Political territoriality in the European Union : the changing boundaries of security and healthcare

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Chapter 3
Comparative Territorialities

Any analysis of variation among political systems must start from notions of territory.
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3.1 Mapping unit variation

One of the liveliest debates in EU-studies is on the nature of the European Union and its Member States. For both descriptive and normative reasons, a variety of concepts such as the concepts of state, empire, federation, and network governance have been applied to them. The avalanche of concepts describing the morphology of the European Union and its Member States without too much of empirical and analytical rigour has been quite confusing; the detergent industry may yet learn from political science how to launch a new concept, that is, just by adding a prefix such as mega-, post-, complex-, multi-, meta-, and neo-. Definitional clarity and effectiveness should limit this conceptual confusion and redundancy. The purpose of this chapter is to examine several political systems regarding political territoriality, and also provide an institutional taxonomy to define unit variation as Miles Kahler asked for (see Chapter 1). The European Union has often been labelled unique (in Latin: *sui generis*). It may not be helpful to refer to a political system as unique, as if any comparison with other types of political systems would be null and void. Ideal type definitions of several political systems may serve as "analytical benchmarks" [2] to demonstrate the (non)territorial nature of the European Union and its Member States. The concept of political territoriality and its organisational logic are thus used as heuristic instruments in this comparative catalogue of political systems by determining the extent in which the logic of territoriality - geographic fixity, impersonality, exclusivity and centrality – marks the respective political systems.

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[1] Rokkan, S. (1973), 'Cities, States, and Nations: A Dimensional Model for the Study of Contrasts in Development', in S.N. Eisenstadt & S. Rokkan (eds.), *Building States and Nations*, Vol. I. Beverly Hills (Ca): Sage. p. 40.
[2] Zielonka, J. (2006), *Europe as Empire: the Nature of the Enlarged European Union*. Oxford: Oxford University Press.

Two considerations should be made in advance. First, this catalogue provides ideal type definitions of political systems, aiming to understand the nature of these systems regarding political territoriality. The focus therefore is on an institutional definition of a political system's morphology, and not on who is acting on behalf of that political system (such as a government or monarch on behalf of the state) or which functions a political system fulfils, such as security, wealth or solidarity.[3] Second, this catalogue offers definitions how political territoriality marks the ideal type state, (con)federation, network governance, and empire. In reality, political systems might however be referred to differently than they are here according to this comparative catalogue of political territoriality. For example, the European Union may be still discussed in state terms, but might actually increasingly resemble an empire. Moreover, this catalogue distinguishes between the political system itself (such as federation or empire), and the attempts to form a particular type of political system (federalism and imperialism).[4] Although EU rulers may seek to create another federation, they may end up with a non-federal system. The intricacies of the logic of political territoriality may help shed light on how leaders unintentionally find themselves in a political system different than the one they originally pursued.

3.2: The ideal type state: the logic of territoriality *in extremis*

With respect to the European Union, 'the' state has been used as an analytical benchmark by among others Philippe Schmitter[5] – who discusses the "*stato*"– and Jan Zielonka[6] –who writes about the "Westphalian super-state." Zielonka also argues that state-thinking is (implicitly) pervasive in many studies on the European Union, because they measure the extent of integration in terms of a central government, common currency, citizenship, a European constitution and European army.[7] Not surprisingly, the EU Member States are also often

[3] *Cf.* Mann, M. (1986), 'The Autonomous Power of the State: Its Origins, Mechanisms and Results', in J.A. Hall (ed.), *States in History*. Oxford: Basil Blackwell. pp. 109-136.
[4] *Cf.* Motyl, A. (2001), *Imperial Ends: The Decay, Collapse, and Revival of Empires*. New York: Columbia University Press. p. 32.
[5] Schmitter, P.C. (1996), 'Imagining the Future of the Euro-polity with the Help of New Concepts', in: G. Marks *et al.* (eds.), *Governance in the European Union*. London: Sage Publishers. pp. 121-150.
[6] Zielonka, J. (2001), 'How New Enlarged Borders will Reshape the European Union', in *Journal of Common Market Studies*. Vol. 39, no. 3, pp. 507-536.
[7] Zielonka, J. (2006), supra note 2.

described as states. But what does reference to a state say about the functioning of the European Union or its Member States?

As pointed out in the previous chapter, a close connection exists between the ideal type state and the logic of territoriality. An essential starting point for the state is its hard, clearly demarcated and fixed borders: "You cannot build states without controlling borders."[8] It is often claimed that the Peace Treaties of Westphalia (1648) are the origin of political systems based on the principle of territoriality. As will be argued in Chapter 4, the principle of territoriality was not the main motivation for the Peace Treaties or its immediate result. The principle of territoriality is rather the product of establishing clearly demarcated, fixed and hard borders throughout the centuries even before the Peace Treaties were signed. In Renaissance Italy, the concept of *stato* referred to the political status quo in a certain area, or the rule over the princely 'estate."[9] Only gradually did the state become associated with an entire political community distinct from a prince, and only gradually the legal notion of sovereignty did emerge. Many ideas on divisible sovereignty and non-state political organisations (such as empire) kept their prominence. Only gradually, the *strategy* of political control through territorial control has led the *principle* of territoriality to become the foundation of the ideal type state, both in concept and reality. The current Westphalian understanding of the state came to prominence since the late 18th century in French and German historical, legal and sociological literature. The Jacobin description of the state was in brief: one government, one people, one territory. Later on, the concept of state gradually obtained its particular connotation that has been captured in the well-known definition by Max Weber. Thus, not only a territory, government and people, but also the authorities' successful exercise of a monopoly of legitimate use of violence is considered part of the ideal type definition of the state. Weber's emphasis on a demarcated geographic area as an essential feature of the state continues the German historical preoccupation with the territorial state in the 19th century. The projection of the territorial, sovereign state on European history, as if it has existed since 1648, is an example of fictive fixity facilitated by the increasing territorial nature of political systems in the 19th century.

[8] Rokkan, S. (1975), 'Dimensions of State Formation and Nation-Building: A Possible Paradigm for Research on Variations within Europe', in C. Tilly (ed.), *The Formation of National States in Western Europe*. Princeton (NJ): Princeton University Press. p. 589.
[9] Watson, A. (1992), *The Evolution of International Society: A Comparative Historical Analysis*. Routledge: London. p.156; Keene, E. (2005), *International Political Thought: A Historical Introduction*. Cambridge: Polity Press. Ch. 4.

The strategy of territorial control has not only entailed fictive fixity, but also the increasing impersonality of political relationships within those political systems. As long as French kings claimed *L'État, c'est moi*, political institutions and actors were effectively fused. The state emerged as a distinct institutional arena, when it became relatively autonomous from the kings or governments acting on its behalf: "…the essence of the concept [of state, HV] was always its impersonal nature; the state was never to be wholly identified with the individuals holding power within it."[10] The territorial delineation and fixity of political systems fostered impersonalized polities. Even if the king would die, or a government would fall, the permanent territory and the territory-based institutions of the state would not change.

The hard borders of the ideal type state have both an inclusive and exclusionary effect. Internally, the ideal type state bundles governmental tasks within the territorially confined space. Actors within the territory are bound to direct their desires and grievances internally. In this way political life is focused within the state territory and economic, cultural, administrative, social life are contained within the state territory. The territorial concentration of input coincides with the territorial limitation of policy-making and allocation of values within the geographically fixed state. Cut off from cross-border interaction, the population feels increasingly exclusively attached to the state, its government, its soil and its people living there. This territorial attachment is expressed in single citizenship based on residence (*ius soli*) and is symbolic of a geographically fixed image of the state. Because authority and loyalty are geographically fixed, exclusively held and bundled in the state, actors can effectively sustain cross-local, state-wide mobilisation and representation of functional and personal demands (see further Chapter 4). As the Rokkanian argument goes, the relatively closed territorial borders of the European states allowed for the formation of national parties and movements (see Chapter 4). Thus, the strong logic of territoriality in states weakens geographically organised and expressed representation and facilitates non-geographical mobilisation and representation.

The Jacobin understanding of the ideal type state is more civic while Weber's understanding is more instrumental. Ratzel's concept of the organic state emphasizes the link between the state and the cultural nation. States and nations are to be perceived as different phenomena, as territory-based and person-based entities respectively. Nations can lose their historically close link to

[10] Nettl, J. (1968), 'The State as a Conceptual Variable', in *World Politics*, Vol. 20, no. 4, p. 575.

territorial states due to the securitisation of societal identity or globalisation, and become more exclusively person-based.[11] The nation is based on a person-based allegiance, and not by fixed, impersonal, exclusive and centralized territorial control. The nation may yet be centralised, fixed and exclusive, but on a non-geographic basis. Aart-Jan Scholte also discusses other person-based "non-territorial communities" that may emerge today, such as communities based on race, gender, religion (*e.g.*, the Islamic *ummah*), or values (*e.g.*, universal cosmopolitanism).[12] Person-based characteristics like skin colour, ethnicity or religion are relatively strong markers of a polity's boundaries, facilitating the control of people and phenomenon. Therefore, the combination of an extreme instance of the logic of territoriality, the state, and an extreme instance of a person-based political system, the nation, becomes the most exclusivist, fixed, and centralised polity of all. However, the nature of purely inter-*nation*-al politics should be different from inter-*state* politics, since the logic of organisation underpinning person-based nations is different from territory-based states.

The logic of territoriality not only entails exclusive containment of culture, society, economy and administration within a territory, but also inter-territoriality as an organising principle in inter-polity relations. Agreeing to participate in inter-polity relations requires a common understanding and shared norms of what is acceptable for polities to exist. The norms of acceptance of (supreme) authority within inter-polity politics change over time.[13] Divine institution, princely sovereignty, royal sovereignty, territorial sovereignty, national self-determination and good governance are subsequent examples of these shifting norms of acceptance. The logic of political territoriality also depends on the state's capacity and methods of pursuing a territorial strategy of political control. Both variation in acceptance and effectiveness in upholding territorial strategies may explain the differentiation among states in time and space. Western states may have more effective means available for territorial control, such as virtual city walls and satellite surveillance, than many Sub-Saharan African states. The European society of states applies different norms of acceptance than Asian, Arab, or African systems of states. Even though the logic

[11] See resp. Wæver, O. (1995), 'Identity, Integration and Security: Solving the Sovereignty Puzzle in the E.U.', in *Journal of International Affairs*. Vol. 48, no. 2, pp. 389-431; and Scholte, J.A. (2000), *Globalization: A Critical Introduction*. Basingstoke: MacMillan.
[12] Scholte, J.A. (2000), supra note 11, Chapter 7.
[13] See Bartelson, J. (1995), *A Genealogy of Sovereignty*. Cambridge: Cambridge University Press.

of territoriality might be softened by making territorial exclusivity conditional upon the fulfilment of norms, the conceptual reference is yet a clearly demarcated geographic area, entailing the logic of territoriality *in extremis*. The fixed image of such fictive states on world maps illustrates the nature of the geographically fixed, impersonal notion of inter-territoriality.

Situated between intra-territorial and inter-territorial politics, the state institutions obtain a gatekeeper position, making the state the exclusive and central focus point of supreme authority. The central and exclusive hold of supreme authority by the ideal type state results often in the conflation of sovereignty, state and the principle of territoriality. For example, Daniel Philpott defines sovereignty as "supreme authority within a territory."[14] John Agnew, however, rightly argues that "…the conceptual connection between sovereignty and state territoriality has enjoyed less systematic analysis."[15] Indeed, sovereignty is not necessarily territorial. Supreme authority can also be based on persons or functions.[16] Territorial sovereignty is rather a territorial bundling of sovereign rights over certain persons and functions. The unexplored relationship between sovereignty, state and territoriality quickly leads to claims that a decline of sovereignty automatically means the decline of political territoriality; too quickly. Even if sovereignty is no longer based on the *principle* of territoriality, territoriality as political *strategy* may still be used.

The hard-bordered ideal type state is thus the prime example of the logic of territoriality taken to its extreme of geographical fixity, impersonality, exclusivity, and centrality. Adjectives may be used to define the organisational varieties within the definitional confines of 'the' state or could refer to a deviation of its (Weberian) functions. Conceptual starting point of the – among others - corporate, plural, post-modern, decentralised, failed, or regulatory state, is nevertheless the Westphalian state in which the logic of territoriality works to its extreme. However, these adjectives may denote a softening of the logic of territoriality. For example, a functional logic of organisation is present in the decentralised state, in which more efficient economies of scale in the allocation of certain values are sought. This decentralisation is expected to hamper cross-

[14] Philpott, D. (1999), 'Westphalia, Authority, and International Society', in R.H. Jackson, (ed.), *Sovereignty at the Millennium*. Special Issue of *Political Studies*. Vol. 47, no. 3, p. 570.
[15] Agnew, J. (2005), 'Sovereignty Regimes: Territoriality and State Authority in Contemporary World Politics, in *Annals of the Association of American Geographers*. Vol. 95, no. 2, p. 437.
[16] Staden, A. van & Vollaard, H. (2002), 'The Erosion of State Sovereignty: Towards a Post-territorial World?', in G.P.H. Kreijen (ed.), *State, Sovereignty, and International Governance*. Oxford: Oxford University Press. pp. 165-184.

regional mobilisation of interests, as several access points of decision-making have been created. Since the central government still holds formal supremacy, a regional fragmentation of interest representation is expected to be rather limited.

Similar tendencies can also be found in international politics. In a world in which the logic of territoriality is taken to its extreme, international politics is decentralised and anarchic. If states cooperate with the help of international organisations and regimes or within a commonwealth, a league, or a consortium in order to achieve certain functional tasks, then this tends to weaken the actual logic of territoriality with the functional logic of organisation. In such a situation, the final say (supremacy) in international politics still rests in the hands of the governments of territorial states. And, as has been argued in the previous chapter, the more emphasis and use of political territoriality, the more polities tends to become mutually exclusive.

3.3 (Con)federation: conflicting territorialities or consociationalism

A confederation and federation have been the political aim of European integration for many politicians. These are also dominant analytical categories used in many debates on European integration over the last sixty years.[17] Federalism expert Daniel Elazar considers the European Union as "the prime example" of a confederation.[18] In addition, many EU Member States were, are, or have become (con)federations. Confederations are usually described as treaty-based collectives of states having a permanent overarching authority dealing with certain policy areas, in which no direct link exists between the confederal authority and the individual citizens of the participating states. Citizenship and allegiance are thus territorially circumscribed within the member states, and no single demos is connected to the confederal authority. Supreme competencies are essentially territorial, because every territorial state retains its right to veto, making the confederal authority subordinate to the participating states:

> In a confederation the member States retain their sovereignties and, therefore, the central authority *cannot compel* its decisions on any of the constituents, for

[17] See for an overview Nicolaïdis, K. & Howse, R. (eds.) (2001), *The Federal Vision: Legitimacy and Levels of Governance in the United States and the European Union*. Oxford: Oxford University Press.

[18] Elazar, D.J. (1991), 'Introduction: Federalist Responses to Current Democratic Revolutions', in: D.J. Elazar (ed.), *Federal Systems of the World: A Handbook of Federal, Confederal and Autonomy Arrangements*. Harlow: Longman. p. xvii.

the central authority in a confederation can act only when all the constituents are unanimous.[19]

Although a state's participation in a confederation does not deprive them of its sovereignty, the actual allocation of values is not solely based on territory, but rather divided according to functional tasks within the fixed territories of the states. The strictly limited authority of the confederal authority leaves the territorial organisation of the participating states largely intact, but nevertheless impairs the logic of territoriality within these states. Political territoriality in confederations is therefore not fully exclusive and centralised. Although functional needs or personal allegiances may bring states together into a confederation, its fixed, geographical delineation allows for the working of the logic of territoriality. A conflicting logic of territoriality at the confederal level of government may eventually crush states' supremacy, turning a confederation into a federation. Even though co-operation of states in function-based international organisations and regimes set the foundations for non-territorial logic, a confederation closely sticks to the logic of territoriality. It initially leaves this logic largely intact at the state level, and by its territorial demarcation, also sets in motion the logic of territoriality at the confederal level. If a confederation does not comprise adjacent states, its territorial non-contiguity hampers the visualisation of a 'hard-bordered' political unit, complicating the logic of territoriality with respect to its internal centrality.

In contrast to confederations, the constitutionally enshrined rights of both the participating states and the federal authority in federations can only be changed by constitutional amendment to be approved by member states and federal authority (and not by interstate treaty), as well as the direct link between the federal authority and the states' citizens.[20] As a consequence, citizens' loyalties and political citizenship are of a dual nature. In addition, the external acceptance of territorial supremacy is no longer conferred to the constituent states, but to the federation as an "indestructible unit."[21] Federations' external acceptance is territory-based, despite the functional (and in Belgium also personal) division of (supreme) competencies across geographic levels. While inter-territoriality characterises the external relations of a federation, its internal

[19] Dikshit, R.D. (1975), *The Political Geography of Federalism: An Inquiry into Origins and Stability*. Delhi: MacMillan Company of India. p. 3; emphasis in the original.
[20] Elazar, D. (1991), supra note 18, p. xiv.
[21] Duchacek, I.D. (1970), *Comparative Federalism: The Territorial Dimension of Politics*. New York (NY): Holt, Rinehart & Winston. p. 192.

container consists of many compartments. Is political territoriality and its logic still predominant within the ideal type federation, which has been described as the "most geographically expressive of all forms of government"[22]?

Ramesh Dutta Dikshit perceives the territorial organisation of geographic divisions in society essential to federalism.[23] Ivo Duchacek also considers the territorial division of power as a crucial element of his yardstick of federalism.[24] Although the title of Duchacek's work *Comparative Federalism: the Territorial Dimension of Politics* might suggest otherwise, it has been contested in federal studies whether federalism is inherently territorial. A distinction has been made between federalism, which is the principle of dividing and sharing rule, and federations.[25] In federations, the sharing and dividing rule is based on constitutionally and territorially defined rights. Federalism however also includes non-territorial federations, such as consociational systems. Consociational systems are defined by Daniel Elazar as follows:

> a non-territorial federation in which the polity is divided into 'permanent' transgenerational religious, cultural, ethnic or ideological groupings known as 'camps', 'sectors', or 'pillars' federated together and jointly governed by coalitions of the leaders of each.[26]

Consociational political systems such as the Netherlands between the 1920s and the 1960s may be an example of the non-territorial dividing and sharing of rule among its internal person-based segments, as Arend Lijphart defined it:

> A special form of segmented autonomy is federalism (…). As a theory, federalism has a few significant parallels with consociational theory: not only the granting of autonomy to constituent parts of the state, which is its most important feature, but also the overrepresentation of the smaller subdivisions in the "federal chamber". Federal theory can therefore be regarded as a limited and special type of consociational theory. Similarly, federalism can be used as a consociational method when the plural society is a 'federal society': a society in which each segment is territorially concentrated and separated from the other

[22] Dikshit, R.D. (1975), supra note 19, p. 10.
[23] Idem, pp. 12, 19.
[24] Ducachek, I. (1970), supra note 21, p. 258.
[25] See King, P. (1993), 'Federation and Representation', in M. Burgess & A.-G. Gagnon (eds.), *Comparative Federalism and Federation: Competing Traditions and Future Directions*. New York: Harvester/Wheatsheaf. pp. 94-101.
[26] Elazar, D.J. (1991), supra note 18, p. xvi.

segments, or to put it differently, a society in which the segmental cleavages coincide with regional cleavages.[27]

From this perspective, a federation would be a particular form of consociationalism. The sixteenth century work by the German philosopher and administrator Johannes Althusius is the inspiration for Lijphart's studies of consociationalism. Althusius perceives the body politic as an association composed of smaller, symbiotic associations. The "art of associating" (*consociandi*) is to weld together internal segments into an organic whole on the basis of a covenant while preserving their autonomy. The associations unite to serve other associations (as hands to feet, or as pillars for holding a roof) and to provide collective protection of themselves and the body politic. Thus, a basic feature of consociationalism is accommodation of the lower associations into a larger association for the better of all and the whole. The organic feeling of belonging together induces consensus-oriented politics. In addition, members of the segments have dual loyalties to the basic associations and the compound of associations.

Althusian thought has also been applied to the collection of function-based segments in corporatist societies: "[t]he doctrine of corporatist democracy was also called "organic pluralism" or "functional federalism."[28] These terms particularly referred to the inclusion of functional interest groups in policy preparation and implementation by the Austrian government. Trade unions and employers federations were not only involved in representing their interests and demands to authorities, but also participated in the implementation of labour and welfare policies. The functional associations of labour and capital thus served the Austrian body politic, while preserving their autonomy. Consociationalism is thus about accommodating diversity within a larger organic unity, no matter whether the lower units be person-based (such as in the consociational Netherlands), or function-based (such as corporatist Austria).

The ensuing question is whether and how the logic of territoriality works in consociational systems, including federations. Stein Rokkan and Derek Urwin

[27] Lijphart, A. (1977), *Democracy in Plural Societies: A Comparative Exploration*. New Haven/London: Yale University Press. p. 42.
[28] Hoetjes, B.J.S. (1993), 'The European Tradition of Federalism: The Protestant Dimension', in M. Burgess & A.-G. Gagnon (eds.), *Comparative Federalism and Federation: Competing Traditions and Future Directions*. New York: Harvester/Wheatsheaf. p. 133.

contrast 'organic federalism' with 'mechanical federalism.'[29] Organic federalism features centralisation combined with accommodating the diversity of associations within a larger whole, rather similar to the description of consociationalism above. Mechanical federalism refers to a territorial system of organising a hierarchical system of control, which resembles the discussion of state territoriality above. This distinction between organic and mechanical federalism resembles the distinction between Anglo-American and Continental-European federalism. In Continental Europe, the federal principle is focused on the preservation of group rights and consensual decision-making and implementation in contrast to Anglo-American federalism in the United States of America.[30] Anglo-American federalism is more based on competition between the constituent states and the central government, and is basically aimed at preserving individuals' rights.[31] The dual nature of Anglo-American federalism refers to the conflicting territorialities, in which the logic of territoriality at the federal level collides with the logic of territoriality at the state level, and the logic of territoriality of one state collides with the logic of territoriality of another state. The collisions particularly focus on the geographic exclusivity and centrality of authority.

Daniel Elazar refers to the decentralising Protestant origins of federalism in Anglo-American thought, in contrast to the Catholic, hierarchical background of Continental-European federalism.[32] The Protestant Althusius, however, combined both decentralising and organic notions in his conception of consociationalism. Although James Madison was acquainted with Althusius' Continental-European consociationalist, organic thinking[33], this founding father of the American federation developed federalism as an instrument to fracture power in order to protect individual citizens and the constituent states from an overly powerful central government. The nature of this federalism is mechanical, instrumental and adopts an abstract approach to territory, as the straight demarcation of the US states also indicates. It may be not without reason that

[29] Rokkan, S., D. Urwin (1982), 'Introduction: Centres and Peripheries in Western Europe', in S. Rokkan, D. Urwin (eds.), *The Politics of Regional Identity: Studies in European Regionalism.* London: Sage. pp. 9-11.
[30] See Burgess, M. (2000), *Federalism and the European Union: The Building of Europe, 1950-2000.* London: Routledge.
[31] Elazar, D.J. (1995), 'Federal-type Solutions and European Integration', in C. Lloyd Brown-John (ed.), *Federal-type Solutions and European Integration.* Lanham: University Press of America. pp. 439-459.
[32] Idem.
[33] Burgess, M.D. (2000), supra note 30; Hoetjes, B.J.S. (1993), supra note 29.

American studies concentrate much more on rather mechanical issues like scale, the economies of scales, the optimum geographical size for the allocation of values, and functional efficiency of territory, than in Continental Europe where territory is considered part and parcel of political society. Continental-European use of territory is infused by the organic thought in which territory belongs to a certain people. In other words, political territoriality in Anglo-American thought is the territorial definition of society, while in Continental-European thought it is the social definition of territory.[34] Nevertheless, Continental Europe contains clear examples of mechanical use of territory, such the organisation of the French state and planning (see also Chapter 4). Until recently, the French use the principle of *ius soli* regarding citizenship still relates to the more abstract-territorial principle of the French polity, in contrast to the organic *ius sanguinis* of Germany.

In Anglo-American federal thought it is argued that power will be fragmented when federalising a political system by territory. Robert Sack also argues that the territorial organisation of politics may be used as an instrument used to divide and rule by the centre.[35] The Federal Republic of Germany was federalised under American occupation after the Second World War to prevent the centralisation of power. The American federalisation of West Germany was an example of mechanical federalism, although the Continental-European idea of organic federalism still characterises the sociology of the West German political system. West Germany's is thus an example of territory-based consociationalism. Territorial politics may thus originate from an organic allegiance of territorial units belonging together within a larger compound, or from mechanical, instrumental thinking of separating powers and instrumental planning on a territorial basis. The organic or mechanical genesis and embeddedness of territorial politics thus makes a difference to the organisational logic of a political system.[36] In Continental-European federalism the organic bonds within a territorial association of territorial associations soften the primacy of territoriality's logic, while competition strengthens the exclusionary separation of different governmental territorial levels within an Anglo-American federation. The idea behind mechanical, Anglo-American federalism is a

[34] Sack, R. (1986), *Human Territoriality: Its Theory and History*. Cambridge: Cambridge University Press.
[35] Idem.
[36] *Cf.* Blatter, J.K. (2001), 'Debordering the World of States: Towards a Multi-Level System in Europe and a Multi-Polity System in North America? Insights from Border Regions', in *European Journal of International Relations*. Vol. 7, no. 2, pp. 175-209.

functional one: it seeks to fragment power to protect individuals against centralising power as well as establish a most efficient scale of allocating values. A Continental-European perception of federalism is more inclined to the idea of centralisation in a larger organic compound. The confusion regarding centralisation or decentralisation in discussions on creating the United States of Europe might be rooted in these two different conceptions of federalism.

The (predecessors of the) European Union have been depicted as a consociation: "there is a 'territorially' pillarised system because individual interaction and loyalty is primarily focused within the EC nation states."[37] Indeed, the finalizing of treaties between the EU member states requires a certain common understanding of shared values. This alludes to the Althusian organic perception of polity-formation in which a society of political associations (*in casu* the nation-states) feel that they belong together. The participating parts of the European political body thus allow each segment to play its role within the whole, stressing the importance of a minimum set of common values for the maintenance of consensus and mutuality. Thus, the consociation is a person-based image of the European Union, in which the person-based logic of allegiance would dominate within the nation states and among the national elites.

References to consociation are also made with respect to the way EU politics are run.[38] The rules of consociationalism as presented by Arend Lijphart resemble them to a great extent: from elites' summits, segmental autonomy, minority vetoes, to consensus-seeking through depoliticisation and technocracy. This resemblance between consociational politics and EU politics may not come as a surprise, if one knows Lijphart drew his rules partly from international diplomacy.[39] To qualify as a consociation though, the EU should be more than the negotiation and co-operation of governments in a society of states, but an organic compound of autonomous nations. If the EU would be consociation of nations, the members of the nations may mix geographically, but do not fuse

[37] Hix, S. (1994), 'The Study of the European Community: The Challenge to Comparative Politics', in *West European Politics*. Vol. 17, no. 1, p. 20.
[38] See, for instance, Eising, R. & Kohler-Koch, B. (1999), 'Introduction: Network Governance in the European Union, in R. Eising & B. Kohler-Koch (eds.), *The Transformation of Governance in the European Union*. Routledge: London. Pp. 3-35; Costa, O. & Magnette, P. (2003), 'The European Union as a Consociation? A Methodological Assessment, in *West European Politics*. Vol. 26, no. 3, pp. 1-18.
[39] Andeweg, R.B. & Irwin, G.A. (2005), *Governance and Politics of the Netherlands*. Houndmills: Palgrave MacMillan. p. 30.

personally[40], such as hibernating pensioners or detached workers who remain loyal to their home nation, but stay outside their home nation.

The division of power in a consociational EU is based on the social definition of territory, because historically grown associations and value connections determine at which level competencies should be exercised. However, the official principle to designate competences in the EU, the subsidiarity principle, is rather based on functional considerations. The economies and politics of scale are the mechanical arguments made to assign the EU certain competencies (such as the environment and the single market) and leave others at national level. Instead of consociational organic territoriality, the EU would thus rather be guided by functional territoriality. As is the case in American federal thought, conflicting territorialities instead of organic consociationalism would thus be characteristic of the organisation of the EU.

In federations, member states have the same competencies. In a so-called union-state, member states have different competencies, and consequently different relations to the central authority.[41] In the EU, Member States may adopt different time intervals to introduce central policies (multi-speed), may allow continuous differentiation in space (variable geometry), or may opt in and out from policy areas (à la carte).[42] A mixture of the latter two modes of differentiation resembles Philippe Schmitter's "*condominio*."[43] These modes of differentiation hamper the logic of territoriality at the central level because the hardening of borders is difficult in this situation of functional flexibility, dissociating "functional competencies", "territorial constituencies" and "authoritative allocations."[44] As long as the guiding thought is that all 'laggard' Member States catch up to the central level, the logic of territoriality is however still at work. Conflicting territorialities or consociational tensions among associations may explain Member States' temporary or partial delay in participation at the central level.

[40] Chryssochoou, D. (2001), *Theorizing European Integration*. London: Sage. p. 139.
[41] Rokkan, S. & Urwin, D. (1983), *Economy, Territory, Identity: Politics of Western European Peripheries*. London: Sage.
[42] Stubb, A. C.-G. (1996), 'A Categorization of Differentiated Integration,' in *Journal of Common Market Studies*. Vol. 34, no. 2, pp. 283-295.
[43] Schmitter, P.C. (1996), supra note 5, p. 136.
[44] Idem.

3.4 Network governance: spatial functionality

In the late 1980s, the concept of multi-level governance was introduced in an attempt to describe the perceived increase in the involvement of sub-national regions in the implementation of EU policies.[45] Above all, the concept was meant to avoid state thinking in EU theories. Empirically, the logic of territoriality at state level is still dominant in the multi-level co-operation of European, regional and state authorities.[46] Conceptually however, multi-level governance is going beyond the logic of territoriality. Multi-level governance is not about geographic fixity, centrality or exclusivity, but rather about flexible, heterarchical and non-exclusive policy networks of expertise. The functional imperative of effective problem-solving, efficiency and expertise is behind this description of the European Union. Decisions are no longer taken by a central hierarchy, but emerge from the interplay between the territorial levels of government and non-governmental actors (as the word 'governance' denotes). Its networks blur not only the boundaries between and within states, but also of political systems through the close involvement of private actors from economic and social systems in the allocation of values. As so many actors may play a part in multi-level governance, co-ordination in decision-making and clear accountability is a difficult matter.[47] Political territoriality may yet be used at the regional, national or European level as a strategy of control, but does not determine the organisational logic of the foremost function-based multi-level networks in the European Union.

Both in EU and globalisation studies, the concepts of network and network governance have been introduced to describe a non-state, function-based organisation of European and world politics. Here, only a cursorily definition of a functional logic of organisation will follow. Further specification of what this logic might be, can be found in contributions on functionalism, and on functional, overlapping, and competing jurisdictions.[48] Contributions on

[45] Marks, G., Hooghe, L. & Blank , K. (1996), 'European Integration from the 1980s: State-Centric v. Multi-level Governance', in *Journal of Common Market Studies*. Vol. 34, no. 3, p. 366.
[46] See, for instance, Bache, I. (1999), 'The Extended Gatekeeper: Central Government and the Implementation of EC Regional Policy in the UK', in *Journal of European Public Policy*. Vol. 6, no. 1, pp. 28-45.
[47] Hooghe, L. & Marks, G. (2003), 'Unraveling the Central State, but how? Types of Multi-level Governance', in *American Political Science Review*. Vol. 97, no. 2, pp. 233-243.
[48] See resp. Taylor, P. & Groom, A.J.R. (eds.) (1975), *Functionalism: Theory and Practices in International Relations*. London: University of London Press; Frey, B.S. & Eichenberger, R.

networks use terms like flexibility, fluidity, nodes, interdependence, decentralisation, efficient problem-solving to describe these task-specific systems.[49] Networks combine both public and private actors of a political, economic and social nature. As the key words indicate, its functional logic of organisation qualifies networks as clearly non-territorial, selecting actors according to a functional imperative. Geography may yet explain where (nodes of) networks are located (such as cities), a network is not based on a socially constructed geographic area, a territory. It is "one's position in relation to different nodal networks" and not territory determining structures of authority and of competition.[50]

Manuel Castells emphasises the influence of information and communication technology (ICT) to allow for the non-territorial basis of network governance. ICT facilitates connections among actors regardless of geographic distance and geographic borders. Flows of information and communication in networks can be "social practices without geographical contiguity."[51] Instead of "spaces of places", networks are marked by "spaces of flows." The loss in significance of geographical contiguity allows cities to loosen the ties with their hinterland, and strengthen bonds with informational cities wherever they are. Cities may yet use political territoriality to protect their gated communities from the hinterland as the dominant basis for political organisation is function-based.

Authority in networks is based on expertise and persuasion, instead of hierarchical coercion. Undermining geographical fixity of political systems, individuals may thus switch from one to another task-specific network in case of dissatisfying expertise or for want of better task performance. As has been explained in Chapter 2, if power is flexibly located, dispersed, decentralised, unbundled, and non-exclusive, members have multiple points where to direct their demands and grievances. Then, cross-local mobilisation of demands across the entire territory of the political system will be more costly and less effective, since multiple authorities have to be addressed and members are fractured

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(1999), *The New Democratic Federalism for Europe: Functional, Overlapping, and Competing Jurisdictions*. Cheltenham: Elgar.

[49] Eising, R. & Kohler-Koch, B. (1999), supra note 38, p. 25; Blatter, J.K. (2001), supra note 37; Ansell, C. (2000), 'The Networked Polity: Regional Development in Western Europe', in Governance. Vol. 13, no. 3, pp. 303-333; Jönsson, C., Tägil, S. & Törnqvist, G. (2000), *Organizing European Space*. London: Sage. pp. 102ff.

[50] Jönsson, C. et al. (2000), supra note 49, p. 100.

[51] Castells, M. (2000), *The Rise of the Network Society*. Oxford: Blackwell. p. 14.

according to the fragmented authorities. The question is however what provides the necessary cohesion for mobilisation and allocation of values in impersonal, mechanical, non-exclusive, non-hierarchical, and flexible network governance. Expertise and persuasion also require a common vocabulary and mutual trust for accepting membership of networks. Supposedly for this reason, scholars working on network governance emphasise person-based allegiance as a feature or even a prerequisite of a well-functioning network.[52] The rather organic and person-based political system of consociation is therefore discussed in relation to network governance.[53] Person-based allegiance or an actor's centrality may help to broker decisions, and to prevent free-riding behaviour.[54] The expectation of being locked in a fixed territorial system would thus be exchanged for the conviction of belonging to the same group, sharing the same interests, or identity. Geographical proximity is helpful to decrease the costs for mobilising demands, despite the increasing opportunities for communication through ICT. In addition, coordination of some tasks may only be feasible at a close geographic distance. The predominance of the logic of functionality may thus foster a geographical concentration of mobilisation and representation of demands, and allocation of values.

3.5 Political territoriality and a (neo-mediaeval) empire

Referring to medieval Europe and the Habsburg Empire, authors like Jean-Marie Guéhenno, Ole Wæver, József Böröcz, Judy Batt, and Jan Zielonka have discussed (the future of) the European Union in terms of an empire. They have done so particularly because of the EU's complex institutional nature, the incongruence of cultural, economic, political and administrative boundaries, the concentric circles in the patterns of European integration and Europeanisation, the inequality in the relationship between the EU core and acceding and neighbouring countries, and the ensuing fuzzy boundaries of the European Union. For example, Zielonka argues in his book *Europe as empire: the nature of the enlarged European Union* that the recent eastern enlargement of the European Union is an "impressive exercise in empire-building", while the European Neighbourhood Policy "is quite an ambitious programme in a truly neo-medieval spirit."[55]

[52] *cf.* Ansell, C. (2000), supra note 49, p. 308; Jönnson, C. et al. (2000), supra note 49, p. 104.
[53] *cf.* Eising, R. & Kohler-Koch, B. (1999), supra note 38; Ansell, C. (2000), supra note 49.
[54] Ansell, C. (2000), supra note 49.
[55] Zielonka, J. (2006), supra note 2, pp. 20, 112.

Europe has known quite a number of political systems that have been called empires, also long after 1648: the Imperium Romanum, the Carolingian Empire, the Polish-Lithuanian Empire, the Holy Roman Empire, the Habsburg Empire, the Russian Empire, the colonial empires, and the Ottoman Empire. The Soviet domination of Central and Eastern Europe during the Cold War has been described as an "informal empire."[56] The empire-like, unequal power relationship between, among others, the Soviet Union and the East-Germany was "non-anarchic" and "non-Westphalian."[57] Also the economic and military domination of Western Europe by the United States of America (USA), has been cast as an empire, even though voluntarily "by invitation", because of the unequal relationship between the USA and its Western-European partners.[58] Particularly after the invasion in Iraq in 2003, empire and imperialism have been increasingly used to describe the USA and their foreign policies.[59] Scholars also included informal relationships and soft power in their understanding of empires in addition to more traditional perceptions focusing on the formal adoption of peripheries into the empire after military conquest. Imperialism also gained appreciation as benign interference by American or Western powers to reconstruct nations abroad.[60] Moreover, empire has been considered a necessary addition to unilateral and hegemonic order in analysing world politics.[61]

For a long time the concept of empire did not receive much attention in political science. Its apparent disappearance after decolonisation and its pejorative meaning due to the nationalistic interpretation of European and world history made the study of empires less likely.[62] In addition, the study of empire as an institution did not fit neatly in the discipline of political science due to the divide between domestic-oriented Comparative Politics and International Relations.[63] Only in the less state-oriented neo-Marxist and anthropological

[56] Motyl, A. (2001), supra note 4.
[57] Wendt, A. & Friedheim, D. (1996), 'Hierarchy under Anarchy: Informal Empire and the East German State', in C. Weber & T.J. Biersteker (eds.), (eds.), *State Sovereignty as Social Construct.* Cambridge: Cambridge University Press. p. 251.
[58] Lundestad, G. (2003), *The United States and Western Europe since 1945: From "Empire" by Invitation to Transatlantic Drift.* Oxford: Oxford University Press.
[59] See, *e.g.*, Cox, M. (2003), 'The Empire's back in Town: or America's Imperial Temptation – Again', in *Millennium.* Vol. 32, no. 1, pp. 1-27.
[60] Ignatieff, M. (2003), *Empire Lite: Nation Building in Bosnia, Kosovo and Afghanistan.* London: Vintage.
[61] Nexon, D.H. & Wright, Th. (2007), 'What's at Stake in the American Empire Debate', in *American Political Science Review.* Vol. 101, no. 2, pp. 253-271.
[62] Motyl, A. (2001), supra note 4.
[63] Nexon, D.H. & Wright, Th. (2007), supra note 61, p. 254.

literature imperialism has obtained consideration to describe patterns of economic exploitation and cultural subordination.[64]

Renewed interest into non-state, imperial structures started with Hedley Bull in 1977. The organisation of world politics and the then European Community reminded him of the mediaeval order of Europe. He captured the potential imperial future of world and European politics in the concept of "neo-mediaevalism": "a structure of overlapping authorities and criss-crossing loyalties that hold people together in a universal society, while at the same time avoiding the concentration of power."[65] Introducing this concept, Bull aimed to give an impression of a post-Westphalian political order, although he was not really convinced of the concept's accuracy: "…we may call [it], for want of a better term, a neo-mediaeval order…."[66] John Ruggie also referred to the Middle Ages when thinking about a potential non-Westphalian future of Europe, while Stephen Kobrin discusses on the one hand the present loosening link between territorial jurisdictions of states, and on the other hand the cyberspace of the digital age in terms of neo-mediaevalism.[67]

Richard Falk has expressed serious doubts whether the concept of neo-mediaevalism should be used to analyse world politics in general, and Western Europe in particular.[68] Too many differences exist between the mediaeval period with thoroughly religious societies under the central command of God and his deputies on earth seeking to spread the gospel by the sword and present-day decentralised (or even un-centred), secular and pluralistic networks in the EU and the world. Jörg Friedrichs nevertheless argues that use of the concept neo-mediaevalism makes sense and offers an impression of the current morphology of the EU.[69] The competing and overlapping duality of universal claims of national loyalties and the free market area, loosely resembles the duality of papal and imperial claims to universal rule in the Middle Ages. The group of free moving policy-makers, bureaucrats and economic elites has replaced the mobile

[64] See for a recent example, Hardt, J. & Negri, A. (2000), *Empire*. Cambridge: Harvard University Press.
[65] Bull, H. (1977), *The Anarchical Society: A Study of Order in World Politics*. London: MacMillan. p. 255.
[66] Idem, p. 255.
[67] Ruggie, J.G. (1993), 'Territoriality and beyond', in *International Organization*. Vol. 47, no. 1, pp. 139-174; Kobrin, S.J. (1998), 'Back to the Future: Neomedievalism and the Posmodern Digital World', in *Journal of International Affairs*. Vol. 51, no. 2, pp. 361-386.
[68] Falk, R. (2000), 'A "New Medievalism"?', in G. Fry & J. O'Hagan (eds.), *Contending Images of World Politics*. Houndmills: Palgrave. Pp. 106-116.
[69] Friedrichs, J. (2001), 'The Meaning of New Medievalism', in *European Journal of International Relations*. Vol. 7, no. 4, pp. 475-502.

clergy and nobility in mediaeval times, holding the EU together against the centrifugal forces of exclusionary nationalism. Describing the EU, Zielonka also refers to the Middle Ages to underline its polycentrism, fuzzy boundaries, voluntary expansion, and low asymmetry in core-periphery relationships, which stands in sharp contrast with Westphalian states pursuing imperialism.[70]

Roland Axtmann dismisses, however, references to mediaeval empires. Even if states would lose their monopoly of violence to international or European institutions, they have a much more coercive organisation than any of the polities in the Middle Ages.[71] In addition, the cultural homogeneity today is much less than in the Christian Middle Ages, while the economic interdependence of present-day capitalism is much stronger than in the Middle Ages. If the EU would resemble an empire it would not be medieval Europe. Instead, "[t]he closest contemporary parallel to the early modern Holy Roman Empire is the European Union."[72] The Holy Roman Empire "had no central government (either before or after 1648): it was no state, but a regime, in IR terminology. The estates of the empire, that is, its princes and free cities, did the actual governing within their territories. This right, confirmed by the Peace of Westphalia, was known as *Landeshoheit*, literally 'territorial jurisdiction'."[73] Local constitutions and imperial law restrained the autonomy of the various entities within the empire. Various councils of the Imperial Diet (*Reichstag*) and the two imperial courts offered opportunities to express their demands in the empire. This complex governmental structure and the interdependence of the territorial entities and empire looks like the EU.

It would be historical irony if from the weakest part of Charlemagne's empire (the Lotharingian city-belt of Flanders, Burgundy, Rhineland, Alsace and Lombardy), the core of a new empire would emerge given the failed attempts to unite it from its western part by Napoleon and his predecessors, and from its eastern part by Hitler and his predecessors. Whether European imperialism will lead to a Euro-empire remains to be seen in empirical research. At least, the introduction of the concept of empire indicates the present uncertainty about

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[70] Zielonka, J. (2006), supra note 2, p. 14.
[71] Axtmann, R. (2003), 'State Formation and Supranationalism in Europe: The Case of the Holy Roman Empire of the German Nation', in M. Berezin & H. Schain (eds.), *Europe without Borders: Remapping Territory, Citizenship and Identity in a Transnational Age*. Baltimore/ London: John Hopkins University Press. pp. 118-139.
[72] Osiander, A. (2001), 'Sovereignty, International Relations, and the Westphalian Myth', in *International Organization*. Vol. 55, p. 283.
[73] Idem, p. 272.

the boundaries of both the European Union and its Member States since the Iron Curtain no longer provides the European Communities a fixed eastern border.

But what would be the ideal type definition of empire? The political scientist Michael Doyle is one of the early exceptions discussing empire extensively, emphasising its relational nature: "Empire (…) is a relationship, formal or informal, in which one [polity] controls the effective political sovereignty of another political society. It can be achieved by force, by political collaboration, by economic, social, or cultural dependence."[74] While in a hegemonic relationship the dominant polity only controls the foreign policy of another polity, an empire is a "system of interaction between two political entities, one of which, the dominant metropole, exerts political control over the internal and external policy – the effective sovereignty – of the other, the subordinate periphery."[75] Alexander Motyl (2001) also refers to the asymmetric relations between the centre and peripheries, adding that the peripheries themselves are focused on the centre lacking substantial mutual links. Thus, an empire looks like the hubs and spokes of a "rimless wheel."[76] An empire is consequently more about the relationship between central and peripheral elites, than about geographical control per se, or, in Motyl's words, the nature of empire is more "arterial" than "areal."

What then is the basis of the relationship between central and peripheral elites? As the above citation of Doyle already mentioned, central control can be based on various sources, which can be both explained by the "weakness of the periphery" as well as "the strength and motives of the metropole."[77] Most often the centre's military power and the universal claim of its civilisation are considered the basis of the centre's preponderance. Its self-conception of being a (unique) civilisation shows the person-based nature of an empire. It is not territorial control or functional performance, but foremost a person's belonging to a certain civilisation determining the membership of an empire regardless of his/her geographical location (the personality principle). The imperial civilisation is both a reason for peripheries' attraction to the centre (thus, an empire can grow voluntarily), as well as for the centre's willingness to fight barbarians not willing to accept its civilisation. The inherent expansionary

[74] Doyle, M. (1986), *Empires*. Ithaca: Cornell University Press. p. 45.
[75] Idem, p. 12.
[76] Motyl, A. (2001), supra note 4, p. 4.
[77] Doyle, (1986), supra note 74, p. 12.

nature of an empire fosters the socio-cultural and economic heterogeneity and differentiation of centre-periphery relations, and also requires more power resources to sustain the centre's control. The defence of boundaries is therefore often sought in pushing boundaries forward. Thus, the relational and civilisational nature of an empire makes it intrinsically unlimited. Being the temporary delineation of the civilisation's reach, imperial boundaries are fuzzy, outer-oriented and inclusive buffer zones, in which central rule fade out gradually. Roughly following a radial pattern of so-called concentric circles, the imperial centre holds tight to loose relations with the various peripheries, resulting in incongruent, polycentric and variable political and administrative layers of government. Lacking hard and fixed external geographical borders and being based on the personality principle, an empire is not marked extensively by the logic of territoriality.

3.6 What is the European Union?

Different political actors may pursue different strategies, from 'statism', imperialism, federalism to 'networkism', to reform the European Union and its Member States. The resultant mix is unknown, and may as yet even be unlabelled. The institutional structure of the EU and its Member States will leave its mark on the course of those reforms. The analytical instrument of the logic of territoriality sheds light on to what extent the EU and its Member States are becoming more geographically fixed, impersonal, exclusive and centralised. The ideal types presented show political territoriality in various guises. The 'hardness' of geographic boundaries is essential for understanding to what extent the logic of territoriality marks the institutional variables of the polities discussed. Empirical research should reveal where the EU or its Member States fits in this comparative catalogue of polities. In addition, empirical research should show how broad and deep certain Ideal type polities are institutionally embedded, as can be perceived from the strategies adopted to create a state (statism), an empire (imperialism), a federative system (federalism), or a network (networkism).