Éva Bóka

Europe in Search of Unity in Diversity

Can Personalist Federalism and Multilevelism Manage Diversity?

(A historical essay)

Abstract

This essay investigates how European (Western and Central European) federalist political thinkers, believing in the idea of a peaceful world federation, developed personalism, multilevelism, and subsidiarity as means of protecting diversity in Europe during the 19th and 20th century, in opposition to anti-federalist conservative power policies and classical liberal capitalist market economy expansion. It emphasises the role of József Eötvös who rethought the ideas of Tocqueville and Proudhon, and can be regarded as the first "manager of diversity" in Europe. The lecture also presents how the Pan-European Movement elaborated the federalist ideas on personalist federalism and multilevelism. It also deals with European integration as manager of diversity: more precisely it investigates how the EU, as an intergovernmental and supranational new regional union of states based on multilevelism and subsidiarity, protects diversity ("unity in diversity"), and how this can influence new regionalism in the world. Conclusion: personalism, subsidiarity and multilevelism can protect diversity world-wide.

**Content**

## 1. Introduction: The idea of peaceful world federation

Historically the topic of *managing diversity* belongs to the idea of *peaceful world federation or world federal union.* It has developed gradually during history in opposition to authoritarian sovereign states and colonial empires characterised by authoritarian centralisation policies, territory incorporations, military, economic and cultural imperialism, nationalism, chauvinism, racism, and wars for hegemony and power.

Following the i*dea* and *model* of a *peaceful world federation*, social organization starts with the persons and their communities as result of the association policy of persons on all those fields where cooperation is necessary. Different communities (family, local community, province, state, federation of states, federation of federations of states, etc.) could be seen as concentric circles around the person in the centre. Constitutional state law, international law, and international human rights create the harmony between the persons and these circles of associations.

The idea of a peaceful world federation, based on *personal autonomy*, *community autonomy, decentralization, multilevelism* and the principle of *subsidiarity,* is present in the works of all the European representatives of *federalism/confederalism*, like Plato, Aristotle, Erasmus, Althusius, Grotius, Suarez, Vattel, Saint-Pierre, Penn, Locke, Montesquieu, Voltaire, Bentham, Kant, Tocqueville, Proudhon, Eötvös, Renner, Naumann, Hantos, Madariaga, Coudenhove-Kalergi, Rougemont, Brugmans, Schuman, Monnet, Spinelli, Hallstein, Tindemans, or Delors. The idea and the principle of a peaceful world federation were also represented in the legal documents of federalist states and international development. Some of the most important examples include the Treaty of Utrecht of 1579 (on the Dutch union); the Virginia Bill of Rights of 1775; the American Declaration of Independence of 1776; the Constitution of the United States of America of 1787; the French Declaration of the Rights of Man and Citizen in 1789; the Swiss Constitution of 1848; The Covenant of the League of Nations in 1918; the Charter of the United Nations Organization of 1945, and the Universal Declaration of Human Rights in 1948. The basic treaties of the European integration and the Treaty on the European Union also belong to this group. All these thinkers and legal documents contributed to establish peace in Europe and in the world, and to find means and principles for managing diversity.[1]

In what follows this historical essay investigates how did develop the theory and practice of managing diversity in the 19th and 20th centuries in Europe. It

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[1] Bóka Éva (2001): *Az európai egységgondolat története (The History of the Idea of European Unity). Napvilág,* Budapest; Bóka Éva (2004): Út a nemzetekfelettiséghez (The Way to Supranationalism). *Európai Szeml*e, Budapest, No., 2; Bóka Éva (2004): A föderalista Európa eszméje a háború után (The Idea of Federalist Europe after the War). *Európai Szemle*, Budapest, No. 4, 2004; Bóka Éva (2005): The Democratic European Idea in Central Europe, 1849-1945. *Specimina N*ova, Pécs, 2005. 6-24.

concentrates on the ideas of state and international organization, and of human rights.

## 2. European federalism in opposition to wars and power policy

The idea of a peaceful world federation can be traced back to Aristotle. He drew up an organic model in which individuals (persons) belonged to groups and groups formed the larger social body. The autonomy of each persons and group had to be respected. In the mind of Aristotle the *personal principle* and *subsidiarity* were strongly connected, and they developed side by side with the concept of federal states based on the rule of law. In fact, the classical idea of *world federation* started with Aristotle.

Later Saint Thomas Aquinas connected personal autonomy with the notion of human dignity. It meant for him the recognition of a sphere of freedom for the individual that must be respected by the larger social groups, and the society.

Early modern European federalism was strongly connected with peace policy. European peace policy started with Erasmus' warning:

"This world is the common country of all men"[2]

In his *The Complaint of Peace* (1517) he openly rejected the warrior mentality of the European rulers and princes, and expressed his fears of future cultural (ethnic) conflicts among competing states belonging to different cultures. [3]

Aristotle, Saint Thomas Aquinas and Erasmus were followed by Althusius in the 17th century when the dichotomy of *sovereignty versus autonomy* was already present in European social organization. He called for the creation of decentralised federal states and of a federal international policy. The conception of Althusius is based on a political organization starting with the persons and ranging from private associations composed of small groups, families, and voluntary corporations to public associations and territorial units such as the local community, the province, the canton, and later the state, and the federation of states. His was an organic notion of society in which the integrity of the component parts was guaranteed by being built up from below starting with the persons.[4]

However, with a few exceptions, it was not the Althusian federalism but rather the Bodinian sovereign monarchical nation state[5] that triumphed in Europe. Most of the national states drew their origins in authoritarian sovereign states. These

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[2]  Erasmus (1946): The Complaint of Peace. Scholars Facsimiles and Reprints, New York, 47.

[3]  Erasmus (1946): The Complaint of Peace, 9-10, 45, 46.

[4]  Johannes Althusius (1965): *Politica methodice digesta*. An abridged translation of the third edition. Translated, with an introduction by Frederick S. Carney. Eyre & Spottiswoode, London,  34-35, 66-67, 115.

[5]  Bodin, Jean (1955): *Six Books of the Commonwealth.* Basil Blackwell, Oxford

authoritarian states could not subordinate their sovereignty to the rules of international law that developed gradually and in opposition to centralisation policy. Their behaviour in international policy remained unregulated till the end of the Second World War.

The federalist opposition to the authoritarian and absolute sovereign state model was in favour of decentralised states pursuing peaceful internal and external association policies, and based on international law. The most fruitful period for this international and legal political thinking began in the 17th century and it continued during the Enlightenment of the 18th century. A conscious fight against feudal privileges, prejudices, and against a monarchical approach to foreign policy and diplomacy was at the centre of the concerns and activities of political thinkers of this period. Eliminating wars through the establishment of rules and institutions of constitutional states, and of international law was the most important challenge. Grotius was one of the firsts to develop a legal framework for making wars impossible. He believed that states should be organized based on common legal principles, and he also proposed to do the same for the community of states. His work was continued by numerous thinkers of European Enlightenment, among them Locke, William Penn, Saint-Pierre, Montesquieu, Rousseau, and Vattel. The ideas on the principles of constitutional states, on representative parliamentary government, and on federal union of states based on the principle of unity in diversity developed gradually. All these thinkers had proposals to create common institutions, too, like a European council of rulers, a European assembly of the representatives of the citizens of the member states, or a court of justice.

The most important thinkers of the law of nations (international law), Suarez and Vattel, elaborated on social organizational ideas based on the principle of *unity in diversity*. In Vattel's world-view, for example, the international or interstate system was composed of single states. A single state constituted one political body, which was sovereign. The sovereign states could create either federations (république fédérative) or they could remain autocratic states. In the case of a federal republic the sovereign states unite into a permanent confederation. They agree in common competences and obligations, but they safeguard their autonomy. Vattel emphasised that sovereign states were not able to create peaceful international cooperation based on international law. Only the federal type states with a bottom up organisation could do that, representing the division of powers by the means of the principle of autonomy (subsidiarity).[6]

## 2.1. Federalists in opposition to anti-federalists in a modernising Europe

The founding fathers of the United States of America established a *federal union under a president*. They successfully summarised all thoughts in the

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[6]  Emerich de Vattel (1775): *Le droit des gens, ou principles de la loi naturelle.* Appliqués à la conduite et aux affaires des nations et des souverains. Chez E. Van Harrevelt, Amsterdam, Preliminaires, 1-9.

American Constitution that had been proposed in the name of personal autonomy and the autonomy of states.[7] In Europe only the Constitution of the Swiss *federal union under a federal government* of 1848 could establish a federal state. These *constitutional federations* were based on the representation of the interests of citizens as citizens of the large union, and at the same time as citizens of their own states/cantons, too. The classical constitutional federation was built from below. It was based on the division of power between the federation and the states. Legislation was made in the two chambers of the parliament. The federal government embodied the executive power. The federation was based on the balance of power policy between the federalists and the confederalists. It had an international legal personality.

The French Constitution of 1791 based on the principles of the *Declaration of the Rights of Man and Citizen of 1789* established a modern republican civil state. The French nation state (1792) in contrast, was unitary, centralised and built from above. It denied the classical idea of federalism based on the principle of autonomy of the persons and of the historical associations (cantons) of the persons; the state was embodied by the nation, and under nation was understood the French people (the French speaking citizens).

In these important legal documents of modern civil constitutional state organization based on popular sovereignty and self-determination the management of diversity was not yet present. We can not forget that the American Constitution of 1787 accepted slavery and racism. The French declaration rejected federalism, and did not deal with the problem of democracy among states. So, on the basis of the new values and principles of a modern European civil state (self-determination, popular sovereignty, parliamentary representation, right to vote, pluralism, right to property, legal defense, right to speaking and thinking freely, or taxation) the management of diversity could not automatically develop.

It was Immanuel Kant who realised that the Declaration of the Rights of Man and Citizen could not solve the problem of peaceful cooperation among the republican states. Therefore he elaborated on the principles of a modern international policy in his *Perpetual Peace* [8] on basis of the Declaration of the Rights of Man and Citizens. In Kant's view a modern international policy has to be based on legal harmonization of the values and principles of sovereign republican states directed by the most modern and democratic ones as developers. He imagined a world republic of similar sovereign republican states based on a law of nations and legal harmonization.

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[7]   American politicians, influenced by the Greek federations, by the Dutch Treaty of Utrecht and by the ideas of Locke, Penn, Saint-Pierre, Montesquieu, Vattel and others, elaborated the institutions of a federal union under a president. See: *The Federalist, or the New Constitution.* By A. Hamilton, J. Jay and J. Madison. Reprint, Dent London, and Dutton, New York, 1965.

[8]   Immanuel Kant (1991): Perpetual Peace: A Philosophical Sketch. In: *Kant Political Writings.* Edited by H. Reiss, translated by H.B. Nisbet. Cambridge University Press, Cambridge, 97-130.

In opposition to him Tocqueville – interpreting the American constitution in his political essay *Democracy in America* - made the emphasis on the *division of sovereignty* of states and *multilevelism* as the means of peaceful cooperation among civil states. He believed that only the division of sovereignty – more precisely the voluntarily fusion of states into one in specific areas of common interest – and a multilevel governance was able to establish peace among states. Tocqueville expressed this in his "Democracy in America" as follows. In his words:

> "Another form of society is afterwards discovered in which several states are fused into one with regard to certain common interests, although they remain distinct, or only confederate, with regard to all other concerns. In this case the central power acts directly upon the governed, whom it rules and judges in the same manner as a national government, but in a more limited circle. Evidently this is no longer a federal government, but an incomplete national government, which is neither exactly national nor exactly federal; but the new word which ought to express this novel thing does not yet exist." [9]

Kant and Tocqueville raised the question of *indivisibility of sovereignty.* Tocqueville could successfully surpass the classical idea of a sovereign state, and the belief in the indivisibility of sovereignty of states proposed, for example, by Hobbes.[10] Kant rejected the division of sovereignty. He proposed legal harmonization among sovereign states. Legal harmonization was a very important, though incomplete, means to realize Kant's dream on a perpetual peace. But the realization of his idea on *universal hospitality* (law of world citizens) continued to represent a challenge in a *multicultural world*.

In European state organization the values and principles of the French Declaration of the Rights of Man and Citizen of 1789 became dominant. The American and the Swiss constitutions also served as examples for European constitutional federalists who strongly criticised *the French concept of nation state* that ignored the principle of federation. The whole of the 19th century was hallmarked by the struggle between federalists and "democratic nationalists" who, like Mazzini, concentrated on the democratisation of unitary type sovereign nation states as the only legally acceptable units of a European cooperation.

The democratic nationalist Mazzini put forward the idea of a New Europe composed of renewed unitary republican nation states, among others a New France, a New Italy, and New Germany. He concentrated on the modernization and on the necessary centralization within nation states following the French

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[9]   Alexis de Tocqueville (1990): *Democracy in America*. The Henry Reeve text as revisited by Francis Bowen, now further corrected and edited with introduction, editorial notes, and bibliographies by Phillips Bradley. vol. 1. Vintage Books Edition, A Division of Random House INC., New York, 158-159.

[10]  Thomas Hobbes (1981): *Leviathan.* Penguin Books Ltd., London, 227-228, 368.

example, and rejected the federalist ideas.[11] In opposition to Mazzini, Proudhon struggled for the consistent implementation of a decentralized association policy of a federative type, based on the idea of *personalism* and *subsidiarity*. He opposed to the powerful centralization policy of nation states. He believed that centralized, monarchical or civil nation states were not able to organise a European federation.[12] He therefore supported *decentralisation*, the *local autonomy* system, and *regionalism*.

Proudhon is probably best known as the representative of *personalist federalism*. His major work on this subject, published in 1863, was *Du principe fédératif*. In this work he concentrated on the dichotomy of authority and liberty. Proudhon put forward a model of state and society composed of autonomous communities, which federated on basis of contracts freely entered into. His conception of the state-society relationship was an organic view based upon corporatism (associations) and subsidiarity. He believed that power should be divided in order to be as close as possible to the level of the problems to be solved.

He defined federation as follows:

> "Fédération, du latin foedus, genitive fœderis, c'est-à-dire pacte, contrat, traité, convention, alliance, etc., est une convention par laquelle un ou plusieurs chefs de famille, une ou plusieurs communes, un ou plusieurs groupes de communes ou États, s'obligent réciproquement et également les uns envers les outres pour un ou plusieurs objets particuliers, dont la charge incombe spécialement alors et exclusivement aux délégués de la fédération."[13]

Proudhon's personalist federalism was based on the recognition of society as a *multi-layered* entity. At the bottom it was based on the individual and was built up from bottom up via families, groups, economic units and local communities, and extended even beyond the state into an all-embracing transnational federation. Human beings were complete persons in the sense that their liberty and autonomy were achieved through their responsible interaction with the other humans.

In his federalist system the *autonomy* principle played the conflict-solving role. It attributed the competences among the different parts of the federation, and between the federal government and the member states by safeguarding all kind of

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[11]   Giuseppe Mazzini: On the Unity of Italy. In: G. Mazzini (1890): Life and Writings of Joseph Mazzini. London, Smith, Elder and Co., 1890. vol. 1. 226-229. In: H. Kohn (1971): *Nationalism its Meaning and History*. Van Nostrand, New York, 118-121; Giuseppe Mazzini (1912): *The Duties of Man and Other Essays*. J. M. Dent & Sons Ltd. London and E.P. Dutton & Co., New York, 1912. 51-60.

[12]   Pierre-Joseph Proudhon (1921): *Du principe fédératif*. Bossard, Paris; P. -J. Proudhon: Du principe fédératif. In: P.-J. Proudhon (1959):*Œuvres complètes de P. J. Proudhon*. Paris, 318-323, 390-393, 543-551.

[13]   Pierre-Joseph Proudhon (1921): *Du principe fédératif*. Bossard, Paris, 1921. 104.

autonomous rights. In his words:

> "Un contrat synallagmatique et commutatif, pour un ou plusieurs objets déterminés, mais dont la condition essentielle est que les contractants se réservent toujours une part de souveraineté et d'action plus grande que celle qu'ils abandonnent."[14]

The whole structure was built from bottom-up, based on legal harmonization with the federal law. Sovereignty and centralisation policy – the former sources of conflicts and wars – could not play any role in the Proudhonian social organization.

Lord Acton rejected nationalism in general – including Mazzini's nationalism, too – and fought for an autonomous, decentralised development of the multinational constitutional states on basis of the status quo.[15]

Bakunin's polemics with Marx and Mazzini indicated the presence of two impasses on the way of free and federal social organization, namely authoritarian communism and nationalism (chauvinism) of the authoritarian nation states.[16]

John Stuart Mill emphasised the importance of the autonomy of local governments. He was against the centralization policy of central authorities:

> "It is but a small portion of the public business of a country which can be well done, or safely attempted, by the central authorities."[17]

Mill appreciated the federal government. He regarded the *Federalist*, a collection of papers, as a more instructive treatise on federal government.[18]

Regarding the Federal Union, Mill emphasised two ways of organization:

> "The federal authorities may represent the Governments solely, and their acts may be obligatory only on the Governments as such; or they may have the power of enacting laws and issuing orders which are binding directly on individual citizens."[19]

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[14]   P.- J. Proudhon: *Du principe fédératif.* 112.

[15]   Lord J. E. E. D. Acton (1967): The Nationalism. Essays in the Liberal Interpretation of History. University of Chicago Press, Chicago and London. In: Hans Kohn (1971): *Nationalism. Its Meaning and History.* Van Nostrand, New York, 122-125.

[16]   Mikhail Bakounine et l'Italie 1871-72. Textes ètablis et annotes par A. Lehning. In: *Archives Bakounine.* Publiées pour Internationaal Instituut voor Sociale Geschiedenis Amsterdam, vol. 1. première partie, E.J. Brill, Leiden, 1961. 3-17; M. Bakounine (1961): Ecrit contre Marx. In: *Archives Bakunine.* vol. 2. 189-191; M. Bakounine: Fédéralisme, Socialisme et Antithéologisme. In: M. Bakounine (1859): *Œuvres.* Librairie Tresse & Stock, Paris, 1-60.

[17]   John Stuart Mill (1968): Representativ government. In: J. S. Mill (1968): *Utilitarism, Liberty, Representative Government.* Dent, London, 346.

[18]   John Stuart Mill: Representative Government. 369.

[19]   Ibid. 368.

The former is represented by the German so-called Confederation. The other principle is that of the existing Constitution of the United States, also adopted by the Swiss Confederacy. The Federal Congress of the American Union is a substantive part of the government of every individual state. It makes laws, which are obeyed by every citizen individually, executes them through its own officers, and enforces them by its own tribunals. It is the only principle that has been found to produce an effective federal government. A union between the governments only is a mere alliance.[20]

The 19th century became the century of nation states which were *imagined communities* concentrating on *national interest*. While democratic reformers fought for a consistent implementation of democratic reforms within their states, there was no effective internal and external legal harmonisation among European states. The conservative Saint-Alliance could not become the coordinator of legal harmonisation. The methods of monarchic diplomacies, imperialist expansion world-wide, the interests of sovereign nation states and national empires, and a strive for a balance of power dominated. Although the aim of the conservative monarchs to restore the old European society proved to be impossible, conservative forces could still hinder and paralyse the development of the necessary democratic reforms. European federalists strongly criticised the competition among nation states and national empires that, in the lack of an international coordination, turned them into enemies. People developed mutually negative images and stereotypes about each other on basis of cultural and linguistic diversity, which led to feelings of animosities and fears. It is on this psychological basis that the phenomenon of *nationalism* and its most dangerous form of *racial nationalism* could develop.

The most important questions regarding our topic (managing diversity) were whether the Mazzinian, the Proudhonian, the Kantian or the Tocquevilleian model would dominate European state and international organization, and which one of these models could protect diversity.

### 2.2. Eötvös as the first a manager of diversity

The transformation of the Hungarian Kingdom into a *modern unitary Hungarian nation state following the French example* in the reform period ended with the raising of linguistic/cultural nationalism, and political conflicts among the different lingustic/cultural groups, and inside the mixed population. After the bloody fights between the *nationalities* (different linguistic/cultural groups) living in the territory of the Hungarian Kingdom in 1849 Central European thinkers (the thinkers of the Habsburg Empire and the Hungarian Kingdom) were challenged to establish a *multinational democratic state* which was able to manage diversity. Searching the legal means against *political nationalism*, which developed on the basis of linguistic and cultural diversities, they elaborated important federalist

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[20]    Ibid. 368.

ideas opposing the French idea of a sovereign unitary nation state. They realised that French republicanism was not suitable for multinational states with mixed population (like the Habsburg Monarchy, for example). *Personal principle* and *subsidiarity* played a significant role in this. The most important among these thinkers were Eötvös, Palacky, Naumann, Renner, and Coudenhove-Kalergi. Their contributions to the development of a democratic federal European idea and of human rights are indeed very important, primarily in the area of *national minority rights*. They elaborated also the model of a *democratic multidimensional personalist federalist state* for managing diversity.[21]

Regarding the management of diversity the most important thinker was József Eötvös (1813-1871). He can be regarded as the first manager of diversity in Europe. His work was highly appreciated by his Western contemporaries. [22] Here it is important to note – as it was above mentioned – that the *Western universalist theory and practice* of a modern (capitalist) state and international relations, with the exception of some federalist oppositional thinkers, ignored the management of diversity.

*The idea of a personalist federalist state*

Eötvös was deeply shocked after the bloody *language fights* (nationality conflicts) of Hungary in 1848-1849. After 1849 his goal was to understand the reasons for the emergence of the *national or linguistic minority question* and to find a democratic solution to the problem. He began to study the history of organization and modernization of states. He found parallels between the general problem of *religious minority groups* and of *national (linguistic/cultural) minority groups*. He searched through the history of religious movements, because he considered the national or linguistic minority problem to be, similarly to religion, primarily a social issue. Comparing religious autonomy and religious freedom, he emphasised that religious autonomy could not solve the problem of minority religious groups. Instead the real solution was the *separation of state and religion*. Once this was done, the political organization of the citizens would become independent from the religious ones. Eötvös' most important idea was to draw on this conclusion, and to propose a *separation between the civil, political and the linguistic/cultural functions of the state*. He proposed the idea of *personal federalism* based on the *personal principle*. The essence of his idea was that the political and human rights should belong to individuals (and not to national or linguistic minority territorial groups). In a democratic multinational state with a mixed population, everybody should be given equal political rights and duties on a personal basis, and regard nationality, as well as religion, as personal human

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[21]  Bóka Éva (2005): The Democratic European Idea in Central Europe, 1849-1945. *Specimina Nova*, Pécs, 2005. 6-24; Bóka Éva (1999): From National Toleration to National Liberation (Three initiators of cooperation in Central Europe). *East European Politics and Societies*. Vol. 13, No., 3. 1999. 435-473.

[22]  On this topic see: Éva Bóka (2005-2007): József Baron Eötvös on the Personal Principle. Ungarn Jahrbuch, Band 28. Jahrgang 2005-2007. Verlag Ungarisches Institut, München

rights. Eötvös rejected the idea of the emancipation of national (linguistic/cultural) minority territorial groups, because he rejected the idea of assigning political and human rights to groups instead of individuals. In his opinion, giving political rights to religious, national or linguistic minority groups made a free association policy among people impossible. [23]

Searching for suitable principles of democratic internal and external state organization for multinational territories, he studied the ideas of Proudhon, John Stuart Mill, Sismondi, Guizot, Lord Acton and Tocqueville. He like Tocqueville rejected the French type unitary republican nation state as a model for multinational states with mixed population. He, like Tocqueville, Proudhon, and Mill also believed that the secret of a democratic state–organisation was communal autonomy. Eötvös emphasised that every self–governing community had to ensure the right of association for everybody to achieve certain goals, to solve problems (but not in the form of political clubs). In his conception the whole state had to be an association of associations of persons to achieve certain goals. The free local associations would play the same role in the free self-governing communities as the self-governing communities in the state. The right of local associations would work as a balance against the absolutist tendencies of the state.[24] This is the way to create a democratic state from healthy cells.

The final conclusion of Eötvös was that the principle, which could serve as a driving force in the organisation of multinational territory with a mixed population, was the *personal principle*. He believed that a multinational democratic state, organised by the personal principle, could respond to the idea of democracy. The personal principle, as considered by Eötvös, required the *separation of state and nation*: *citizenship and nationality*. Every citizen of the state belonged to the same administrative structure and had equal political and human rights and duties, independently of nationality (language, culture, traditions). Religion and nationality, as personal, human rights, were guaranteed for everybody in the form of free associations, which, on their turn, were independent of the administrative organisation of the state.[25] With regard to the practical self–organisation of different nationalities, Eötvös proposed to deal with the nationalities as free associations in a cultural administrative system, which was to be separated from the civil organisation of the state.[26] If, within the state, nationality is regarded not as a collective political right (territorial autonomy) but as a personal cultural right expressed by the free associations of the nations and national minorities, the dominant ideas of the age "*liberty, equality, and*

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[23] Éva Bóka (2005): The Democratic European Idea in Central Europe, 1849-1945, 13-14.

[24] József Eötvös (1871): A 19. század uralkodó eszméinek befolyása az államra. Budapest, vol. 2. 485-486.

[25] Eötvös József (1869): A nemzetiségi kérdés. Budapest, 91-93, 111-112.

[26] Eötvös József (1871): A 19. század uralkodó eszméinek befolyása az államra, vol. 2. 485-486; Eötvös (1869): A nemzetiségi kérdés, 91.

*brotherhood*" will be in harmony and peace. So, *national liberation* was the solution proposed by Eötvös to replace the unsatisfying principle of *national toleration*. [27]

The realization of all these demanded an appropriate state structure. Therefore Eötvös concluded by stating that the way in which the multinational Habsburg Empire, including Hungary, had to develop its state organization was the bottom–up federal state structure, based on communal self-government and the right for the free association of persons. This organization had to offer equal personal, political, and cultural rights for everybody. In this way the ideas of liberty, equality, and fraternity could work democratically, and without contradiction in the state and international organization.

Thinking on a state that could protect cultural and linguistic diversity he was convinced by Tocqueville's above mentioned ideas on a peaceful federal union of states described in his *Democracy in America*:

> "Another form of society is afterwards discovered in which several states are fused into one with regard to certain common interests, although they remain distinct, or only confederate, with regard to all other concerns. In this case the central power acts directly upon the governed, whom it rules and judges in the same manner as a national government, but in a more limited circle. Evidently this is no longer a federal government, but an incomplete national government, which is neither exactly national nor exactly federal; but the new word which ought to express this novel thing does not yet exist." [28]

Based on these ideas of Tocqueville he proposed to reform the old monarchic centralisation policy of the Habsburg Empire. [29] He believed that it had to be changed for a democratic decentralised federalist system on the basis of the status quo and historical rights. As a solution, Eötvös proposed to decentralise the global state ("Gesamtstaat"), to fragment the territory of the empire into provinces in their historical frameworks, and to provide self-government (autonomy) to the different provinces.[30] He rejected the creation of independent provinces (autonomous "nationality states") based on language, and culture. He believed

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27 Éva Bóka (2005-2007): József Baron Eötvös on the Personal Principle. *Ungarn Jahrbuch*, Band 28. Jahrgang 2005-2007. Verlag Ungarisches Institut, München, 61; See also Éva Bóka (1999): From National Toleration to National Liberation (Three Initiators of Cooperation in Central Europe). East Euopean Politics and Societies, 13. 1999. 3, 435-474.

28 Alexis de Tocqueville (1990): *Democracy in America*. The Henry Reeve text as revisited by Francis Bowen, now further corrected and edited with introduction, editorial notes, and bibliographies by Phillips Bradley. vol. 1. Vintage Books Edition, A Division of Random House INC., New York, 158-159.

29 Eötvös on the confederate reconstruction of the Habsburg Monarchy see Éva Bóka (2005-2007): József Baron Eötvös on the Personal Principle, 61-62.

30 Eötvös (1859): *Die Garantien der Macht und Einheit Oesterreichs*. Leipzig, 81, 211.

that the possible solution for the national problem in the Habsburg Monarchy was a confederation of the traditional historical entities on the top level (in the form of a constitutional state), and a decentralised bottom up self-governing administrative organisation on the country and community levels, with equal political rights, and the right for free association for everybody. In this system nationality (culture and language) had to become a personal right belonging to the cultural sphere of the man.

Eötvös imagined a state, able to solve the linguistic and cultural claims by a well managed local autonomy system on the level of the villages and provinces diminishing by this way the role of state intervention in this field. In his view *managing diversity* demanded the involvement of the principle of subsidiarity in the organization of a state based on multilevel governance. [31] Therefore he proposed to establish a three level constitutional state in his famous book on *The Dominant Ideas of the Nineteenth Century and Their Impact on the State*, and in his political essay *Über die Gleichberechtigung der Nationalitäten in Österreich*.[32] The functions and competences of all three different levels had to be defined by the *principle of subsidiarity*. The lowest level would be represented by a network of village- and town autonomies. This is the level where the cultural and linguistic (national) claims should be solved on basis of the right to free association, of equal political rights, and of human rights. The second level would be the level of the historically developed provinces, and the first level the central government. The central government should manage all areas that belong to the whole state. Competences belonging to the state (Gesamtstaat) are the following: army, commercial affairs and foreign policy, covering the expenses of the emperor and his family. Competences belonging to all other fields had to be defined by the central government and the provinces on basis of subsidiarity. To the competences of the provinces should belong everything what they could manage. [33]

To conclude, in Eötvös view the solution of the management of diversity was in a federalist *multilevel* state governance directed by *subsidiarity*, how Tocqueville described it, as we have seen above. He believed that this state structure was able to protect the cultural, linguistic and traditional diversity of men inside the states and among the states. Actually the European Union aims to realise something like, as we will see below.

Eötvös can be regarded as a pioneer of the idea of *personal federalism* as a replacement of collective territorial autonomy, and as the democratic equivalent of the old idea of toleration in a multinational state. He emphasised that the dominant

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[31] Bődy Pál (2004): *Eötvös József*. Eötvös József Könyvkiadó, Budapest, 64.

[32] Eötvös József (1996): *The Dominant Ideas of the Nineteenth Century and Their Impact on the State*. Social Science Monographs, Boulder, CO., Atlantic Research and Publications, Highland Lakes, NJ., Distributed by Columbia University Press, New York; Eötvös József (1871): *Über die Gleichberechtigung der Nationalitäten in Oesterreich*. Pest

[33] Bődy Pál (2004): *Eötvös József,* 69.

*national idea* [34]could serve as a means of democracy only in federalist decentralised civil states based on the personal principle and free association policy.

The progressive ideas of Eötvös on the reconstruction of Hungary were not implemented in Hungarian state organization. His program was too idealistic for the backward feudal Hungarian society that could not accomplish the planned democratisation process of the country following the ideas of 1848. When, after the *Ausgleich of 1867*, the national minority problem was legally regulated, Eötvös tried to represent his ideas in *The Law of Equal Rights of the Nationalities* (Act 1868:XLIV.).[35] But the *Nationality Law of 1868* was a serious defeat for his own program. The minority protection represented in this legal document fell short of his public statements and private views.

However Eötvös could achieve a very important thing. *The Law of Equal Rights of the Nationalities of 1868* (Act 1868:XLIV) assured the right to organise national cultural associations. Thus:

> "Individuals, communes and denominations were at liberty to found schools and colleges for the furtherance of language, art, science, industry or agriculture; and individuals were secured the right to form societies and associations such as corresponded to 'their lawful aspirations'" (article 26).[36]

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[34] National idea: It meant for Eötvös to establish modern civil states (nation), and to manage langue and cultural (national) diversity as personal human right.

[35] The text of the Nationality Law was published in Gábor G. Kemény (1947): *A Magyar nemzetiségi kérdés története.* I. A nemzetiségi kérdés a törvények és tervezetek tükrében 1790-1918. Budapest, 107-109; The English text see in Robert W. Seton-Watson (Scotus Viator) (1908): *The Racial Problems in Hungary.* London 1908. 429-433; About the Nationality Law see C. A. Macartney (1934): *National States and National Minorities*. Oxford 1934. 119-122; Robert A. Kann (1950): *The Multinational Empire: Nationalism and National Reform in the Habsburg Monarchy 1848-1919*. New-York, vol. 1. 134-136; Oszkár Jászi (1966): *The Dissolution of the Habsburg Monarchy*. London, 314-317.

[36] Article 26 of The Law of Equal Rights of Nationalities: "As hitherto, so in the future both individual citizens, communes, churches and congregations of whatever nationality shall have the right to erect by their own exertions and in the way of association both elementary secondary and higher educational institutions. With this object and for the erection of other institutions which advance the cause of language, art, science, agriculture, industry and commerce, the individual citizens can subject to the legal control of the State, join together in societies or leagues, can draw up statutes, and after the Government has sanctioned these statutes, can act in accordance with them; they can also collect money funds and can, subject to Governmental control, administer these funds in conformity with their lawful national claims.

Educational and other institutions which have been founded in this manner enjoy equal rights with state institutions of a similar character - but the schools, only in the event of the provisions of the law of Public Instruction being observed.

The language of private institutions and societies is prescribed by the founders."

See: R. W. Seton-Watson (Scotus Viator) (1908): *The Racial Problems*, 433.

In fact Eötvös could enlarge the human rights (the Declaration of the Rights of Man and Citizen, 1789) with national and national minority (linguistic and cultural) rights.

Despite its shortcomings the Law of Equal Rights of the Nationalities of 1868 was the first European comprehensive code of the national, and national minority rights. It was well appreciated in Western Europe.[37]

Eötvös stressed that only free and autonomous persons and their communities could create decentralised federal associations among each other on basis of the historical status quo. Central Europe had to become a *multinational democratic confederation*, a *Central European Commonwealth* based on local self–government and on the free cultural associations of persons. This would be a step towards a European Confederation and further to the world confederation.[38] This was the way towards the centuries' old idea which was freedom and peace in the world.

## 2.3. Linguistic-cultural federalist visions

The multinational Habsburg Monarchy did not have a historical development comparable to Western nation states. It remained disparate, and developed differently. In these circumstances the representatives of the cultural (linguistic) direction of the Habsburg Monarchy thought that for federalism to succeed it was necessary to create a balance by forming *autonomous linguistic states* as autonomous parts of a larger federation. In so doing, however, they wanted to avoid any kind of forceful linguistic and cultural association policy, for fear of an emergence of *nationalism*. They were no less in favour of democratic states than the supporters of the historical status quo; they all supported the ideas of federalism, of decentralization, and of equal personal human and political rights for everyone. However, their ideal was a Habsburg federation of autonomous – not sovereign – *linguistic states*. They did not realise that a linguistic state was an imagery, a misinterpretation of the English word nation state [nation=state (attribute) state=state].  They divided nation and state in their mind: nation meant for them persons speaking the same language whereas state meant a historical, administrative formation of citizens having equal political rights. However their merit was to emphasise the necessity of the enlargement of human rights by cultural and linguistic minority rights, including the right of a free cultural association policy.

The most important representative of this direction was the Czech historian,

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[37]   See C.A. Macartney (1934): *National States and National Minorities.* Oxford, 120; R. W. Seton-Watson (1915): "Austria-Hungary and the Southern Slavs" In: R. W. Seton-Watson (1915): *The War and Democracy.* London, 132; R. W. Seton-Watson (Scotus Viator) (1908): Racial Problems in Hungary, 148 and  161.

[38]    Eötvös: *A nemzetiségi kérdés*, 87–90; Eötvös (1859): *Die Garantien der Macht und Einheit Österreichs.* Leipzig, 216.

Palacky. He proposed to create a federation of the eight autonomous cultural national groups of the Habsburg Empire. In his view, the Austrian Federation should be composed of German-Austria, Czechs-Austria, Polish-Austria, Ruthenian-Austria, South-Slav-Austria (Illyria), Romanian-Austria, Hungarian-Austria, and Italian-Austria.[39] Palacky had long discussions with Eötvös.[40] Their discussion reveals the most important difference between the two concerning the very definition of a nation state. Finally he accepted the ideas of Eötvös on personalism. Palacky also called the attention of his contemporaries on the dangers of a dualist solution (Austro-Hungarian Dual Monarchy) because, in his view, it would strengthen Pan Slavism and the nationalist forces.[41]

Another example is the work of Friedrich Naumann, entitled *Central Europe*, which was also in the line of the various reconstruction projects based on historical status quo and personalist federalism.[42] Naumann was in favour of decentralization, of a local autonomy system, of equal political and human rights, and of equal duties for everybody.[43] He emphasized that the political organization had to be based on common, shared principles. Culture, language, and religion had to be separated from the political organizational sphere of the state, because they belonged to an autonomous personal sphere. He elaborated ideas on the European integration by means of legal harmonization.

The work of the famous Austrian social democrats for the promotion of democracy and of human rights is quite well known.[44] Bauer developed the principles of a democratic socialist state.[45] His colleague Karl Renner is regarded as one of the most important thinkers who elaborated the ideas of a democratic European integration policy. Renner favoured the personal principle and a multi-dimensional state organization; this meant the division of administrative, political, cultural, and economic organization of the state on basis of the personal principle.[46] He used a comparison from biology: just as the secret of the health of the whole organism was healthy cells, the smallest organizing unit of the state,

[39] Frantisek Palacky (1974): Über Centralization und nationale Gleichberechtigung in Österreich. In: Frantisek Palacky (1974): *Oesterreichs Staatsidee*. Wien, Geyer

[40] Frantisek Palacky: *Österreichs Staatsidee*. 37.

[41] Rudolf Wierer (1960): *Der Föderalismus im Donauraum*. Hermann Boelaus Nachf., Graz-Köln,77-78.

[42] Friedrich Naumann (1916): *Central Europe*. P. S. King, London

[43] Friedrich Naumann (1916): *Central Europe*. 255.

[44] C. A. Macartney (1926): *The Social Revolution in Austria*. Cambridge University Press, Cambridge; M. R. Krätke (1997): Die Mühen des Dritten Wegs. *Zeitsschrift für Socialistische Politik und Wirtschaft*, 98. 1997; H. Mommsen (1963): *Die Socialdemocratie und die Nationalitätenfrage im Habsburgischen Vielvölkerstaat*. Europa Verlag, Wien

[45] Otto Bauer (1919): *Der Weg zum Socialismus*. Wien

[46] R. A. Kann (1973): *Renners Beitrag zur Lösung nationaler Konflikte im Lichte Nationaler Probleme der Gegenwart*. Wien

which is the local self-government (*Kreis*), had to be equally healthy, i.e., democratically organized.[47] He was in favour of a federal Austria, a so-called "*Statenstaat*". As a directing principle to define the member nations of an Austrian Federation, he proposed to re-enforce the linguistic, cultural principle. In his view, the federation should be composed of eight national member states[48] with an internal structure inspired by the Swiss and the American Constitutions. He aimed at the reconstruction of Austria, which could also be used as an example for a future European union.[49] He emphasised that in the case of the Habsburg Empire a three-fold personal self-determination is necessary: a historical, a cultural, and a federal. He proposed to federalize Hungary in a similar fashion, too.

Before the collapse of the Habsburg Monarchy Renner strongly criticized and consciously rejected the idea of independent, territorially unitary, sovereign nation states as an outdated survivor of an expansionist culture.[50] His goal was to replace the federation of the territorial states by a *personalist federation of linguistic, cultural autonomous states*. Just like Eötvös, Renner also proposed to use the principle of *personal autonomy* in territories of mixed populations. He also used the analogy between the solution of religious and of national conflicts. Renner believed that, while the political organization belonged to the administrative sphere of a state, the cultural, religious, and linguistic associations should be separated from it. In his opinion, a clear distinction had to be established between the state as a territorial conception, and nationality as a conception of individuality, of kinship, of mutual association. This distinction led Renner to the idea of creating a dual basis for the executive: a territorial and a national. The individual citizen would, in all national matters, be subject to his own national association, but in all other respects, he/she would refer to the ordinary civil authorities. This meant that, in a nationally mixed territory, the national status was not to be conferred on the population but, instead, linked to the individuals themselves, regardless of their domicile. People could register in public record books as nationals of their own choice. Nationality would become a personal right belonging to the cultural sphere of the individual.

After the collapse of the Habsburg Monarchy Renner was in favour of a European federation. He thought that in the lack of democratic international policy the new small Central European states will become nationalists, and the great powers would only profit from this. To avoid a future war he became the member of the *Paneuropean Movement*, and supported federalism in Europe.

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[47]  Karl Renner (1918): *Das Selbstbestimmungsrecht der Nationen*. F. Deuticke, Leipzig and Wien, 236.

[48]  Karl Renner (1918): *Das Selbstbestimmungsrecht*. 146.

[49]  Karl Renner (1918): *Das Selbstbestimmungsrecht*. 94.

[50]  Karl Renner (1964): *Die Nation: Mythos und Wirklichkeit*. Wien, Europa Verlag, 17; Renner (1917): *Österreichs Erneuerung*. vol. 1. Wien, 53.

## *2.4. The Paneuropean Movement in defense of European civilization*

The first important result of democratic international legal thinking was the establishment of the *League of Nations* in1918, and the drafting of the *Covenant of the League of Nations*. The vision of a world federation was expanded with new democratic international organizational principles: popular sovereignty, self-determination, *international organization* and *international law.* However, the development of the democratic international legal thinking was paralysed by the strengthening of colonial imperialism, of European-universalism, and racism. The struggle between nationalists and federalists strengthened between 1918-1945 because authoritarian and totalitarian nation states emerged in Europe. Progressive political thinkers, both from Western and Central Europe, identified two major reasons for the victory of nationalism, and its aggressive and totalitarian consequences. The first was the inconsistent implementation of democratic reforms (the principles of the Declaration of the Rights of Man and Citizens of 1789) within imagined *nation states*; the second was the lack of a democratic coordination of international policy, and the weakness of international law. There was no coordination between the internal and external policies of sovereign states. Consequently, sovereign nation states could continue with their former imperialist expansionist economic, commercial and financial policy. Nevertheless, the oppositional federalist forces were present and continued their struggle for an international system based on economic federalism and democratic international economic and political law. Ortega y Gasset raised the question: why do people protect nationalism and aggressive nationalism instead of a peaceful federalism in the age of popular sovereignty, self-determination and international organization?

During this period, the Paneuropean Movement (Vienna), led by the count Richard Coudenhove-Kalergi[51], represented constitutional federalism in Europe in opposition to authoritarian nation states and Stalinism. Paneuropean constitutional federalists opposed the emergence of totalitarian states in Europe by strengthening the *world federalist model*, mentioned above, and based on the *personal principle*, the *autonomy* (*subsidiarity*) *principle* and *multilevelism*. Coudenhove-Kalergi's idea on "*the Revolution of Brotherhood*" is a good example.[52] Ortega y Gasset, Elemér Hantos, Pál Auer, Thomas Mann, Karl Renner, or Salvador de Madariaga all belonged to the Paneuropean Movement. They favoured personal federalism and the principle of subsidiarity as the basic principles of international law, and of a democratic international community. The members of the Paneuropean Movement believed that Europe must unite because this would be the only

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[51]  Count Richard Coudenhove-Kalergi, the leader of the movement, was a real European gentleman with German, Greek, and Japanese origins. He grew up in the Czech province of the Habsburg Monarchy.

[52]   Richard Coudenhove-Kalergi (1937): *Totaler state – totaler Mensch.* Paneuropa Verlag, Wien, 182-183.

solution for the *nationality question* (linguistic and cultural conflicts) of Central Europe. They were for the establishment of a new type *economic federation* in Europe in opposition to liberal market economy expansion. But they did not believe that Europe could imitate the United States of America; instead, their model was the Swiss example (the Swiss Constitution of 1848).

In Coudenhove-Kalergi's view democracy and peace in Europe depended on the victory of the federalists over the nationalists (anti-federalists). In this managing diversity by solving the national and linguistic minority issue, protecting human rights and democracy played an important role. He struggled in the name of the Declaration of the Rights of Man and Citizen of 1789 against the authoritarian, nationalist and communist falsifications of the essence of a democratic federal constitutional state. He emphasised the importance of the idea of *brotherhood*, which demanded the management of diversity by establishing a *common moral codex of humankind*.

Coudenhove-Kalergi, and his intellectual movement, had a great influence on Aristide Briand. It played a very important role in the establishment of the Council of Europe, and in the emergence of constitutional federalist *European Parliamentary Movement* opposed to the unionist (anti-federalist) policy of Churchill after the Second World War. For the federal constitutional structure of Europe Coudenhove-Kalergi proposed a *two chamber Parliament* composed of a *House of Peoples* and of a *House of States* (legislative power); a federal government (executive power); and a Court of Justice (judicial power) . He was in favour of a European federalist constitution.[53] He emphasised the necessity to discredit the idea of *indivisibility of the sovereignty of states*. As a replacement one should establish *supranational* institutions, and develop and implement shared democratic external and internal legal organisation principles for every nation state in Europe in harmony with international law, and with human rights as the most important basis.

*The Resistance Movement and federalism*

Members of the *Resistance Movements* in the Second World War, inspired by pre-war European Union proponents[54] such as Aristide Briand and Richard

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[53]  Entwurf einer europäischen Bundesverfassung, 1951. In: Richard Coudenhove-Kalergi (1953): *Die europäische Nation.* Deutshe Verlag-Anstalt, Stuttgart, 161-164.

[54]  In parallel with the Pan European Movement the personalist movement – sometimes referred as "personalist or integral federalist" – emerged in France during the 1930s. It was based on the Proudhonian ideas. This philosophy was developed in the two organizations known as "L'Ordre Nouveau" and "Esprit" that also published reviews by the same name. The personalists were led by a small group of highly influential philosophers with Alexander Marc, Robert Aron, Emmanuel Mounier, Daniel Rops, and Denis de Rougemont taking the leading roles. Henri Brugmans joined after the end of the Second World War. His experience in the Resistance Movement converted Brugmans to personalism. The members of the personalist movement organized the New European Movement of personal or incremental federalists after

Coudenhove-Kalergi, blamed extreme nationalism as the primary cause for the misery and chaos of the continent. Altiero Spinelli, one of the most important leaders of the international Resistance Movement, regarded the *Federalist papers*, the American constitution and Tocqueville's ideas on American democracy as examples for a European social organization after the Second World War. He founded the *European Federalist Movement* that adopted the *Ventotene Manifesto* as its political program. The manifesto emphasised that the main division was between the supporters of the national sovereignty and the supporters of the creation of a solid international state. The latter used national power for achieving international unity. International unity could be achieved by establishing single federal state in which

> "each states will retain the autonomy it needs for a plastic articulation and development of political life according to the particular characteristics of its people".[55]

Spinelli's Constitutional Federalist strategy had a strong institutional component and focused on the immediate establishment of federal political institutions, above all a supranational government directly responsible to the European citizens instead of national governments. The idea was that, once these organs were established, further transfer of authority from the nation-state to the federal state would occur automatically.

## 2.5. Renewing the international and European state organizational principles after the Second World War

*Renewing the principles of the international law and human rights*

After the Second World War the *United Nations Organization* was established with the aim of saving future generations from war, to reaffirm faith in fundamental human rights and to promote social progress. To this end it aimed to practice tolerance and living together in peace with one another as good neighbours, to unite to maintain international peace and security and to promote the economic and social advancement of all peoples. [56]

The principles of the renewed international law were declared in the *Charter of the United Nations* in 1945, and the principles of human rights in the *Universal Declaration of Human Rights* in 1948. The most important achievement of the new international organization was the rejection of imperialism and colonialism, exploitation, slavery, and racism.

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the Second World War. Jacques Delors also belonged to this group.

[55]  Ventotene Manifesto. In: Walter Lipgens (ed.) (1985): *Documents on the History of European Integration. 1. Continental Plans for European Union 1939-1945.* Walter de Gruyter, Berlin, 471-473.

[56]  Ian Brownlie (ed) (1995): *Basic Documents in International Law.* Clarendon Press, Oxford, 2.

UN played an important role in decolonization. The liberation of the colonies, dependent territories and the aid for the developing states was legally regulated in the Charter of the UN. In the framework of the confederal United Nations there were also established independent functional economic international organizations with the aim of eliminating the economic causes of war: the International Monetary Fund, the World Bank, and the World Trade Organization. The special agencies of the UN dealt with the organization of the economy, trade and finances based on legal agreements.

Since 1960, the United Nations has been guided by the General Assembly's Declaration on the Granting of Independence to Colonial Countries and Peoples, also known as the declaration on decolonization, by which the member states proclaimed the necessity of ending colonialism. It proclaimed the necessity of bringing to a speedy and unconditional end of colonialism in all its forms and manifestations because colonialism prevented the development of international economic co-operation, impeded the development of dependent peoples and threatened world peace.

In 1963 the General Assembly of the United Nations unanimously adopted the *Declaration on the Elimination of All Forms of Racial Discrimination.* [57]

The *Universal Declaration of Human Right*s [58] declared the equal and inalienable human rights of all members of the human family as the foundation of freedom, justice and peace in the world. Disregard and contempt for human rights resulted in barbarous acts. The Declaration rejected slavery, racism, and nationalism:

> Article 1. "All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood".

> Article 2. "Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

> Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty"

> Article 3. "Everyone has the right to life, liberty and security of person".

> Article 4. "No one shall be held in slavery or servitude; slavery and

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[57] Ian Brownlie (ed) (1995): *Basic Documents in International Law,* 310-327.

[58] Ian Brownlie – Guy S. Goodwin-Gill (eds) (2002): *Basic Documents on Human Rights.* Oxford University Press, Oxford, New York, 19-21.

the slave trade shall be prohibited in all their forms" [59]

Article 15. "Everyone has the right to a nationality.

No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality" [60]

The Declaration acknowledged the right of freedom of thought, conscience and religion, the right to freedom of opinion and expression, and the right of peaceful assembly and association. It recognized property rights.

The Universal Declaration accepted the family as the basic unit of society:

Article 16.3 "The family is the natural and fundamental group unit of society and is entitled to protection by society and the State". [61]

The Universal Declaration of Human Rights aimed to become a common universal standard for all people in the world. It specified the rights of the individuals with the aim to protect diversity.

*In search of principles for a new Europe*

Social organization based on international law and human rights as a global political process following the vision of world federation started with the establishment of the UNO, and the Universal Declaration of Human Rights. The rejection of colonization, slavery, racism and nationalism by the new international organization and law represented the beginning of a new period in the construction of Europe in the framework of the UN.

In the renewing of the international organization the European federalist opposition was very active. The European opposition to colonialism, imperialism, slavery, racism and chauvinism proposed many projects for the renewal of European and international state organization. They regarded these phenomena as the extreme and deformed forms of state organization resulting in tragic impasses, and bloody wars. After the Second World War European civilization was in ruins, and the federalist opposition had to face the facts and initiate the great reform, ie. *European integration*, serving as the basis of a *New Europe* in the framework of the renewed United Nations Organization.

After the war the British unionist policy, and the British leader, Churchill strongly influenced European policy. The federalist élan characterising the Pan-European and the Resistance Movement gradually diminished as the former nation states and national governments were reconstructed. The struggle between the supporters of the sovereignty of nation states and of a European federation of citizens and of autonomous states dominated European policy.

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[59]   Ian Brownlie (ed) (1995): *Basic Documents in International Law,* 19.

[60]   Ibid., 21.

[61]   Ibid., 21.

European federalism continued to be based on the personal autonomy principle and the principle of autonomy (subsidiarity) of the state. The federalist movement had two directions: the *constitutional federalist* and the *integral federalist or personalist federalist*. The constitutional federalists regarded the Swiss constitution as an example to follow. Coudenhove-Kalergi aimed at the establishment of a *European Parliamentary Federation*

> "by at one inaugurating the United States of Europe – with a Supreme Council and a Supreme Court, a joint police force, equal human rights for all, a European market and a European currency".[62]

Spinelli also favoured a European constitutional federation. Both of them were in favour of the immediate establishment of federal political institutions, above all a supranational government directly responsible to the European citizens.

Another group of federalists, the so-called incremental federalists, also appreciated the Swiss federation but they wanted to build up Europe gradually.[63] The personalist federalist writer Denis de Rougemont was a representative of this new European federalism. As his starting point he took the European person establishing a community in opposition to totalitarian and centralised states. His integral federalist schema denied the negative influences of the classical constitutional federalist and parliamentary structures. He launched a new European renaissance of the autonomous living forces.[64] About federalism he writes as follows:

> "Federalism like all great ideas is very simple, but not easy to define in a few words or a conscious formula. … True federalism is not a simple union of cantons, nor their autonomy pure and simple. It consists in a constant readjustment of the balance between regional autonomy and union – a perpetual accommodation between the opposing forces, by which they strengthen each other".[65]

For Rougemont the most important principles of European federalism were: no hegemony of states; unity in diversity; putting together and composing the concrete multiform reality of nations, economic regions and political traditions which must be respected and at the same time articulated into a whole; no problem of minorities; the nations of Europe could come to think of themselves as

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[62]  Richard Coudenhove-Kalergi: Appeal to all Europeans, 28 April 1947. In: Walter Lipgens - Wilfried Loth (eds) (1991): *Documents on the History of European Integration 4. Transnational Organizations and Political Parties and Pressure Groups in the Struggle for European Union, 1945-1950* . W. de Gruyter, Berlin – New York, 123-124.

[63]  Éva Bóka (2006): In Search of European Federalism. *Society and Economy*, vol. 28, 320-321.

[64]  Denis de Rougemont (1947): The Federalist Attitude. 26 August 1947. In: W. Lipgens - W. Loth (eds) (1991): Documents on the History of European Integration, 23-27.

[65]  Denis de Rougemont: *The Federalist Attitude,* 25.

various organs of a single body; a federation is formed little by little, by combinations of persons and groups, and not from a single centre or by the agency of governments.[66] In Rougemont's world federalist model different associations developed gradually around a person, like puzzles (not concentric circles) based on the principle "unity in diversity".

Rougemont was very sceptical regarding the governments' ability to form a viable union among themselves:

> "The European federation will not be accomplished by rulers whose task is to defend their country's interests against the rest of the world. It will be the work of groups and individuals federating on their own initiative, independently of national governments. These are the groups and individuals who will form the government of Europe. No other way is possible or practicable. The USA is not governed by an assembly of the governors of the 48 states, or Switzerland by the delegates of the 22 cantons – it would be quite impracticable. Both these federations are governed, above and outside their component states, by an executive and a legislature appointed by their peoples."[67]

He believed that Europe has a future only as a federation. Therefore to protect federalism is a new European responsibility:

> "The necessity is evident, the historical opportunity is ripe, and the structures are already outlined. All that is lacking is a federal charter, representative institutions, and the last upsurge of popular pressure to force the hand of governments".[68]

Hendrik Brugmans, another incremental federalist, followed Proudhon's ideas in emphasising that the goal of the real personal politic is the "dismemberment of sovereignty". He believed that the European federation has to be a free association of people: people must unite for their common good.[69] In his vision a united Europe must be organised as an open society.

In opposition to the federalists, the leader of the *functionalist* thinkers, David Mitrany, rejected constitutional federalism and supranational institutions. He believed that only functional coordinating agencies could solve the cooperation among the nation states worldwide without giving up state sovereignty. [70]

*Unionists*, in opposition to federalists, concentrated on the interests of the nation states and continued to subordinate the interests of the persons (citizens) to

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[66] Ibid., 25-26.

[67] Ibid., 27.

[68] Ibid., 27.

[69] Hendrik Brugmans: Fundamentals of European Federation, 27 August 1947. In: W. Lipgens - W. Loth (1991): *Documents on the History of European Integration,* 28-34.

[70] Mitrany, David (1945): *A Working Peace System,* Published by National Peace Council, London

nation states. Their goal was to establish the *European Family of Nations*, pursuing a classical intergovernmental confederate policy. *The Statute of the Council of Europe* is a good example. *The Council of Europe* followed the classical European confederative model of intergovernmental cooperation among sovereign nation states. Nevertheless, it was based on the principles of the *Charter of the United Nations,* and it accepted the principles of the *Universal Declaration of Human Rights*.

European federalists could not accept this solution but they remained in minority. The constitutional federalist solution, representing the alternative of a kind of *European parliamentary federation*, was defeated: national sovereignty could survive. Neither the *federalists*, nor the *unionists* or the *functionalists* could start the European integration process. European international cooperation successfully re-established the previous system based on national sovereignty after the Second World War. The unionists in cooperation with the functionalists could win in 1949.

## 3. European integration and managing diversity

### 3.1. Federalist élan in Europe

The construction of a federalist Europe (European integration) started with the *Schuman Declaration* (1950), and the establishment of the supranational *High Authority of the European Coal and Steel Community*. The ECSC Treaty represented a new legal precedent of institutional development that was based on the functionalist idea of sectoral integration, thereby creating a chain reaction. I.e., European integration started with the Schuman Plan and the establishment of the supranational *European Coal and Steel Community* (ECSC). The *Treaty of Paris* equipped the ECSC with a Parliamentary Assembly and a Court of Justice, too. The Council's function was to coordinate between the governments of the member states and the High Authority (later Commission). In other words, the Treaty establishing the ECSC laid the foundation of the federalist and confederalist community structure that still exists today. It represented two alternatives: federation of states versus union of states. The dichotomy, characterising European policy, of *federalist versus intergovernmentalist* was born.

Through the ECSC Jean Monnet established the first *federalist-functionalist* organization, which was to become the core of the European integration process. In his words:

"This new method of action developed in Europe aimed to replace the efforts at domination of nation states by a constant process of collective adaptation to new conditions, a chain reaction, a ferment

where one change induces another."[71]

The *Monnet-method* was based on the active cooperation of persons in the construction of Europe. He believed that the European federation has to be the result of the everyday work and cooperation of persons (citizens) in all areas of life. The construction of Europe meant for him the emergence of a new civilisation based on *personal federalism*, and characterised by the democratic and international thinking of citizens. This would be a new step on the way of realising the vision of peaceful world federation.

The Monnet-method raised the question again: would people protect democratic federalism or would they instead continue to choose for a strengthening of their own nation states? Would they choose for reinforcing the personal and the autonomy principles and a reorganization of the international community following the new challenges of world economy and globalisation? Or would they continue to subordinate their personal autonomy and rights to their nation states as the basic units of world organization?

Spinelli, for example, strongly criticised Monnet's "wait and see" method.[72] He emphasised the dangers of the lack of Europe's governance and legal personality: this could strengthen the former intergovernmentalist and the nationalist forces. With the aim to finalise the European federation and to establish a European federalist government he protected the *Draft Treaty Embodying the Statute of the European Community* (published in Strasbourg, on the 11th March 1953).[73] Europe's first constitutional draft (1953) shows the federalist aims of the founding fathers: they favoured a parliamentary solution based on two chambers, representing the interests of the citizens as Europeans as well as citizens of their own states. The first Chamber, called the Peoples' Chamber, shall be composed of deputies representing the peoples united in the Community. The Second Chamber, called the Senate, shall be composed of senators representing the people of each State. Senators shall be elected by the national Parliaments for five years in accordance with the procedure determined by each Member State. The establishment of the European Executive Council shall solve the problem of European governance. It shall undertake the general administration of the Community. The Council of National Ministers shall harmonise the actions of the European Executive Council with the Governments of the Member States. The Council of National Ministers and the European Executive Council shall exchange information and consult each other.

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[71]  Jean Monnet (1962): A Ferment of Change. In: *Journal of Common Market Studies*, vol. 1, no. 1, 1962, 20-21.

[72]  Michael Burgess (2000): *Federalism and European Union: the Building of Euro*pe, 1950-2000 Routledge, London and New York, 31-36.

[73]  Draft Treaty embodying the Statute of the European Community. Strasbourg, 11 March 1953. In: Richard T. Griffiths (2000): *Europe's First Constitution. The European Political Community, 1952-1954.* Federal Trust for Education and Research, London, 189-226.

Europe's first constitutional draft was not federal, but it could have been developed in this direction. The new European international legal policy was very different from the former policy of sovereign nation states. However, the governments did not favour such a change. The defeat of the *European Defense Community* and of the *Draft Treaty Embodying the Statute of European Political Community* (1953) were setbacks for the federalist movement. Constitutional federalism, represented by framework of a European Parliament with two chambers and based on the personal principle and the principle of autonomy (subsidiarity) of the member states, was defeated in 1954.

The crisis of European integration was only temporary. In 1955, two federalist proposals were drafted simultaneously: a plan by Jean Monnet for a European atomic energy agency and a plan by the Dutch foreign minister Jan Willem Beyen for a common market in Western Europe. In June 1955, in Messina, the foreign ministers decided to embark upon multilateral negotiations on both economic and atomic integration. This led to the signature of the *Treaties of Rome* (in 1957) and to the creation of the *European Economic Community* (EEC) and the *Euratom* in 1958. The EEC's institutional framework, in fact, was in many respects similar to the ECSC's, although the Council of Ministers was strengthened in its relation to the Commission. The European Parliament was not directly elected and had little authority. The Treaties of Rome did not solve the problem of European government. Nevertheless, a democratic political system with two main fractions gradually emerged in Europe along the line of the dichotomy between federalists and intergovernmentalists. These two parties represented different institutional systems; consequently, they had a different interpretation of the personal, the subsidiarity and the sovereignty principles.

### 3.2. The federalist and intergovernmentalist compromise

The Monnet-method was successful in the field of economic cooperation. Nevertheless, the force of *nationalism* had been underestimated. The policy of the French president De Gaulle was an obvious example. The federalist interpreted the "De Gaulle phenomenon" as the returning of old spirits in Europe causing unnecessary damages on the way of the development of a democratic European federal government based on European law. In political practice, after the *Luxembourg Compromise*, decision-making on the basis of consensus instead of majority voting became the rule. The *veto right* denied the EEC of an important instrument for enlarging both its authority and its powers. Nevertheless, De Gaulle's attack against the federalists and the supranational institutions, aiming to safeguard the classical intergovernmental policy among the sovereign nation states, left the EEC Treaty unscathed. Thanks to the other member states some kind of a two-level governance (supranational economic – intergovernmental political) emerged gradually inside the European Community. But, with the Luxembourg Compromise, the "golden age" of the federalist construction of Europe ended. De Gaulle's policy successfully broke the federalist élan of

institution building and started a new *intergovernmental* period of European integration. The role of the governments and of the head of states or governments strengthened in European governance. In 1972 the *European Council* was established.

Jean Monnet and Spinelli acknowledged the strengthening of the national governments in European policy. However, they regarded it as a provisional necessity. Jean Monnet emphasised that the governments had to keep the federalist direction: they had to serve the original federalist goals, and to support the establishment of the European Parliamentary Federation.

After De Gaulle's attack on federalism and the supranational institutions three competing integration theories emerged. The first, *conservative confederalism*, aimed at safeguarding and strengthening sovereign states, and weaken supranational institutions (Margaret Thatcher). The second, *intergovermentalism*, placed the emphasis on the intergovernmental policy of nation states in supranational institutions (Andrew Moravcsik). The third, *federalist supranationalism*, favoured the strengthening of supranational institutions and of federalism (Leo Tindemans, Altiero Spinelli, Jacques Delors). The federalists had to face the challenge of the conservative confederalists as well as of the intergovernmentalists. This motivated them to come up with new ideas on a reform policy to keep the balance among the different political forces of the European Community.

The most important representative of conservative unionism was Margaret Thatcher. She was a real *Eurosceptic*. In accordance with De Gaulle she favoured the cooperation among European states, and the establishment of the European Family of Nations. She wanted to achieve this goal by intergovernmental cooperation. She denied any importance of supranational institutions. [74]

Andrew Moravcsik criticised the EU because of the *democratic deficit*. He emphasised that the EU represented intergovernmentalism, more precisely the principle of intergovernmental institutionalism. This meant the continuation of the national policy in supranational institutions. He believed that European policy is based on intergovernmental bargaining within the framework of supranational institutions with regard and with respect to the European law and legal harmonization. Thus, European integration should be based on the interests of the states coordinated by supranational institutions. [75]

The supporters of the supranational institutions belonged to the federalists. They remained active even after the defeat of the federalist European

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[74] Margaret Thatcher: The European Family of Nations. The famous Bruges Speech, delivered in September 1988. In: Martin Holmes (ed.) (1996): *Eurosceptical Reader.* Macmillan Press LTD, London, 88-96.

[75] Andrew Moravcsik (1991): Negotiating the Single European Act. National Interest and Conventional Statecraft in the European Community,. In: *International Organization*, vol. 45, no. 1, 1991, 25, 48, 56.

parliamentary policy. The federalists were consistently opposed to the strengthening of the sovereignty of member states, and to the classical intergovernmental centralism. In opposition to De Gaulle's policy Walter Hallstein, the federalist president of the European Commission, was in favour of realizing the ideas of the *Draft Constitution on the European Political Community* of 1953 described above. He wanted to strengthen the European supranational institutions. He dreamed on a supranational Europe established following Tocqueville's above-mentioned ideas. He believed that integrated Europe was not a federation or a state. But it shared an important characteristic with a federation: member states transferred one part of their sovereignty to the federal power. He emphasised that Tocqueville, describing the US foresaw a new world of states which was neither exactly national nor federal, but he could not find the word how to call it".[76]

In Hallstein's view the EC represented a new union of states, which he called *supranational*. According to him supranational does not mean destroying national identities. A supranational union of states is a community in the field of common interests. Supranational EC is not a state, because the federal power is competent only in certain limited fields. A European authority is based on the power that member states transfer to it. The EC is based on the balance of the European authority and the authority of the member states. He emphasised, in his words:

> "A Community of such a kind on the one hand acts as a guardian of the individuality and diversity of its nation-states, and on the other provides the basis for the vast continental-sized organization which our global age demands".[77]

Hallstein believed Commission was the most original part of the Community. It represented European common interests, served as a motor of the Community, and as a guardian of the *Treaty of Rome*. The Community was the Community of citizens and not merely of governments and diplomats. [78] It was besed on European values and principles. The basic values were peace, unity, equality, freedom, solidarity, prosperity dynamism, and certainty. Peace was the strongest motive to unifying Europe. [79]

In 1974 Leo Tindemans made an appeal to the European Council to continue on the way of European federalism and not to return to the former system of confederation of sovereign nation states. He emphasised the necessity of the establishment of a European Parliament composed of two chambers, and of the use of the federalist principles of personalism and of subsidiarity instead of

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[76]  Walter Hallstein (1972): *Europe in the Making*. George Allen & Unwin Ltd., London, 38.

[77]  Walter Hallstein (1972): *Europe in the Making,* 39-40.

[78]  Idid, 58, 329.

[79]  Ibid. 43.

sovereignty in European social organization.[80]

The famous European federalist, Altiero Spinelli was convinced that the citizens (the persons) should be actively involved in European policy: the European Community had to emerge as a *personalist federation of European citizens and autonomous states.* He wanted to strengthen the basic principles of federalism in the construction of Europe. He emphasised the importance of strengthening the supranational institutions (Parliament, Commission, European Court) and the European law. In his view these institutions worked as a counter balance to intergovernmental policy.

Spinelli accepted the intergovernmentalists as political partners to federalists in European policy. He believed that these two main political directions could establish a new type European parliamentary federation, and solve the democratic deficit and the problem of governance of Europe. To achieve this aim he emphasised the need to continue on the way of the completion of the common market, and he initiated the democratic reform of the European Parliament.

His most important reform ideas were outlined in the *Draft Treaty Establishing the European Union* [81] (Spinelli draft) that was adopted by the European Parliament. In this document he put forward a system of two chambers established by the democratisation of the co-decision procedure between the European Parliament and the Council (Art. 38). He struggled for the equal rights of the European Parliament and of the Council. He also planned the establishment of a Council consisting of ministers for Europe residing in Brussels. In his proposal the unifying federal political force should have also included a supranational institutional system.

Spinelli recognised the lack of the European governance. To find a solution, as a necessary compromise between the federalists and the intergovernmentalists, he accepted the advisory and coordinator role of the *European Council*. Under the influence of Tocqueville's ideas on *subsidiarity* and *multilevelism* he also proposed to introduce and to include the principle of *subsidiarity* [82] in the Treaty on the European Union as the means of division of competences between the union and the member states.[83] The role of subsidiarity was to bind the European

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[80]  Leo Tindemans: European Union. Report by Mr. Leo Tindemans to the Council. In: *Bulletin of the European Communities*, Supplement, 1/76.

[81]  Draft Treaty Establishing the European Union, Adopted by the European Parliament on 14 February 1984, Coordinating rapporteur: Mr. A. Spinelli. In: R. Bieber, J-P. Jacqué, J. H.H. Weiler (eds.) (1985): *An Ever Closer Union. A Critical Analysis of the Draft Treaty Establishing the European Union.* Office for Official Publications of the European Communities, Luxembourg, 306-328.

[82]  On subsidiarity see: Bóka Éva (2007): The Idea of Subsidiarity in the European Federalist Thought. *Grotius*, http://www.grotius.hu/publ/displ.asp?id=ECICWF

[83]  It was Spinelli who introduced the principle of subsidiarity in the EU's formal legal document when he first led the European Commission to make a contribution to the *Tindemans Report* in

Community and its institutions in the lack of European government. He believed that subsidiarity could function as a balance of power between the federalists and the intergovernmentalists. Following these lines the integration process could continue. However, he regarded this solution as provisional. He believed that the European Federation should become a federation of persons and of autonomous member states. In such a federation subsidiarity was the means of placing the autonomous member states into the framework of a larger federation, in harmony with federal constitutional law, international law, and human rights. He believed that subsidiarity could work perfectly only in a federation where there was harmony between the personal principle and the subsidiarity principle within the framework of the European Parliament.

Spinelli believed that the federalists had to continue the political struggle for the democratisation of the EU institutions. He therefore proposed three political strategies:

1. The democratisation of the co-decision procedure between the European Parliament and the Council.

2. The enlargement of the fields of supranational cooperation, to gradually transfer more and more fields from the national level to the supranational level by using the principle of subsidiarity.

3. A clear division of competences between the union and the member states.

Spinelli's policy goal of finding a necessary political compromise with the intergovernmentalists started a new federalist élan in the construction of Europe, with a major role given to subsidiarity and the personal principle.

Jacques Delors, as president of the European Commission, continued the federalist policy of Jean Monnet, Walter Hallstein, and Altiero Spinelli. He defined himself as a *personalist federalist* belonging to the French personalist school of Mounier. With important changes in world policy Delors stood before the challenge of democratisation of European policy. In his speech (Bruges, 17th October 1989),[84] answering to Margaret Thatcher, he proposed a new vision of a f*ederation of nation states* aiming to unite not only the people, but the nation states, too. His goal was that all Europeans could feel to belong to a Community that they see as a second homeland. His vision on the federation of nation states was based on the basic principles of federalism, i.e., the *personal principle* and the principle of *autonomy* (*subsidiarity*). He emphasised that, regarding

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1975, and then the European Parliament to adopt the *Draft Treaty on European Union* in 1984. Ken Endo (2001): *Subsidiarity & its Enemies. To What Extent is Sovereignty Contested in the Mixed Commonwealth of Europe?* EUI Working Papers, European University Institute, San Domenico (FI), 23.

[84] Jacques Delors: A Necessary Union. Address by Mr. Jacques Delors, President of the Commission of the European Communities, Bruges, 17 October 1989. In: Brent F. Nelsen – Alexander C-G. Stubb (1994): *The European Union. Readings on the Theory and Practice of European Integration.* Lynne Rienner Publishers, Boulder, London, 51-75.

cooperation among nation states, federalism represented two essential rules:

1) The rule of autonomy (subsidiarity), which preserves the identity of each member state and removes any temptation to pursue unification regardless

2) The rule of participation, which does not allow one entity to be subordinated to another, but on the contrary, promotes cooperation and synergy, on the basis of the clear and well-defined provisions contained in the Treaty.[85]

That is, in the explanation of Delors, subsidiarity can be applied in two different situations:

> "On the one hand, as the dividing line between the private sphere and that of the State, in the broad meaning of the term; on the other hand, as the repartition of tasks between the different levels of political power."[86]

He believed that *subsidiarity as federal principle* comprised two infrangible aspects:

> "The right of each to exercise his responsibilities there where he can perform them best, and the obligation of the public authorities to give to each the means to reach his full capacity."[87]

Delors emphasised the importance of letting the citizens know what belongs to which level of authority because, in his view, one aspect of the "democratic deficit" in the Community originated from this lack of visibility. He emphasised that the clear determination of the citizen's reciprocal responsibilities and of the different levels of power was very important. He mentioned Tocqueville as an example of a thinker who appreciated this solution.[88]

Delors emphasised that subsidiarity was an organizational principle of a federal state. He definitely rejected to use it in the name of nation-states.[89] He was convinced that such a policy would cause dead locks with serious consequences in European social organization. He believed that the construction of the European community represented a new kind of federal and confederal union of states directed by multi-level governance in the framework of a single institutional structure. As a federalist political tactic he proposed: to continue the supranational economic policy of the federalist founding fathers; the establishment of the single market; economic and monetary union; to gradually transfer the necessary powers

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[85]  Jacques Delors: A Necessary Union, Address by Mr. Jacques Delors, 60-61.

[86]  Jacques Delors (1991): The Principle of Subsidiarity: Contribution to Debate. In: *Subsidiarity: The Challenge of Change. Proceedings of the Jacques Delors Colloquium, 1991.* European Institute of Public Administration,  Maastricht, 7.

[87]  Ibid., 18.

[88]  Ibid., 18.

[89]  Ibid., 8.

from the nation states' level to the supranational level; to enlarge the fields of supranational cooperation; to diminish the role of veto; and to realise the union of nation states and of peoples (persons) based on the principle of *unity in diversity.*

Delors's federalist vision was discussed at a colloquium organized by the European Institute of Public Administration.[90] The most important result of this discussion was the division between the federalist and the intergovernmentalist interpretations of the principle of subsidiarity: the federalists regarded it as a means of solving the democratic deficit of the EU, whereas the intergovernmentalists used it to strengthen the role of national governments in EU policy, and to keep things in the hands of national states.[91]

### 3.3. EU as a new type federalist and confederalist union of states based on multilevelism and subsidiarity

*The Treaty on European Union* represented another logical step toward the building of Europe, a process that started in1950. The federalist influence of Monnet, Schuman, Spinelli, and of Delors is undeniable. The TEU established a European Union based upon the existing EC, together with two new intergovernmental pillars, namely cooperation in foreign and security policies and justice and home affairs. For the federalists remained much to do: the meaning of federalism was questioned; the European Parliament was still not fully integrated into the decision-making procedure on an equal basis with the Council; important competences – including foreign, security, defense, immigration, and social policies – were left as an intergovernmental responsibility; the "single institutional framework" serving a two-level governance was open to serious doubt.[92] The definition of the principle of subsidiarity remained ambiguous in practical legal terms. However, subsidiarity could work in practice as a balance between the federalist and intergovernmentalist elements of the EU. But the question arose: how long would this balance work?

The federalists regarded the TEU as a provisional solution and continued their struggle for the democratisation of the co-decision procedure between the EP and the Council of Ministers. Their aim was to enlarge the fields of the supranational cooperation and to transfer the necessary powers from the member states' level to the supranational level. However, the TEU strengthened the nation states and the intergovernmentalist forces.

It was Joschka Fisher who warned European politicians to avoid a collapse of the European Union. He gave a speech *From Confederacy to Federation:*

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[90] *Subsidiarity: The Challenge of Change*. Proceedings of the Jacques Delors Colloquium 1991, European Institute of Public Administration, Maastricht, 1991.

[91] Lord Mackenzie-Stuart: Assessment of the Views Expressed and Introduction to the Panel Discussion. In: *Subsidiarity: The Challenge of Change,* 39, 160.

[92] Michael Burgess (2000): *Federalism and European Union: the Building of Europe, 1950-2000*. Routledge, London and New York,  208-214.

*Thoughts on the Finality of European Integration* [93] at the Humboldt University in Berlin, on the 12th May 2000 in which he emphasised the necessity to finalise the construction of the European Community. He believed that it would be necessary to follow the steps described by Robert Schuman 50 years before toward a transition from a union of states to a full parliamentarisation as a European federation:

> "It means nothing less than a European Parliament and a European government which really do exercise legislative and executive power within the Federation. This Federation will have to be based on a constituent treaty".[94]

Fischer also acknowledged the importance of the division of sovereignty between Europe and the nation states by the means of the principle of *subsidiarity.* In his view a *European Parliament* must always represent two aspects of a multicultural and multinational Europe: a Europe of nation-states and a Europe of citizens. This will only be possible if this European Parliament actually brings together the different national political elites and, consequently, the different national publics, too. In his opinion this can be achieved if the European Parliament has two chambers. One will be for elected members who are also members of their national parliaments. Thus there will be no clash between national parliaments and the European Parliament, between the nation-state and Europe. For the second chamber a choice must be made between the approaches of the US Senate, with directly elected senators from the member states, and a chamber of states along the lines of Germany's Bundesrat. (In the United States, every state elects two senators; in the German Bundesrat, in contrast, there are different numbers of votes.) He proposed to solve Europe's governance by one of two ways: either to develop the European Council into a European government, i.e., the European government is formed from the national governments, or – to take the existing Commission structure as a starting point – one can opt for the direct election of a president with far-reaching executive powers.[95]

Fischer emphasised that the Monnet-method was not effective any more. Instead, he proposed to create a *centre of gravity*:

> "Such a group of states would conclude a new European framework treaty, the nucleus of a constitution of the Federation. On the basis of this treaty, the Federation would develop its own institutions; establish a government, … a strong parliament and a directly elected president. Such a centre of gravity would have to be the avant-garde, the driving

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[93]  Speech by Joschka Fischer at the Humboldt University in Berlin, 12 may 2000. In: Christian Jeorges - Yves Mény - J. H. H. Weiler (eds.) (2000): *What Kind of Constitution for What Kind of Polity?* The Robert Schuman Centre for Advanced Studies at the European University Institute, Florence, 19-30.

[94]  Speech by Joschka Fischer, 25.

[95]  Ibid., 25-26.

force for the completion of political integration and should, from the start, comprise all the elements of the future federation. … Such a centre of gravity must have an attractive interest in enlargement and it must be attractive to the other members."[96]

According to him this was a possible way from closer co-operation towards a European constituent treaty and the completion of Robert Shuman's great idea of a European Federation."[97]

He warned that the only way Europe could participate in the global economic and political competition of the 21st century was if it had a *finalised European Federation* with a *legal personality.*


What the European integration process could achieve is to be found in the *Draft Treaty on the European Constitution, 2003*.[98] It merged the basic treaties into a new constitutional treaty on the European Union. However, it has both a federalist and an intergovernmentalist interpretation. Following the federalist interpretation the draft treaty on constitution outlines the frameworks of a new type federation and confederation of states directed by multilevel governance within the framework of a single institutional system. It is composed of federalist and confederalist elements following the principle of *division of competences* between the union and the member states. Although the federalist elements dominate, the emphasis is on the member states: the member states – and not the European citizens – constitute the European Union. It is a federation of nation states: "the member states are the citizens" of the European Union; the state forming constitutional force of citizens is absent. According to the Draft Constitution of 2003 the European Parliament represents the peoples of the European states and not the European people. Put it differently, the European Parliament represents many peoples, and not one European people. In the Council each national government represents the interests of its own state. In this system – thanks to the supranational institutions – subsidiarity plays the role of a balance between the federalists and the intergovernmentalists, keeping the integration process alive.

The Draft Constitution of 2003 is an important achievement. It represents the fifth step – the first was the establishment of the Council of Europe, the second of the ECSC, the third of the EEC, and the fourth the EU – on the way of European integration. However, to name this important European legal document a

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[96]   Ibid., 29.

[97]   Ibid., 30.

[98]   Draft Treaty Establishing a Constitution for Europe. Submitted to the President of the European Council in Rome, 18 July 2003. *Official Journal of the European Union. 2003/C 169/01*. In: http://europa.eu.int/eur-lex/en/treaties/dat/constit.html

constitution was a mistake. It is an important "summary treaty", a "treaty of assessment": a necessary summary, combination, and assessment of the achievements of construction of European Community. It keeps the door open for future federalist reforms in a *personalist federalist* direction: the establishment of the European Parliament of European citizens and of citizens of member states.

### 3.4. The Treaty of Lisbon and managing diversity

The *Treaty of Lisbon* (2007) followed the unsuccessful constitutional attempt. It continued to elaborate on the principle of *unity in diversity* by:

1.  The principles of *subsidiarity* and *multilevelism*;

2.  The incorporation of the *Charter of Fundamental Rights* into European primary law

3.  The provisions for new solidarity mechanisms better protections of European citizens.

The treaty continued to shape the EU, essentially in line with the ideas of Tocqueville on *subsidiarity* and *multilevelism*. It defined what the EU could and could not do; i.e., which competences belong to the union and which to the members states. As a consequence, there are now three categories of competences in the EU: *union competences*, *shared competences*, and *coordinated competences*[99]:

*   The Union has *exclusive competence* (only the union may legislate) in the following areas: customs union, internal market, monetary policy of the euro countries, common fisheries policy, and common commercial policy.

*   The Union *shares competence* with the Member States in the following areas: social policy; economic, social and territorial cohesion; agriculture; environment; consumer protection; transport; trans-European networks; energy; area of freedom, security and justice; common safety concerns in public health matters.

*   The Union has the competence to carry out actions to *support*, *coordinate* or *supplement* the actions of the Member states. The areas of such actions are: protection and improvement of human health; industry; culture; tourism; education, vocational training, youth and sport; civil protection; administrative cooperation.

Regarding *citizens' rights* and the *Charter of Fundamental Rights* the Treaty of Lisbon preserved existing rights while also introducing new ones. While guaranteeing the freedoms and principles set out in the Charter of Fundamental Rights, its provisions regarding civil, political, economic, and social rights have become legally binding. Diversity is also well protected by the following rights

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[99] Treaty of Lisbon, Common Provisions, Categories and Areas of Competences. *Official Journal of the European Union*. C 306. 46-48.

and duties: right to human dignity, to liberty and security; respect for private and family life; prohibition of slavery; freedom of thought, conscience and religion; freedom of expression and information; freedom of assembly and association; freedom of the arts and sciences; right to education; equality before the law, and citizens rights. Any discrimination based on any ground, such as sex, race, colour, ethnic or social origin, religion or belief are prohibited.[100]

The division of competences by the Treaty of Lisbon means that member states could safeguard their autonomy in the area of culture and education. Management of diversity is based on a *double identity* in the EU: a *European civil identity* for everyone, and a *linguistic and cultural* (*national*) *identity* depending on the Member State to which the person belongs on basis of his or her *mother tongue* and *school language.* In other words, citizens in the EU can be identified as nationals and as European, where national identification belongs to the Member States. I.e., Member States continue to play an important role in the management of diversity. In this regard the ideas of Eötvös on a multidimensional state structure and a linguistic and cultural free personalist association policy that did not depend on states' "borders" continue to be of actuality.

## 3.5. Enlargement and the dilemma of Europeanization: the case of Central and Eastern Europe

Following the *Consolidated Version of the Treaty on European Union* any European country, which accepts the principle of liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law, can apply to become the member of the European Union. [101]

The acceptance of a new member to the EU is a process guided by the adoption by the applicant country of the values and principles of the EU, and by its implementation of the *aquis communautaire*. This may mean the transformation of the economic, political, and cultural structure of the applicant country. One of the problems raised by this "*guided Europeanization*" process is how to provide safeguards to maintain diversity. Can one trust that the principles of

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[100] Charter of Fundamental Rights of the European Union. (2010/C 83/02). Official Journal of the European Union. 30. 3. 2010. C 83/389. http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2010:083:0389:0403:EN:PDF

[101] "Any European State which respects the principles set out in Article 6(1) may apply to become a member of the Union. It shall address its application to the Council, which shall act unanimously after consulting the Commission and after receiving the assent of the European Parliament, which shall act by an absolute majority of its component members.

The conditions of admission and the adjustments to the Treaties on which the Union is founded, which such admission entails, shall be the subject of an agreement between the Member States and the applicant State. This agreement shall be submitted for ratification by all the contracting States in accordance with their respective constitutional requirements".

Consolidated Version of the Treaty on European Union. http://eur-lex.europa.eu/en/treaties/dat/12002M/htm/C_2002325EN.000501.html#anArt59

multilevelism, subsidiarity, and the adoption of EU values would solve this issue automatically?

The 10+2 enlargement round[102] started with the application of Cyprus and Malta in 1990. It continued with applications of a number of former communist countries, of Central and Eastern European countries (CEECs) in 1990. All the CEEC countries established liberal democratic and market based systems. East-West relations were transformed, and the road was open for CEECs to join the EU.[103]

A key step in the process occurred at the June 1993 *Copenhagen European Council* where EU leaders declared in the conclusion of the Presidency:

> „The associated countries in Central and Eastern Europe that so desire shall become members of the European Union. Accession will take place as soon as an associated country is able to assume the obligations of membership by satisfying the economic and political conditions required"[104]

The *Copenhagen conditions*—or *criteria*, as they came to be known—were designed so that there would be a convergence between existing and new member states with respect to their political and economic systems and also their adoption of Union laws and policies. These laws and policies were generally referred to as the *acquis*. The key paragraph setting out the *Copenhagen criteria* stated:

> "Membership requires that candidate country has achieved stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities, the existence of a functioning market economy as well as the capacity to cope with competitive pressure and market forces within the Union. Membership presupposes the candidate's ability to take on the obligations of membership including adherence to the aims of political, economic and monetary union". [105]

Between 1994, when Hungary applied, and January 1996, when the Czech Republic applied, 10 CEECs formally applied for EU membership. The Commission published the *Agenda 2000: For a Stronger and Wider Union*

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[102] The 10 CEECs were Bulgaria, the Czech Republic, Hungary, Estonia, Latvia, Lithuania, Poland, Slovakia, Slovenia, and Romania. The +2 were Cyprus, and Malta

[103] On the CEECs 10+2 enlargement see Neill Nugent (ed.) (2004): *European Union Enlargement*. Palgrave Macmillan, New York

[104] Conditions for enlargement: http://ec.europa.eu/enlargement/the-policy/conditions-for-enlargement/index_en.htm

[105] European Council in Copenhagen, 21-22 June 1993. Conclusion of the Presidency. DOC/93/3. http://europa.eu/rapid/pressReleasesAction.do?reference=DOC/93/3&format=HTML&aged=1&language=EN&guiLanguage=en

(European Commission, 1997) on the recommendations.[106] The Nice summit in December 2000 confirmed the negotiations and, in December 2002, the Copenhagen summit decided to sign the accession treaties with all negotiating states apart from Bulgaria and Romania. This indeed happened with the 10 states —eight CEECs, plus Malta and Cyprus—in April 2003. By September 2003, all eight CEECs had held successful ratification referendums, and they joined the EU in May 2004. Bulgaria and Romania followed suit in 2007.

*Contradictions in EU principles regarding liberal market economy expansion*

The desire of the formerly communist Central and Eastern European countries to join the EU and their acceptance of the *acquis communautaire* gave an unprecedented influence to the EU in restructuring their societies. The consequences of this great transformation are more visible by now, and analysts have different opinions as for the value and results of this period.[107] Some analyst see the EU as akin to a colonial power that exploits a superior bargaining power to the disadvantage of socio-economic and democratic developments in the CEECs. Others see the influence of the EU as fundamentally positive: in their view, the EU helps in achieving political and market economy reforms which, eventually, are advantageous for the CEESs in comparison with other transition countries. Some also consider that the EU has a moral obligation to foster the development of democracy and human right. As usual, the truth is somewhere in the middle: what one can see today is the result of a cooperation that resulted in positive and negative effects.

On the positive side: the CEES enlargement was undoubtedly a great opportunity for democracy and modernization. One should not forget that this enlargement was born out of the dramatic changes that swept through the CEES countries after 1989. The EU assisted and contributed to establish democratic states in the region, it contributed to the solution of a range of economic problems, and it also helped to shape, for example, new environmental and immigration policies.[108] The EU fosters further cooperation among these countries, thereby strengthening their mutual relationships and helping to attenuate possible frictions inherited from their complex history (e.g., national minority issues).

However, there are of course major problems, too. Based on the liberal market economy, the Central and Eastern European countries provided new markets for the economies of the leading Western countries that found themselves in an outstanding investment position. This often meant the weakening or even the

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[106] Agenda 200. For a stronger and wider European Union, European Commission http://ec.europa.eu/agenda2000/overview/en/agenda.htm

[107] Frank Schimmelfennig – Ulrich Sedelmeier (eds) (2005): *The Europeanization of Central and Eastern Europe*. Cornell University Press, Ithaca and London, 5.

[108] John O'Brennan (2006): *The Eastern Enlargement of the European Union,* Routledge, New York and London, 182.

disappearance of local companies and institutions that could not compete with the experience, the technological and financial background of their Western counterpart. Although these foreign investments also brought new jobs and technological developments, it nevertheless led, many times, to unemployment elsewhere, to the downgrade of work quality and personal satisfaction. This was aggravated by the fact that the societies in the CEECs were not socially or psychologically prepared to handle issues like, for example, unemployment. Tensions have appeared between those who could benefit from the changes and could exploit the new possibilities (mainly in the big cities) and those who found themselves on the fringe of society.

In his monograph entitled *From the Soviet Bloc to the European Union* Ivan Berend tries to draw some conclusions. In his view, mistakes were made on both sides, basically because the parties did not know each other's economic and social systems. As a result, instead of catching up with the EU-15, a dual economy *may* emerge in several new member countries of the European Union.

> "In such a scenario, the level of development would improve after joining, but would remain stuck behind the Western level. Multinational companies would constitute the advanced sector of the economy, while an adequate national innovation system would not develop and local companies would remain in a backward situation. In this case multinationals may form isolated enclaves in the national economy, while the host countries remain on the periphery of Europe, with an institutionalised division of labour separating advanced countries from laggards. In other words some countries of the region could remain behind and profit less from globalization with a resource driven specialization and/or as providers of cheap-labour in lawtech sectors for advanced partners. A much lower living standard than in the core would result. Instead of calculating the years and decades of catching up, one has to consider markedly different outcomes of the ongoing transformation, which would result from the failure to catch up in some countries or in subregions of Central and Eastern Europe. Different models and development levels may emerge in the region in the coming decades". [109]

This process has shown the contradiction between the expansionist nature of a liberal market economy and the values and the principles of the EU. An expansion of a market economy is based on the competition among states and persons while the enlargement process tried to emphasize the importance of securing peace and stability in Central Europe. Handling this contradiction is not obvious.[110] More on the process level, the Central and Eastern European enlargement raised questions

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[109]  Berend T. Ivan (2009): *From the Soviet Bloc to the European Union.* Cambridge University Press, Cambridge, 265.

[110]  John O'Brennan (2006): *The Eastern Enlargement of the European Union.* 132-140.

on the rightfulness and the usefulness of a *guided enlargement process*, as represented by the EU. It has become clear that the EU-model could not be forced upon less-developed transforming countries with different social and economical basis without negative consequences, even if the political elite and the citizens of these countries made a voluntary choice. A *partnership policy*, based on more negotiations and mutual agreements, and serving as a gradual transition, may have been a better solution. In the case of the 2004 enlargement this did not happen and the Central and Eastern European countries have paid a price for it. This is also why the consequences of the Central and Eastern European enlargement of the EU became one of the most fascinating subjects for scholars; the EU's enlargement policy as „*Europeanization through conditionality*" has become again a subject of further discussion.[111]

Searching ways for the reform of the EU one should not forget that the original goal of the founding fathers of the EU was to establish a new type democratic federalist market economy replacing the classical capitalist liberal market economy. In managing the European integration they aimed to avoid the revival of classical capitalist market expansionist attitudes. Coudenhove-Kalergi, Schuman, Monnet, Spinelli, De Gasperi or Adenauer have seen the solution in a new European economic federation, which could be a model for the whole world. History has proven the validity of their project; after all, peace has been maintained on the continent, at least within the countries of the EU, ever since. Rethinking the federalist bases of EU could help to find alternative ways for the reform of the EU. This includes finding a solution for the problem of a democratic deficit, for the  strengthening of multilevelism and supranational institutions, and the necessary revision of the enlargement policy.

### 3.6. *In search of future alternatives for the EU as a new regional union*

The EU represents a new type federalist and intergovernmentalist union of states directed by multilevel-governance within the framework of a single institutional system. The EU governance is supranational on economic cooperation, and intergovernmental on political cooperation. The European Union can be regarded as a puzzle composed of intergovernmental and supranational elements. However, it is a *federation of nation states*. The citizens could become European through their own nation states only. There is a lack of European identity. The problem of *democratic deficit* has not yet been solved. Therefore, the real challenge for the European federalist policy is to find ways and means to involve the persons as Europeans (representing their European interests) in the construction of the democratic European Community. This requires a solution to the problem of democratic deficit, as the European Parliament does not occupy a central role in the Community's decision-making process. The only way to solve

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[111] Heater Grabbe (2006): *The EU's Transformative Power. Europeanization through Conditionality in Central and Eastern Europe*. Palgrave Macmillan, Basingstoke and New York

the Community's democratic deficit would be to invert the roles of the Council and of the European Parliament in the legislative process: the Parliament should occupy the central position overall and the Council should become the equivalent of chambers of territorial representation. [112]

The future of the EU depends on the strength of the two oppositional forces of European history: sovereignty and autonomy (subsidiarity). Subsidiarity as an opposite principle to nation state sovereignty could provide future alternatives to European integration only if the construction of Europe developed in the *personalist federalist* direction. A Europe of free persons and free states could then emerge, a *'European Parliamentary Federation'*. But if the persons (citizens), in the lack of a democratic European identity and of a democratic international legal knowledge, choose to strengthen the interest of sovereign nation states and if they awake national sovereignty again, one has to face a new age of authoritarian states, and a new form of world nationalism. In this case the responsibility of the persons (citizens) and of their governments would be undeniable Europe-wide, while the tragic consequences of such a mentality and vote are already known for everybody.

Rethinking the democratic federalist European visions, ideas, principles, treaties on European Community, and draft constitutions could help to find new peaceful international legal ways to shape a real democratic European Union as regional part of a democratic world federation.

## 4. The EU-model and the world

Jean Monnet and Walter Hallstein believed that the new *European supranationalism* could serve as a model for the whole World.

Jean Monnet thought that the federalist-functionalist method of transferring sovereignty of nation states to independent supranational institutions would be a new step on the way of realising the vision of a peaceful world federal union. It could result in the changing of the thinking of people on the state and on international policy (Monnet 1962: 203-211).

Walter Hallstein also believed that the European Community could be a model for the World. In his words:

> "The Unification of Europe is truly an organic process, with long lived cultural, economic and political roots. That process with the establishment of the EEC has a concrete shape and structure, which in essence are political. That is why the Community organization of Europe could be a model for the World"[113]

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[112] Antonio Estella (2002): *The EU Principle of Subsidiarity and its Critique.* Oxford University Press, Oxford, 70-71.

[113] Walter Hallstein (1972): *Europe in the Making.* George Allen & Unwin Ltd., London, 18.

With these in mind the question arises whether *European supranationalism* can serve as an example for the different states and regional unions belonging to different civilizations and to different models of the organization of state. Is it really conceivable that different states worldwide would start to cooperate within the framework of supranational institutions in all fields where cooperation is necessary following the EU-model.

The answer is "*yes and no*".

*No,* due to the historical and cultural differences among the states around the globe.

*Yes*, because of *modernization*, more precisely economic, commercial, financial, and technical/technological modernization. *Modernization* established similar economic and financial states world wide, and demanded legal harmonization. In the first phase of globalization different states, belonging to different civilizations, were forced to become involved in the process of modernization (the adaptation of the capitalist economic, political and social system) by European/Western colonization and imperialism. In the second phase they also became developers, and participants of the world economy and finances. Therefore they also had to investigate and consider the possible new ways of economic and political cooperation in the framework of the global economy.

The EU-model is important for the different states worldwide because EC tested first the ideas on such a new type intergovernmental and federalist supranational regionalism, which is based on reformed states and inter-states relations aiming to safeguard the states in a modernized form. As an answer to the challenges of modernization and globalization the European states gradually transcended the former structure as a network of sovereign states, and states cede/ share sovereign power over commercial, economic and monetary policies through a series of legal constitutional initiatives. However, non-European states belonging to different civilizations cannot simply copy the supranational European model. They have to develop their own "scenarios" and alternative models, and using the achievements of the EU-model (supranationalism, multilevel governance and subsidiarity) as an inspiration to reform on the basis of the reality and needs of their own society. [114]

## 5. New regionalism

History showed that states all over the World created functional regional economic and/or trade associations after the Second World War. It was in harmony with the aims of the United Nations Organization. The most important regional experiences are the EU itself, MERCOSUR (grouping a number of countries in Latin America), NAFTA (North American Free Trade Area), ASEAN (Association

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[114] Bóka Éva (2009): Az EU-modell és a nemzetközi kapcsolatok (The EU-model and the International Relations). *Európai Tükör* 14. 2009: 5, 16- 28.

of South-East Asian Nations), and African regionalism. On the basis of these emerging new regions one can say that the reality of the contemporary World is not *globalization* but *new regionalism*. More precisely associations in which the sovereign states are embedded. This means that the states voluntarily create different functional associations with the aim to safeguard their statehood. States (governments) as regional actors aim to participate in the *global economy* without denying the sovereignty of the state and the cultural specificities associated with it. They are for inter-state coordinating agencies, and did not establish supranational new regional institutions. Reality shows that *globalization* as the dominant idea of our age is only a political imagery.

In these circumstances European supranationalism can be regarded as a unique product of history. Its future is uncertain: it depends on the world politics. We do not know where the European experiment will lead. The EU as a new regional union of states could develop as a global competitor, a continental trading state, a new mercantile fortress, and as a new civilian power. Only one thing is certain, *new regionalism* would play an important role in the shaping of the international system as theoretical and as practical construct. [115]

The problem with *EU-type new regionalism* is twofold:

On the one hand it can turn globalization into a peaceful process by contributing to the emergence of a *multipolar World* and a multilevel world governance. Only a multipolar, pluralist and tolerant World can be democratic. I.e., new regionalism can be interpreted as an important step toward world democracy. EU-type open new regions certainly would be able to cooperate peacefully with each other in the framework of a reformed UN, or they can establish a new-type multilevel world governance.

On the other hand, the opposite also can be true. Undemocratic new regionalism can strengthen competition and rivalry among regions. Therefore regions could become rival groups. In the case of new regionalism everything depends on how the EU, the ASEAN and the others will behave: as partners or enemies. [116]

History shows that the way towards a new World system goes through the gradual creation of larger and larger units being able to cooperate among each other in peace, and there is a hope.

In conclusion, the EU is not a model for the other regions in the world to copy. But the *EU-model* – representing supranationalism and multilevel governance – can suggest new concepts on renewing international policy to states and regions belonging to different civilizations. It can also motivate the reform of the United

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[115] Mario Telo (ed) (2007): *European Union and New Regionalism. Regional Actors and Global Governance in a Post Hegemonic Era*. Ashgate Publishing Limited, Aldershot, Hampshire, xii-xv.

[116] Mario Telo (ed) (2007): *European Union and New Regionalism,* 305-321.

Nations Organization. [117]

## 5.1 New regionalism and diversity

The last question to investigate is how new regionalism provided a challenge to universal human rights. Three issues are worth emphasizing here:

The first issue is that new regionalism requires autonomous persons being able to identify themselves democratically with a multilevel and multicultural World. In other words, persons have to develop a multilevel – economic, political and cultural – identity. This makes it necessary to rethink, in the circumstances of a global world economy and global finances, the ancient moral wisdom saying: Do not do with others what you do not want for yourself.

The second issue is that, in a World composed of different civilizations, the reconsideration of Kant's ideas on *universal hospitality* become necessary. This demands the strengthening of *religious, cultural and linguistic toleration*; rejection of all kind of slavery, racism, and of neocolonialism; protection of the livelihood of people, and to elaborate on how to defend mankind against global economic and financial crises.

Finally, the third issue is that the rules of a renewed universal human rights should be crystallised through dialogues among the different civilizations world wide. This could contribute to the framing of a *common moral codex of mankind*.

International human rights have to be rethought in this direction.

## 6. Outlook: toward a world union of peace as unity in diversity

The EU is the first new type supranational and intergovernmental economic and monetary union in the World based on the European law. It works successfully against authoritarian states, anarchical international relations, nationalism, neo-colonialism and wars. It is an important tool to preserve peace among states in Europe. From this point of view the EU can be regarded as a successful peace project that is appreciated world-wide.

The European idea of a *supranational union of peace* could contribute to the *vision of a* supranational *world union* of peace as unity in diversity. In this vision persons are in the centre of the World. Persons create different associations and transfer all those things that they cannot manage to larger levels and organize them following federalist models. Different territorial administrative, economic, and cultural associations would be created around persons in some sort of concentric circles or puzzles and in a multidimensional perspective. In this world system the states – as historical associations of persons – would be only one of the many different associations. This does not mean that the "historical states" would

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[117] Jürgen Habermas (2004): Hat die Konstitutionalisierung des Volkerrechts noch eine Chance? In: Jürgen Habermas (2004): *Der gespaltene Westen.* Suhrkamp, Frankfurt am Main, 174-178.

disappear. It means that they would be safeguarded in a new form. It means that states would manage all those things that belongs to their competences. Whatever needs larger organizational forms would be transferred from the state level to the larger associations' levels. In this organic system governments would play the role of mediator and coordinator between the supra-state (federal) level and citizens. This could result in the gradual emergence of a *world governance* dealing with the organization and coordination of world economy, commerce, finances and of the protection of environment, and coordinate cultural things. Persons gradually could develop a multilevel - economic, civil and cultural – identity. It could contribute to the framing of a *common moral codex of mankind* representing the idea of "*unity in diversity*". In such a multilevel world union of peace constitutional state law, supranational or new regional law, world union law, and the *common moral rules of the world union* (religious, cultural and linguistic toleration) would create harmony and legal binding among the different levels of the world federation, the states, the different associations of persons, and the persons themselves.

However the opposite also can be emerged: a world in which persons became marionettes helplessly serving the aims of liberal market economy as a self-damaging world economic system.

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