

# The EU should abandon ‘ever closer union’ in favour of ‘flexible differentiation’ after Brexit

 [blogs.lse.ac.uk/europpblog/2017/01/13/flexible-differentiation-after-brexit/](https://blogs.lse.ac.uk/europpblog/2017/01/13/flexible-differentiation-after-brexit/)

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*The phrase ‘ever closer union’ has been a stated goal of the European integration project since its inclusion in the Treaty of Rome in 1957, but following Brexit is it now time to reassess the direction of the integration process? [Pol Morillas](#) writes that with radically different integration ambitions now present among the member states, a strategy of ‘flexible differentiation’ would be far better suited to the needs of Europe’s citizens.*



The logic behind “ever closer union” had disappeared well before the Brexit referendum. When negotiating a definitive opt-out from the clause, David Cameron revealed how the growing trend towards integration had reached a symbolic limit, regardless of the referendum result. In that European Council of February 2016, it became clear that the Lisbon Treaty had been the last attempt at pursuing the logic of ever deeper integration and that member states were no longer united in the desire for “more Europe”.

The accession of the central and eastern European states in 2004 probably signalled the first wave of enlargement that understood the EU more in terms of a cost-benefit analysis than a political project with a unity of purpose. In their view, cooperation in international organisations should follow the utilitarian premise of amplifying national goals rather than surrendering sovereignty and building a [post-modern entity](#) that ends the primacy of the state in world politics.

A few years later, the euro crisis also fostered divisions across the EU along pragmatic lines. Debtor and creditor countries were pursuing opposing recipes with regards to fiscal consolidation, debt mutualisation and the final shape of the Economic and Monetary Union. But the bottom line of their arguments was that the euro should benefit national goals, both in Berlin and Athens. Renationalisation of the priorities of EU member states reached a new landmark with the refugee crisis, which revealed notable differences between eastern and western Europe and between states and EU institutions.

Brexit was just the latest blow to ever closer union, albeit a highly symbolic one. Since the Brexit referendum, for the first time the EU has become a project that both enlarges and shrinks simultaneously; that deepens integration in some policy areas and risk disintegration in others. The UK’s exit from the EU is certainly to blame, but the disintegration dynamics are present in many other national landscapes, with Euroscepticism, populism and political disaffection on the rise.

Brexit should be considered a turning point for the future of the European project. Today, as dangerous as national referendums to approve a new treaty is the belief that a few “quick fixes” will do to reform the EU project. So what shape have the reform proposals put forward taken so far and what could be part of a process of strategic reflection for the EU’s institutional reform?

**Back to the classics**

The first response to the EU's crises has been to go back to the idea that the union makes progress through crisis. "More Europe" has been the traditional way to strengthen European integration and "better Europe", the refining mechanism for the EU's institutional shortcomings. But classic recipes rarely work in times of unprecedented crisis, either nationally or continentally.

"More Europe" is unlikely to provide a solution to the democratic malaise and anti-establishment feelings in many national landscapes. And "better Europe" will not work either if it does not address the fundamental legitimacy problems at the EU level, where integration is perceived as an excessively top-down process.

However, an important set of responses to the recent EU crises has brought back the idea of more centralised decision-making as a way forward. The latest phases of the [Five Presidents' Report](#) necessitate the setting up of more centralised structures and supranational policies to build a functional economic union.

The relocation scheme put forward by Jean-Claude Juncker and later ignored by member states was built on the central role of the Commission in shaping and orchestrating national responses to the refugee crisis. And Brexit was seen as an opportunity to speed up European integration, including in the field of security and defence, by removing the pressure from an awkward partner and renewing calls for the establishment of a European army.

The European Commission and the European Parliament have become the driving forces of the "integration through crisis" method. But member states have not followed and the EU still needs to deliver on the reinforcement of the Economic and Monetary Union, the reform of Schengen and the post-Brexit architecture.

### **The practical union**

The second set of responses emphasises the need to focus first on what could work, deliver on policy proposals and then, if necessary, reform the EU's institutional framework. Critics argue that this translates into muddling through excessively turbulent times. But many of the recent proposals emanating from Brussels and European capitals have followed the practical union logic, which underlines the need to build a functional EU on the one hand, and a project that delivers on the other.

The response to the euro crisis has been characterised by a series of practical steps to keep the Eurozone together under strong German leadership. These proposals have not been aimed at altering the foundations of the austerity programmes or the existence of a monetary union without fully-fledged economic and fiscal capacity. The response to the refugee crisis has also witnessed an attempt to halt the flow of refugees via the signing of an EU-Turkey agreement, very much supported by Germany. The discussions of a joint immigration and asylum policy and a comprehensive reform of Schengen have also been shelved.

Yet it is mostly in the area of the post-Brexit EU that European leaders have prioritised the practical union approach. Following the British referendum, the EU has put forward a series of initiatives to reinforce certain EU policies that are believed to be core concerns for both European citizens and Europe's political leaders: the fight against terrorism and insecurity in neighbouring regions.



The [Bratislava Summit](#) gave little indication as to the shape of the post-Brexit EU and focused instead on tackling the refugee crisis via the reinforced security of external borders, the implementation of the EU-Turkey agreement, intensifying cooperation on information-sharing to prevent terrorism and moving forward on defence cooperation through the [Implementation Plan on Security and Defence](#) (the most promising area of implementation of the [EU Global Strategy](#) so far).

However, there are problems associated with this approach to EU reform. The first is that the understanding of security (or at least the main concerns of European citizens) varies across nations. Crisis-ridden countries put more weight on unemployment and the economic situation than Germany or Denmark, where immigration [tops the list](#).

The second problem is that approaches based on deepening security and defence cooperation have been tried before and not much progress has been made on the use of Permanent Structured Cooperation, a joint military headquarters, intelligence-sharing mechanisms or the use of battlegroups, not to mention a joint EU army. The third is that focusing on a “practical union” will hardly address the institutional deficits provoking current dysfunctions in the economic union, the issues around immigration or stronger security and defence. There is thus a risk of derailing the whole process precisely because of a lack of ambition in tackling fundamental reforms.

### **The intergovernmental union**

Whereas the practical union focuses on results, the “intergovernmental” EU focuses on the method. The academic literature has explored the move of EU integration towards what has been termed a “[new intergovernmentalism](#)”, and there is indeed abundant evidence that the euro crisis has reinforced the powers of member states in the European integration process, particularly those of creditor countries. The Eurozone summits marginalised the European Commission in the management of the crisis, except for an insufficient Juncker Plan.

Viktor Orbán and the leaders of other central and eastern European states also became primary advocates of an intergovernmental solution to the refugee crisis. Vehemently opposing the Commission’s relocation scheme, they argued that asylum policies remain a national competence, so there is no obligation to implement the agreements reached.

The bottom line of the current intergovernmental union is a shared feeling of transactional politics being lost. Under a purely intergovernmental logic in which negotiating parties only seek to pursue national goals and where the current crises have eroded the sense of a shared destiny, transactional politics are replaced by a logic of “connecting vessels”.

Crisis management negotiations are today dominated by zero-sum dynamics, provoking recurrent spillovers from one negotiation portfolio to another. Negotiations are thus used as a bargaining tool between member states, which pursue national goals in crisis scenarios up to dangerous levels of political brinkmanship.

There is enough evidence of this. When European leaders were discussing the way out of the euro crisis, they came up with the Fiscal Compact and the European Stability Mechanism as ways to tackle the sovereign debt crisis. The United Kingdom prevented the adoption of these agreements under the current EU treaty, thus forcing the adoption of an international treaty instead. The Fiscal Compact became another differentiated integration project, to be incorporated into EU law at a later stage.

Greece also threatened to veto the outcomes of the European Council of February 2016 at which the terms of a pact with the United Kingdom were being negotiated before the Brexit referendum unless more realistic solutions to the refugee crisis and the management of EU borders were agreed. For his part, the former Italian prime minister, Matteo Renzi, threatened in October 2016 to block the forthcoming budget negotiations if European countries did not abide by the commitment to accept more refugees.

### **Towards a logic of flexible differentiation**

When EU member states have found difficulties in moving forward together, they have often used [differentiated integration](#) as a way to overcome stalled negotiations or to negotiate a new agreement after failing to ratify EU treaties. Differentiated integration is the rule rather than the exception in the EU, but has more often been used as a [last resort](#) than as a well-structured plan for building a more flexible Europe.

Today, the key assumption that differentiation enables integration to move forward is gone, since many countries do not share the same vision vis-à-vis the final destiny: “ever closer union” is shrinking back. As a consequence of the multiple crises affecting the EU, non-euro or Schengen members are not necessarily eager to join the first-class Europe, while the risk of EU disintegration after Brexit has increased and Eurosceptic movements are on the rise all over the EU.

If unity on the European project is lacking and differentiated integration is showing its shortcomings, it is high time for the EU to overcome the current void in strategic vision. This is unlikely to happen in the short term, due to the elections looming in the Netherlands, France and Germany later this year. But given that treaty reform is usually a long and cumbersome process, thorough discussions should start as soon as possible to make a flexible form of differentiated integration the model rather than the exception in EU integration.

EU leaders should start by acknowledging the limits of the intergovernmental union. The current intergovernmental logic reinforces the tendency among member states to look after their national interests and poses serious governance challenges in a union of 28 or 27 member states. Reform of the treaty is the ultimate example of the current EU “institutional trap”, according to which member states will always have the possibility of blocking major decisions as long as unanimity prevails.

The EU’s current functioning is subject to the tendency of national governments to be trapped in the political discourse of Eurosceptic parties. So turning the EU into a regular international organisation where veto power remains a possibility will not solve the current governance problems or provide a long-lasting solution to the union’s multiple crises. A more intergovernmental union is destined to be the victim of a paralysing intergovernmentalism.

If the French and Dutch “no” to the constitution were considered turning points for European integration, Brexit requires kick-starting a strategic reflection about the future steps and form of EU integration. The European Council needs to overcome its tendency to micromanage crisis resolution mechanisms (as has been the case during the Eurozone and refugee crises) and fulfil the role that the Lisbon Treaty provides for it as a strategic reflection body. If that is not sufficient, European leaders should reconsider the establishment of a second Convention for Europe on the occasion of the 60<sup>th</sup> anniversary of the Treaty of Rome in March 2017 to facilitate strategic thinking.

To emerge from the current impasse, this strategic reflection should be built on a new understanding of differentiated integration, based on flexible differentiation. Flexibility should be based on the coexistence of various degrees of membership, where a core group of states would reinforce cooperation in economic, mobility or defence issues. Strong levels of institutionalisation would accompany deep integration in these policy domains.

So, for instance, if the UK wishes to remain part of the single market, this should come with full compliance with the values attached to this policy (i.e. respect for the so-called four freedoms, including the freedom of movement for workers). Otherwise, a more flexible understanding of integration would need to contemplate new forms of membership, which could be based on a [“continental partnership”](#) for the UK but would also be open to other current non-EU members such as Ukraine or Turkey.

This “flexibility across” states would delimit different circles of integration, but if a country wished to be part of the inner circle, it would have to conform to the core values attached to it. Outer circles could be based on softer degrees of cooperation with fewer strings attached and in line with other current economic partnerships. The logic of flexibility across would enable the EU to move beyond the current dichotomy between “full membership” and “no membership at all” and envisage multiple destinies for EU integration.

In addition to flexibility, differentiation should apply to the level of policy cooperation. In line with the current existence of reinforced cooperation, a certain number of member states might wish to go further in their cooperation in the fields of the monetary union or Schengen. Some willing states might want to consider setting-up a “mini-Eurozone” or a “mini-Schengen”, where additional sovereignty on fiscal or asylum policies would be surrendered to central authorities.

This “differentiation within” would enable going beyond the current Economic and Monetary Union and Schengen, reinforcing cooperation in the inner circle of integration. Under this scheme, legitimacy and accountability would be at the centre of policymaking from day one.

This system of flexible differentiation might face fierce criticism due to its complexity. It can be argued that it is counter-intuitive because the union is too complex already. But it is not flexible enough. After Brexit and the economic and refugee crises, the EU has entered a phase in which integration ambitions are strikingly different among member states. The response to such dynamics is unlikely to work under the one-size-fits-all logic of ever closer union or a paralysing intergovernmentalism. Circumstances are ripe for a fully-fledged reflection on how to combine flexibility and differentiation in the EU after Brexit.

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