The Implementation of Enhanced Cooperation in the EU
The underlying dilemma and the hope for a ‘magic formula’

- Subgroup problem-solving vs. Community Orthodoxy

- Generalised and standardised framework of controlled differentiated integration

- Incentive: use of Union institutions
Taking stock of EnC after 20 years: Sobering results

- The ‘long maturing’ of EnC
- No usage of EnC under Amsterdam or Nice provisions
- 4½ cases since 2010
- Low visibility compared to PESCO, etc.
Legal words: EnC in the Lisbon Treaties

- Different stages: Authorisation and implementation

- Substantive and procedural constraints
  - last resort condition
  - streamlining towards special legislative procedures in the area of JHA

- Art. 333 TFEU: Passerelle clause with limited potential
Real world I: Participants and cleavages
Real world II: Limited ambition

- Two **conflict-of-law solution schemes**
- Unitary Patent: protracted ratification of an accompanying **satellite treaty**
- EPPO: established in a ‘**short-track EnC**’, not yet operational
- FTT: EnC only authorised, not implemented
- Duration: Between **4 and 12 years**
Institutional Toolbox I: Synthesis and Recommendations

- Evolutionary normalisation instead of revolutionary magic formula
- Abolishment of use of Union institutions in the context of satellite treaties
- Reducing complexity and variations
- EnC unit/secretariat in the EC
Institutional Toolbox II: EnC committee format in the EP

- ‘ordinary’ committee in charge
- adaption of decision-making, i.e. voting rights
- additional nomination of voting MEPs in specific cases
- **Rationale**: committee takes a decision followed by a **formal ‘ratification’** of the plenary as a whole
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