

# Elżbieta Lesiewicz

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## The Flexible Integration in the European Integration Process: selected Issues

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**Elżbieta Lesiewicz\***

**THE FLEXIBLE INTEGRATION  
IN THE EUROPEAN INTEGRATION PROCESS.  
SELECTED ISSUES**

**Introduction**

The Second World War boosted the European unification processes. After the war, the problems of unity within Europe became the central point of attention. However, it was and still is a difficult task (sometimes even impossible) to develop and implement a common concept concerning the integrity of Europe. An accomplishment of the unification process involved the need to define future form of the union. From the very beginning, various concepts on developing the structural and political foundations were suggested by traditionally diverse internal political systems of the European states. Therefore, some discrepancies in the future vision of the European integration have become apparent. All this required a flexible approach to the integration process because there has been a serious dispute going on regarding the theoretical bases of the process in question. The flexible integration is one of the European integration concepts which aim at reconciling the diversities.

Over the years, the intensification of integration processes and the increase in the number of the EU members states have made the Union's structure complicated and enhanced its internal diversity. In such circumstances, application of the flexible integration concept, which used to be defined as one of the EU

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\* dr Elżbieta Lesiewicz, adiunkt w Zakładzie Najnowszej Historii Politycznej Wydziału Nauk Politycznych i Dziennikarstwa Uniwersytetu im. Adama Mickiewicza, e-mail: elzbieta.lesiewicz@amu.edu.pl.

basic principles, became crucial. In order to ensure further development of the integration process, its participants may take part in various projects that enhance cooperation within various configurations. Elements of the flexible integration were introduced to the primary law in the form of a mechanism for enhanced cooperation relatively late, namely through the Treaty of Amsterdam.<sup>1</sup> Nevertheless, the European initiatives in which not all of the member states took part (for instance, the Schengen Agreement or the Economic and Monetary Union) already existed. Such solutions served the purpose of increasing the flexibility of actions undertaken within the Communities. It happens very often that some of the states do not want to or cannot join a given project. In this way, it is possible that ideas which are not approved by all the EU states still do exist.

The subject of this study is the flexible integration which relates to the European integration methods that do not necessitate all the member states to participate in every integration project and allow them to implement the European policy at individualized pace. Such ways of integration are connected with the notion of the flexibility policy as applied in the European context. This diverse approach enables further integration which may be hampered by the lack of political will in some member states or by an increase in heterogeneity among the EU members. As far as the European Union is concerned, the flexibility principle adopts two forms. The first one is the enhanced cooperation in achieving the Treaty objectives within a limited circle of entities. The second form consists in providing some member states with the derogation of obligations within areas of activities that bind all the EU members. Voluntary participation is a variety of these forms. Due to a broad scope of the research, this article deals only with some aspects of the flexible integration.

In the current considerations attention is drawn to the fact that certain forms of “flexibility” existed since the beginning of the integration process and continued through its subsequent stages of integration broadening and deepening which, in some sense, forced the Member States to accept the flexible solutions.

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<sup>1</sup> The flexible principle introduced by the Treaty of Amsterdam which was signed in 1997 includes three groups of objectives. The first group concerns the whole EU and states that cooperation must be applied only as a measure of last resort, pertain to the majority of the Member States and be open to all the states which wish to join the Union. At the same time, the cooperation cannot weaken the existing principles of the Union’s functioning; it cannot undermine the acquis of the Communities and impair the rights of individual Member States. The remaining two groups of objectives correspond to the first (the European Communities) and the third (Justice and Home Affairs) “pillar” and include further conditions for cooperation. The provisions on enhanced cooperation are set forth in Articles 43–45 of the Treaty on European Union (TEU). S. Hambura, M. Muszyński, *Traktat o Unii Europejskiej z komentarzem*. Bielsko-Biała: Wydawnictwo Studio Sto 2001.

The flexible integration is based on the principle fundamentally opposite to the concept of the European integration, developed in the 1950s, which assumes that EU member states need to move forward at the same speed and with the same contribution (involvement) in the integration projects. In accordance with the so-called traditional integration model, all the states have equal rights as well as own established duties and obligations. The notion of the flexible integration is therefore often used interchangeably with the notion of the differentiated integration. This research will trace the flexible integration as part of an integration process characterised by the unequal participation of EU members (resulting from willingness or capabilities), in the sense that they have different rights and duties and thus contribute to the emergence of different configurations within or outside the EU, with possible inclusion of third party states.

Also, this research will aim at demonstrating the *raison d'être* of the flexible integration, its functions and importance in the EU development history. This objective calls for evoking the following questions: what were the reasons for introducing the elements of differentiation in the integration policy of the European states?; which specific concepts cropped up as part of so differentiated integration ("multi-speed Europe," "variable-geometry Europe," "Europa à la carte," "Europe of concentric circles," "hard core," "flying geese paradigm")?; and, last but not least, what are the dis/advantages of flexible integration? Even though the flexibility policy is inconsistent with the European integration paradigm, it has accompanied this process since the beginning and it is necessary now to put a stronger emphasis on its presence in the integration process, the more so that the great integration theories striving to explain this process, never discussed the flexible integration and neither did they attempt to transform empirical facts into a theoretical approach. At present hardly any comprehensive research on the flexible integration, due to a relatively up-to-date nature of the subject, can boast of having one solid theoretical approach. However, the flexible integration fits well between two competing theoretical concepts: federalism and intergovernmentalism recognising and respecting the diverse European reality.

With reference to the model of the European federation, I would like to quote the definition suggested by W. Bokajło federalism is the multi-option, politically broad organisational principle taking into account the efficient functioning of a federative authority which is in close connection with the subsidiarity principle and requires control over pluralist democracy by: a developed civil society, i.e. a system of political unions, understood as general and based on the principle of freedom and partnership – a system of different social and state structures,

mutually respecting their features, starting from communes and ending at the pan-European stage.<sup>2</sup> Federalisation ensures both a necessary level of unity and maximal respect of diversity; the tension which determines the dynamics and spectrum of federative solutions and is reflected by the European Union's motto – unity in diversity. At the same time, in the light of the discussed theory, federalism is not only a method of uniting the Old Continent but rather a comprehensive mechanism of protecting identity and diversity as well as an instrument for limiting unnecessary centralisation and excessive top-down interference in the life of individual social groups.<sup>3</sup> Therefore, the federal union perceives the diversity of its components as a valuable in need of preserving. The federal union considers a constitutive duality of the “united-in-diversity” Europe and has no intention of removing the national differences.<sup>4</sup> According to F. Kinsky, the theory of federalism embraces the phenomenological differentiation of reality and proposes to solve conflicts either by voluntarily entering into federations, or via constitutional settlements resulting from other agreements.<sup>5</sup> Thus, federalism demonstrates as a combination of unity and diversity; a system based on “mutual control and balance.”<sup>6</sup>

The diversity has also been noticed in the intergovernmental approach to the European integration. S. Hoffman, the most prominent theoretician of this school, values the essential power of a nation state. He treats the group of states taking part in the project as a subsystem within the broader international system. In his opinion, the differences between the states in the integration subsystem will be enhanced, not weakened. This will arise from the “natural pluralism of societies”. Consequently, individual states will be differently responding to external environment impulses, which will in turn deepen the differentiation of interests and political strategies. Such situation shows how hampered the cooperation between the states is. The establishment of this cooperation will intensify new controversies.

S. Hoffman has initiated the research on the role of a sovereign nation-state as a basic condition of integration processes. No longer does the state exist as

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<sup>2</sup> W. Bokajło (ed.), *Federalizm. Teorie i koncepcje*. Wrocław: Wydawnictwo Uniwersytetu Wrocławskiego 1998: 140–141.

<sup>3</sup> cf. P.J. Borkowski, „Federalizm a budowanie jedności Europy.” *Studia Europejskie* No. 2, 2006.

<sup>4</sup> Ch. Mouffe, „Przyszłość Europy, podejście agonistyczne. *Krytyka Polityczna* No. 34, 2013.

<sup>5</sup> F. Kinsky, *Federalizm model ogólnoeuropejski*. Kraków: Wydawnictwo WAM 1999: 113.

<sup>6</sup> cf. F. Kinsky, *Federalism – A Global Theory. The Impact of Proudhon and the Personalist Movement on Federalism*. Nice: Presses d'Europe 1995.

a passive entity undergoing the processes on which it has little influence. There appear questions of the states' ability to defend violation of sovereignty as well as, to a lesser extent, play a leading role in the integration process.<sup>7</sup> On the other hand, A. Moravcsik, the author of a liberal version of the intergovernmental approach, has assumed that the actions of states result from the rationality of sub-national entities (which, above all, are governed by economic calculation) and the responsibility of those in power towards the voters. The national interests are neither unchanged nor essential. Yet, they emerge from an internal political conflict when particular social groups compete for influences at the time of establishing national and transnational coalitions.

The diversity of the European Union increases and is followed by its subsequent enlargements. Despite convergence-oriented activities, there still exist economic, social and political differences between the states. An increasing number of the EU states hampers the settlement. Thus, many ideas on how to tackle the problem of enlarging the European Union crop up. One of such ideas refers to the flexible integration concepts which, for several years now, have been the subject both of political discussions and scientific thoughts. The literature on the subject offers numerous notions and propositions as regards the flexible integration, the latter understood as a compromise,<sup>8</sup> a desired solution in the process of deepening and broadening the integration process.

Compromise is a universal solution in the political discourse since it allows to avoid a conflict. Frequently, a compromise resolves the conflict thereby reflecting a rational cooperation aimed at seeking and striving for a possible settlement in an antagonised context. Its mediating and potentially transformational nature enables the participants of the compromise to maintain an objective order of values and accept certain required forms of cooperation. In consequence, compromise stands for a proper model of a public dialogue.<sup>9</sup>

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<sup>7</sup> P.J. Borkowski, *Międzyrządowość w procesie integracji europejskiej*. Warszawa: Oficyna Wydawnicza Aspra 2013: 73–77.

<sup>8</sup> The compromise understood as a common agreement on an issue, concessions towards persons, an implementation of provisions by way of mutual arrangements as well as a deviation from established ideas and principles due to benefits derived from it – H. Zgólkowa (ed.), *Praktyczny słownik współczesnej polszczyzny*, Vol. 17. Poznań 1998: 8.

<sup>9</sup> W. Woźniak, "Kompromis jako wartość w sferze publicznej." *Strefa publiczna. Konfrontacja – przejawy – przemiany*. Ed. J.P. Hudzik, W. Woźniak. Lublin: Wydawnictwo UMCS 2006: 140–141.

### **Flexible compromise in the initial integration stage**

From its commencement, the process of intra-Community integration has involved flexibility as integration participants openly manifested their various standings towards the intensity of the integration mechanisms. Some states wished to get integrated quickly and deeply, assigning part of national competences to supranational structures, whereas others preferred to do it slowly and superficially, delegating intra-state functions to the supranational structures only reluctantly.<sup>10</sup>

This flexibility can be noticed as early as the beginnings of the unification processes. The speech given by W. Churchill on September 19, 1946 actually did push the Europeans towards integration. In it, the Prime Minister of Great Britain supports the establishment of the United States of Europe, and, at the same time, makes it clear that some states should create the germ of this process. Prior to the commencement of specific integrative actions, a thought appeared of the establishment of an active group of European countries – the core of integration processes. Also, the idea of the flexible integration appears in the concepts of Jean Monnet. According to him, integration should evolve step by step through the convergence of states' national policies. This idea places a federal authority at the end of a gradually developing process subordinated to an intergovernmental mechanism mobilising national powers interested in the European solution. The value of Monnet's strategy consists in the fact of the engagement of national federalist active powers without the necessity of introducing constitutional reforms.<sup>11</sup> Jean Monnet is considered a leading representative of the evolutionary approach to the integration process and his approaches are derived from practical experience.<sup>12</sup> In J. Monnet's view, federalism is not so much a method of building the united Europe but rather a result of creating Europe through sector-by-sector public activity moves, under the control of supranational authorities.<sup>13</sup>

Convening the 1948 Congress of Europe in Hague under the leadership of W. Churchill constitutes another crucial moment involving various contrasting visions of the common Europe. During the Congress, a clear division appeared between federalists promoting the idea of the European federal state similar to the

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<sup>10</sup> J. Ruskowski, *Wstęp do studiów europejskich*. Warszawa: Wydawnictwo Naukowe PWN 2007: 147.

<sup>11</sup> W. Bokajło, *op.cit.*, pp. 110–112.

<sup>12</sup> S. Konopacki, „Dylematy federalizmu europejskiego.” *Studia Europejskie* No. 4, 1998: 84–87.

<sup>13</sup> P.J. Borkowski, “Federalizm a budowanie”..., pp. 97–98.

USA, and unionists supporting the European integration and rejecting federal or supranational concepts as well as the limitation of the sovereignty of individual states. Despite the controversies, an agreement was reached that the foundations ought to be laid for an economic and political union and that the states of the union would transfer, to a certain limited extent, the exercise of sovereign rights to this union. The establishment of compromise arrangements and signing of the deed of foundation of the Council of Europe on May 5, 1949 in Strasbourg is an important outcome of this flexible approach. The Council was founded for supporting all initiatives and actions aimed at closer cooperation between the Members States as regards protection of political ideals and freedom constituting a common heritage of modern civilisation and democracy. The following states formed the core of the Council: Belgium, Denmark, France, the Netherlands, Ireland, Luxembourg, Norway, Sweden, Great Britain and Italy.<sup>14</sup>

Interested in the federalisation of the Western Europe, French Minister of Foreign Affairs Robert Schuman, inspired by Jean Monnet, on May 9, 1950 propounded the creation of the European Coal and Steel Community.<sup>15</sup> It was J. Monnet who proposed the establishment of a “sector integration” during the first stage (i.e. in the field of coal and steel production) of the European integration.<sup>16</sup> The plan presented by the French Minister of Foreign Affairs assumed the creation of a common market for the coal and steel industry through the abolition of duties, quantitative quotas and other discriminatory measures, for instance by special determination both of prices and transport conditions as well as governmental grants. The Treaty establishing the European Coal and Steel Community was signed on April 18, 1951 by the representatives of: France, FRG, Belgium, the Netherlands, Luxembourg and Italy.<sup>17</sup> The foundation of ECSC had a positive impact on the subsequent integration process. It initiated the sector integration within the neighbouring states that constituted the “core” of the European integration.<sup>18</sup>

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<sup>14</sup> J. Glaster, P. Juszyńska, M. Kolański, K. Witkowska-Chrzczonek, Z. Witkowski (eds.). *Podstawy prawa Unii Europejskiej*. Toruń: Towarzystwo Naukowe Organizacji i Kierownictwa „Dom Organizatora” 2006: 30–31.

<sup>15</sup> For an elaboration of the concepts of: Monnet, Schuman, Adenauer see e.g. J. Łukaszewski, *Cel: Europa. Dziewięć esejów o budownictwie jedności europejskiej*. Warszawa: Nor sur Blanc 2002. See also R. Schuman, *Dla Europy*, Kraków: Znak 2009.

<sup>16</sup> J. Kowalski, Z. Ślusarczyk, *Unia Europejska. Proces integracji i zarys problematyki instytucjonalno-prawnej*. Warszawa–Poznań: PWP Iuris 2005: 49.

<sup>17</sup> J. Krasuski, *Europa Zachodnia. Dzieje polityczne 1945–1993*. Warszawa: WSiP 1995: 120.

<sup>18</sup> K. Łastawski, *op.cit.*, pp. 100–102.



J. Monnet's activity for establishing ECSC was accompanied by the development of works on common defence in Western Europe. At the meeting of the Parliamentary Assembly of the Council of Europe in August 1950, W. Churchill proposed an initiative to build the European army with the German participation. In order to meet the assumptions of the initiative, on October 24, 1950 Rene Plevin, French Prime Minister, put forward proposals concerning the military integration of the ECSC member states. He took up J. Monnet's initiative and proposed the plan of the European Defence Community. On May 27, 1951 in Paris the following six states: France, FRG, Italy, Belgium, the Netherlands and Luxembourg signed the treaty on the European Defence Community.

The works on establishing the European Political Community – thought to be a structure superior to EDC and ECSC – were carried out in parallel with the efforts to ratify the treaty on EDC. The proposal concerning the European Political Community was presented by the Ad Hoc Assembly of ECSC on March 10, 1953, with federalist circles enthusiastically receiving it. However, the majority of the ECSC member states severely criticised the project. The French expressed the most critical position and rejected the treaty on August 30, 1954. The voting in the French parliament confirmed the downfall of the European Defence Community concept. At the same time, the French rejected the project of founding the European Community. They declared both against the federalist concepts and the creation of the united states of Europe. Several factors had influenced the decline of EDC and EPC: the strong resistance of the European societies against re-militarisation of FRG, the European states' lack of experience as regards creating the common armed forces as well as Great Britain's reluctance towards the idea of integration with supranational solutions. The failure of the projects with the Defence and Political Communities meant the blockage of a quick way to the unified Europe<sup>19</sup>.

At the same time, Anthony Eden, Minister of Foreign Affairs of Great Britain, initiated establishing of an international organisation. The Treaty on the Western European Union was signed in Paris on 23<sup>rd</sup> October 1954. It was concluded by 6 states belonging to the ECSC and Great Britain. The Treaty took effect in May 1955. The Western European Union was united neither with the ECSC, nor the European Economic Community, nor the European Atomic Energy Commu-

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<sup>19</sup> R. Zięba, *Wspólna Polityka Zagraniczna i Bezpieczeństwa Unii Europejskiej*. Warszawa: WAiP 2007: 18; J. Barcz, "Międzyrządowe obszary współpracy w UE – II i III filar UE." *Integracja Europejska*. Ed. J. Barcz, E. Kawecka-Wyrzykowska, K. Michałowska-Gorywoda. Warszawa: Wolters Kluwer 2007: 68; K. Łastawski, *Historia integracji europejskiej*. Toruń: Wydawnictwo Adam Marszałek 2006: 111.

nity founded in 1957. The Maastricht Treaty changed the natural position of the Western European Union.<sup>20</sup>

### **The flexibility policy of the European Union**

In 1957 six states: France, Germany, Italy, Belgium, the Netherlands and Luxembourg founded the European Economic Community declaring that they wish to establish the foundations of an increasingly close union and ensure an economic and social progress of their countries by means of a joint action aimed at removing the barriers dividing Europe. This unity has become paradigmatic of the full-extent European integration. Yet, it does not mean that this process always proceeded in a homogeneous way. In fact, there are many instances of differentiation as regards applying the European law. Many deviations from the homogeneity paradigm do exist. For instance, when joining EC/EU, new members are usually granted transitional periods, a fact allowing their – gradual yet within the limits of a scheduled period – transferring some parts of *acquis communautaire* to the national circumstances. Sometimes it is hard to include strictly limited transitional periods into the solutions of institutional nature, permanently differentiating the member states' rights and obligations. In theory, granting the transitional periods to the states newly joining the EU is considered a sign of an inter-treaty flexibility. Such an approach is referred to as an expression of flexibility within the accession treaties. At present there are many provisions in the European Union law enabling the Member States to apply more far-reaching rules than those agreed at the European level, which is yet another instance of the EU flexible policy. Apart from the differences in the introduction pace and level, there are examples of the member states subgroups cooperating in the field of specific issues whose scope goes beyond the EU. For example, in 1985, France, Germany and the Benelux states concluded the Schengen Agreement in order to facilitate the passport-free crossing between the state borders. The remaining members has joined in but not all of them participate in this policy comprehensively. Despite these concessions, the proposals for the integration process differentiation have been regarded sceptically. They are usually of a limited scope. The concessions from a homogeneous integration are perceived as exceptions. They deal with a very limited number of policy areas and limited periods. Those limi-

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<sup>20</sup> K. Popowicz, *op.cit.*, pp. 58–59.

tations have given a sense of security impossible to be provided by a systematic differentiation method.<sup>21</sup>

However, along with the increase in size and intensity of the integration processes, the member states have started to formulate postulates for taking initiatives and actions involving selected countries or groups of states only rather than all the members. As Zbigniew Czachór mentions, the assumption is that initiatives and actions are to be performed only by the states with proper capabilities and willingness to participate. It is also assumed that in the case where there is no common will on the part of the member states, those of them which wish it should not be withheld from advancing towards more mature integration forms. In this way, integration solidarity clashes with interests of individuals and groups. It is common knowledge that even though empowered by the treaty, integration flexibility would violate the unity of the Communities and the European Union.<sup>22</sup>

In 2004 10 states accessed the Union thus increasing the latter's political and economic heterogeneity. The policies of the old and new member states diverge due to a series of differences arising from historical experiences, geopolitical interests, and social and economic structures. Obtaining the consent of the majority as regards the common EU policy has been more difficult if not, in some cases, entirely impossible. The accession of the Central and Eastern Europe countries resulted in many difficulties due to these countries' relative economic weakness disabling both their participation in all EU projects and their negotiation of transitional periods necessary for their adjustment to all the requirements of the Community law;<sup>23</sup> hence the need to apply the flexibility policy.

A series of flexible integration models has been separated in the theoretical discourse of the flexible integration.<sup>24</sup> Some of them are as follows:

Multi-Speed Europe – countries within the European Union wishing to integrate deeper and quicker can do so between themselves leaving more cautious countries outside their circle. Owing to that solution, it is possible to distinguish the “first integration speed,” i.e. cooperation in all fields of the intra-EU integra-

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<sup>21</sup> K. Popowicz, *op.cit.*, p. 33.

<sup>22</sup> Z. Czachór, *Zmiany i rozwój w Systemie Unii Europejskiej po Traktacie z Maastricht*. Wrocław: Alta2 2004: 63.

<sup>23</sup> K. Junge, “Integracja zróżnicowana.” *Unia Europejska, organizacja i funkcjonowanie*. Ed. M. Cini. Warszawa: Polskie Wydawnictwo Ekonomiczne 2007: 531–532.

<sup>24</sup> The literature on the subject includes a series of proposed forms of the differentiated integration such as the: concentric circles, hard core, flying geese, concept of gradual integration, step-by-step, European orchestra, variable diversity, solidarity circles, movable wing, overlapping circles, imperial circles, moderate differentiation, double- or multi-fold integration, double- or multi-level integration, structural differentiation, and pieces and parts.

tion, which in turn equals to the participation in the area covered by the Schengen Agreement, the Euro area, the joint defence. Against this background, some countries which belong to or declare participation in all the mentioned specific areas can be differentiated in the old union. They are: France, Germany, Italy, Belgium, and Luxembourg. The countries which belong to only two of such areas – Finland and Austria refuse, as neutral countries, to take part in the defence community and the countries forming but part of an area. For instance, Sweden belongs only to the area covered by the Schengen Agreement, Ireland is part of the Euro area, whereas Great Britain declares participation in the joint defence only.

Thus, the member states perform the same actions and participate in the same policies, yet they do it in a non-parallel way, in a different time or simply do not want to be covered by certain scopes of integration. The fathers of this concept are J. Delors, W. Brandt, and L. Tindemans supported by J. Chirac, K.A. Lamer, and W. Schäuble.<sup>25</sup> The risk involved in the said concept is the conviction that countries relatively weaker in economic terms may be eliminated since they will not be able to catch up with the stronger states which have already moved to another integration stage. On the other hand, the stronger states will not be willing to support those which have not taken part in the first stage of integration.

*Europe à la Carte* – assumes a greater freedom among the states. Ralf Dahrendorf, political scientist and originator of this theory gave a lecture entitled: “The Third Europe” at the University of Florence in 1979. In it, he criticised the community rule applied to all in a uniform way with reference to all the policies and mechanisms of decision-making processes.<sup>26</sup> He suggested that every Member State had a full freedom in choosing an integration field in which it intended to participate. There would exist a full freedom of an international cooperation in new areas as well as a possibility of its deepening in the spheres where such cooperation already existed. The states would enjoy full freedom of resigning from further integration.<sup>27</sup> None of the states would be forced to participate in the area of a common policy which it did not approve of.

One disadvantage of this concept is the difficulty in determining any obligations of the member states towards the community. Also, uncontrolled integration

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<sup>25</sup> J. Ruzkowski, *op.cit.*, pp. 147–149.

<sup>26</sup> R. Dahrendorf, *A Third Europe? Third Jean Monnet Lecture by Professor Ralf Dahrendorf, Director of the London School of Economics. Florence, 26 November 1976. Archive of European Integration*, <http://aei.pitt.edu>. Accessed 15.01.2015.

<sup>27</sup> H. Wallace, A. Ridley, *Europe: The Challenge of Diversity*. London: Chatham House Paper No. 29, 1985: 34.

can lead to conflicts between the states. *Europe à la Carte* would treat specific areas of integration as mutually detached, thus working against the integration deepening. Consequently, it could end in the internal market disintegration.<sup>28</sup> The enhanced cooperation in which only interested states participate as well as the opt-out option allowing for the exclusion from the Treaty or the Community law are the instances of applying this concept. Poland and Great Britain have used such a possibility as regards the Charter of Fundamental Rights of the European Union. As K. Prokopowicz mentions, the said concept violates the rule of accepting common *acquis* and is, at the same time, a threat to the homogeneity of the Union. There is no basic minimum which every state must accept. The countries have full freedom when creating new forms of mutual cooperation.<sup>29</sup>

*Variable-Geometry Europe* – presented by the Commissariat Général du Plan in 1980 is a scenario concerning the development of Europe in the next twenty years which represents integration as a performance of common projects by a group of member states. This cooperation will have to both include a small group of the members and be open for the remaining member states. It should make use of the Community dimension whenever possible.<sup>30</sup> The project assumes a spatial differentiation allowing some states to develop a broader cooperation in specified policies of the European Communities. The selected countries form a collection of functional connections oriented to the achievement of a particular goal which in turn gets the states interested. This concept enables the states' activation, not only on the basis of objective criteria as regards economic difficulties, but also due to ideological and doctrinal reasons. This model corresponds to the development of cooperation within the framework of the European Union as based on a flexible adjustment of integration to international conditions and the will of the member states. The assumption is that some member states may develop specified sector policies according to their capabilities and preferences. As Janusz Ruszkowski notices, the point is to work out the forms and instruments for solving joint problems.

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<sup>28</sup> M. Dewatripont, F. Giavazzi, J. von. Hagen, T. Persson, G. Roland, A. Sapir, *Flexible Integration. Towards a More Effective and Democratic Europe*. London: Centre for Economic Policy Research 1995: 52–54; S. Konopacki, „Od Europy ‘à la carte’ do ‘integracji elastycznej’.” *Przegląd Politologiczny* No. 3–4, 1998: 36–37.

<sup>29</sup> K. Prokopowicz, *op.cit.*, pp. 35–36; Z. Czachór, *op.cit.*, p. 65; J. Ruszkowski, *op.cit.*, pp. 152–153.

<sup>30</sup> *Commissariat Général du Plan. L'Europe les vingt prochains années*. La Documentation Française 1980: 211–212.

Consequently, not every Member State will have to adopt their whole *acquis*. Some states will be excluded from it wholly or partially. This concept emphasises the possibility of a partial participation in the intra-Community integration.<sup>31</sup> The engagement of particular Member States in the areas of, not always treaty-oriented, action is cited when presenting the arguments in favour of this concept. Such a concept assumes the existence of a steady integration drive in the form of *acquis communautaire* with the simultaneous presence of cooperation in the selected fields of particular policies corresponding to these member states which can and are willing to conduct it.<sup>32</sup> The adoption of these solutions will also mean the deviation from a declaratively held thesis on the exclusivity of supranational integration regulations. In the 1980s this concept was modified to the effect that the model of concentric circles cropped up.

Aleksander Stubb has undertaken to organise these differentiated concepts corresponding to the differentiated integration. He has divided them in accordance with the differentiated subjects such as e.g. time, space, or matter. It is the best known classification. However, as the author observed, it is a certain proposal, a model to which reality -oftentimes incompatible with the model – can be referred. Taking into account the first criterion, namely, the time division, the engagement of some states in the performance of the project is not simultaneous. As regards the space criterion, the projects are implemented in the specified territory. The matter criterion provides for the participants' possibility of choosing particular areas of integration.<sup>33</sup>

The flexibility policy has accompanied the process of the European integration since the very beginning of developing a shared vision of Europe. The flexible approach enables further integration, hampered either by the lack of political will in some member states, or an increase in heterogeneity among the EU members. At the same time, it is alleged that the flexible integration may lead to the divisions and final disintegration of the Union. However, in connection with the intensification of the integration processes and the increase in the number of participants and diversity of the European Union, the application of the flexible integration in the integration process is a must.

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<sup>31</sup> Z. Czachór, *op.cit.*, p. 65; J. Ruskowski, *op.cit.*, pp. 147–149.

<sup>32</sup> M. Szwarc, *Zróżnicowana integracja i wzmocniona współpraca w prawie Unii Europejskiej*. Warszawa: Wydawnictwo Prawo i Praktyka Gospodarcza 2005: 24.

<sup>33</sup> A. Stubb, "Categorization of Differentiated Integration." *Journal of Common Market Studies*. Vol. 34, No. 2, 1996: 283–295. Cf. T.R. Szymczyński, "Modelowe założenia zasady oraz próba kategoryzacji." *Unia Europejska po traktacie Nicejskim*. Ed. Z. Czachór. Warszawa: UKiE 2002: 7–16.

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### Summary

After the Second World War the question of the unified Europe became the central point of attention. However, it has been a difficult (sometimes even impossible) task to develop and implement a common concept concerning the integrity of Europe. Over the years, the intensification of integration processes and an increase in the number of the EU members states have diversified the Union's structure as well as enhanced its internal diversity. In such circumstances, the application of the flexible integration concept, defined as one of the EU basic principles, became crucial. The flexible integration elements were



introduced to the primary law in the form of an enhanced cooperation mechanism relatively late, namely via the Treaty of Amsterdam. Nevertheless, the European initiatives in which not all of the member states took part (for instance, the Schengen Agreement. or the Economic and Monetary Union) already existed.

In the current considerations attention is drawn to the fact that certain forms of “flexibility” existed since the beginning of the integration process and continued through the subsequent stages of the Union’s broadening and deepening; the developments which, to an extent, facilitated the acceptance of the flexible solutions. Although the flexibility policy is inconsistent with the European integration paradigm, it has accompanied this process since the beginning and is now vital for its continuation of the integration process. The issue of the flexible integration fits well in between two competing theoretical concepts – these of federalism and intergovernmentalism – whose theoretical approaches recognise and respect the diverse European reality.

**Keywords:** European Union, integration process, flexible integration, the Multi-Speed European Union, *À la Carte* Europe, Variable-Geometry Europe

## ELASTYCZNA INTEGRACJA W EUROPEJSKIM PROCESIE INTEGRACYJNYM. WYBRANE ZAGADNIENIA

### Streszczenie

Po II wojnie światowej problem jedności Europy znalazł się w centrum uwagi. Jednak wypracowanie wspólnej koncepcji integracji Europy i jej realizacja była niezwykle trudnym zadaniem. Z biegiem lat wzrost liczby członków doprowadził do skomplikowanej liczby struktury Unii Europejskiej i wzmocnienia jej wewnętrznej różnorodności. W tych okolicznościach zastosowanie elastycznej integracji, która na pewnym etapie zdefiniowana została jako jedna z podstawowych zasad Unii Europejskiej, stało się istotne. Elementy elastycznej integracji zostały wprowadzone jako mechanizm wzmocnionej współpracy do prawa pierwotnego, stosunkowo późno, bo dopiero przez Traktat Amsterdamski. Jednak już wcześniej istniały inicjatywy europejskie, w których nie wszystkie państwa członkowskie uczestniczyły, jak choćby porozumienia z Schengen czy unia gospodarczo-walutowa. W tych rozważaniach zwraca się uwagę na fakt, że pewne formy elastyczności istniały już od początku procesu integracyjnego i były wprowadzane przez kolejne etapy poszerzania i pogłębiania. Pomimo, iż polityka elastyczności jest niezgodna z podstawowym paradygmatem integracji europejskiej, towarzyszy temu procesowi od początku i jej zwiększenie staje się koniecznością. Problematyka elas-

tycznej integracji wpisuje się między dwie rywalizujące koncepcje teoretyczne federalizm i międzyrządowość, które w swych podejściach teoretycznych dostrzegają i respektują różnorodną rzeczywistość europejską.

**Słowa kluczowe:** Unia Europejska, proces integracyjny, koncepcje integracji, elastyczna integracja, Europa różnych prędkości, Europa *à la carte*, Europa zmiennej geometrii