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Dancing and Calculating: Culturally sustainable development and globalization in light of two paradigms of socio-cultural evolution

Vjeran Katunarić

Abstract

Globalization challenges the usefulness of different paradigms of socio-cultural evolution and opens the possibility for their hybridization. In this paper, two paradigms of evolution, the transformational (Spencerian) and the variational / selectionist (Darwinian), as discerned by Fracchia and Lewontin (1999), are examined along with their social theoretical counterparts. Most social theories of development are connected to different evolutionary paradigms in different historical contexts. The transformational paradigm prevailed until the end of the Cold War (e.g. theories of modernization), and the selectionist paradigm, in various theoretical forms, thereafter (e.g. Huntington, Eisenstadt). Most developmental policies today prefer the selectionist paradigm in terms of the neoliberal free market. The transformational paradigm in development policies was predominant in the era of the welfare state in the West, and its counterpart in the era of the statism of the East. Sustainable development in a socio-cultural sense is the youngest and the least consistent policy concept, and it is not founded on the evolution paradigms. The concept was launched by the UN as an attempt at mediating, mostly on the grounds of ecological alarms, between the free-market and statist policies. The author considers the hybridization of these two paradigms to be a proper conceptual foundation of sustainable development. On this premise, he expounds the concept of a culturally oriented sustainable development, arguing that hybrids of developmental policies are more suitable for a decent survival of most countries.

KEY WORDS:

evolution, selection, variation, globalization, culturally sustainable development, developmental hybrids
Introduction

"A businessman is a hybrid of a dancer and a calculator" (Paul Valéry).

Valéry's aphorism on businessmen was published in 1927 (Valéry 1934), when business-making was still an activity that was aware of its impact on society. In subsequent years, instead of opening the door for a market economy recovery, the Great Depression in Europe facilitated the rise of Fascism. At any rate, a businessman was situated less comfortably in his corporation than he is today, when corporations, mostly banks and financial agencies, operate with no regard to the consequences of their actions for the broader society (cf. Castells 1998). Traditionally, the economy was based on agriculture, as the backbone of the Gemeinschaft, a society composed mostly of peasants and artisans. Moreover, as Karl Polanyi put it, during most of human history the economy was embedded into the social tissue and "the idea of a self-adjusting market implied a stark Utopia. Such an institution could not exist for any length of time without annihilating the human and natural substance of society; it would have physically destroyed man and transformed his surroundings into a wilderness" (Polanyi 2001: 2).

Valéry’s metaphor of a dancer and a calculator may also be taken to illustrate two different meanings of the evolutionary process of society, which will be discussed as follows. As well as an art form, “dancing” may also be taken as a random, free and basically unpredictable movement similar to the Darwinian paradigm of the evolutionary process. “Calculator”, on the other hand, may be taken to illustrate a programmed movement with a fixed purpose – like Spencer’s and other teleological schemes of evolution. However, neither is sufficient to explain the contemporary perplexities of globalization. In this paper, the idea of sustainable development as a “hybrid” of these two paradigms of evolution will be taken as a more appropriate form of adaptation and survival for most societies.
The concepts related to development

Prior to discerning the specific advantages of the idea of a culturally oriented sustainable development, I will clarify the key terms of relevance along with their different contexts. Firstly, evolution and development, although they literally mean the same, have different historical trajectories (cf. Wuketits and Antweiler 2004). Development originates from the Western Enlightenment era and is close to the teleological idea of “progress”. “Progressist” evolutionists are, for example, Herbert Spencer and Karl Marx, regardless of their substantial differences in other theoretical aspects.

Today, development is mainly a policy concept with a penchant for the free-market agenda. It was born in the aftermath of World War II, when the American government launched a project of international economic assistance to underdeveloped countries. Meanwhile, the project, along with a parallel Soviet project of economic assistance to underdeveloped countries in its own geopolitical sphere, was grounded due to an obviously permanent gap between the developed and the underdeveloped (cf. Human Development Report 2013). In such a predicament, development became a catchphrase for business elites in developed countries and their allied elites in underdeveloped countries (cf. Fine 2002).

In the most accepted version of science, evolution is a synonym for the work of Charles Darwin. Unlike Spencer and Marx, he rejected the idea of progress and applied his naturalistic concept to humans as well.1 Darwin’s central argument about the survival of the fittest through selection constitutes the (neo)evolutionary social theory (Runciman 1989; 2006), although not mainstream sociology (cf. Runciman 2005).

Furthermore, from the 1980s onward, globalization primarily designates the worldwide expansion of economic markets, as well as large-scale operations of corporations worldwide. This expansion entails some new political, military, demographic (e.g. migrations) and cultural processes

1 “For my own part I would as soon be descended from that heroic little monkey, who braved his dreaded enemy in order to save the life of his keeper, or from that old baboon, who descending from the mountains, carried away in triumph his young comrade from a crowd of astonished dogs - as from a savage who delights to torture his enemies, offers up bloody sacrifices, practices infanticide without remorse, treats his wives like slaves, knows no decency, and is haunted by grossest superstitions” (Darwin /1882/ 2002: 619).
(e.g. the growth of cultural industries) (cf. Held and McGrew 2007). These processes challenge the explanatory potential of both paradigms of evolution.

Finally, sustainable development, and culturally sustainable development in particular, are the most recent and least consistent policy concepts, launched by the UN/UNESCO (cf. http://www.unsdc2012.org/history.html). The adoption of principles of sustainable development corresponds to a variety of economic interests and cultural traditions of the member states (Duxbury and Gillette 2007). This simultaneously represents both the strength and the weakness of the concept. The weakness lies in the fact that the concept is too abstract to be implemented in individual countries. Its strength, on the other hand, is that it opens up the possibility of combining different paradigms of evolution/development, while undercutting their extreme versions, i.e. the free market struggle for survival and the total transformation of society without retention of anything from the past.

Failures of global development without global mechanisms of coordination

Third world countries have been entitled to American assistance in order to move away from their backwardness (Omar 2012). Meanwhile, the whole enterprise is compromised due to the increasing poverty, deterioration of health conditions and poor educational opportunities in most countries (cf. UN Global Poverty Statistics 2006). Very often, however, this grim picture is concealed behind a standard presentation of data in terms of methodological nationalism. For instance, developmental gaps within the USA or within Burkina Faso are not as big as the gaps between the two countries (see Human Development Report 2013). Nevertheless, developmental problems can be solved on the nation-state level to a progressively decreasing degree. On the other hand, there is no global government or equivalent world organization whose policies would be aimed at closing the global gaps. Meanwhile, policy-makers in most underdeveloped countries
frame their policies by the “shock therapy” doctrine that imposes free-market policies, alleged to be the only cure for economies exhausted by those same free-market policies (cf. Klein 2007). As a substitute for lacking mechanisms on the global level, the contemporary global marketplace is ultimately protected by Western and allied military forces.

These global malfunctions fit Darwin’s selectionist paradigm. The outcomes of development may be explained as a product of merciless selection in the incessant struggle for survival and hegemony. At the same time, neoclassical social science, and economics in particular, does not provide plausible recommendations for market failures. Instead, market failures are treated as inevitable and as equivalents to natural disasters.

Such a formation of developmental thought is particularly inadequate for peripheries. Both functionalist authors, such as Shils (1975), and Marxist authors, such as Amin (1990), see the periphery as a negative of the centre. The periphery lacks any major resource of power, from private consuming wealth\(^2\) to know-how. The same gap is replicated in natural sciences and high-tech production (cf. Bürkner and Matthiesen 2007) and in social sciences (Hicks 2013; Katunarić 2011).

Another result of such development is that all sectors become increasingly elitist, including parliament, allegedly the “last bastion” of (representative) democracy, which in fact functions as a lever of small, yet most powerful, groups. At the same time, large corporations in the West collaborate with non-democratic regimes, such as in Saudi Arabia or China. Nevertheless, both democratic and non-democratic regimes advocate the enrichment of the rich and the deepening of socio-economic inequalities, ostensibly as the motor of development. In peripheral countries, in particular, the new elites discard state intervention in economic affairs, unless such interventions are already agreed upon as part of the corruptive chain. Also, there is a growing tendency to replace civil administration with a network of military-police outposts, controlled by big corporations. The latter, thus,

\(^2\) Amin sees an alternative to capitalism in the periphery in autocentric development, which produces “means of production” and “mass consumer goods”, and refrains from luxury goods and exports (Amin 1990: 193).
behave like feudal lords in the pre-absolutist era in Europe, when the power of the kings, as forerunners of the modern state, was weak.

Generally, unlike modern nation-states in the West, which succeeded in establishing some democratic political standards, the global mutant is not created by (pro)democratic movements, but by contingencies of free-market globalization, without accompanying regulative mechanisms that operated in nation-states. Is this an inevitable evolutionary outcome?

The two paradigms of socio-cultural evolution

An idea of socio-cultural evolution emerged decades before Darwin’s *The Origin of Species* in Adam Smith’s laudations to the market economy as the playground for the selection of the best qualities of products (cf. Hayek 1979). Another idea of evolution appeared, a few years before Darwin’s, in Spencer’s work. He argued that everything in the living world evolves and that the process unfolds from simple to complex entities. Concurrently, each individual passes through a process of transformation: from its origin to its end, from birth to death (cf. Fracchia and Lewontin 1999). This tenet fits Spencer’s assumption of the linear process of social evolution, in which the military society, as a less complex and basically despotic society, turns into a peaceful and liberal industrial society. Thus, a new society replaces an old society completely.

Darwin, on the other hand, introduced the variational paradigm of evolution. Here, individuals have different properties, and the population bearing these properties in uneven proportions does not depend on individual change. As Fracchia and Lewontin put it, for Darwin developmental changes in the individual organism, with all its variations, including birth, maturing and death, are not mirrored in the ensemble: “It is that the forces of change internal to [an] organism, leading to production of variant individuals, are causally random with respect to the external forces that influence the maintenance and spread of those variants in the population. Many are
called, but few are chosen” (Fracchia and Lewontin 1999: 61).³

Marx’s theory, for instance, is closer to Spencer’s than Darwin’s paradigm of evolution.⁴ Marx takes it that capitalism replaces feudalism completely, which reminds of Weber’s ideal types. By analogy, socialism, for Marx, should replace all elements of capitalism (with the exception of progress in science and technology). Figuratively, socialism is to capitalism, or capitalism is to feudalism, what airplane is to car and bicycle, respectively. This basically agrees with Spencer’s terms of transformation.

Nevertheless, Spencer’s theory is not a trademark of social theory today. Rather, social theory is becoming more pluralistic, with a tendency towards combining the selectionist with the progressist agenda. Before discussing the idea of sustainable development as a major alternative of the policy agenda, let us recall a few remarkable works which brought social theory closer to the Darwinian paradigm. One is the work of anthropologist Marshal Sahlins, who rejects the idea of transformational evolution. Rather, he sees the diversity in the evolution of life, from protozoa to mammals, also as being fundamental in the evolution of culture and society. As much as he recognizes the developmental differences between traditional and modern societies, he warns against the modernistic bias. Sahlins argues that the failure of a culture is most probably the result of its success! Well adapted culture is one-sided, its design is specific and its environment narrowly specialized: the “more adapted a culture is, [the] less capable of change it is” (cited in: Kaplan and Manners 1972: 51). Sahlins also remarks that developed societies consume a lion’s part of the total energy.⁵

³ Unlike Fracchia’s and Lewontin’s approach, which is focused on the relevance of Darwinism in cultural anthropology, this paper is focused on the sociological relevance of Darwinism and Spencerianism as regards post-World War II developments in the West and the East, that are characterized by divergence and, subsequently, convergence between capitalism and socialism by virtue of building a welfare state which would, ideally speaking, balance between private needs and public goods. Theoretically, the idea of the welfare state may be taken as a forerunner of the idea of sustainable development, since the latter also calls for a compromise between apparently irreconcilable interests.

⁴ There is an anecdote about the failed communication between Karl Marx and Charles Darwin. Marx sent his Capital (the 1st volume) to Darwin, but never received a response from him. Although Marx appreciated Darwin’s work, his regard of Darwin was ambiguous. On the one hand, he admired Darwin’s scientific rigor, on the other, he expressed his reservation, stating that Darwin applied the rule of the stock-exchange to the world of nature (cf. Varoufakis 2008).

⁵ This has to do with the bias of “higher cultures”: “No one culture has a monopoly on or even necessarily more kinds of adaptive improvements, and what is selectively advantageous for one may be simply ruinous for another. Nor are those cultures that we might consider in general evolutionary standing necessarily more perfectly adapted to their environments than lower. Many great civilizations have fallen in the last 2,000 years, even in the midst of material plenty, while the Eskimos tenaciously maintained themselves in an incomparably more difficult habitat” (Sahlins 1970: 26-27).
Consequently, the most developed are least capable of change. So, Sahlin’s work represents a rare case of a “humanistic” socio-cultural Darwinism.

A remarkable work in the historical sociology of evolution, based on Darwinian selectionism, is the work of Walter G. Runciman (second volume of his A Treatise on Social Theory, published in 1989). He defines social evolution in terms of Darwin’s paradigm, i.e. non-teleologically, as a moving away and not toward. Hence, history as evolution consists of a neverending set of different processes - stagnations, revolutions, rebellions, turning-points, catastrophes, dead-ends, etc. - with no meaningful direction. Accordingly, “evolution is an incessant competition… (often very violent) … between rival armies, classes and beliefs”. This concurs with Darwin’s account: “/F/from the war of nature, from famine and death, the most exalted objects which we are capable of conceiving, namely the production of higher animals, directly follows.” (both quotations are taken from Runciman 1989: 449).

Runciman’s approach corresponds to liberal policies of development, for they leave no possibility - for example through planning - to redirect development. This implication also follows the selectionist paradigm, for there is nothing in nature that resembles governance.

Another remarkable theoretical work in accordance with the Darwinian paradigm is Eisenstadt’s seminal essay Multiple Modernities (Eisenstadt 2002). He puts forward an idea of a plural modernism, which means that Western, Chinese, Indian, Muslim, Japanese and other national or regional developments, including Islamic fundamentalism, follow different paths. This corresponds with Darwin’s “variations” within a general type of development, which in this case is modernity. Yet, Eisenstadt denies that his concept of “multiple modernities” is akin to Huntington’s “clash of civilizations”, for different paths of development do not necessarily lead to collisions. On the other hand, Eisenstadt’s meaning of modernity

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6 In 2006 Runciman published a book entitled The Theory of Cultural and Social Selection (Runciman 2006), in which he presented his approach explicitly as selectionist.

7 Note that advocates of the theory and politics of post-development [e.g. Douglas Lummis, Gilbert Rist, Deepak Lal] also oppose the social engineering and managerialism of the welfare-state. As Nederveen Pieterse points out, “there is an elective affinity between neo-liberalism and development agnosticism of post-development” [Nederveen Pieterse 2010: 120].
is as much relativistic as Huntington’s. This is especially important to note where human rights are concerned. Eisenstadt interprets human rights as a cultural, rather than trans-cultural phenomenon and sees modern development basically as a multi-linear process. Yet, how can human rights be understood as a “multi-linear” process? Would different understandings and practices in this regard meet somewhere in the future? Eisenstadt allows that any path of modern development is capable of self-correction (Eisenstadt 2002: 24). Yet, he does not explain exactly what this means. It seems that in the case of human rights, the Darwinian approach faces ethical, rather than analytical controversies. It is clear that human rights are violated almost everywhere, but in some regions of the world the human rights rhetoric and legislation are even discarded as a Western imperialistic invention, which is taken as a pretext for oppression against people with different beliefs. If there are no universalistic norms of behaviour in the non-human natural world, this does not mean that they are not worth being established in the human world, in the name of protecting human life and its habitats. As much as the selectionist assumption applied to religious fundamentalism, to racism or to sexism produces major exclusions in society, the selectionist assumption applied to market fundamentalism also leads to a massive exclusion of unemployed persons, whose opportunities for finding new jobs are increasingly diminished. Obviously, the selectionist paradigm needs to be complemented with the transformational paradigm and some universalistic ethos, in order to serve as an important dimension of modern development, and ensure the creation of a sustainable world society.

Contemporary development in light of the two evolutionary paradigms

In the aftermath of World War II, up until the beginnings of the 1980s, welfarism and mass industrial production were trademarks in the West (Fordism) and the East (statism). Both regimes demonstrated varieties of transformational evolution. At the same time, they represented themselves as the end(s) of history. A further implication of this political eschatology is that it makes any new epoch impossible. Instead, the real, existing regimes can be recycled or expanded infinitely.
In the 1980s, with the end of the Cold War ideologies, such a prophesized era followed, based on neo-liberalism, i.e. the recycling of classical economic liberalism. Neo-liberalism is much closer to Darwin’s selectionism and multi-linear development than it is to Spencer’s transformationalism, based on the harmonization of individual competition and cooperation, as well as the unilinear development toward a fairer and post-industrial society. Similarly to early capitalism, neo-liberal capitalism coexists with a variety of regimes, such as crony capitalism, patrimonialism, mono-party dictatorship and monarchism, and tolerates the increasing economic gap, the incurable occurrences of poverty and unemployment and the hyper-production of commodities well (cf. Ziegler 2005). It is also no coincidence that contemporary mass culture imageries increasingly celebrate heroes and narratives based on medieval traditions.

When taking into account the ongoing processes of development, Darwin, Runciman, and even Weber and the positivists might say that the state of the art of today’s development reflects the evolutionary course in terms of selectionism. Accordingly, among different populations only a few are successful. On the other hand, for non-Darwinists in social theory the present condition of development is an intended consequence of selectionist-oriented scientists and policy-makers. For the former, who are closer to transformationalism, the modernistic project, which culminates with the welfare state, aspires to certainty and security and thus approaches a solution of the problem of development on the global level. In contrast, neoliberalism embraces uncertainty and risk as a “creative opportunity” (Sörensen and Söderbaum 2012: 13 et passim.). Thus, the policy of material safety and protection has been replaced by politics focused on resilience. Resilience represents a euphemism in relation to continuous global disaster management in which (military) interventions become normal practice. Even ideas and policies of sustainable development are pressured by the imperative of resilience. “/B/uilding resilient subjects presupposes... a world of constant exposure to... catastrophe” (Sörensen and Söderbaum 2012: 14). The bottom line of this criticism focuses on the growing economic instability in the world and the proliferation of wars— for example in Bosnia and Herzegovina, Kosovo, Iraq, Afghanistan, the Ukraine, etc. – as interdependent phenomena.

8 A good part of popular fiction is impregnated with non- or anti-egalitarian subjects - from varieties of the masters of the universe in science fiction to (pseudo)historical figures of emperors, kings and nobles in popular fiction (cf. Suvin 2010).
Perhaps, such admonitions of a global catastrophe, still based on a few instances of war, are exaggerated. One may hope so, but the broader picture is disturbing, as it indicates an ongoing paradigm-shift in the Western core countries - primarily in the United States - from state-building societies toward risk-societies, in which corporations in cooperation with traditional or re-traditionalized communities (Castells /1998/ would say: local mafias) break the backbone of Western democracy, based on a more intimate relationship between the state and civil society, where the state served as a protective shield for the citizens and not as a service for big business. The current change brings to mind what medievalist Marc Bloch described as an era predating the establishment of the feudal orders and kingdoms. The era was full of struggles for survival, in which anonymous persons were frequently attacked by bands of robbers, out of which the feudal nobility evolved in the High Middle Ages (Bloch 1989).

Still, the current developmental stand-off, though discrediting capitalism, cannot be used for demonizing it. Both capitalism and (former) socialism have significant shortcomings. A minus of capitalism is that it promotes the freedom of entrepreneurs, as a natural selection process, at the expense of socio-economic security and prospects of equality. A minus of (former) socialism is that it promotes social security under authoritarian rule at the expense of freedom (and democracy). By analogy, a minus of the transformational paradigm of evolution is that, actually, no society undergoes a complete transformation, and a minus of the selectionist paradigm is that no society is inclined to endless variation. The best theoretical solution should probably reflect real, rather than stylized, outcomes, mixtures rather than pure types.

Whether and how liberal and socialist policies of development can obtain each other’s virtues, and as such be implemented in international politics, is a question that exceeds the scope of this paper. The main tenet of this paper is that the state must be a coordinator of developmental policies, both on the national and on the global level. Today’s international scene is a product of the interaction of nearly two hundred states whose relations are contingent upon cycles of globally circulating capital, rather than

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9 As Joseph Stiglitz emphasizes, “/natural selection doesn’t work well, especially when capital markets are imperfect – which they always are” (Stiglitz 2010: 164, footnote 59).

10 Global capital represents, as Jacques Bidet put it, “a form of state centrality” (Bidet 1999).
bi- or multilateral agreements, whether in economic or cultural exchange. In such a configuration, a number of nation-states are subservient to big corporations, which act as the new lords who would eventually eliminate or subjugate the modern princes, i.e. nation-states as tax-imposing instances.11

In contrast, a responsible world government and democratic parliament would be more appropriate to keep a balance between the corporate interests and the general social interests in development. Such a world-state would have control over financial institutions, such as major banks, which alone, in their capacity of carrying out independent financial policies, have become detrimental to most countries in the world. A financial power, which would be consolidated as a central world bank in the remit of a responsible world government, may significantly contribute to solving the key problem in the human sequence of evolution, namely the survival of the fittest or inclusive fitness. In evolutionary biology these terms signify the number of offspring an organism produces or supports. Inclusive fitness, when translated into Darwinian social theory, means better opportunities for the survival of family circles surrounding the wealthiest or otherwise most successful individuals in a society. The survivalist “We” is, of course, a tiny group. Actually, mankind has never consisted of a single group or community, nor was it ever a cosmopolitan multitude. Although modern societies have significantly extended We-feelings in some parts of their populations, beyond their ethnic or religious boundaries, the magnitudes of a modern We, such as EU citizenship, are suspected to retreat to old boundaries and borders whenever economic crisis hits society (cf. Wallerstein 1990). On the other hand, for a government responsible to the whole world, Africa, or any major underdeveloped area, could no longer be an extraneous, i.e. some other peoples’, problem. In a cosmopolitan state, all important developmental issues are common and part of the government’s internal affairs.

Last, but not least, a new public sector may be created in place of the old one, which was a residual place in the (Hegelian) triangle between Family, Market and State (Hegel 1979). In place of the “tunnel”, through which working people pass on the way between their home and their

11 Consequently, capital evades higher taxes and prefers corporate tax havens such as the Maldives, Kuwait, Ireland, Qatar, Saudi Arabia, Hong Kong - China, Singapore, the U.A.E., etc.
workplace, the new public sector may diverge the route and become an area of regular meetings between different people. Likewise, instead of the rise of new poverty, of the “bottom billion” up to the “bottom two billion”, so to speak, new policies would knit a global safety-net for (temporary) losers in competitive games, in order to make them capable of competing again, of course, if they wanted to.

A project of a culturally oriented sustainable development

Trends in development theories today – from neoclassical to postmodern, and, among the latter, primarily alternative and sustainable development theories – are impregnated with melancholy and double bind, particularly among radical critics of capitalism. These critics acknowledge that they do not have a vision of a society that could outdo capitalism. Instead, the alternative imagery recurs to worlds of local communities, preoccupied with environmental issues and post-social interests (Knorr-Cetina 1997). In general, it seems that communal movements, both communist and communitarian, exhibit illusory aspirations vis-à-vis the colossal capitalistic Network (Castells 1998). At the same time, radical visions – created by Amin, Therborn, Habermas, Wallerstein, Touraine, Žižek, and other anti-capitalist critics – are inadequate as far as the developmental problems of (semi)peripheral countries are concerned. What these countries can do, that would, at the same time, be acceptable to the core countries, is not clear. Instead, the periphery always fails at what the core succeeds at, be it in terms of economic efficiency or political democracy. Also, owing to its poor skills, with no impact on its developmental outlooks, especially in research and development, the periphery looks like a headless body.

12 Castells’ communal haven is a metaphor that designates the lack of power of virtually all anti-capitalist movements. At the same time, he himself acknowledges that he has “exhausted his energy” of imagining a better future. Moreover, he maintains that humankind is “socially underdeveloped”, unlike informational technology which, for him, is overdeveloped (Castells 1998: 359).

13 This reminds me of some local museums (which I had the opportunity to visit), in which traditional costumes of nobility and the middle class were presented on wooden mannequins with heads and faces, whereas mannequins displaying the costumes of people from rural areas most often were either head- or face-less.
Perhaps, the first step in removing the barriers for peripheral development is to revise the concept of periphery in order to make it more vibrant and susceptible to developmental alternatives. For example, the semi-periphery, as conceived by Wallerstein (1992), is the analytical concept that describes it as a zone which, indeed, is more developed than the periphery but, like the periphery itself, is not capable of creating an alternative route of development vis-à-vis the core capitalism. In a more optimistic sense, a semi-periphery might be a zone of the world that combines different types of development policies more easily than policies in the core and the periphery, respectively. Likewise, instead of its ordinary role, according to Wallerstein’s model, of control over peripheries – i.e. servicing the core in such a capacity – the semi-periphery might, alternatively, extend its innovative policies of mixing selection and transformation, culturally specific forms with universally progressive forms of development, to the peripheries. Eventually, an innovative semi-periphery may influence concomitant changes in the core zone.

To meet the need for alternative designs of development, some concepts of sustainable development, especially culturally sustainable development, may be appropriate. Within a variety of concepts of sustainable development (cf. Neederven Pietrsee 2010; Kassel 2012), and culturally sustainable development in particular (cf. Bornshier 2005; Radcliffe 2006; Sacco, Blessi and Nuccio 2009), a concept of culturally oriented sustainable development is presented in the national document Croatia in the 21st Century: The Strategy of Cultural Development (Cvjetičanin and Katunarić 2003), which was discussed in the Croatian parliament, but was not adopted14, and, thus, could not be implemented in the national policy. The main idea of this strategy is closest to the assumption that socio-cultural evolution creates hybrids rather than pure types. The following quotation from the document illustrates the meanings of a culturally oriented sustainable development: “/C/ultural development in Croatia should focus on principles of sustainable development. To that end it is necessary to mobilize cultural heritage resources and new forms of artistic expression; initiate domestic cultural industries; raise the level of art education; step out from a strictly delineated cultural space

14 The document was accepted by a majority vote, instead of a parliamentary consensus, the precondition for proceeding with the implementation. In other countries of Europe, as well in Canada, the situation with different strategies, more or less relevant to culturally sustainable development, is rather similar (cf. http://www.culturalpolicies.net/web/index.php).
into everyday cultural life; open up numerous channels of inter-sector cooperation; enhance relations towards other cultures; etc. The long-term goal of such activities is sustainable cultural development, which implies:

a. increasing the interest of the population in quality products of elite, traditional, and alternative cultures,

b. developing needs, the meeting of which will alleviate the strain on natural resources and existing capacities of infrastructure and inhabited areas,

c. strengthening social cohesion and communication outside the traditional frameworks of social identity and defusing social-Darwinist aspirations." (Cvjetičanin and Katunarić 2003: 165).

In other words, culturally sustainable development stimulates sustainable economic development, e.g. slowing down the work and life rhythms, by using cultural means, ranging from the artistic design of workplaces to traditional customs or new urban practices concerning food, for example, which unfold slowly and do not take profit as their primary, or their only goal. Surely, owing to the fact that the Croatian strategy has not been implemented so far, the whole case may be seen as an argument *a contrario*, demonstrating that developmental policies select policies close to pure types or to existing practices favourable to the core - e.g. the privatization-marketization-commercialization chain - rather than to mixed types. My counter-argument is that the former are detrimental to peripheries and semi-peripheries and, in the longer run, to the core. Of course, this argument is still hypothetical. Nevertheless, a scientific argument should not be based on a fait accompli either, which is a variant of the fundamental(istic) belief that the real-existing economy and society is the best one at the same time. This is also a tenet of sophisticated militaristic regimes, that originates from Plato’s *The Republic* , in which the sophist Thrasymachus defines justice - which is a political version of the meaning of truth - as “the right of the stronger” (Plato 1992).

The concept of a culturally oriented sustainable development concerns a broad selection of diverse elements of cultural institutions and practices

15 In the Strategy document, the points a, b and c constitute the elements of the definition of a culturally sustainable or culturally oriented development (see also: Cvjetičanin and Katunarić 2012).
that fit a post-neoliberal and post-statist era, cultural and other policies (education, health, housing, employment...). A sustainable economy/society combines elements of market and state regulation in different proportions, adapted to conditions of individual countries, regions, and people(s). A sustainable society combines elements of association and solidarity with individual independence and competition. Sustainable (democratic) politics consist of a triangle of representative democracy, meritocracy (parliamentary houses with experts from different areas), and basic or immediate democracy (as a corrective of the local and national political institutions’ decision-making). Such politics put forward soft rather than hard power (resources), by using persuasion rather than coercion. Finally, a sustainable cultural and scientific policy combines quality products of different cultural and scientific styles, and propagates them through education and the media, as well as through popular places of public gathering.

Why are hybrids more sustainable than pure types?

By borrowing from, rather than polarizing, the free market and the state-planning systems, hybridization contributes to organizing development in the context of different cultures in the globalizing world (cf. Galtung’s renunciation of the opposition between Smithism and Marxism in: Galtung 1989). Such an understanding of development policies makes possible the creation of a sustainable development as a set of different, shifting, points or intervals on the scale of developmental policies, between laissez-faire and state dictatorship (Cvjetičanin and Katunarić 2013: 187-190). A sustainable development takes into account both cultural diversities and different levels of development. Also, it is a dynamic process, not a fixed middle course between the extremes. Simply stated, some individuals or organizations are more inclined to competition and uncertainty, while others are more inclined towards solidarity and certainty. These dispositions are unevenly distributed among different cultures. Some cultures are certainty- and others uncertainty-oriented (Hofstede 2002). Nevertheless, for the sake of keeping a dynamic balance of development in different cultures, both tendencies must find their place on the scale of
development policies. Hybrid policies also correspond to the need for a personal balance between basic, yet opposed, human inclinations, which Rousseau described as amour-propre and amour de soi (cf. Kolodny 2010), and Riesman as other-oriented and inner-oriented behaviours (Riesman 1950).

A (post)modern or high-modern\textsuperscript{16} society must certainly be organized in such a way that people occupy nearly equal positions in a society, and, at the same time, are free to choose between more competitive and more cooperative relations with others. Sustainability of the conditions of equality and freedom are by no means pre-modern values. For instance, feudalism and slavery were technically “sustainable” for centuries, which is a fact favourable to the selectionist paradigm, as the ruling groups were rarely opposed by the subordinated ones (slaves, peasants). Today, such a social order cannot be sustainable in the long run (unless the West changes its political paradigm profoundly - see above regarding threats of “resilience” and protracted wars). Hence, the selectionist paradigm of evolution must be complemented with elements of the transformational paradigm pertinent to modernity, whether in terms of liberalism or socialism. Either way, modern society is, ideally speaking, founded on ethical universalism. It is a postulate according to which people can adapt their behaviour to, or claim the implementation of universal rules (e.g. the ban of homicide), and may want to or be able to transcend the real existing social order, based on deepening social inequalities and/or on violations of human rights, through reforms or revolutions. Such purposive rationality is appropriate for modern societies due to their, in Eisenstadt’s words, capabilities of self-correction. Assuming his notion of self-correction reflects the core of the Kantian notion of the transformation of traditional or particularistic morality into universal/modern morality – which is instituted in most modern societies through anti-discriminatory legislation. Yet, differences between the de jure and the de facto state of universal norms in various countries or regions leaves enough space for

\textsuperscript{16} Here, nearly equal meaning is given to both terms because high modernity includes a higher tolerance toward differences. The only difference between the two may be that in high modernity universalism has primacy over particular values. In any case, post-modernity is not only a temporal category in terms of what follows the end of modernity, which really happened, although temporarily, with the rise of Fascism, for example, representing a mixture between a cultural tradition, e.g. anti-Semitism in a good part of medieval and early modern Europe, and new technologies in weaponry and in the media (e.g. radio). Yet, a more important meaning of post-modernity is that it adopts some essential values of modernity - freedom and equality, in the first place - and then insists on their “translation” and recreation in different cultural and economic contexts which, admittedly, may make the meaning of those values relativistic in a certain measure (for instance, as regards debates about individual and collective rights in multiculturalism - cf. Kymlicka 1996).
self-correction of current democratic societies.

At any rate, units of a globally sustainable society will necessarily vary with regard to the variable importance allotted to institutional spaces for market and solidarity - the principles that are pertinent to democracy as such - provided that these principles do not exclude each other. Otherwise, if a society is ruled exclusively by the free market, or by the prerogative state, sooner or later the society will collapse due to resistance of the majorities hit by exclusionary policies.

Surely, the idea of achieving sustainability through mixed modalities of the allocation of material goods and decision-making powers is not entirely new. Max Weber, and long before him Machiavelli, argued that some policy areas and some occupational sectors are inappropriate for democracy, whereas other areas are not appropriate for oligarchic or monarchic rule (cf. Maley 2011). For example, democracy is impractical in science and arts, as these sectors are meritocratic by definition. On the other hand, issues of social and economic justice, including the distribution of income, especially state funding, are inclined towards democratic decision-making. At the same time, in modern education, mixtures of meritocratic competences (of teachers) and participation (of students) are more adequate than meritocracy or educational populism, etc. It can generally be argued that the higher a society is developed – with an increase of the better educated population – mixed modalities, that combine elitism and broad participation, are more appropriate. Furthermore, in countries which make attempts at advancing the practice of sustainable development, such as most Scandinavian countries, social inequalities are smaller than in countries such as the United States or North Korea, for example, which deal with pure types of liberal or statist policies, respectively.

Last, but not least, hybrid patterns of development would be easier to maintain by a world government (e.g. by the United Nations, advanced to such a role), than by international contingencies of the laissez-faire economies, or by competition between nation-states or blocs of nation-states. Nevertheless, some nation-states, just like a world government, might be faced with regional or local intransigence derived from some cultural contrast (e.g. between individualism and collectivism), political
extremism or deeper economic gap. Still, it might be easier to govern such a huge and diverse landscape, as the governance would take place in a world-wide space, in which most units are no longer politically divided with regard to the basic principles of freedom and equality, where extremes and exclusions are rather rare. In the current international arena, consisting of nation-states with unequal powers, where the global market economy, run by big corporations, assisted by the governments of developed countries, any attempts of establishing global regulation and governance are consistently avoided. Conversely, the existing policies of development, marked by the expansion of the neoliberal agenda, favour the rise of extremes. At the same time, a more balanced global policy may have a more favourable impact on less developed countries, and may also produce more adequate solutions in politics and intergroup relations in general. Such a policy may include different forms of socioeconomic development, more or less competitive or cooperative, and democratic decision-making (more representative or more basic democracy – with more or less meritocracy), and a vibrant cultural life (traditional, /post/ modern or combined), rather than treating non-economic dimensions of society as residual or indiscriminate effects of the laissez-fair economy. With the growth of such policies the coordinative role of the state will gain importance as well.17

In lieu of a conclusion

Finally, I would like to again paraphrase Valéry’s observation from the beginning of the paper, this time using the metaphor of a “dancer” as proxy for the idea of a culturally oriented sustainable development. Units that may jointly produce a global society which is ecologically sounder and more sensitive to the needs of other units, should neither “dance” without rules nor “calculate” on the basis of their own interests only. The latter brings back the Hobessian state of nature, which was reiterated in The Communist Manifesto as a false alternative leading to “the common

17 “/G/lobalization and state growth have gone hand in hand precisely because economic interdependence – or the exposure of social relations to international pressures – increases, not decreases, the social utility of the state” (Weiss 2006: 170).
ruin of the contending classes” (Marx and Engels 1848: 2). Rather, a set of prudent policies of a culturally oriented sustainable development should produce a common habitat for contending parties, compelling them to acquire habits of correcting their initial or crude interests into interests acceptable to other parties. This would be the result of a dialogue for the sake of (Kantian) conviviality. Such an approach to development looks like a skilful dancer, who switches to different rhythms when needed. One rhythm is prescribed by basic rules and is rather monotonous, while the other is rhapsodic and basically improvised, yet both are necessary. This evokes the figure of a dancer depicted in T. S. Eliot’s Four Quartets:

“From wrong to wrong the exasperated spirit
Proceeds, unless restored by that refining fire
Where you must move in measure, like a dancer” (Eliot 1943)

By analogy, a culturally sustainable development represents the skill of self-reliant movement, acquired through a long process of trials and errors.
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Solidarity and the Market in the Area of Insurance Schemes

Ivona Ondelj

Abstract

The text provides a detailed analysis of the significance and role of the principle of solidarity in compulsory and supplementary insurance schemes. The analysis is focused on solidarity as the benchmark when deciding on the applicability or non-applicability of the rules on effective competition on the market in the EU. The principle of solidarity is closely linked to the objectives of social policy, which demand special treatment in the intense market arena. The selected interpretations of the Court of Justice of the EU carry great importance, considering the discretion of Member States in the area of social policy. The text provides an elaboration and final remarks concerning the principle of solidarity which is able to shelter (more or less) the provision of insurance services in the EU.

KEY WORDS:
EU, solidarity, insurance schemes, general interest, competition
Introduction

Solidarity carries great significance in the European Union (EU). It forms part of the elementary values of the EU.\(^1\) Also, solidarity has been placed among the main aims of the EU, considering that the obligations of the EU and the Member States\(^2\) have been directed towards the promotion of solidarity among generations. Furthermore, the economic and territorial cohesion among the Member States is enriched by the promotion of solidarity within the EU.\(^3\)

Solidarity is also incorporated into the EU’s acting on the international scene, while the solidarity clause presents the main factor in the expectations set before the EU and its Member States in the case of natural or man-made disasters, or terrorist attack.\(^4\)

According to the literature, solidarity has more than a symbolic character. In that regard, it has been considered that solidarity has a normative connotation. Actually, solidarity can be used as the adjudicatory benchmark (Micklitz 2011: 98). Solidarity will be observed in the following analysis exactly in this role – as being the relevant benchmark for making decisions on the applicability of the rules on effective competition in the area of insurance schemes.

The principle of solidarity is present in the area of insurance schemes. These schemes provide insurance services on the market under various conditions. Sometimes they can be characterized by the element of compulsory affiliation, under the umbrella of the incorporation of the principle of solidarity and the protection of general interests of the users. In this case, the rules on effective competition on the market can be applicable to a limited extent. Also, in such cases the insurance schemes can be exempted from the applicability of the rules on effective competition.

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2. Solidarity is the main characteristic of the judicial cooperation of the various Member States in civil and criminal matters.
3. Article 3 of the TEU.
competition on the market.\textsuperscript{5} The principle of solidarity and the orientation of the activity towards the fulfilment of social goals determine to a great extent the applicability of the relevant rules. Actually, the nature of the activity of the entity which pursues the insurance scheme is relevant for determining the applicability of the rules. However, there are various elements which can be taken into consideration while making such judgements. Also, it is interesting to observe the reluctance of the Court of Justice of the EU when searching for the assurance of the presence of the principle of solidarity in the activity in question, in order to confirm that the derogations can be applied. The Court of Justice of the EU considers the social aims and the interests of users as being very significant. However, it is necessary to have a convincing assurance in order for the relevant rules to be determined as being not applicable, or being applicable to a certain extent.

Having all this in mind, the text aims to analyse the relevance of the principle of solidarity (as being closely related to the social aims of the activity in insurance schemes) in the insurance activities. Actually, the analysis will encompass the examples of the activities where the existence of the complete absence of the economic nature of the insurance scheme’s activity is determined. Also, the text will analyse the cases where the activity can be determined as being economic, but the rules on the effective competition on the market are applicable to a limited extent.

Considering the relevance of the role of the principle of solidarity in such categorizations, this text will analyse solidarity in that regard. The relevant literature implies that solidarity indeed can be used as the adjudicatory benchmark. The text is focused exactly on this specific particularity of the principle of solidarity in the selected case law of the Court of Justice of the EU. The analysis aims to show what is significant for the applicability or non-applicability of the rules on effective competition on the market when it comes to the principle of solidarity in the interpretations of the Court of Justice of the EU. Also, the analysis will point out the relevant issues which may arise because of the lack of legal certainty in that regard.

\textsuperscript{5} The general notion of the rules of effective competition on the market will be used. However, it can be pointed out that such a notion would [most probably] imply the rules on prohibited agreements between entrepreneurs, as well as rules on the protection of the abuse of the dominant position on the market.
The principle of solidarity in the interpretations of the Court of Justice of the EU

The Court of Justice of the EU has provided important guidelines while interpreting the applicability of competition rules concerning compulsory insurance funds (for various sectors). How important the principle of solidarity is as well as how important the social aims of the relevant activity can be are questions which need to be analysed in order to provide the relevant assessments on the possibilities of reserving certain insurance funds for chosen providers only. Furthermore, the role of social policy objectives and the nature of the activity are in the focus of relevant assessments when deciding on the compliance of compulsory membership and exclusive rights of providers of insurance with EU Law.

An example can be found in the case Poucet and Pistre on one side and obligatory insurance funds (managing the sickness and maternity insurance schemes for self-employed persons) on the other. In this case, the dispute arose on the compliance of the principle of compulsory affiliation to a social security scheme with EU Law, considering that such a compulsory nature restricts the free choice of users to turn towards other private insurers which offer their services on the market.

The Court of Justice of the EU clearly supported the discretion of the EU Member States to organize their social security systems. Furthermore, it was clearly determined that an insurance scheme which provides compulsory social protection, under the principle of solidarity, and is applicable to all self-employed persons in non-agricultural occupations (for sickness and maternity insurance cover) and craft occupations (for old-age insurance cover), needs to be considered as one pursuing a social objective. The important fact was that the insurance is provided to all persons (in the named categories of self-employed and craft occupations). The differences in financial status or in health condition were of no relevance in that regard. However, it needs to be pointed out that contributions were proportional to income, while persons receiving invalidity pensions or having very limited financial resources were exempted from payment.

of contributions. Also, persons who stopped being insured were entitled to receive the benefits for a year after the termination of their coverage (and this was made free of charge).

The principle of solidarity can actually be recognized in the element of redistribution of income between bad and good risks as far as the health condition of the insured persons is concerned. Furthermore, as far as the pension system (old-age pension system) is concerned, such a distribution can be recognized in the fact that the active labour force is actually financing the pensions of retired workers.

The significant element of the scheme was also the fact that there was a certain reallocation of resources. Actually, there was a spill over from the social security schemes with financial resources to those with difficulties in their financial resources. Clearly, the social character of the activity contributed to the determination that such spilling over in finances cannot be regarded as being contrary to market rules. On the contrary, it was observed as the indicator of solidarity between the various schemes and their users.

It can be said that these characteristics have highlighted the characterization of the relevant insurance schemes. The activity was determined as being non-economic, while the whole operation of the insurance schemes was set aside from the competitive market arena. Compulsory affiliation was necessary for the application of the principle of solidarity. In case of the introduction of optional affiliation, the realization of the principle of solidarity would be undermined. Furthermore, compulsory affiliation was necessary for the maintenance of financial equilibrium within the relevant schemes. In other words, the absence of the compulsory nature of the scheme could result in the systematic outflow of the good risks to other private insurers operating on the market. In such a case, the financial resources of the relevant insurance funds would be decreased, so the principle of solidarity could not be respected, while the social aims of the scheme would not be attained.

Contrary to such interpretations, in the case Fédération Francaise des

7 For the purposes of further clarification, the bad risks were actually the older people or people with worse health conditions. On the other hand, the good risks were related to the younger, healthier people.
Sociétés d’Assurance and Others (hereinafter: FFSA and Others)\(^8\) the Court of Justice of the EU determined that the entity which operates an insurance scheme aimed at supplementing the basic compulsory pension scheme, and is led by the principle of capitalization\(^9\), needs to be considered as an undertaking pursuing economic activity when it comes to determining the applicability of the rules on effective market competition. The limited incorporation of the principle of solidarity in the activity of the FFSA was established. This was evident because of the contributions which were not linked to the insured risks. Also, there was a possibility to be exempted from payment of contributions in case of illness, as well as of the temporary suspension of payment of contributions because of the economic situation of the holding. Furthermore, the contributions paid were at disposal in the case of premature death of the insured member.

However, the limited application of the principle of solidarity, next to the non-profit character of the entity or orientation of the activity towards the fulfilment of social aims were not enough to exclude the FFSA from effective competition on the market. In other words, the Court of Justice of the EU concluded that the named indicators were not enough to characterize the activity of the FFSA as a non-economic one. In that regard, the rules on effective competition were applicable to the FFSA and its activity.

If the case FFSA and Others is compared with the case Poucet and Pistre, the relevant differences can be seen. For example, the non-profit nature of the activity, as well as the presence of the principle of solidarity and of social aims, were taken into consideration as the main arguments in favour of the exempting of the relevant funds from the economic market spheres in case Poucet and Pistre. On the contrary, in the case FFSA and Others the Court of Justice of the EU was considering how present the principle of solidarity actually is in the activities of the various entities. For that reason it is necessary to observe the position of the principle of solidarity in the activities of the FFSA, in comparison with the activities in case Poucet and Pistre. In that regard, it can be pointed out that the Court of Justice of the EU took into account certain facts which confirm the presence of the

\(^8\) Case C-244/94 FFSA and Others [1995] ECR I-4013.

\(^9\) It can be said that the principle of capitalization means benefits which depend greatly on the financial results of the business. The applicability of the principle of capitalization usually refers to the existence of an undertaking in the particular case.
principle of solidarity in the activity of the FFSA. The contributions were not linked to the insured risks. So, for example, in case of premature death of a member, the contributions paid were at disposal. Also, in case of illness of an insured member, there existed the possibility of exemption from payment of contributions. The economic situation of the holding was relevant too, considering it was able to influence (and suspend) the payment of contributions. All these elements were a manifestation of the principle of solidarity. However, in the case Poucet and Pistre, it needs to be said that the contributions were proportional to the income of the insured persons, while there was also the exemption of one whole category of persons (recipients of invalidity pensions and retired members with limited resources) from the obligation of payment of contributions. Furthermore, as it has been explained before, the termination of the coverage did not mean the absolute termination of receiving benefits.\(^\text{10}\) Also, the redistribution of financial resources was considered to be the greatest sign of solidarity. Furthermore, although the principle of solidarity was present in the activity of FFSA, it was not essential for its activity. In other words, the extent of the application of the principle of solidarity in this case was actually limited, if compared to the case Poucet and Pistre.

Further relevant examples can be found in the case Albany International BV v. Stichting Bedrijfspensioenfonds Textielindustrie (hereinafter: Albany).\(^\text{11}\) In this case, the dispute was based on Albany’s refusal to pay the contributions to the Textile Industry Trade Fund (hereinafter: TIT Fund). The TIT Fund was a sectoral pension fund and was marked by the characteristic of compulsory affiliation. Albany considered that the paid pension amounts were not adequate for its workers, so it opted to pay contributions to another supplementary pension fund.\(^\text{12}\) Considering the fact that the supplementary pension fund was chosen, Albany requested exemption from compulsory affiliation to the TIT Fund. These are the basic facts of the case.

However, for this analysis it is actually more important to elaborate on the approach of the Court of Justice of the EU while determining the

\(^\text{10}\) The benefits were available for one year after the person’s coverage with the scheme was over.


\(^\text{12}\) The main goal was to provide retired workers with a proper amount of pension, which would correspond to 70% of their salary.
applicability of the relevant rules on effective market competition. Actually, the Court of Justice of the EU was analysing the compliance of the decision\(^{13}\) on setting up the pension fund as a single fund (responsible for the management of the supplementary pension schemes) and making the affiliation to that fund compulsory, with the provisions which prohibit all agreements which have as their object or effect the prevention, restriction or distortion of competition within the internal market.\(^{14}\) In that regard, it is very important to point out that the Court of Justice of the EU underlined that the social policy objectives find their place when determining the applicability of the competition rules on prohibited agreements. In other words, it is expressly stated by the judgement in the Albany case, that such agreements made between the employers and workers are targeted at the realization of social policy objectives. The fulfilment and realization of social policy objectives would be undermined in case those agreements would be bound by the rules on prohibited agreements. The exact purpose and characteristics of such agreements (including the way of their negotiations) confirm that the presence of the social element can exclude the relevant agreements from the scope of application of the competition rules. These agreements have been created within a social dialogue, and they support social policy objectives, which is sufficient to exclude them from the applicability of competition rules.

The Court of Justice of the EU has concluded that the compulsory nature of the TIT Fund presents the express provision of the regulatory authorities of the state in the social sphere. So, the creation of a fund which provides a supplementary pension scheme and is marked by compulsory affiliation of its users is in compliance with EU Law.

The Court of Justice of the EU pointed out that compulsory affiliation of workers to the Fund can be described in light of fulfilling its social function. Such an interpretation has found its basis within the argument that the statutory pension (considering the minimum amount of wages) was very low, so the supplementary pension schemes can help in making the relevant amounts more appropriate to the workers. However, the main point was the fact that the sectoral pension fund was based on the principle of solidarity. The Court of Justice of the EU described the

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\(^{13}\) The decision resulted from the collective agreement.

\(^{14}\) The prohibited agreements are regulated by Article 101 of the TFEU.
concept of solidarity through the existence of the schemes which accept all workers without prior medical examinations, as well as through the entitlement to benefits despite the incapacity for work or employer’s insolvency. Furthermore, it is important to point out that in the focus of the arguments in favour of the applicability of the principle of solidarity was the fact that the contributions did not result from risks, nor were they connected to final rights.

The case Pavlov and Others\(^{15}\) can also offer relevant interpretations in relation to the indicators of the principle of solidarity in insurance schemes. This case concerns the second-pillar pension fund which provided pensions for medical specialists (as members of the profession). The pension scheme was set up in two parts. The first one included old-age pensions known as basic pensions, without the indexation of benefits reflecting increases in income. The members of the profession were free to choose the insurer.\(^{16}\) However, the second part of the scheme was funded by contributions calculated on an actuarial basis (except for survivor’s benefits which were funded by fixed average contributions).

The most important part of the case was the interpretation of the Court of Justice of the EU concerning the solidarity principle. In that regard, it was concluded that the contributions were not linked to insured risks, while the members of the medical profession were accepted to the scheme without prior medical examination. Next to all the other elements which were indicators of solidarity, these elements were sufficient for the scheme to be viewed in light of encompassing the principle of solidarity to a certain extent. The presence of the principle of solidarity was very relevant. Solidarity in this case was, furthermore, found in the elements of retroactive pension rights, the invalidity regime, indexation mechanisms and complementary benefits for survivors. It was especially pointed out that no selection of risks through medical examination was necessary for the insurance regime.

However, the capitalization scheme was applicable in the operation of the medical specialists’ fund. Also, the amount of benefits was linked to


\(^{16}\) One of the roles of the medical specialists fund was to collect contributions and forward them to the insurer or to set the premiums with the chosen insurer (according to the age, sex, income etc.).
the financial results of the medical specialists’ fund. In that regard, it was concluded that when it operates, the medical specialists’ fund acts as an undertaking which pursues economic activity, so the rules on competition and market freedoms should be applicable in that regard.

When analyzing the principle of solidarity in the relevant case law, the connections of this principle with social policy objectives need to be observed. In that regard, the case Brentjens’ v Building Materials Trade Fund (hereinafter: BMT Fund) needs to be mentioned too. In this case, the Court of Justice of the EU decided on the issues raised in the proceedings on Brentjens’ refusal to pay the BMT Fund its contributions. In that regard, the Court of Justice of the EU underlined that the agreements resulting from collective bargaining are pursuing social objectives. Such agreements result from social dialogue and can be directed towards the establishment of supplementary pension schemes managed by pension funds to which affiliation can be made compulsory. The purpose of such a scheme is actually an important factor in determining its characterization within social policy objectives. A scheme such as this one serves to provide guarantees on the provision of a certain level of pension for all workers. It also aims at the improvement of their working conditions and remuneration. In that regard, a scheme such as this one is characterized by significant social policy objectives.

Economic activity and undertaking – the principle of solidarity

The interpretations of the Court of Justice of the EU are relevant for elaborating on the economic activity of such funds, as well as on the fulfilment of the requirement of undertaking in relation to the applicability of competition rules. Actually, in order to evaluate which way solidarity and social aims influence the applicability or non-applicability of relevant competition rules, it is necessary to observe the criteria relevant for the existence of economic activity, as well as of an undertaking in each case.

Furthermore, the analysis will encompass the relevant case law in that regard to the extent necessary for the better understanding of the place of the principle of solidarity in such schemes.

For clarification purposes, it needs to be pointed out that the relevant case law determined that economic activity is every activity of an industrial or commercial nature which offers goods and services on the market.\(^{18}\) Furthermore, the fact that the entity which pursues the activity in question takes over certain risks providing the activity\(^{19}\), or the fact that the activity is profit-making in its substance will indicate the economic nature of the activity.

The notion of undertaking encompasses every entity engaged in an economic activity. In that regard, it is of no relevance which legal status the entity has, or how it has been financed.\(^{20}\) An undertaking might also encompass natural persons, considering that the legal status of the entity carries no relevance in such a classification. So, as the Advocate General Jacobs has explained in his Opinion in the case Pavlov and Others, the underlying idea of such an approach is to exclude that the existence or non-existence of specific legal forms (in which some entity or person will provide services and goods with a view of profit) determines the existence of an undertaking for the purposes of the application of the relevant market rules.\(^{21}\) However, the Advocate General Jacobs divided the spheres relevant for the activities which are provided by the notion of undertaking. In that regard, he distinguishes between the economic and personal sphere of activities. Furthermore, the Advocate General Jacobs claims that when the notion of undertaking encompasses natural persons, special care should be taken to delineate the border between the activities in their economic or business and personal spheres. Simplified, professionals can be regarded as undertakings. When a group of professionals buys tickets for a concert or for a private (collective) trip to a chosen destination, this falls into their private sphere of activity. However, when the professionals buy office equipment, such activities


\(^{19}\) Pavlov and Others, op.cit., fn 17, para. 74.


fall into their economic sphere of activity (where the relevant rules on market freedoms and competition apply). This distinction is very interesting considering that it opens further debate on the right criteria for setting the border between the relevant spheres. It is obvious that the purpose of the activity carries great importance while defining the category where the activity should be placed. Considering that the notion of undertaking is elaborated within this subject to the extent necessary for understanding the main concept of the applicability of competition rules to the relevant funds and the principle of solidarity, further analysis of this matter falls outside the scope of this elaboration. Having in mind the notions of economic activity and undertaking, it can be further said that in Poucet and Pistre the Court of Justice of the EU underlined the social function of the relevant insurance schemes. Actually, it was determined that the relevant insurance schemes are only directed towards the fulfilment of social functions. Considering that their activity is based on the principle of solidarity, and is entirely non-profit in its nature, the conclusion was that such statutory benefits are not linked to the amount of contributions paid. Finally, the Court of Justice of the EU concluded that the activity of such funds should be regarded as non-economic activity. Also, the fact that such entities fulfil an exclusively social function was the main indicator for the establishment of the absence of an undertaking.

Actually, it can be said that the relevant activity of such funds is protected from dynamic market flows. The solidarity schemes and the social nature of the activities present the elements which have contributed to such a treatment of the funds. The competition rules were not applicable in this case.

It is interesting to observe which elements were actually discernible in case FFSA and Others while determining the nature of the activity in question. In that regard the supplementary nature of the scheme and the applicability of the capitalization principle implied the existence of economic activity. Also, there existed a certain linkage of benefits to contributions paid and to investments made into the entity. This further indicated that the amount of benefits was dependant on the contributions paid.

Similarly to the case FFSA and Others, in Albany, the Court of Justice
of the EU concluded that the TIT Fund operates according to the capitalization principle, as well as that the amount of benefits depends on the investments made into the TIT Fund. Further arguments concern the fact that an exemption from compulsory affiliation to the TIT Fund can be made, but it needs to be connected with other schemes of pension funds which can grant at least equivalent rights and benefits as those granted by the TIT Fund.  

Having all this in mind, it was established that the economic nature of activity exists. Furthermore, as it was explained before, the fact that the entity was non-profit in nature or the fact that the entity was operating an activity which encompassed limited elements of the principle of solidarity did not affect the classification of the activity as economic activity. The existence of such elements was not considered as being significant for exempting the activity of the entities from the economic sphere and applicability of competition rules on the market.

In the case Brentjens’ the BMT Fund was also characterized as an undertaking which pursues economic activity on the market, considering it was engaged in competition with other insurance companies. The indicator of such an economic nature of the activity was the fact that the amount of benefits depended on the financial results of investments made. As the Court of Justice of the EU held in its relevant jurisprudence, the non-profit nature of the BMT Fund as well as the presence of the principle of solidarity in its activity were not sufficient to conclude that its activity should be placed out of scope of the applicability of competition market rules.

Finally, similar interpretations were provided in the case Drijvende Bokken against Transport and Dock Industry Pension Fund (hereinafter: TDIP Fund) which was led on the refusal of Drijvende Bokken to pay contributions to the TDIP Fund. This fund was operating on the principle of capitalization and the amount of contributions and benefits were determined by it. It was relevant for the determination of the TDIP Fund as being engaged in economic activity on the market, considering the amount of benefits was closely linked to the financial results of the investment made by it. As in the

23  Albany, op.cit., fn 13, para. 81 - 83.
cases mentioned before, the fact that the TDIP Fund was operating on a non-profit basis as well as that its activity encompassed the element of solidarity was not determinant in defining its activity as an economic one. Also, the TDIP Fund was operating as an undertaking and the relevant market competition rules were applicable in that regard.

Having in mind all the aforementioned, it is evident that the economic nature of an activity (as well as the existence of an undertaking) depends greatly on the linkage of benefits to contributions made, or on the applicability of the principle of capitalization in the operation of insurance schemes. Furthermore, the prevailing social function of an insurance scheme can be an indicator of the absence of economic activity. More concretely, the operating of insurance funds which are totally directed towards the fulfillment of social objectives need to be sheltered from competition on the market. The further analysis will show what should be discernible in that regard.

The principle of solidarity and the justification of restrictions

The question which stands unanswered for further analysis is whether the elements of solidarity, even if present to a limited extent, can make some difference on the market. This question is grounded, considering that the insurers which are obliged to operate their business and provide services under the solidarity principle, and can be placed in a less competitive position on the market, if compared to those not operating under such an obligation. In other words, if the freedom to contract and freedom to frame the content of such contracts is limited with the principle of solidarity or certain social aims, it is evident that entities operating in this way will possibly be limited in making profit. Also, considering they are operating under the application of the rules on effective competition, such entities can suffer significant losses when they are exposed to intense market forces.
In that regard, it can be said that the presence of the elements of solidarity, as well as the orientation of the activity towards the fulfilment of social aims can serve as a justification of the restricted application of the rules safeguarding effective competition on the market. According to some authors (Ross 2009: 94), solidarity presents the central value, but also the instrument which serves the justification of restrictions which can result from the interplay between markets and social justice.

Even a limited presence of the principle of solidarity can be relevant for justifying the entrustment of certain special or exclusive rights which can provide “protected” market status in comparison with other insurers. Indeed, the fact that a certain entity operates with the obligation to apply the principle of solidarity, even when limited in scope, says that such an entity can suffer a less competitive position on the market in comparison with other entities. This amplitude actually leaves certain space for the derogation of the applicable rules on effective competition, in cases where such restrictions or derogations can be justified as being necessary and proportionate to the protection of the interest of the users. So, when it is necessary to derogate from the applicable rules on effective competition in order to protect the social aims and general interest of the insured persons, the insurance schemes can enjoy special rights and a special position on the market. However, the introduced derogations should not restrict competition more than it is strictly necessary in order for the objectives to be fulfilled and the general interest protected.

If the interpretations in the case FFSA and Others are taken into consideration, it can be concluded that the arguments put forward on the non-profit nature of the Fund, as well as on the principle of solidarity present within it were not considered as determinant while deciding on the classification of the Fund as an entity which pursues economic activity. The Fund was declared as being an undertaking. However, those elements were relevant while deciding on the ability of the Fund to compete on the market (and provide services) with other insurance companies under the provisions of competition law. Considering that the Fund was granted the exclusive right to manage supplementary pension schemes, it was important to see whether such rights can be justified as the rights conferred for the protection of the general interest.
Furthermore, in case Albany the intensity of competitiveness of the TIT Fund was relevant in order to establish whether or not the TIT Fund can be placed on an equal footing with other insurance companies on the market. In that regard, the Court of Justice of the EU elaborates the presence of the principle of solidarity in the activities of the TIT Fund. Actually, in case the principle of solidarity and pursuit of a social objective are present in the activities of a certain entity, they need to be taken into account and analysed in order to be able to determine to what extent the rules on effective competition (or in the relevant case on prohibited agreements) can be applicable in a particular case. Also, these elements were necessary for analysing whether the TIT Fund should be placed in the same position as other insurance companies which operate under dynamic market conditions. These two characteristics, as well as its purpose and existence, were crucial while deciding on the fact whether the TIT Fund was fully competitive or its competitiveness can be regarded as decreased in relation to other insurance funds and companies on the relevant market.

Considering that the supplementary pension scheme was fulfilling a social function within the pension system of the Netherlands, the Court of Justice of the EU pointed out that the removal of compulsory affiliation to the supplementary pension fund would lead to the possibility for employers to seek better insurance offers which could be agreed for young and healthy employees. Those employees present good risks, considering they have good health and they bring very low risks to the health insurance company as a whole. The gradual spill over of good risks would furthermore leave the TIT Fund with most of the bad risks insured, demanding greater financial resources for benefits. As a result, the financial stability of the TIT Fund may be brought into question, and in a situation such as this may result in shortages. Having in mind the lack of linkage between risks and contributions, and finally benefits, it is clear that the greater percentage of bad risks could seriously undermine the principle of solidarity incorporated into the activity of the TIT Fund. Also, it would seriously undermine the protection of the general interest. It was exactly these possibilities which justified the exclusivity of the rights conferred for the provider of services.

Distinguishing between the compulsory insurance schemes which were based on the principle of solidarity to a significant extent and those which
were intended to supplement the old-age pension scheme (compulsory in nature), it was clearly stated that the incorporation of the principle of solidarity carries great importance. In that regard, the fact that certain benefits from the insurance schemes are the same for all persons insured within such schemes (even in cases where contributions were linked to income), as well as the fact that pensions were funded by employed persons, were considered as the relevant indicators of the presence of solidarity to a greater extent in such schemes. Furthermore, the fact that the pensions were not linked to benefits paid, next to the fact of the financial reallocation of resources from the area having resources to the areas lacking resources, was relevant in order to determine that the principle of solidarity is significantly incorporated into the scheme. The named indicators imply that the scheme needs to be compulsory, as well as that such a scheme needs to be excluded from competition on the market as a whole.

However, supplementary optional insurance schemes (such as the one in case FFSA and Others or case Albany) intended to supplement the basic compulsory scheme were considered as being undertakings. In these cases, the schemes were operating on the basis of benefits which were linked to contributions paid, and investment made, so although present, the principle of solidarity was not incorporated into the schemes to such an extent to exclude the applicability of the competition rules. The non-profit character of the funds, as well as the limited presence of the principle of solidarity did not alter the application of the rules on market competition. Similar conclusions were drawn in case Pavlov and Others, where the intensity of incorporation of the principle of solidarity into the activity of the medical specialists’ fund was not strong enough in order to classify the insurance scheme as being exempt from the rules on effective competition on the market.

Furthermore, in case Brentjens’ v BMT Fund it was established that the activity was economic, while the rules on the effective competition on the market were applicable. However, the fact is that the presence of the principle of solidarity (even when it is limited in scope), next to social objectives and restrictions or controls on investments made by the sectoral pension fund, could influence the competitiveness of the BMT Fund by making it less competitive on the market. In that regard, it needs to be
pointed out that certain derogations concerning the applicability of the rules on effective competition need to be made. Having in mind the relevant case law, it can be said that the decreased competitiveness of such insurance schemes has been recognized. Although the relevant rules are applicable, they are applicable to a limited extent. Also, restrictions of effective competition can be acceptable, if they are properly justified. According to the literature, the protection of the general interest can be very helpful in that regard (Van de Gronden 2011: 139 – 140).

So, for example, in the present case the exclusive right for managing the supplementary pension scheme in a given sector can be justified by the fact that the removal of exclusive rights could jeopardize the fulfillment of the special rights conferred to the BMT Fund. Similarly as in the case Albany, the danger of the removal of exclusive rights can be seen in the possibility for undertakings with young employees (who are in a better health condition and who are engaged in non-dangerous activities, presenting good insurance risks), to turn themselves to the more advantageous insurance terms. Such spilling over of good risks towards other private insurers would actually result in greater shares of bad risks (meaning older employees, who are engaged in more dangerous activities) at the BMT Fund, with the eventual consequence of non-capability of the BMT Fund to offer pensions at acceptable cost to insured persons.

Considering that the Court of Justice of the EU has already ruled that the economic viability or financial balance of the undertaking entrusted with the operation of service of general economic interest should not be threatened in order for the justification of special or exclusive rights to be accepted25, it is understandable that it would be sufficient to prove that the fulfillment of the special tasks of general interest would be jeopardized in case of the removal of exclusive rights. The result will be the justification of the restrictions of effective market competition and maintenance of the exclusive rights of the relevant insurance scheme. Again, solidarity has played a significant role in justifying the restriction of competition and entrustment of special rights. In all cases where contributions do not reflect insured risks, such restrictions could be necessary and such justifications could find their place.

It is interesting to observe the level of solidarity present in the justification grounds. If the principle of solidarity characterizes the insurance scheme as a whole, then the activity would be sheltered from the intense competition arena and the relevant rules on effective competition on the market would not be applicable at all. If the principle of solidarity is present in a certain insurance scheme, but to a limited extent, then the entity will be subordinated to the relevant rules on effective competition on the market. However, in case such an entity suffers a less competitive position on the market due to the principle of solidarity (and the necessary fulfillment of social aims) then there is the possibility to tolerate the necessary and proportionate restrictions of the effective competition on the market.

**Conclusion**

The principle of solidarity significantly influences the position of the insurance schemes on the market. Also, it is closely linked to the pursuing of social aims and social policy objectives. The principle of solidarity can be manifested in various ways in practice. For example, it can be said that the absence of the linkage between contributions paid and insured risks, as well as any rights referring to the possible redistribution of financial resources imply that solidarity is present. Furthermore, solidarity carries great relevance in determining the nature of the activity (and existence of an undertaking) and the applicability of the rules on effective competition on the market. The insurance schemes can be exempted from the applicability of the relevant rules. However, in order to succeed in this, the insurance funds need to be characterized as having the principle of solidarity in their essence. In case solidarity marks such schemes but to a limited extent, the activity and behaviour of the insurance entity will be marked as economic and subordinated to the applicability of the rules on effective competition on the market. However, there is a possibility to limit the scope of the applicability of the rules on effective competition in as much as it is necessary to compensate for the decreased competitiveness on the side of the insurance entity. Of course the particularities of each case will determine whether the activity in question can be exempted from the competitive market arena.
In that regard, the principle of solidarity presents the significant benchmark in deciding on this matter.

The Member States have significant discretion in organizing and regulating their social systems. Also, they have significant discretion in assessing the level of the principle of solidarity, which marks a certain insurance activity. The particularities of each national pension system will be relevant in that regard, while the individual Member State will have the right to organize the functioning of the pension systems.\textsuperscript{26} In case Pavlov and Others, the Advocate General Jacobs pointed out that the supplementary pensions present a matter of great significance in social terms in the EU Member States. Also, the Advocate General Jacobs again underlined the discretion of the Member States in organizing their social security systems.\textsuperscript{27}

Such discretion can be tricky, because it leaves space for wider interpretations of the principle of solidarity for the sake of final users. In other words, the Member States can determine that the principle of solidarity is present in a certain activity (more or less). Furthermore, they are enriched with the power to cover various protective measures on the market which benefit one insurer, under the mask of the protection of social aims, and the implementation of the principle of solidarity. Such a situation creates greater legal uncertainty. It is true that the national courts (or even the Court of Justice of the EU) can offer certain safeguards of the interest of insured persons if the case is brought to their attention. Still, greater clarifications are definitely needed in order to clarify certain issues. For example, the principle of solidarity should be defined through its main elements, and such a definition needs to be used in the whole EU. Obviously, the Court of Justice of the EU considers that a certain activity needs to be characterized as an economic one, in case it is based on the capitalization principle, or in case its benefits depend on its financial investment or contributions. Also, if there exists no distribution of financial resources between those who are still working and those who are retired, or between those who have financial resources and those who do not but receive their pension, such an insurance scheme cannot invoke the exemption from the relevant rules on effective market competition.

\textsuperscript{26} Case C-238/82 Duphar and Others [1984] ECR 523; Case C-70/95 Sodemare and Others [1997] ECR I-3395, para. 27.

\textsuperscript{27} As it was explained before, such reasoning was underlined through the relevant case law (for example, Duphar v Netherlands, Ibid., para. 16).
Having in mind the analysis made, it needs to be stated that the Court of Justice of the EU is quite reluctant in relation to the declaration of the exemptions from the rules on effective competition in cases of insurance schemes marked with the principle of solidarity. This opens the space for further diversification of interpretation and grey areas. However, such a cautious approach of the Court of Justice of the EU can be understood if the discretionary powers of the Member States are taken into consideration. The eventual solution can be seen in the clearer definition of the principle of solidarity as the adjudicatory benchmark for the applicability of competition rules. More precise criteria applicable in each case are necessary in order to decrease the level of legal uncertainty.

Finally, the compulsory affiliation to certain insurance schemes needs to be constantly observed. Market forces have their value in ensuring good insurance on the market. The possibility to choose between insurance packages and options is desirable, considering it influences the service of the insurer and the whole market to be more efficient, productive and closer to the user. In that regard, the reservation of certain insurance funds as compulsory ones cannot be regarded as the best solution in each case. These thoughts are in compliance with the selected interpretations and case law. According to the selected case law it seems that economic activity exists always where it cannot be considered that the principle of solidarity encompasses the activity as a whole. In other words, if the indicators of solidarity do not prevail to a significant extent, the Court of Justice of the EU concludes that the activity is covered with the rules on effective competition on the market.

However, it is true that the financial resources for pensions need to be secured. This can be acceptable if it can only be realized through the establishment of compulsory affiliation to one insurance scheme. The careful application of the proportionality principle is necessary in order to ensure that such shelters are provided for insurance schemes very exceptionally. Only in this way possible misinterpretations and hiding under the umbrella of the principle of solidarity with completely different intentions can be decreased to a minimal extent.
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Book chapter


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Foreign Policy Making and the U.S. Vision of European Integration in the Nixon Era

Hang Nguyen

Abstract

This paper offers an insight into Washington’s foreign policy establishment and its vision of European integration under the Nixon administration. It argues that President Nixon and his National Security Advisor, Henry Kissinger, managed to formulate many important aspects of foreign policy at the White House. From a realist perspective, the Nixon-Kissinger team saw the emergence of a new world order and in it the evolvement of European integration in a way different from previous U.S. administrations. The paper begins by discussing the Nixon administration’s realist approach to foreign policy before analyzing President Nixon’s determination to make decisions on foreign relations at the White House. Next, the paper examines the main features of the Nixon-Kissinger team’s vision of European integration. It concludes that, as realists, the Nixon administration supported integration in Western Europe, yet Washington was ambivalent if a united Europe with increasing self-confidence and self-assertiveness would be in the U.S. national interest. Henceforth, the European integration process had to be, in the Nixon-Kissinger view, taking place under U.S. control in the form of the consultative mechanism and the U.S. military umbrella.

KEY WORDS:
Nixon administration, European integration, foreign policy, consultative mechanism, European Economic Community
President Richard Nixon, in office from 1969 to 1974, left a visible mark on U.S. foreign policy making during his term in office. Nixon preferred to formulate U.S. foreign policy with only a few National Security Council officials and ignored traditional diplomacy insisting that U.S. decisions on foreign affairs were to be made at the White House. With the advice and assistance from Henry Kissinger, his National Security Advisor, President Nixon became the key foreign policy maker in the U.S. administration at the time. This led to the centralization of foreign policy making in the hands of the President and his National Security Advisor. This characteristic of U.S. foreign policy making in the Nixon presidential years contributed to the changed nature of the U.S. vision of the process of European integration. An examination of archival records reveals two important views of the Nixon administration regarding European integration: The U.S. embraced the emergence of a European community in the multi-polar international order while the evolution of such a community on the other side of the Atlantic Ocean was expected to occur under U.S. leadership. This paper sheds light on the main features of the Nixon administration’s foreign policy making before concentrating on the process of European integration from the U.S. perspective. Having looked at Europe and the world through realist lenses, the Nixon administration had a fresh view of U.S. national interests and threats in a changing world environment, and thus developed a new image of European integration that would help the Nixon administration to perpetuate U.S. interests and defend its nation from potential dangers.

Nixon’s realist approach

U.S. foreign policy making in the Nixon presidential years was framed by a realist approach which seeks to maximize the realization of states’ national interests. Through the lenses of a realist, the discipline of international relations studies nation-states competing for survival, predominantly making use of military power in the pursuit of this goal. In other words, the realist approach is built on four main assumptions: (i) nation-states are the principal actors in global politics (ii) self-interest is the main motivation for nation-states’ actions (iii) the main concern of nation-states is the balance of power in the international system; and (iv) it is the relationship
between or among nation-states (not domestic politics) that decides how one nation-state reacts to the others (McCormick 2010: 102).

Realists stress the constraints placed on politics by human nature and the state of anarchy in the international system. The combination of these two factors makes international relations a domain full of power and interest. Morgenthau, a leading theorist of realism, once emphasized that “human nature has not changed since the days of classical antiquity” (Morgenthau and Thompson 1985: 17). In the realist view, human nature is basically egotistical, and therefore is prone to immorality. This had been put forth by Machiavelli, in politics “it must be taken for granted that all men are wicked and that they will always give vent to the malignity that is in their minds when opportunity offers” (Machiavelli 1979). According to the realist approach, morality in the realm of foreign affairs is fundamentally decided by what is good for the nation-state and its position in world politics. Thus, foreign policy in the realist view is full of conflicts. Nation-states do the maximum to protect and foster their own interests and watch the other nation-states’ activities with wariness. Power politics become dominant in global politics because the key concerns of every nation-state are the distribution of power and the maximization of its own power.

The Nixon administration’s foreign policy was more realist in its approach than that of previous presidents (McCormick 2010: 103). It was built on the balance of power among the United States, the Soviet Union, China, Western Europe and Japan. The goal was to make the United States reduce the cost of global hegemony and make use of a large amount of regional power to further U.S. interests. In this way, the United States would sustain its predominance in world politics. Especially, the politics of Nixon influenced the process of Western European integration and made crucial decisions with respect to the war in Vietnam, détente with the Soviet Union and the opening towards China. Together, they made the Nixon administration build a distinctive foreign policy with new focuses.

The difference in the Nixon administration’s foreign policy was clearly stated in its first State of the Union on 18 February 1970, which was self-reflected by President Nixon as “more than a record of one year. It is this Administration’s statement of a new approach to foreign policy to match a new era of international relations” (Nixon 1970). President Nixon and his
administration judged that building a long lasting peace needs a foreign policy guided by three fundamental principles:

"-- Peace requires partnership. Its obligations, like its benefits, must be shared. This concept of partnership guides our relations with all friendly nations.

-- Peace requires strength. So long as there are those who would threaten our vital interests and those of our allies with military force, we must be strong. American weakness could tempt would-be aggressors to make dangerous miscalculations. At the same time, our own strength is important only in relation to the strength of others. We - like others - must place high priority on enhancing our security through cooperative arms control.

-- Peace requires a willingness to negotiate. All nations - and we are no exception - have important national interests to protect. But the most fundamental interest of all nations lies in building the structure of peace. In partnership with our allies, secure in our own strength, we will seek those areas in which we can agree among ourselves and with others to accommodate conflicts and overcome rivalries. We are working toward the day when all nations will have a stake in peace, and will therefore be partners in its maintenance" (Nixon 1970).

These three principles implied that the United States would reduce its global responsibility and engage other states to share the burden of preserving the world order. This new approach to foreign policy also implied that the Nixon administration would defend U.S. interests by using its military power. In addition, it implied that the United States would prefer negotiations as the policy of choice in dealing with various international issues. In general, this U.S. foreign policy was to a large extent different from that in the postwar administrations which placed much emphasis on U.S. ability and responsibility to carry the burden for building a “Free World” (Fousek 2000: 130). Richard Nixon took office during an unusually fluid time in global politics: The economies of Western Europe, Japan, and China, ruined by World War II, had recovered fast in the late sixties. With the emergence of new economic powers and centers, the bipolar power structure of the
postwar era, dominated by the United States and the Soviet Union, had been replaced by a multi-polar world. Even though the United States was still the most powerful state in the world, the relations with the Soviet Union and China, and the Vietnam War had shown the limits of its strengths. The grand strategy, developed by President Nixon and National Security Advisor Henry Kissinger to adjust U.S. foreign policy to the new multi-polar system was deeply rooted in realism. The core of this strategy was to expect U.S. allies to pay for their own military defense, though the United States remained willing to aid in defense if necessary. The Nixon administration desired to pursue peace through sustaining a partnership with U.S. allies:

“First, the United States will keep all of its treaty commitments.

Second, we shall provide a shield if a nuclear power threatens the freedom of a nation allied with us or of a nation whose survival we consider vital to our security.

Third, in cases involving other types of aggression, we shall furnish military and economic assistance when requested in accordance with our treaty commitments. But we shall look to the nation directly threatened to assume the primary responsibility of providing the manpower for its defense” (Nixon 1969).

This realist response to the new situation actually reflected their strategic goal: the balance of power.

Richard Nixon was considered as a President who arrived at the White House with more knowledge of foreign affairs than previous ones. He once stated clearly: “I’ve always thought this country could run itself domestically without a president. All you need is a competent cabinet to run the country at home. You need a president for foreign policy; no secretary of state is really important; the president makes foreign policy” (Small 1999: 59). In reality, foreign policy drew his attention the most during his presidency (Hoff 1994: 4).

Confronting the global developments of the late 1960s, President Nixon and his administration designed a new foreign policy approach for the United States based on the principles of the balance of power. Though
global politics of the late 1960s was typically described as a rigid, bipolar period with an international system split into two hostile blocs, the Nixon administration saw the emergence of new powers: Japan, China and Western Europe. In addition to the United States and the Soviet Union, these would-be powers would escalate the changing contour of world order. A pentagonal balance would characterize the global political, economic and military structure as President Nixon indicated:

“...as we look ahead 5, 10, and perhaps 15 years, we see five great economic superpowers: the United States, Western Europe, the Soviet Union, mainland China, and, of course, Japan.... These are the five that will determine the economic future and, because economic power will be the key to other kinds of power, the future of the world in other ways in the last third of the century.”

This vision of a future world order inspired the Nixon administration to encourage the development of a balance of power in the modern world through U.S. détente with the Soviet Union, the normalization of political relations with China and more evenhanded relations with Japan and Western Europe. President Nixon explicitly explained the views of his administration’s foreign policy as follows:

“We must remember the only time in the history of the world that we have had any extended period of peace is when there has been a balance of power. It is when one nation becomes infinitely more powerful in relation to its potential competitor that the danger of war arises. So I believe in a world in which the United States is powerful: I think it will be a safer world and better if we have a strong healthy United States, Europe, Soviet Union, China, Japan, each balancing the other, not playing one against the other, an even balance” (In an interview published in Time magazine on 3 January 1972).

Or

“The only alternative to a balance of power is an imbalance of power...and history shows us that nothing so drastically escalates the danger of war as such an imbalance” (Nixon 1972: 1110-1111)
National Security Advisor Henry Kissinger even made it clearer in his address to the Commonwealth Club and the World Affairs Council of Northern California on 3 February 1976:

“We must strive for equilibrium of power, but we must move beyond it to promote the habits of mutual restraint, a coexistence, and, ultimately, cooperation. We must stabilize a new international order in a vastly dangerous environment, but our ultimate goal must be to transform ideological conflict into constructive participation in building a better world” (Kissinger 1976).

With such a realist approach to foreign policy, the Nixon administration achieved significant diplomatic successes: ending the Vietnam War, signing the first major arms control agreement with the Soviet Union (SALT I), and opening up towards China. This realist approach to foreign policy during the Nixon administration reflected a fundamental departure from the policy stance in the U.S. leadership during the postwar period.

Along with a realist approach to foreign policy and a fresh view of the role of the U.S. in a new world environment, the Nixon administration reevaluated the U.S. position to redefine its national interests and threats. In his well-known book “Strategies of Containment: A Critical Appraisal of American National Security Policy during the Cold War” published in 1982, John Lewis Gaddis argued that Nixon and Kissinger redefined what constituted threats. In previous administrations, threats were defined in terms of an enemy’s ideology. This was because ideology determined behavior (Gaddis 1982: 282). The Nixon administration’s definition of threats was fundamentally based on an enemy’s actions. In a White House press briefing on 18 December 1969, Kissinger stated that: “We have always made it clear that we have no permanent enemies and that we will judge other countries, including Communist countries, and specifically countries like Communist China, on the basis of their actions and not on the basis of their domestic ideology” (Kissinger 1979: 192). Implicitly, the Nixon administration claimed that the fact that the United States and the Soviet Union had two different ideologies, capitalism and communism respectively, did not constitute a threat to Washington. However, the combination of both hostility and capability embedded in the foreign policy of the Soviet Union was threatening to the U.S.
Along with a change in understanding what constituted a threat, the Nixon administration reshaped the relationship between threats and interests. In the preceding administrations, perceived threats would define policy interests, particularly the threats from communism. Henceforth, containment of communism had become an interest in and of itself without considering "the precise way in which communism as a unified force might endanger American security" (Gaddis 1982: 105). Yet, the Nixon administration placed emphasis on defining what they thought to be the national interest and then defined threats to be what would harm that national interest. This redefinition allowed the Nixon administration to have more freedom in building and developing foreign relations with communist nation states. As Gaddis observed, the United States was able to "feasibly work with states of differing, even antipathetic, social systems as long as they shared the American interest in maintaining global stability" (1982: 283).

**Foreign policy made at the White House**

Bureaucratic resistance has been what U.S. Presidents have to overcome to achieve their desired policy. Even if there is no resistance from bureaucratic bodies, the process of implementing policies is likely to produce outcomes which are not the same as a President’s policy preferences. As a result, U.S. Presidents tend to employ administrative strategies to exert an impact on the making and implementation of foreign policy.

During his term in office, President Nixon and National Security Advisor Henry Kissinger were the leading figures in the making of U.S. foreign policy. In his memoirs, Nixon recalled: “From the outset of my administration... I planned to direct foreign policy from the White House. Therefore, I regarded my choice of a National Security Advisor as crucial" (Nixon 1990: 349). From his observation, Robert Dallek reflected in “Nixon and Kissinger: Partners in Power" that: “On the administration’s third day in office, Henry began implementing Nixon’s plan to ensure White House dominance of foreign policy" (Dallek 2007: 100). On 1 September 1969, President Nixon sent a telegram to Secretary of State (Rogers), Secretary of Defense
(Laird) and Director of Central Intelligence (Helms) from Colorado Springs (Colorado) where he was attending a National Governors Conference to instruct these senior officials that all public communications and official communications had to be cleared by the White House.

“I have been disturbed in recent days by the lack of teamwork in the conduct of national security affairs. Consequently, I am reaffirming my policies with respect to this matter.

1. Public statements and press releases: Prior to release, all public communications on matters of known or potential Presidential interest must be carefully cleared by the White House (Assistant to the President for National Security) for consistency with Presidential policy and for coordination with the Departments and agencies who share overlapping interests and responsibilities. Should there be any uncertainty as to Presidential or inter-departmental interest, it will be resolved in favor of clearance.

2. Official communications: All official communications with policy implications must be cleared by the White House. When in doubt, the rule is that messages will be so cleared. This procedure requires close and confidential staff relationships at all levels between the White House and your Department as well as among Departments.”

In the realm of foreign affairs, President Nixon fundamentally based his approach on presidential control. He developed a strategic approach to an administrative presidency which allowed the President to have a powerful role in the supervision of bureaucracy, which was necessary in order to achieve his foreign policy goals. He made a clear statement: “If we were to establish a new foreign policy for the era to come, we had to begin with a basic restructuring of the process by which policy is made” (Nixon 1970).

Accordingly, the power of cabinet members decreased and the power of Nixon’s most trusted advisor Henry Kissinger increased. In reality, Henry Kissinger became one of the most powerful men in Washington. Kissinger’s offices were set up in the West Wing’s basement, “from which he could have easy access to the President” (Dallek 2007: 100). This is also what Richard Helms observed: “they alone would conceive, command, and
control clandestine operations. Covert action and espionage could be tools fitted for their personal use. Nixon used them to build a political fortress at the White House" (Weiner 2007: 293). Such a centralization of policy making and implementation enabled President Nixon and Kissinger to obtain their policy preferences because they would not have to go through a decision making process with many departments and agencies, and thus they could limit opposition.

Richard Helms, the Director of Central Intelligence from June 1966 to February 1973, supposed that “Richard Nixon never trusted anybody”, and that Nixon did not believe in the capacity of departments and agencies such as the Department of State and the Central Intelligence Agency (the CIA), therefore, “Nixon insisted on isolating himself” from the Washington bureaucratic agencies he did not have confidence in.

“Very early in the Nixon administration it became clear that the President wanted Henry Kissinger to run intelligence for him and that the National Security Council staff in the White House, under Kissinger, would control the intelligence community. This was the beginning of a shift of power away from the CIA to a new center: the National Security Council staff” (Ranelagh 1986: 50).

Former Deputy Director of Intelligence at CIA Ray Cline described how the role of the CIA declined during the presidency of Nixon:

“Nixon and his principal assistant, Dr. Kissinger, disregarded analytical intelligence except for what was convenient for use by Kissinger’s own small personal staff in support of Nixon-Kissinger policies. Incoming intelligence was closely monitored and its distribution controlled by Kissinger’s staff to keep it from embarrassing the White House...” (Cline 1976: 216).

According to Cline, Helms and the CIA were employed mainly “as an instrument for the execution of White House wishes” (Cline 1976: 216).

It is noticeable that Gaddis pointed out that the centralization of policy making and its implementation were crucial in order to attain the Nixon administration’s foreign policy agenda. This they accomplished “to a
remarkable extent, they succeeded [in achieving their goals], but only by concentrating power in the White House to a degree unprecedented since the wartime administration of Franklin D. Roosevelt" (1982: 273).

Saul Landau even showed the existence of “a secret foreign policy apparatus” in the Nixon years. Such an apparatus allowed President Nixon to ignore the established bureaucratic bodies which still saw the Cold War through ideological lenses and were likely to oppose his foreign policy decisions.

“Nixon created a special finance committee with its own funds, the Finance Committee to Reelect the President, headed by commerce secretary Maurice Stans, a White House controlled political grouping independent of the Republican party...and, finally, a secret foreign policy apparatus headed by Kissinger and designed to circumvent the clumsy and stagnant national security bureaucracy” (Landau 1988: 103).

Indeed, the foreign policy agenda during the Nixon years was established centrally at the White House and the drivers of the foreign policy making process were President Nixon and his National Security Advisor Henry Kissinger. Accordingly, U.S. views and attitudes towards the European integrative process between 1969 and 1974 were established with great influence from the White House.

A vision of European integration

At the core of the Nixon-Kissinger team’s vision of European integration lay the European Community as a force in a multi-polar world. In the evening of 29 July 1967, Richard Nixon delivered a speech to the Bohemian men’s club in the Bohemian Grove near San Francisco. In this remarkable address, Nixon evaluated the main forces at work in the world and discussed U.S. foreign policy. Nixon showed that a new world was coming with new leaders, new people and new ideas. A world in which De Gaulle,
Mao Tse-tung and Chiang Kai-shek were still on the world stage with the U.S., however, new leaders were taking power from Churchill, Adenauer, Stalin, Khrushchev, Nehru and Sukamo. This would be a world in which a new generation would be growing up, a generation born after World War II and thus with no real experience of it. It would be a world in which no “ism” had the potential to imprison peoples and nations on both sides of the Iron Curtain. After depicting to the Bohemian men and the guests the new landscape of the world, Nixon directed their attention particularly to Western Europe:

“Twenty years ago Western Europe was weak economically and dependent on the United States. It was united by a common fear of the threat of Communist aggression. Today, Western Europe is strong economically and economic independence has inevitably led to more political independence. The winds of détente have blown so strongly from East to West that except for Germany most Europeans no longer fear the threat from the East. The consequences of this change are enormous as far as NATO is concerned. As Harold Macmillan puts it, ‘Alliances are kept together by fear, not by love’. Even without De Gaulle, the European Alliance would be in deep trouble” (Nixon 1967).

He underlined that Western Europe was in good economic condition. Their economic independence enabled them to design policies unfavorable to the U.S.: The “economic strength of Western Europe thwarted their progressive designs in that area. They faced increased demand for consumer goods from the Russian people. They looked down the nuclear gun barrel in the Cuban confrontation” (Nixon 1967).

Two years later when Nixon arrived at the White House in 1969, his administration reviewed U.S. policy to freer world trade and reaffirmed that the continuation of the policy was in U.S. interest, but emphasized that a number of foreign countries were competing fully with the United States in world markets. This implied that economic competition from Western Europe led to the disappearance of the traditional surplus in the U.S. balance of trade. The United States had been at its peak when the Second World War ended in 1945. Yet, the relative decline in its global predominance was starting to become more evident. This concern had
been revealed in the Press Briefing by the President’s National Security Advisor Henry Kissinger on 18 December 1969:

“For about 20 years after the end of the war, American foreign policy was conducted [through a] Plan, that is, [through] the notion of a predominant United States, as the only stable [country] with the maxims and the inspiration that guided the Marshall country, the richest country, the country without whose leadership and physical contribution nothing was possible, and which had to make all the difference for defense and progress everywhere in the world.

Now whichever Administration had come into office would have had to face the fact, I believe, that we have run out of that particular vision. Conditions have changed enormously. We are now in a world in which other parties are playing a greater role. They have regained some of their self-confidence. New nations have come into being. Communism is no longer monolithic and we, therefore, face the problem of helping to build international relations on a basis which may be less unilaterally American” (Press Briefing, Kissinger 1969).

The U.S. economy was producing less but the other economies were producing more. By the early 1970s, with the shrinking of gold reserves and the rising of inflation, the Nixon administration had to float the dollar against the currencies of other countries which eventually led to a severe depreciation. But the U.S. government under the Nixon administration made a contribution towards promoting a world of multi-polar relations and creating a liberal international environment that was characterized by its open-market and capitalist traditions. In that global setting, the European Community, which was in the process of deeper economic integration, was foreseen by the Nixon administration to be an emerging power and would be an important leverage to create an even balance in the international system.

“When we see the world in which we are about to move, the United States [is] no longer in the position of complete pre-eminence or predominance [and] that is not a bad thing. As a
matter of fact, it can be a constructive thing. ...We now have a situation where four economic powers [the Soviet, China, Japan, and Western Europe] have the capacity to challenge [the U.S.] on every front” (Nixon 1971).

Not only had the Soviet Union gained a military strength comparable to that of the United States, but Japan and Western Europe were vigorous competitors with the United States for markets. This meant that the world was now reaching an order called: a multi-polar world.

Along with his administration’s concept of a multi-polar world with five powers, President Nixon sent signals that he would be in support of developing and sustaining the European Community as a pillar in that multi-polar world. After his discussions with French President Charles De Gaulle in 1969, President Nixon indicated his agreement with De Gaulle about building a strong and independent European Community:

“[De Gaulle] believes that Europe should have an independent position in its own right. And, frankly, I believe that too ... the world will be a much safer place and, from our standpoint, a much healthier place economically, militarily and politically, if there were a strong European Community to be a balance ... between the United States and the Soviet Union” (Chace 1973: 96).

President Nixon restated his administration’s support for developing the European Community as a balance in the multi-polar world at a National Security Council meeting in the presence of British Prime Minister Harold Wilson in January 1970:

“I have never been one who believes the U.S. should have control of the actions of Europe ... I have preferred that Europe move independently, going parallel with the United States. A strong, healthy and independent Europe is good for the balance of the world” (Doc. 56, FRUS 1969-1976).

National Security Advisor Henry Kissinger also showed U.S. encouragement for deeper integration in the European Community when he stressed that:
“‘Efforts to create a more coherent European voice in our NATO are in net interest’. Kissinger even wrote to President Nixon about European coherence ‘European coherence would be quite consistent with what you have said about the desirability over the longer run of our being able to deal with Europe as a true and more equal partner’” (Kissinger 1979: 385).

This U.S. perspective of the integration process in the European Community was clearly summarized in Nixon’s Report to Congress on 18 February:

“We favor a definition by Western Europe of a distinct identity, for the sake of its own continued vitality and independence of spirit. Our support for the strengthening and broadening of the European Community has not diminished. We recognize that our interests will necessarily be affected by Europe’s evolution, and we may have to make sacrifices in the common interest. We consider that the possible economic price of a truly unified Europe is outweighed by the gain in the political vitality of the West as a whole” (Nixon 1970).

Though encouraging the development of European unity in a multi-polar world in which the main pillars (the European Community, the United States, Japan, the Soviet Union and China) represented equal forces and strengths to sustain the structure of peace in international politics, President Nixon still wanted to prolong the spirits of previous U.S. administrations that was to keep London, Berlin and Paris under Washington’s influence. Discussing the future U.S. agenda as the United States worked with Western Europe to build a stable world order, the Nixon administration placed emphasis on the transformation from predominance to partnership and affirmed the importance of enhancing the cooperation in political and economic relations between the United States and the European Community as the Common Market grew. In his radio address on 25 February 1971, President Nixon made it clear that:

“In Western Europe, we have shifted from predominance to partnership with our allies. Our ties with Western Europe are central to the structure of peace because its nations are rich in tradition and experience, strong economically, vigorous in diplomacy and
culture; they are in a position to take a major part in building a world of peace...Our ties were strengthened on my second trip to Europe this summer” (Doc 85, FRUS 1969-1976).

Yet, it is undeniable that U.S. policy towards European unity under the Nixon administration was mainly shaped by the fear that a strong and independent European Community would not be conductive to a healthy Atlantic alliance and to a strong partnership between the United States and Western Europe. This was underlined in President Nixon’s statement:

“The structure of Western Europe itself - the organization of its unity - is fundamentally the concern of the Europeans. We cannot unify Europe and we do not believe that there is only one road to that goal. When the United States in previous Administrations turned into an ardent advocate, it harmed rather than help progress” (Nixon 1970).

The ambivalence that the European Community would be likely to emerge into a counterweight to the U.S. was greater with the development of Gaullism in France and particularly with the establishment of the European Political Cooperation (EPC) in 1970, whereby Western European countries were able to realize their goal of creating a European foreign policy. Confronting the assertiveness of Western Europe in foreign policy and diplomacy, the Nixon administration developed a strategic plan to ensure that Western European countries would have a pro-Atlantic perspective. The real rational behind this plan was to maintain U.S. control and influence over the European integration process, which was captured by President Nixon as “a new and mature partnership”:

“I went to Western Europe in February 1969 to reaffirm America’s commitment to partnership with Europe.

A reaffirmation was sorely needed. We had to re-establish the principle and practice of consultation. For too long in the past, the United States had led without listening, talked to our allies instead of with them, and informed them of new departures instead of deciding with them. Inspired by the success of the Marshall Plan, we had taken such pride in our leadership of the alliance that we
forgot how much even the origin and success of the Marshall Plan grew from European ideas and European efforts as well as our own.

After 20 years, the economic prostration, military weakness, and political instability in postwar Europe that had required a predominant American effort were things of the past. Our common success in rebuilding Western Europe had restored our allies to their proper strength and status. It was time that our own leadership, in its substance and its manner, took account of this fact” (Nixon 1970).

In the course of reaffirming America’s commitment to partnership with Europe, the Nixon Administration placed a concentration on (i) the U.S. voice in the North Atlantic Alliance and, (ii) the American military umbrella for Western Europe.

The U.S. voice in the North Atlantic Alliance

U.S. politicians repeatedly declared that they supported the development of European political and economic integration, speaking encouraging words but having no temptation to make suggestions how this course of development should take. Nonetheless, this rhetoric seemingly contradicted reality, as the Nixon administration insisted that European states consult with the United States before making any decisions which could affect U.S. interests.

The alliance between the United States and Western Europe had been seen as the cornerstone of the U.S. postwar foreign policy. It provided a political framework for the U.S. engagement in Europe. It provided a security commitment that allowed Europe to recover from the destruction of the Second World War. It provided support for European unity in an era of prolonged tensions and confrontations. Ultimately, the United States wanted to sustain its predominant role in the alliance. Martin J. Hillenbrand, then the U.S. ambassador to Germany, indicated that the
Nixon administration wanted to have consultations with Western Europe on issues of mutual concerns before a consensus was reached among the Europeans. Understandably, such ideas and perspectives from the Nixon administration were strongly criticized by Western European countries, particularly France. Western European countries themselves prepared a draft proposal for a Joint Declaration on Atlantic relations without any consultations with Washington on its contents. Especially, at the Copenhagen European Summit in December 1973, the leaders of the nine member states of the European Community affirmed their strong will to introduce the concept of European identity into their common foreign relations. The Declaration on European Identity issued after the summit mentioned that the relationship between the U.S. and the European Community had better be built on the basis of equality.

“The close ties between the United States and Europe of the Nine — we share values and aspirations based on a common heritage — are mutually beneficial and must be preserved. These ties do not conflict with the determination of the Nine to establish themselves as a distinct and original entity. The Nine intend to maintain their constructive dialogue and to develop their co-operation with the United States on the basis of equality and in a spirit of friendship” (Declaration on European Identity, EU Council 1973).

Already disagreeing on how to deal with the Yom Kippur War in October 1973 and the ongoing oil crisis, European statements of this kind indicated that Western European countries did not want to subordinate their interests to the United States. As a consequence of such tensions, the United States persuaded the government of Willy Brandt in West Germany to take the lead in the Gymnich formula, an agreement reached at the meeting of foreign ministers at Gymnich castle in West Germany’s Rhineland region among the European Community member states on 10 June 1974. The United States was treated in the agreement as a special partner in consultations. Authority was given to the rotating Presidency of the European Community Council to have consultations with the United States on elaborating a common European foreign policy.

“The second point is the question of consultations. The Ministers were agreed that in elaborating common positions on foreign
policy there arises the question of consultations with allied and friendly countries. Such consultations are a matter of course in any modern foreign policy. We decided on a pragmatic approach in each individual case, which means that the country holding the Presidency will be authorized by the other eight partners to hold consultations on behalf of the Nine.

In practice, therefore, if any member of the EPC [European Political Cooperation] arises in the framework of the EPC the question of informing and consulting an ally or friendly state, the Nine will discuss the matter, and upon reaching agreement, authorize the Presidency to proceed on that basis.

The Ministers trust that this gentlemen’s agreement will also lead to smooth and pragmatic consultations with the United States which will take into account the interests of both sides” (Text of the Gymnich Formula 1974).

The Gymnich agreement was viewed as being against French political will as it ensured the presence of the United States in the process of European decision making (Junker et al. 2004: 59). Under pressure from Washington, a consultation mechanism, close to U.S. views, between the United States and the EPC was proposed by Günther van Well, Western German political director:

“If a member state government believes that an issue discussed within the EPC bears on important American interests, the US government should be informed. This should happen once consensus is reached on the matter, but before the decision is formulated in order to give the US government an opportunity to lay out its views, which the EC Nine could take into account during their final discussion round” (Günther van Well 21 March 1974).

This actually repeated what had been made clear in the Declaration on European Identity by the Nine Foreign Ministers, Copenhagen on 14 December 1973. Regarding the relations with the United States, the Nine Foreign Ministers agreed that the constructive dialogue with the United States would be maintained.
“The close ties between the United States and Europe of the Nine—
we share values and aspirations based on a common heritage—
are mutually beneficial and must be preserved. These ties do not
conflict with the determination of the Nine to establish themselves
as a distinct and original entity. The Nine intend to maintain their
constructive dialogue and to develop their co-operation with the
United States on the basis of equality and in a spirit of friendship”
(Declaration on European Identity, EU Council 1973).

In addition, the Ottawa Declaration, a new declaration on Atlantic
relations, was approved and published by the North Atlantic Council at a
ministerial meeting in Ottawa on 26 June 1974. In addition to clauses on
economic cooperation and security issues, the Declaration once again
reaffirmed the necessity of maintaining the consultation mechanism in
the Atlantic alliance:

“The Allies are convinced that the fulfillment of their common
aims requires the maintenance of close consultations [...], they
are firmly resolved to keep each other fully informed and to
strengthen the practice of frank and timely consultations by all
means” (Declaration by the North Atlantic Council in Ministerial
Session on 19 June 1974).

With a strong determination to have a role in European affairs, the U.S.
government placed an emphasis on maintaining consultations between
the two shores of the Atlantic. Consultations between the European
Community and the United States on economic, diplomatic, political
and security issues served as a means to send Washington’s messages
to Western Europe and formed a basis for Washington to get to know
Western European plans and intentions. In case such plans and intentions
were in conflict with U.S. interests, Washington would be able to make its
opinions heard before an agreement among the Europeans was reached.
Ultimately, the Nixon administration maintained its influence on European
affairs in general and the European integration process in particular.
The U.S. military umbrella for Western Europe

The Nixon administration was fully aware of the need of Western Europe for U.S. defense commitments in the region. The crucial role of the United States in protecting Western Europe could be seen through Washington’s contribution to NATO. The United States “has two-thirds of NATO’s GNP, contributes about half of the direct costs of NATO’s defense, and provides the nuclear shield” in Western Europe (Doc 4, FRUS 1969-1974). The Nixon administration hence realized what the Europeans wanted to have on the defense side:

“The main objectives of our European allies are (a) to keep the United States physically committed to the defense of Western Europe, so that the engagement of our nuclear power is assured; and (b) to buy a right to be consulted by the United States on anything affecting their security” (Doc 4, FRUS 1969-1974).

Nonetheless, the U.S. military umbrella for Western Europe was not taken for granted. The Nixon administration linked its commitments for military presence in Western Europe with certain economic and political conditions:

“Out of this dynamic deal, our allies get not only the protection of our military power but some negotiated degree of participation in US political decisions that affect their destiny. By committing our resources and sharing our discretion in limited ways, we try to get our allies not only to do as much as possible for the common defense, but also to support our efforts to build a workable world order, especially by making sensible security arrangements with the Soviet Union” (Doc 4, FRUS 1969-1974).

President Nixon indicated very clearly the relation between US defense commitments in Western Europe and the region’s trade policy in a cabinet meeting on economic policy on 10 April 1969 in Washington. Discussing with members of the cabinet and particularly with Secretary Maury Stans who was going to have a trip to Europe, President Nixon underscored:
“Americans and Europeans have had some protectionist problems in the short run, but we have to make clear that this policy cannot be permanent [...]. Our mid-western friends here in America will stick with us on NATO but if we start fooling around with their soy beans, their votes are gone. Maury [Stans], if I were you, I would point out the growing isolationism in America. [...] There is no question about what the new leadership stands for, [...] but we face a political problem at home. If the American people get the impression that the European economy is turning inward, the Europeans can forget about political cooperation; no administration could survive supporting their case” (Doc 19, FRUS 1969-1974).

After a deep analysis of the consequences of the European policy of inwardness or protectionism on the economic situation and political views of the U.S., the 37th President of the United States did not hesitate in directing his Secretary on what to do during the upcoming trip to Europe: “Maury, you have to use great discretion on this and not refer to it publicly at all. But tell them our problem. They don’t hesitate to tell us theirs” (Doc 19, FRUS 1969-1974).

The Secretary needed to let the Europeans know that they had to lift their trade restrictions on U.S. exports generally, and U.S. agricultural exports to their market particularly, in return for a U.S. freeze of troop levels in Europe. The President made it clear that the traditional support of the U.S. would be provided on the condition that a united Europe did not counter U.S. interests and the broader framework of Atlantic partnership. The protectionist policy of the European Community was seen by the President and the U.S. Congress as a signal of hostility and confrontation. This was exactly what the United States did not expect to have after making substantial efforts in economic, political and defense spheres for the European countries to be united in prosperity and security. In a nationally televised address on 15 March 1974, President Nixon publicly showed his administration’s increasing pressure on Western Europe by connecting military commitment to economic and political performance:

“Now the Europeans cannot have it both on the security front and then proceed to have confrontation and even ways. They
cannot have the United States participation and cooperation on the security front and then proceed to have confrontation and even hostility on the economic and political fronts [...] In the event that Congress gets the idea that we are going to be faced with economic confrontation and hostility from the Nine, you will find it almost impossible to get Congressional support for continued American presence at present levels on the security front [...] we are not going to be faced with a situation where the Nine countries of Europe gang up against the United States – the United States which is their guarantee for security. That we cannot have” (Nixon 1974).

The strategic connections of economic, political and security interests were a crucial factor in Washington’s approach to the European integration process. The Nixon administration was certain that the integrative process in Western Europe could not be smooth and achievable without U.S. military assistance. The threat of a U.S. troop withdrawal from Western Europe was, therefore, put on the negotiation table when the Europeans wanted to pursue a policy which in Washington’s view harmed U.S. interests. This was discussed by President Nixon and Henry Kissinger:

“Nixon: And I am going to say too that this is all part of the same situation. The Europeans cannot expect cooperation on the security front where the American role is indispensable to their survival and confrontation and at times even hostility on the economic front.

Kissinger: And political front. That I think would be excellent.”

(Telcon Kissinger/Nixon 1974)

Believing that without the U.S. military umbrella the European Community would be an economic giant but a military pygmy, the Nixon administration had a strong bargaining tool in its negotiations with the Europeans. The leaders of the European Community were made to understand that their economic and political integration process would be implemented successfully only if they continued to be supported from Washington on the security front. Other concerns must have also been on the mind of President Nixon when he spoke at a Cabinet-level meeting of the Council
on International Economic Policy:

“...have one hell of a time acting as a bloc. They do not get along with each other. The French don’t get along with the Germans, the Germans don’t get along with the British. It will be some time before they can learn to act as a group. This means we have to work with the heads of government in the various countries and not that jackass in the European Commission in Brussels” (Doc 100, FRUS 1969-1974).

Conclusion

With a strong interest in foreign policy, President Nixon and his National Security Advisor Henry Kissinger steered the course of U.S. foreign policy making. They shared a well-defined perception of international politics and economics. Being led by realism, the Nixon-Kissinger team was aware of changes that were taking place in the world. The emergence of a new world order made them view the process of European integration somewhat differently from previous U.S. administrations. Though the United States during the Nixon presidential years still supported movements for integration in Western Europe, Washington could not hide its fear that a united Europe with increasing self-confidence and self-assertiveness could oppose U.S. interests. Therefore, European integration had to, in the Nixon-Kissinger view, take place under the influence of the U.S. The consultative mechanism allowed Washington to discuss issues before the European Community made important decisions. By keeping a security commitment to the European Community and by sustaining bilateral relations with the core nations of the Community, the Nixon administration not only maintained strong ties with Western Europe but also ensured that the European integration process would take into account Washington’s interests.
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With the end of the Cold War and the corresponding shift in military doctrine, the structure and deployment of national armed forces, as well as the core change in comprehension of (inter-)/national security and (inter-)/national security threats, the role of private security providers gained a new momentum. The increased involvement of private military security companies in the provision of private, national and international security created a new field of study and opened up several important on-going debates over the purpose and scope of private security within the traditional state-domain setting. As the recent military campaigns in Iraq and Afghanistan confirmed, the use of private security enterprise in completing certain aspects of public interest became an indispensable tool for achieving the overall goals, even for the most advanced and powerful nation states.

Despite the growing presence of the private sector in the security provision services, traditionally offered by a nation state, a number of legal and political issues are still pending consideration. Is it possible for a nation state, an international organization or a private entity to utilize force through armed private security contractors, and is such an activity (fully/partially) regulated? Are private security contractors allowed to directly participate in armed conflict or other activities that, absent of the traditional military means, constitute a serious level of direct confrontation, i.e. cyber warfare, and to what extent is such conduct regulated by national law and relevant international law (on armed conflict)? Is the operation of a private military security company, contracted by one state and performing in another, legitimate and legal? What is being done to ensure that the conduct of such companies is examined prior to the contracting (auditing), supervised during the performance of service (ground control), and re-examined after the service has been completed (oversight)?
Does international humanitarian law bind such companies and are they under an obligation to respect and protect human rights? In an instance of poor performance or non-performance, are such companies responsible and liable to both the contracting party and a third party? And finally, does the noted divide within the nation state monopoly over the use of violent means indicate a division of responsibility, or should a contracting nation state remain responsible for the overall outcome of such activities, including an obligation to compensate for the damage sustained by third parties due to the security contractor’s lack of/poor performance?

The author of this unique study within the Croatian academic setting on private security companies, Rober Mikac (PhD), endeavors to provide answers to the above and other important issues concerning the use of private security. Mikac examines the concept and notion of security from the perspectives of an individual, a nation state, relevant private entities (i.e. multinational companies), the international security order and international security threats (chapter 1). After offering a historical perspective on the use of private security companies prior to the end of the 20th century, and a detailed analysis of the causes leading to a more enhanced use of such companies after the end of the Cold War (chapter 2), the author proceeds to examine the legislative attempts (with a particular focus on human rights protection), both on an international and national level, to regulate the operation of such companies and determine the legal status of their employees (chapter 3). Finally, Mikac assesses the role of private military security companies, working with the nation states and their armed forces, largely focusing his analysis on the situation in Iraq and Afghanistan, as well as on the current state of the War on Terror (chapter 4).

Mikac argues that, in order to fully understand the (potential) synergy between the nation state provision of security and the private provision of security, it is necessary to discern and categorize the key factors influencing the contemporary, ever-adapting concept of security. The author first and foremost recognizes the necessity of evaluating several key nation states’ strategic security doctrines, policies and laws (i.e., those of the United States, United Kingdom, Republic of South African, etc.) in an effort to determine how such concepts change overtime, allowing for, inter alia, the use of the private sector in achieving objectives set by national security policy. Furthermore, once the research detects the nation states’ recognition of the private sector’s
potential, and recognizes the demand for private services, it is necessary to examine how and to what extent such services are employed in practice. A further logical progression of analysis seeks to locate and examine the practical examples where the use of private companies has led to both positive and negative results.

Thus, the author analyses the use of private military security companies by the United States in Iraq and Afghanistan. The latter is of particular interest having in mind that Mikac has practical experience from the field as he was a commander of a multinational contingent of military police in Kabul, and having had the opportunity to, being on the side of military personnel, interact with the civilian contractors on and outside of the battlefield arena. Furthermore, the author considers that the analysis would be incomplete without examining the impact of the increased use of private security by and in the so-called “weaker states”, where there is often a disquieting potential for a negative influence of private security on the overall notion of public (national) security.

The unencumbered incursion of private enterprise into traditional state affairs has disturbed the traditional setting as established with the Peace of Westphalia well over 350 years ago. This has led many authors to ponder over possible negative impacts of the increased use of private security services, where, in some cases, the use of a private company may, in itself, constitute a certain level of threat to the overall public security interest. Having this in mind, Mikac highlights the importance of keeping the nation states responsible for the overall provision of security, including situations where security is being provided by a private stakeholder. The contractual outsourcing of responsibility, according to the author, would undoubtedly lead to conflict with democratic values, public security and individual freedoms. Thus, the modern state should learn how to adapt to the synergy model where the public-private partnership enables a satisfactory level of security protection (keeping in mind the multifaceted nature of a modern security threat), and at the same time ensures that the shift in power from state security provision to corporate security provision does not disturb the availability of equal security to all of its citizens.

In this sense, private military security companies act as a partner, whose conduct/performance, competence and responsibility should be clearly identified, constantly evaluated, controlled and supervised. In particular, as the
author notes, the already available relevant international and national laws should be further developed, allowing for specialized legal norms regulating the conduct of private military security companies. The lack of concrete regulation and the lack of proper control mechanisms, where such regulation is in place, are, as the author argues, to a certain extent a result of a lack of general consensus on how such regulation should proceed. However, as Mikac explains, both the nation states and the private security industry struggle to establish a proper balance and induce proper legislative measures in order to resolve the noted lack.

Robert Mikac’s work is significant for a number of reasons. The strenuous research represents a first major study on the phenomenon of private military security companies in Croatian literature and academic writing. It provides an extensive overview of the issues relevant for understanding the diversity and profundity of the change that is taking place in the modern world where the provision of public security – for good or for worse – is gradually taken over by private contractors. Furthermore, the author skillfully and competently analyses and explains the finesse of international law and political doctrine, providing the reader with an easily understandable and readable content, irrespective of the fact that the subject matter is highly complex, intertwined between several branches of social science (i.e., law, political science, sociology, philosophy), and further complicated by the intricate influence of high politics, clandestine activities and, very often, atrocious reality of war crimes and the absolute disrespect of human rights. Mikac has spent a considerable time scrutinizing the issue: the sources used during the research represent the most relevant literature on the subject matter, and, given the fact that the author has taken an additional effort to conduct interviews with relevant sources, it is of no surprise that the book “Contemporary Security and Private Security Companies: Privatization of Security and Consequences” excels among academic writing on the issue of private military security companies. The reading of Robert Mikac’s book is a sine qua non for all who wish to acquaint themselves with the changing nature of national security and the increasing role of the private sector in providing security services.

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The publication of “The Changing Welfare State in Europe: The Implications for Democracy” was made possible by the participation of the Europe Institute of the University of Auckland in the EU funded FP6 project “Reconstructing Democracy - RECON”. The book is a collection of articles written by international scholars examining the transformation of the welfare systems in Europe and beyond since the 1990s and in the aftermath of the global economic crisis. It examines the underresearched aspects of the new welfare systems and highlights their implications for democratic government.

The introductory chapter, written by Anna Michalski and David G. Mayes, examines the characteristics of social policy reform in Europe. The chapter identifies marketization and decentralization of services as the two most prominent trends in the reforms to the European welfare systems. These processes are facilitated through the search for greater efficiency and detachment from direct political influence. However, it remains to be seen to what extent they undermine the principles of democratic government. The authors note that in the last ten years flexicurity represents one of the most widely implemented policy reforms across Europe. It combines the activation of job-seekers with the availability of social security. It did not result in the reduction of the overall social welfare provisions but rather constituted the adaptation of the labour market services to the new social realities. At the EU level the fact that social policy remains largely within the national domain produces problems in creating greater convergence. Despite this, the authors conclude that in the last 15 years policy learning in the field of social welfare has been substantial.

In the following chapter, David G. Mayes and Zaidah Mustaffa examine social models in the enlarged EU. Starting from a traditional classification of the welfare regimes in Europe which include the Continental, the
Mediterranean, the Nordic and the Anglo-Saxon variants, the authors claim that in an enlarged EU the neatness of this categorization is breaking down. The boundaries between the various types are blurring with a degree of cross-fertilization. Encouraged by policy learning mechanisms such as the OMC, EU Member States have adopted various characteristics of other regimes producing what could be called hybrid systems. The new EU Member States have faced extreme pressures because of the collapse of the funding mechanisms for the welfare systems. As a consequence, in these countries privately provided support for the health services has been on the increase while the pensions and the health care systems adopted strong insurance elements.

The changing nature of social insurance in Europe is analysed by Katherine Lyons and Christine Cheyne. They claim that Continental and Scandinavian social insurance schemes are most democratic. On the other end is the Anglo-Saxon model where the only way for the individuals to influence their social insurance program is through the possibility of leaving the scheme. Lyons and Cheyne argue that state-run insurance schemes have more elements of democratic governance than the private insurance schemes. In this context they advocate for the EU to advance the concept of Social Europe in order to ensure that the goals of democratic governance are not compromised through efforts to exit the crisis and stimulate growth.

Mark Thomson discusses the need for the democratization of the activation process within the European welfare systems. By examining various national cases the author concludes that private companies which deliver private employment services tend to focus their attention on the most job-ready individuals which undermines the principle of universal coverage of social protection. In order to mitigate the negative effects of such social policies, Thomson advocates policy responses which fully recognise that people have different capabilities and which address the barriers to social inclusion.

As a consequence of the global economic crisis, Tess Altman and David G. Mayes note that disparities grow both between countries and within them, with the rich becoming richer and poor relatively poorer. The case studies show that the processes of marketization, decentralization and
the growing role of the voluntary sector have been accelerated and fostered by the crisis within the global welfare systems. By comparing the democratic tendencies of the social welfare providers', the authors conclude that the state guarantees equity, accountability, transparency and more social inclusion. The market, compared to the state, falls short of these guarantees but, on the other hand, provides more choice. Regarding efficiency, the authors describe the state as cost effective and monopolistic, while they see the market as more efficient and, unlike the states, competitive. Although Europe has adopted many characteristics of the US and a more market oriented welfare system, in the European environment these models have been adapted so that many negative aspects from US practice have been avoided. For instance, following the US example Europe shows a clear trend towards the localization of the welfare systems but the trend towards voluntarism is weaker due to its possible impact on increasing inequality.

The chapter written by Tess Altman and Cris Shore examines the consequences of the privatization of the welfare systems. The authors stress that since the 1980s the world is witnessing the rise of “disorganized welfare mixes” which in Europe results in shifts from the Keynesian welfare model towards free-market approaches. In their view, the principal dilemma of these new approaches is between efficiency and democratic accountability. In other words, can a private organization be trusted to serve the public interest? They present a number of case studies questioning the dominant neo-liberal approach to welfare reform which is founded on the idea that the private sector necessarily provides a better alternative to the excessively bureaucratic public sector. The authors are particularly critical of the US Asset-based community development (ABCD) which in their view increases the tendency to delegate the costs and responsibilities of welfare provision to those communities that are least able to bear them.

The implications of the replacement of the direct government provision of welfare services by expert organizations (quasi NGOs or quangos) which provide services for the government is analysed in the chapter written by David Mayes and Zaidah Mustaffa. The authors view this process as a direct threat to democracy since, as a result, the elected officials are responsible for a smaller share of activities, while actions of the quangos
are difficult to influence by democratic means. By examining cases in the UK, Denmark and the Netherlands the authors conclude that quangos bare little or no accountability to elected officials and that there is a lot of public mistrust of their work due to lack of transparency. Moreover, in various cases quangos do not guarantee the reduction of costs for the welfare services.

The last chapter of the book, written by Anna Michalski, discusses democratic governance and policy coordination in the EU. The author criticizes the democratic quality of the Open Method of Coordination (OMC) as the EU’s key policy coordination tool in the area of social policy. By referring to the work of scholars such as Fritz Scharpf and Viviane Schmidt she concludes that the OMC leaves out “political conflicts” and “political alternatives” and as such works contrary to the standards of public deliberation. Additional problems with the OMC are seen in the fact that it provides very limited space for the inclusion of all interested stakeholders and that the peer review process in practice does not function properly since participants have clear interest in supporting each other. The second part of the chapter assesses the EU’s policy coordination in the wake of the economic crisis. Here, Michalski notes that as a consequence of the crisis with the European Semester, the EU has adopted the framework for economic governance which is more comprehensive, centralized and coercive than before. This framework represents an efficient response to the consequences of the crisis but it risks undermining the ability of national parliaments to effectively influence the framing of national budgets.

The book “The Changing Welfare State in Europe: The Implications for Democracy” comes at the right time. In the EU the economic crisis brought about a greater convergence of the Member State’s economic policies and greater financial discipline. This resulted in reduced possibilities for the financing of the national welfare systems. As a consequence, governments in many countries accelerated the processes of marketization and decentralization of welfare services. However, as shown by various examples in this book, marketization and decentralization are not synonymous with reduced costs and greater efficiency. They often cause a reduction of quality as well as an increase in social inequalities. A separate problem are the consequences of these processes on democracy, since businesses and civil society organizations,
as providers of the new services, often do not comply with the standards of transparent decision making accountable to citizens.

However, despite all the criticisms the general conclusion of this book is not that every kind of marketization in the area of welfare is destined to fail. Rather, the book provides evidence that there are no simple solutions and that all processes which reduce the role of the state within the welfare systems need to be carefully prepared, even more carefully implemented and their outcomes must be controlled. The current controversy over the introduction of outsourcing of the side services in the Croatian public sector represents a case in point. Although such reform could reduce costs for the state, it should not be implemented without a detailed implementation plan which would calculate the social consequences of such action. Furthermore, such a far-reaching decision should be taken after lengthy consultations with the social partners as well as a broad public debate with all interested stakeholders. Another general conclusion of this book is the necessity of strengthening the social component of the European integration process. If Europe intends to win greater citizens’ support for its actions, then economic policy convergence must be followed by a greater degree of social policy convergence, despite the divergent impacts the crisis had on the individual Member States.

The book “The Changing Welfare State in Europe: The Implications for Democracy” offers its readers with a comprehensive analysis of a crucial topic: the reform of the welfare systems in Europe and beyond. All contributions are written with solid argumentation and as such the book will serve as an important reference point for policy makers and researchers in this dynamic field.

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Since the end of the Cold War the debate over conventional arms control has been on the global agenda many times. When the Treaty on Conventional Armed Forces in Europe (CFE Treaty) was signed by twenty-two NATO and Warsaw Pact member states in 1990, the issue was of significant importance given the fact that it was the only way to ensure balance and parity between the two blocs. With the dissolution of the Soviet Union and the Warsaw Pact the circumstances changed and the existing Treaty faced various difficulties. *The Future of Conventional Arms Control in Europe* provides a detailed analysis of conventional arms control and disarmament since they were introduced during the 1990s, and thus is very useful material for understanding this matter and the role of global actors in it. Through twenty four essays, and from different points of view, the authors provide analyses of the role of the CFE Treaty and reasons for its decreased relevance today. Moreover, based on knowledge and experience in the sectors that are relevant for arms control, they also give recommendations which could help improve the security concept.

In the first chapter, *The Relevance of Conventional Arms Control in the Current Strategic Environment*, the authors analyze the role of the arms control regime, its strengths and weaknesses. The opening essay, written by Alyson J. K. Bailes, focuses on the ways and means to avoid the unnecessary use of force. Even though arms reduction was introduced almost two and a half decades ago, there are still countries which have not begun this kind of transformation and for that reason Bailes argues that this concept is still relevant. The changes are happening on an everyday basis and thus it is unlikely to expect that the regime, introduced in the 1990s, could be of the same relevance twenty years later. On the other hand, the arms control regime cannot be created in a way that overcomes all possible transformations of the system. Hence, Bailes argues that it should be possible to update and adjust the arms reduction
acquis in order to preserve the agreed principles in new circumstances. This was not the case with the Agreement on Adaptation of the Treaty on Conventional Armed Forces in Europe (ACFE) that was signed but never came into force. According to Hartmann, ACFE was never given a proper chance, while on the other hand NATO’s creation of a global system of nuclear missiles in the Czech Republic and Poland definitely “undermined the cooperative security system in Europe” (Zellner, Schmidt and Neuneck 2009: 56). Therefore, this author points out that its ratification as well as improvement of relations with Russia is of crucial importance. The next essay, Considering the Political Meaning of CFE in 2009, continues to deal with the relevance of the CFE. The author, Craig Dunkerley, argues that its continuous implementation and multilateral character are its key features and the reason why it still matters. However, according to Zagorski, the intensification of security cooperation could have a better impact than arms control but given the fact that this kind of approach cannot be established between NATO, the EU and Russia, the author argues that arms control still has a significant role in the relations between the West and Russia. However, unlike Russia and NATO members, maintaining the CFE regime is more relevant for weak countries. Besides the link between the mentioned regime and its signers, Akcapar (ibid: 118) points out the importance of understanding the relation between the state and the law. Moreover, he argues that “political elites often interpret the laws the way which is most suitable for them but this is not the point of signing agreements”. Taking into account the fact that the regime is in the process of eroding, Akcapar offers three options for the future. The first one is to leave it to die, the second is to give Russia all it seeks, and the last one is to try to salvage the process by employing a number of tracks (see ibid: 130). Like Akcapar, Camille Grand also provides recommendations for the CFE regime. She sees the reasons for the lack of progress in benign neglect, new Russian assertiveness, the division between NATO members regarding Russian demands and the lack of involvement of other state parties. However, with the cooperative approach, not forgetting the importance of the CFE regime and by considering the Russian proposal for a European Security Treaty which can be redefined, actors can make the CFE regime relevant on the political agenda of the world.

In the second chapter, The CFE Regime – the Way Ahead, the authors touch upon the current position of the CFE regime and suggest the
possible solutions for its progress. In the first essay, Gregory Govan argues that the CFE could come back on the scene as a respectful regime only by preserving its oft-cited acquis. But in order to create a regime which could be applicable under new circumstances, it is important to include missile defense, responses to terrorism and other transnational threats. On the other hand, according to Chemov (ibid: 184), the process of revival would be very difficult to achieve, given the fact that the CFE is in the worst position since it was signed and the reason being the different perception of its importance. The US and NATO perceived the CFE Treaty as a tool which could serve their strategic geopolitical goals, while on the other hand Russia saw it as insurance that would help protect its vital security interests under the new circumstances. However, according to Champenois it is not important to find “the guilty one” but to see what the options for the post-CFE regime are. He offers two scenarios - the first one is to start the ratification of ACFE while the second one would be bypassing it. Arms control cannot exist in a vacuum, so it is important to add new elements, such as the involvement of other participants, a review of the list of armaments, the preservation, modernization and updating of transparency and the confidence regime. Moreover, according to McCausland it is also important to take into account the quality and quantity of conventional armaments as well as their impact on European security. On the other hand, the reason why there is still no reliable, comprehensive and integrated security environment within the OSCE area, as Kulebyakin sees it, is in state policies which, from his point of view, are directed towards ensuring their own interests and thus undermining a system of global security.

To better understand the European security environment, it is important to analyze the key components of the CFE and this is the main focus of Crawford’s essay Conventional Arms Control and CFE. By comparing the two versions of the Treaty, the author detects various differences between them, while the mentioned treaties also had a different impact on the various countries. Therefore, the last three essays explore their impact on the Baltic Sea region, Moldova, Georgia and the South Caucasus. According to Rosians, by offering membership to the countries of the Baltic Sea region, NATO and the EU created a beneficial environment for them. At the time, arms control and confidence building measures worked well, but Russian suspension of the CFE Treaty undermined the
existing situation in the Baltic Sea region and beyond. The situation in Moldova remained unchanged. Russian troops did not withdraw from Moldova’s soil which made the situation more difficult. In the Georgian case, according to Pataaraia, the establishment of the CFE regime did not significantly contribute to the security and foreign policy. This was a result of undeveloped security policy as well as of the fact that other states were more focused on Russia than on the CIS countries and their interests.

The third chapter, Conventional Arms Control in Europe: Options for the Future, touches upon the reasons that led to the undermined position of the CFE and offers recommendations for the future. According to Richter (ibid: 347), the first step in making a list of measures that can contribute to a successful CFE regime is to detect the reasons for the failure of the previous negotiations and the underlying different political interests. Actions of NATO and Russia significantly undermined the CFE regime as well as the ratification of its adapted version, but according to Dunay, the parallel process in which Russia would delay the suspension and other states would ratify the ACFE could put arms control back on the agenda. However, it is also important to analyze the regime from the regional perspectives and therefore in the next three essays the authors focus on regional instabilities, risks as well as on the sub-regional agreements that have been successful. Zellner compares arms control at the strategic and sub-regional level and points out that ACFE can enter into force and can be further developed. He sees the abandonment of the bloc-to-bloc approach as well as it being a system of regional limitations and sufficiency rule as its main achievement. By comparing the changes on the regional and sub-regional level, as well as taking into account the violent conflicts that have occurred, the author concludes that conventional arms control has to have a sub-regional dimension in order to remain relevant. Moreover, the role of the EU in this context is also significant even though, according to Hans-Joachim Schmidt, it still has not developed a common strategy for conventional arms control and military confidence-building. Besides, it is important to take into account that the environment and circumstances change on a daily basis and that, as a result, the development of new weapons and technologies becomes an expectable outcome. Neuneck argues that new information and communication technologies (ICTs) are contributing to the development of new weapons, such as High Energy Lasers and non-lethal weapons (NLW) but it is questionable what effect
these new kinds of weapons can have on political stability and existing conflicts. For that reason, the author points out that in the 21st century it is necessary that arms control take into account technological dynamics, while actors should limit the use of dangerous weapons. The role of tactical nuclear weapons is also of significant importance, especially in the relations between the US and Russia. Kelleher and Warren, in the last essay of this book, analyze the possible solutions for reaching “zero” of TNW. Even though they are providing steps that could contribute to the reduction of the TNW, the authors conclude that the control of this type of weapons is not a priority, but rather a contributing factor to European security and arms control.

In order to understand contemporary international relations, it is important to take into account the events that shape and change them and this is exactly what the book *The Future of Conventional Arms Control in Europe* provides to its readers. Through multi-dimensional analyses of the CFE Treaty and its adapted version, this book offers an overview of the relations between the West and Russia that have had an impact on the present situation in the security field. Therefore, even though it was published in 2009, it can be perceived as an important read for everyone who wants to know and understand international relations of the present times.

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Stuart Elden’s new book *The Birth of Territory* is a magisterial and in parts almost encyclopedic work. The book covers a diverse and broad ground, starting from political theory and international relations through geography and law to theology and history. The book’s basic presupposition is to present a genealogy of the concept of territory as we understand it today. Elden asserts that the concept of territory is taken for granted today. That is the case in political practice as well as in political theory and the social sciences more generally where territory has been underexamined. Thus, the author “seeks to offer an account of the emergence of the concept of territory in Western political thought. It does so primarily through a contextualized reading of the texts of that tradition with one key question: what is the relation between place and power?” (ibid: 10). He answers this question through a mesmerizing account divided in three parts spanning nine chapters and a coda which are supported by more than 2,700 endnotes. The book won the 2013 Association of American Geographers Meridian Book Award for “outstanding scholarly work in Geography”.

Elden opens the book with a famous passage from *The Discourse on Inequality* by Rousseau. In it, Rousseau laments the fact that the first appropriation by one person of a part of the Earth, held in common by all of humanity, which was not prevented by his peers, is the act that created civilization but also led to all its miseries. Still, the challenge to that appropriation could only have been made at that point in time; today we live in the shadow of that division of the world as we are in large part a product of it. The classical account of the emergence of the modern state and the concept of territory is the one about the Peace of Westphalia. That account is known to any student of international relations and is challenged by Elden as just one of the blocks on which these concepts were built, and by no means a central one. Elden also challenges the claims that the concept of territory as known today
remained almost unchanged since antiquity, that it is basically an eternal category. The concept of territory is historically produced, the product of ideas and practices which Elden traces from the Greeks up to the 17th century. Elden also stresses the distinctions between concepts that are related to territory, that of terrain and land, distinctions we should keep in mind as well as the one between territory and territoriality. Therefore, for the most part of European history since the time of the Greeks the word territory meant a space surrounding the city on which the city had claims, or which belonged to it and its inhabitants. However, these questions of claim and belonging are not as straightforward as they seem to be.

The modern concept which presupposes an inseparable link of the concept of territory with the concept of the state was long in the making. Elden stresses that from the famous triad - state, territory and population - analyzed among others by Foucault in his lectures on the genealogy of power in the West, it is territory which has been under-examined. Although Elden’s approach is much indebted to Foucault’s genealogical approach, he dismisses what Foucault had to say about territory. Elden defines his own approach in the book as textual, contextual and political, and that it should be read alongside his earlier book Terror and Territory, both books being a part of a larger project (ibid: 8).

Part one of the book deals with classical antiquity of Greece and Rome where Elden finds the elements which will be formed into the concept of territory. In chapter one Elden guides us through the origin myths, Greek tragedy, the laws of Kleisthenes, and the political writings of Plato and Aristotle. Elden then leads us into the world of Greek poleis and colonies in search of the elements of the concept of territory. Through Sophocles’ Antigone Elden shows the double meaning of the Polis; first as space, the khora, through the problem of the burial of Antigone’s brother; and second as community, the intervening of the chorus on the orders of Creon.

The second chapter is dedicated to Rome and to the works of Caesar, Cicero and the imperial historians. It is in Cicero where the word territory (territorium) appears, which is very rare in classical Latin. The word was sparsely used in the Roman World, where it designates agricultural land surrounding the city, but Romans had frequently used other words for the same meaning and this is why Cicero is interesting. The chapter provides
an account of the transformation of Rome from a city into an Empire and the contradictions that that transformation entailed. One of the most interesting aspects of Elden’s book is the story that traces the development of cartography that follows the main narrative about place and power, and in which cartography assembles itself into one of the techniques through which power is wielded over place. The Greeks and Romans, and the peoples of the Middle Ages, did not possess maps in our modern sense, so their idea of place and space, Elden claims, was substantially different than ours. Alexander’s conquest of Persia and Caesar’s conquest of Gaul were both made without maps, although surveying did exist and was very developed. This was especially the case in the Roman Empire, where in the work of Marcellinus the practice of surveying was of great importance. Elden gives clarification of the idea of limes, and also of probably one of the most important concepts deriving from the Roman Empire, that of imperium. The maps which today accompany every modern depiction or account of the Roman world and which to our eyes present essentially an empire whose borders seem threatened and surrounded by barbarians and basically indefensible, has almost nothing to do with how the Romans perceived it. How lands were conquered, defended and perceived by Caesar and his contemporaries is very different from our own concepts of terrain, territory and strategy. Still, they add to the historical making and assembling of our concepts. Today we cannot think of such ideas and not inscribe their origin, similarly as the concept of the state, although for the most part incorrectly, to the Roman World.

Part two, spanning chapters 3 to 6, covers the Middle Ages. In it, Elden paints a picture that is one more of continuity with the Roman Empire then in opposition to it. At center stage is the figure of Saint Augustine, but the lesser known authors such as Orosius, Boethius and Isidore are also present. Elden includes into the discussion a number of national historians of the “barbarian” tribes, finishing it off with one of the most poignant sections of the book in which he re-reads the poem Beowulf.

Chapters 4 through 6 are interconnected through the discussion of the relationship between the Pope and the Emperor, which bounds together politics and theology in the various interpretations of the so-called doctrine of the two swords. Starting from the importance of the Donation of Constantine and the crowning of Charlemagne by the Pope
there is an ongoing discussion of who has temporal power over the (re) established Empire of the Romans. It is this Empire that through ongoing transformations becomes the Holy Roman Empire of the German People. The main question is: what is the extent of spiritual and temporal power, that of the Pope and that of the Emperor? A diversity of authors offered replies, from John of Salisbury and Thomas Aquinas to Dante and Marsilius. This dispute is carried through medieval texts, as well as through real power struggles between various popes and rulers such as Friedrich II and Philip the Fair of France. To all this the important rediscovery of the political writings of Aristotle has to be added, which adds to the new categories that inform these ongoing disputes and struggles.

Part three of the book, spanning chapters 7 to 9, brings us from the Middle Ages through the Renaissance up to the end of the 17th century. As chapter 5 dealt with the important rediscovery of Aristotle’s political thought, chapter 7 deals with the important rediscovery of Roman law. This rediscovery was made possible by the preservation of the compilation of Roman legal documents in the form of Corpus Iuris Civilis under the emperor Justinian. These were finally made available to the thinkers in the west in the 11th century by Irnerius five hundred years after they were originally compiled. The importance of Irnerius and the Glossators who worked on these Roman legal texts is stressed by Elden (the painting of Irnerius also graces the book’s cover). They, and even more the so called Post-Glossators, informed what were to become the practices and concepts that would lead to our modern notions of sovereignty and territory. Elden puts special emphasis on two of these thinkers and jurists, Bartolus of Sassoferrato and Baldus de Ubaldis. Bartolus developed the notion of territory “as the very object of political rule in itself, and as a consequence, that rule is over the things that take place within it” (ibid: 226). This then informs the discussion between the Emperor and the Pope, in which the Pope has universal spiritual power, but they both have temporal power bound by territory. The Pope only has temporal power in the areas he directly controls, and is elsewhere under the power of the Emperor. Baldus adds to this the population, but the object of the rule remains the territory. The work by these and other scholars before them, for example Marsilius, on the relationship of cities and kings, are of great importance to later thinkers and disputes between cities, princes and kings analyzed by Elden in the chapters that follow.
The Renaissance and the Reformation are covered in chapter 8. Here again like the surveying in Roman times, now mapping of the Americas informs the discussion in Europe. With Machiavelli the idea of the state comes into play but Elden claims he has little to say about territory. More important are the processes going on in the Holy Roman Empire that are affected by the Reformation, and that fracture the Empire through religious and political struggles arising from it. Here, Elden presents the writing of such authors as Luther and Tyndale but also dedicates a longer discussion to the works of Jean Bodin and Giovanni Botero. Elden ends the chapter with a rereading of Shakespeare’s King Lear.

In chapter 9 Elden brings us to the more familiar territory of the 17th century and to the writings of the classics of political theory such as Spinoza, Hobbes and Locke, but also to lesser studied authors such as Althusius and Reinking. Yet, Elden asserts that it is Leibniz, generally overlooked as a political thinker, who gives the most modern definition of territory. By examining political struggles in the Holy Roman Empire between the Emperor and the princes, Leibnitz and a few other scholars develop the concept of territory into its modern sense. These concepts, overshadowed today by the importance we lay on the Peace of Westphalia, give us a fuller picture of the emergence of the modern concept of territory as territorial sovereignty.

In the coda, Elden leaves us off with the thinker he started the book with, Rousseau, who already uses the concept in its modern form “where politics, state and space come together” (ibid: 329). For Rousseau, as for Leibniz before him and Weber (and us) after him, territory is already “the space within which sovereignty is exercised” (ibid: 329).

In conclusion, it can be said that Stuart Elden’s book The Birth of Territory will be interesting to scholars in a wide range of disciplines, from political theory and international relations through geography, law and history, to theology. The assemblage that this study brings forward is a reminder about the diversity of sources that led to our modern understanding of the concept of territory.

For scholars of international relations and its practitioners the book is a valuable asset explaining the evolution of ideas and concepts we use
today and take for granted and as self-evident. To sum up, Elden also asserts that the concept of territory is far from being on the demise and this book, by exploring the past, is actually very timely. Territory is not simply an object, it is a process (ibid: 17). We only need to think of the ongoing struggle in Ukraine, on which Elden has recently also written, the brake-up of Yugoslavia or the expansion and transformation of the project that is the European Union to see why such studies, which on the surface might seem obscure, are relevant to a much broader audience then only scholars dealing with the history of ideas or the history of international relations.

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