

Towards a differentiated Europe

Joint Conference of COMOS, CETEUS/University of Cologne and
ARENA/University of Oslo

18 - 19 May 2017 | Oslo

Thursday, 18 May 2017	
1:00 pm – 1.30 pm	Registration and Lunch
1.30 pm – 1:45 pm	Welcome
1.45 pm – 2:30 pm	Key note speech I Elsbeth Tronstad, State Secretary of EEA and EU Affairs
2.45 pm – 3.30 pm	Key note speech II Wolfgang Wessels (University of Cologne): The European Council as the EU's constitutional architect: Leading or misleading?
3:30 pm – 4 pm	Coffee
4 pm – 5:30 pm	New Dynamics or Disintegration in the EU? From Bratislava to Rome This panel focuses on the recent developments inside the EU after the Brexit referendum and in the light of the election in the Netherlands, France and Germany in 2017. The aim is to take stock of both the Brexit implications as well as the Bratislava process on the reform of the EU27. Speakers will also address historical perspectives on the EU system as well as legitimacy questions in the EU more generally. Chair: Johannes Müller Gómez (University of Cologne) <ul style="list-style-type: none"> • Erik O. Eriksen (University of Oslo): The future of EU democracy • Christophe Hillion (Universities of Leiden, Gothenburg and Oslo): Current challenges from a legal perspective • Barbara Lippert (Stiftung Wissenschaft und Politik, German Institute for International and Security Affairs): Politicization, populism and the future of the EU • Hartmut Marhold (Centre international de formation européenne): Differentiated integration reconsidered
7 pm	Dinner

Supported by the Hanns Martin-Schleyer-Stiftung.

Friday, 19 May 2017	
9:30 am – 11 am	<p>Alternative forms of partnership of and with the EU</p> <p>This panel serves the purpose to put the (potential future) ties of the EU to non-EU member states, particularly Norway, Turkey and the United Kingdom, in perspective. Discussions will build on a joint conceptual basis of “differentiated integration” in Europe.</p> <p>Chair: Wulf Reiners (Turkish-German University)</p> <ul style="list-style-type: none"> • John Erik Fossum (University of Oslo): EU differentiation and the role of the EEA • Espen D.H. Olsen (University of Oslo): Issues of citizenship in the EU and the Nordic states • Funda Tekin (University of Cologne/CIFE): Concepts of differentiated integration in Europe • Ebru Turhan (Turkish-German University): EU-Turkey: Towards a strategic partnership? • Birte Windheuser (University of Cologne): Implications of Brexit for international agreements: Will treaties concluded by the EU continue to apply to the UK?
11 am – 11:30 am	Coffee
11:30 am – 1 pm	<p>Norway's role in Europe and the future EU-Norway agenda</p> <p>In this panel, presentations will deal with topical and future joint challenges of the EU and Norway. At the same time, since several scholars from the EU with less knowledge about the particularities of the Norway case will be present, discussion will also help investigate Norwegian perspectives on the EU more generally.</p> <p>Chair: Andreas Hofmann (University of Gothenburg) (tbc)</p> <ul style="list-style-type: none"> • Elin Lerum Boasson (University of Oslo): European and Norwegian Environment and Energy Policies • Halvard Haukeland Fredriksen (Bergen University): Brexit: Implications for Norway • Andreas Raspotnik (Arctic Institute): EU & Norway in the Arctic • Helene Sjursen (University of Oslo): EU and Norwegian foreign and security policy
1 pm – 1:30 pm	<p>Conclusion: Summary of findings and outlook</p> <ul style="list-style-type: none"> • John Erik Fossum (University of Oslo) • Wolfgang Wessels (University of Cologne)
1:30 pm – 3 pm	Lunch
3 pm – 4 pm	General Assembly of COMOS (Members only)

Conference report

Introduction

This year, the annual COMOS conference took place in Oslo and has been organised in collaboration with the Centre for European Studies ARENA (University of Oslo), and the Centre for Turkey and European Union Studies (University of Cologne). Against the background of the upcoming Brexit negotiations and the ongoing Bratislava process, this conference aimed at analysing both current dynamics within the EU and alternative forms of partnership with and within the EU. In particular, the conference focused on the future of EU-Norway relations by incorporating research from different disciplines and a practitioner's perspective. By organising three thematic panels, this conference did not only strengthen scientific debates but also fostered the academic network in the area of EU studies by bringing together senior and junior scholars from the EU and Norway.

Key note speech I: *Norway-EU Relations*

By *Darius Ribbe*

Secretary *Elsbeth Tronstad*, State Secretary of EEA and EU Affairs, welcomed the participants of the conference by stressing the importance of the debate on the future of the European Union and its relations to the neighbourhood. Whilst the debate on the future of the Union would have been an ongoing process in Brussels and the Member States, it necessarily went beyond EU's borders and even beyond the geographical borders of the continent. Many countries, such as Norway, would be dependent on the prosperity of the Union, whilst Europe and the EU are changing rapidly.

Supported by the Hanns Martin-Schleyer-Stiftung.

For a successful and prosper future of the European Union, Secretary Tronstad further stressed that “unity” and “differentiation” would be key terms. Unity, she defined, could not be taken as simple uniformity, but “standing together” to implement shared values of the Union, to promote common interests of the Member States and to give credible commitments to common causes instead. Thus, unity would become the EU’s strongest asset in solving economic, internal as well as global challenges.

Whilst emphasising the importance of unity, Secretary Tronstad dismissed nationalist criticism of the Union. Albeit “solidarity” would be crucial for further cooperation and integration, Secretary Tronstad clarified, it would not mean to simply agree to everything, neither for the Member States, nor the close neighbours of the Union.

Closing her speech, Secretary Tronstad gave an outlook on the common, three-fold future of the EU and Norway – as part of the EEA also part of the integration process. First, she mentioned the “democratic” facet of promoting human rights and democratic institutions in addition to implementing the rule of law. Secondly, she emphasised the security dimension of handling threats together in shared structures, followed by the prospect of an economically strong and sustainable Europe. To succeed this future, unity is needed, within the EU and between the EU and Norway. Albeit nationalist tendencies would try to slow the process of integration, further integration would be the way to overcome growing nationalist tendencies. Nevertheless, Secretary Tronstad made clear, national restraints should be respected, which leads in conclusion to differentiated integration. She thus detected many forms of internal and external differentiation, between the Member States themselves and non-Member States.

The main challenge for the future be then to “manage differentiation [in respect to existing treaties] in a manner which secures unity”.

Key note speech II: *The European Council as the EU's Constitutional Architect*

By *Marieke Eckhardt*

In contrast to Secretary Tronstad's insights on the external dimension of differentiation, *Wolfgang Wessels*, CETEUS/University of Cologne, examined the European Council as the locus of power driving dynamics of internal differentiation. Developments of a multi-speed Europe would therefore be linked to the institution. The election of *Emmanuel Macron*, President of the French Republic, for instance, had changed the situation for a multi-speed Europe in the discussion among heads of state or government. To better understand such dynamics, Wessels discussed the European Council in terms of its general characteristics, analytical approaches, and the institution's relations to other EU-institutions.

To start with, he offered three analytical models. First, the intergovernmental presidency model considers the European Council as a principal who delegates tasks to the Commission and the Council. Evidence for such delegation would be European Council Conclusions, where the European Council "invites the Commission" to take action. Secondly, from the perspective of the council model, the European Council can be understood as a supreme formation of the Council. A feature of this interpretation is the European Council's acting by qualified majority voting when it elects its own president or the president of the European Commission. The council model also implies tendencies where the European Council acts as a "hidden" or "reluctant federator". Finally, the fusion approach stresses that national leaders in the European Council have to merge national and European responsibilities. While representing member states, they would solve problems such as climate change, terrorism and migration at the European level. The institution had therefore developed a "state-like agenda".

Supported by the *Hanns Martin-Schleyer-Stiftung*.

As to the balance among the European institutions, Wessels stressed that the European Council was “intergovernmental in nature but supranational in decisions” as it had strengthened the community method with various treaty revisions. Referring to its relations to specific institutions, he described the European Parliament as an “important rival”. In contrast, the Council would more often act under the European Council’s shadow of hierarchy. The Commission, however, would also use the European Council to legitimise its own agenda.

Considering that the institution usually decides by consensus, another important point was power exercised within the institution. Important tools for consensus formation then would be package deals, opt-outs, a facilitating presidency, the power of internal leaders and the importance for small states to sit at the meeting table. Of special interest would be whether a new wave of opt-outs would emerge. While France and Germany already announced to take progressive steps, and expected other states to follow as soon as they can, Eastern European countries wanted to avoid an “exclusive club”.

Concluding his keynote speech, Wessels stressed that understanding basic European decisions, required looking at the European Council.

Academic Workshop: New Dynamics or Disintegration in the EU? From Bratislava to Rome

By *Lea Hopp*

The first panel on Thursday was chaired by *Johannes Müller-Gómez*, CETEUS/University of Cologne. The first contribution came from *Erik O. Eriksen*, ARENA/ University of Oslo. Eriksen focused on the order between European states with regard to integration. According to him, in the centre of the discussion about differentiation are the “outsiders” of the European Union. He argued that the basic line of relations between European states is characterized by competition: big states dominant smaller countries. Eriksen emphasized this dominance by referring to the role of Norway

Supported by the *Hanns Martin-Schleyer-Stiftung*.

in the European Economic Area (EEA), the future EU-UK-relations, and the fiscal pact. From his point of view, the EEA restricts the freedom of decision-making for Norway. He concluded by stating that “everybody should be happy to participate in the EU”, because non-membership would mean being dominated and powerless.

Christoph Hillion, University of Leiden, Gothenburg and Oslo, analysed the challenges of differentiated integration from a legal point of view by focussing on the Brexit. He stated that Brexit is in line with the Lisbon Treaty and integration in a wider sense. Before the decision to withdraw from the EU, the UK already has been in a differentiated relation with the EU due to several opt-outs. As to Hillion, Brexit would only mark a new form of differentiated integration. As a result, losing the membership is not equal to disintegration, but leads to a new level of integration. Integration should not be determined as a prison, but as a voluntary process with the option for less integrated members to step into a different form of relation, like the UK. He concluded that integration is not equal to membership but rather goes beyond it. As a consequence of Brexit, he stated that there might be less space for opt-outs in the future.

Barbara Lippert, Stiftung Wissenschaft und Politik observed an intensification of politicization in the European Union which she defined as a “mobilization of a wider public”. The popularity of politicization found its peak in the discussion about refugees. Furthermore, Lippert distinguished between strategies how to use politicization, either as a bottom-up or a top-down strategy. According to her, politicization is rather a negative instrument whose content turns against the European Union and is used by populist right-wing parties (sometimes also by left ones). Due to this, elections may become a risk and are not that democratic anymore. Besides, Lippert based her arguments on the cleavage-theory and observed the emergence of a transnational cleavage and a change of European cleavages respectively.

The last contribution in the academic workshop came from *Hartmut Marhold*, Centre International de Formation Européenne (CIFE). From a historical perspective, he argued, integration would be

the answer to the dilemma of sovereignty: Some states wanted to shift competencies to the European level, while other states wanted to gain more national sovereignty. Marhold identified the European Coal and Steel Community as a starting point of the integration process. However, when the question of European enlargement arose, the question of sovereignty and deeper integration became an issue. In this context, he argued, integration cannot be reduced to membership as integration also involves non-EU members.

In the following discussion, *Tobias Flessenkemper*, Centre International de Formation Européenne (CIFE), initiated the question about differentiated disintegration. Furthermore, *Wolfgang Wessels*, CETEUS/University of Cologne, suggested to put together all forms of differentiated integration and asked if there might be a legal threshold or some sorts of constraints for ways of involvement in the EU. *John Erik Fossum*, ARENA/University of Oslo, comments, that differentiated integration and integration would be different terms. He identified differentiated integration as a dynamic and integration as a top-down-process.

Plenary Session I: *Alternative Forms of Partnership of and with the EU*

By *Moritz Rau*

On the second day of the conference, the first panel dealt with prospects and potentials for alternative forms of partnership by the EU with non-Member States.

In his opening statement, *Wulf Reiners*, Turkish-German University, Istanbul, who chaired this panel, emphasized that the panel would be divided into two parts: firstly, it presented conceptual approaches towards EU's integration process and secondly, it discussed context related case-studies in order to illustrate as well as to identify potentials for new forms of cooperation between EU and non-EU states.

In the first part of the panel, *John Erik Fossum*, ARENA/University of Oslo, introduced the term “differentiation” as an attempt to challenge the well-known concept of “differentiated

Supported by the *Hanns Martin-Schleyer-Stiftung*.



HANNS MARTIN
SCHLEYER-STIFTUNG
FREIHEIT • DEMOKRATIE • SOZIALE MARKTWIRTSCHAFT

integration”, when it comes to the analysis of EU’s integration process. According to Fossum, the term differentiation provides an angle to understand EU integration not only as a gradual, but rather as a dynamics process that implies various forms of integration as well as disintegration. In this respect, the aim would be to formalize the difference and to acknowledge a more complex situation.

Afterwards, Funda Tekin, CETEUS/University of Cologne, illustrated the existence of different forms and models linking third countries to the EU. She stated that EU’s attractiveness has become a pivotal issue, since its presence or absence is a key aspect determining ambitions to join or exit EU membership. However, dealing with the analysis of “internal disintegration” Tekin emphasized that an improved structure and a better conceptualization is needed to assess how different concepts impact the attractiveness of the EU.

In the second part of the panel, *Ebru Turhan*, Turkish-German University, Istanbul, illustrated structural dynamics of the Turkey-EU relationship and elaborated on recent dynamics and its implications for the form of partnership. In her presentation, she raised the question whether EU and Turkey are approaching a strategic partnership beyond the framework of Turkey’s EU accession process. As the final speaker, *Birte Windheuser*, University of Cologne, discussed implications of the Brexit towards EU’s trade agreements with third states from a political and a legal perspective. In her analysis, she distinguished between EU-only and EU-mixed agreements. According to her expectations, the former will cease to apply after Brexit, while the latter will not cease to apply automatically but rather be decided upon case by case basis.

Afterwards the panel has been followed by an interesting debate with the audience. Finally, Wulf Reiners concluded the panel by summarizing and structuring the main points of the discussion.

Plenary Session II: *Norway's Role in Europe and the Future EU-Norway Agenda*

By *Christian Raphael*

The second and last panel session on Friday brought up the question of Norway's role in Europe as well as the future agenda of its relationship with the EU.

Andreas Hofmann, University of Gothenburg, who chaired this panel, stressed that the audience could finally focus on Norway as a specific example of differentiated integration.

First, *Elin Lerum Boasson*, ARENA/University of Oslo, shared her expertise on European and Norwegian environment and energy policies. She illustrated the level of influence the EU has in matters of this policy area. As defined in the treaties of the European Economic Area (EEA), different issues, such as environmental, climate, energy and competition policies are established to a high degree by EU standards with only a few exceptions like Euratom. On the other hand, the EU-2030-climate and energy targets deviate from specific Norwegian positions as the share of renewable energies the EU defines for its member states is significantly lower than Norway's one. However, despite the more complex arrangement of the EU's policies in this field that complicate a cooperation between the two actors, Norway is highly influenced by ideas and ways of thinking that exist within the EU, mostly enforced by its membership in the EEA.

Halvard Haukeland Frederiksen, Bergen University, expounded Norway's Brexit implications from a lawyer's perspective. As a major issue, he explained the need for an EEA-divorce agreement, given that UK has to leave the EEA until March 2018. According to him, this has a big impact on Norway's relationship with the UK as well as with the EU. Questioning, whether there might be a "plan B" of the Norwegian government, he suggested that Norway orients its strategies by observing closely the EU's approaches and the outcome of the Brexit negotiations. Norway's main apprehensions are a potential EFTA membership of UK because of occurring time problems as well

Supported by the *Hanns Martin-Schleyer-Stiftung*.

as its realising of a better deal than Norway's today's EEA rights and commitments, like an additional voting right. However, there is a need for modifications of the EEA, for instance regarding quotas, by a diplomatic conference of the remaining states and finally new UK-Norway agreements on issues like free movement and fishing. Again, one can observe that Norway defines its strategies by looking at the EU's behaviour.

As a third contribution *Andreas Raspotnik*, Arctic Institution, introduced the Arctic as an academic "niche" area. From 2007/08 on there have been a few developments within the EU's attention towards the Arctic, spotting it as an important field in climate change regards as well as in political ones with Russia being a possible opponent. In this initial position, Norway found its role being able to influence EU policy makers by using its knowledge about this geographical area. On the other hand, Brussels tried to compensate its own lack of knowledge by using Norway's expertise answering questions like the Arctic's difficult geographical definition e.g. in the context of fishing policy. In addition, climate change and renewable energy issues cover a big amount of the highly specific influence Norway today has in Brussels. As an intermediate result, Rapotnik attested Brussels having reached a higher level of awareness with the help of Norway within this "learning process".

Finally, *Helene Sjurssen*, ARENA/University of Oslo, presented basic findings on Norway's role in EU foreign policy. Generally, one cannot find strong particularities in each foreign policy, the Norwegian one as well as the EU's one, as there are a couple of agreements between the two actors on such policies. Norway's fundamental strategies are similar to the ones that were presented by the other speaker: Parts of the foreign policies are linked to and defined by Norway's membership in the EEA, others are a result of its "waiting for and following EU's position", like in the conflict with Russia. As a third type of strategy Norway e.g. participates contractually in the "Nordic Battle Groups" as an implementation of differentiated integration in foreign policies.



UiO : **ARENA Centre for European Studies**
University of Oslo



Norway's general interest in participating are again its need to be heard as a non-EU member state as well as its offering of expertise.

Editor: *Alina Thieme*

Supported by the Hanns Martin-Schleyer-Stiftung.

