

JUSTICE, POLITICS AND INTELLIGENCE. QUANTUM SYNERGIES COMPUTED WITHIN THE FRAMEWORK CONTRACT OF THE EUROPEAN UNION (EU) MEMBERSHIP

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Abstract: *“The manner in which conflicts are to be settled by political means can have no influence on the manner in which conflicts may be settled by judicial means” (Opinion Advocate General Van Gerven on Case C-70/88). What appears as a quantum fallacy, represents one of the multiple dimensions settled within the realities of the European Union (EU) membership’s conundrum. The point on which the intelligence factor - the affluent induced towards both political and judicial capital decision making processes - transmutes itself from binary into the quantum vortex generated by the EU interests shall be defined and safeguarded accordingly. Researchers have claimed already that the theoretical benefits of quantum environments would go beyond the proven theory of ordinary mechanics and would imply non-standard interpretations, such as multiple worlds and negative probabilities. Large-scale quantum techniques would theoretically be able to solve efficiently and more quickly certain problems that are not practically feasible when using classical binary methods. The synergies connecting political strategies and judicial solutions within the EU would offer an inclusive platform for Member States individual’s identities.*

Keywords: *quantum; justice; politics; intelligence; security*

1. INTRODUCTION

1.1 From a myth – to the present days. The story has it that once upon a time there was a beautiful Phoenician princess called Europa, which was abducted by the ancient god Zeus, who had disguised himself as a bull. They say that Europa had been gathering flowers alongside other friends, near the seaside, when she came across with the bull (Zeus) - which looked to her surprisingly temperate. Full of trust, Europa mounted on its back; but the bull then suddenly went off into the sea and carried off Europa up to the shores of the island of Crete, where she was made the queen of the island. The myth of Europa has survived the times in different modes. On the one hand it has been transmitted through generations as a story of virtue, innocence and romance; on the other hand it remained in the collective memory as a caveat note addressed against the spread of violence and segregation. Nowadays, the myth itself is perceived largely as a grid reference for identifying a well-known continental territory whose epicenter lies somewhere in central Europe.

At present, Europe’s different modes exist with respect to its modern institutions, law and legal

systems. Europe is more and more associated to the geopolitical frame delineating the area of European Union (EU), which strives as an example of ultimate compliance with the rule of law.

The European Union’s law is frequently perceived as illustrating new ideals granting the pave-way towards the ultimate standards of democracy. The law of the European Union has been, however, equally portrayed as being invasive, interfering, divisive or even inflated and exorbitantly overpriced. Such critics have been addressed both internally, from within its own Member States as a counter justification of their own unorthodox shift in policies, as well from external counterparts expressing their reluctance towards EU criteria and ideals.

How can it be that the a legal concept may be able to induce into practice a large plethora of opposite and diverging opinions? There is a quantum political environment which supersedes the EU law in order to create its own operating dimension engaged into the path of serving the EU interests. However, it is yet to be clearly delineated the full extend to which the control of the EU institutions can keep the quantum political dimensions into the logic of reasoning and accountability.

Security and intelligence elements are the affluent induced towards the decision making process in EU politics – and also for judicial proceedings. The quantum theory might be used as metaphor for the framework predicting the interaction and the momentary state of such elements.

1.2 Vision statement of EU quantum politics and justice elements

The manner in which conflicts are to be settled by political means can have no influence on the manner in which conflicts may be settled by judicial means (Opinion of Mr Advocate General Van Gerven delivered on 30 November 1989 on Case C-70/88, 3rd paragraph, last sentence)

What appears as a quantum fallacy represents one of the multiple dimensions settled within the realities of the European Union (EU) membership's conundrum. There is a quantum leap in the European integration efforts to safeguard the Union's irreversible nature. It is the political advancements that constitute the common denominator formula for the EU quantum principles.

1.3 Definitions. For the purpose of this document, the following definitions shall apply:

“Intelligence”: the information processed with the scope of assisting the decision making process of a certain function / institution to whom it has been addressed; (n.b.: the information is transformed in intelligence by the actionable perspectives adopted from the receiver's point of view);

“Justice”: the quality of being fair and reasonable; the administration of the law or authority in maintaining things; (www.oxforddictionaries.com);

“Quantum theory”: refers to the theory of matter and energy based on the concept of quanta, especially quantum mechanics; n.b. : “Quantum”: means a discrete quantity of energy proportional in magnitude to the frequency of the radiation it represents; “Quanta”: plural form of quantum (www.oxforddictionaries.com);

“Politics”: the activities associated with the governance of a country or area, especially the debate between parties having power (www.oxforddictionaries.com);

“Security”: the condition of being protected against hazards, threats, vulnerabilities, risks, or loss (www.asisonline.org).

2. EUROPEAN UNION CASE LAW

2.1 What if? What if it would be now up to the nowadays laws of our European Union to mitigate the quarrel around the myth of Europe – should one adopt the point of view that the action, as described in the myth odyssey, had actually happened.

Would it be then a court judgment on law principles, given on a case where romance started with a disagreement? Would it be about the heart-breaking story of loosing the “*Europe-an*” innocence? Would it be maybe an obvious case involving disproportionate use of violence in a kidnapping story? Would it ultimately a case related to the illegal migration or the smuggling of a Phoenician princess? Should this incident become the foundation of an international inquiry? What systemic approach would favor and serve the interests of the European Union from the perspectives of these points of view? Lets start with exercising the common sense of our imagination; this might be the factor that can help overtake the limitations posed by the regular approach of the “binary” determinism in politics and legal determinism.

2.2 The legal system. European Union represents, between other things, a legal system implemented in order to deal an array of contemporary problems and accomplish a range of opportunities that nation states felt not able to manage them individually. However, should one pursue the endeavors to understand the EU law, one has to recognize that at its centrum there is a constant interplay between two elements: the development of the European ideals, and the government of problems spinning over the contemporary Europe. Both elements are have been infiltrated as a result in the European Union case law. In some areas there is a tension and apparent one-sidedness between the two of them. In other areas, each of those strings (European ideals vs. European governance) is being revised in the light of the other. Nevertheless, the balance is never static, whereas it has been constantly shifting, as political principles would have made the shift as well. The stated scope is the pursuit of a roadmap where the institutional settlements of the European Union are evolving while the challenges of the outside world would alter.

The Court of Justice of the European Union has been set up as an institution and invested to ensure that the EU legislation is interpreted and applied in the same way in each Member State. In

other words, the Court of Justice shall ensure that the law is always identical for all the parties and in all similar circumstances.

2.2 The direct effect of the European Union's law. The principle of direct effect enables individuals to immediately invoke a European provision before a national court of the EU Member States or in front the European Court itself. The direct effect of European law is, along with the principle of precedence, a fundamental principle of European law.

It was enshrined by the Court of Justice of the European Union (CJEU). It enables individuals to immediately invoke European law before courts, independent of whether a national law exists to that extend. The direct effect principle therefore ensures the application and effectiveness of European law in EU countries (<https://eur-lex.europa.eu>). In short: the EU law exists, is effective, has as well a direct application, it prevails in front of any contradicting piece of legislation of a Members State, and can be invoked by individuals in front of other courts within the EU states.

3. "QUANTUM MECHANICS": A PRIMER FOR THE PARTICLES OF JUSTICE, SECURITY AND INTELLIGENCE OF THE EUROPEAN UNION

3.1 The primer: quantum mechanics. The field of quantum mechanics was coined by the German physicist Max Planck who had made an attempt to describe the spectrum of light emitted by hot bodies. Specifically, in 1900, he was wondering what was the exact reason that can be accounted for the shift in color from red to yellow to blue as the temperature of a candle flame was increased. Planck made the following assumption: energy was made of individual units, or quanta. Planck invented thereafter the equation explaining his observations based on the assumption that the very same matter can behave itself in certain differentiated ways.

His research kicked off the start into a new field and more than 30 years of scientific inquiry that produced the theories and discoveries which are forming the basis of today's understanding into this field of quantum physics.

Albert Einstein introduced one of the quantum mechanics' most famous and astonishing concepts about five years after Planck had invented his equation. Einstein extended Planck's assumption by asserting that a quantum of light, or a photon,

behaves as both a wave and a particle. This duality became the seabed foundation into the field of quantum mechanics.

Today, scientists still debate how to interpret quantum mechanics. One of most largely accepted approach is called the Copenhagen interpretation, which considers that every quantum particle, known metaphorically as a "cat," exists in all of its possible states at once until it is measured; only when it is observed does the particle exist in one state. In simple words, a "cat" could be form a quantum perspective both dead and alive at the same time. In a binary transposition, the number zero could be as well coexist with the number one, as equivalent value states at a given moment. This concept has become known as the principle of superposition. A second interpretation of quantum theory is the many-worlds theory, which holds that as soon as a possibility exists for any object to be in any state, the universe of that object transmutes into a series of parallel universes equal to the number of possible states in which that the object can exist, whereas each universe contains a single and unique possible state of that object (www.whatis.techtarget.com).

Einstein described space-time as a smooth fabric distorted by objects in the universe. For him, the separation between past, present and future was merely a obsessive persistent illusion. Building on Einstein's ideas, another physicist Nobel Laureate, Richard Feynman, focused on how a particle can travel in waves from point A to point B along a number of potential paths, each with certain probability amplitude. According to Feynman's theory, the sum of all the amplitudes of the different paths would give you the "sum over histories" — the path that the particle actually follows in the end (www.stratfor.com).

3.2 The EU case law) within a quantum theory

The manner in which conflicts are to be settled by political means can have no influence on the manner in which conflicts may be settled by judicial means [emphasis added].

In simple words, it is settled case already the fact that the political factor can reserve unilaterally the option to settle down a conflict in a different manner, whose accepted results can be different if one would compare tem to the manner in which the same conflict would be (or have been) processed by a European Court. The respective political manner, in itself, refers to the processes, the filters,

the checks and balances and, most important, the outcome of a political resolution.

But where is the logic? Isn't that the rule of law is still reigning? How exactly the gods of the mundane political life have inherited the power and the means to overthrow the almighty reign and sense of justice? Or, can it be as well, that the nymph of Justice can drive the bull by its horns and, at her turn, she can ensure safe passage of return for herself back to the EU mainland from where the political deceives had departed her?

In a quantum metamorphosis, the "political means" and the "judicial means" would represent the quantum of light, or the photon that can behave with a dual entity – as described by Planck and Einstein. Thus, a specific dual behavior can appear over the quarrel of the very same matter, which can be distorted either as a "waive" or as a "particle" depending on the given circumstance. The verses of this "quantum metaphor" constructed around the senses of the European justice is found in the "lyrics" of multiple rulings of the EU Court:

For example:

In a political process, it is for the participants alone to decide which countries should or should not be included (n.b. on list of countries whose nationals must be in possession of visas when crossing the external borders of the EU Member States). The Court cannot make any assessment on the largely political arguments (...) and cannot decide (...)" (Opinion of Advocate General Fennelly, Case C-392/95, <https://eur-lex.europa.eu>).

It implies directly that it is not up to the Court to question the validity of a political argument – being that even in relation to its ascension or its admission into a certain functional area of EU politics. For example, as the case-law implies now, one cannot question the Court the political refusal of including a country in the European Schengen area just by simply upholding that this non-admission would follow rather the pure political ascent, but not the logic of the pre-established score card and the agreed technical criteria that have been achieved meanwhile.

In another piece of case law, the European Court of Justice has ruled the following: < It may be regrettable that competition operates between the Member States in this field [n.b. taxation of company profits] without restriction. That is, however, a political matter.

It should be noted, in that respect, that the ... (Ecofin' Council) adopted a code of conduct for business taxation (...) [Towards an Internal Market

without tax obstacles (COM (2001) 582 final & Commission Staff Working Paper 'Company Taxation in the Internal Market' (SEC (2001) 1681 final)].

According to its preamble, the code of conduct is a political commitment and does not affect the Member States' rights and obligations or the respective spheres of competence of the Member States and the Community resulting from the Treaty (Opinion of Advocate General Léger, in Case C-196/04, <https://eur-lex.europa.eu>). The important part of this opinion is that it demonstrates the fact that a Code of Conduct represents more of a guidance, rather than a binding document. Should one go further on with conducting a summary research on how a Code of Conduct would serve for to the functioning of the EU Institutions (for example), one would easily find the title of such documents as part of the oath taken by the officials when entering the service of the EU institutions. For example, let's take the European Code of Administrative Good Behaviour (available at: www.ombudsman.europa.eu/en), which serves as well as the main administrative tool for the European Ombudsman in handling the complaints addressed at its level. It is somehow disappointing to reach the conclusion that this Code of Conduct is rather a guiding internal document, but not the bible and the binding rule that shall be invoked for institutional administrative compliance. To implement it from the outside of the institution, it would be rather required to have reached a consensus on both sides: (i) from the Ombudsman (administering a complaint based on the European Code of Administrative Good Behaviour); (ii) as well as the sympathetic political confirmation coming from the side of the EU Institutions management levels.

Last, but not least, there are some good news after all: the political elements of the EU are still accountable to a certain extent. Namely the political factors shall put in place all the due diligence and foresee accordingly that the action taken was not manifestly inappropriate in relation to the objective pursued:

'Whatever its political aspects, the Court cannot refuse to admit the legal character of a question which invites it to discharge an essentially judicial task (...)' (Advisory Opinion of 9 July 2004 on the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, ICJ Reports 2004, p. 136, paragraph 41; <https://eur-lex.europa.eu>).

It can be seen that the Court has wished to adapt its case-law to a wide variety of circumstances, as the reality is always more complex than was imagined by the legislators, rejecting an excessively formalistic or rigid approach. In any event, in a political field such as the conclusion of international agreements, judicial review of the wide discretion conferred on the legislature should be limited to verifying that the action taken was not manifestly inappropriate in relation to the objective pursued. According to settled case law,

(...) [The Court] concluded from this that the legality of a measure adopted in those fields can be affected only if the measure is manifestly inappropriate having regard to the objective which the competent institution is seeking to pursue' (Case C-440/14 P, EU:C:2016:128, paragraph 77; <https://eur-lex.europa.eu>).

To this end, another relevant piece of case-law shall be retained:

It is settled case-law that, although the Union legislature enjoys broad political discretion when it weighs different general interests in the adoption of a legislative or regulatory act, it is always bound by the obligation to take into account all the relevant 'basic facts' and available 'facts'. In this context the Court must determine that the discretion has actually been exercised and that the measure adopted is not manifestly inappropriate [emphasis added] (Opinion Advocate General Wathelet on Case C-104/16 P; <https://eur-lex.europa.eu>).

What appears as a quantum fallacy represents one of the multiple dimensions settled within the realities of the European Union (EU) membership's conundrum. There is a quantum leap in the European integration efforts to safeguard the Union's irreversible nature. It is the political advancements that constitute the common denominator formula of this quantum conundrum.

3.3 The behavior of EU security and intelligence elements in a quantum politics environment. The sounding of this subtitle could represent either the nightmare or, by the contrary, a wishful thinking for the professional into the security industry. It only depends on where you are. "And where you stand depends on where you sit" (Mile's law: www.britannica.com). One shall remember that there are others out there just as passionate (and probably just as right) as you are. Where you stand indeed depends on where you sit and realizing that might make things go a little

smoother – considering the quantum of security and intelligence particles interaction. There is more than one single element of each kind, and they all follow a quantum theory behavior in which they shift their "color" depending on the "temperature" of a particular political "environment" and, as a result, have a tendency to behave in a dual contextual nature: both as waves and particles. Security and intelligence are the affluent induced towards the decision making process in politics – but also for judicial proceedings.

On the one hand there is also a political reality set within the platform of the Union of European Member States. There are, obviously, criteria to be achieved but, more importantly, the interests propelled by the states *political* matrix prevails in front of the pure technocratic arguments and institutional constraints. There are gods, and there are myths. There remains also a human part into our Europe, which can turn the bull on its horns. But it is all about the context and the environment of geopolitics into which security and intelligence elements shall be able to interact based on a the structural behavior presets, as well as on timely calculated political shifts that would challenge the validity of an existing paradigm.

Researchers have claimed already that the theoretical benefits of quantum environments would go beyond the proven theory of ordinary mechanics and would imply non-standard interpretations, such as multiple worlds and negative probabilities. It takes great responsibility and due diligence to maneuver such institutional gears for to purpose of unifying the synergies resulted from the domains in which its Members States are cooperating for a greater scope of the European Union.

4. CONCLUSIONS & ACKNOWLEDGMENT

4.1 Conclusions. Too often, we foresee the future as we have seen the past: through the distorted lens of the present. This is a flaw in our human nature that we shall try to overcome. Constraints will continue to be present and to apply. We must simultaneously exist in the past, present and the future to prepare for a world that we have yet to know and discover. New probabilities will be assigned, by the binary flaws of the present times, into the quantum environment of our common future.

The point on which the intelligence factor - the affluent induced towards both political and judicial capital decision making processes - transmutes itself from binary into the quantum vortex

generated by the EU interests shall be defined and safeguarded accordingly. Large-scale quantum techniques would theoretically be able to solve efficiently and more quickly certain problems that are not practically feasible when using classical binary methods. Outside of the military and intelligence spheres, quantum machines would greatly expand data processing and permit the simulation of almost every natural phenomenon. Would politics and justice be able to create further mechanisms to that extend? The synergies connecting political strategies and judicial solutions within the EU would offer an inclusive platform for Member States individual's identities.

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