes (see Zhelyazkova 2014).

Moreover, EU research tends to narrowly frame EU policy implementation as a problem of legal compliance (Knill 2015; Treib 2014). Coming from a harmonization perspective it is implicitly assumed that EU policy-making and member states’ conformity with the EU policies are pivotal for problem-solving. However, policymaking essentially continues during policy implementation, and this leads to better or worse solutions in practice (Hill and Hupe 2014; Winter 2012). It is an empirical question, whether differentiated implementation at the national level is at odds with or beneficial for the problem-solving capacity of the EU. In addition, the policy cycle may start over again, feeding experiences with implementation back into EU policy-making (Börzel 2002; Zhelyazkova 2014).

Policy research teaches us that we cannot know the implications of EU policies without studying how they are put into practice. However, research on the causes and consequences of differentiated implementation in the EU is limited. We also know little about the potentially adverse economic consequences of differentiated implementation for the competitiveness of local businesses (Radaelli and Meuweuse 2009; Voermans 2009). Gaining knowledge about these consequences is not only practically relevant, but would also inform research on European integration. In short, the special issue contributes to studies of EU integration and policy implementation by moving beyond research on differentiated integration and compliance with EU law.

* + 1. **What do we add to the state of art**

***Differentiated implementation: a new research agenda.*** In recent years, several innovations have contributed to the more systematic study of differentiated policy implementation in the EU (Thomann and Sager 2018). A new generation of EU policy implementation research “beyond legal compliance” analyses more fine-grained variation in legal transposition, such as gold-plating and customization (Falkner et al. 2005; Jans et al. 2009; Thomann 2015, 2019; Versluis 2007), or practical performance and compliance (Bondarouk and Liefferink 2017; Bondarouk and Mastenbroek 2018; Toshkov and de Haan 2013; Zhelyazkova et al. 2016, 2017, 2018), and the causes for differentiated implementation (Fink and Ruffing 2017). One example is the concept of “customization” (Thomann 2015) which allows the researcher to theorize and measure how EU rules change as they are being implemented. In summary, we currently observe a new generation of policy implementation research which focuses on differentiated policy implementation as a crucial aspect of European integration in practice. The goal of this special issue is to gather this emerging research community and corresponding theories, concepts, and findings, and to engage in a systematic mapping of the field, its current state of the art, innovations, as well as areas for future research. Ultimately the special issue should hence provide an important opportunity to identify, clarify, consolidate, and develop the contribution of this agenda to the study of multilevel governance in the EU.

This special issue seeks to advance this research agenda by presenting innovative studies that contribute to the following areas:

1. *Conceptualization and empirical analysis of differentiated EU policy implementation*. The contributions aim to increase our understanding of the nature and drivers of differentiated implementation across and within member states and policy sectors.
2. *Empirical varieties of differentiated EU policy implementation*. The special issue expands our empirical knowledge on the phenomenon of differentiated implementation, on how prevalent the phenomenon actually is and whether existing concepts allow for adequate typologies of differentiated implementation.
3. *Implications for EU problem-solving*. The special issue will further scholarly understanding about the implications from member states’ policy diversity for the problem-solving capacity of the EU. It thereby moves beyond the explanation of patterns of differentiated policy implementation to focus also on the consequences it has for the effectiveness and legitimacy of EU policies.
4. *Relationship with differentiated EU integration*. The contributions of this theme uniquely integrate various forms of differentiated EU integration with member states’ room for implementation and the diversity of policy outcomes across member states. The goal is to develop and empirically test novel theoretical ideas about the impact of differentiation at the EU level on policy outputs and outcomes at the national level.

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