

Doctoral School of International Studies

**“Helsinki disentangled (1973-75): West Germany,  
the Netherlands, the EPC and the principle of the  
protection of human rights”**

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A thesis submitted to the Doctoral School of International Studies,  
Trento, February 2012

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## FOREWORD

It is not solely to observe formalities that I am writing a short foreword. Rather, I feel the obligation to express my gratitude to my supervisor Prof. Mark F. Gilbert, who has made these years of research deeply fulfilling.

When I set off on this solitary journey, I knew that living up to his high standards was a daunting prospect. Yet, in fact, I did not expect it to be so rewarding.

As a mentor, he has not simply devoted time and energy to my project; he has shown me by his example that research is a most fascinating and rewarding endeavour only if pursued with absolute integrity and uncompromising intellectual rigour. He has taught me a lesson that goes beyond the scope of my academic studies. For this I am profoundly grateful.

A heartfelt thank also goes to his radiant wife, Luciana, and his gentle and sharp son, Francisco, who cordially welcomed me with human warmth, infinite patience, and plentiful hot meals.

# Chapter 1

## Introduction

The Conference for Security and Cooperation in Europe (CSCE, 1973-75) represented the high tide of *détente*: for the first time 33 European states – including the Soviet Union and its satellites – in addition to the United States and Canada sat around the same table, and agreed on a set of principles and norms for interstate relations in Europe. It also represented a point of no return for the Soviet system: in signing the Final Act, the communist states agreed to specific rights – such as the principle of the protection of human rights and the principle of self-determination – enshrined in their constitutions but ignored in practice, thereby enabling domestic critics to claim rights from the Party and call upon the regime to reform. As a result, the system was for the first time forced “onto the defensive”.<sup>1</sup> Eventually, the non-binding declaration signed at the end of the Conference, the Helsinki Final Act, became a “legal and moral trap”:<sup>2</sup> it did not freeze the European *status quo*, but rather caused a “strategic opening” in the system.<sup>3</sup>

In European integration history the CSCE represents a major success for the newly-created European Political Cooperation (EPC),

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<sup>1</sup> Tony Judt, *Postwar* (New York: Penguin Press, 2005), 567.

<sup>2</sup> John Lewis Gaddis, *The Cold War: a New History* (New York : Penguin Books, 2007), 190. The scholarship is rather unanimous in regarding the human rights movement prompted by the CSCE as a major factor for Communism’s demise. The literature’s emphasis does not always fall on the power of human rights, though: interestingly, Mark Mazower does not mention the CSCE, let alone the power of human rights, in his sharp account of European post-war history, but rather emphasises the impact of the crumbling socialist economy and obsolete party system. See Mark Mazower, *Dark Continent* (New York: Vintage Books, 1998).

<sup>3</sup> Judt, *Postwar*, 567.

the informal intergovernmental mechanism set up in 1970 by the EC countries. Various factors contributed to make EC countries major actors at the CSCE.<sup>4</sup> First, the CSCE was of little interest to the US, which accepted European leadership at this conference. Besides, with its long-term nature, it became a largely bureaucratic machinery run by diplomats, which rendered it less exposed to volatile policy preferences caused by changes in domestic leadership. Finally, the CSCE was mostly about negotiating norms and principles, an approach that corresponded well with the Western Europeans' conception of peace and security.<sup>5</sup> Wrestling numerous concessions from the Soviet Union, the Nine established human rights and the security of the individual as legitimate concerns of inter-state security and broadened the very concept of security in Europe. Historical literature has already pointed out the decisive role in the human rights advocacy played by the EC countries as a Third Bloc. EC countries have been presented as one single cohesive bloc precisely because human rights would constitute the bedrock of a common European identity that all EC countries would subscribe to.<sup>6</sup>

This work is aimed to clarify which actors contributed to the advocacy of human rights, and to what extent individual national interests mattered.<sup>7</sup> Taking the cues from constructivist literature, this

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<sup>4</sup> Daniel Möckli, *European Foreign Policy during the Cold War: Heath, Brandt, Pompidou and the Dream of Political Unity*, (London: I.B. Tauris, 2009),1.

<sup>5</sup> See Möckli, *European Foreign Policy during the Cold War*, 99-139.

<sup>6</sup> "Identity" is here intended as the identity of the EC as an actor and not as the emergence of an identity of a European *demos*.

<sup>7</sup> "Interest" in general is a notoriously vague term. The concept of 'the national interest' in particular, being an ever present feature of contemporary diplomatic discourse, has been widely analysed by historians and political scientists. However, in the present study, "national interest" stands more simply for the contingent political goals of the national countries with no hint at the long-standing debates on the heuristic value of the terms.

study will gauge the relevance and impact of EC countries' national identities on the CSCE negotiations. Did an overarching European identity based on human rights overlap with national identities and lead the Nine to agree on common positions and therefore to express themselves "with one voice"? Or did what has been so far regarded as a EC battle for human rights rather stem from national identities?

Providing answers to these questions matter.

First, if deeply-rooted, strong national identities – that can be defined as "thick" identities – indeed played a prominent role, then the role of the EPC should be reassessed accordingly. It is indeed a fact that the Nine signed the Helsinki Final Act also as a Third bloc. Aldo Moro put his signature on the Helsinki Final Act not only as the Italian Prime Minister but also as the President of the EC Council thereby expressing the Nine's political will to be acknowledged as a single actor. From this perspective, EPC surely mattered since it increased the political impact of individual countries. It seems fair to conclude that given the prevailing distribution of power among the participating states, human rights could not have delivered the same outcome without support from the larger EC.

However, once assumed that the individual countries achieved relevant goals because their policies were upheld by the EC bloc and not presented as isolated national goals, a question remains. Did the EC states aim to enhance what were regarded as EC values, or did they rather pursue their national interests, that ultimately and substantially differed as for motives and goals? In a nutshell, shall Moro's double-hatting be regarded as powerful symbol for an agreed set of shared values? This is something that has been basically taken for granted, but there is ample room for enquiry. If this work will

prove that national identities played a major substantial role, then the EPC should only be regarded as a tool to amplify national goals and the story of the idea of a European identity should be rephrased.

So if it rests true that the Nine spoke with one voice at the end of the Conference, the present work will add to the existing literature a subtle, and yet quite crucial different perspective. A European form of identity that at the time was fluid and not still codified – that can be defined as “thin” European identity – and a “thick” national one coexisted, and have to be regarded as separate. So far the latter has been discounted in light of the first. As it will be shown, human rights advocacy did not stem from a shared platform of values that the Nine agreed upon, but rather from individual and different national identities, whereas the EPC-led “speaking with one voice” has cultivated the image of the EPC as a stepping stone in a European identity based on democracy and human rights.

In conclusion, while explaining how the provisions on human rights emerged, this work will describe the differences between two EC countries and will then advance an interpretation on the impact and role of national identities on European identity.

### **Two countries under the lens**

This work will focus on two EC countries, West Germany and the Netherlands. An overall analysis of all EC member states would have been ideal, and yet unpractical in the time framework of a PhD project. Therefore, this study is limited to an in-depth analysis of two countries who took a crucial stance in the broader debate on human rights. West Germany was the country of the Western bloc most exposed to the vagaries of the Soviet policy on human contacts and

the potential major beneficiary of a possible increase of human contacts between the two sides of the Iron Curtain. The conspicuous sufferings of German people and the personal experiences of German leaders had a powerful impact on West German foreign policy. As a consequence, West Germany's key goal at the CSCE was *human relief*, namely the improvement of the living conditions of all Germans.

The Netherlands was at the opposite side of the political spectrum. The Dutch thought of human rights as a principle of international law to be used in an ideological confrontation. Therefore while West German and Dutch foreign policy eventually achieved a degree of coordination, common understanding was lacking. The analysis of the multifaceted nature of the domestic discussions about human rights at the time highlights the role played by domestic influences and by individuals, and lends special attention to domestic political actors, like the Dutch foreign minister Max van der Stoep, who emerges as a staunch – and relatively poorly known – key-advocate of human rights. While giving an overview of the political climate and views within the EC group, this analysis provides a striking insight on the differences within the Nine.

### **Human rights norms at large**

The Final Act encompassed three so-called Baskets, i.e. three areas of negotiations. Basket I contained a "Declaration on Principles Guiding Relations between Participating States". It was comprised of ten principles, among them the principle of the respect for human rights and fundamental freedoms and the principle of self-determination, to which this study is mainly devoted. Basket II addressed "Cooperation in the Field of Economics, of Science and



Technology, and of the Environment" and aimed to encourage East-West trade and scientific collaboration. Finally, Basket III dealt with "Cooperation in Humanitarian and other Fields." It provided a basis for increased contact between Eastern and Western Europe, aimed at encouraging the freer movement of peoples and ideas, and to enhance and facilitate the reunification of families long severed by the Iron Curtain.

The analysis will not be strictly limited to the principle for the respect of human rights enshrined in Principle VII in Basket I. It will also take into account the principle of self-determination enshrined in Principle VIII in Basket I and the negotiations in the Third Basket "Cooperation in humanitarian and other fields". These provisions and norms formed the nucleus of the overall fight against the Soviet system at large, and were all related to the values of human rights and democracy, regarded nowadays as one of the three dimensions of security in Europe.<sup>8</sup>

While this set of norms has won worldwide attention because of human rights movement and the "Helsinki effect" in Eastern Europe, the 35 states gathering in Helsinki at the opening of the CSCE had an ambitious and broader agenda. The provisions on economic and scientific cooperation (basket II) require a special mention here because of the special role played by the EPC.

"Trade, finance and industrial cooperation was probably the most concrete and tangible aspect of

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<sup>8</sup> The concluding document of the third CSCE follow-up meeting in Vienna on 19 January, 1989 coined the term "human dimension" to indicate "the set of norms and activities related to human rights and democracy that are regarded within the OSCE as one of three dimensions of security, together with the politico-military and the economic and environmental dimensions. The term also indicates that the OSCE norms in this field cover a wider area than traditional human-rights law" see <http://www.osce.org/odihr/43546> accessed on 10 February 2012.

1960s and 1970s *détente*, and also the spearhead of western transformation strategies. In the east, economic interaction with the rest of the world was...a necessity, which western policy-makers could take advantage of...the economic interaction was also intended as a tool to cause long-term changes in the socialist regimes”<sup>9</sup>

The western negotiators could trade off Soviet concessions in Basket I with provisions in Basket II. Without carrying out an extensive and in-depth scrutiny of this basket, it suffices to point out that the negotiations were carried out through horse-trading and a parallel analysis of the negotiations in the economic fields would certainly enrich the study of a newer perspective on the relationship between European and national identities. This would make for a fascinating area of enquiry especially in the case of West Germany. As Chancellor Willy Brandt used to claim, his *Ostpolitik* was aimed to bring tangible results for all Germans beyond political issues. Therefore he was keen on closer economic relations with the East.

However, this would lead the study in a new direction. Besides, even assuming that in the economic field EC states spoke with one voice and no significant internal crack occurred, this would not impinge on the main argument.

A further preliminary note regards the role of the EC institutions. This is again an aspect that has been highlighted by most recent scholarship but is not part of the present work for a reason. While an analysis of the discourse of human rights within the EC institutions would surely enrich this study and now leads a new trend in historical studies, it would also partly derail it from its main

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<sup>9</sup> Juhana Aneusluoma “Finlandisation in Reverse: The CSCE and the Rise and Fall of Economic *détente*, 1968-1975” in Oliver Bange, Gottfried Niedhart, (eds.), *Helsinki 1975 and the Transformation of Europe*, (New York: Berghahn Books, 2008), 101.

focus, which is ultimately to shed light on individual states' foreign policies.

### **Building on established scholarship: the “EPC narrative”**

Scholars have already devoted attention to the subject of EPC in general and in particular to the role of the EPC at the CSCE in the area of human rights. The Italian historian Angela Romano has argued that the battle for freer movement of people, ideas and information – *i.e.* the Third Basket – and human rights – *i.e.* Principle VII in the First Basket – was a genuinely European political campaign and marked a point of reassessment in transatlantic relations.<sup>10</sup> For Romano, the Nine contributed to reshaping the idea of *détente*, purging it from military and political implications and giving prominence to human rights and to humanitarian issues more generally.

“Whereas the world welcomed the outstanding results of the US *détente* policy, the West European governments noticed a clear sign of the possible bipolar *entente*: a significant omission of reference to human rights issues in US statements about the Soviet regime”<sup>11</sup>

She insists on the fact that the EC countries became one; they shaped a political identity and unanimously pursued freer movement of people in Europe.

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<sup>10</sup> Angela Romano, *From Détente in Europe to European Détente. How the West shaped the Helsinki Final Act*, (Brussels: PIE-Peter Lang, 2009). See also on this point Goodby, *Europe Undivided*, 62-63.

<sup>11</sup> It is interesting to note that this statement is made based on an American document and with no reference to the European governments, neither individually nor via EPC.

“As for the Third Basket, it was the Nine who led the fight...the EC Nine were tough negotiators...the Nine stuck to their requests and resisted all Soviet attempts to introduce references to national laws and customs in order to escape third Basket provisions”<sup>12</sup>

Romano presents the CSCE as a time in post-war history when Europe counteracted the superpowers’ big game and claimed back the right to shape its own future. From this angle, CSCE is therefore seen as an indisputable success for the EC countries. “The performance of the EC nine at the CSCE was certainly successful.”<sup>13</sup>

The second scholar who has extensively worked on the CSCE is Daniel C. Thomas. Thomas explicitly recognises that there were differences in national priorities at the CSCE and that those differences were rooted in national traditions and public opinion. His argument about EPC is that human rights were regarded as a common platform which was consistent with previous EC stances on human rights, compatible with the EC member states’ various priorities for the east-west conference, and thus a good foundation for their collective decision to pursue greater unity in foreign policy. In a nutshell, Thomas enquires why the EC states persistently tried to establish “a strong human rights norm to govern the behaviour of states in the CSCE”<sup>14</sup> and why they “persisted in their demands for a strong human rights norm”.<sup>15</sup> He concludes that the EC countries understood themselves as a political community, which is what Romano sustains when she mentions a EC political identity achieved through the EPC. Therefore, if Romano concludes that the EC had a political identity based on the same understanding of *détente* and on

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<sup>12</sup> Romano, *From Détente in Europe to European Détente*, 212-213.

<sup>13</sup> Romano, *ibidem*, 212. A few pages later she states at the end of her book that the EC countries’ performance was “impressive”, 217.

<sup>14</sup> Romano, *ibidem*, 259.

<sup>15</sup> Romano, *ibidem*, 260.

EC solidarity; Thomas argues further that the cohesion stemmed from a common identity, based on human rights.

“EC policy makers decided that any agreement on trans-European relations must reflect the commitment to human rights with which they had repeatedly identified European integration”<sup>16</sup>

In this narrative, the CSCE is thus a stepping stone in the development of human rights in Europe, and the EC countries are presented as human rights champions who set the individual at the centre-stage, as Alexis Heraclides has claimed:

“It amounted to a shift from the original inter-state level of rules of conduct between states aimed at promoting *détente* through security, to the level of relations between the individual and the state(s), thus raising the individual to the pan-European plane”.<sup>17</sup>

The focus shifted in Europe, from a formal superpower *détente* to a *détente* between peoples,<sup>18</sup> a so-called “human *détente*”.<sup>19</sup> However, Romano does not dwell extensively on Principle VII and focuses almost exclusively on Basket III.

“The main issue the West challenged the Soviets on was that on freer movement of people, ideas, and information. In this respect, it is customary to refer to the third basket, but we should also look at the revolutionary item in the final act: principle VII on human rights and fundamental liberties featuring the declaration on principles guiding relations between states”<sup>20</sup>

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<sup>16</sup> Romano, *ibidem*, 261.

<sup>17</sup> Alexis Heraclides, *Security and Co-operation in Europe: The Human Dimension 1972-1992* (London: Frank Cass & Co, 1993), 2. See also Emmanuel Decaux, *La Conférence sur la Sécurité et la Coopération en Europe (CSCE)* (Paris: Presses Universitaires de France, 1992), 90-92; Giovanni Barberini, *Sicurezza e Cooperazione da Vancouver a Vladivostok*, (Torino: Giappichelli, 1998), 65-178, 261-262.

<sup>18</sup> Andréani, *Le Piège*, 17.

<sup>19</sup> Ghebali, *La diplomatie de la détente*, 74.

<sup>20</sup> Romano, *ibidem*, 212.

The close link between the Third Basket and the Principle VII in the Decalogue therefore remains rather obscure.

Besides, she does not take into account individual countries' specific interests, and does not fully explain why they decided to unite. The reader gets the feeling that the powerful sense of belonging to the European project pulled the states together and that the idea of *détente* was the same for every EC members, despite minor national interests, which eventually vanished for the common EC Good.

“The CSCE was a major learning-by-doing experience and fostered the European integration, for the EC member states had discovered that they could work with each others and produce results”<sup>21</sup>

A third scholar, the Swiss Daniel Möckli, equally regards the CSCE as a milestone of the development of the EC as a new political actor in international relations that reshaped the idea of sovereignty typical for a Westphalia system.<sup>22</sup> In his book on European foreign policy, he focuses on “the dream and the enormous challenges of Europe speaking with one voice in world politics”, a dream that seemed to come true from 1969 to 1974.<sup>23</sup> That dream grew and then died, and the CSCE would represent the peak of the development of a European space.<sup>24</sup> Möckli suggests that a new European spirit came about in Helsinki, where the Nine identified their “common

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<sup>21</sup> Romano, *ibidem*, 226.

<sup>22</sup> Möckli, *European Foreign Policy during the Cold War: Heath*, 119, 153.

<sup>23</sup> Möckli, *European Foreign Policy during the Cold War*, 1

<sup>24</sup> Elisabeth du Réau e Christine Manigand (eds.), *Vers la Réunification de l'Europe. Apports et limites du processus d'Helsinki de 1975 à nos jours*, (Paris: l'Harmattan, 2005).

ideational foundations".<sup>25</sup> According to this reading, at the CSCE EC countries would make "an early attempt at defining a joint perception of the world" giving prominence to human rights.<sup>26</sup> What seems debatable is the fact that while analysing under which circumstances the EPC came about and how it was successful the author jumps to the conclusion that common ideological foundations lay at the basis of the EC states' common action. Möckli explains for instance why the political conjuncture favoured EPC, but does not adequately provides reasons whereby one should conclude that behind that fleeting cohesion lay common ideas and purposes.

Assuming that the EC countries agreed to follow the same guidelines, it is nonetheless debatable to present this fact as evidence for a common political idea of *détente*, and not to inquire whether instead the cohesion was merely contingent without resting on a common political strategy.

Despite the difference in scope and purpose of the above mentioned researches, an EPC narrative has developed. It is a narrative that suggests that the remarkable achievements in the field of human rights at the CSCE achieved by the Nine stemmed from a common set of shared values. Scholars themselves have acknowledged the need to dig deeper into the CSCE negotiations. Thomas argument is open to critique or rebuttal, and Romano openly admits that she has not focused at length on human rights and she has not been able to work extensively on national archives of many EC countries.

This work tackles this lacuna. It picks up from where other scholars have left and is based on the national archives of the two

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<sup>25</sup> Möckli, *European Foreign Policy during the Cold War*, 363.

<sup>26</sup> Möckli, *European Foreign Policy during the Cold War*, *ibidem*.

countries under the lens. By this token, it overcomes a basic shortcoming of the previous works, which is indeed their reliance on a limited number of primary sources, mostly British, French, and American. Among them, the Historical Archives of the European Union (HAEU) and the Archive of the Council of the European Union play a major role. Nevertheless, recounting the history of the CSCE by relying heavily only on these sources requires a certain amount of imagination since EPC meetings were characterised by informality and flexibility, and the records do not provide much detail about the EPC decision making process. As one of the frustrated scholars venturing to the Historical Archives of the European Union in Florence has claimed, “The results ... were largely disappointing – since there was no permanent EPC secretariat, documents on the EPC process are far more prolific in the individual national archives”.<sup>27</sup>

### **The main themes**

The Dutch and West German cases will show that what was eventually contained in the EPC package was an ill-mixed cocktail of national policies stemming from different ideological positions and oriented to different goals. The CSCE and its rather opaque functioning, the idea of individual human rights, and the flexible, scarcely documented EPC are therefore three guiding lines of the present study. It is thus necessary to give a brief account of them.

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<sup>27</sup> Petri Hakkarainen, *Amplifying Ostpolitik: the Federal Republic of Germany and the Conference on Security and Cooperation in Europe, 1966-1972*, Thesis submitted for the Degree of D.Phil. in Modern History, Hilary Term 2008, 22, University of Oxford, Wolfson College.



### **(a) The CSCE**

A conference on security in Europe was a theme in Soviet foreign policy directly right after WWII. For the first time in 1954 Soviet foreign minister Vyacheslav M. Molotov called for a pan-European conference designed to work out a collective security agreement, where the US was allowed the status of observer. The proposal came to nothing. However, it was followed by a number of ideas brought forward by statesmen and scholars on both sides of the Iron Curtain based on the concept of pan-European security. For instance, in 1958 the Polish foreign minister Adam Rapacki circulated a detailed proposal for a denuclearised zone in Central Europe. A Gomulka plan – renamed after the First Secretary of the Polish Communist Party, Wladislaw Gomulka – followed in 1964. The idea of a European conference became a recurring theme for the Soviet Bloc. At the 23<sup>rd</sup> CPSU congress, held from 29 March to 8 April 1966 in Moscow, the Party Leader Leonid Brezhnev endorsed the project of a European security conference, and set it as “official Soviet policy” on the agenda of the future East-West relations. During a Warsaw Pact (WP) gathering on 5 July 1966 in Bucharest, the Political Consultative Committee of the WP states released a declaration where it called for the convening of a security conference aimed at overcoming the antagonism between military blocs in Europe. A collective security system was aimed at the withdrawal of all foreign troops from Europe and at the reduction of armed forces in both German states.

1967 was a key year. The Harmel Report approved by the NATO council on 14 December 1967 reshaped NATO’s security policy, introducing the notion of *détente* alongside the traditional pillar of military security and thereby contributing to opening up a

new chapter in East-West relations under its auspices. On 17 March 1969, the WP members launched an appeal to all European countries. The core elements of the so-called Budapest Appeal were the recognition of the existing borders, the general renouncing of the use of force in international affairs and the enlargement of scientific, technological and cultural collaboration.

Unsurprisingly, Western and Eastern ideas of a pan-European conference diverged. The WP countries issued a communiqué on 31 October 1969 from Prague where they proposed a two-item agenda (security, the expansion of economic, scientific and technological relations). The NATO countries countered soon after with a declaration, issued at the NATO ministerial meeting on 4-5 December 1969, stressing freer movement of people, ideas and information, and the environment instead.<sup>28</sup> Soon after, the NATO communiqué of May 1970 made the beginning of the multilateral preparation of the conference dependent on sufficient progress in East-West negotiations.<sup>29</sup> The Treaties of Moscow and Warsaw signed on 12 August 1970 and on 7 December 1970 respectively, the Four-power agreement on Berlin signed on 3 September 1971, the ratification of the treaties with the Soviet Union and Poland on 17 May 1972, and the signature of the SALT-I on 26 May 1972, cleared the way. The so-called Multilateral Preparatory Talks (MPT) started on 22 November 1972 in Dipoli, in the modern assembly hall of a technical institute on the outskirts of Helsinki.<sup>30</sup> On 3 July 1973, the US, Canada, and every

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<sup>28</sup> Paragraph 11 of the NATO declaration of December 1969 added the single “freer movement” notion to the agenda proposed by the WP in Prague. See Jan Sizoo and Rudolf TH. Jurrjens, *CSCE Decision-Making: the Madrid Experience* (The Hague: Martinus Nijhoff Pub., 1984), 27-28.

<sup>29</sup> The NATO ministerial meeting was held in Rome, on 26-27 May 1970.

<sup>30</sup> The aim of the consultations was to address the preparatory aspects connected with the organisation of the Conference. They dragged on until 8 June 1973, when

European state (including Spain and Greece) with the exception of Andorra and Albania comprising a total of 35 countries gathered in Helsinki for the official opening of the conference. The Conference unfolded then in three stages. First, from 3 to 7 July 1973, a meeting of the Foreign Ministers approved the final recommendations and officially opened the negotiations in Helsinki. In the second phase, national experts from the 35 countries gathered in Geneva, where they negotiated the themes on the agenda in commissions and sub-commissions. Lengthy and time-consuming discussions dragged on from 18 September 1973 to 21 July 1975. Finally in the third stage, from 30 July to 1 August, the final documents were adopted in Helsinki.

Scholars have delved into the CSCE from different perspectives, framing the CSCE first as the apparently successful Soviet endeavour to settle post-war European order, pointing to the role played by the superpowers as well as highlighting their internal fractures, and lately emphasising the role played by EC countries.<sup>31</sup> However, after a brief thematically-based overview of the existing scholarship, it will be clear that there is still uncharted territory to explore.

The first studies on the CSCE presented the conference as the last chapter of a European post-war settlement. For Brezhnev, with the Final Act, the last word on the German question and on the

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the so-called Blue Book – the agenda for the forthcoming negotiations – was adopted.

<sup>31</sup> Diplomats who took an active part in the negotiations have provided a vivid account of the first works on the CSCE. See L. V. Ferraris, (ed.), *Testimonianze di un negoziato Helsinki-Ginevra-Helsinki 1972-75* (Padova: Cedam, 1977). Also available in English, *Report on a negotiation: Helsinki – Geneva – Helsinki 1972-1975* (Alphen aan den Rijn: Sijthoff & Noordhoff, 1979). John J Maresca, *To Helsinki: The Conference on Security and Cooperation in Europe, 1973-1975* (Durham, NC: Duke University Press, 1985). Jacques Andréani, *Le Piège: Helsinki et la chute du communisme* (Paris : Odile Jacob, 2005).

division of Europe into spheres of influence was spoken. The Eastern Bloc's leaders lavished praise on the momentous achievement and eastern European press praised their leaderships, whereas western newspapers lamented that compromise-prone leaders had sold out European order. The Soviets achieved important foreign policy goals, such as the multilateral recognition of East Germany's sovereignty – a long-standing goal since the 1950s – and a solemn closing ceremony. It is telling that John Maresca, head of the US delegation, defined the Helsinki Final Act as “Ersatzpeace”.<sup>32</sup> The Helsinki Conference marked a historical watershed and “buried the past by serving as a substitute for a peace conference bringing the Second World War to a formal conclusion”<sup>33</sup>. That said, scholarship has extensively proved that the Final Act did not freeze the *status quo*, but sowed the seeds of the Soviet Bloc's instability and re-shaped international relations in Europe. As Gheballi has stressed, the catalogue of principles did not mention the theory of limited sovereignty, but instead enshrined norms that ran against it. It neither reinforced nor legitimised the Brezhnev doctrine, but rather denied it.<sup>34</sup>

Scholarship has extensively concentrated on the role played by the superpowers.

Regarding the USA, the American administration was internally split between the State Department, especially the Bureau for European Affairs – whose members supported the CSCE project and were confident in obtaining good results – and the White House.<sup>35</sup> Goodby has argued that the American delegation hardly

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<sup>32</sup> Maresca, *To Helsinki*, 3.

<sup>33</sup> Maresca, *To Helsinki*, 5.

<sup>34</sup> Gheballi, *La diplomatie de la détente*, 19, 88.

<sup>35</sup> James E. Goodby, *Europe Undivided: The New Logic of Peace in U.S.- Russian Relations* (Washington: US institute of Peace Press, 1998), 51. See also Stephan

ever took the centre-stage simply in order to avoid friction with Kissinger.<sup>36</sup> Henry Kissinger notably favoured bilateral *Realpolitik* over multilateralism<sup>37</sup> and only in the last stage of the negotiations did he grasp the advantages of an active human rights policy for domestic consumption.<sup>38</sup> Nevertheless, the Americans urged the Allies to have a “strong freer movement plank” in the negotiations, based on the NATO November 1970 declaration.<sup>39</sup> Although the content of human rights was not spelled out, still the item “freer movement” hinged on human rights and “was a clear expression of the aim of changing the status quo in Eastern Europe, using the issue of human rights as a means of challenging Soviet dominion over that area”.<sup>40</sup>

With the gradual opening of the archives in Eastern Europe, scholarship has further analysed the power struggles and internal divergences in the Soviet Bloc. Svetlana Savranskaya<sup>41</sup> and Marie-Pierre Rey<sup>42</sup> have highlighted the cracks within Soviet leadership.

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Kieninger, “Transformation or status quo: the conflict of stratagems in Washington over the meaning and purpose of the CSCE and MBFR, 1969-1973”, in Oliver Bange, Gottfried Niedhart, (eds.), *Helsinki 1975 and the Transformation of Europe*, (New York: Berghahn Books, 2008), 67-82.

<sup>36</sup> Goodby, *Europe Undivided*, 52-53, 61.

<sup>37</sup> Goodby, *Europe Undivided*, 51.

<sup>38</sup> Maresca, *To Helsinki*, 149-152; Jeremi Suri, “Détente and Human Rights: American and West European Perspectives on International Change,” *Cold War History* 8 (November 2008), 539. Human rights advocacy provided a useful counterargument to his critics, who attacked him for being too soft on the Soviets

<sup>39</sup> Goodby, 50

<sup>40</sup> Goodby, 49-50.

<sup>41</sup> Svetlana Savranskaya, “Unintended Consequences: Soviet interests, Expectations and Reactions to the Helsinki Final Act”, in *Helsinki 1975*, 175-190.

<sup>42</sup> Marie-Pierre Rey, “The *Mejdunarodniki* in the 1960s and first half of the 1970s: backgrounds, connections and the agenda of Soviet international elites”, in Wilfried Loth e George-Henri Soutou, eds., *The Making of Détente: Eastern and Western Europe in the Cold War, 1965-1975*, (London: Routledge, 2008), 51-65.; Marie-Pierre Rey, “The USSR and the Helsinki process, 1969-1975: optimism, doubt or defiance?” in *Origins of the European Security System: the Helsinki process revisited, 1965-75* (London: Routledge, 2008), 65-82.

According to Savranskaya's analysis, not everyone in Moscow doted on the CSCE as passionately as Brezhnev. Yuri Dubrynin, the head of the delegation group in charge of the negotiations on Basket III was not convinced of the CSCE's merits, and often clashed with the head of delegation, Anatoly Kovalev.<sup>43</sup> Unsurprisingly, human rights were highly contested within the Soviet leadership. Kovalev did not want to stonewall human rights, whereas Mikhail Suslov, the secretary for ideology at the Central Committee and full member of the Politburo, was a forceful opponent.<sup>44</sup> Internal differences and clashes of the individual WP countries more broadly have been further pointed out by Csaba Békés<sup>45</sup>, Douglas Selvage<sup>46</sup>, Mihail Ionescu<sup>47</sup>, Wanda Jarzabek<sup>48</sup>, Kostadin Grozev and Jordan Baev<sup>49</sup>. This new generation of scholars has opened up a new trend of studies on the basis of

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<sup>43</sup> Kovalev succeeded in closing the negotiations on cooperation in humanitarian fields (the so called Basket Three) only thanks to the strong support of the Minister of Foreign Affairs, Andrei Gromyko. See Savranskaya, "Unintended Consequences", 181.

<sup>44</sup> Savranskaya, "Unintended Consequences", 180.

<sup>45</sup> Csaba Békés, "Hungary and the making of the CSCE Process, 1965–1970", in Carla Meneguzzi Rostagni, ed., *The Helsinki process: a historical reappraisal*, (Padova: Cedam, 2005), 29–44; Csaba Békés, "The Warsaw Pact and the CSCE process from 1965 to 1970" in *The Making of Détente*, 201-240. Csaba Békés, "The Warsaw Pact, the German Question and the Birth of the CSCE process, 1961-1970", in *Helsinki 1975*, 113-128.

<sup>46</sup> Douglas Selvage, "The Warsaw Pact and the European Security conference, 1964-1969: sovereignty, hegemony and the German question", in *Origins of the European Security System*, 85-106.

<sup>47</sup> Mihail E. Ionescu, "Romania, Ostpolitik and the CSCE, 1967-1975", in *Helsinki 1975*, 129-143.

<sup>48</sup> Wanda Jarzabek, "Preserving the status quo or promoting change: the role of the CSCE in the perception of Polish Authorities in Helsinki 1975", in *Helsinki 1975*, 144-159; Wanda Jarzabek, "Home and Reality: Poland and the Conference on Security and Cooperation in Europe, 1964-1989", Cold War International History Project, Working Paper Number 56, Woodrow Wilson International Centre for Scholars.

<sup>49</sup> Kostadin Grozev e Jordan Baev, "Bulgaria, Balkan Diplomacy and the Road to Helsinki" in *Helsinki 1975*, 160-174.

previously inaccessible primary sources, and has shown that many WP countries aspired to more independence.<sup>50</sup>

The superpowers however were not the only protagonists of the conference. Thanks to the conference principle of consensus, all participants played on an equal footing.<sup>51</sup> Thomas Fischer has convincingly shown that the Non-Aligned and Neutral countries (N + N) played a major role as mediators and honest brokers.<sup>52</sup> Since the MPT, the Neutrals (afterwards, the Non-Aligned, too) played a key role during the informal meetings that constituted the conference engine.<sup>53</sup> Equally valuable is Fischer's analysis of the "human factor", which in the flexible negotiations in Geneva often proved critical. The head of the Romanian delegation Valentin Lipatti, the Swiss head of delegation Edouard Brunner,<sup>54</sup> and members of the Austrian

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<sup>50</sup> Scholarship has already pointed out that some countries in the Soviet Bloc aspired to some independence and this was a "fronde". See, Andréani, *Le Piège*, 95.

<sup>51</sup> A different view is expressed by Holsti. He argues that the partition typical for the Bloc system remained, and that the informal coalitions that emerged during the negotiations were the by-products and mere expression of the military and political realities in Europe. In Holsti's opinion, a new pan-European order did not materialize, since the two Blocs had two opposed ideas of detente and their approaches did not change throughout the negotiations. Besides, the provisions of the Final Act lent themselves to different interpretations. This had two consequences: on the one hand, it made it difficult the creation of new forms of East-East cooperation; on the other hand, it proved that ideological, political and military divergences lived on, and still divided Europe. However, Holsti's view nowadays seems outdated. See Kalevi J. Holsti, "Who got what and how: the CSCE negotiations in retrospect", in *Canada and the Conference on Security and Co-operation in Europe*, Robert Spencer, (ed.), (Toronto: Centre for International Studies, 1984), 161, 159-160, 164.

<sup>52</sup> Thomas Fischer, *Neutral Power in the CSCE: The N+N States and the Making of the Helsinki Accords 1975*, (Berlin: Nomos, 2009), 327-329. Fischer is the first scholar to present an extensive thoroughly work in English. See also Christian Neuenlist, "Expanding the East-West dialogue beyond the Bloc division: the Neutrals as negotiators and mediators, 1969-1975", in *Origins of the European Security System*.

<sup>53</sup> This mechanism worked throughout the conference. Fischer recounts the case of the Sub-committee for Basket III. Until 1974 the Sub-committee did not produce any results. The Neutrals were called to unblock the impasse: they coordinated informal groups where finally an agreement was reached. See Fischer, *Neutral Power in the CSCE*, 328.

<sup>54</sup> His role was highlighted also by Maresca. See, Maresca, *To Helsinki*, 127.

delegation like Franz Ceska and Helmut Liebermann played a key role in breaking deadlocks.<sup>55</sup>

A fourth trend in the literature focuses on the EC countries that – so the story goes – powerfully pushed forward human rights. CSCE is regarded as a milestone for Europe as a political actor at the international level: the successful EC performance would prove that EC countries wanted to be more vocal in shaping *détente* in Europe – hitherto a hunting ground of the two superpowers – and successfully pursued specific EC values. This interpretative line builds on the works of three scholars mentioned earlier: Thomas, Mockli and Romano.

#### **(b) Human rights**

Legal concepts such as human rights have been studied a-historically: while history has shown the importance of the impact of human rights on Europe both concerning the demise of the Eastern Bloc and the development of the European Community *per se*, “[lawyers’] practice is to interpret texts, moving from document to document, rather than to soil themselves with the dirty laundry of backstage diplomatic shenanigans.”<sup>56</sup> Political theorists have equally brushed past the historical background or described it in very broad terms: while they have been good at pinning down the genealogy of ideas about rights, the ideas are lamentably “disembodied and plucked from their historical context”.<sup>57</sup> One may thus forget that human rights were generated and developed in a given historical

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<sup>55</sup> Fischer, *Neutral Power in the CSCE*, 330-340. That said, the N+N never formed a third force during the negotiations.

<sup>56</sup> Mark Mazower, “The Strange Triumph of Human Rights, 1933-1950”, *The Historical Journal*, Vol. 47, No. 2 (June 2004), 380.

<sup>57</sup> Mazower, “The Strange Triumph of Human Rights, 1933-1950”, 380.



setting, and that they did not have the same meaning and implication for everyone.

Today human rights are fashionable.<sup>58</sup> They have “become part of the shared knowledge and collective understandings informing a ‘world polity’, and have become constitutive elements of modern and “civilised’ statehood”.<sup>59</sup> They are on the political platform of any democratic government and the human rights banner flaps whenever democracy is in danger and basic rights are trampled upon. However, what human rights really are is still debated. What is unanimously accepted is that in the 21st century the principle of respect of human rights represents a new stage of development in the international community, a very significant factor in post-war history, and an ambitious goal.

“All inhabitants of the world benefit from the same principles, and can voice their protest when they see them violated. Human rights are an ideological and normative “galaxy” in rapid expansion, with a specific goal: to increase safeguards for the dignity of the person. Human rights represent an ambitious (and in part, perhaps, illusory) attempt to bring rationality into the political institutions and the societies of all states.”<sup>60</sup>

A common frustration among human rights scholars is that the universality of human rights remains a myth. As for historical studies, until at least the end of the Cold War human rights

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<sup>58</sup> Mark Mazower, “The Strange Triumph of Human Rights, 1933-1950”, 379–398

<sup>59</sup> Thomas Risse and Stephen C. Roppo, “International Human Rights and Domestic Change: Conclusions” in Thomas Risse, Stephen C. Roppo Kathryn Sikkink (eds.), *The Power of Human Rights? International Norms and Domestic Change* (Cambridge: Cambridge University Press, 1999), 234.

<sup>60</sup> Antonio Cassese, *Human Rights in a Changing World*, (Cambridge, UK: Polity Press, 1990), 3.

epitomised the vast chasm between western and eastern European ideas.<sup>61</sup> For western countries, they were

“...innate in individuals, were an intrinsic factor in the ‘quality of the human person’ and hence must be absolutely respected by governments” whereas “for the socialist countries... human rights exist only in society and in the state, and only to the extent that they are specifically recognized. They do not pre-exist the state, but rather are accorded by it. The state may therefore limit them when circumstances require”<sup>62</sup>

For western countries, protecting human rights meant “protecting the sphere of individual freedom against the overweening power of an invasive state” whereas for the socialist countries the individual’s freedom could be realised only within the community, and “does not necessarily mean putting restraints on an oppressive central power”.<sup>63</sup>

In short, human rights became just one of the weapons of bipolar political and cultural confrontation:

“Western countries found that they could use human rights as a stick to beat the socialist countries with, to show up the merits of western democracy and the demerits of the socialist system...in the dark years of the Cold War concern for human rights was justified – at least by some Western countries – by the ideological and political confrontation with the socialist Bloc”<sup>64</sup>

If universality was a myth, regional human rights regimes were equally illusory. Human rights standards were all the more ill-defined in Europe where the human rights regime was highly

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<sup>61</sup> More generally, the gist of the “philosophy” of human rights emanates chiefly from western countries. See Cassese, *Human Rights in a Changing World*, 3, 51.

<sup>62</sup> Cassese, *Human Rights in a Changing World*, 52.

<sup>63</sup> Cassese, *Human Rights in a Changing World*, 65.

<sup>64</sup> Antonio Cassese, *International Law in a Divided World*, (Oxford: Clarendon Press, 1986), 300.

fragmented. First, the European Convention on Human Rights (ECHR), the very foundation of a regime of human rights in the Old Continent, – signed in 1950 and entered into force on 3 September, 1953 – was not accepted by socialist states.<sup>65</sup> Second, the Universal Declaration of Human Rights in 1970 did not guarantee the protection of human rights, as it failed to link the commitment to the practice of diplomacy, including the principle of non-interference: governments substantially ignored it.

The United Nations General Assembly (UNGA) 1970 Declaration on Principles of Friendly Relations among States, and the superpowers' 1972 Agreement on Basic Principles of Relations between the US and the USSR, both repeated the principle of non-interference in domestic affairs while making no mention of human rights.

Quite evidently, at that time discussions and agreements on human rights were not designed to turn Europe upside down. In the eyes of policy-makers and most observers, human rights would improve the existing system of international relations – for instance agreements on travel and trade would make borders more peaceful and permanent –. They were not alternative to opt out of the Cold War. They were, in fact, products of the Cold War itself. Jeremi Suri has observed that “the anti-Cold War quality of human rights activism in the 1980s was not present a decade earlier” and argued that, despite the contemporary rhetoric, human rights belonged to the realm of *Realpolitik*. US President Nixon remained committed to

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<sup>65</sup> The Convention formed a frame for justiciable human rights norms and had special features that set it apart from the UN system, such as the external control of states by an independent human rights Court and the possibility to file individual claims. Those norms were legally binding, whereas the CSCE was only politically binding. See Malte Brosig (ed.), *Human Rights in Europe. A Fragmented Regime?* (Frankfurt am Main: Peter Lang, 2006)

reaching an accommodation with the Soviet Union that would reduce the danger of nuclear war and essentially recognise the *status quo* in Europe. Kissinger did not intend to do anything that could be regarded in Moscow as a challenge to the Soviet power in Eastern Europe: for him, change would eventually occur, but not through “people power” or the types of human contacts promoted by Basket III, but rather through inter-state relations.<sup>66</sup>

The CSCE was intended to promote stability in a time of strategic imbalances, and not to set off profound changes in Eastern Europe.<sup>67</sup> That is why *détente*, in Gaddis’ view, contributed to prolonging the Cold War and gave support to the communist system of the Soviet Union and to its East European satellites.<sup>68</sup> Similarly, the Helsinki Final Act was an essentially “conservative document” that only retrospectively looks prescient and revolutionary.<sup>69</sup> One should thus be wary of *a posteriori* reading of human rights. When we turn back to the past, we may notably lend to human rights advocacy at the Helsinki conference the same scope that it has now, forgetting that human rights advocacy was embedded in a profoundly different historical and political context. Against this backdrop, one should reasonably ask what political leaders thought they would achieve by endorsing human rights: enquiring into their understanding of

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<sup>66</sup> The most comprehensive account to date is Raymond Garthoff, *Detente and Confrontation: American-Soviet Relations from Nixon to Reagan*, Rev. Ed. (Washington D.C.: The Brookings Institution, 1994).

<sup>67</sup> *Détente* was, as Jeremi Suri has asserted, a fundamentally conservative response to the social upheavals of the 1960s. See Jeremi Suri, *Power and Protest*, (Cambridge: Harvard University Press, 2003)

<sup>68</sup> John L. Gaddis, *Cold War: a New History*, (New York: Penguin, 2005), 195-7. Unexpectedly, the Final Act had far-reaching effects instead: its provisions undermined the very *status quo* that it was supposed to sanction and its provisions on human contacts and the principle of protection of human rights and fundamental freedom in particular became two of the tools for the people in the East to claim their rights and stand against their regimes.

<sup>69</sup> Suri, *Henry Kissinger and the American century*, 530.

human rights is essential, as it contributes to comprehend the scope of those very principles and norms.

A brief overview of human rights studies would not be complete without mentioning International Relations (IR) literature. Constructivist scholars have investigated which/why/how ideas matter, and specified the causal mechanisms through which ideas affect actors' identities, interests, and behaviour. They have looked at the impact of norms<sup>70</sup> as a general phenomenon of theoretical interests<sup>71</sup> and investigated how and under which conditions international norms in general influence the actions of states,<sup>72</sup> and how trans-national human rights networks can be most effective.<sup>73</sup> In constructivist theories, actors seek to behave in accordance with norms relevant to their identities: that is to say, actors comply with human rights norms only if they are salient to their identity.<sup>74</sup> Constructivist scholars have also advanced explanations for the impact of principles, ideas and norms on domestic actors and for the relationship between ideas and social processes: in this respect, they have pointed out the socialisation of human rights norms, namely the

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<sup>70</sup> Norms are here intended as "collective expectations about proper behaviour for a given identity". See Ronald, L. Jepperson, Alexander Wendt, Peter J. Katzenstein, "Norms, identity, and culture in national security" in Peter J. Katzenstein (ed.), *Culture and National Security: Norms and Identity in World Politics* (New York: Columbia University Press, 1996), 54.

<sup>71</sup> Risse, Ropp, Sikkink, (eds.) *The Power of Human Rights*.

<sup>72</sup> Their "spiral model", whereby international human rights become embedded in domestic practices, has four phases. 1. Repression, 2. Denying the validity of the norms and saying that the principle of non interference overrides them all. 3. The government is forced to make tactical concessions, while domestic opposition gains force. The government is therefore attacked from below and from above. 4. In the last stage the human rights gain prescriptive status.

<sup>73</sup> For the first time, the analysis of the process of interest transformation was carried out by disaggregating state-actors in sub-state and non-state actors. See Margaret Keck and Kathryn Sikkink, *Activists Beyond Borders: Advocacy Networks in International Politics* (Ithaca: Cornell University Press, 1998); Risse, Ropp, Sikkink, (eds.) *The Power of Human Rights*.

<sup>74</sup> Human rights are now "constitutive for modern statehood". Risse, in *The Power of Human Rights*, 236.

process whereby domestic actors increasingly internalise international human rights norms, and provided a model to gauge socialization.<sup>75</sup>

The so-called legalisation of human rights has been also under the lens of IR scholars. However, this branch of studies is not of much use in the case of the CSCE, as human rights claims were not formulated as legal claims and human rights were not pursued through legal mechanisms.<sup>76</sup> The Final Act was not a binding legal document, but only a political agreement, with no enforcement

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<sup>75</sup> The so-called socialisation of human rights norm as formulated by Risse and Ropp hinges on the works of social constructivists. See Emanuel Adler, "Seizing the Middle Ground: Constructivism in World Politics", *European Journal of International Relations*, Vol. 3, No. 3, (September 1997), 319-363; Jeffrey T. Checkel, "The Constructivist Turn in International Relations Theory", *World Politics*, Vol. 50, No. 2, (January 1998), 324-348; Peter J. Katzenstein, *The Culture of National Security and Cultural Norms and National Security. Police and Military in Postwar Japan* (Ithaca, NY: Cornell University Press, 1996); Friedrich Kratochwil, *Rules, Norms, and Decisions* (Cambridge: Cambridge University Press, 1989); Alexander Wendt, "Anarchy is What States Makes of It: The Social Construction of Power Politics" *International Organization*, Vol. 88, No. 2, (Spring 1992), 384-396.

<sup>76</sup> "Legalization" refers to a particular set of characteristics that institutions may (or may not) possess". See Kenneth W. Abbott, Robert O. Keohane, Andrew Moravcsik, Anne-Marie Slaughter and Duncan Snidal, "The Concept of Legalization" in *International Organization*, Vol. 54, No. 3, (Summer 2000), 401. For an overview of the debates on the legalisation of human rights norms, see *International Organization*, Vol. 54, No. 3, (Summer 2000), Special Issue on legalisation. In particular, see Kenneth W. Abbott, Robert O. Keohane, Andrew Moravcsik, Anne-Marie Slaughter, and Duncan Snidal "The Concept of Legalization", 401-419. Treaties provide political, legal and social resources to individuals and groups whose goal is to hold governments to their promises, and thanks to treaties social movements have a motive to form, and "human rights treaties can give rights movements, a unique form of political ammunition that can help legitimate group demands". For a critical analysis of legalisation and compliance see for instance Emilie M. Hafner-Burton, Kiyoteru Tsutsui "Human Rights in a Globalizing World: The Paradox of Empty Promises", *American Journal of Sociology*, Vol. 110, No. 5, (March 2005), 1373-1411; Eric Neumayer, "Do International Human Rights Treaties Improve Respect for Human Rights?", *Journal of Conflict Resolution*, Vol. 49, No. 6, (December 2005), 925-953; Beth A. Simons, *Mobilizing for human rights: international law in domestic policy*, (Cambridge: Cambridge university Press, 2009)

mechanism. It was a soft form of legalisation that “one might reasonably regard as a precise but not obligatory agreement”.<sup>77</sup>

A work that combined IR theories with historical insight – namely drawing on data from diplomatic histories, documents, interviews – is the aforementioned *The Helsinki Effect* by Thomas, a path-breaking piece of work that highlights the evolution and effects of human rights norms within the Cold War context. Thomas makes a constructivist argument by presenting the EC’s insistence on human rights as the externalisation of a European identity. In what he calls an “empirical investigation” of the Helsinki Effect,<sup>78</sup> Thomas contends that human rights were introduced mainly by the EC, “whose Member States had identified themselves collectively at home and abroad with the pursuit of human rights”. Thomas tries to reconstruct the historical meaning of particular normative structures, and to determine “what factors made certain arguments effective and others not”.<sup>79</sup> For him the EC’s insistence on human rights derived from the fact that human rights were part of European identity.<sup>80</sup> Still, Thomas’ work, as well as constructivism more generally, does not shed light on the historical process whereby the ideas underpinning the specific topics under discussion at Helsinki came about.

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<sup>77</sup> Slaughter and Snidal, “The Concept of Legalization”, 407.

<sup>78</sup> Thomas, *The Helsinki Effect*, 17.

<sup>79</sup> Thomas, *The Helsinki Effect*, 19.

<sup>80</sup> Thomas, *The Helsinki Effect*, 21.

### (c) European Political Cooperation

Finally, and most importantly, this project concentrates upon the development of the European Political Cooperation (EPC). The CSCE and EPC emerged in parallel. The EPC took shape right when the first steps toward a conference were made, and for a reason:<sup>81</sup> at the end of the 1960s, international and domestic constraints affected European countries. Monetary instability and international unrest took their toll on Europe and question mark hung over transatlantic relations.<sup>82</sup> EC countries reacted in three ways: by enlarging, by changing institutions, and by trying to shift gear in integration. EPC stemmed just from this “tenacious shuffle in the direction of greater integration”<sup>83</sup> and may be read as the tentative response of the EC member states to the aforementioned events, and to the growing demand in the European Parliament for a European foreign policy.

The EPC project gained momentum in the 1970s. During The Hague summit on 1 and 2 December 1969 the issue of political cooperation was not a key theme. Progress in the field was contingent on agreements to enlargement negotiations. During The Hague summit, the West German Chancellor Willy Brandt made the case for “qualified political cooperation” (the Dutch were unenthusiastic) but The Hague final communiqué contained only a brief reference to political cooperation: it foresaw a study on political unification to be completed by July 1970.

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<sup>81</sup> Daniel Möckli, A Brief History of European Long Struggle for a Common Foreign Policy, [http://irice.cnrs.fr/IMG/pdf/Bossuat\\_CPE\\_moekli.pdf](http://irice.cnrs.fr/IMG/pdf/Bossuat_CPE_moekli.pdf), and Stanley Hoffmann, “Towards a Common European Foreign and Security Policy?” *Journal of Common Market Studies* Vol. 38, No. 2, (June 2000), 189.

<sup>82</sup> G. Lundestad, *The United States and Western Europe since 1945*, (Oxford: Oxford University Press, 2003), 178

<sup>83</sup> Mark Gilbert, *Surpassing Realism: The Politics of European Integration since 1945*, (Oxford: Boulder, 2003), 116



In October 1970, the Council adopted the Davignon Report, also called the “Luxembourg Report”. It contained the final proposals of the working group of the political advisers, chaired by the Belgian diplomat, Etienne Davignon. Those proposals were less far-reaching than those set out in 1962 in the Fouchet Plan: they provided for consultations among the Six on foreign policy matters and for the implementation of joint decisions but did not envisage consultations on matters of external security and defence. The purpose of the report was to help create a consensus on international issues through a system of regular consultations: it envisaged meetings of Foreign Ministers every six months and meetings of their political advisers (the heads of the political departments) every three months. Preparations for these ministerial meetings were delegated to a policy group authorised to set up working groups on particular topics. Moreover, a consultation process involved the Political Affairs Committee of the European Parliament (which was to be informed of the results of those meetings) and the applicant countries. The Commission would be consulted on issues falling within the area under its control.

The EPC became operational on 27 October 1970, when the EC foreign ministers officially instated the political committee consisting of the six national political directors and the first ministerial consultations took place in Munich on 19-20 November 1970. So Möckli gloats, “[t]he great adventure of defining a European foreign policy had at last begun”.<sup>84</sup> He argues that the large majority of European governments were in favour of the EPC, especially the bureaucracies of the foreign ministries. Möckli’s argument may sound at times unconvincing. When mentioning the “good degree of

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<sup>84</sup> Möckli, *European Foreign Policy during the Cold War*, 56.

socialization” and “coordination reflex” he does not give concrete example, but quotes previous works by IR scholars.<sup>85</sup> Besides, the Davignon report was anything but daring. “Its most striking feature was clearly its minimalist conception”.<sup>86</sup> As Nuttall has claimed, “the authors set themselves a self-attaining objective... [where] the impossible and the undesirable were excluded”.<sup>87</sup> Both the objective and the mechanism were rather loose: “[i]n the end what they proposed was to ensure greater mutual understanding, exchange of information and set up regular consulting activity”.<sup>88</sup> Therefore, looking at the EPC on paper, one would hardly say that its creation embodied a new phase of the EC. The wording of the Report was very cautious and rather declamatory, and did not leave much room for political *élan*. Nevertheless – Möckli argues – “the decision to get EPC started at all was a success in itself”.<sup>89</sup>

It has to be noted that when political cooperation started, messages were conveyed via the traditional diplomatic channels: the embassies of the member states in each other’s capitals. Then a special telex system, the COREU network, was set up under the Danish presidency of the Community in the second half of 1973. However, an EPC-centred approach dealing mainly with EPC-sources is inevitably inward looking, or rather circular. The COREU provides only a systematic overview of the messages exchanged between the foreign ministries but cannot help to reconstruct the

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<sup>85</sup> Möckli, *European Foreign Policy during the Cold War*, 92. Möckli refers to William Wallace and David Allen, “Political Cooperation: Procedures as Substitute for Policy”, in Helen Wallace, William Wallace, Carol Webb, eds., *Policy-making in the European Community* (London: John Wiley & Sons, 1977), 227-47, 238.

<sup>86</sup> Möckli, *European Foreign Policy during the Cold War*, 45.

<sup>87</sup> Simon J. Nuttall, *European Political cooperation*, (Oxford: Clarendon Press, 1982), 54.

<sup>88</sup> *ibid.*

<sup>89</sup> Möckli, *European Foreign Policy during the Cold War*, 39.

story of the inner process whereby individual national policies succeeded in converging into just one, to what extent that convergence did occur and how that very process of convergence was made possible.

As for the CSCE specifically, the political committee set up in February 1971 a subcommittee on the CSCE with broad overall instructions to investigate all relevant aspects of the conference. The Commission was not invited: an *ad hoc* committee was set up to deal with the economic aspects of the conference while the subcommittee dealt with the political aspects and overall tactics. In the first stage of their work the foreign ministers approved the principles for the multilateral preparatory phase, given at their conference in Rome in November 1971. Technical work was carried out over the next year until the opening of the MPT in November 1972. An important point has to be made. At the institution of committees during the Helsinki Consultations the West<sup>90</sup> introduced an inductive working method: texts would first be exhaustively discussed by a sub-committee of experts and only in case disputes could not be settled then the drafting would be taken up at the higher level of heads of mission.

“[In the second stage of the negotiations], the West decided on the inductive method. With regards to the catalogue of principle this means that first the West will introduce “explanatory documents” in small working groups and those documents will be then discussed until an agreement is reached”.<sup>91</sup>

Briefly, final communiqués were drafted from the bottom upwards: ultimately, “the organs at expert level in fact enjoyed an

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<sup>90</sup> To be intended as the EC countries and the NATO countries all together

<sup>91</sup> PAAA, ZA 111502, Conclusive memorandum of the meeting of the Inter-ministerial group on the CSCE at the Ministry of Foreign Affairs, on September 7, 1973, Bonn, 15 October 1973.

extensive autonomy”.<sup>92</sup> The specific features of the EPC informal gatherings and the equally informal and improvisation-prone negotiating methods in Geneva made thus for a unique scenario. The delegates, tucked away from the spotlight of day-to-day politics, and often times ignored by official records, made the CSCE the first successful test for European foreign policy. The Final Act was signed both individually by the EC Member States and by the President of the Council as representative of the entire community, combining the intergovernmental (EPC) and supranational (EC) facets of the European integration process. Given the exquisitely informal proceedings of the Geneva negotiations and the paucity of EPC sources – a problem that most scholars complain about, the EPC at the CSCE is a compelling subject for historical studies.

That said, the EPC has been under the scrutiny of IR scholars too. A brief overview of IR studies in the area is thus due here. IR literature has developed four lines of analysis, which often overlap or are coterminous with each other. First, IR studies have investigated the nature of the newly-created EPC. Second, they have aimed to develop explanatory models of the EPC decision-making process. Third, they have assessed the effectiveness of the EC/EU as an important international actor, and finally they have focused on the impact of the EC/EU as an international actor both on the international stage and as regards the EC/EU Member States themselves.

Chronologically, four waves may be singled out for explanatory purposes.

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<sup>92</sup> Jan Sizzo, Rudolf TH. Jurrjens, *CSCE Decision-Making: the Madrid Experience*, (The Hague: Martinus Nijhoff Publishers, 1984), 65-6

During the 1970s scholars carried out mostly descriptive works and mainly enquired as to the nature of the EPC. Different answers were provided: Calleo assimilated for instance the EPC with “conference diplomacy”,<sup>93</sup> Wallace provocatively wondered whether EPC is “illusion or reality, whereas Twitchett asked whether it is “external relations or foreign policy”:<sup>94</sup> as these few examples clearly show, scholars have been puzzled over the question “what is the EPC” since its very beginning.

In the 1980s and early 1990s, IR studies aimed instead at conceptualising the EPC mechanisms in line with the major IR theories. For Ifestos for instance the intergovernmental and pluralistic approach is most suitable to shed light on the reasons for political cooperation,<sup>95</sup> whereas Pijpers contended that the realist paradigm was the most useful.<sup>96</sup> Pijpers argues in realist terms that EPC is “not a new phenomenon [...] but an updated version of old-style alliance diplomacy” thereby placing EPC back into the framework of *Realpolitik*.<sup>97</sup> Ginsberg propounds instead a theory of “politics of scale” in order to explain why member states decided to opt for collective over unilateral foreign policy action: he posits that joint

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<sup>93</sup> David Calleo, “The European coalition in a fragmented world”, *Foreign Affairs*, Vol. 54, No. 1, (October 1975).

<sup>94</sup> See William Wallace William E. Paterson eds. *Foreign Policy-Making in Western Europe: a Comparative Approach* (Westmead: Saxon House, 1978). Kenneth J. Twitchett, ed., *Europe and the World* (London: European Publications, 1976).

<sup>95</sup> Panayiotis Ifestos, *European Political Cooperation: Towards a Framework of Supranational Diplomacy* (Aldershot: Avebury, 1987), 70-82.

<sup>96</sup> Alfred Edward Pijpers, *The vicissitudes of European Political Cooperation: Towards a Realist Interpretation of the EC's Collective Diplomacy* (Leiden: PhD Thesis Leiden University, 1990), ch. 3. Pijpers points out that realism may not be “apt to describe and explain the dynamics of the EC's internal policy-sectors, [but] might still [be] very helpful for a proper understanding of the significance of the EC's external diplomatic posture within the framework of European Political Cooperation”, 73.

<sup>97</sup> Alfred Edward Pijpers, “European Political Cooperation and the Realist Paradigm” in Martin Holland, ed., *The Future of European Political Cooperation*, (London: Macmillan, 1991), 31.

foreign policy actions are pursued and implemented by member states when they result in lower costs and lower risks than when they act individually.<sup>98</sup> Finally, Nuttall provides a detailed historical account of the development of the EPC and points out that it stemmed from a compromise between the federalist idea (embodied in the European Political Community) and De Gaulle's idea (epitomised by the Fouchet Plan). The EPC was an elastic, flexible institution that "was confined to foreign-policy coordination",<sup>99</sup> ultimately a "pragmatic way of achieving a foreign policy identity alongside the economic identity of the communities".<sup>100</sup>

A third phase corresponds with the renewed interest in the conceptualisation of European Foreign Policy aroused with the Maastricht treaty. Many texts focus on the international capacity of the EU and elaborate on the development of European decision-making and European policy (for instance Peterson and Sjursen<sup>101</sup>, Regerlberger<sup>102</sup>). These works provide an analytical insight into policy-making development. Within this conceptual framework the EPC is regarded as the first step of the EC as a political actor, and the CSCE is thus presented as one of the factors which contributed to the development of the Common Foreign and Security Policy (CFSP) in the 1990s. The EPC is therefore more or less explicitly referred to as a process embedded in the transformation of the EC member states

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<sup>98</sup> Roy H. Ginsberg, *Foreign Policy Actions of the European Community, the Politics of Scale* (London: Lynne Rienner Publishers, 1989).

<sup>99</sup> Simon J. Nuttall, *European Political cooperation* (Oxford: Clarendon Press, 1982), 53.

<sup>100</sup> Nuttall, *European Political cooperation*, 1.

<sup>101</sup> John Peterson and Helene Sjursen eds., *A Common Foreign Policy for Europe?* (New York: Routledge, 1998).

<sup>102</sup> Elfriede Regelsber, Philippede De Schoutheete de Tervarent, Wolfgang Wessels, eds., *Foreign Policy of the European Union: from EPC to CFSP and Beyond* (London: Lynne Rienner, 1997).

into a single international actor: as Soetendorp claims, “the challenges of the new Europe and the post-Cold-War era have offered the opportunity to boost the international performance of the EC as a unified actor”<sup>103</sup>. The EPC stands out as “appropriate to the sort of international *persona* that the Six, and later the Nine, were trying to create”.<sup>104</sup>

In the fourth stage, scholarly analysis has focused on the interplay between national foreign policies and collective diplomacy and attention has shifted to the impact of European Foreign Policy (EFP) actions on the outside world.

### **Conclusions and contribution to the literature**

“The common fallacy of misplaced concreteness or reification, [is] exemplified chiefly by the subtle transformation of the word “state” from a proper analytical abstraction into a symbol allegedly standing for a concrete entity – that is, an object or person having an existence of its own apart from real *persona* and their behaviours”.<sup>105</sup>

In the 1960s the IR scholar Glenn Snyder – who has extensively delved into security studies – claimed that the point of intersection between material and ideational factors is not the state, but the human decision-makers. If paraphrased, Snyder’s observation would aptly refer to European integration studies, as they tend to regard the EC as a concrete entity having an existence of its own like a real

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<sup>103</sup> Ben Soetendorp, “Evolution of EC/EU as a Single Foreign Policy Actor” in W. Carlsnaes & S. Smith eds. *European Foreign Policy: The European Community and Changing Perspectives in Europe* (London: Sage, 1994), 103.

<sup>104</sup> Regelsberger, de Schoutheete, Wessels, *Foreign Policy of the European Union*, 20.

<sup>105</sup> Glenn Heral Snyder, *Conflict among nations: bargaining, decision making, and system structures in international relations* (Princeton etc.: Princeton University Press, 1977), 4.

persona apart from the cultural, social and political backgrounds affecting decision-making processes.

This work is in line with the American historians Jeremi Suri and Sarah Snyder who have developed an alternative approach to the CSCE and stressed the influence of society and domestic policy on foreign policy decision making.<sup>106</sup> Suri runs against standard narrative arguing that the much-praised Helsinki effect originated with human rights activists. In fact, human rights activists made the Final Act provisions a key tool for change and freedom.<sup>107</sup> Snyder has focused specifically on the role of trans-national human rights networks and provided a historical account of a subject still mostly neglected by historical studies. This analysis equally suggests that the cultural and societal change that affected the countries' internal equilibriums were major factors for human rights advocacy in Dutch and West German governments. Scholarship has so far presented the history of human rights mainly through the lenses of diplomatic history and of state agents and partly neglected the role played by individuals, who emerge only in a later stage as a powerful driving force of the so-called Helsinki effect. Nevertheless, claims from individual citizens were crucial from the very beginning. West Germany's citizens exerted for instance decisive pressure on West German leadership and their call for freer movement of people heavily affected West Germany's policy at the Helsinki Conference. Shifts in domestic constituencies were equally relevant to the debate on human rights in the Netherlands: in the 1970s the traditionally uneventful and quite predictable party life was shaken to its

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<sup>106</sup> Sarah Snyder, *Human Rights Activism and the End of the Cold War: A Transnational History of the Helsinki Network* (Cambridge: Cambridge University Press, 2011).

<sup>107</sup> Jeremi Suri, "Détente and Human Rights: American and West European Perspectives on International Change," *Cold War History*, vol. 8, no.4, 2008.



foundations, as new forces from the Left gained swiftly momentum, the basics of Dutch foreign policy – like loyalty to NATO and to the USA – were badly shaken and themes like human rights came forcefully into the public spotlight.

This work therefore contributes to the existing literature in three respects.

First, it contributes to the field of human rights studies as it focuses on how CSCE human rights-related provisions developed and shows that coordinating foreign policy did not entail a common European (i.e. EC) understanding of human rights.

Second, it offers an alternative, nation-based perspective on EPC.

Third, it contributes more generally to the debate on European integration history and joins in with the recent scholarship calling for alternative, non-teleological narratives.

This last point brings us back to the wider debate on European integration studies. Before closing the chapter, it is therefore advisable to devote yet another close look to EPC historiography.

European contemporary history has been long depicted as a struggle or a quest (depending on the circumstances) for a supranational Europe. The principle of supranationalism has represented the yardstick of success or failure. The 1970s seem to be lacking positive examples of integration in this respect. The Nine failed to establish a common energy policy in early 1974 and ended up divided on whether to tackle the oil crisis in an Atlantic or European framework at the Washington energy conference in February 1974. They also gave up on any attempt at formulating a common policy vis-à-vis the US, and in the Gymnich Agreement they

subordinated the effectiveness of EPC to transatlantic cohesion and US leadership. In June 1974, the year of Europe ended with the NATO Ottawa declaration and a general reinvigoration of political consultations within the alliance. The Arab-Israeli peace process was equally a failure for the EPC. In short, the only positive episode in the first part of the 1970s was the CSCE. The EPC “success” at the CSCE has therefore been of great importance as it has balanced the EPC flop in the Middle East, and compensated more generally for the “abrupt decline of EPC in the first half of 1974”.<sup>108</sup>

Romano has passionately written about Europe's role in the world in the 1970s, and concludes her monograph praising the “elements of the Nine’s successful performance [at the CSCE]”, namely the “detailed preparation, excellent and timely coordination throughout the conference, careful tactics and tough style of negotiations”. Romano further argues that “more important than the differences were the commitments of the Treaties of Rome on EC competences and the will to play a visible and constructive role in the international arena”.<sup>109</sup> Similarly, recent literature has recast the narrative of the first part of the 1970s, and contended that “the period 1969-1975 saw the emergence of the EC as a distinct entity in international affairs with its own collective identity over and above those of its member states.”<sup>110</sup> Scholars like Ine Megens and Claudia Hiepel have ascertained that the Nine “spoke with one voice”, and

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<sup>108</sup> Möckli, *European Foreign Policy during the Cold War*, 3.

<sup>109</sup> Romano, *From Détente in Europe to European Détente*, 226.

<sup>110</sup> Jan van der Harst, ed., *Beyond the custom union: the European Community's Quest for Deepening, Widening and Completion, 1969-1975*, (Bruxelles: Bruylant, 2007)

suggested that the successful EPC ultimately led to a substantial integration of ideas and values.<sup>111</sup>

Inflating the EPC positive performance at the CSCE has contributed to revamping a primary EC myth, namely the widely diffused and almost sacred belief that integration has been responsible for peace and security in Europe. The story goes that “European integration has been necessary to bring peace, stability and prosperity to a continent characterised by war and strife in the modern period”.<sup>112</sup> However, nowadays this “primary myth” of the EC spreading peace in Europe resounds only feebly with young Europeans. Human rights narrative updates the old story, since they belong to the new generation’s cultural background. They shine with modernity, being constantly in the full glare of media and public political discourse: presenting them as a by-product of the EC adds a touch of glamour to EC history.

Innovative historiography has strongly called for a re-contextualization of the phenomenon of European integration in the 20th century and for a less EC-centred history.<sup>113</sup> The newest trend calls for the study of trans-national political society and of the “formation of formalized and highly informal networks...below the

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<sup>111</sup> Claudia Hiepel, “Kissinger’s Year of Europe – A challenge for the EC and the Franco-German relationship”, 277-296; Ine Megens, “The December 1973 declaration on European identity as the result of team spirit among European diplomats”, 317-340, in *Beyond the custom union*.

<sup>112</sup> Vincent della Sala, “Political Myth, Mythology and the European Union”, *Journal of Common Market Studies*, Vol. 48, No. 1, (January 2010), 1-19.

<sup>113</sup> Mark Gilbert, “Narrating the Process: Questioning the Progressive Story of European Integration”, *Journal of Common market Studies*, Vol. 46, No. 3, (May 2008), 641-662; Mark Gilbert, “A Polity Constructed: new Explorations in European Integration History”, *Contemporary European History*, Vol. 19, No. 2, (May 2010), 169-179; Wolfram Kaiser, Brigitte Leucht and Morten Rasmussen, eds., *The History of the European Union: Origins of a Trans- and Supranational Polity 1950-1972* (London: Routledge, 2009). See also Wolfram Kaiser and Antonio Varsori, eds. *European Union History: Themes and Debates* (Basingstoke: Palgrave, Macmillan, 2010)

supranational level...that shaped the informal politics of European integration".<sup>114</sup> While this work agrees on the need to cross-fertilise historical studies based on empirical evidence with social sciences, it does not aim at this degree of conceptual sophistication. As fascinating as these new perspective may be, it seems unreasonable to leave states out of the picture.<sup>115</sup> One may certainly agree with scholars like the German Wolfram Kaiser on the need to avoid talking about states as abstractions, but equally ignoring them seems wide of the mark, especially for the theme at stake.

On these bases, an alternative study of the history of the emergence of human rights in the European discourse is required.<sup>116</sup> Interestingly enough, the reassessment of the role of individual countries has taken place for the Non-Aligned and Neutrals (N+N) but not for the EC countries. Nobody has so far challenged the notion of EPC cohesion at the CSCE.<sup>117</sup> This work presents new evidence that there is indeed room for debate. The EC members succeeded in presenting a common stance externally, but this does not necessarily mean that a Europe of values saw the light in Helsinki. No EPC magic potion transformed divergences in a common understanding. Rather, the EPC diverted scholars' attention away from the complex array of factors that in every single state was at play in human rights issues. As primary sources confirm, domestic policy, domestic constituencies, social forces, and human factors resulted in different understandings of human rights and different purposes of human

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<sup>114</sup> Kaiser, Leucht, Rasmussen, eds., *The History of the European Union*, 4.

<sup>115</sup> Kaiser, Leucht, Rasmussen, eds., *The History of the European Union*, 5.

<sup>116</sup> The delegates working at the CSCE were national diplomats, much closer to the domestic milieu than those based in Brussels.

<sup>117</sup> An isolated voice has been Ilaria Poggiolini. See her unpublished paper presented at the Conference *At the Roots of the European Security System: Thirty Years since the Helsinki Final Act* held in Florence on 7-9 September 2005.

rights advocacy. Did the states under scrutiny commit to human rights for the sake of EPC, namely for the sake of pushing forward a common European value? In light of the sources examined, the answer is unequivocally “no”.

A second question then follows: how salient was the EPC to Dutch and West German human rights advocacy? The following chapters will provide an answer: indeed, it was not very salient at all.

### **Structure of the work**

This research is based on published and unpublished primary sources from Dutch, West German and East German archives ranging from 1966 to 1976. It unfolds according to a thematic and chronological narrative. Each country is analysed in two chapters, which follow chronology internally.

Chapters 2 and 3 are devoted to the Netherlands.

Chapter 2 covers the years from 1966 to mid-1973 and is mainly devoted to highlighting the profound social and cultural transition sweeping through Dutch society. It illustrates how these changes rebounded on Dutch policy, bringing a left-oriented coalition to power at the general elections of November 1972. Special attention is given to the key-figure of Max van der Stoep, the Dutch foreign minister in the new Den Uyl Cabinet, inaugurated in March 1973, who developed a comprehensive and bold human rights policy.

Chapter 3 addresses the years from mid-1973 until 1975, years in which the Dutch battled for the principle of self-determination, for free correspondence and access to literature, and clearly shows the adamant stance of the Dutch among the EC countries.

Chapters 4 and 5 focus on West Germany.

Chapter 4 deals with the years from 1966 to 1972, until the beginning of the MPT in November 1972. It shows that the sufferings of German people stranded behind the Iron Curtain were at the core of West German foreign policy and marked the future Chancellor, Willy Brandt, who was mayor of Berlin from 1957 to 1966, at a time of increasing East-West tension, and of the partition of the German capital. The chapter shows that since that very moment, human relief for the German people became a major goal of West German foreign policy, and illustrates how Bonn struggled to balance the pursuit of human relief with rapprochement to the East.

Chapter 5 covers the Geneva negotiations, namely the negotiations on reunification of families, the principle of human rights and of self-determination and finally Bonn's instrumental use of the EPC for its national purposes. The chapter focuses on the transition from Brandt to Schmidt chancellorship and highlights the role played by the new Foreign Minister Hans-Dietrich Genscher – who replaced Walter Scheel in May 1974 – in the latest stage of the Conference.

An appendix is devoted to Bonn's privileged partner: East Germany. East Germany's stand is analysed mainly through new primary sources of East German secret policy – the Ministry for State Security, a.k.a. STASI, in charge of domestic security – and casts light on the reasons for Bonn's cautious approach at the Conference.

## Sources

As for the Dutch case, since the focus is on the CSCE policies of the Netherlands, the most essential archive is the Archive of the Ministry of Foreign Affairs in The Hague. It provides a large amount of documents and painstaking memoranda on the negotiations, and an equally vast amount of correspondence between Foreign Minister van der Stoep and the Dutch delegates in Geneva. These papers are strangely classified as NATO files, and are in principle accessible only after a special permission has been accorded, which may take several months. A second valuable source has been the Archive of the Labour Party, in Amsterdam, which contains all the documents regarding domestic and foreign policy of the Labour Party and its internal guidelines. This is a good source for a closer analysis of domestic policy. However, the Archive of the Ministry of Foreign Affairs is far more exhaustive and much better organised for an analysis of Dutch CSCE-policy.

As for West Germany, the Archive of the Foreign Ministry – *Auswärtiges Amt* – in Berlin has been equally at the centre of my research. The CSCE files are collected in the inventory B-28, in the *Zwischenarchiv*, and have been central to the present analysis. Equally essential have been the many files on the years 1969-1975 scattered in different inventories. The deficiency of the Foreign Ministry papers has been overcome by the publication series *Akten zur Auswärtigen Politik der Bundesrepublik Deutschland* (AAPD), which is – unlike the files in the Archive of the Foreign Ministry – carefully edited and referenced.

The SPD archives – the *Friedrich Ebert Stiftung* Archive in Bonn – holds very interesting personal collections of Willy Brandt and

Helmut Schmidt, and have thus enabled me to delve into the role of the human factor in West German foreign policy.

Concerning East Germany, the documents from the archive of the Ministry for State Security (*Bundesbehörde für die Stasi-Unterlagen*, BStU) in Berlin have provided fascinating insights into STASI activities. The Minister's employees, and the Minister himself, were very prolific drafters and the abundance of sources has to be carefully sifted through. The Foundation on Archives of Parties and Mass Organizations of the GDR (SAPMO) in the Federal Archives, located in Berlin, has been a further very useful archive, since it holds all the documents of the Socialist Unity Party of Germany (*Sozialistische Einheitspartei Deutschlands*, SED), and provides the missing link between MfS inner decisions and the official policy line pursued at the Politburo. Moreover, it offers fascinating insights on East German-Soviet relations.

The Historical Archives of the European Union (HAEU) in Florence have been rather disappointing by contrast. I cannot but subscribe to the opinion expressed by young scholars who have already sifted through these sources: the absence of a permanent EPC secretariat makes for sparse and scattered sources. Individual national archives are far more useful.

An additional source that has helped put the Dutch and West German position in perspective during the preparatory stage are the Documents on British Policy Overseas (DBPO), which offer detailed accounts of the negotiations and useful analysis of key foreign policy issues.



## Chapter 2

### **Change in society and at the Ministry of Foreign Affairs in the Netherlands: setting the stage for Helsinki**

#### **Introduction**

The analysis of the Netherlands and of West Germany requires two different approaches. While literature on the economic, political and social conditions in West Germany during the period under scrutiny abounds, the same cannot be said for the Netherlands, a country that has only occasionally fallen under the lens of scholars of European integration.<sup>118</sup> The major role played by France, Great Britain and West Germany at the time certainly cannot justify leaving the Netherlands out of the picture. Regrettably however, the preponderant attention devoted to the three major European countries and the resulting lack of substantial studies on the Netherlands have contributed to leaving The Hague on the sidelines of historical analysis. Knowledge of contemporary Dutch history at the international level is still limited and yet more limited is knowledge of the ferment in Dutch society and party system in the 1960s and in the 1970s. The literature in English is very scarce, and the primary sources barely known.<sup>119</sup>

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<sup>118</sup> To be intended as literature accessible to a wide readership, that is literature in the English language. As shown later in the present chapter, works in English have been produced only by a few Dutch scholars. Despite the work done by the Department of International Relations and International Organizations by the University of Groningen under the direction of Jan van der Harst, a comprehensive analysis on the Netherlands in the EC is still missing.

<sup>119</sup> Hopefully, a new trend will start. For a welcome addition to historical literature on the history of European post-war cooperation form, a Dutch perspective is William Mallinson, *From Neutrality to Commitment. Dutch Foreign Policy, NATO, and European integration* (London I.B. Tauris Publishers, 2010). Regrettably, Mallinson's analysis is limited to the Dutch foreign and security

The following two chapters will go against this trend of neglect. They will show that The Hague did not align with the EC member countries' views and stood out as a dogged human rights advocate. The Dutch stand at the CSCE with regards to human rights in particular will serve as a powerful litmus test for the effectiveness of the EPC and for the existence of a shared European identity based on human rights.

This second chapter is aimed at scrutinising the whole background of Dutch politics and Dutch society in the late 1960s and early 1970s. A scrutiny of this kind is as important as the actual archive discoveries. A glaring missing link in the studies developed so far is the fleeting attention devoted to this background and to its close interrelation with Dutch policy. It will be shown that the Dutch stand at the CSCE in particular cannot be insulated by the complex domestic background.

The analysis will illuminate the specific features of Dutch society in the late 1960s and the resulting transformation of Dutch political parties, which were eventually forced to engage in the political arena in front of increasingly alert constituencies.<sup>120</sup> The analysis will then turn to new political forces, like the New Left –

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policy between 1948 and 1954. See also Richard T. Griffith (ed.), *The Netherlands and the integration of Europe, 1945-1957*, (Amsterdam: NEHA, 1990). Certain aspects of the Dutch policy had been already analysed by Alan Milward in *The Reconstruction of Western Europe, 1945-1951*. On Dutch foreign policy, see J.J.C.V. Voorhoeve, *Peace, Principles and Profits*, (Den Haag: Uitgeverij Martinus Nijhoff B.V., 1979); on Dutch-German relations, see Friso Wielenga *West Germany, a partner from necessity: the Netherlands and the Federal Republic, 1949-1955* and on the Dutch role in the EDC, see Jan van der Harst's thesis *European Union and Atlantic Partnership: Political, Military and Economic Aspects of Dutch Defence 1948-1954 and the Impact of the European Defence Community*, doctoral thesis, Florence, 1987.

<sup>120</sup> Society and politics were deeply intertwined: basically, they overlapped. The Netherlands was a pluralist society that from the late 19<sup>th</sup> century onwards was divided vertically in pillars – a Protestant, a Roman-Catholic, a social-democratic and a liberal pillar –, each pillar having its own political parties and social organisations.

*Nieuwe Links* – that significantly impacted on the political debate, turning the spotlight on the theme of security and stability in Europe, calling for a more independent course from the US and NATO, and casting a critical eye on an EC foreign policy identity.<sup>121</sup> The analysis will argue that to avert political collapse, the Dutch Labour party (*Partij van de Arbeid*, PvdA) was forced to update its agenda by developing an independent foreign policy and emphasising individual rights in society.

Building on these background information, the second part of the analysis will do justice to a political figure whose stature has not always been appreciated in the academic literature, namely the social democrat Max van der Stoel, who was designated Minister of Foreign Affairs in the left-oriented coalition government in 1973. Had he been French, or West German, he would likely be mentioned in books on European integration as the father of a new and more assertive trend in human rights advocacy. Unfortunately he was born Dutch, and his name is hardly mentioned by European integration historiography. Also in this case, the analysis will endeavour to redress the balance. It was van der Stoel who successfully reconciled innovative political thinking with Dutch political traditions, and inaugurated a more assertive foreign policy. Van der Stoel was a vocal advocate of human rights, a cultivated lawyer and a sharp mind. While addressing the three most relevant issues on Dutch foreign policy agenda – NATO policy, transatlantic loyalty, and European integration – he unremittingly advanced the cause of human rights.

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<sup>121</sup> The development of a foreign policy at the EC level was not welcome in a country traditionally in favour of supranationalism: more generally, the EC could only aspire to be a “civilian power”.

The final part of the chapter will focus on the purpose and scope of van der Stoel's human rights policy, highlighting his idealistic penchant, but also investigating his pragmatic approach. It will show that he had a full-blown policy well before the official opening of the conference in July 1973 and that therefore the inclusion of human rights-related issues on EPC agenda did not play a significant role.

Briefly, this chapter will show that against a new domestic social and political backdrop, an assertive Minister of Foreign Affairs was committed to the human rights cause regardless of EPC and against all the odds. More to the point, his commitment also conflicted with the views of the Netherlands' EC partners, as the 3<sup>rd</sup> chapter will illustrate.

### **The Dutch as a one-man band**

"Shall we just say 'NO' [to the Conference]?" wondered Dutch delegation leader J.L.R Huydecoper on 20 March 1974.<sup>122</sup> Easter recess had just started and the Dutch diplomat agonised about what stand to take in the hitherto fruitless second stage of the negotiations.<sup>123</sup> The second stage of the Geneva negotiations had got off to a good start: the Dutch diplomat had initially the impression that the conference could take a turn for the better and that results were eventually

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<sup>122</sup> J.L.R. Huydecoper van Nigtevecht worked from 1946 to 1987 in the Dutch diplomatic service. He served from 1956 to 1959 in Jakarta and from 1959 to 1962 in Washington D.C. One of the highlights of his career was the negotiations on Indonesian independence that he recounted in details in *Nieuw-Guinea: het einde van een kolonial beleid*, ('s Gravehagen: SDU uitgeverij, 1990).

<sup>123</sup> ABZ, DAV, 1965-1974, file n. 728, "Memorandum from Geneva, 'Who decides détente?'" , 20 March 1974

within reach.<sup>124</sup> However, this enthusiasm soon died away. He reported that in Basket III – the most important basket for the West – Eastern countries were still stonewalling. The negotiations seemed pointless.

“CSCE results could be such that the time won’t look ripe for closing the third stage...In case it is not possible to mobilize the Nine [on a common line of action] ...in light of the centrifugal forces haunting the Nine, will the Netherlands go it alone ... and speak out a 'no' to the Conference? Or will the consequences of our decision be a too momentous move for the Nine?”<sup>125</sup>

His memo illustrates the Netherlands’ independent stance among the EC countries, as it makes clear reference to opting out of the conference at an advanced and delicate stage of the negotiations. The idea of powerful “centrifugal forces” is indeed at odds with the view of a cohesive EC bloc.

Overall, the Netherlands’ participation in the CSCE was not smooth sailing. Sceptical Dutch delegates did not pounce on the idea of a multilateral Conference, which seemed likely to turn into a fruitless and time-consuming diplomatic circus and likely to grant the Soviet Union the long-awaited multilateral recognition of the European *status quo*.<sup>126</sup> The mood changed after spring 1974 when the Dutch delegation – closely monitored and instructed by Foreign

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<sup>124</sup> The second stage of the conference took place in Geneva from 18 September 1973 to 21 July 1975.

<sup>125</sup> ABZ, DAV, 1965-1974, file n. 728, Memorandum from Geneva, “Who decides détente?”, 20 March 1974

<sup>126</sup> The Dutch engagement in human rights is thus not disproved by their lukewarm stance during the Multilateral Preparatory Talks (MPT): it was not worthwhile to embark on what was at the time a demanding and yet likely sterile political show. However, as soon as the Conference gained momentum and the initial doubts dissipated, the Dutch delegation grew more vocal and bold.

Minister Max van der Stoel – fully engaged in the CSCE.<sup>127</sup> Under the guidance of Huydecoper and Jo van der Valk <sup>128</sup>the Dutch delegation achieved most of the goals on its agenda, shaping Principle VIII on self-determination of people in Basket I, and access to literature and freedom of correspondence in Basket III.

Before turning to the analysis of the negotiations, this chapter will show that human rights were entrenched in a century-long mindset, and will preliminarily provide an overview of the historical traditions of Dutch foreign policy, which still represent the starting point for any scrutiny of political life in the Netherlands.

### **The literature**

A study on Dutch foreign policy would not be complete without a brief reference to its three “traditions”. They represent to date the essential starting point for delving into the underpinnings of Dutch foreign policy and in the present study they provide a map for the analysis of the 70s. According to established scholarship, Dutch *engagement* for human rights finds its roots in the Dutch internationalist-idealist tradition.<sup>129</sup> Internationalism and idealism

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<sup>127</sup> ABZ, DAV, 1965-1974, file n. 725, “Memorandum from Geneva: Provisionary assessment of the CSCE”, 12 November 1973.

<sup>128</sup> Jo van der Valk was the Head of the Atlantic Security Desk at the Foreign Ministry. He replaced Huydecoper as Dutch delegation leader in summer 1974.

<sup>129</sup> The literature has singled out three major tendencies. The first is the “maritime-commercial” tradition, dating back to the 14th century, when the Dutch started to exert control on all sea-freight shipped from the Baltic to the Mediterranean. Throughout the centuries, “the Netherlands became the natural commercial mediator of north-western Europe” and a fierce advocate of anti-protectionist economic policy and worldwide liberalism. The second tradition is the neutralist abstentionist tradition, a corollary of the maritime-commercial tradition: staying clear of political quarrels was a good rule of thumb to promote trade and protect Dutch economic interests worldwide. For the internationalist-idealist tradition, see Voorhoeve, *Peace, Principles and Profits*, 42-55.

boiled down to a number of factors: the reluctance to enter the European power game while striving to prompt commerce by means of peace and stability; wide-spread moralism and antimilitarism; the deep-rooted belief in the rule of law (a by-product of the Calvinist tradition as well as a tool to favour smooth commerce, and to defend the country); and finally, thanks to the mix of increased technology, improved communication and trade liberation the Dutch started regarding themselves as world citizens.<sup>130</sup>

That said, Dutch human rights policy has been the subject of research for quite a long time: the scholarship has investigated how it has changed throughout the years, the reasons and motives for Dutch championing of human rights in Europe,<sup>131</sup> in the Third World<sup>132</sup>, as well as worldwide<sup>133</sup>, and how international law has been used to promote human rights.<sup>134</sup> In recent times, the scholarship has focused on the development of Dutch foreign policy on human rights in the Cold War and explored whether the Netherlands' image as human rights advocate has changed over time.<sup>135</sup>

The Dutch scholar Floribert Baudet has provided a thorough overview of the reasons for the Netherlands' *engagement* from 1972 to 1989 and has analysed the tension between long-term and short-term

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<sup>130</sup> Malcontent, *Op Kruistocht in de Derde Wereld*

<sup>131</sup> Floribert Baudet, *Het Heeft Onze Aandacht: Nederland en de Rechten van de Mens in Oost-Europa en Joegoslavië, 1972-1989*, (Amsterdam: Boom, 2001)

<sup>132</sup> see Petrus Adrianus Maria Malcontent, *Op Kruistocht in de Derde Wereld: De reacties van de Nederlandse Regiering op Ernstige en Steelselmatige Schendingen van Fundamentele Mensenrechten in Ontwikkelingslanden, 1973-1981* (Hilversum: Verloren, 1988)

<sup>133</sup> Maarten Kuitenbrouwer, "Nederland en de Mensenrechten, 1795-1995" in *Geschiedenis van de Mensenrechten: Bouwstenen voor een Interdisciplinaire Benadering*, ed. Maarten Kuitenbrouwer and Marij Leenders, 156-201.

<sup>134</sup> Hilde Reiling, *The Netherlands and the Development of International Human Rights Instruments*, (Antwerpen: Intersentia, 2007)

<sup>135</sup> Peter Baehr, Monique Castermans-Holleman, Fred Grünfeld, *Human Rights in the Foreign Policy of the Netherlands*, (Antwerpen: Intersentia, 2002). Baudet, *Het Heeft Onze Aandacht*, 44

goals in Dutch human rights policy. Baudet fleshes out the literature on the traditions of Dutch foreign policy with a sweeping analysis of external and domestic factors. He singles out the major factors urging the Dutch leadership to confront the theme of human rights: apartheid, decolonisation, the Vietnam War, the hotly debated presence of dictatorial states in the Atlantic Alliance, the impact of television on public opinion – which became increasingly alert and vocal.

Decolonisation was critical to the Netherlands' commitment to human rights at that time;<sup>136</sup> the Netherlands aimed to make up for the loss of its status as a colonial power by becoming a guiding country in human rights. Besides, decolonisation in Indonesia and New Guinea pricked the Dutch conscience and spurred a widely felt longing for moral compensation. This gave a great impulse to moralism and to the need of declaration of international solidarity".<sup>137</sup>

The cultural revolution sweeping through Dutch society as from the mid-1960s played a significant role, too: the transformation of Dutch society (the *ontzuiling*), democratisation of the political system and lingering powerful religious traditions contributed to the call for a lofty "community mission". That said, for Baudet anti-totalitarianism is the major explanation for Dutch human rights campaign. The Soviet regime was the very opposite of the Netherlands' core values.<sup>138</sup> First of all, the brutality of Soviet

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<sup>136</sup> Alfred E. Pijpers, "Dekolonisatie, Compesatiedrang en de Normalisering van de Nederlandse Buitenlandse Politiek" in *Internationale Spectator* 45, no.2 (1991): 62-70.

<sup>137</sup> Baudet, *Het Heeft Onze Aandacht*, 54.

<sup>138</sup> The term is quite debated. Standard literature using the term with regards to the Soviet regime after Stalin (see Carl Friedrich and Zbigniew Brzezinski, *Totalitarian Dictatorship and Autocracy*, (Harvard: Harvard University Press, 2nd edn 1967)) has been famously contested by Richard Löwenthal. Löwenthal argues that the Soviet Union after Stalin was rather a post-totalitarian regime, where a single dictator has been replaced by a ruling oligarchy. That said, the term is used by Baudet without



totalitarianism recalled fresh painful memories of Nazi occupation. Second, Dutch society was still imbued with religion, whereas the Soviet system was materialistic and atheist. Third, the Netherlands's pride was the free entrepreneurial nature of its people, whereas the Soviet system denied the very basic freedoms of individuals, let alone entrepreneurial spirits.<sup>139</sup>

However, Dutch anti-communism is a cause of disagreement. According to authoritative scholarship,<sup>140</sup> the first official visit to the Soviet Union of a Dutch foreign minister – Joseph Luns – in 1964 marked the beginning of a new phase in Dutch relations with the East right after the Cuban and the Soviet-American crisis had made it clear that an alternative East-West framework was needed.<sup>141</sup> The meeting between Foreign Minister Luns and Soviet Foreign Minister Andrej Gromyko is regarded as the starting point of a *détente à la néerlandaise* which developed further through Luns' visits in Eastern Europe in 1967, the appointment of an ambassador for East-West relations in 1970, and reached its zenith with Gromyko's first official visit to The Hague in 1972. The stages of Dutch rapprochement to Eastern Europe are still debated. Van Staden and Voorhoeve argue that the Netherlands came closer to Eastern Europe only after the Harmel Report in 1967 and only in order to comply with Atlantic

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further specification. It is therefore reported here as a term generally referring to a society in which the ideology of the state had power over most of its citizens.

<sup>139</sup> Baudet points out that Dutch leaders did not go as far as to think that NATO and the Warsaw Pact could not be dismantled at the stroke of a pen: first all states had to achieve democracy, and then the pacts could be dismantled. Knapen argues instead that the new attitude towards the Soviet Union in the late 1960s and in the 70s, when the confessional pillars fell apart and anticommunism was put aside as atavism, was partly a result of a social change. See Ben Knapen, *De Lange Weg naar Moskou* (Amsterdam: Elsevier, 1985), 249.

<sup>140</sup> Duco Hellema, *Buitenlandse Politiek van Nederland: de Nederlandse Rol in de Wereldpolitiek* (Utrecht: Spectrum, 2006), 242.

<sup>141</sup> B.S.Schulte, *Hollands Politik. Entspannungspolitikische Konzeptionen niederländischer Politiker zu Problembereichen des Ost-West-Verhältnisses*, PhD, Hamburg 1973.

guidelines.<sup>142</sup> Luns' visit to Eastern countries in 1967 seems to confirm this argument. For these authors Dutch *détente* was far from wholehearted. For van Staden, Luns acted under the pressure of public opinion and of the Lower Chamber. Similarly, Bomert regards the Dutch *rapprochement* to the East from mid-60s to the beginning of the 70's as a reaction to domestic pressure (exerted both by public opinion and by the Lower Chamber) and to NATO peer-pressure.<sup>143</sup>

Different narratives notwithstanding, scholarship is unanimous in drawing the picture of a country that set human rights at the very heart of its foreign policy. The reasons for this engagement are still under scrutiny. Baehr wonders whether this image is really justified, and questions whether the Netherlands was "the most effective human rights advocate today".<sup>144</sup> Baehr researches the last quarter of the twentieth century to assess whether Dutch foreign policy has changed overtime. His works and those briefly outlined above are a testimony to the need to develop different levels of analysis: foreign policy traditions, international events, and domestic factors. What is still missing in the literature on Dutch foreign policy on human rights is a thorough study of all these factors, of the reasons for Dutch intransigency at the CSCE, and on the impact of the Dutch stand on EC cohesion. It is time to delve into

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<sup>142</sup> Alfred Van Staden, *Een Trouwe Bondgenoot: Nederland en het Atlantische Bondgenootschap (1960-1971)*, (Baarn: Anthos, 1984) and Alfred Van Staden, "De toenadering tot Oost-Europa in Nederlandse Ogen", in *Internationale Spectator* 27, no. 21 (December 1973): 735-743.

<sup>143</sup> Bert Bomert, *Nederland en Oosteuropa: Meer Woorden dan Daden*, (Amsterdam: Jan Mets, 1990), 159-160.

<sup>144</sup> *Human rights in the foreign policy of the Netherlands*, Baehr, Peter R.; Castermans-Holleman, Monique C.; Gruñfeld, Fred (Amsterdam: Intersentia, 2004). See also Jan Egeland, "Focus on Human Rights – Ineffective Big States, Potent Small States", *Journal of Peace Research* 21, no. 3, (1984): 210.

the deep changes in Dutch society and Dutch politics first, and then to move on to an analysis of the international scenario.

### **The 1970s: a moment of change in Dutch society**

At the beginning of the 1970s, human rights were also part and parcel of the domestic political discourse, a response to the demands of a more *engagée* public opinion and a major issue on the agenda of a driven Minister of Foreign Affairs.

The Helsinki conference took place at the end of the so called Dutch “long '60s”, namely at the end of a major wave of change that shook Dutch society to its foundations and changed Dutch policy-making.<sup>145</sup> This social and political transition is an essential analytical tool to grasp Dutch foreign policy in the 1970s.

Dutch citizens became more self-aware and vocal and ultimately revamped Dutch party politics. This change has to be taken into account also to understand its ultimate echo in party politics and ultimately in Dutch foreign policy. Its magnitude was indeed enormous in a small country famous for its quiet, still political life. From the end of WWI up to mid-1960s Dutch society had been a *verzuilde maatschappij*, which can be roughly translated as “pillarised society”<sup>146</sup>, a society segmented in religious and secular blocs and in subcultures, where each bloc had a whole array of organisations in every sphere of social life. In a pillarised society confrontation and tension were virtually non-existent (it was called the “pacification

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<sup>145</sup> A time-span of almost twenty years, (1958-1977)

<sup>146</sup> Arend Lijphart, *Verzuiling, Pacificatie en Kentering in de Nederlandse Politiek* (Amsterdam: Amsterdam University Press, 2007)

model")<sup>147</sup> and in the political realm votes were cast according to religion: Catholics voted for the Catholic Party (*Katholieke Volkspartij*, KVP) and read *de Volkskrant* whereas Protestant Calvinists read the Calvinist daily *Trouw* and voted for the Anti-revolutionary Party (*Antirevolutionaire Partij*, ARP) and the Christian Historical Union (*Christelijk Historische Unie*, CHU).

In the "long 60s" those pillars that had long constituted the backbone of Dutch society progressively crumbled away: the phenomenon – called *Ontzuiling* i.e. the crumbling of the pillars – transformed the self-perception and the role of the individual in society. Dutch citizens became floating voters: they namely did not cast their votes according to their creed, but after reflecting on political programs and ideas (a phenomenon known as "politicisation"). New themes emerged, and human rights were among them. At that point, change-oriented parties like the New Left (*Nieuw Links*, a group active within the Labour Party) and Democrats 66 (*Democraten 66*, D66)<sup>148</sup> emerged, too. They called for greater democratic accountability, political transparency, and involvement of the citizen in the policy process. The New Left (*Nieuw Links*) – advocated a more idealistic policy and voiced quite revolutionary views:

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<sup>147</sup> Cees P. Middendorp, *Ontzuiling, Politisering en Restauratie in Nederland, Progressiviteit en Conservatisme in de Jaren 60 en 70*, (Amsterdam: Boom Meppel, 1979)

<sup>148</sup> Democrats 66 (Democraten 66 in Dutch) was a progressive, social-liberal and radical democratic political party formed in 1966 by a group of young intellectual led by journalist Hans van Mierlo. Lijphart stresses that the arrival of D66 on the Dutch political scene greatly contributed to the end of the pacification system, since D66 proved the most vocal political party against the pacification system and proposed a restructuring of the Dutch party system according "not to confessional-ideological basis" but to "pragmatic basis". See Lijphart, *Verzuiling, pacificatie en kentering in de nederlandse politiek*, (Amsterdam: Amsterdam University Press, 2007 10th edn.), 21.

“We want the Americans to leave Vietnam and to make small steps are made to end the Cold War, like for instance recognizing East Germany. We think that the fascist Portugal has nothing to do in NATO and Western countries have to dig deeper into their pockets and help poor countries. And as for the PvdA, we want to revitalise it.”<sup>149</sup>

Their increasing influence was evidence for the “politicisation” of Dutch politics. The authorities were not sacred institutions but could be mocked and contested. Dissent was boldly voiced by groups – the most influential was the PROVO<sup>150</sup>– who rejected social norms and advocated a more libertarian approach.<sup>151</sup> PROVO’s deliberately provocative actions aimed to shake up the system from inside and to introduce a new way of common living, where private property would be replaced by common property and concerns for a healthy environment would be top priorities.<sup>152</sup> They held up to ridicule Dutch authorities – the police and the Queen – and stood up against the assertive Dutch traditional way of living but always remained playful.<sup>153</sup> Over a span of only two years (1965-1967) the PROVO

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<sup>149</sup> Andre van der Louw, *Op de huid van de tijd: herinneringen*, (Amsterdam: Uitgeverij De Arbeiderspers, 2001), 56.

<sup>150</sup> The term was coined by the criminologist Buikhuizen to describe those in the younger generation who rejected social norms with the aim of provoking a reaction.

<sup>151</sup> In contrast with similar groups in Europe and America, the PROVO never turned angry or violent.

<sup>152</sup> For instance in April 1966 the PROVO launched the “White Dwellings Plan” in Amsterdam: PROVO wanted the Royal Palace to become the City Hall. It was the beginning of the squatters’ movement: according to the Plan anyone should be allowed to enter an empty house and live there.

<sup>153</sup> For instance in the first issue of their magazine “PROVO” in July 1965 the reader could learn how to prepare home-made dynamite and other explosives. The PROVO movement was unique among the social upheavals in the 1960s. It had not the “flavour for the violence, anger and conflict that drove events and popular perceptions of events, in 1968” (Jeremi Suri, *The Global Revolutions of 1968*, New York: Norton, 2007, xvii). PROVO’s actions were playful. They preached tolerance for deviant behaviours and by their actions called for broader personal freedom. See Marcel H. van Herpen, *Paris May '68 and PROVO Amsterdam '65: Trying to Understand Two Postmodern Youth Revolts*, (Maastricht: Cicero Working Paper WP 8-

movement disbanded. Still, in those few years it shook to the base a society hitherto marked by unquestioned conformity, winning public approval and leaving a legacy that lives on today.

A prescient political scientist, Robert W. Russell, wrote in 1969

Politicisation does not reduce internal divisions, but increases their salience at the expense of constancy in national policy. There is no difficulty in discerning that in the Dutch context an increased involvement by the masses in foreign policy will mean a tendency to move away from the US and NATO, possibly towards neutrality, but clearly toward a more favourable attitude toward the Soviet Union, more interest in disarmament and lessened military appropriations. The real uncertainty in the future of Dutch foreign policy concerns the magnitude of the change to be expected, not the direction in which it will go.<sup>154</sup>

How the change in society reverberated across Dutch party politics is the next stage of the present analysis.

### **Change in Dutch politics: 1966, a time of polarisation**

There is one episode which is quite emblematic of the new phase underway. In 1966 the parliamentary group leader of the Catholic People's Party (*Katholieke Volkspartij*, KVP) Norbert Schmelzer, proposed a motion of no confidence against the Cabinet led by KVP party member, Jo Cals. It was the first time that a KVP member advanced a motion of no confidence against the leadership of a member of his own party. "Schmelzer's night" marked the beginning of the period of polarisation in Dutch politics and of

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01, 2008), p. 10. See also Jeremi Suri, *Power and Protest: Global Revolution and the Rise of Détente* (Cambridge, Mass.: Harvard University Press, 2003)

<sup>154</sup> *The Foreign Policy of the Netherlands*, Jan Hendrik Leuridijk, (ed.), (Alphen aan den Rijn: Sijthoff & Noordhoff, 1978),184.

radicalisation in the PvdA. Members of KVP and ARP left their parties and founded the new Radical Party (*Politike Partij Radikale*, PPR). In the early 1970s PPR, D'66 and PvdA formed a progressive group, the “progressive three”, and presented themselves as markedly different from the other political forces, asking for direct election of the Prime Minister and setting conditions for their participation to the government.

The political balance shifted not only between the parties but also inside them. In the PvdA a new generation of young socialists endeavoured to renew the party from inside. This reformist group named itself *Nieuw Links* (New Left). Its leader was André Van der Louw, a 33-years old son of a milkman, a self-professed school dropout, and head press-editor of the broadcasting association VARA<sup>155</sup>. His walrus moustache, spontaneous demeanour, and straightforward way of talking made him a powerful representative of a new generation of young and idealistic Dutch politicians who were born at the time of Hitler's ascent to power and had experienced the hardship of war.<sup>156</sup>

A call for a new political line was voiced at the Rotterdam PvdA Congress in November 1966 in the ten points listed in the booklet “Tien over rood”<sup>157</sup> that André van der Louw, his VARA colleague Jan Nagel,<sup>158</sup> the young economist Hans van den Doel, the

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<sup>155</sup> VARA (*Verenigde Arbeiders Radio Amateurs*, Association of Workers Radio Amateurs) was a socialist broadcasting company with a left-wing background.

<sup>156</sup> The members of the PvdA were on average a decade older than the founders of *Nieuw Links*

<sup>157</sup> To be translated literally as “ten over red”. The name was an idea of Tom Pauka. It had nothing to do with politics: it was an expression in use in the game of pool.

<sup>158</sup> 27-years old Nagel was in 1965 head editor of the social-democrat newspaper “Het vrije volk” and a young, “angry” and “naughty” PvdA member who used to sparkle up the fairly “boring” PvdA congresses. So he was described by van der Louw in his memoirs. He was concerned by the decreasing influence of PvdA on

journalist Han Lammers, the documentary maker Tom Paulka and the editor Rob van Gennep had jotted down on a weekend, right before the Rotterdam Congress.<sup>159</sup> Their purpose was to replace the old guidelines that the *Nieuw Links* founders dismissed as either unclear or conservative and to provide the PvdA with alternative ones. At the time the debate did not reverberate much on Dutch diplomacy: one has to wait the inauguration of the first link-oriented Dutch Cabinet, on 11 March 1973, to see its effects within the PvdA. At that point what had been a heated debate within one of the major Dutch political party became an issue of Dutch official foreign policy. Until that date, the impact of *Nieuw Links* was nevertheless meaningful, as it forced Dutch political forces to engage in an open debate about a sacred cow of Dutch policy: NATO and Dutch identity as a staunch American ally. Two out of the ten points were about foreign policy.<sup>160</sup> *Nieuw Links* advocated the unconditional

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Dutch policy (the number of PvdA seat dropped from 50 seats in the Tweede Kamer in 1956, to 43 in 1963, and 35 in 1966) and called for more young people in the party. He was the author of "Ha die PvdA", from which the term *Nieuw Links* came: "Nieuw Links" was the name of the last chapter of the book.

<sup>159</sup> The booklet had to come out in three days, in order to be ready for debate at the extraordinary PvdA congress on 11 November. The group worked the whole weekend together so to send it into press on 7 November, a Monday.

<sup>160</sup> The other eight points read as follows:

- 1) "PvdA will not take part in the government, unless it is guaranteed that the development aid in 1970 will amount to 2% of the national income"
- 2) "Every elected representative of the people has to be made accountable to the public" This point stemmed from the irritation of Han Lammers and Arie van der Zwan. They accused the government stronghold to be a closed area. At the time politicians used to meet up and discuss matters not in public. *Nieuw Links* wanted instead to open up the political space not through law, but through the direct involvement of the press.
- 3) "The parliament must be in the position to hold unlimited public hearings with those who, according to the Parliament's view, can provide useful information"
- 4) "Any PvdA electoral platform has to contain a minimum programme. In case that minimum is not carried out, PvdA will not take part to the government coalition"



recognition of the East Germany and of the Vietcong, and urged the PvdA to take the initiative in a European conference on Security with the countries of the Warsaw Pact. Second, had Spain become a NATO member and had Portugal remained member by a fateful revision of the treaty, the Netherlands would have to leave the Alliance.<sup>161</sup> The underlying message stroke a blow to PvdA: its policy was outdated and passive to the USA. Transatlantic loyalty was not to be coterminous with uncritical assent to USA policy.

Eventually, “Tien over Rood” was rejected by 1300 votes against 1813 at the Rotterdam congress but that did not diminish its overall impact. In 1966 the debate on PvdA stance towards East Germany and NATO was a political powder keg. Internal frictions were inevitable. One episode is quite telling of the tension within the PvdA. When future prime minister and at that time Minister of Economy Joop den Uyl met the founders of *Nieuw Links* he looked down on a group composed solely of journalists and scientists, a bunch of *amateurs* to the eyes of a well-experienced career politician who called them “anti-institutional, anti-historical, and anti-establishment”.<sup>162</sup> Still, he kept his self-control. This was not the case of the passionate and less diplomatic van der Zwan. He could not

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5) “The Netherlands should become a republic as soon as the reign of Queen Juliana ends”

6) “Taxes, inheritances and bequests have to be progressive and amount to 99% above 100,000 guilden”

7) “PvdA has to design an income policy that will significantly reduce the disparity between high and low incomes”

8) “Company workers must have direct influence over the company's management”

<sup>161</sup> André van der Louw, *De Razendsnelle Opmars van Nieuw Links*, (Den Haag: Conserve, 2005), 215-225.

<sup>162</sup> van der Louw, *De Razendsnelle Opmars van Nieuw Links*, 29.

help himself from expressing his blunt view on den Uyl and flew into a temper: “Go to hell! Damn it, what are you doing here?”<sup>163</sup>

That said, *Nieuw Links* neither brought about a dramatic change in Dutch policy nor destabilised the PvdA.<sup>164</sup> Van der Louw and his companions brought to the surface the internal rifts simmering within the party and triggered off an internal reshuffling that culminated with the appointment of van der Louw to PvdA president in 1969. Still, they did not aim at disrupting the PvdA and despite the rocky start, *Nieuw Links* eventually assimilated. Its members were not wild subversive elements: “they defended themselves well, did not speak as extreme dissidents, did not look for division but rather spoke as people pursuing political renewal with constructive ideas”.<sup>165</sup> They were idealists, to be criticised for their lack of sense of reality but not for their will to destabilise society.<sup>166</sup>

Ultimately, *Nieuw Links* had the merit of turning the spotlights on four main issues of foreign policy – the recognition of East Germany, NATO membership, transatlantic relations and ultimately the meaning of *détente* – that all boiled down to the overall theme of security and stability in Europe. These debates are essential to understand the reasons for Dutch participation in the CSCE. NATO membership and defence policy in general were highly controversial and must be briefly examined in order to grasp the political ferment agitating the country when the MPT started in Dipoli and the Dutch delegation reluctantly joined in.

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<sup>163</sup> van der Louw, *De Razendsnelle Opmars van Nieuw Links*, 29.

<sup>164</sup> van der Louw, *De Razendsnelle Opmars van Nieuw Links*, 254.

<sup>165</sup> *Nieuwe Rotterdamse Courant* (Rotterdam), November 14, 1966. It referred to Lammers and van den Doel. Quoted in *De Razendsnelle Opmars van Nieuw Links*, 27.

<sup>166</sup> *De Tijd*, (Amsterdam), November 14, 1966. Quoted in *De Razendsnelle Opmars van Nieuw Links*, 27.

## NATO: a delicate issue on the Dutch foreign policy agenda

*Nieuw Links* urged the PvdA to rethink security. A more critical appraisal of the USA came from public opinion as well. Setting the scene for the emergence of the issue of human rights advocacy in foreign policy requires a closer analysis of this domestic shift. The hitherto unquestioned NATO partnership was challenged. In May 1966 for the first time, the PvdA expressed open criticism of the USA. The party executive committee sent a letter to the American ambassador to the Netherlands, William Royal Tyler, voicing Dutch public opinion's alarm for the ongoing prolonged Vietnam War.<sup>167</sup>

NATO membership and transatlantic loyalty could not imply unconditional alignment. In 1969 – 20 years after its ratification – the Atlantic Pact could be revised. *Nieuw Links* intended to seize this opportunity to advance its views. The future of Dutch NATO membership was then discussed in the PvdA in *ad hoc* committee that produced a report, "Politics for peace"<sup>168</sup>, published in February 1967. The committee pointed out that NATO was essential to European stability and therefore the Netherlands was not to opt out. However, the Alliance had to change its stance on the German question: the *de facto* existence of East Germany and of the Oder-Neisse line had to be recognised. Overall criticism against NATO did not bring about a political U-turn, since the majority of party members wanted the country to remain in the Alliance as long as a European defence system was not set up. The party was split: Franssen Lammers, the

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<sup>167</sup> Not the whole party agreed with the new political and social tide. Secretary of Foreign Affairs van der Beugel criticised the letter and claimed that it was aimed at gaining votes at the domestic level.

<sup>168</sup> *Een Politiek voor Vrede*, (A Policy for Peace), (Amsterdam: Arbeiderspers, 1967)

only New Left member in the *ad hoc* committee, harshly criticised NATO and argued in favour of opting out. His passionate speech was acclaimed with a standing ovation.<sup>169</sup> However, the majority of the PvdA took a more moderate stance. The debate lingered on and in August 1971, a committee of military and civil experts ( Van Rijckevorsel committee) was set up by the Biesheuvel Cabinet with the purpose of advising the Prime minister and the Minister of Defence over the role of the Netherlands within NATO. Its report “The Future of the Dutch Defense Effort” – published on 27 March 1972 – concluded unsurprisingly that the Netherlands was not in the position to impose on NATO its own strategic conceptions. Besides, deviating from NATO guidelines would be like “pulling out a little stone from a building – already very laboriously put together – which should not definitely be undermined from within”.<sup>170</sup>

The call for a more independent course from US policy and from NATO was also part of a broader ongoing debate on cuts in defence expenditures and was in line with the widespread call for austerity measures in defence. A cut in expenditures was needed. PvdA was particularly active in this debate: defence expenditures had come under scrutiny in the plans “Effective defence policy” in 1968 and “Effective defence policy II” in December 1971. The two socialist plans for defence placed a strong emphasis on cheaper defence effort and advocated integration of the military forces at a

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<sup>169</sup> Franciscus Ambrosius Zuijdam, *Tussen Wens en Werkelijkheid: het Debat over Vrede en Veiligheid binnen de PvdA in de Periode 1958-1977*, (Amsterdam: Aksant, 2001), 217, 230.

<sup>170</sup>*De Toekomst van de Nederlandse Defensie: Bevindingen en Aanbevelingen van de Commissie van Civiele en Militaire Deskundigen*, (The Future of the Dutch Defence Effort: Findings and Recommendations of the Committee of Civil and Military Experts) ('s-Gravenhage: Staatsuitgeverij, 1972), p. 4. For a detailed analysis, see Jan Willem Honig, *Defence policy in the North Atlantic Alliance: the Case of the Netherlands*, (Westport: Greenwood, 1993), 102-106.

national level. The second plan laid particular emphasis on the need to curb defence expenditures. The president of the Committee, Bram Stemerding, proposed a number of short-term austerity measures and outlined a grand strategy for greater long-term economies by means of a new "distribution of tasks" in Europe.<sup>171</sup> In short, the Dutch contribution to NATO defence expenditure could stand only if it was reassessed and possibly reduced. The plans – especially that put forward by Stemerding<sup>172</sup>– lacked clear indications as for the means to carry out the proposed cuts and achieve rationalisation. Still, the message was clear and echoed the one launched by *Nieuw Links* some years before: the Netherlands – and a socialist Netherlands all the more so – was not willing to adhere unconditionally to NATO. The idealist stance from *Nieuw Links* coupled well with a pragmatic call for austerity.

The impact of *Nieuw Links* and the influence of polarisation were all the more evident in the discussion on defence policy at the PvdA congress in October 1972. A large majority (6,600 versus 4,200) voted for setting a number of conditions to Dutch membership: removal of all tactical nuclear weapons from Dutch soil, issuance of a NATO "no first use" declaration, and ban of the Greek and Portuguese dictatorships from the Alliance. The PvdA old guard panicked. Party leader Den Uyl threatened to resign and thought about presenting a separate list with Hans van Mierlo (D'66) forming a coalition with D'66. At that point, the internal fracture between the party executive – where members of the New Left were active, like van der Louw and Ter Beek –, and the PvdA Parliamentary Group –

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<sup>171</sup> He was part of a new generation of foreign and security policy specialists like Piet Dankert, Harry van den Bergh, and Klaas de Vries.

<sup>172</sup> Honig, *Defense policy*, 156.

to which den Uyl, van der Stoel and Dankert belonged – was evident.<sup>173</sup> On the second day of the congress, the proposals were watered down and the conditions advanced the previous day were converted into requests. Saving money was again the primary concern: defence expenditures had to be less than 3 % of the national income by 1978, the nuclear arsenal had not to be expanded and Dutch nuclear tasks had to be reduced to zero.<sup>174</sup> The two alliances were ultimately to be transformed into a European security system guaranteed by the two superpowers. Burdened by the internal divisions fracturing the party, PvdA got into power at the general elections of November 1972.

### ***Keerpunt 1972 and den Uyl Cabinet***

“The fall of the Biesheuvel Cabinet<sup>175</sup>...marks the end of an era... it is the signal that the rising tide of democratisation, the breaking-through of existing power relationships, cannot be reversed anymore.”<sup>176</sup>

The fall of the first Biesheuvel cabinet (6 July 1971 - 9 August 1972) was regarded as a sign of the changing times: the crisis of confessional politics seemed to have reached its final stage and a truly socialist society was likely to come in. The “progressive” three successfully adopted a strategy of polarisation, aimed at forcing

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<sup>173</sup> Zuijdam argues that there were three groups: the Parliamentary Group, under the guide of Van Thijn, the Party executive under the guide of van der Louw and the politicians in the Cabinet under the guidance of den Uyl. See Zuijdam, *Tussen Wens en Werkelijkheid*.

<sup>174</sup> Hans Smits, *De Boom in de Vuist*, (Amsterdam: Raamgracht, 1984), 110-113.

<sup>175</sup> The Cabinet Biesheuvel I governed from 6 July 1971 to 9 August 1972. A Cabinet Biesheuvel II, a minority cabinet, followed from 9 August 1972 to 11 May 1973.

<sup>176</sup> *Keerpunt 1972, Regeerakkoord van de progressieve drie PvdA, D'66, PPR* (“Turning Point 1972, Coalition Agreement between the Progressive Three”, PvdA, D'66, PPR), (Amsterdam 1972), 4.

voters to choose between conservatives and progressives. To please *Nieuw Links* and take advantage of the changed political situation, the three political forces adopted a common political platform for the incoming general election of November 1972, and stated with whom and on which terms they would form a coalition. In November 1972, as the Multilateral Preparatory Talks (MPT) started in Dipoli, PvdA, D'66 and PPR presented "Turning Point" (*Keerpunt*), a political platform designed to be the foundation of the cabinet if they gained the majority. The programme aimed at inaugurating a "structural change in foreign policy and in the economic system"<sup>177</sup>: had the progressive three gained power, they would have worked to reduce the discrepancy between poor and rich countries, end the nuclear race, carry out a policy of active *détente* politics and make the Netherlands a nuclear-free country.

The Netherlands' NATO membership was questioned for the first time on a government platform.<sup>178</sup> Given its extreme views, "Turning point" was not unanimously welcomed in the coalition. For instance, the PvdA member of the *Tweede Kamer*<sup>179</sup> Max Van der Stoel and the minister of defence Vredeling did not align with the coalition platform. For Van der Stoel in particular the chapter on "Peace and Security" was hard to stomach, and he was not alone. The views of the progressive three on atomic weapons on Dutch soil, no-first-use policy and Dutch NATO membership diverged.

These divergences and the heated debates mentioned above bear witness to the need to update political agendas that was felt

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<sup>177</sup> *De Nederlandse buitenlandse politiek in de twintigste eeuw*, eds. Bob de Graff, Duco Hellema, Bert van der Zwan, (Amsterdam: Boom, 2003), 270.

<sup>178</sup> *De Nederlandse buitenlandse politiek in de twintigste eeuw*, 270.

<sup>179</sup> The Dutch equivalent to the House of Commons in the UK and the Bundestag in Germany.

throughout the Dutch left and centre-left. It was not about accommodating domestic constituencies. Rather, it was about coming to terms with a powerful call for alternative programmes *within* the party system, a call coming most vocally by *Nieuw Links*. On the left side of the spectrum, being receptive to the rising call for change did not seem to be an option any longer.

Therefore, while analysing the rise to power of the PvdA, it must be kept in mind that the Dutch and the strong figure of Dutch foreign policy, Max van der Stoep, were products of those times of transition.

The transition occurred rather smoothly within PvdA. For a start, after the elections on 29 November 1972, the edges of the programme were substantially cut to accommodate the different views emerging within the PvdA-led coalition, grouping together two left-wing parties (PPR and D'66) and two right-oriented ones (KVP and ARP).<sup>180</sup> On its agenda were normalisation in East-West relations, intensification of cultural and economic relations with Eastern Europe, recognition of East Germany, the settlement of the status of West Berlin according to the wishes of German population together with three international events were on the agenda: the conference on European security (CSE, then CSCE), the negotiations on Mutual and Balanced Force Reductions (MBFR), and the European economic and monetary union.

At this point, it is pertinent to pause and ponder the pre-CSCE scenario in the Netherlands. The purpose for the historical analysis of

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<sup>180</sup> PvdA Archives, file no. 334, PvdA Committee for Foreign Affairs, "Notes about our political stance in the current new political situation", 15 August 1972.



Dutch domestic policy developed so far has been to focus attention to two fundamental points.

First, an analysis of Dutch domestic events has made clear that when the idea of the CSCE and the implementation of EPC were tabled, the Netherlands was in the middle of a profound change and in search of a new internal balance. This profound change of domestic scene urged Dutch politicians to adjust, and to rethink their programmes. There was possibly room for human rights on the political agenda.

Second, the major debate involving both the party system and public opinion at large revolved around NATO, the concept of security, and in particular military security. Defence policy was at the centre of heated discussions in the run-up to the Helsinki conference. When van der Stoep was appointed Foreign Minister, he would bring up human rights and re-orient the Dutch political course.

Now that the political climate in The Hague and the priorities of its foreign policy have been outlined, it is time to clarify what the Dutch approach was to the EC, and to the EPC in particular.

### **Dutch motives for political integration**

“The motives for political integration are in fact mainly mythical – which does not deprive them of a certain driving force. But this force is soon spent when it clashes with the deeper and older myths and loyalties of the national states”<sup>181</sup>

The Dutch were suspicious of EPC for all kinds of good reasons. As an essentially intergovernmental idea, it clashed with the

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<sup>181</sup> J.L. Heldring, “Europe: a ‘Greater Holland’?”, *Internationale Spectator : Tijdschrift voor Internationale Politiek*, 8 April 1965, Vol. XIX, no. 7, 544

very fundamentals of the Dutch concept of European integration: supranationalism.

Supranationalism had been traditionally The Hague's first choice since the early days of the EC.<sup>182</sup> The Dutch regarded for instance with scepticism the first project of EPC proposed in art. 38 of the European Defence Community treaty signed in 1952. They were equally far from thrilled by the Fouchet plan, negotiated between 1960 and 1962 on proposals of the French president de Gaulle. In both cases the French intergovernmental imprint clashed with the Dutch idea of European integration. The Dutch were willing to embrace European integration insofar as it was "democratically" designed and developed by all member states.<sup>183</sup>

"A free-trading Europe under supranational institutions controlled by a parliament with real powers, a Europe with as large a membership as possible, a partner for the US not an independent political force in the world, but a functionalist association of modern democracies".<sup>184</sup>

So, when the EPC came about in the late 1960s, the natural reaction in The Hague was again looming fear that France would enhance its national influence: the EPC was welcome only provided that the French-inspired intergovernmental mechanism was mitigated by more supranationalism.<sup>185</sup> Two episodes are quite telling of the Dutch stance. At The Hague Summit in 1969, the Dutch government agreed to move further towards political unification only provided that it would go together with enlargement. The Hague

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<sup>182</sup> Voorhoeve, *Peace, Principles and Profits*, 161.

<sup>183</sup> See Jeffrey W. Vanke, "An Impossible Union: Dutch Objections to the Fouchet Plan, 1959-1962", *Cold War History*. Vol. 2, no. 1, 2001: 95-112.

<sup>184</sup> Voorhoeve, *Peace, Principles and Profits*, 173

<sup>185</sup> Anjo G. Harryvan, *In pursuit of influence. The Netherlands' European Policy during the Formative Years of the European Union, 1952-1973* (Brussels: Peter Lang, 2009), 209-210.

wanted to leave the way open to British membership, which was meant to counterbalance French dominance and prevent the creation of a Europe as a third force. When two years later, the last paragraph of the declaration of the Paris summit held in May 1971 foresaw that “the whole complex of the relations of member states would be transformed into a European Union” by 1980, disquiet spread again in The Hague, which feared being squeezed by the big EC members like France and West Germany. What emerges in all these cases is a consistent political plan: The Hague aimed for a Union based on democratic principles and supranationalism, where the European Parliament had a prominent role, and could prevent big States setting aside small member countries like the Netherlands.

A second good reason to dislike the EPC was NATO. An external political dimension of the EC could represent a threat to Atlantic unity.<sup>186</sup> The Netherlands did not want the EPC to enter into “subjects lying within NATO’s realm [that] should mainly be left to NATO consultations”.<sup>187</sup> For this very reason, the Dutch opposed a declaration on European identity that would sound in opposition to American identity. It is interesting to note that when the Nine stated in October 1972 that a European Union had to be formed by 1980, the Dutch Government appointed a commission to draft a report on what type of union the country should aim for. The commission led by former Ambassador Spierenburg produced its report in 1975. The report placed the monetary union – and not political union – at the core of the project of a European Union: the intention not to cause any

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<sup>186</sup> Harryvan, *In pursuit of influence*, 27.

<sup>187</sup> Voorhoeve, *Peace, Principles and Profits*, 178.

clash with NATO competencies was evident.<sup>188</sup> The same purpose lay at the heart of the concept spelled out in October 1973<sup>189</sup> by State Secretary Brinckhorst of Europe as a “civilian power”, which “will have an unmistakable identity of its own, but will remain linked to the nations on the other side of the North Atlantic”.<sup>190</sup> It cannot be ascertained whether Brinckhorst had read Duchene’s works in 1972 and 1973 where the English political and economic writer presented and developed his idea of “civilian power”.<sup>191</sup> In any case, it is interesting to note that the very concept of “civilian power” was introduced into public debate in the Netherlands right at the time when it was developed by path-breaking scholarship – and it remained equally fairly vague.<sup>192</sup> Brinckhorst pointed out that there was a close interrelation “between the extension of the community in

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<sup>188</sup> Netherlands Foreign Ministry, *Europese Unie: Rapport van de Adviescommissie Europese Unie* (European Union: Report of the Advisory Commission on European Union”) (The Hague: Staatsuitgeverij, 1975). Understandably, the Dutch government had clear misgivings about the proposals to postpone the monetary union presented in the Tindemans report and to speed up unity in foreign policies.

<sup>189</sup> *Jaarboek van het Department van Buitenlandse Zaken: overgelegd aan de Staten Generaal Ministerie van Buitenlandse Zaken 1973/74* (The Hague: Staatsuitgeverij, 1975), Appendix 2, p. 15 B. Scholarship can overtly influence the way we look at and grapple with history. The expression “civilian power” is traditionally attributed to the French political and economic writer Francois Duchene, but it was used also soon after by the far less famous State Secretary Brinckhorst, a politician whom few may have heard of. The State Secretary Brinckhorst stated that the Netherlands aimed for a “civilian power” during a speech held for the opening of the VIII international course in European Integration at the University of Amsterdam.

<sup>190</sup> L.J. Brinckhorst, “European Integration in the Seventies”, Netherlands Foreign Ministry, *Jaarboek 1973-74* (The Hague: Staatsuitgeverij, 1974), annex 2, p. 15 B. See also L.J. Brinckhorst, *Hand. II 1973/74* pp. 1334-5; 6 N.Y.I.L. (1975) p. 267-8. For a detailed analysis of the debate on the EC as a civilian power see H. F. van Panhuys, *International law in the Netherlands* (The Hague: Sijthoff & Noorhoff, Oceana, 1979), vol 2, 143-157.

<sup>191</sup> François Duchêne, “Europe’s role in world peace”, in Richard Mayne (ed.), *Europe Tomorrow: Sixteen European look ahead* (London: Fontana, 1972); François Duchêne, ‘The European Community and the Uncertainties of Interdependence’, in Max Kohnstamm and Wolfgang Hager (eds.), *A Nation Writ Large? Foreign-Policy Problems before the European Community* (London: Macmillan, 1973).

<sup>192</sup> Jan Orbie, “Civilian Power Europe: review of the Original and Current Debates”, *Cooperation and Conflict*, March 2006 41: 123.

the direction of EU and the expansion of the EP's powers".<sup>193</sup> If some sort of European foreign policy was to be developed, it could neither clash with NATO membership nor drift towards intergovernmentalism.

More generally, the newly elected Den Uyl Cabinet took a "positive and critical" attitude to European integration.<sup>194</sup> *Nieuw Links* and the new political forces brewing in the Dutch leading party regarded the EC as a capitalist project: they aimed for a "socialist Europe" and basically wanted foreign policy to remain a domestic domain especially in a time of economic uncertainty and political turmoil. As a consequence, since 1973 the Den Uyl Cabinet, stressed the material factors of integration – such as a reasonable distribution of wealth and care for the common good – above all the rest.<sup>195</sup>

That said, the idea of a European identity and the project for a revamped EPC were not bound to meet Dutch favour. As Norbert Schmelzer, Foreign Minister in the Cabinet Biesheuvel I and II stated at the EP on 15 November 1972

"It is precisely in the field of foreign policy that the history of our countries and their individual interests play a large role, both with respect to the fundamental questions and to the type of approach [...] as our interests grow closer together, so should political cooperation accordingly increase."<sup>196</sup>

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<sup>193</sup> "Debates of the European Parliament", O.I. Annex No. 166, p. 33, quoted in van Panhuys, 147

<sup>194</sup> See Jan Willem Brouwer, Anjo G. Harrivan, Jan van der Harst, *De consensus verloren; opkomst en neergang van het Europa-idealisme in de Nederlandse politiek, 1945-2010* (Amsterdam: Boom Uitgeverij, to be published in Spring 2012)

<sup>195</sup> Van Panhuys, *International law in the Netherlands*, 143, 151.

<sup>196</sup> Quoted in Panhuys,, *International law in the Netherlands* p. 142, O.J., Annex No. 155 (November 1972), 90-91.

Against this backdrop, the new foreign minister of the Den Uyl cabinet, Max van der Stoel, took up the task to pursue a “quiet diplomacy” for human rights.<sup>197</sup>

### **Transition at the Ministry of Foreign Affairs: from Schmelzer to van der Stoel**

The “human rights” issue was not new: at the time human rights were under the lens of public opinion and of the leftist part of the PvdA, and therefore played an important role in domestic debate. However, their place on the foreign political agenda was still to be defined. Foreign Minister Max van der Stoel put human rights clearly at the forefront of political debates and in developing a comprehensive and bold human rights policy. His views on NATO and détente are the essential starting points to understand the underpinnings of the Dutch stance at Helsinki and assess how it developed over a three-year long negotiating process. To this purpose, it is necessary to point out first the significance of the appointment of van der Stoel and his role in revamping Dutch foreign policy.

The Vietnam War and the break up of the Bretton Woods monetary system ushered in a policy change, spurred a more critical position regarding the US and prompted a foreign policy more independent from NATO.<sup>198</sup> Van der Stoel’s predecessor, Norbert

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<sup>197</sup> Max van der Stoel, “De plaats van de mensenrechten in het Nederlandse buitenlandse beleid”, *Internationale Spectator*, vol. XXXI, no.7, 444.

<sup>198</sup> Jan van der Harst, “The Netherlands, the Cold War and the Gaullist Change”, in N. Piers Ludlow, *European Integration and the Cold War: Ostpolitik-Westpolitik, 1965-1973*, Cold War History Series, (New York: Routledge, 2007), 133-135.

Schmelzer, played a transitional role in Dutch rapprochement to the East.

A conspicuous sign of a new foreign policy was Dutch support for PRC admission in the UN at the place of Nationalist China.<sup>199</sup> The Netherlands had hitherto always aligned with American policy, and Foreign Minister Joseph Luns had plainly accommodated the US stance against the candidature of the communist country. With a significant turnaround at the UN General Assembly, Schmelzer abstained from voting on the procedural motion to classify expulsion of Taiwan as an important matter. The motion was rejected.<sup>200</sup> By this token, once the expulsion of Taiwan did not fall under the category of “important matters”, the five permanent members of the Security Council could not exert their veto power to shield Taiwan. The road was clear for PRC admission to the UN on October 25, 1971.<sup>201</sup>

At the beginning of 1973, the call for a change in foreign policy was unanimous: the contentious issue was rather the degree of change. The Biesheuvel cabinet condemned the Christmas bombing in December 1972, and recognised both East Germany on 22 December 1972 and North Vietnam on 9 April 1973.<sup>202</sup> A substantial turnaround was still to come: within the coalition led by PvdA, *Nieuw Links* leader and PvdA president van der Louw pressed for a revamped foreign policy more open to the East and more

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<sup>199</sup> The Americans had consistently stonewalled with moratorium resolutions and with resolutions that listed the Chinese question as an “important matter”, thus requiring a two-thirds majority to pass.

<sup>200</sup> A two-thirds majority was required to pass the motion.

<sup>201</sup> Norbert Schmelzer, *Herinneringen van een politieke dier*, (Amsterdam:Balance, 2004), 109-111.

<sup>202</sup> Alfred van Staden, *Een trouwe bondgenoot: Nederland en het Atlantisch Bondgenootschap (1960-1971)*, (Baarn: In den Toren, 1974).

independent from NATO guidelines. Since the mid-1960s the presence of dictatorships as members of the Alliance had been a cause of disagreement both on the right and on the left and sparked heated debates both in the “progressive three” as well as within the PvdA, which had simply postponed taking a position on the issue of Dutch membership.

The appointment of the new Foreign Minister was thus regarded as a litmus test for the new course in foreign policy. Nieuw Links demanded a radical shake-up in foreign policy and did not welcome van der Stoel’s nomination for Foreign Minister on 11 May 1973, as he belonged to the PvdA old guard. Amid the controversies, van der Stoel had to steer a middle course between the different PvdA groups. He addressed three issues during his time at the helm of the Dutch ministry of foreign affairs: NATO policy, transatlantic loyalty, and European integration. It is time now to turn to the place of human rights on his agenda and the purpose and scope of his human rights policy at the CSCE.

### **Van der Stoel: pragmatism and ideals**

“The foreign minister is unquestionably the dominating figure in the field of Dutch external relations. Members of Parliament often complain of their lack of influence in that field and show signs of frustration when confronted with their powerlessness.”<sup>203</sup>

In setting his political goals, Van der Stoel enjoyed a fair degree of independence: foreign ministers are important and independent figures in Dutch policy. He used his room for

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<sup>203</sup> *The Foreign Policy of the Netherlands*, ed. J.H. Leurlijk (Alphen aan den Rijn: Sijthoff & Noordhoff, 1978), 10.



manoeuvre to promote human rights, and focused in particular on minority rights. Van der Stoel's perception of the issue of human rights was unquestionably influenced by, the Nazi occupation, the atrocities witnessed or experienced indirectly during WWII, and the hardships of post-War recovery.

“My moral code was shaped by my boyhood experience during the Nazi occupation of the Netherlands. The barbarity that I witnessed as a young man left the deep impression on me that it is worthwhile to fight for human rights. So too did my visits to Czechoslovakia in 1947 and 1948 when I experienced the undermining and finally the destruction of the democratic system in that country by the forces of communism”<sup>204</sup>

After a degree in law from Leiden University, van der Stoel entered active politics in 1963 and became international secretary of the PvdA. In 1965-66 he was appointed Secretary of State for Foreign Affairs in the Cals Cabinet<sup>205</sup> (April 1965-November 1966) and between 1967 and 1973, he was member of the Lower Chamber. As member of the Council of Europe and as Dutch representative at NATO he urged Foreign Minister Luns to stand against Portuguese and Greek dictatorships and raised critics against Luns' pro-American stance on the Vietnam War: he proposed motions demanding the end to American bombing of Vietnam without warning and calling for peace talks without preconditions between all parties. Yet, he was neither anti-American nor pro-Vietcong and did not agree with the *Nieuw Links* programme.<sup>206</sup> He did not support

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<sup>204</sup> Max van der Stoel, “Pragmatism and Principle: Twenty-five years after the Helsinki Process”, <http://www.core-hamburg.de/documents/yearbook/english/00/Stoel.pdf>, online publication of the Centre for OSCE research (accessed 1 June 2010).

<sup>205</sup> Jo Cals was a member of the KVP. He was Prime Minister in a coalition formed by KVP, PvdA and ARP.

<sup>206</sup> van der Stoel, “Pragmatism and Principle”, 25.

unilateral recognition of East Germany and was an active supporter of Brandt's *Ostpolitik*.<sup>207</sup> Once appointed foreign minister, three main items lay on his desk – NATO, transatlantic loyalty, EC– and a major debate fractured PvdA – the surge of Nieuw Links .

His complex figure has been analysed in sparse publications that have focused on different aspects of his foreign policy.<sup>208</sup> Despite different scopes, they all show a common denominator: van der Stoel's foreign policy was a – more or less fairly – balanced combination of idealism and realism. The amount of idealism and realism is still a matter of scholarly debate in the literature, and this interpretative debate is far from definitely settled. The earliest interpretation of van der Stoel's policy hinges upon the three traditions of Dutch foreign policy (maritime-commercial, neutralist-abstentionist, internationalist-idealist tradition) and categorizes Van der Stoel's foreign policy as a balanced blend of the three. Most recent interpretations – developed on the base of newly released sources, and therefore necessarily more scientifically appealing –

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<sup>207</sup> Duco Hellema, Bert Zeeman, Bert Ven der Zwan, *De Nederlandse ministers van Buitelandse Zaken in de twintigste eeuw*, ed. (The Hague: Sdu Uitgevers, 1999), p. 245-6.

<sup>208</sup> A biographical article by L. Casteleijn and M. Krop, "Rechtlijnig en tegendraads: Max van der Stoel, Nieuw Links en de buitenlandse politiek van de Parij van de Arbeid" in *Vas Toelstra tot Den Uyl. Het vijftiende jaarboek voor het democratisch socialisme*, eds. Frans Becker and others, (Amsterdam: Uitgeverij De Arbeiderspers en Wiardi Beckman Stichting, 1994), 270-315. On van der Stoel's foreign policy on the Third World, see Malcontent, *Op kruistocht in de Derde Wereld*. On van der Stoel's policy on the Middle East: Robert Benjamin Soetendorp, *Pragmatisch of principieel? Het Nederladse beleid ten aanzien an het Arabisch-Israelisch conflict*, (Leiden: Martinus Nijhoff, 1983) and Fred Gruenfeld, *Nederland en het Nabije Oosten. De Nederlandse rol in de internationale politiek ten aanzien van het Arabisch-Israelisch conflict 1973-1982*, (Deventer: Kluwer, 1991). On van der Stoel's role during the oil crisis, see Duco Hellema, Cees Wiebes, Toy Witte, *Doelwit Rotterdam - Nederland en de oliecrisis 1973-1974*, (Den Haag: Sdu Uitgevers, 1998), Stephan de Boer, *Van Sharpeville tot Soweto. Nederlands regeringsbeleid ten aanzien van apartheid, 1960-1977*, (Den Haag: Sdu Uitgevers, 1999). On van der Stoel's CSCE policy, see Bomert, *Nederland en Oost Europa*

depict him as less of an idealist, and more as a staunch American partner.<sup>209</sup>

Scholarly debates notwithstanding, van der Stoel is a key-figure in any analysis of the Dutch human rights agenda and CSCE policy. He is equally crucial to an understanding of how The Hague came to first accept and then fully endorse the idea of EPC.<sup>210</sup> A closer analysis of his role and stand within the Den Uyl cabinet is therefore essential.

As already mentioned, Minister van der Stoel enjoyed a significant degree of political freedom within the Cabinet thanks to his very good relationship with Prime Minister den Uyl as well with his two Secretaries of State, L.J. Brinkhorst (D66) – Secretary of State for European integration – and P.H. Kooijmans (ARP) – Secretary of State for disarmament –. However, these favourable circumstances notwithstanding, he was not immune to criticism. As Kooijmans recalls

“The right wing accused him of sometimes taking insufficient account of the importance of strategic dominance by the West, while the left claimed he attached excessive importance to that dominance, while

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<sup>209</sup> *De Nederlandse ministers van Buitenlandse Zaken in de twintigste eeuw*, Duco Hellema, Bert Zeeman, Bert van der Zwan, (eds.), (The Hague, Sdu Uitgeverij, 1999), 254. However, it has to be pointed out that this is based mainly on the assessment of the oil crisis, Hellema, Cees Wiebes, Toy Witte, *Doelwit Rotterdam*, 266.

<sup>210</sup> Malcontent, *Op Kruistocht in de Derde Wereld*, p. 158. Still, his policy did not boil down exclusively to lofty ideals. Idealism did not play a significant role in his support for the Ceausescu regime in Romania. The Romanian leader had taken an independent course from Moscow, but supporting him implied turning a blind eye on his infringements of human rights. Similarly, van der Stoel did not shy away from providing Suharto's regime in Indonesia with Dutch corvettes, right after the invasion of East Timor.

underestimating the necessity of rapprochement with the Soviet Bloc and arms reduction".<sup>211</sup>

As emphasised in the introduction, Dutch human rights policy in the 1970s must be analysed taking into account the social and political transition in the country. The profound change of Dutch society has already been highlighted. Against this background, how could van der Stoel develop a politically viable human rights policy? The very first obstacle was within his party. With *Nieuw Links* there was a mutual, instant dislike:

"Nieuw Links is basically an anti-democratic movement: democratic socialism has to break with it [...]. It has turned socialism in the Netherlands into a heap of rubbish. Do we really want to save [Dutch socialism]? Then we have to split with Nieuw Links, right now".<sup>212</sup>

On NATO and transatlantic partnership especially, there was no workable compromise at hand.

As for NATO, contrary to *Nieuw Links*, van der Stoel advocated a policy of *détente within* the Alliance, as already exemplified in 1967 in "Een politiek voor vrede", the report drafted by a study group headed by van der Stoel between February and September 1967. He called it an "active policy of *détente*".

"The Netherlands has to remain a member of the NATO as long as no alternative for a peaceful and free Europe emerges. As this alternative does not exist, NATO membership is necessary. East-west dialogue is necessary to foster *détente*, but it will take years before the *détente*-dialogue leads to the replacement of the existence of a system of alliance through a new security system for the

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<sup>211</sup> Peter Kooijmans, "Obituary: Max van der Stoel", 2. See also Walter Kemp "Talking to a sphinx: interview with Max van der Stoel", *Security and Human Rights*, vol. 18, no. 1, (2007)

<sup>212</sup> Letter from van der Stoel to Den Uyl, 28 September 1969, Archive J.M. den Uykm IISG Amsterdam, quoted in *Van Toelstra tot den Uyl*, 281.

whole continent and able to provide security and independence to the whole continent.”<sup>213</sup>

The Netherlands had to use NATO membership to promote active *détente* aimed in a first stage at the creation of a security system under the guarantee of the two superpowers that would preserve the freedom and independence of all European states.<sup>214</sup> NATO and the Warsaw Pact (WP) would eventually fade away and Europe would be free of tactical and nuclear weapons.<sup>215</sup> A new defence system was thus a step towards a weapon-free Europe:

“The historical process whereby the nuclear weapons were put in the background and superseded is to be compared with the process whereby a wound heals: the last piece to go away is the scab. This happens only when a completely new skin has grown underneath. The best way to get rid of the scab is not to scratch it away beforehand but to help new skin-layer to grow”<sup>216</sup>

These statements should be regarded as an extreme effort to strike a compromise with the leftist parts of the PvdA and assuage the more radical component of Dutch public opinion.<sup>217</sup> Indeed, his vision in the 1970s did not change from the views expressed in “Een politiek voor vrede”.<sup>218</sup> It was NATO which could guarantee democratic values and stability in Europe. Remaining in NATO provided a small state like the Netherlands with more room for

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<sup>213</sup> PvdA Archives, Tweede Kamer, file no. 334, PvdA Committee for Foreign Affairs, “Max van der Stoel’s reply to the memo on Active Peace Politics by Voortmaans”, 19 May 1972.

<sup>214</sup> Smith, *De Boom in de Vuist*, 03-118.

<sup>215</sup> PvdA Archives, file no. 334, Tweede Kamer, PvdA Committee for Foreign Affairs, “Proposal on foreign policy, by Max van der Stoel”, 23 August 1972.

<sup>216</sup> PvdA Archives, file no. 335, Tweede Kamer, PvdA Committee for Foreign Affairs, loose excerpt.

<sup>217</sup> Duco Hellema, *De Buitenlandse Politiek van Nederland*, p. 258.

<sup>218</sup> Max van der Stoel, “Griekenland, Portugal en de NATO”, *Socialisme & Democratie*, Vol 1., (January 1971), 50-54.

manoeuvre to voice its concerns and exert pressure on undemocratic members: “[if we leave NATO], we lose the chance to use the unanimity rule to prevent uncalled for developments in NATO, like the entrance of Spain”.<sup>219</sup> At the NATO Council in June 1973, as freshly appointed Foreign Minister, van der Stoel voiced his concern over the breach of democratic values in some NATO countries. He did not openly mention Greece and Portugal, yet it was crystal clear that those were the countries under scrutiny.<sup>220</sup> Van der Stoel mentioned a second reason for not leaving NATO, namely averting a Western European coalition of nuclear powers that would have left The Hague isolated and unsafe. Hypothetically, had The Hague dropped out, then “there would be a considerable chance that the British, the French and the Germans would constitute a European nuclear force”.<sup>221</sup>

As for transatlantic partnership, van der Stoel equally held a balanced stand. Indeed, a second feature of van der Stoel’s mandate that did not break with Dutch traditional foreign policy guidelines was loyalty to the White House, which inevitably led to frequent clashes with *Nieuw Links*. The hub of Dutch foreign policy remained unquestionably Washington while Brussels was mainly regarded as a useful economic project, whose tasks and purposes had not to overlap or – worse – to clash with NATO ones.

“We will have to resist the tendency... to see a United Europe as a potential superpower, provided with its own

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<sup>219</sup> Max van der Stoel, “Griekenland, Portugal en de NATO”, 53.

<sup>220</sup> It was the first time that the NATO Council distanced itself from the undemocratic member states of the Alliance. See Zuijdam, *Tussen Wens en Werkelijkheid*, 299.

<sup>221</sup> Max van der Stoel, “Griekenland, Portugal en de NATO”, 53

atomic power and sphere of influence in other continents.  
We don't need European nationalism"<sup>222</sup>

So, van der Stoel endorsed NATO and atlantism/Atlanticism(?) as necessary stabilising factors in European geopolitics. At this point of the analysis, it is necessary to enquire into Van der Stoel's vision of *détente*.

Here again a scrutiny of the domestic political scene is essential. Two opposing ideas of *détente* and a profound, fundamental difference in perspective and action plans existed in the PvdA. For *Nieuw Link*, the only way to promote and achieve a fruitful East-West dialogue was first to disarm and then to pursue free exchange of peoples and information. For the right wing of the party, where van der Stoel was also considered to belong, the catch-word was instead a "realistic" *détente*. Unconditional disarmament did not seem a realistic and feasible alternative. First the eastern regimes had to become more "humanised" (*vermenselijking*) and accept an open dialogue with the West based on "ideal and normative principles". Once goodwill had been shown, and the Iron Curtain made more porous, disarmament was likely to follow. The most effective weapon to pierce the Iron Curtain and destabilise Soviet dominance over Eastern Europe was the promotion of individual freedoms. Human rights in Europe were to serve as a weapon against Soviet rule and be the very first priority of any European democratic country willing to promote a "realistic" *détente*.

"East-West relations in the 1970s required both pragmatism and principle. We regarded the insistence on the respect for human rights as a way of keeping pressure

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<sup>222</sup> Max van der Stoel, "De PvdA en buitenlands beleid", in *Socialisme en Democratie*, Vol. 3, (March 1971), 148.

on the Communist regimes to live up to their commitments"<sup>223</sup>

In the end, it may be argued that an active Dutch human rights policy was a full-fledged concept well before the CSCE officially started. Undoubtedly, facts of life and a natural inclination made of van der Stoel a human rights advocate. Thanks to his zeal and determination human rights grew into a primary goal of Dutch foreign policy. However, a comprehensive analysis of Dutch political system seems to suggest that the fierce debates within the PvdA played a primary role, since it created the right political climate to tackle the issue of human rights and openly enquire into the scope and goals of Dutch political action in the area. It is tempting to wonder to what extent *Nieuw Links* impacted on van der Stoel's stand. Would he have been so intransigent without *Nieuw Links*? *Nieuw Links* championed unconditional rapprochement to the East and disarmament as a sign of good will, basically taking for granted that the Soviet Bloc would have stopped stamping on those who demanded individual rights and basic freedoms. Van der Stoel counter argued to *Nieuw Links'* demands by setting a new benchmark for negotiations with the East: human rights.

In contrast, the EC debates did not play a significant role. It comes as a confirmation of this interpretation that the inclusion of human rights-related issues on EPC agenda did not play a significant role. Later reflections on the beginning of his first mandate as Foreign Minister confirm this interpretation. In 1977, van der Stoel wrote

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<sup>223</sup> Max van der Stoel, "Principles and Pragmatism – 25 years with the Helsinki Process", in IFSH (ed.) *OSCE-Yearbook 2000*, (Baden-Baden: Nomos Verlag, 2001), 27.



“I must say that if I look back to the past years of the Dutch human rights policy, I have the feeling that the Netherlands was in a *relatively isolated* position when fighting for human rights”<sup>224</sup>

In his view, the Netherlands was a sort of political maverick both in the EC and in NATO. As for the EC framework, he pointed out that a common commitment to the cause of human rights was a recent development for the EC countries:

“The climate has changed: the isolation of the Netherlands has definitely vanished: we have increasingly found support for our opinions.”<sup>225</sup>

Van der Stoel lamented that The Hague’s call had long gone unheard among its EC peers, who were likely to shun open commitment to human rights. For these reasons, cooperation within the EC – if any – had to serve as just an opportunity to amplify The Hague’s call for the protection of human rights:

“[thanks to the cooperation between the Nine] Dutch initiatives [in human rights] may have a ‘multiplier effect’ that we should not underestimate.”<sup>226</sup>

When Van der Stoel was appointed Minister of Foreign Affairs, the MPT were already well advanced, and the Dutch delegation was disheartened by the poor results. It is interesting at this point to illustrate the initial approach of The Hague to the CSCE and the significant change which occurred with van der Stoel’s

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<sup>224</sup> Van der Stoel, “De plaats van de mensenrechten in het Nederlandse buitenlandse beleid”, 442.

<sup>225</sup> Van der Stoel, “De plaats van de mensenrechten in het Nederlandse buitenlandse beleid”, 443.

<sup>226</sup> Van der Stoel, “De plaats van de mensenrechten in het Nederlandse buitenlandse beleid”, 445.

appointment, when human rights became the strong point in the Dutch foreign policy agenda.

### **Mixed feelings at the MPT: shedding tears in Dipoli**

“préannonciation de la pre-non-matière  
ils sont venus, les distingués représentants,  
ils ont apporté des corbeilles,  
il ont ouvert des voltes,  
ils ont entrouvert des portes,  
ils ont présenté des libelles,  
ils ont présenté des addendas,  
ils ont présenté des corrigendas,  
ils les ont coiffé de chapeaux,  
ils ont présenté des pre-bouillons,  
ils ont présenté des non-papiers,  
ils ont fait circuler longuement,  
des non-textes de non-documents,  
ils ont délibéré d’un ton solennel,  
dans leur mini-groupe clandestin informel  
presque irréel et surnaturel,  
distingué, éminent, immortel,  
et, parmi eux égaré,  
j’ai pris soudain  
ma tête dans mes mains  
et...j’ai pleuré..... »

Ambassador Th.F. Valck Lucassen<sup>227</sup>

In Dipoli distinguished diplomats flocked in, heavy with papers, eager to put forward new – often pointless – drafts. It was a fruitless – and deadly boring – political circus which had dragged on since November 1972. During one of the lengthy discussions in March 1973 the Dutch head of delegation in Helsinki, Ambassador Th.F. Valck Lucassen, scribbled down the mordant poem quoted above. It was a powerful snapshot of the atmosphere in the Finnish capital and a résumé of the reasons for his miserable mood: the

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<sup>227</sup> ABZ, DAV, 1965-1974, file n. 701, loose note by Ambassador Th.F. Valck Lucassen, 15 March 1973.

sluggish and complicated proceedings of the Multilateral Preparatory Talks (MPT) in Helsinki had plunged him into despair. Since the opening of the MPT, indeed there had been few reasons for him to be in good cheer: the two items high on the Dutch agenda, military security and the free movement of people, were both initially dismissed by the Soviets.

As shown in the previous paragraphs, military security and defence policy had been at the centre of Dutch political debates from the mid-1960s for more than one reason.

First of all, curbing defence expenditures took centre stage in Dutch domestic policy in December 1971 with the “Effective defence policy II”. In 1973, debates on defence policy were not only a by-product of a progressive political climate and of the growing influence of *Nieuw Links*. Curbing defence expenditures was also a *condicio sine qua non* for the implementation of the ambitious political platform of the Den Uyl cabinet. The coalition committed itself to carry out a redistribution of wealth, knowledge and power, as envisaged in “Keerpunt 1972” and earlier on in den Uyl report “On the quality of existence” (*De kwaliteit van het bestaan*) in 1963, “Poverty in the welfare state” (*Armoede in de welvaartsstaat*) in 1965, “The narrow margins of politics” (*De smalle marges van de politiek*) in 1970. This onerous programme necessarily required a reassessment of the national budget. Successful negotiations on troop reductions thus served two main purposes: reducing the deployment of troops on European soil would have pleased *Nieuw Links* as well as the left-oriented members of the coalition; and curbing defence expenditures would have provided the Cabinet with broader room for manoeuvre for its redistributive commitments.

Security was still confined to the idea of military security. If political security had by any chance to be included, then military and political aspects had to go hand in hand. For this reason, the Dutch wanted to establish a direct link between the CSCE and MBFR. Pressing for arms control in central Europe would proceed in parallel with calls for a European security conference.<sup>228</sup> MBFR would have counterbalanced Soviet demands for the recognition of the *status quo* in Europe.<sup>229</sup> To Dutch dismay, however, no direct link was ever formalised. In May 1972, during the Nixon-Brezhnev meeting in Moscow, the US Secretary of State Kissinger claimed

“the US would not object to a general discussion on military security issues ...but it would not be acceptable to aim for agreements that limited or reduced military forces in Europe...the US would like to limit discussion to some general measures of constraint...Negotiations on MBFR would be ‘distinct and separate’”.<sup>230</sup>

The Dutch political debate focused on the inclusion of military security aspects in the Helsinki negotiations. In the “Motivations for the National Budget 1973” the Lower Chamber expressed itself in positive terms for the conference but paid attention only to the issues in Basket I, “concrete measures for improving European security and

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<sup>228</sup> The Rapacki and Gomulka plans (taking their names from the Polish politicians who officially advanced them) proposed measures to develop military *détente* in Europe and those proposals were then reiterated in the Bucharest declaration in July 1966. However, while the East pushed more for a security conference, the West began to get more serious about force reduction. See, John G. Keliher, *The Negotiations on Mutual and Balanced Force Reductions: the Search for Arms Control in Central Europe*, (New York: Pergamon Press, 1980), 12-13.

<sup>229</sup> Keliher, *The Negotiations on Mutual and Balanced Force Reductions*, 16-34.

<sup>230</sup> “Presidential Guidance on Mutual and Balanced Force Reduction and a Conference on Cooperation and Security in Europe”, National Security Decision Memorandum, 162, April 5 1972, <http://ftp.fas.org/irp/offdocs/nsdm-nixon/nsdm-162.pdf> (accessed 30 January 2010).

relations between states”.<sup>231</sup> During the MPT, on 18 January 1973, the Dutch delegation advanced a proposal on military security where the “indivisibility of the political and military aspects of security in Europe” was emphasised and requested a subcommittee to draft a joint declaration that “could include an appropriate reference to the opening of talks within a special body regarding the levels and activities of armed forces”.<sup>232</sup> Still, the Soviets had no intention to accept the link between the MBFR and the CSCE: they had no reason for broaching issues of the reduction of armed forces and armaments in Europe at the CSCE and for linking the CSCE to the MBFR.<sup>233</sup> At the EPC Political Committee on 30 May 1973, Van der Stoel pointed out that the Netherlands wished the CSCE to start in October, at the same time of the MBFR opening, and that the MBFR was higher on the Dutch agenda than CSCE. “I would like to remind you that [the link] between MBFR and CSCE still holds: we agree on a MBFR without CSCE, but not on a CSCE without MBFR”. Van der Stoel emphasised the so-called MBFR-CSCE reverse linkage: if the CSCE started late, then also the MBFR had to be postponed, but the CSCE could start only provided that also the MBFR was underway.<sup>234</sup>

The Dutch stance was quite clear-cut: military and political security belonged together and had to be discussed together. On these premises, during the MPT the Dutch from November 1972 to February 1973 advocated a direct parallelism between the MBFR and CSCE with their Western peers and insisted on opening a debate on

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<sup>231</sup> Tweede Kamer, 1972-1973, 12000 (Rijkbegroting 1973), Hoofdstuk V (Buitenlandse Zaken), nr.2 (Memorie van Toelichting), 7-8.

<sup>232</sup> Doc. CSCE/HC/24, d.d. 18 January 1973.

<sup>233</sup> ABZ, DAV, 1965-1974, file n. 699, “Proceedings of the MPT in Helsinki from 18 to 25 December 1972”, 25 January 1973.

<sup>234</sup> ABZ, DAV, 1965-1974, file n. 702, “Time-interrelation between CSE-MBFR”, 30 May 1973.

the *military* aspects of security. They were unsuccessful: only the *political* aspects of security were tabled in Dipoli. The Soviet Union and the United States agreed to open the formal CSCE talks on 30 June 1973, and to begin the MBFR talks one month after the conclusion of the CSCE conference (which was expected to end in September 1973), but no direct link was established. The Dutch dug in their heels: Lucassen, Dutch Ambassador to Helsinki, pointed out that

“The first item on the agenda of a conference for security and cooperation in Europe has to regard security...My government has always thought that such a conference could not be silent on the military aspects...for this reason I always argued that the issue on the reduction of military power has to be put on the agenda of this conference<sup>235</sup>

However, despite the insistence on including them in the negotiations agenda, from spring 1973 onwards military issues were no longer regarded as a *condicio sine qua non* for Dutch participation in the conference.<sup>236</sup> As from spring 1973, the Conference was regarded as a tool in itself. The international and domestic climate had changed, and the arrival of van der Stoep at the helm of the Ministry of Foreign Affairs made the reversal irrevocable. Not only the Netherlands, but NATO countries in general changed their attitude. The conference could be used as a tool against its very promoters, and multilateral negotiations could give the Western countries leverage to table the most sensitive items – free movement

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<sup>235</sup> *Conferentie over Veiligheid en Samenwerking in Europa, Helsinki Genève Helsinki 1973-1975, Ministerie van Buitenlandse Zaken, (Den Haag: Staatsuitgeverij, 1976), 182.*

<sup>236</sup> ABZ, , DAV, 1965-1974, file n. 701, “Memorandum on MPT from The Hague”, 21 February 1973 and ABZ, DAV, 1965-1974, file n. 700, “Phone call with the Director of Political Affairs in Paris Arnaud from the Dutch Embassy in Paris”, 4 April 1973.

of peoples, ideas and information - press ahead with their demands, and eventually strike a bargain with Soviet requests for the *status quo*.

“The NATO countries have finally changed their attitude towards the Conference in the course of time and realised that they can try to advance their own ideas on “free movement of people, ideas and information”.<sup>237</sup>

This does not necessarily mean that the Western countries had turned more idealistic and more optimistic as regards the results of the conference. This about turn may be explained by remembering that it was right at that time that negotiations on the MBFR stalled. The talks stalled over the question of Hungary's participation: the Soviet resisted the Allies' suggestion that Hungary – a country strategically located in the heart of Europe where Moscow had deployed the Soviet Southern Group of Forces of 55,000 men – should be a direct participant. The Soviets instead wanted Hungary only to be a special participant; but to the Western countries, a MBFR that did not include the Soviet troop's stations in Hungary did not make much sense.<sup>238</sup> A plenary session held in Vienna on 14 May 1973 came to a standstill. In May the Netherlands' stance on the CSCE also changed. Moving on from military to political security was thus not only an idealistic move, but also a necessary adaptation to that political scene.<sup>239</sup>

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<sup>237</sup> The Soviets wanted to deal with sensitive issues like the reunification of families at the bilateral level. They aimed thereby to isolate individual Western countries and carve out of the conference agenda valuable bargaining chips. ABZ, DAV, 1965-1974, file n. 701, “Memorandum on Soviet stance on European security”, 4 April 1973.

<sup>238</sup> Keliher, *The Negotiations on Mutual and Balanced Force Reductions*, 34-48.

<sup>239</sup> Here the pragmatism of the newly appointed foreign Minister could go hand in hand with his ideals. Van der Stoel was appointed Foreign Minister on 11 May 1973.

The second item dearest to the Netherlands, provisions on human contact in Basket III, were regarded even before van der Stoel's appointment as a key factor in domestic and foreign politics.<sup>240</sup> Eventually, the item "free movement of people" was included in the negotiations, but the Soviets labelled it "peripheral": for Moscow, negotiations on the MBFR and on free exchange of peoples, ideas and information were to start only once mutual trust was achieved at the Conference, and were thereby indefinitely dismissed in practice.<sup>241</sup> As from the very beginning of the MPT, the WP countries in particular turned the provisions on free movement into hollow declarations "by adding some kind of check, control, or limitation by governments. [They added] limitations of a political order which makes it almost impossible to give them a uniform application."<sup>242</sup> In March 1973, the Soviet Head of Delegation Ambassador Lev Mendelevitch pointed out at lunchtime to the Dutch delegate van der Valk that there was simply no need to include the principle of human rights in the list of principles in Basket I: it was already codified in international treaties and in the UN Charter; therefore the mention in the final act would be overkill.<sup>243</sup>

At the end of the MPT the Ten Principles of Basket I were outlined, including the principle of respect of human rights and

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<sup>240</sup> ABZ, DAV, 1965-1974, file n. 700, "Memorandum from Helsinki to Brussels", 9 February 1973

<sup>241</sup> ABZ, DAV, 1965-1974, file n. 699, "MPT", 22 January 1973

<sup>242</sup> ABZ, DAV, 1965-1974, file n. 700, "Telex from Helsinki, MPT morning session: Polish intervention on human contacts", 8 February 1973.

<sup>243</sup> The Soviet Union advanced five principles on 6 March 1973: inviolability of frontiers, non-interference in internal affairs, and refraining from the use of force, independence, sovereign equality. Van der Valk insisted on including the principle of respect for human rights in a list of "goals and principles" advanced in a Romanian proposal and to be taken as part of the negotiation agenda. However he did not win over Mendelevitch. ABZ, DAV, 1965-1974, file n. 701, "Memorandum from Lucassen on the lunch with Mendelevitch", 8 March 1973.



fundamental freedoms; however the prospect of success at the Conference remained bleak in spring 1973. There was no sign of goodwill on the part of the Soviet Bloc.

It is now evident why Lucassen indulged in poetry in March 1973. Against this backdrop, the significant role that van der Stoel came to play will be outlined.

### **Van der Stoel's confidence and optimism: a change in the Dutch approach.**

In late spring 1973, the initial Dutch scepticism seemed to be gone. In his speech at the 52<sup>nd</sup> meeting of the Council of Europe van der Stoel assessed the state of affairs of the MPT:

“I must confess that the Netherlands government has during the past few months passed through moments in which I found it very difficult to share the optimism professed by some others about the eventual outcome of the MPT”

He admitted that he was

“...deeply doubtful whether the countries of Eastern Europe would be willing to accept certain Western proposals especially with regard to subjects such as human contacts and the freer flow of information”.<sup>244</sup>

He was still more doubtful whether backing those proposals was worth the effort. In fact, they were “not very ambitious.” Regrettably enough, Western countries had chosen a smooth approach and proposed texts realistically acceptable to the other side.

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<sup>244</sup> ABZ, DAV, 1965-1974, file n. 702, “Speech for the 52<sup>nd</sup> meeting of the European Council to be held in May”, 13 May 1973.

By this token, they had reduced the proposals “to their bare essentials”. Under those conditions – van der Stoel concluded – “it would not have been possible for my country, for me, to go along with much of a further watering down of their contents”. The Netherlands were willing to take part in a conference on security and cooperation in Europe, if respect for human rights and fundamental freedoms was among the principles on the table. Eventually, the Western countries took a more assertive attitude, making clear that Basket III was crucial to the progression of the Conference. At that point, The Hague fully embraced the CSCE.

“If these hopes do come true, I feel that the months and even years spent in preparation of the European security conference will have been well spent ... I think that we can embark upon the conference with confidence and optimism”.

The conference could not work wonders but could open the way towards a *détente* in Europe based upon conditions acceptable to the Western countries. If the West stood fast on the proposals advanced during the MPT, then the Dutch would be willing to move on:

“For us the results achieved with regard to the Basket III will be a crucial factor in the evaluation of the MPT ... when we must take our ultimate decision whether or not to take part in a conference”<sup>245</sup>

This change can be explained by taking into account the debate on security and on the MBFR-CSE link, as well as van der Stoel’s subtle foreign policy, a balanced mix of ideals and pragmatism. In the 1970s NATO members had very different views

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<sup>245</sup> ABZ, DAV, 1965-1974, file n. 702, “Time interrelationship CSE and MBFR”, from Helsinki to the Hague, 30 May 1973.

on the future of European security, and could not achieve a common position on the substance and procedure of MBFR negotiations. That was obvious in May 1973.<sup>246</sup> The best move then was to go with the flow, support the CSCE and make the best of getting positive results from the negotiations. Van der Stoel was well aware of the work that lay ahead. Despite the more positive assessment of the MPT, much was still to be done both as for the contents and as for the presentation of the items. For instance, he regarded the mandate on human contacts with favour (“there lie our best chances for positive results”<sup>247</sup>), but lamented over the fact that free movement and contacts among people were not mentioned.

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<sup>246</sup> Helga Haftendorn, *The Link between CSCE and MBFR: Two sprouts from one bulb*, in *Origins of the European Security System: The Helsinki process revisited, 1965-1975*, eds. Andreas Wenger, Voytech Mastny, Christian Neuenlist, (London: Routledge, 2008), 250-251.

<sup>247</sup> ABZ, DAV, 1965-1974, file n. 703, “Draft of the statement of Minister van der Stoel at Helsinki”, 14-15 June 1973.

## Chapter 3

### **The Dutch fight alone: the principle of self-determination and access to literature**

#### **Introduction**

In his speech on July 4, 1973, van der Stoel argued that peoples ought to be free to choose their destiny, the boundaries of European countries ought to be permeable, and that – if “packing a suitcase and travelling about” through Europe was not still feasible – European countries ought to guarantee the free exchange of information and free flow of culture. There were thus two key items on the Dutch CSCE agenda: the principle of self-determination of people and access to literature.

This chapter will show how the Dutch delegates under the careful lead of Van der Stoel pursued these goals, how and to what extent the Dutch had an impact on the negotiations regarding the principle of self-determination of peoples and the provision on access to literature, and will make three major points.

First, it will show that the Dutch delegation was particularly successful in pushing through a progressive wording of the principle of self-determination, namely in undermining the idea sponsored by the Soviets that the principle once exerted – like in the case of the states of the eastern bloc – was exhausted. The final wording of the provision provided instead that the right of self-determination could *always* be exerted. That left the door open to future change in European geopolitics. Still, despite efforts and long discussions, and despite van der Stoel’s sharp legal analysis, the Dutch could not

achieve a satisfying wording of the provision on access to literature in Basket III.<sup>248</sup>

Second, the analysis will highlight that no other country pushed so openly and so forcefully on those items as the Netherlands. There was indeed no other country either willing to stand up to the Soviets, or as knowledgeable in international law as the Netherlands, which aimed for a progressive wording of the provisions under scrutiny. It will be shown that it was not by chance that the Dutch delegates acted alone in the best case scenario, or in disagreement with their peers. One may reasonably conclude that without this feisty negotiating style the principle of self-determination would have turned out to be far more conservative. As for the provision on access to literature, the assessment will be less clear-cut.

Third, the analysis of the sources will show no indication of common fruitful discussion of the Nine on both topics. How much did the EPC count then? As for the agenda items under scrutiny, the EPC did not count much in reality. The fact remains that EPC meetings took place, and that the Dutch joined in. However, there is no significant reference to these meetings as a source of political guidelines. It is not the purpose of this work to discount the EPC at any cost. Sitting together and discussing topics of foreign policy was indeed a remarkable achievement. However, discussions often led nowhere. When topics of national interest were tabled, individual countries acted according to their own domestic guidelines.

In the case of the Dutch, the analysis will thus conclude that the EPC did not affect the negotiating style and goals of The Hague.

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<sup>248</sup> The provision regarded more generally “the various fields of culture”. However the Dutch focused especially on access to literature.

## The Hague's agenda

When the Conference officially started in July 1973 in Helsinki, the Netherlands' stand was set. In his opening speech in Helsinki Van der Stoel briefly pointed out that security had two sides, military and political, and that both had to be somehow included in the negotiations.

“Contacts between peoples, the inalienable right of the people of every State freely to choose, to develop and, if desired, to change its political, economic, social and cultural systems without interference in any form by any other state or group of States and with respect to human rights and fundamental freedom”.<sup>249</sup>

Enhancing military and political security was intended to improve life for all Europeans: individuals ought to be free to change their domestic system, but also to get to know what lay beyond their borders, either directly – by travel – or indirectly, by giving them access to literature and freedom of correspondence for instance. For these reasons, the Dutch during the CSCE directed their efforts towards certain policies that could achieve those goals in concrete form. They focussed on three areas – the principles of human rights, self-determination in Basket I and free correspondence and access to literature in Basket III – even at the cost of arguing with their fellow Europeans.

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<sup>249</sup> *Human rights, European Politics, and the Helsinki Accord: the Documentary Evolution of the Conference on Security and Co-operation in Europe 1973-75*, eds. Igor I. Kavass, Jacqueline Faquin Granier, Mary Frances Dominick, (New York: William S. Hein & Co., 1981), 313.

## The battle for the principle of self-determination

At the opening of the conference, van der Stoel had linked peace, security and the principle of self-determination and mentioned the “inalienable right” and “respect for human rights and fundamental freedoms”.<sup>250</sup> When the 2<sup>nd</sup> stage opened up in Geneva on 18 September 1973, the Dutch delegation inaugurated a more aggressive politics towards the Soviets and the Eastern Bloc, whereby single words could have a dramatic impact on the overall meaning of a provision. What may seem an intricate web of proposals and counterproposals and a time-wasting war of words was instead a subtle diplomatic game. Principle VIII of “equal rights and self-determination of peoples” was definitely a case of this. The principle had developed within the context of decolonisation and was invoked by ethnic groups who demanded independence from the “mother state”. At that stage, it boiled down to the right to secession. At the CSCE, however, the principle gained a gradually broader and more complex scope, especially thanks to the Dutch. The reconstruction of the negotiations on Principle VIII provides a powerful example of the impact of The Hague

The Dutch wanted a dynamic principle to be enshrined in the Final Act and fought to replace “all peoples have the right to determine” with the expression “to choose, develop, adapt and change” – which gave to the Principle an inner dynamism (see *infra*) –

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<sup>250</sup> CSCE/I/PV.7, 18 ff.

<sup>251</sup> ABZ, DAV, 1965-1974, file n. 718, “Memorandum on the principle of Self-determination”, from Geneva to The Hague, 14 November 1974

The Soviets demanded instead to leave the verb “determine” in place and take it away from the negotiations agenda. The Dutch proposal stirred up a row. Divergences on a single word are a testimony of the different views on self-determination, and of the different vested interests.

On 3 October 1973, the Dutch delegation presented a proposal for Principle VIII in Basket I, “Equal rights and self-determination of peoples”:

“Every participating States shall conduct its relations with every other participating States on the basis of the principle of equal rights and self-determination of peoples enshrined in the Charter of the United Nations. The participating States recognize the inalienable right of every people, freely and with all due respect for human rights and fundamental freedoms, to choose, develop, adapt or change its political, economic, social or cultural system, without interference of any kind on the part of any State or group of States”<sup>252</sup>

For the Soviets, the right once exerted was exhausted. Had it instead been regarded as inalienable, then citizens would have been entitled to exert it as many times as they wished. Besides, the detailed expression “choose, develop, adapt or change its political, economic, social or cultural system” also lent an inner dynamics to the concept, which clashed with the Soviet idea of self-determination. For this reason, in order to make the proposal pass, the support of the EC members was crucial to the Dutch. This did not seem a problem to the optimistic Dutch delegation leader Huydecoper. He thought that the proposal would be supported by many other Western and neutral countries:

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<sup>252</sup> CSCE/II/A/8.



“Since the first phase of the CSCE nonetheless many Western and neutral countries are finally inclined to think that we can breathe down the Soviets’ necks”.<sup>253</sup>

He was wrong. While the Dutch delegation “has so far upheld that in the second stage of the CSCE provides opportunities for a more assertive policy against the Soviets”.<sup>254</sup>

The Dutch found themselves isolated. West Germany did not intend to endorse The Hague’s stand. France pursued the role of bridge with the Soviet Union, and French delegates took the liberty of discussing issues that were still at a confidential drafting level at a bilateral level with the Soviets, pursuing a sort of Franco-Soviet special relationship.<sup>255</sup> Nonetheless, the Dutch proposal on self-determination was provisionally registered in a plenary session in December 1973 immediately before the Christmas recess.

On 20 May 1974, the Hungarians informed the Dutch delegation of a new compromise proposal on Principle VIII:

“The participating States recall that according to the Charter of the United Nations the development of friendly relations among States is based on respect for the principle of equal rights and self-determination of peoples. By virtue of this principle, all peoples have the right to determine their internal and external sphere and to pursue their economic, social and cultural development, and all states have the duty to respect this right....”<sup>256</sup>

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<sup>253</sup> ABZ, DAV, 1965-1974, file n. 725, “Notes for the visit of Minister Van der Stoel to Paris”, 8 November 1973.

<sup>254</sup> ABZ, DAV, 1965-1974, file n. 725, “Notes for the visit of Minister Van der Stoel to Paris”, 8 November 1973.

<sup>255</sup> Proposal advanced by France CSCE/II/A/12, on 19 October 1973 as “Draft declaration on the principles governing relations among the states participating in the Conference on Security and Cooperation in Europe”

<sup>256</sup> ABZ, DAV, 1965-1974, file n. 718, “Principle of self-determination”, 20 May 1974.

In the text, all the edges of the Dutch proposal were taken off. This compromise responded to Soviet wishes. It was indeed Moscow that had pressed Berlin to give in to the Hungarian proposal . This came as a serious blow to the Dutch.<sup>257</sup>

To van der Valk's dismay, the West Germans welcomed the new text. He was updated by an informant that the West Germans agreed with the core part of the Hungarian proposal ("all people have the right to determine their political status in full freedom and without external interference").

"West German interest for the Dutch proposal has vanished. I would not be surprised if this is due to the fact that the West Germans want to make the best of a bargain and pocket in an early stage of the negotiations a minimal satisfactory wording. This has occurred already in the First commission, and may be connected to the *German obsession* with a number of pending issues – such as the peaceful change of frontiers. In view of the future debates on those sensitive items, Bonn must keep the WP countries as sweet as possible."<sup>258</sup>

Van der Valk recounted that his German colleagues expressed themselves as being happy with results that were "less than what they had really wanted". West Germany's low profile – and lack of assertiveness – was highly irritating: when valuable

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<sup>257</sup> ABZ, DAV, 1965-1974, file n. 718, "Principle of Self-determination", 20 May 1974. "The participating States recall that according to the Charter of the United Nations the development of friendly relations among States is based on respect for the principle of equal rights and self-determination of peoples. By virtue of this principle, all peoples have the right to determine their internal and external interference and to pursue their economic, social and cultural development, and all states have the duty to respect this right. The participating states consider that respect for this principles must guide their mutual relations among all states, that's why the will contribute to the eradication of any form of racial and national oppression of the peoples in any area of the worlds."

<sup>258</sup> ABZ, DAV, 1965-1974, file n. 718, "Memorandum on the principle of Self-determination", 2 October 1974. In the text, the expression used in Dutch was – translated – "German obsession".

opportunities to weaken the Brezhnev doctrine arose, Bonn “did not seem to care”. More generally, Van der Valk noted sourly, neither West German delegates nor the Western delegations seemed to care at all.

“Taking into consideration French scepticism regarding our “maximalist” position ... and West German turnaround, we should then consider whether we want to fight on for our proposal”<sup>259</sup>

French were openly hostile to the Dutch. After drawing this sombre picture of Western disunity, van der Valk concluded that The Hague should not change course.

It was a lonely fight for the Dutch. In October 1974, it was time to take a decision: was it reasonable to defend the proposal alone? Or was it more reasonable to confront the Soviets only in the course of the drafting phase? Van der Valk did not want to move an inch. He suggested inserting as many square brackets as possible: a text enclosed in square brackets was a text still open to revision, and thus an object of political horse-trading in a later stage of the negotiations. Van der Valk suggested in a memo sent to The Hague “I would be happy to press for a number of square brackets in the draft for the principle of self-determination. They could turn useful in a later stage of the negotiations.”<sup>260</sup> The object of the activity was to induce the Soviets to make concessions in Basket III and in Confidence Building Measures (CBMs) in exchange for a palatable wording in Basket I in a later stage. It was a carrot and stick tactic. Van der Stoel claimed that “unnecessary acceleration” of the drafting

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<sup>259</sup> ABZ, DAV, 1965-1974, file n. 718, “Memorandum on the principle of Self-determination”, 2 October 1974. In the text, the expression used in Dutch was – translated – “German obsession”.

<sup>260</sup> ABZ, DAV, 1965-1974, file n. 718, “Memorandum on the principle of Self-determination”, 2 October 1974.

stage of the Declaration of Principles was out of question, since the sooner the drafting of principles was accomplished, the smaller room for manoeuvre the Dutch would have had to close a good deal on other items. Therefore, unless it was completely isolated, the Dutch delegation had to stick to the proposal, not give in and, if needed, insert square brackets.<sup>261</sup>

The Soviets instead pressed for a fast drafting of the Declaration of Principles in Basket I – most dear to Brezhnev, regarded as the cardinal part of the Final Act – and shied away from discussing provisions in Basket III and CBMs. Moscow wanted to secure a convenient wording in Basket I first, and then broach other items.

The Dutch tactics clashed with West German plans: West Germany's delegation aimed at obtaining a neat text without square brackets before Chancellor Schmidt's visit to Moscow on 29-30 October 1974.

This sense of urgency may be explained by the increasingly divergent approaches of Genscher and Schmidt. Whereas the FDP politician pursued a Brandtian *Ostpolitik* and followed a "great historical perspective" based on principles when handling negotiations with Moscow, Schmidt had a more down-to-earth approach. Namely, he did not exclude compromises on principles if that could open the way to fruitful economic cooperation which could guarantee steady gas- and oil- supplies to West Germany, and secure jobs. He was therefore not willing to set conditions on the West German-Soviet partnership, like for instance the reunification of

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<sup>261</sup> ABZ, DAV, 1965-1974, file n. 718, "Memorandum on the principle of Self-determination", from the Hague to Geneva, 8 October 1974. The negotiations were based on the principle of consensus, therefore unanimity was not needed.

Berlin, as his foreign minister wished. As a member of the Schmidt's *entourage* reported to the left-liberal West German magazine *Der Spiegel* at the time "He [Chancellor Schmidt] worked the switches for gas and oil."<sup>262</sup> In light of this increasing political divergence, it may be reasonably argued that West German delegation, supported and led by Genscher from Bonn, aimed to obtain an acceptable result before the Chancellor jeopardised its negotiating stance. With this aim in mind, West Germany's delegation member, Ambassador Günther Dahlhoff, instructed the delegates to give the green light to a proposal in Basket I without square brackets. There were many calls for revision. The Romanians stood against the reference to the UN Charter; West Germans wanted the word "States" to replace the word "nations"; only the UK, Belgium, Malta and Turkey backed the expression "develop, choose, change and adapt" used in the Dutch proposal – the French and the Hungarian proposals had replaced it with the verb "determine" – . It was clear enough that "we won't be done soon".<sup>263</sup> The following day van der Valk's bleak account found an echo in a memo of another representative from the Dutch embassy in Paris. The Dutch diplomat van der Willigen<sup>264</sup> reported on a meeting of the EPC Political committee held that day in Paris. He warned The Hague that opinions diverged between the Nine and that Moscow could easily profit from playing one country against another: "the Nine must be united as a group in order not to allow the Soviet Union to take advantage of their divergent opinions".<sup>265</sup>

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<sup>262</sup> *Der Spiegel*, 42/1974, "Kanzler Schmidt: in Moskau Weichen stellen", 25.

<sup>263</sup> ABZ, DAV, 1965-1974, file n. 718, "Memorandum on the principle of Self-determination", from Geneva to the Hague, 17 October 1974..

<sup>264</sup> The full name of the Dutch diplomat was not recorded by the sources.

<sup>265</sup> ABZ, DAV, 1965-1974, file n. 718, "Memorandum from the Dutch embassy in Paris", from Paris to the Hague, 18 October 1974.

Interestingly enough, some states that were likely to stand against the Dutch formulation of the principle of self-determination refrained from doing so. Both Spain and Ireland, while referring to the situations of Gibraltar and Northern Ireland respectively, did not explicitly connect them to the principle. Nor was the principle unacceptable for Cyprus, Greece or Turkey, despite the fact that the situation in Cyprus clearly involved self-determination.<sup>266</sup> At this point, a brief excursion into the post-war elaboration of the principle of self-determination may help illuminate the reasons for what might seem to be careless insouciance. Besides, a short analysis of the elaboration of the principles in international law contributes to a more balanced reading of the CSCE: the CSCE – at least as for the principle under scrutiny – was not a momentous, one-off watershed but rather part of a long progressive normative development. An overview of the development of the principle is now needed.

### **The principle of self-determination in the 1970s**

Self-determination encompasses two concepts: internal and external self-determination.

The principle of external self-determination was invoked to legitimise the termination of colonial rule. Non-self-governing territories were acknowledged to have the opportunity to choose freely their international status and the manner in which their right of self-determination would be implemented. This was stated in UN general assembly resolutions 1514 and 1541 in 1960, and

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<sup>266</sup> Antonio Cassese, "The Helsinki Declaration and Self-Determination", 99 in *Human rights, International Law and the Helsinki Accord*, ed. Thomas Bürgenthal, (Montclair/New York: PandMark Studies, Allanheld, Osmun/Universe Books, 1977)

supplemented in the 1970 UN Declaration on friendly relations. The principle of external self-determination was made applicable to all colonial people and to peoples subject to foreign occupation.<sup>267</sup> The various norms of international law spelled out in the twilight of colonial rule made one thing clear: if the population of a colonial territory was divided up into various ethnic groups or nations, those different groups were not free to choose their external status. This meant that the principle of territorial integrity eclipsed the principle of external self-determination. Already in 1960, the operative paragraph 6 of Resolution 1514 (XV) provided that colonial boundaries should not be modified, because this would inevitably lead to the disruption of many colonial countries.

The rights of internal self-determination provided that a people had the right to authentic self-government and to determine freely its own political and economic regime. This right is more complex, and had a more tortuous elaboration than the right to external self-determination. As a leading scholar has pointed out,

“A discussion on UN action...with regard to the self-determination of ‘population of sovereign states’ necessarily touches upon several diverse situations, including: the internal self-determination of the whole people of sovereign states, the right of racial or religious groups living in states which grossly discriminate against them, the right of ethnic groups, linguistic minorities, indigenous populations, and national peoples living in federated states”<sup>268</sup>

This was the principle that the Dutch focused on at Helsinki, and needs at this point to be analysed more closely. Exactly what did

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<sup>267</sup> See, ICJ, reports 1971, 31 (para 52), “Advisory opinion on *Namibia*” where the court considered the Mandates system. It was clearly spelled out in the 1970 UN Declaration on Friendly Relations.

<sup>268</sup> Antonio Cassese, *Self-determination of peoples: a legal reappraisal*, (Cambridge: Cambridge University Press, 1995), 102.

internal self-determination mean to the international community in the 1970s? Only two years before the opening of the MPT, the UN Declaration on friendly relations had outlined the two sides of the right of self-determination. Even though the UN Declaration had lent primary importance to the right of *external* self-determination, it had also devoted some minor attention to *internal* self-determination. A convoluted saving clause indirectly mentioned it.<sup>269</sup> Cassese has rephrased and skilfully explained the clause as follows:

“If in a sovereign state the government is ‘representative’ of the whole population, in that it grants equal access to the political decision-making process and political institutions to any group and in particular does not deny access to government to groups on the grounds of race, creed or colour, than that government respects the principle of self-determination; consequently, groups are entitled to claim a right to self-determination only where the government of a sovereign state denies access on such grounds.”<sup>270</sup>

Some elements were quite striking. First, only religious and racial groups were accorded the right of internal self-determination. Linguistic or national groups were ignored outright. Second, those two groups were only afforded equal access to government not equal rights, thereby leaving leeway to the state as to how to implement the right itself. That said, provided then that a religious or racial group was accredited to be entitled to internal self-determination, in a yet smaller range of cases that very group was also entitled to secession.

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<sup>269</sup> “Nothing in the foregoing paragraph [proclaiming the principle of self-determination] shall be construed as authorizing or encouraging any action which would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent states conducting themselves in compliance with the principle of equal rights and self-determination of peoples as described above and thus possessed of a government representing the whole people belonging to the territory without distinction as to race, creed or colour”.

<sup>270</sup> Cassese, *Self-determination of peoples: a legal reappraisal*, 112.



Secession was not ruled out *per se*, but was allowed only if very stringent requirements were met such as a denial of the very basic rights of representation; gross breaches of fundamental human rights; the exclusion of any chance of a peaceful solution within the existing state structure. In conclusion, the UN Declaration reaffirmed the paramount importance of territorial integrity and sovereign rights by spelling out a very restrictive version of internal self-determination.

### **Self-determination at the CSCE: Principle VIII**

When the participant states broached Principle VIII, the UN Declaration was at the cutting edge of the right of self-determination and the major concern of federated states and states with national minorities was to keep the principle of internal self-determination within the stringent boundaries of the UN provisions. Even though the Helsinki Declaration was to be a non-binding act, states with militant minorities such as Canada and Yugoslavia wanted to guarantee themselves against the dissolution of federated states comprised of peoples of different nationalities, or other minorities. Therefore, they demanded a “balancing element”, *i.e.* a limit to the application of the principle to national minorities.<sup>271</sup> In the debates preceding the adoption of Principle VIII the participant states agreed that national minorities were to be excluded.

The Soviets suspected the Dutch proposal to be addressed only to East European States. Van der Valk recounted that in a friendly chat with the Soviet Ambassador Lev Mendelevitch one of his members of staff pointed out that the Dutch wording aimed to

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<sup>271</sup> Harold S. Russell, “The Helsinki Declaration: Brobdingnag or Lilliput?”, *American Journal of International Law*, n. 70, (1976): 269.

encompass not only the peoples in Eastern Europe but those in all Europe, as Dutch policy towards Portugal and Greece showed.<sup>272</sup> The argument won over the Soviet Ambassador who in the following plenary session presented a tri-lingual proposal. First, Mendelevitch suggested translating the verb “determine” with the imperfect form of the Russian verb. The use of the imperfect verbal form gave a dynamic character to the interpretation of the sentence.<sup>273</sup> Second, he suggested to use an expression like for instance “to determine as they wish” or a “manipulation of words” with words taken from the original Russian text like “which they consider expedient and necessary”.

The Soviet overture did not appease van der Valk for a number of reasons. First, provided that the imperfective form of the verb lent some sort of dynamism to the sentence, still the main verb – “determine” – lacked the intrinsic dynamism and thoroughness of the expression formulated by the Dutch “choose, develop, adapt or change”. Second, translating the meaning of the imperfective form of the Russian verb in another language was bound to cause endless troubles and disputes.<sup>274</sup> The Soviets did not seem to give much thought to this. However, Western countries had already had enough trouble with translations and knew by experience that translating was a source of endless disputes in these cases. The second proposal was regarded as a good starting point. Van der Valk conceded that it was probably the closest the Soviet had ever dared go to compromise

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<sup>272</sup> Van der Valk referred to one of the delegation members, but did not mention his name.

<sup>273</sup> There are two types of verbs in Russian: perfective verbs, and imperfective verbs. Perfective verbs carry the meaning of complete action, while imperfective verbs carry the meaning of a process or state, and refer to those actions, which are incomplete, or of an ongoing nature.

<sup>274</sup> ABZ, DAV, 1965-1974, file n. 718, “Self-determination”, 14 November 1974.

– it was “an avenue to be explored further” – but he did not take it in. Van der Valk stuck to the Dutch proposal. Eventually, on 29 November 1974 Sub-commission I accepted the formulation:

“By virtue of the principle of equal rights and self-determination of peoples, all peoples always have the right, in full freedom, to determine, when and as they wish, their internal and external political status, without external interference and to pursue as they wish their political, economic, social and cultural development”<sup>275</sup>

The Dutch succeeded in replacing the verb “determine” with a more complex expression “to determine, when and as they wish”. The word “always” went to substitute “inalienable” which was rejected by the Eastern delegation. The Dutch proposal was not accepted as a whole, still the Dutch contented themselves: as the French thought, “c’est bien plus que vous n’auriez pu espéré”.<sup>276</sup> Van der Valk reported, “I don’t think that the cooperation of the Western countries can be stretched further in a longer negotiating process”. The proposal registered at the end of the II stage, on 19 February 1975 had the mark of the hard bargaining. It provided in the first paragraph that

“The participating states will respect that equal rights of peoples and their right to self-determination, acting *at all times* in conformity with the purposes and principles of the Charter of the UN and with the relevant norms of international law, including those relating to territorial integrity of states.

By virtue of the principle of equal rights and self-determination of peoples, all peoples *always* have the right, in full freedom, to determine, *when and as they wish*, their

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<sup>275</sup> The full text included two additional paragraphs. The most relevant and debated one was the one mentioned above.

<sup>276</sup> ABZ, DAV, 1965-1974, file n. 718, “Memorandum on the Dutch proposal on the principle of Self-determination”, from Geneva to the Hague, 29 November 1974.

internal and external political status, without external interference, and to pursue as they wish their political, economic, social and cultural development.”<sup>277</sup>

This broad definition allowed interested states to refer to “the principles of equal rights and self-determination of peoples” in the UN declaration on friendly relations. That provision provided that “nothing in the foregoing paragraphs shall be construed as authorizing or encouraging any action which would dismember or impair, totally or in part, the territorial integrity or political unit of sovereign and independent state”.

The Dutch proposal became, with some changes, Principle VIII in the Final Act.

The participating States will respect the equal rights of peoples and their right to self-determination, acting at all times in conformity with the purposes and principles of the Charter of the United Nations and with the relevant norms of international law, including those relating to territorial integrity of States.

By virtue of the principle of equal rights and self-determination of peoples, all peoples always have the right, in full freedom, to determine, when and as they wish, their internal and external political status, without external interference, and to pursue as they wish their political, economic, social and cultural development. The participating States reaffirm the universal significance of respect for and effective exercise of equal rights and self-determination of peoples for the development of friendly relations among themselves as among all States; they also recall the importance of the elimination of any form of violation of this principle.

The proposal stressed the principle of internal self-determination, and referred vaguely to the UN charter but not to the

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<sup>277</sup> CSCE/II/A/137, 19<sup>th</sup> February 1975. See Russell, “The Helsinki Declaration: Brobdingnag or Lilliput?”, 283.

UN Declaration on friendly relations. Nonetheless, at that stage of the negotiations the (restricted) scope of the right of internal self-determination was already set. There was consensus that national minorities had to be excluded and that only entire populations of sovereign states should be the beneficiaries of the rights. It is now clear why countries like Spain, Ireland, Great Britain, Cyprus, Greece, Turkey, Canada or Yugoslavia did not oppose the Dutch proposal.

In conclusion, the negotiation for Principle VIII represented a key intervention of the Dutch and calls for two overall remarks.

First, the Dutch proposal undermined two major pillars of the Soviet empire.<sup>278</sup> On the one hand, it enshrined the idea of change and respect for democracy in Europe, enabling European peoples to exert their *permanent* right with neither restraints nor conditions: it served as the ultimate antidote to any *status quo*. The insertion of the word “always” lent to the principle of self-determination an internal dynamism. It namely counteracted the Soviet idea that the right, once exerted, was exhausted and that then the peoples of Eastern Europe, which had already used it in the past choosing for socialism, were not entitled to use it again.<sup>279</sup> On the other hand, it was a provision regulating the relation between individual and state rather than inter-state relations, strongly emphasising the individual, and connecting human rights to self-determination – since self-determination could be exerted only if peoples did enjoy basic human rights and fundamental freedoms –.

Second, the battle for the principle of self-determination provided a reality check for the EPC's purported effectiveness.

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<sup>278</sup> Cassese, *Self-determination of peoples: a legal reappraisal*, 282, 285.

<sup>279</sup> ABZ, DAV, 1965-1974, file n. 718, “Memorandum”, from the Hague to Geneva, 2 December 1974.

Forcing through the principle along the guidelines of the Dutch delegation represented a powerful blow to the Brezhnev doctrine, and one could have expected that all EC members would have been willing to pull their weights in the negotiation. Instead, quite the opposite occurred. The French lapidary comment – “c’est bien plus que vous n’auriez pu espérer” – captures well the atmosphere within the Nine.<sup>280</sup> The French regarded with ill-concealed scepticism the Dutch “maximalist contribution” and they made known their disagreement from December 1973. West Germany’s turnaround signalled an equally hostile reception of the Dutch stance. In autumn 1974, van der Stoel was therefore well aware that the Dutch delegation was isolated, or ran the risk to be so very soon if it kept pushing ahead with its requests.<sup>281</sup>

That said, what is most striking in the sources is indeed what is missing: in none of the analysed communications or memoranda from Geneva is there reference to a successful close *entente* with other EC countries, nor are references to the results of the purportedly successfully EPC to be found. What emerges is rather the picture of a country fighting for a precise agenda in “isolation”. At the end of a long fight for the principle of self-determination, van der Stoel wrote to the delegates in Geneva “I recommend to accept what has been achieved [during the negotiations]”<sup>282</sup>

This episode therefore illuminates not only the different views and approaches of the Western countries, but also shows that the idea of *détente* differed. The Dutch were more confrontational and led their battle on moral and ideological grounds, whereas some of the

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<sup>280</sup> ABZ, DAV, 1965-1974, file n. 718, “Memorandum on the Dutch proposal on the principle of Self-determination”, from Geneva to the Hague, 29 November 1974.

<sup>281</sup> ABZ, DAV, 1965-1974, file n. 718, 2 October 1974. See also 8 October 1974.

<sup>282</sup> ABZ, DAV, 1965-1974, file n. 718, 29 November 1974.

EC heavyweights – in the case at hand, West Germany and France – made national interests their negotiating priorities: France longed for a privileged partnership with Moscow, whereas Bonn strove for untroubled negotiations that constituted no danger for *Ostpolitik*. For this reason, one can hardly talk of sheer lack of coordination. It was an overall common political design that was missing.

### **Democracy creeping into people's minds: the battle for free correspondence and access to literature**

A second area of the negotiations where the Dutch took a tough line was access to literature in Basket III. Basket III was generally devoted to "Cooperation in humanitarian and other fields" and sub-divided into four areas: human contact, information, cooperation and exchanges in the field of culture, and cooperation and exchanges in the field of education. The provisions in the area of cooperation and exchanges in the field of culture focused on the extension of relations in the various fields of knowledge and presented "access to literature" as one of the tools to enhance mutual knowledge and cultural exchange. It was indeed a very delicate issue at the time.

"Who will explain to mankind what is really terrible and unbearable...? ...who would be able to bring home to a bigoted and obstinate human being the distant grief and joy of other people, the understanding of relationships and misconceptions that himself has never experienced? Propaganda, compulsion and scientific proof are all powerless here. The means [is]...literature. Art extends each man's short time on earth by carrying from man to man the whole complexity of other men's life-long experience, with all its burdens, colours and flavours...modern science knows that stopping the flow

of information leads to entropy, universal destruction. Stopping the flow of information makes international treaties and agreements illusory.”<sup>283</sup>

The Soviet writer Alexander Solzhenitsyn never gave the speech from which this quotation is taken in Stockholm at the official Nobel Prize ceremony. Being one of the most powerful figures of dissent in Soviet Union, he was not allowed to leave the country. He eventually received the Nobel Prize four years later, in December 1974, after his expulsion to the West. Indeed, 1974 was a turnaround for Solzhenitsyn, and for the Soviet dissidents' cause more generally. The Soviet writer was arrested on 12 February 1974 – Western States were informed of the arrest on 14 February – stripped of his nationality and expelled to West Germany. On the one hand the expulsion was in a sense an admission of defeat. The regime had failed to contain and control a dissenting citizen, and had used the last option left: expelling him. On the other hand, given the growing authority of dissidents like Solzhenitsyn in Western public life, his expulsion was a “victory” for the regime: putting him on trial and jailing him would have created a wave of protests and *détente* would have been probably on ice for some time. Even though a free Solzhenitsyn was equally a risk, expulsion was still the best solution. The Soviet government could rid the country of its bitterest critic, and avoid charges of being as barbarous and repressive as the Stalin regime. The wave of bad publicity and Western indignation would have been quick to die away and the Soviet Union would have been sealed off yet again.<sup>284</sup>

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<sup>283</sup> Alexander Solzhenitsyn, *One word of truth: The Nobel speech* (London: The Bodley Head, 1970), 14.

<sup>284</sup> Michael Scammell, *Solzhenitsyn: a Biography*, (New York: Norton, 1984), 846.



Indeed, in the 1970s the dissidents became a powerful presence in public life, and their speeches and messages smuggled to the West became the manifesto for a more assertive stance against Soviet Union and often overpowered the official messages launched by Western leaders. As the outspoken British journalist Bernard Levin wrote in the London *Times*,

“When one is faced by men of such titanic stature, such overwhelming moral grandeur, as Alexander Solzhenitsyn and Andrei Sakharov, one has an initial duty as a human being to salute them; to salute them for existing, and, by doing that alone, making our world a better and more honourable place.”<sup>285</sup>

Solzhenitsyn belonged to the influential group of Soviet cultural figures who used their art to attack the regime. He was one of the many, Soviet intellectuals who reproduced their censored works – so-called *samizdat* – in the Soviet Union.<sup>286</sup> Intellectuals copied banned texts, and then passed them from hand to hand. Dissidents like Solzhenitsyn and their illegal activities became an increasingly troubling phenomenon from the mid-60s. Under Stalin, well-known dissidents simply disappeared. During Khrushchev’s regime, they were arrested and deported instead. They could therefore continue to work, and news over their trials reached the West, stirring indignation and protest. At the opening of the Helsinki conference the Soviet scientist Sakharov, the writer Solzhenitsyn, and the historian Andrej Amalrik were well-known to the West, and so were their messages:

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<sup>285</sup> Bernard Levin, *We must not leave it to that nice Mr. Brezhnev*, London Times, 2 October 1973, 16.

<sup>286</sup> For a timely account of the samizdat and See F.J.M. Feldbrugge, *Samizdat and Political Dissent in the Soviet Union*, (Leiden: A.W. Sijthoff, 1975)

“*Détente* without democratisation, *détente* in which the West accepts the Soviet rules of the game would be dangerous [...] it would mean cultivating a closed country where anything that happens may be shielded from outside eyes, a country wearing a mask that hides its true face.”<sup>287</sup>

Isolation enabled the regime to prevent any change in society and to create for all its citizens – from the bureaucratic elite to the lowest social levels – an almost surrealistic picture of the world and of their place in it. That said, as dissidents like Amalrik denounced, the longer this state of affairs perpetuated the *status quo*, the more rapid and decisive was to be its collapse when confrontation with reality became inevitable.<sup>288</sup> In this respect, the provision on access to literature was deemed to force the East to come to terms with the outside world.

As highlighted above, Basket III on “Cooperation in Humanitarian and Other Fields” was specifically devoted to increasing cultural and educational exchanges facilitate broader dissemination of information and contact between people. It singled out four issues – human contact, information, cooperation, and exchanges in the field of culture and in the field of education. Solzhenitsyn’s story affected the progress of the CSCE so much that one of provisions of the Third Basket was tellingly called after him: the Solzhenitsyn proposal.

The Netherlands had a major role in Basket III where the Hague advanced three proposals: on free correspondence, on social aspects of culture, and on access to foreign books and literature.<sup>289</sup>

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<sup>287</sup> Andrei D. Sakharov, *Sakharov speaks*, ed. Harrison E. Salisbury, (New York: Knopf, 1974), 204-5.

<sup>288</sup> Andreï Amalrik, *L’Union Soviétique survivra-t-elle en 1984?* (Paris: Fayard, 1970)

<sup>289</sup> *Human rights, European politics, and the Helsinki accord: the documentary evolution of the conference on security and co-operation in Europe 1973-1975*, Igor I. Kavass,

The last two embodied the basic underpinnings of Dutch policy in Helsinki that van der Stoel had outlined at the opening of the Conference: mutual understanding could be achieved only through mutual knowledge either first-hand or second-hand.<sup>290</sup> If the first-hand method – “pack a suitcase and travel about” as van der Stoel put it – was not doable, then the second best was providing information through writers, journalists and correspondents. The proposals on free correspondence and access to literature were – like the principle of self-determination – potentially disruptive of the Soviet system for obvious reasons and the Soviets swiftly rejected them. Western allies did not show much enthusiasm either. They did not intend to alarm and fluster the Soviets. It was a calculated hazard. Had the proposals been too mild and readily acceptable to the Soviets then the West would have underplayed its hand and the proposals would have been emptied of all their contents by the WP countries.

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Jaqueline Paquin Granie, Mary Frances Dominick, (eds.), William S Hein & Co., Inc. Buffalo, New York, 1981, vol. 5, CSCE/II/I/5, 11 October 1973 and CSCE/II/I/21, 15 January 1974 pp 54f. “The participating States, bearing in mind that it is essential for the fostering of mutual understanding among individuals living in different countries that they increase their knowledge of one another through personal communications; that where direct personal contacts are not possible, the exchange of letters and other kinds of written information on a personal basis may provide an important means for fostering such mutual knowledge; that such exchanges, in order to be effective, should take place in a manner resembling direct personal contact as closely as possible; and that this implies the need to ensure that written personal information reaches its addressee speedily, and that no third party interferes with it, recognize the right of their citizens to free and unimpeded correspondence; undertake to see to it that letters, telegrams and other personal communications sent to or arriving from any other participating state are forwarded to the addressees without undue delay; not to interfere in any way with such communications”. See also *Human rights, European politics, and the Helsinki accord*, vol. 5, CSCE/II/K/4, pp171f. ABZ, DAV, 1965-1974, file n. 682, “Memorandum from Geneva to the Hague”, 2 October 1973.

<sup>290</sup> The proposal on access to literature was initially registered to Dutch surprise but eventually the Western and N+N countries did not back it in the last drafting stage and it was dismissed. See ABZ, DAV, 1965-1974, file n. 686, From Geneva to The Hague, 27 February 1974 and 4 March 1974. The proposal on the social aspects of culture was in itself not very significant.

Ambitious proposals allowed instead more room for manoeuvre during the negotiations, and the “Solzhenitsyn proposal” on access to literature was one of them. Whereas the principle of internal self-determination would make peoples free to change the State they lived in, access to literature would enable them to overcome the regime’s obscurantism and achieve “freedom of mind”.<sup>291</sup> In accordance with this purpose, “writers should not be stifled, by whatever means, in their urge to create and publish works of art”.<sup>292</sup> The Dutch delegation did not limit itself to pursuing realistic, limited and tangible results, but also fostered the very principles and values underlying those concrete results. The Socialist bloc had to understand that there were values on which the West was not willing to compromise. Without those principles, *détente* was an empty word and Western politics would have lost its credibility when faced with public opinion:

“Public opinion is never happy with a ‘*détente* in general terms’ [...] what really counts for the public opinion is the ‘quality of *détente*’ and namely what *détente* means for the man of the street both in Western and in Eastern Europe”.<sup>293</sup>

The Dutch advanced their proposal for access to literature in Basket III in October 1973.<sup>294</sup>

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<sup>291</sup> *Human rights, European politics, and the Helsinki accord*, vol. 5, CSCE/II/K/4, d.d. 15 October 1973.

<sup>292</sup> *Human rights, European Politics, and the Helsinki Accord*, Kavass, Granier, Dominick, (Speech of Dutch Foreign Minister van der Stoel at the opening of the Helsinki Conference), 313.

<sup>293</sup> ABZ,DAV, 1965-1974, file n. 724, “Note for Ministerial Visit to Washington from the Dutch Ambassador in East Berlin”, 14 September 1973

<sup>294</sup> *Human rights, European politics, and the Helsinki accord*, vol. 5, CSCE/II/K/4, d.d. 15 October 1973.

“The participating states, realizing that a wider dissemination of works of the human mind as mentioned in the preamble of the universal copyright convention is a prerequisite for fuller mutual knowledge and better understanding among people in different countries; recognizing the right of their citizens to have free access to written works of both fiction and non-fiction, regardless of whether these exist in the shape of books, periodicals, or newspapers, or in any other form; desirous to increase the accessibility of such works to their citizens and considering the essential role played in this field by publishing houses and other institutions engaged in making works of the human mind available to the public; agree to grant the above-mentioned publishing houses and institutions from other participating states free access to authors of works of literature, art, science and learning, with a view to facilitating the publications of their works”

The proposal provided that the publishing houses and institutions from other participating states be granted free access to authors of works of literature, art, science, and learning, with a view to facilitating the publication of their works. In particular, it referred to the preamble of the Universal Copyright Convention (UCC) that declared that the copyright system established therein “will ensure respect for the rights of the individual and encourage the development of literature, science and arts” and “will facilitate a wider dissemination of works of the human mind”. The reference to the UCC was no rhetorical device, and it was not by chance that the Dutch tabled their proposal soon after the Soviet Union’s accession to the UCC. The developments in international law at the time impinged on the Dutch stand and on the meaning of the Dutch proposal. It is thus essential to take a step backwards, and briefly examine the wording of the UCC.

However, before turning to the UCC, a few general remarks are needed. First, it should be by now clear that the CSCE is quite a peculiar phenomenon: the conference, during its three-year-long

existence, grew into a self-contained organism, somehow insulated from external events and the home turf of diplomats. Its link to binding documents of international law is often overseen or simply ignored, since the ultimate product of the CSCE, the Final Act, boiled down to soft-law. Nonetheless, it holds true that an international law perspective is key to grasping the bearing of the CSCE on Europe. The powerful impact of the CSCE on international relations in Europe stems also from its links with binding documents of international law, like in the case of the UCC: the CSCE most far-reaching legacy has been the change it has introduced by subtly and more or less inadvertently recasting international norms in Europe.

On 27 February 1973 the Soviet Union joined the Geneva version of the 1952 UCC, a move that was “regarded as yet another gesture towards the West”<sup>295</sup>, and was welcomed as a further sign of change and *détente* between East and West. However, that purported gesture of goodwill had a sting in its tail. On 28 February, the Presidium of the Supreme Soviet decreed sweeping amendments to Soviet copyright law to permit state legislation to set up procedures for controlling the export of literary works for publication abroad and preventing the receipt of foreign currency earnings by Soviet authors who evaded the new law. At the time, none of these amendments alarmed the West. The first call for caution came from an English newspaper. The *Times* promptly denounced that the Soviet Union could use the amendments to bring *samizdat* under government control, stifle them further and stop the flow of *samizdat* works to the West.<sup>296</sup> The British journalist Bernard Levin from the pages of the *The Times* became the most vocal critic of the Soviet regime and an

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<sup>295</sup> *The Times*, (London), 28 February 1973.

<sup>296</sup> *The Times*, (London), 2 March 1973.

equally vocal advocate of the Soviet dissidents. *The New York Times* followed suit, and remarked, “[t]he Soviet Government seems to count on using the world copyright law to turn its tight domestic censorship into effective international censorship”.<sup>297</sup>

Copyright law regards many fields of intellectual property and has therefore extensive effects that are not all relevant to the present analysis. Only one major item will be analysed here: the positioning of *samizdat*, its authors and publishers, when their works were published outside the Soviet Union without the mediation of the new Soviet Government agency. The amended Soviet copyright law provided that before sending work abroad for publication, the author had first to get the all-clear from a newly created government agency, that would also collect the royalties and pass them (partially) to the author. At first sight, this sounds like the death knell for prominent works of literature, like those for instance by Solzhenitsyn, that were at the time smuggled out of the Soviet Union and spread all over Europe. The accession to UCC appeared to some as a shrewd move to enlarge the applicability of restrictive Soviet copyright law. This was what Western countries feared, and the Dutch proposal may be listed among the initiatives designed to counteract the Soviet attack on *samizdat*.

However, an accurate reading of the UCC and ensuing case law assuaged public fears. The UCC was not as obnoxious to authors’ freedom as many initially had dreaded and a closer look at both the UCC and national copyright laws reveals a different picture. Only what was regarded as “publication” fell within the scope of the UCC.<sup>298</sup> It has to be pointed out that the very concept of “publication”

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<sup>297</sup> *New York Times*, (New York), March 23, 1973.

<sup>298</sup> The convention details the following points:

was not defined in the UCC, but in the national copyright law of the country where the case was filed. As for *samizdat* literature, it fell under the definition of “publication” in Soviet law – a work was “published” if it “is issued...to an indefinite circle of people” – but this was not the case in the law of many Western countries. It may come in useful to take a practical case. For instance under British law, a work was published “when it satisfies the reasonable requirements of the public”. As for the *samizdat*, it constituted mere circulation in British law and did not fall under the category “publication”. Article 2 of UCC provided for “published works” so defined that

“Published works by a national of any contracting state and works first published in that state shall enjoy in each other contracting state the same protection as that other state accords to works of its nationals of each contracting state. Unpublished works of nationals of each contracting state shall enjoy each other contracting state the same protection that other state accords to published works of its own nationals.”

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Contracting states provide the same cover to foreign published works as they do to their own citizens.

States that require formal registration should treat works from foreign states that are signatories of the convention as though they had been registered in the state, provided that they carry a notice which includes the © symbol and states the name of the owner.

It sets a minimum duration for copyright protection as 25 years from the date of publication, and typically not less than 25 years from the author's death. With a notable exception of photographic and applied arts work which has a minimum protection of 10 years.

It recognizes the economic rights of the author, (the right to authorize reproduction, public performance, broadcasting etc.)

It recognizes the author's right to make translations of the work.

It also specifies particular exceptions, which may be applied to developing countries.

As with the Berne Convention, the UCC provides flexibility on how nation states implement details of the convention, and in order to understand specific aspects, it should be read in conjunction with national copyright laws.



Therefore, for example, works – published or unpublished – by Soviet authors on publication in Great Britain were subject to the same laws that applied to British authors. If a work by Solzhenitsyn was published in Great Britain, the case was handled according to British law. It followed that the *samizdat* works by Solzhenitsyn were regarded as a publication, and thus an object of the UCC, only from when it was published in Great Britain. In any case, under British law, the Soviet Union could not start a legal action. The UCC ensured that only the author – the person holding the copyright – could file it, and the Soviet government body handling foreign publication did not acquire any copyright by law. That said, inside the Soviet Union the plight of *samizdat* authors did not improve. New domestic laws put more pressure on them.

However, as far as the UCC was concerned, the Convention did not provide the Soviet Union with yet another way to stifle its dissident authors. Rather, it entangled the regime in a web of international organisations and multilateral regulations, which could counterbalance its restrictive domestic policy. The preamble of the Convention played a key-role, as it set the tone for the whole Convention. This non-binding provision provided that the UCC was designed to introduce a universal copyright system that “will facilitate a wider dissemination of works of the human mind”. The author could for instance approach foreign courts to file an injunction against a publisher or to claim the royalties for one of his “publications” published in that foreign country. It holds true that during the second stage of the negotiations in Geneva the scope and application of the UCC was still a grey area. Nonetheless, what was evident already at that early stage was that the most powerful legacy of the Convention for *samizdat* was not its body of articles and

regulations, but its overall tenet enshrined in the non-binding preamble that was totally at odds with Soviet legislation. It was on that very preamble that Van der Stoel focused.

Van der Stoel's detailed correspondence with the Dutch delegates in Geneva is testimony to a sharp analytical mind and a sound legal background. When the debate on the proposal was in full swing, van der Valk and Soviet Ambassador Dubynin discussed the proposal on access to literature on 5 November 1974. There was no reference to EPC. The Dutch delegate simply followed the guidelines from the Hague:

“Encourager les contacts et communications internationales entre auteurs et maisons d'edition et autres institutions qui s'emploient a diffuser les oeuvres de l'esprit aupres du public, dans l'esprit des conventions internationales sur le droit d'auteur qui sont en vigueur dans chaque etat participant”

The cause of disagreement was the word “*esprit*”. That word was unacceptable to Dubynin. For the Dutch it was a *condicio sine qua non* to the discussion. Eventually, the two agreed on a compromise text. The number of parentheses and the convoluted text are quite telling of the intricacies of the negotiation.<sup>299</sup>

“Encourager (quand cela s'avera utile) les contacts et communications internationales entre auteurs et maisons d'edition et autres institutions qui (s'emploient à diffuser les oeuvres de l'esprit auprès du public), (S'occupent des questions de droit d'auteur) (dans l'esprit) (sur la base) des conventional internationales sur les droits d'auteur qui sont en vigueur dans chaque état participant (et en tenant compte de la pratique établié chez eux dans ce domaine).

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<sup>299</sup> ABZ, DAV, 1965-1974, file n. 689, “Conversation between van der Valk and Dubynin”, 5 November 1974

As already shown, a single word could make a world of difference at Geneva. Van der Stoel was very conscious of the impact of just one word on the sense and scope of the whole proposal. He urged van der Valk to stick to the word “*esprit*” at any cost.

“The West should not fall victim of the Soviet manipulative tactics: a mere reference to the convention, or no explicit reference at all, would have allowed the Soviets to have free hand on the literature and works of art. Only the preamble [of the UCC convention] provided the interpretative benchmark to interpret the whole convention for the best”<sup>300</sup>.

Van der Stoel’s correspondence with Van der Valk was very intense throughout the months of November and December 1974. He pointed out, “you should keep insisting on the word ‘*esprit*’ under any form, for example with expression like ‘in accordance with the spirit of’, or ‘taking into account the spirit of’”.<sup>301</sup> At the beginning of December 1974 after long negotiations the text had been partially transformed, and the word “*esprit*” was substituted by a more general expression “in the framework of international conventions on copyright”

“Faciliter (en tenant compte de la pratique établie dans chaque état participant) les contacts et communications internationales entre auteurs et maisons d’édition et autres institutions qui s’occupent des questions de droit d’auteur) (dans le cadre) des conventions internationales sur le droit d’auteur, auxquels les états correspondants sont partis”<sup>302</sup>

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<sup>300</sup> ABZ, DAV, 1965-1974, file n. 689, “Memorandum from van der Stoel to van der Valk”, 15 November 1974.

<sup>301</sup> ABZ, DAV, 1965-1974, file n. 689, “Memorandum from van der Stoel to van der Valk”, 25 November 1974.

<sup>302</sup> ABZ, DAV, 1965-1974, file n. 689, “Memorandum from Geneva”, 2 December 1974.

Meanwhile van der Stoel urged van der Valk not to emphasise the Solzhenitsyn case since it could derail the negotiation on access to literature, but rather to press further on the proposal

“If the final text contains the word “improvement” of the established custom, this means that we accept this procedure [for the time being], but that in the future it will be simplified and will become more efficient. I mean that there is still much to be done... The imperfect form of the Russian verb is no solution for sure”.<sup>303</sup>

Still, Van der Stoel hoped that the reference “dans l’esprit des conventions des droits d’auteurs” could be taken in again at a later stage of the negotiations. He explained to van der Valk that the word “ésprit” was quite crucial: “[c]ompliance with the conventions has to do first of all with the operative part of them. Therefore [a reference to] the ‘esprit’[in other words, to the scope and purpose of the convention] is essential”<sup>304</sup>

After further rounds of bilateral negotiations with the Soviets, a text of compromise was reached that eventually ended up in the final document:

“The participating states...[express their intention] to promote wider dissemination of books and artistic works, in particular by such means as facilitating, while taking full account of the international copyright conventions to which they are party, international contacts and communications between authors and publishing houses as well as other cultural institutions”<sup>305</sup>

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<sup>303</sup> ABZ, DAV, 1965-1974, file n. 689, “Memorandum from van der Stoel to van der Valk”, 4 December 1974.

<sup>304</sup> ABZ, DAV, 1965-1974, file n. 689, “Memorandum from van der Stoel to van der Valk”, 4 December 1974.

<sup>305</sup> ABZ, DAV, 1965-1974, file n. 727, “Memorandum on the Solzhenitsyn case”, 19 February 1974.

However important the battle for the inclusion of the word “*esprit*” was, and however deep the aversion to Soviet obscurantism, still the Solzhenitsyn case had to be kept out of the discussion. The Netherlands did not take a hard line when the case of the Soviet writer flared up.

First, van der Stoel feared that pressing the Soviets with that issue was dangerous and counterproductive “they would certainly get some negative publicity, but in the end they would get rid for good of a text that ‘could be painful for them’ “. A meeting in February 1974 between van der Stoel and the Soviet ambassador Romanov in The Hague is quite telling in this regard. The day following Solzhenitsyn’s expulsion, van der Stoel met with Romanov. Van der Stoel was diplomatic and cautious:

“It is not our purpose to interfere with Soviet internal affairs. Still, the impact of the expulsion of the Soviet writer on *détente* and East-West dialogue cannot be ignored. For this reason I deem it necessary to communicate to the Soviet Union the feelings of the Dutch government, of the Parliament and of broad part of the Dutch population”.<sup>306</sup>

The bland tone might seem at odds with the proposal advanced in October 1973. An explanation can be found a month after Solzhenitsyn’s expulsion, on the occasion of the NATO council in Brussels. Van der Stoel claimed then:

“We did not think CSCE was the right place to voice our concern, in view of the character it has. It rather resembles a laboratory, isolated from the world around; the Middle East crisis had not much of an impact there, either. We do however feel that the case of Solzhenitsyn provides an

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<sup>306</sup> ABZ, DAV, 1965-1974, file n. 726, “Memorandum of the meeting Romanov-van der Stoel”, 15 February 1974.

added reason to press for some concrete results in the third basket.”<sup>307</sup>

Overall, this quotation shows that the opinion expressed at the beginning of the Conference had not changed: he viewed the conference as a good opportunity to advance his policy, but did not count necessarily on epoch-making results. Dutch participation in the CSCE was aimed to develop a broad framework of principles that could advance democracy and human rights in Europe, and was therefore not the place for pleading individual cases. Even if the Hague had decided to do so, it would have had little room for manoeuvre. Van der Stoel – a lawyer by education – preferred to use codified law to contest expulsion and not political pressure. He delved into the legal underpinnings of the Soviet decision, trying to detect loopholes in the Soviet stand, he corresponded with the department for legal affairs of the Ministry of Foreign Affairs and asked to experts for further explanations: was the Soviet Union entitled to deprive one of its citizens of his nationality, or did the Soviet decision breach article 19 of the Universal Declaration of Human Rights, which enshrined freedom of opinion and expression? It is reasonable to think that an open breach of the Universal Declaration of Human Rights would have made criticism necessary and justified an open attack on Moscow’s policy. However, after a long exchange of ideas between different departments of the Ministry, it was clear that the Soviet Union was not flagrantly in breach of article 19, as article 29 of the Universal Declaration included

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<sup>307</sup> ABZ, DAV, 1965-1974, file n. 727, “Memorandum for the General Department of Political Affairs for the NATO Council”, 14 March 1974.

limitations of article 19 for reasons of “morality, public order, and general welfare”.<sup>308</sup>

Van der Stoel’s negotiating tactics are not the only explanation for the unusually cautious stand of the Dutch. A second reason was the close relationship between the Netherlands and Israel. At the time of the Solzhenitsyn case, Dutch diplomacy was particularly active in Moscow. Since 1967, the Netherlands had represented Israeli interests in Moscow and had played a key role in the sensitive emigration issue that had risen to alarming proportions after the Six-Days War. An increasingly large number of Soviet Jews applied for exit visas, but many were denied permission to leave the Soviet Union. They were the so-called *refuzeniks*.<sup>309</sup>

Different reasons underpinned Soviet anti-immigration policy in the 1970s. First, there were reasons of prestige, economic stability, and security. Second, anti-Semitism was deeply ingrained in the Soviet leadership and in people’s mentality.<sup>310</sup> Third, since the second half of the 1950s, the Soviet leadership had been toying with the idea of an Arab empire under Soviet rule: therefore, it traditionally supported the Arab states and stood against Israel.<sup>311</sup> Against this backdrop, anti-Semitic campaigns were a mostly permanent feature of Soviet policy. The Soviet Jewish community notoriously enjoyed only sparse moments of respite. The CSCE coincided with one of them. After a high-level anti-Zionist campaign occurred after the Six-

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<sup>308</sup> ABZ, DAV, 1965-1974, file n. 727, “Memorandum on the Solzhenitsyn case”, 19 February 1974.

<sup>309</sup> For a compelling story of the struggle of the Soviet *refuzeniks* in the 1970s see Natan Sharansky, *Fear No Evil: the Classic Memoirs of One Man’s Triumph over the Police*, (London: Weidenfeld & Nicholson, 1988).

<sup>310</sup> Benjamin Pinkus, *The Jews of the Soviet Union. The History of a national minority* (Cambridge: Cambridge University Press, 1988).

<sup>311</sup> This plan was disrupted by the Six-Day War.

Day War in June 1967, in March 1971 the Soviet leadership decided to permit emigration again. The looser emigration policy was not an indicator of an enlightened and more democratic regime, but the sign of new and urgent priorities on Moscow's agenda. First, the teetering Soviet economy badly needed economic advantages from the West, and a softer approach to the Jewish question could endear Moscow to its Western counterparts.<sup>312</sup> Second, by ventilating a less unconditionally pro-Arab foreign policy in the Middle East, the Soviet leadership wanted to induce the Arab countries to adopt a more pro-Soviet approach.<sup>313</sup> Third, the improved relations between the Soviet Union and the West in 1971 led to an attempt to improve relations with Israel as well. Due to the combination of these three factors, from 1971 to 1973 61,436 Jews were allowed to emigrate from the Soviet Union. The trend did not last, though: it was just a fleeting parenthesis in the long-established anti-Semitic tradition. In 1974 and 1975, because of the October war and of the failure of American-Soviet negotiations on the most-favoured nation treatment, the total number of emigrants decreased: 20,628 in 1974 and 13,221 in 1975.<sup>314</sup>

As a result, when the negotiations in Geneva were in full swing, the Soviet-Jewish community was going through yet another ordeal: the life of many Jews was made miserable not only because of

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<sup>312</sup> Pinkus, *The Jews of the Soviet Union*, 259.

<sup>313</sup> This plan failed: the expulsion of almost all Soviet military instructors from Egypt in 1972 marked the failure of the Soviet project.

<sup>314</sup> Pinkus, *The Jews of the Soviet Union*, 269. It is technically impossible to know how many *refuseniks* existed, only the Visa Office of the Soviet Ministry of Internal Affairs (OVIR) knew how many applicants were turned down. See Petrus Buwalda, *They did not dwell alone. Jewish Emigration from the Soviet Union, 1967-1990* (Washington: John Hopkins University Press, 1997), 65.



the denial to emigrate, but also for widespread institutional persecution.<sup>315</sup> As the Dutch ambassador in Moscow recalls

“The decision to leave the Soviet Union for good was for the great majority of Jewish emigrants a wrenching one. Once it had been taken, there was no way back: jobs had usually been lost, university studies of children interrupted, contacts broken off by friends and even relatives, possessions sold or given away [...] then came the terrible blow: refused!”<sup>316</sup>

At this point, the Netherlands entered into the picture:

“The Israelis had given the Dutch the permission to grant a visa for Israel, without preliminary authorization, to anyone presenting an exit permit valid for that country. Dutch officials simply had to check the validity of the exit permit, stamp and sign the Israeli visa, and register it.”<sup>317</sup>

Soon after, in 1970, “a flood of Jewish emigration started”<sup>318</sup> and the Consular Section of the Embassy was flooded by a deluge of requests and appeals. Under those circumstances, the Netherlands limited its initiatives for the “regular” dissidents and focused more on Soviet Jews. “The task of the Embassy is to represent the interests of Israel. For soviet citizens we can – and must – do nothing” claimed the Dutch ambassador in Moscow in 1971. A good rule of thumb for Dutch diplomacy in Moscow was thus to avoid any diplomatic move that could impair diplomatic activities and endanger the representation of Israeli interests.<sup>319</sup>

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<sup>315</sup> Gal Beckerman, *When they come for us, we'll be gone: the epic struggle to save Soviet Jewry* (Houghton Mifflin Harcourt, 2010)

<sup>316</sup> Buwalda, *They did not dwell alone*, 62.

<sup>317</sup> Buwalda, *They did not dwell alone*, 76.

<sup>318</sup> Buwalda, *They did not dwell alone*, 73.

<sup>319</sup> Baehr and Castermans-Holleman, *Human rights in the Foreign Policy of the Netherlands*, 133-134.

In lights of these two factors, it should be clear that the Dutch struck a balance between their special relationship with Israel and the newly-developed human rights policy in Geneva.

It is interesting to note that soon after the signature of the Helsinki Final Act the destiny of the Jewish *refuzeniks* and of the non-Jewish dissidents became one. On the initiative of Nathan Sharansky – one of the most influential and well-know Jewish *refuzeniks* – a public group aimed to monitor compliance with the Final Act was founded: the Helsinki Watch Group. Not surprisingly, Sharansky was imprisoned after two years of activity, and released only in February 1986, when Mikhail Gorbachev became secretary general of the Communist party and met with President Ronald Reagan for the first time. However, the group greatly contributed to make the Final Act a powerful political weapon against Moscow and to turn the spotlight on the plight of all *refuzeniks*.

### **The Dutch approach and European defeatism**

Unquestionably, all the provisions in the Final Act are more or less interlinked with each another. In the case of the provision on access to literature and of Principle VIII, they were closely intertwined. The access to literature and to scientific works would let information in and stimulate thinking. Ideas from the West would have filtered into the Soviet bloc through books and newspapers, and vice versa, the plight of the peoples in the Soviet bloc would have finally been unveiled to the public in the West. The possible combined effect of the two provisions was that entire peoples – and not a limited group of dissidents – would have denounced their oppressive regime and demanded democracy.

Three observations on the overall Dutch strategy are now possible. First, the Dutch proposals always made reference to human rights. Both in Principle VIII and in the provision on access to literature the Netherlands linked Helsinki soft law to international law documents in order to boost the human rights cause.

Second, van der Stoel, who played an active key role in both negotiations, closely guided the Dutch delegation. He wanted to be informed daily of the proceeding of the conference. He studied the subjects at stake in detail. His correspondence with van der Valk and Huydecoper and his long memoranda to Geneva attest to his extensive knowledge of the ins and outs of international law, his firm belief in the necessity of a painstaking preparation of the negotiations, and his struggle for human rights in Europe.

Third, the contribution and the collaboration with EC peers were minimal. This is a crucial point for the present analysis and calls for further attention. Indeed, the Dutch were solitary players, not because EC countries had distributed the tasks at the Conference in perfect harmony, but because approaches and tactics diverged. At times, the tension within the Nine was palpable, and the views differed markedly. The dense exchange of communication between the Dutch delegates and The Hague highlights that the coordination of the Nine through the EPC was not necessarily an indicator of a common front based on shared views. After a promisingly smooth start in Dipoli, the Nine grew apart and the Hague was therefore isolated. They showed again a degree of fleeting harmony only after Easter 1974. However, the memoranda and reports by the Dutch representatives in Geneva, the Dutch representatives at the EPC meetings, and Minister van der Stoel from the Hague painted a bleak picture of EPC coordination: "isolation" and "defeatism" were

frequently used expressions found in the documents. It is here necessary to give a short analysis of van der Stoel's vision of European integration so to grasp the origins of the frictions between the Hague and other EC members.

When van der Stoel sketched out his idea of a European Community, he repeated the very concepts previously analysed: a European Union, was welcome if "democratic", namely if the European Parliament allowed all states to have full effective control on the decision making process in Brussels. In other words, any risk of French-German condominium was to be avoided, and the British addition would be in this respect a very welcome counterbalance to Paris, which longed for a France-led intergovernmental EC.

"We will have to fight for a EC ... that is open to the entry of other democratic European countries. We will have to give the opportunity to the democratisation of Europe through a European Parliament to exert effective control on the decision making in Brussels."<sup>320</sup>

Along this line, he argued for a stronger and more influential Parliament:

"One of the main tasks of a progressive Dutch Cabinet will have to be to convince the EC partners that it is vital – in order to secure democracy in an increasingly united Europe – to expand the competencies of the European Parliament in the short-term".<sup>321</sup>

As for the EC then, van der Stoel aligned with the standard PvdA approach. As for the EPC, when he was nominated Foreign Minister, it was already set up and working, but its effectiveness was still to be

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<sup>320</sup> van der Stoel, "De PvdA en buitenlands beleid", 147

<sup>321</sup> Max van der Stoel, "Vredespolitiek moet central staan", *Socialisme en Democratie*, vol. 11, (November 1972), 508.

assessed. He saw in the EPC a useful tool to enhance his room for manoeuvre and the influence of a small power like the Netherlands.<sup>322</sup> However, no national policy would be limited or sacrificed on the EPC altar:

“On vital points of foreign policy [...] the member states, if there are fundamental differences of view, will retain the right to let national policy prevail over a common policy”<sup>323</sup>

The CSCE experience did not change these premises. In a speech to the Dutch House of Representatives (the *Tweede Kamer*) he stated:

“Through joint action more influence can be exerted towards solution of certain problems than when member states, particularly the Netherlands, speak out on their own ... the Dutch interest is sometimes served better if it is brought into a common defence of interests, in which the Nine manifest themselves jointly .... This does not exclude that the foreign policy of the member countries in some cases should still have a clear national nature until the cooperation between the Nine does not develop into a real federation, where the foreign policy is formulated by a federal government and by a federal parliament ... until that moment ... the member states have to be free to stick to their national policies when it seems that different view on vital points of their foreign policy cannot be overcome”<sup>324</sup>

Van der Stoel made clear that the autonomy of the country would not be curtailed for the sake of the EPC, and that any step towards a not-better-specified European political Union would be

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<sup>322</sup> Voorhoeve, *Peace, Profits and Principles*, 181.

<sup>323</sup> Netherlands Parliament, Second Chamber Proceedings, 1975-76, 13600 V (2), 33,

<sup>324</sup> Netherlands Parliament, Second Chamber Proceedings, 1976-77, 14100 V (2), 30-31.

carefully assessed. This mindset helps illuminate the Dutch stand among the Nine at the CSCE.

During the MPT EC solidarity was “exemplary”.<sup>325</sup> Cooperation on the Western front more generally infused optimism in The Hague: “the cooperation of the Nine and the Fifteen was in accordance with our highest wishes.”<sup>326</sup> Western countries achieved a very good level of coordination in the run-up to the Conference: their collaboration “bore very good fruit, as the first stage of the MPT went very well.”<sup>327</sup> Until Easter 1973, the assessment of the MPT was therefore very positive. However, the Dutch initial enthusiasm died soon. When the MPT were close to their end, in the spring of 1973, the stances of the participants emerged more clearly. Especially in the case of the Dutch, in spring 1973 the interest in the conference grew considerably: the CSCE was firmly placed on the newly appointed foreign minister’s political agenda, and gained notable importance. For this reason, The Hague grew self-assertive, and took an active part in the rest of the MPT with the clear purpose of setting a workable agenda for the Conference. This new assertive Dutch stand raised concern. The British chief of the Western organisations department, Crispin Tickell, claimed that the Dutch stand raised serious concern in London. One of the major reasons for disquiet was indeed The Hague’s uncompromising position that could jeopardise the “unity of the EC front in the EPC”. The Dutch were so doggedly committed to pursuing a strong negotiating style that they were likely to abandon the Conference if their plans would have resulted

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<sup>325</sup> ABZ, DAV, 1965-1974, file n. 733, “Memorandum from Dipoli”, 15 December 1972

<sup>326</sup> ABZ, DAV, 1965-1974, file n. 700, “Second round of the negotiations, memorandum for the Ministerrad, 15 February 1973.

<sup>327</sup> ABZ, DAV, 1965-1974, file n. 701, “Memorandum”, 21 February 1973.

in being unfeasible: London feared that “France and West Germany could follow”. It is important here to point out the different perspectives within the EPC group: while the Dutch representatives lamented the lack of EC support for the Dutch stand, the Nine – in the case at hand, the British – instead ultimately accused the Dutch of having extremist views that were likely to torpedo EC actions at the Conference.<sup>328</sup>

That said, the Dutch could not be blamed for weakening the EPC front: the stands of EC members tended naturally to differ:

“The Netherlands, Luxembourg, Italy and at times Belgium as well, follow a hard-line. The Danish tend to go their way, as well as France. UK swings between a hard and soft position.”<sup>329</sup>

The negotiations on the accessibility of written information and literature are good examples of the tension within the Nine and the absence of common ground. One of the Dutch delegates taking part in the EPC political committee in September 1973 reported the isolation in which the Dutch had to operate within the EPC:

“At Huydecoper’s request I have today invited our partners in the political committee to adopt a favorable attitude on the document presented by the Dutch in Geneva on accessibility of written information [...] The French have pointed out that they have no objection on the substance of the document, but that they nonetheless think that we should not table a document unacceptable to the Soviets.”<sup>330</sup>

The difference of views was profound: while Paris’ major concern was not to seem ill-disposed towards Moscow, The Hague’s

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<sup>328</sup> ABZ, DAV, 1965-1974, file n. 702, “Memorandum from London to the Ministry of Foreign Affairs”, 17 April 1973.

<sup>329</sup> ABZ, DAV, 1965-1974, file n. 702, “Memorandum on the MPT”, 8 June 1973.

<sup>330</sup> ABZ, DAV, 1965-1974, file n. 681, “Memorandum”, 28 September 1973.

goal was “not scale down [our proposals]”.<sup>331</sup> Van der Stoel was actively involved in this as well as in most of the details of the negotiations and aware of the EC's internal fractures at the CSCE. He lucidly pointed out the reasons that the EC countries could use to justify their opposition to the Dutch proposal:

“At this moment [they] can counter argue [against our proposal] claiming that it will serve only the effect to make *détente* harder, but also, and rather, that then the Dutch will have to stretch unnecessarily to breaking point”.

In autumn 1973, Van der Stoel urged the Dutch delegates to fight back: “in the talks with the Nine you could mention that the Netherlands struggled to keep the solidarity with its Western partners”.<sup>332</sup> Before Christmas, the negotiations on accessibility of literature were intense. On 8 October, Huydecoper informed Minister van der Stoel that the coordination among the Nine was lacking, and that the West German and the French were following their own objectives.<sup>333</sup> Van der Stoel reported that the Nine should meet up to decide their common objectives, but this seemed impossible since Paris wanted to develop a “privileged partnership” with the Soviets, and acted independently.<sup>334</sup>

In the course of 1973, the clash between The Hague and its EC peers became evident: when the Dutch wanted to present a paper on military aspects at Helsinki, the Nine agreed on it, but under one condition: “the Dutch have to present it under their own

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<sup>331</sup> ABZ, DAV, 1965-1974, file n. 681, “Memorandum” 28 September 1973

<sup>332</sup> ABZ, DAV, 1965-1974, file n. 681, “memo from the Hague to Geneva”, 5 October 1973.

<sup>333</sup> ABZ, DAV, 1965-1974, file n. 681, “memo from Geneva”, 8 October 1973.

<sup>334</sup> ABZ, DAV, 1965-1974, file n. 724, “Memorandum from Geneva on the EPC”, 27 October 1973.



responsibility, as for the time being agreement seems to be missing.”<sup>335</sup> Agreement was missing in general terms. At the end of the year, before the Christmas recess, it was clear that “the Dutch have defended the view that during the Second stage the Nine should pursue a more assertive offensive against Moscow”<sup>336</sup> and that this was proving increasingly impossible.

The Dutch were regarded as overly stiff hardliners by most of their Western peers, and in particular by most countries of the EC group. Quite tellingly in February 1974, the Dutch delegation from Geneva ventilated the hypothesis to join up with the Neutrals. This proposal is quite interesting as it shows that the degree of coordination between the EC countries and The Hague was so low as to make a closer cooperation with the Neutral countries appealing. Huydecoper informed the Ministry:

“I am rather unhappy with the way in which during the last few weeks the Nine have played in Geneva concerning the III Basket. The Soviet Union has easily – to my view far too easily – won a point of substance”.

However, the Dutch did not want to give up their stance as hardliners,

“We should not let ourselves convinced that the conference has to move on at any cost and that we will be blamed if it does not [...] if we do not put that strength to good use now, we will regret it later”.<sup>337</sup>

As for Basket III in particular, Huydecoper lamented the “defeatism” of the Nine, and particularly of three states, West Germany, Britain and France. The much-trumpeted successful EPC

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<sup>335</sup> ABZ, DAV, 1965-1974, file n. 701, “telephone call”, 4 April 1973.

<sup>336</sup> ABZ, DAV, 1965-1974, file n. 725, “Memorandum from Paris”, 8 November 1973.

<sup>337</sup> ABZ, DAV, 1965-1974, file n. 726, “Memorandum”, 14 February 1974.

mechanism was held up to ridicule “the problem is that the other states want to get the conference over with, and are ready to compromise with the Soviets”.<sup>338</sup> In one of the many strings of correspondence between Geneva and The Hague, van der Stoel used the same expression – “defeatism” –. Two months later, he called himself “pleased” about the tactics of the Nine and of the NATO countries, and stated, “[d]efeatism has decreased now”, thereby stressing that lack of coordination had indeed been the norm, as he pointed out a few weeks later.<sup>339</sup> At the end of March 1974 he claimed,

“I [think] that Netherlands should not persevere with its solitary fight [...] on the whole it is my concern, even though I find a tough negotiation style as strictly necessary, that we don’t put ourselves in a position where we have to defend stands that have become indefensible because of our Allies’ position.”<sup>340</sup>

There could be moments of respite from isolation. Still being isolated was the norm. The Dutch delegation became the butt of teasing both in the Western and in the Eastern front: Brezhnev used the expression ‘Dutch cabaret’ for Western proposals which to his view were “pointless and stupid”. Pointing the finger at The Hague was handy: it was easier to use The Hague as a scapegoat, than to blame – and confront – France, Bonn or Rome.<sup>341</sup>

As a consequence of the fragmented EC front, the policies against the Soviets were often ineffective. As the American journalist Richard Davy claimed, there were “[t]oo many *détente*(s) and peaceful

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<sup>338</sup> ABZ, DAV, 1965-1974, file n. 685, “memo from Geneva: III Basket, bad beginning of the New Year”, 16 January 1974.

<sup>339</sup> ABZ, DAV, 1965-1974, file n. 686, “memo from the Hague to Geneva”, 7 March 1974.

<sup>340</sup> ABZ, DAV, 1965-1974, file n. 717, “Memo from van der Stoel”, 30 March 1974.

<sup>341</sup> ABZ, DAV, 1965-1974, file n. 703, “Memorandum from Geneva”, 9 July 1974.

coexistence(s)": the Soviet Union could easily take advantage of the lack of the cohesion of the Western countries, and in particular of the Nine.<sup>342</sup> Van der Valk wrote dispiritedly to The Hague about the uncertain fate of the CSCE: "the continuation of the conference would be worthy of one of Alfred Hitchcock's masterpieces".<sup>343</sup> "Suspense" was the best expression to describe the situation in Geneva: the mercurial political swings of the EC coordination made an offensive against the Soviets impracticable.<sup>344</sup>

Besides, even when coordination succeeded, the EC countries were likely to agree on positions that The Hague could not possibly accept. In autumn 1974 the rule of thumb of "what is good for the Europeans is good for us" was no longer valid, and for this reasons The Hague found itself again isolated,<sup>345</sup> as van der Stoel sourly noted. The minister pointed out that political isolation could force the Dutch to review their stand. However, giving in to a softer approach to the CSCE remained the very last option on the Dutch table: "I would conclude that, if the Netherlands does not operate in *complete* isolation, I would push through our proposals, possibly put in parenthesis."<sup>346</sup>

The documents of the Foreign Ministry have illustrated the chasm between the Dutch position and the different positions of the Eight. Besides, it is interesting to note that references to the EPC are

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<sup>342</sup> The vision of the American journalist was reported by Huydecoper in his memo from Geneva to the Hague ABZ, DAV, 1965-1974, file n. 731, "Memorandum on détente" and peaceful coexistence", 8 July 1974.

<sup>343</sup> ABZ, DAV, 1965-1974, file n. 732, "Memorandum from Geneva", 25 October 1974

<sup>344</sup> ABZ, DAV, 1965-1974, file n. 718, "Memo from the Dutch embassy in Paris after the Political Committee of the EPC, meeting 18/10", 18 October 1974.

<sup>345</sup> ABZ, DAV, 1965-1974, file n. 732, "Memorandum for the First Chamber", 9 October 1974.

<sup>346</sup> ABZ, DAV, 1965-1974, file n. 718, "Memo for the Dutch delegation in Geneva", 8 October 1974

sparse or missing. This is quite a clear illustration of the feeble cohesion between the Nine.

### **At the extremes: the Dutch and the West Germans?**

The Dutch, as we have seen, were the hard-line negotiators of the EC-Nine and their policy often diverged from that of their European partners. It has been shown that the Dutch had a clear line of action, that van der Stoep played a crucial role, and that coordination was poor among the Nine. It is interesting to remark further that the country whose policy most powerfully diverged from The Hague's line was West Germany. The Dutch were firm and daring; the West Germans wary and discreet, and Dutch delegates often blamed their German colleagues for lack of preparation and obstructionist tactics.<sup>347</sup> Some episodes illuminate the measure of disagreement between the two countries, and corroborate the need to compare the diametrically opposed policies of Bonn and The Hague.

At the beginning of the second stage, opened in Geneva on 18 September 1973, political arm-wrestling was in full swing. Each side had a negotiating technique. The negotiating technique of East European countries boiled down to getting the proposals of their liking accepted first, and then moving on to other proposals. By this token, once those proposals were picked off with "the first blow" the West would have had less leverage to bargain for the following ones. The Eastern bloc would have secured "half the battle".<sup>348</sup> Huydecoper warned against the Soviet tactics and pointed out that Western

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<sup>347</sup> In addition, the French were targeted with as much criticism.

<sup>348</sup> ABZ, DAV, 1965-1974, file n. 723, "A week after the beginning of CSCE second stage", 24 September 1973.

countries had to secure a bargaining power equal to Eastern countries. Accurate preparation both of the political guidelines and of the staff on the spot were crucial factors for a successful conference: Western countries had therefore to employ well-experienced delegates who were familiar with the negotiating techniques of the Eastern Bloc. Bringing in new staff was regarded as highly risky.<sup>349</sup>

Bonn went the opposite way. The German approach to the negotiations struck the Dutch as being somewhat sloppy. In November 1973, a memorandum on the West German stance during the first stage of the negotiations was sent from The Hague to Bonn and Geneva.<sup>350</sup> The West Germans were blamed for their aloofness: the delegation chief, Guido Brunner, was not in Geneva. This signalled his intention to keep himself in the backstage of the negotiations and was in contrast to the politics promoted by Foreign Minister Scheel in the first stage. Dutch delegates were puzzled and annoyed.<sup>351</sup> Was German aloofness a tactical move right before Scheel's visit to Moscow or did it rather signal a more profound change in policy?<sup>352</sup> Whatever the answer, West Germany risked crippling the negotiations.

“The proverbial – but belied by facts in Geneva – German reputation for organisation and accuracy went missing again in Sub commission A [on principles]. Once again the West German delegates and their Foreign Minister

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<sup>349</sup> ABZ, DAV, 1965-1974, file n. 724, “Memorandum on the second stage of the CSCE”, from Geneva to The Hague, 24 September 1973.

<sup>350</sup> ABZ, DAV, 1965-1974, file n. 725, “Memorandum on West Germany's approach to the CSCE”, from The Hague to Bonn, 20 November 1973.

<sup>351</sup> ABZ, DAV, 1965-1974, file n. 725, “Memorandum on West Germany”, from The Hague to Bonn, 20 November 1973.

<sup>352</sup> This question hovered since the opening of the second stage. See for ex. ABZ, DAV, 1965-1974, file n. 725, “Memorandum on West Germany's *Ostpolitik* and East Germany”, from Bonn to The Hague, 23 November 1973.

seem incapable of keeping the pace [of the negotiations] and of reacting in time".<sup>353</sup>

The West Germans seemed not to care: they did not make any use of the discussions on the main contents of the principle of territorial integrity and did not delve into the amendments. They did not even bother to confer with their legal advisors in Bonn. The seething resentment for West German lack of in-depth analysis was palpable. The Dutch delegation's head Huydecoper recalled that the decision making process in Bonn was so slack that it had been necessary to postpone the discussion on the principle of territorial integrity of one week and in the interim jump to the following principle on the agenda – the peaceful settlement of disputes –. Galloping through the principles in Basket I without consistency was a waste of time and energy. It was "procedural acrobatics".<sup>354</sup>

The Dutch delegates could not hide their irritation. Abrasive memos were sent to The Hague, and provide vivid snapshots of the Dutch frustration towards a volatile EPC mechanism and a fickle EC partner. Huydecoper was particularly annoyed with Bonn's negotiating style. He reported sourly to The Hague on the negotiations on Principle Ten, "Fulfillment in good faith of obligations of international law". There was a fierce debate about the inclusion of the word "legal" – "they will, in exercising their sovereign rights, including their right to determine their laws and regulations, act in conformity with their *legal* obligations under international law" –: namely, the Dutch were the only EC country that did not agree on including the word in the text. The word "legal"

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<sup>353</sup> ABZ, DAV, 1965-1974, file n. 718, "Memorandum on the Principle of Territorial Integrity" from Geneva to The Hague, 7 May 1974.

<sup>354</sup> ABZ, DAV, 1965-1974, file n. 718, "Memorandum on the Principle of Territorial Integrity" from Geneva to The Hague, 7 May 1974.

limited the impact of the provision since it in practice excluded soft law. Basically, the participating states would have committed themselves only to fulfill obligations stemming from international treaties or agreements of international law. Huydecoper vividly recalled,

“Over lunch the West German van Groll had the brilliant idea of telling of one of the members of the Soviet delegation that the NATO countries were ready to accept the word “legal” with the exception of the Netherlands [...] I am not sure whether it was *out of stupidity* or on purpose that von Groll reported this conversion to one of the members of the Dutch delegation”.<sup>355</sup>

Domestic policy may explain West Germany’s conduct. The policy of *Wandel durch Annäherung* was slowly coming to an end. East Germany had achieved the recognition of its existence and did not seem willing to go further than the Quadripartite agreements and the German basic treaty.<sup>356</sup> There was not much left to bargain for. At that point West Germany then was willing to compromise with East Germany. The Dutch had diametrically opposed tactics. For them, being well-disposed towards the East German requests would backfire. The East German leadership seemed even more inclined to seal off the country.

At the EPC level during the second stage of the negotiations, Bonn was interested almost exclusively in the negotiations on the peaceful change of frontiers, whereas EC members discussed a number of different issues. On 2 May 1974, Huydecoper sent a report on the meeting of the CSCE Subcommittee in Geneva for the peaceful

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<sup>355</sup> ABZ, DAV, 1965-1974, file n. 703, “Memorandum from Geneva”, 26 July 1974.

<sup>356</sup> ABZ, DAV, 1965-1974, file n. 725, “Memorandum from Geneva to the Hague” 23 November 1973.

change of frontiers to the Minister of Foreign Affairs. The purpose of the meeting was to broach the sensitive issue with the support of a number of legal advisors. Overall, it had been a "disappointing business", he reported. West German delegates made themselves content with a mention of the principle of peaceful change of frontiers in the principle of sovereignty. By doing so, Huydecoper remarked, the applicability of the principle of inviolability of frontiers was limited. The West German obsession with the principle of peaceful change of frontiers hampered coordination in the Western Bloc and interfered with a comprehensive approach to the items on the table.<sup>357</sup>

During the negotiations on human rights, the West Germans did not prove cooperative either. After 56 sessions, the First Commission eventually approved the principle on 15 November 1974. However, the principle was to be officially registered only on 20 November, so to allow the Chiefs of State plenty of time to study it in detail. Van der Valk wrote to The Hague that "the present wording gives us reason for happiness". Both the length and the content of the principle proved that standing firmly against the "minimal position" of the Eastern bloc did pay off, and that the West had much to win by staying resolute in not granting concessions. Eastern countries had to realise that the only way to proceed in the negotiations was to compromise and come closer to West positions.<sup>358</sup> Van der Valk's memo turned sour in its closing though: he recounted that there was only a sentence still pending in square brackets ("the right of the individual to know and act upon his rights and duties"). Leaving it in

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<sup>357</sup> ABZ, DAV, 1965-1974, file n. 718, "Memorandum from Geneva to the Hague", 2 May 1974.

<sup>358</sup> ABZ, DAV, 1965-1974, file n. 718, "Memorandum on Human Rights", 15 November 1974.



brackets opened the door to further bargaining in the second reading West German delegation was the one to blame: West German delegates had not agreed on the last part of the sentence.

In short, for Dutch delegates, their West German peers were more of an impediment than a support. The two countries had two opposite approaches to the East and two different ideas of the conference and of its goals.

**Conclusions: using human rights as a tool to disrupt the *status quo***

The campaign for human rights at the CSCE has become part of a narrative on the EC as strong promoter of human rights in Europe through the successful EPC.<sup>359</sup>

In this narrative, the special role of the Dutch is lost. The analysis conducted so far has indeed put forward a different story.

First, the last two chapters have shown that the Dutch did not blend in with their EC peers and that political coordination with the EC members was not a priority: The Hague was not disposed to give in on *Dutch* goals and acquiesce to the plans of other EC members for the sake of a high-flown common European foreign policy.<sup>360</sup> At the CSCE, EC members were equally not inclined to make an effort to

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<sup>359</sup> For the role of the N+N countries see Thomas Fischer, *Neutral Power in the CSCE: the N+N States and the Making of the Helsinki Accords 1975*, (Wien: Nomos, 2009)

<sup>360</sup> It may be useful to remember that when the negotiations in Geneva were in full swing, the Netherlands had already learnt the hard way that the EPC solidarity crumbled apart on times of dire need. The oil crisis in 1973-4 proved Dutch distrust right. When the Dutch economy ended in serious deadlock, no support came from the EC countries. Great Britain and France were particularly reluctant to help. For a thorough analysis see Duco Hellema, Cees Wiebes, Toy Witte, *The Netherlands and the oil crisis: Business as usual*, (Amsterdam: Amsterdam University press, 2004), 73-96.

come closer to the Netherlands. When the Dutch pursued self-determination of people, free correspondence and diffusion of literature with tenacity and persistence, the general response from the EC members was lukewarm or annoyed. The same proved true for the super powers. Dutch intransigent positions looked not only untenable, but also risible and The Hague famously became the butt of jokes: Kissinger mocked Dutch proposals in Basket III as ridiculous and pointless “cabaret” that he had never bothered reading.<sup>361</sup> Ultimately, the Dutch delegates found themselves obstructed by their EC peers as much as by the Soviets.

Second, the analysis has highlighted that the Dutch and their European peers not only had different tactics, but that those different tactics hinged on different understandings of *détente*. The fact that in the end the EC countries subscribed all to the same group of principles – and who would not, when principles got at the centre of public attention and praise – could lead us to think retrospectively that they shared the vision enshrined in those very principles. The Netherlands clearly shows that this was not the case.

That said, at this point, further questions arise on the Dutch role at the CSCE. Were they mavericks? Or was the Dutch case just the most glaring example of more widespread conduct among the EC countries? It would be very interesting to sift through all CSCE papers in the archives of the individual EC members. Equally fascinating would be an analysis of Basket II on economic cooperation, a field where the Nine had long worked together. These two additional areas of research would provide valuable material to

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<sup>361</sup> See Frans Bletz, “Notities bij vier jaar Oost-West beleid”, *Internationale Spectator*, vol. 31, (1977): 656. The Dutch still remember the tart joke. See “Dutch cabaret”, Ko Colijn, *Vrij Nederland*, (Amsterdam), 31 May 2008.

assess the degree, the scope, and the feasibility of cooperation among the Nine. First, the Helsinki Final Act, far from being the achievement of a common front, might well turn out to be a patchwork of individual negotiations to which retrospective gloss had been placed. Second, it may come out that coordination was really successful only in economic cooperation. For the time being, the present work argues that the Dutch often acted as mavericks, and many times regarded the EPC as a charade.

The scrutiny of a country that lay on the other side of the spectrum of the advocacy of human rights – West Germany, and that kept a low-profile throughout the negotiations, may greatly contribute to illuminating the EPC case.

## Chapter 4

### The uniqueness of Bonn: striving for human relief

#### Introduction

Dogged human rights advocacy earned the Dutch the respect of staunch anti-communist mavericks: the Dutch delegates disliked compromising on principles and frowned upon those countries willing to acquiesce to Soviet plans. They were harshly critical of West Germany's low profile in negotiations on human rights issues, as Bonn openly aimed at an "extraordinarily modest, limited, quotidian practice of pursuing the most elementary humanitarian goals".<sup>362</sup>

The statement of West German Chancellor Helmut Schmidt issued at the end of the CSCE illustrates Bonn's opposing approach

"For the present, people must content themselves with what is possible today in view of the diversity of the systems and the mistrust which still exists [...] they expect tangible progress towards co-existence of the peoples in the East and the West, increased travel across the frontiers which divide them [...]"<sup>363</sup>

This chapter is devoted to providing background information on what will be termed "human relief policy", as Chancellor Brandt called the foreign policy dossier on the improvement of living conditions for the German people. Human relief ultimately aimed at

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<sup>362</sup> Timothy Garton Ash, *In Europe's name: Germany and the Divided Continent* (London: Jonathan Cape, 1993), 67.

<sup>363</sup> Igor I. Kavass, Jacqueline Paquin Granier, Mary Frances Dominick, *Human Rights, European Politics, and the Helsinki Accord: the Documentary Evolution of the Conference on Security and Cooperation in Europe, 1973-1975, vol. VI: Stage III Helsinki 1975*, (Buffalo, NY: William s. Hein & Co., 1981).

the preservation of the German nation by making frontiers more permeable and life conditions in Eastern countries more bearable.

“The Germans in their entirety are not a nation-state in our times, but nonetheless they are linked not simply by a common language: in the human field [they are linked] through numerous family relations, in spirit through a common history and literature...it is necessary [to develop] a politics that strives for the protection of the nation.”<sup>364</sup>

The main thrust of human relief policy was that intra-German relations could be improved only by improving first relations with the Soviet Union, and then with the other Eastern states. Therefore, the analysis will preliminarily focus on Bonn’s relations with the Soviet Bloc, the well-known *Ostpolitik*: “[t]he whole approach and attitude of the FRG before, during and after the CSCE was tailored according to *Ostpolitik* goals, schedule and tactics”.<sup>365</sup>

A word of caution is due here. Given *Ostpolitik*’s complex nature and its wide range of implications, the literature is vast.<sup>366</sup> *Ostpolitik* will not be analysed in its entirety but only insofar as is

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<sup>364</sup> Willy Brandt, *Begegnungen und Einsichten. Die Jahre 1960-1975* (Hamburg: Hoffmann und Campe, 1976), 251.

<sup>365</sup> Peter Bender, *Das Ende des ideologischen Zeitalters: die Europäisierung Europas*, (Berlin: Severin und Siedler, 1981), 144-145.

<sup>366</sup> The scholarly literature on Bonn’s Eastern and German policy is vast. Standard works are Christian Hacke, *Die Ost- und Deutschlandpolitik der CDU/CSU: Wege und Irrwege der Opposition seit 1969* (Cologne: Wissenschaft und Politik, 1975), Günter Schmidt, *Entscheidung in Bonn: die Entscheidung der Ost- und Deutschlandpolitik 1969/1970* (Cologne: Wissenschaft und Politik, 1979); Manfred Görtemaker, *Die unheilige Allianz: Die Geschichte der Entspannungspolitik 1943-1979* (Munich: Beck, 1979); William E. Griffith, *The Ostpolitik of the Federal Republic of Germany* (Cambridge, Mass: MIT Press, 1978); Arnulf Baring, *Machtwechsel: Die Ära Brandt-Scheel* (Stuttgart: Deutsche Verlagsanstalt, 1983); Peter Bender, *Neue Ostpolitik: vom Mauerbau zum Moskauer Vertrag* (München: Deutscher Taschenbuch Verlag, 1986); Helga Haftendorn, *Sicherheit und Entspannung: Zur Aussenpolitik der Bundesrepublik Deutschlands 1955-1982* (Baden-Baden: Nomos, 1983); Garton Ash, *In Europe’s Name*, David E. Patton, *Cold War Politics In Postwar Germany* (Basingstoke: Macmillan, 1999).

useful to pinpoint the place of human relief in West German foreign policy agenda at the opening of the CSCE.

*Ostpolitik* will be therefore presented and scrutinised as an essential starting point to grasp the reasons and aims of human relief policy. When recognition of the *status quo* became the official policy of Brandt's government, human relief policy became a priority: if the time was not ripe for political and territorial reunification, as the new Chancellor claimed, then Bonn ought to work at least on "human reunification". The chapter will show that the political rapprochement with the East brought along high expectations of significant improvement of the living conditions of the people in Eastern Europe who were of German origin and wanted to reunite with their families in the West, or simply wanted to head back to their original home country.

Further, the analysis will consider Chancellor Brandt's limited room of manoeuvre in the implementation of an effective human relief policy.<sup>367</sup> It will namely show that Brandt had to cope with rising distrust for his *Ostpolitik* in Western and Eastern countries, and that at home he faced strong criticism from the CDU/CSU, which reproached the SPD leadership for giving away the country's security, renouncing any claim to German unification, granting Moscow free hand on Europe, and neglecting human relief.

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<sup>367</sup> Garton Ash provides a powerful mapping of the major elements, and limitations, of *Ostpolitik*: "the courtly, almost exaggerated emphasis on harmony with Western, and especially American policy; the insistence nonetheless on West Germany's need to do more for herself; the premises that nothing could be achieved against the will of the Soviet Union; the belief in trade and economic co-operation as a means to facilitate political détente...; the rejection of destabilization; the notion rather of achieving relaxation by reassuring the communist power holders; most elementary humanitarian goals...; an acute and palpable consciousness of the weakness of your own bargaining position", *In Europe's Name*, 67.

Finally, this chapter will focus on the guidelines for the West German delegates gathering in Dipoli for the opening of the MPT in November 1972, and – *inter alia* – point out that interestingly those guidelines did not mention the EPC, but only referred to the EC for cooperation in the industrial field.<sup>368</sup>

In conclusion, this chapter, while partly building on previous studies,<sup>369</sup> will identify and fill a gap in the literature which shows three major flaws: its time-span is limited, since it has focused only on the initial stage of West Germany's politics at the CSCE; it has not delved into the issue of human relief in detail; and lastly, it has not showed with sufficient clarity Bonn's specific stand among the EC countries.<sup>370</sup>

Ultimately, the analysis will make three major points.

First, delving into the West German position highlights how complex the political debate on human rights was. In the case of West Germany, Bonn did not strive for universal human rights, but advocated the improvement of the living conditions of the Germans in Eastern Europe. Bonn focused especially on Basket III, namely the

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<sup>368</sup> AAPD, vol. 1972, "Guidelines of West German Government for European Security Conference", 18 May 1972, 578-584.

<sup>369</sup> A very valuable work on Brandt's human rights policy is Philipp Rock *Macht, Märkte und Moral. Zur Rolle der Menschenrechte in der Außenpolitik der Bundesrepublik Deutschland in den sechziger und siebziger Jahren* (Bruxelles: Peter Lang, 2010)

<sup>370</sup> Even cutting-edge works that have made use of newly released primary sources have only partially addressed this theme. Petri Hakkarainen's PhD thesis, *Amplifying Ostpolitik: The Federal Republic of Germany and the Conference on Security and Cooperation in Europe, 1966-72*, Oxford University, 2008, covers only the period until 1973. Similarly the well-researched article by Kristina Spohr Readman, "National interests and the power of 'language: West German diplomacy and the conference on security and cooperation in Europe, 1972-1975", *Journal of Strategic Studies*, Vol. 29, no. 6, (2006): 1077-1120, is limited to the study of *Deutschlandpolitik* interests. Daniel Möckli equally analyses the emergence, rise and crisis of the EPC, but does not delve into the underpinnings of Brandt's human relief policy. See Daniel Möckli, *European Foreign Policy during the Cold War: Heath, Brandt, Pompidou and the Dream of Political Unity*, (London: I.B. Tauris, 2009).

provisions on “freer movement of people”.<sup>371</sup> As in the Dutch case, the analysis will emphasise the importance of domestic background and will point out the role played by major political figures like Chancellor Willy Brandt and Foreign Minister Hans-Dietrich Genscher who actively pursued human relief.

Second, Bonn was not keen on a strident human rights policy among the EC countries, since intransigent positions could endanger progress in human relief. The concept of human relief was not about enhancing international law at large: it was about improving the life of the thousands Germans scattered in Eastern Europe after WWII, and it was quite specific to West Germany. Pushing through the provisions on reunification of families in the chapter on “freer movement of people” in Basket III could make a real difference for the applicants for emigration permits in East Germany, Poland, the Soviet Union and Czechoslovakia, and for the West Germans struggling to visit their relatives in the East.

Third, Bonn did not reasonably expect a turnaround in emigration policy, but nonetheless regarded the CSCE as a window of opportunity to loosen the strict conditions for granting emigration permits and family visits, and to improve the living standards of those remaining in the East.

### **The *nemesis* of Potsdam and the partition of Berlin**

Two momentous events represent the starting points for grasping the political and emotional underpinnings of German “human relief policy”. First, once the war was over, a reversed and

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<sup>371</sup> On 8 December 1972, the definition “human contacts” substituted “freer movement”.



long-forgotten *diaspora* forced the German people settled in Hitler's *Reich* back to what had become a far smaller home country. Not everyone made it, and many Germans remained on the other side of the Iron Curtain against their will.<sup>372</sup> Second, after 1961 the partition of the city of Berlin put the seal on the partition of the German capital and symbolised the definitive division of the German nation as a whole. These two events will be briefly analysed and then linked to the engineering of Brandt's *Ostpolitik* in the 1970s.

The expulsion of the German people from the *Reich* amounted to a historical – and for many fatal – mass migration. The text of Article XIII of the Protocol to the Potsdam Treaty (17 July-2 August 1945) disposed of the transfer of Eastern Germans to what was left of the *Reich* at the conclusion of the conference as well as made the displacement of those already confined out of the dissolved *Reich* permanent.<sup>373</sup> The implementation of Article XIII resulted into 16 million displaced Germans, around 2 million dead, mostly elderly, women and children, and had a dramatic ripple effect on the post-war reconstruction of German national identity: “The human misery that accompanied this movement [...] makes up one of the most distressing chapters of XXth century history”.<sup>374</sup> In the 1970s, for instance over one million Germans lived under Polish rule in the former German provinces east of the Oder-Neisse, enjoying no

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<sup>372</sup> Alfred M. de Zayas, *Nemesis at Potsdam. The Anglo-Americans and the Expulsion of the Germans. Background, Execution, Consequences* (London: Routledge Henley and Boston, 1976)

<sup>373</sup> See *Der Spiegel*, 13/2002 “Die Debatte wirkt befreiend”, 14/2002, “Lauft, Ihr Schweine!”, 16/2002, “Der zweite lange Marsch”, and Tara Zahra, “Lost Children: Displacement, Family, and Nation in Postwar Europe”, *The Journal of Modern History*, vol. 81, no. 2, (March 2009): 45–86.

<sup>374</sup> de Zayas, *Nemesis at Potsdam*, xx.

minority rights and subject to strong “polonizing pressures”.<sup>375</sup> Those who applied for emigration permits – many of whom had close family members in the West – were heavily discriminated against. Understandably, one of the tenets of Bonn’s foreign policy was to obtain the release of all the Germans living in the East against their will, and to allow family members settled in the Federal Republic to visit their relatives and friends, and vice versa.<sup>376</sup> The debate on reunification of families and visit-permits gained momentum after barbed wire parted Berlin on 13 August 1961. In less than 6 months, the Berliners had their freedom of movement entirely swept away.<sup>377</sup> On 22 August 1961 the East German Minister of the Interior announced that West Berliners were allowed to enter East Berlin only if they were granted a stay-permit by East German offices; the permits were valid for only one day and forbade overnight stays. Ultimately, contact between the two parts of Berlin was reduced to nil.<sup>378</sup> Discussions about possible agreements on the traffic between

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<sup>375</sup> de Zayas, *Nemesis at Potsdam*, 180.

<sup>376</sup> The Polish negotiators made only vague statements, and the number of Germans allowed to leave Poland declined every year from 1971, although according to the Red Cross at least 300,000 wanted to emigrate. Poland demanded DM in economic: a new treaty was negotiated with Poland in October 1975, and ratified by the German parliament in March 1976, whereby 2.3 billion DM of economic aid would go to Poland in exchange for the release of 120,000 Germans. See de Zayas, *Nemesis at Potsdam*, 181.

<sup>377</sup> Travelling between the zones had been gradually curtailed since 1952. Until that date, Germans in West Berlin could travel undisturbed to the Soviet part of the city. As from November 1953, while the occupying powers had agreed that travellers between the zones were not required to bring a passport anymore, the GDR set the condition that anyone entering the Soviet zone was required to obtain a permit from the Soviet authorities. Therefore, from November 1953 onwards, anyone wishing to enter the Soviet Zone had to apply for a permit at the checkpoints built in East Berlin. This permit was granted under strict conditions, for instance in the case of family affinity or for urgent family reasons such as weddings, deaths and serious illnesses. This resulted in a hard blow to the freedom of movement of the Berliners. See Gottfried Vetter, “Passierscheine in Deutschland”, in *Europa Archiv*, vol. 9 (1964): 306.

<sup>378</sup> Vetter, “Passierscheine in Deutschland”, 309.

the two sides of Berlin started in December 1961 and the first Pass Agreement was signed on 17 December 1963. Out of 1.2 million requests, 790,000 West Berliners had the chance to go beyond the Wall.<sup>379</sup> This was an unexpected result and a powerful message for the politicians in Bonn.<sup>380</sup>

However, the success of this deal was modest. The visit permissions only applied to visiting East Berlin and only to West Berliners who had relatives in East Berlin. Besides, it was valid only on public holidays, and between Christmas and New Year. Ultimately, the first pass agreement represented a victory for *Ostpolitik* not much as for its effects, which were conspicuously limited, but more for its significance. It showed that there was a point in negotiating with *Die Zone*. That said, the West German public remained sceptical: about 87% of West Berliners would not approve of a follow up on the Pass Agreement if that entailed recognition of East Germany.<sup>381</sup> The pass agreements equally attracted harsh criticism in the West for two reasons: first, there was the widespread fear of losing the battle for reunification; second, it was dreaded that it would be the first step towards East Germany's formal recognition. The West German party CDU/CSU particularly stressed that the agreements played into the hands of the Soviets. First, it confirmed the communist three-state-theory. According to the theory, three states existed in Germany: the Federal Republic, the Democratic Republic and the special territory of West Berlin, which belonged neither to West Germany nor to East Germany. Second, Moscow

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<sup>379</sup> Bender, *Neue Ostpolitik*, 128.

<sup>380</sup> Vetter, "Passierscheine in Deutschland", 314. East Berlin's authorities expected around 30,000 requests and the West German press had equally underestimated the wave of people who actually flocked to the pass offices (*Passierscheinstelle*).

<sup>381</sup> Vetter, "Passierscheine in Deutschland", 314. The poll was taken by the Institute for Applied Sciences in Bad Godesberg after the Wall was built.

could count on more than 200 staff members settled in West Berlin, while East Germany achieved a sort of “sovereign right in the west”.<sup>382</sup> For these very reasons, the pass agreements were regarded – unsurprisingly – as “not to be repeated” by the president of the Berlin CDU, Franz Amrehn. In 1966 they were over.<sup>383</sup>

That said, the Pass Agreement on Berlin – and a number of practical agreements like the reconstruction of the highway bridge around Hirshberg – marked a turning point for the budding *Ostpolitik* of SPD Berlin’s mayor Willy Brandt.<sup>384</sup> It is crucial to note that after the first pass agreement, Brandt and his closest collaborator Egon Bahr started to emphasise that small humanitarian steps were valuable *per se*, and not only insofar as they served the ultimate goal of reunification: “If we cannot remove the wall, we have to make it permeable”.<sup>385</sup> Brandt “did not regard the small steps as an automatic path to reunification, but as a value in themselves in so far as one helped the people in the zone.”<sup>386</sup> It was “not just *détente* through recognition, but also transformation through recognition”. The pass agreements were a *de facto* recognition of East Germany, aimed to ease humanitarian pressure.<sup>387</sup> They represented a first crack in West Germany’s traditional *Deutschlandpolitik* which Brandt and Bahr

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<sup>382</sup> Vetter, “Passierscheine in Deutschland”, 315.

<sup>383</sup> The SPD and the FDP always remained in favour of the pass agreement.

<sup>384</sup> Helga Haftendorn, *Deutsche Aussenpolitik zwischen Selbstbeschränkung und Selbstbehauptung, 1945-2000* (Stuttgart: Deutsche Verlags-Anstalt, 2001), 155.

<sup>385</sup> Egon Bahr, *Zu meiner Zeit* (München: K. Blessing, 1996), 161

<sup>386</sup> Quoted in Arne Hoffmann, *The emergence of détente in Europe: Brandt, Kennedy and the Formation of Ostpolitik* (London: Routledge, 2007), 131.

<sup>387</sup> However, they could also produce the opposite effects. Once East German citizens had been exposed to Western influence, the anxiety of the East German regime was likely to grow stronger. Briefly, there was a “latent tension between elements of underhand subversion and elements of calculated stabilization”. Indeed, the Pass Agreements were unlikely to produce any reassurance. Bahr wondered “did the other side consider what their citizens would think, feel and desire?”. See Bahr, *Zu meiner Zeit*, 164.

regarded as increasingly outdated.<sup>388</sup> As political scientist Wolfram Hanrieder pointed out

“By the late 1960s it had become apparent that the German question [...] needed to be transformed from an issue that implied the enlargement of territory into an issue of enlarging human contacts between the German people and of improved relations between the two German governments.”<sup>389</sup>

This was what Brandt aimed to achieve when he became Chancellor in 1969.

### **Brandt's *Ostpolitik***

We assume that we're being hatched...  
And what if we're not being hatched?  
If this shell will never break?  
If our horizon is only that  
Of our scribbles, and always will be?  
We hope that we're being hatched.”<sup>390</sup>

The poem “In the Egg” by the German author Günter Grass conveys a creeping feeling of anxiety, of uncertainty and of anguished immobility and powerlessness and captures the atmosphere of post-war West Germany. The reader is left wondering whether the egg will ever break and the chick ever see the light of the day, or whether instead it will remain trapped in its shell.

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<sup>388</sup> Hoffman, *The emergence of détente in Europe*, 152. Garton Ash was the first to point out that German *Ostpolitik* was the pursuit of national interests within a multilateralised policy hinging on the strategy of “liberalisation through stabilisation”. For Bahr's Eastern policy see also Andreas Vogtmeier, *Egon Bahr und die deutsche Frage: zur Entwicklung der sozialdemokratischen Deutschlandpolitik vom Kriegsende bis Vereinigung*, (Bonn: Dietz, 1995).

<sup>389</sup> Wolfram F. Hanrieder, *Germany, America, Europe: Forty Years of German Foreign Policy*, (New Haven and London: Yale University Press, 1989), 196.

<sup>390</sup> Günter Grass, *Selected Poems*, (London: Faber & Faber, 1999), “Im Ei”, 43, 45.

Post-war West Germany was a country that tried to repair its tarnished image and regain international credibility, economic power and independence. It was a country striving to break with the past and enter the international community on a level of parity that strove for full rehabilitation in the international community: “Brandt, and even more so Scheel, wanted to leave school and enter normal life”.<sup>391</sup> In Grass’ words, post-war West German policy was a long struggle for “breaking the egg”. What strategy to choose was a matter for debate. Chancellor Konrad Adenauer (1949-1963) had focused on the rehabilitation of Western Germany and its incorporation, on a level of new equality, into the Western Alliance (NATO), and into the European organisations (EEC), by means of ignoring any relationship with the states of Eastern Europe.<sup>392</sup>

“West German unity and strength [...] and West German as an integrated, equal part of Europe were Adenauer’s foreign policies. All else was tactics. Only thereafter, if indeed at all [...] and then within a European, not a German, framework, should Bonn concern itself seriously with the East”.<sup>393</sup>

Brandt understood that such a policy was counterproductive, and that Bonn could not limit itself to “inspire and prompt the engagement of its allies [in the German question]”:<sup>394</sup> he wanted *Westpolitik* relations to proceed in step with *Ostpolitik*’s relations.<sup>395</sup>

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<sup>391</sup> Gottfried Niedhart, “The Federal Republic’s *Ostpolitik* and the United States: Initiatives and Constraints” in K. Burk and M. Stokes (eds.), *The United States and the European Alliance since 1945* (Oxford/New York: 1999), 291.

<sup>392</sup> Wolfram F. Hanrieder, “West German Foreign Policy, 1949-1979. Necessities and Choices” in *West German Foreign Policy 1949-1979*, (Boulder, Colo.: Westview, 1980), 18-19

<sup>393</sup> William E. Griffith, *The Ostpolitik of the Federal Republic of Germany*, (Cambridge, Massachusetts: the MIT Press, 1978), 43-48.

<sup>394</sup> Bender, *Das Ende des ideologischen Zeitalters*, 239.

<sup>395</sup> Brandt’s *Ostpolitik* built on the achievements of *Westpolitik*: it did not mark its reversal but was its continuation and development.

While Adenauer's Christian-democratic party, the CDU/CSU, accused Brand of originating a conflict between European integration – *i.e.* continuation and development of *Westpolitik* – and Eastern policies – *i.e.* Brandt's *Ostpolitik* –, there was no basic reversal of earlier policies, nor a departure irreconcilable with *Westpolitik*.<sup>396</sup> A new course began and became known as “change through rapprochement”, a formula used by the chief adviser on foreign affairs Egon Bahr for the first time in his speech at the Evangelische Akademie at Tutzing, near Munich, on 15 July 1963.<sup>397</sup> Bahr advanced the idea to loosen up the frontiers – and overcome the Wall – by diminishing East Germany's fears and coming to terms with Moscow.

“[transformation for me was] not to fight against the *status quo*, but use it [to our favour]. Brand was not a boxer. He knew how to use the push of his adversary; judo is the technique used by the weak to floor a stronger opponent”<sup>398</sup>

The Social liberal coalition therefore introduced a new element in West Germany's foreign policy, namely – as Haftendorn has defined it – :

“The idea of setting a *modus vivendi* for the legacy of the WWII and to tone down East-West confrontation through a European *Friedensordnung* [peace order], where military confrontation could be overcome, tension decreased, cooperation improved, and mutual understanding between peoples improved”.<sup>399</sup>

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<sup>396</sup> See Peter H. Merkl, “The German Janus: From *Westpolitik* to *Ostpolitik*,” *Political Science Quarterly*, Vol. 89, no. 4 (winter 1974-75): 804, 821.

<sup>397</sup> For the Tutzing speech, see Bahr, *Zu meiner Zeit*, 245-247.

<sup>398</sup> Bahr *Zu meiner Zeit*, 149.

<sup>399</sup> Haftendorn, *Sicherheit und Entspannung*, 179.

Briefly, even though both chancellors pursued a revisionist policy<sup>400</sup> – a concept extensively studied by the German historian Gottfried Niedhart<sup>401</sup>– they developed it according to two substantially different strategies.<sup>402</sup> Adenauer’s revisionism addressed the West, and aimed at the securing of national sovereignty as a necessary precondition, insisting on an “isolated” German solution – that involved only the Four Powers and Germany –. Brandt’s revisionism instead focused on the East: the improvement of East-West relations was a precondition for progress in the German question.<sup>403</sup> Besides, by reversing the “Schröder doctrine”<sup>404</sup> of the previous former Erhard government, which claimed that European *détente* had to go hand in hand with German unity,<sup>405</sup> the Kiesinger-Brandt government (1 December 1966–21 October 1969) made European *détente* its very first priority.<sup>406</sup> It was no easy task.

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<sup>400</sup> As early as in the 1970s, scholars introduced the concept of revisionism. See Werner Link, “Außen- und Deutschlandspolitik in der Ära Brandt 1969-1974”, in Karl Dietrich Bracher, Wolfgang Jäger, Werner Link, *Republik im Wandel 1969-1974. Die Ära Brandt*, (Stuttgart: Deutsche Verlags-Anstalt, 1986), 163 and ff., 280.

<sup>401</sup> See Gottfried Niedhart, “Revisionistische Elemente und die Initiierung friedlichen Wandels in der neuen Ostpolitik 1967–1974”, *Geschichte und Gesellschaft*, vol. 28, no. 2 (2002): 233–366; Gottfried Niedhart and Oliver Bange, “Die ‘Relikte der Nachkriegszeit’ beseitigen: Ostpolitik in der zweiten außenpolitischen Formationphase der Bundesrepublik Deutschland im Übergang von den Sechziger- zu den Siebzigerjahren”, *Archiv für Sozialgeschichte*, vol. 44 (2004): 415-448. See also Christopher Bluth, “A West German view” in Richard Davy (ed.), *European Détente. A reappraisal*, (London: Sage, 1992). Bluth uses a stronger definition (see p. 44) and he points out that the New *Ostpolitik* contained a “subversive element”.

<sup>402</sup> SPD policy instead gave priority to introducing a process of European *détente* rather than to solving the German question. See Christian Hacke, “Relations of a Special Nature: Thirty Years after the German-German Summits in Erfurt and Kassel”, *Deutschland-Archiv*, Vol. 33, no. 5 (2000): 817-19.

<sup>403</sup> Julia van Dannenberg, *The Foundations of Ostpolitik. The Making of the Moscow Treaty between West Germany and the USSR*, (Oxford: OUP, 2008), 18-20. Bender, *Das Ende des ideologischen Zeitalters*, 236.

<sup>404</sup> The policy inaugurated by foreign minister Gerhard Schröder

<sup>405</sup> See van Dannenberg, *The Foundations of Ostpolitik*, 25-26.

<sup>406</sup> Bender, *Das Ende des ideologischen Zeitalters*, 230-233.



“The idea of recognizing the territorial *status quo* in Europe was shrouded in a powerful taboo in West Germany ... the non recognition of the East German and the Oder-Neisse border became not only cornerstones of policy but sacred cows of political culture.”<sup>407</sup>.

However, international events – like the construction of the Berlin Wall and Western powers’ tacit approval of German partition<sup>408</sup> – convinced West Germans and Brandt himself that there was no other option left.

“We lost certain illusions [...] Ulbricht had been allowed to take a swipe at the Western superpower, and the United States merely winced with annoyance [...] it was against this background that my so-called *Ostpolitik* – the beginning of *détente* – took shape”.<sup>409</sup>

### **The upgraded role of human relief**

When Brandt became Chancellor, human contact acquired a even more fundamental role: if time for political and territorial reunification was not ripe, then a “human reunification” was the only option left. For the first time in post-war German history, a German chancellor did not shy away from taking independent political initiatives regarding the East and showed a renewed “national self-awareness [*Selbstverständnis*]”.<sup>410</sup>

“The recognition of the *status quo* was not a capitulation, but tools to alleviate the consequences of the status

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<sup>407</sup> Arne Hoffman, *The emergence of détente in Europe. Brandt, Kennedy and the formation of Ostpolitik*, (London: Routledge, 2007), p. 125. See also Bender, *Neue Ostpolitik*, 102-103.

<sup>408</sup> See Michel Beschloss, *The Crisis Years: Kennedy and Khrushchev, 1960-1963*, (New York: Edward Burlingame Books, 1991), 278.

<sup>409</sup> Willy Brandt, *People and Politics: the Years 1960-1975* (Boston: Little Brown, 1978), 20.

<sup>410</sup> Richard Löwenthal, *Vom kalten Krieg zur Ostpolitik*, (Stuttgart: Seewald Verlag, 1974), 91.

quo...the past problems were regulated, so that they did not burden the future.”<sup>411</sup>

The recognition of the *status quo* through the Eastern Treaties was always accompanied by regulation of the traffic between West Germany and its Eastern counterparts.<sup>412</sup> Dispositions on the transit of Germans living in Poland were included in the Warsaw Treaty. They were the first meaningful official step made by the new West German government concerning human relief. Negotiations had been very hard since the two governments had diametrically opposed stands.<sup>413</sup> Eventually, the dispositions were not included in the Warsaw Treaty signed on 7 December 1970, but in an “understanding” (*Information*) with the Polish government, and regarded only people of German origin.

First, the Polish argued that there were no Germans still living in Poland, whereas Bonn claimed that they amounted to one million. At the very last stage of the negotiations Bonn and Warsaw reached an agreement on the vague expression “tens of thousands”, which for the Germans meant around 100,000, and for the Polish under 30,000.

Second, the Polish authorities were in general against the emigration of people of Polish nationality. The problem lay in the fact that the concept of Polish nationality had a sweeping scope for Warsaw: people of unquestionable German origin and people of

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<sup>411</sup> Bender, *Neue Ostpolitik*, 174

<sup>412</sup> The policy towards the East – *Ostpolitik* – elaborated in the 1960s and 1970s was aimed at achieving these three goals. The aforementioned Warsaw Treaty had been preceded by the treaties signed by the Federal Republic and the Soviet Union on 12 August 1970, then followed by the Quadripartite Agreement on Berlin signed on 3 September 1971, the Basic Treaty between the two German states initialled on 8 November 1972, and the West German-Czechoslovakian Treaty on 11 December 1973. With these treaties, the *status quo* was sanctioned – but not crystallised – and relations with the East emerged from a grey area and were normalised.

<sup>413</sup> Willy Brandt, *Begegnungen und Einsichten*, 530-531.

mixed families were regarded as Polish nationals. This restrictive interpretation provided an array of reasons for rejecting requests.

Third, Warsaw intransigency was dictated by the need to prevent emigration of the Polish workforce: as Minister President Cyrankiewicz pointed out, most requests came from people living and working in Silesia and most of them were specialists in the industrial sector, who could not easily be replaced.

Fourth, Cyrankiewicz did not want Poland to become a land of emigrants or a handy stop for people on their way to the United States. Unsurprisingly, Brandt lamented that the results of the Information were “not satisfactory”. The agreement became a matter of dispute and uneasiness in West German-Polish relations and the harsh opposition of the local and regional Polish authorities to the implementation of the “Information” resulted in additional hurdles.<sup>414</sup>

The Four-power Agreement on Berlin, signed by the United States, Soviet Union, Great Britain, and France on 3 June 1972 in Berlin was a further step in human relief in the 1970s. The treaty comprised intra-German agreements on traffic to and from West Berlin. It was signed in Bonn on 17 December 1971, and in Berlin on 20 December 1971 between the Berlin Senate and the East German government. As for the implementation of the Four-power treaty, the authorities of both German states agreed on a number of bilateral agreements. The most important was the *Transitabkommen*, which regulated the traffic between West Germany and West Berlin through special frontier passages (*Grenzübergangstellen*) and transit lines (*Strecke*). A Visa proceedings (*Verfahren*) were also agreed, along with

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<sup>414</sup> It was contained in the first enclosure of the agreement. See Bender, *Neue Ostpolitik*, 178.

the construction of transit highways, and dispositions were set with regards to mail and the traffic of goods. The senate of Berlin and East Germany agreed on easier conditions for the visit of West Berliners to East Berlin and East Germany and on a zone of exchange (*Austauschgebiet*). The mayor of Berlin, Klaus Schutz, could pronounce himself contented. He had set a list of desiderata, a.k.a. the formula of “three Z’s”: *Zuordnung* (association of Berlin to the Federal Republic of Germany), *Zugang* (access of the Federal Republic of Germany to West Berlin), and *Zutritt* (admission of West Berliners to East Berlin and to the rest of East Germany). The two last points are the most interesting for the present analysis. As for *Zugang* – access – the Soviet Union took on again the supreme responsibility for the traffic between West Germany and West Berlin, and promised that it would occur “in the easiest, fastest and most convenient way, as in the international practice” and the details were then agreed between West and East Germany.<sup>415</sup> The benefits were tangible.

“For the first time travelling to and from West Berlin became calculable. One could know how long the journey Berlin-Hanover took, with the same certainty than the journey Munich-Salzburg [...] People had not to get off buses, carriages, they were not subject to malicious controls that went as far as to demand the removal of the hub cap [...] the island of Berlin came significantly closer to its mainland”<sup>416</sup>

East German authorities would allow visits once or more than once a year, but could not cover a period longer than 30 days. Besides, the requests were no longer restricted to family reasons: but

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<sup>415</sup> Bender, *Neue Ostpolitik*, 187-188.

<sup>416</sup> Bender, *Neue Ostpolitik*, 188.

travel permissions were granted also for “humanitarian, family, religious, cultural reasons and for tourism.”<sup>417</sup>

As for the third “Z” (*Zutritt*, admission to the East), significant progress was made too. For the first time since the end of the Pass agreement in 1966, West Berliners were allowed access into East Berlin. For the first time since 1952 West Berliners were allowed into the rest of East Germany without the restrictions of public holidays and visits to relatives. Phone calls between West Berlin and East Berlin were not illegal any more, and in January 1971, the first five phone lines were open.<sup>418</sup>

This “miracle of diplomacy” eventually entered into force on 3 June 1972 when it was signed by the four powers<sup>419</sup> and West Berliners’ quality of life improved.<sup>420</sup> In 1970 3.5 million people travelled by the overland route to West Berlin: twice as many did in 1975. In 1975 more than 3 million West Berliners visited East Berlin and East Germany. Thanks to the intra-German agreements, phone calls from one side to the other side of the city were finally accessible to anyone. In this case, too, striking a compromise with the East German government had been quite hard, and the results were not *prima facie* momentous. Brandt recalled in his memoirs a speech given on TV on 3 September 1971 when he presented the freshly-signed agreements to the wide public and stressed the limited, but in the long term still quite meaningful, impact of the agreements on Berlin.

“The real meaning of the agreement lies in the fact that in the future there should not be crises in Berlin [...] the status of Berlin has not been change [but] the West

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<sup>417</sup> Willy Brandt, *Begegnungen und Einsichten*, 516-517.

<sup>418</sup> Bender, *Neue Ostpolitik*, 188.

<sup>419</sup> Bender, *Neue Ostpolitik*, 189.

<sup>420</sup> Haftendorn, *Deutsche Aussenpolitik*, 199.

Berliners will [now] be able to visit East Germany and the Eastern Part of the city [...] and to live safely...indeed, nobody could have expected that [...] the Wall would disappear. [What has happened] regards a limited and yet very important matter."<sup>421</sup>

The West German government pursued better living standards for all Germans in the negotiations for a German-German treaty, which proceeded alongside the Berlin talks. Negotiations on a German-German basic treaty started in September 1971, and led to the Transit agreement of 26 May 1972, initialled and immediately made public on 12 May 1972, immediately before the Bundestag's vote on the Moscow and Warsaw treaty, on 17 May. Once the *Bundestag* had passed the two Eastern Treaties, the Transit Agreement was signed on 26 May 1972. In the light of the Transit Agreement, relations between neighbours and families that had been severed by the border had to be preserved or restored. For 6 million people living along the border visits to relatives in *Die Zone* became easier: four additional border crossing-points were open, and East Germans had more opportunities to enter West Germany. For the first time travelling for urgent familiar reasons and for family reunions was formally recognised and accepted. However, it is important to point out that "no legal claims were justified, but only possibilities opened."<sup>422</sup> Ultimately, easier traffic depended still on the goodwill of East Germany.

Finally, human relief figured also in West German-Czech negotiations. Alongside the Prague treaty, signed on 1 December 1973, the Czech government promised an improvement to guarantee

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<sup>421</sup> Brandt, *Begegnungen und Einsichten*, 515-516.

<sup>422</sup> Bender, *Neue Ostpolitik*, 193-194.

opportunities to visit their relative and families, to travel abroad, and to emigrate in another country in a separate letter.

### **The human side of the Eastern Treaties: an unaccomplished plan**

While Brandt and Bahr engineered and developed their *Ostpolitik* and successfully pursued their treaty politics, the German people were still in distress. Political negotiations unfolded against a sombre background of human sufferings, not to be erased at a stroke of a pen.

The expectations for improvement in the “reunification of families” matter were understandably high. Soon after the signature of the Moscow and Warsaw Treaty, the focus of public opinion on the fate of Germans living in the East applying for emigration grew exponentially, not in West Germany exclusively but also in Britain, Poland and United States. The West German Ministry of Foreign Affairs and the West German representative bodies abroad were increasingly questioned about their plans, actions, and results in this respect. A detailed memo of the Ministry of Foreign Affairs on 12 January 1972 provided an overview of the achievements and unsolved problems of Bonn’s foreign policy. This memo provides a powerful reminder of how emotional and not only political the matter of the reunification of families and emigration was:

“Part of the hopes for emigration were fulfilled [...] and since 1950 around 700,000 Germans have resettled in West Germany [...] [However] the more than half million Germans asking for help at the Red Cross in Hamburg and the 600,000 entry clearances still pending at the Federal Administration Office in Köln prove that, despite

remarkable progress, there is no solution in sight. In fact, none of the applicants ever reached West Germany despite their yearlong efforts. The authorities of their country of residence have denied them the permission to leave. Therefore, the matter is far from settled [Besides] the data [of the applicants denied emigration-visa] don't tell [us] anything about the conditions whereby they are waging their tenacious battle, or about the negative backlashes on their life conditions that their applications have had in their country [of residence]"<sup>423</sup>

The memo revised in detail how individual Eastern countries handled the issue and provided data and a brief overview of the different applicant-groups. The Head of Division at the West German Foreign Ministry, Detlef Boldt, pointed out that there were three distinct applicant groups. A first group was composed of the Germans forced to remain in the former Eastern territories of the *Reich* after Potsdam when in November 1946 American, British and Soviet authorities closed their territories to mass transportation from the Eastern territories.<sup>424</sup> Those stranded Germans "living in an often hostile environment, had no other wish than to be back to the remaining German territories, where a part of their family often already lived". This brings us back to the horrific expulsion of the Germans from the former Eastern territories of the *Reich* after Potsdam. A second group was composed by those who had been enrolled in the *Wehrmacht* and in the SS who did not have German nationality, who were detained as prisoners of war and at the end of the war were not released into the territories where their family lived. This was the case of many Romanian-Germans. Others, like the Russian-Germans, suffered a different fate: in the worst case, they were deported to Siberia, and therefore brutally severed from their

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<sup>423</sup> PAAA, B-2 202, "Memo on population transfer and reunification of families", 12 January 1972.

<sup>424</sup> The French zone did not accept any expellees.



families. The paragraph concluded laconically, “[t]he examples could go on”.<sup>425</sup>

Boldt had indeed plenty of examples: his memo built upon the letters piling up on the desks of West German representative offices in Eastern Europe, which ultimately ended up on the desk of the Secretary of State at the Ministry of Foreign Affairs and were often further funnelled by the latter to the Chancellery. The German trade mission in Warsaw for instance addressed the wrenching letters sent by the Germans living in the East to the office of the secretary of state, which sent them through to the Chancellery. Accounts about emigration number went instead to the Foreign Minister through the Secretary of State. The letters were a testimony to the suffering of German people in the morass of European post-war territorial settlement, willing and yet unable to return to their homeland. All pleaders asked for a better life, explaining the misery of living in the East. The embittered letter of a certain Franz Pandel reached the Ministry of Foreign Affairs in 1971. “This is nonsense [...] harassment”, he lamented. He wrote about the Kafkaesque plight of his father, an old pensioner who lived in Poland suffering from a heart condition who was still denied the chance to reunite with his son in West Germany. Franz’s letter, like many others, rang with bitterness and frustration.

“My parents have been issued a request to leave the part of Eastern Prussia occupied by Poland [in WWII] and [emigrate to] the Federal Republic of Germany since March 1971. Ten days ago, my father informed me that the request was dismissed without any reason. On my further request [to the Polish authorities], I was informed that the agreed number of emigrants for 1971 has [already] been reached

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<sup>425</sup> PAAA, B-2 202, “Memo on population transfer and reunification of families”, 12 January 1972.

and therefore [my father's request] cannot be taken into consideration".<sup>426</sup>

Families of German origin appealed to West German authorities in Poland. In spidery handwriting, a German family trapped on the Poland side of the Oder-Neisse asked for help. Its conditions were dire. The Polish authorities did not simply deny permission to emigrate. As soon as the chief of the family contested the decision and appealed to a higher body in Warsaw, his wife and he were immediately dismissed from their job. Understandably, they wanted to leave: "under these circumstances we don't want to stay in Poland". They lamented that one year after the signature of the Bonn-Warsaw Treaty, nothing had changed for the Polish-Germans. Rather, "the conditions ...have seriously deteriorated".<sup>427</sup>

These very stories are essential to a thorough understanding of *Ostpolitik* and of the rising hopes for human relief that accompanied its first achievements: one can reasonably imagine Franz's excitement at the signature of the Warsaw Treaty on 7 December 1970. The treaty seemed to herald an era of smoother emigration and open up a window of opportunity for a better life in the West. Developing a consistent and effective policy of human relief was understandably no easy task, but was nonetheless a top priority. However, the problems lay not exclusively in the adamant stand of the Eastern European countries, but also at home and in the West at large. Indeed, for a thorough understanding of the complex scenario in which human relief policy unfolded, there is a last element to be taken into account: Brandt's limited room for manoeuvre for the implementation of his foreign policy.

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<sup>426</sup> PAAA, B-2 202, Handwritten letter, 13 December 1971.

<sup>427</sup> PAAA, B-2 202, Handwritten letter, 13 December 1971.

## International responses to *Ostpolitik*

In 1970, Brandt was voted Man of the Year by the American magazine *Time*. In October 1971, he was awarded the Nobel Prize. However, his *Ostpolitik* found unanimous favour neither abroad nor in West Germany. It was rather a “highly controversial and explosive policy” at the domestic level within Brandt’s party the SPD, the parliament, and the coalition cabinet as well as in Europe at large.<sup>428</sup>

“At the very least, *Ostpolitik* has greatly increased the Federal Republic’s diplomatic vulnerability”<sup>429</sup>

“What is needed...is a visible, renewed dedication to the principles of common heritage, of common defence, of common moral strength as the basis for the maintenance of peace ...from [the German] vantage point there remain only two alternatives: to live in a society of free and diverse nations, as represented by the Atlantic Community and the Western European efforts, or to turn to the East. Most West Germans reject the latter. And if they continue to do so, they will remain partners of the United States within the Atlantic Community, in a more pragmatic, more mature way.”<sup>430</sup>

The two quoted excerpts from articles on the relations between West Germany and NATO, published in 1979, provide a fascinating insight into the perception of *Ostpolitik* in the West, namely on Western states’ fear of a new Rapallo and on the nagging suspicion that West Germany might trade Western community’s affiliation for gains in the East.<sup>431</sup> The scholarship was not alone in being

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<sup>428</sup> Von Dannernberg, *The Foundations of Ostpolitik*, 1.

<sup>429</sup> David Calleo, “Germany and the Balance of Power” in Hanrieder, (ed.), *West German Foreign Policy*, 12.

<sup>430</sup> Jan Reifenberg, Hanrieder, (ed.), *West German Foreign Policy*, 72.

<sup>431</sup> The Treaty of Rapallo was signed on 16 April 1922 between the Weimar Republic and Soviet Russia. Both countries renounced any territorial and financial claims stemming from the Treaty of Brest-Litovsk and WWI. The Treaty showed

mistrustful of *Ostpolitik*. For Kissinger “the Federal Republic was like an imposing tree with shallow roots, vulnerable to sudden gusts of wind”.<sup>432</sup> It was likely to become an unstable partner in the Western bloc, as it proved too eager to reach out to the Soviet bloc. Reading between the lines of Kissinger’s memoirs, criticism toward *Ostpolitik* and profound irritation with the independent course of West German foreign policy emerge. Kissinger made no secret of his aversion to Bonn’s new foreign policy, which he regarded as a series of hasty decisions unveiling resurgent West German nationalism:

“Any west German government was bound to avow the goal of reunification. But in prevailing circumstances this was unachievable without a massive collapse of Soviet power. The Western allies were willing to wait; they were not prepared to run significant risks on behalf of reunification. But the Federal Republic could not simply wait”.<sup>433</sup>

Bahr was described as an opportunist who exploited America as “a weight to be added to West Germany’s scale”, whose priority was “to restore relations between the two Germanies above all”. He was not bound to be successful, though. Kissinger argued, “*Ostpolitik* was more likely to lead to a permanent division of Germany than to healing its breach”.<sup>434</sup> Substantially, it verged on nationalist neutralism, and lacked a sense of proportion and long-range

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that the Soviet Empire could successfully dodge multilateral diplomacy and use traditional diplomatic channels to pursue its national interests. The two countries that were to be reintegrated in postwar Europe in order to guarantee stability according to a common concerted plan, acted independently. The term refers here to the fear of a renewed cooperation between West Germany and the Soviet Union, similar to the interwar cooperation following from the Treaty of Rapallo in April 1922. See Bender, *Neue Ostpolitik*, 230.

<sup>432</sup> Henry Kissinger, *The White House Years* (London: Weidenfeld and Nicolson and Michael Joseph, 1979), 97.

<sup>433</sup> Kissinger, *The White House Years*, 409.

<sup>434</sup> Kissinger, *The White House Years*, 410

perspective.<sup>435</sup> Kissinger acknowledged that Brandt's decision to recognise the division of his country was a "courageous recognition of reality"<sup>436</sup> but did not trust Bonn's eagerness to compromise with the East. In his view, Brandt deluded himself into thinking that West Germany could build good relations and finally become a magnet for Eastern Europe. The question was "which side of the dividing line would be the magnet?"<sup>437</sup> He was not as confident that the answer would be West Germany.

Kissinger's disquiet was not without justification. *Ostpolitik* could play into Brezhnev's hands as it served three major Soviet purposes. First, as Kissinger clearly understood, Moscow aimed to exploit *Ostpolitik* to attract Bonn into its sphere and weaken West Germany's cooperation with the US. Second, at the international level, *détente* in Europe offered respite to Moscow while it grappled with an increasingly single-minded China on the Eastern front, all the more determined to pursue its national interests. Third, since Moscow was the one who called the shots in East-West negotiations, *Ostpolitik* reinforced Soviet grip on the Warsaw Pact (WP) members, and displayed to those scrambling for more autonomy the benefits of complying with Soviet dominance. Finally, *Ostpolitik* was welcome for domestic reasons. It had brought new technology to the WP country, and represented a powerful weapon to argue against those Politburo members who opposed negotiations with the West and longed for a policy of confrontation against the evils of capitalism.<sup>438</sup>

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<sup>435</sup> Henry Kissinger, *Years of Upheaval*, (Boston: Little, Brown and Company, 1982), 143-144.

<sup>436</sup> Kissinger, *Years of Upheaval*, 145.

<sup>437</sup> Kissinger, *Years of Upheaval*, 145.

<sup>438</sup> In order to reinforce his grip on power, in April 1973 Brezhnev removed two hardliners from the Politburo, Pyotr Y. Shelest and G.I. Voronov. See Erik P. Hoffmann, Frederic J. Fleron, *The Conduct of Soviet Foreign Policy* (Chicago: Aldine

*Ostpolitik* and the promotion of *détente* in general proved that Brezhnev was right: negotiating with the West paid off.<sup>439</sup>

Also major Western powers, like France and Britain, were initially sceptical and flustered: *Ostpolitik* stirred suspicion. French President Pompidou feared that the Soviets would persuade the West Germans to abandon their strong ties with NATO and to join the Soviet orbit, and that in the end *Ostpolitik* would lead to German unification and to the military withdrawal of the US from Europe.

“One indeed senses that the Soviet Union, in appealing to nationalist aspirations fundamental to a Germany looking toward reunification, might yet convince itself that a sort of neutralization of Germany might resolve this problem”.<sup>440</sup>

Moreover, the new and more independent German *Ostpolitik* was a danger to France’s role as a mediator between the governments in Bonn and in Eastern Europe.<sup>441</sup> London found Bonn’s self-assertiveness equally disturbing, as it feared that the Soviet Union could loosen West German links to the West.<sup>442</sup> However, the

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Atherton, 1980), 344; John Alexander Armstrong, *Ideology, Politics and government in Soviet Union: an introduction* (Boston: University Press of America, Praeger, 4<sup>th</sup> ed, 1987), 86, 100.

<sup>439</sup> Oliver Bange, “*Ostpolitik* as a source of intra-bloc tensions”, online article <http://www.detente.de/ostpolitik/publications/download/article11.pdf>, accessed on 1 August 2010.

<sup>440</sup> Quoted in Marie-Pierre Rey, “Chancellor Brandt’s *Ostpolitik*, France, and the Soviet Union” in Carole Fink, Bernd Schaefer (eds.), *Ostpolitik, 1969-1974: European and global responses*, (Washington DC: Cambridge University Press, 2009), 117.

<sup>441</sup> Marie-Pierre Rey, “France and the German Question in the Context of *Ostpolitik* and the CSCE, 1969-1974” in Oliver Bange, Gottfried Niedhart, (eds.), *Helsinki 1975 and the Transformation of Europe* (New York: Berghahn Books, 2008), 53-66, and Marie-Pierre Rey, “Chancellor Brandt’s *Ostpolitik*, France, and the Soviet Union”, in *Ostpolitik, 1969-1974*, 111-125.

<sup>442</sup> Gottfried Niedhart, “The British Reaction towards *Ostpolitik*. Anglo-West German Relations in the Era of *Détente* 1967-1971”, in Christian Haase, (ed.), *Debating Foreign Affairs. The Public and British Foreign Policy since 1867* (Berlin/Wien: 2003), 130-152; Richard Hughes, *Britain, Germany and the Cold War: the search for a*

British conservative government approved of West Germany's new role in European affairs, as it had a beneficial effect on the European economy, and could help British entry into the EC.<sup>443</sup>

*Ostpolitik* was welcome in Dutch left-wing circles, which aimed to improve contact with the East and discussed GDR recognition. All Dutch political parties – the Dutch Christian-democrats included – rejected CDU's criticism of Brandt's reckless tactics. Basically, *Ostpolitik* was regarded with favour for four reasons. The West German Chancellor had made clear that he had no intention to weaken the Atlantic partnership; he was a fervent supporter of the EC; he agreed on a European economic and monetary union; and he was in favour of British entry into the EC.<sup>444</sup>

The Scandinavian countries instead supported Brandt's *Ostpolitik*, as it provided them with room for manoeuvre for playing a role as bridge-builders in the European situation. In particular, the CSCE was the showcase for the Neutrals' eagerness to play an active role in developing relations with Eastern Europe.

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*European détente, 1949-1967* (London: Routledge, 2007); Anne Deighton, "Ostpolitik or Westpolitik? British foreign policy, 1968-1975", *International Affairs*, Vol. 74, No. 4, (October 1998).

<sup>443</sup> To counterbalance the German position, Pompidou dropped the veto against British entry: London became a member of the EC on 1 January 1973.

<sup>444</sup> See Jan van der Harst, "Der fehlbare Held. Bundeskanzler Willy Brandt im Blick der Niederländer" in Andreas Wilkens (ed.), *Wir sind auf dem richtigen Weg. Willy Brandt und die europäische Einigung*, Bonn, 2010, 139-147.

## Domestic opposition: human relief as SPD's Achilles heel

Western scepticism was matched with strong opposition at home. The conservatives in Germany, headed by the CDU/CSU, regarded Brandt's initiatives

“As a threat to West Germany's ties to its Western allies, as a morally unjustified act of recognition of an unsavoury regime, and as a confirmation of controversial borders, which might hinder unification.”<sup>445</sup>

The CDU/CSU's accusation against Social Democrat foreign policy was an overstatement. Brandt did not relinquish reunification, – indeed, he talked about reunification till the late 1960s, – but gained a sharp awareness of reality. He did not recognise East Germany, but acknowledged that two states existed in Germany, that “are not a foreign country to each other; their relations can only be of a special nature”<sup>446</sup>. Reunification was not even mentioned in Brandt's inaugural speech at the German Parliament on 28 October 1969, where the new Chancellor put a strong emphasis on reality, on achieving the possible, on proceeding gradually.<sup>447</sup> A practical sense of what could be achieved prevailed: foreign policy was led by the idea of small, practical steps aimed to alleviate human conditions in a severed country.

In addition to the criticism of “selling out the country” mention above, the CDU/CSU opposition attacked Brandt for bargaining human rights away. The government was not only selling out the German dream of reunification, but was also neglecting the

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<sup>445</sup> Marie-Elise Sarotte, *Dealing with the Devil*, (Chapel Hill: The University of North Carolina Press, 2001), 27.

<sup>446</sup> Quoted in van Dannenberg, *The Foundations of Ostpolitik*, 31.

<sup>447</sup> Hoffman, *The emergence of détente in Europe*, 130.



fate of people of German origin: it was consciously leaving their requests for help – like the ones addressed to the Ministry of Foreign Affairs – unanswered.<sup>448</sup> The issue of “human relief” was at the very centre of the heated debate. Some additional explanation is needed here before focusing more extensively on the CDU/CSU’s stand. Human rights and human relief were not new themes in domestic party confrontation. Interestingly, one of the main criticisms originally addressed by the SPD to the CDU in the 1960s regarded human relief. The SPD’s criticism of CDU/CSU foreign policy in the 1960s can be summarised as follows:

- 1) The CDU’s *Deutschlandpolitik* had not brought about any convergence between the two German states, nor human relief for the people in East Germany.
- 2) The CDU’s *Ostpolitik* had ignored the potential of the Soviet Union as a negotiating partner that could open the way to negotiations with Eastern European states. The opportunity of closer relations with the East had therefore been lost, and convergence with Eastern European states had been quite limited. Besides, scarce success had also been scored in trans-national areas.
- 3) The CDU’s *Ostpolitik* and *Deutschlandpolitik* insisted on legality and legitimacy and thereby missed the opportunity to gain greater leverage on Eastern European states by taking into account their actual interests.<sup>449</sup>

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<sup>448</sup> Brandt openly rejected the opposition’s accusations. At the conclusion of the Moscow Treaty on 12 August 1970, he claimed “we are losing nothing with this treaty that has not been gambled away long ago”. See Willy Brandt, *Reden und Interviews* (Hamburg: Hoffmann und Campe, 1971), 203-4.

<sup>449</sup> Christian Hacke, *Die Ost- und Deutschlandpolitik der CDU/CSU*, 22. Rainer Barzel, *Auf dem Drahtseil*, (München: Droemer Knauer, 1978), 97.

This point highlights how valuable the issue of human relief was in the domestic political debate, and how the two main West German parties unremittingly played this card in the internal political confrontation. The human relief discourse in West German domestic policy pertained to the main debate on *Ostpolitik* and *Deutschlandpolitik*, and had therefore an exquisitely domestic bearing. After Brandt's inaugural speech on 28 October 1969, the chairman of the CDU Party in the *Bundestag* (the lower House of Parliament) Rainer Barzel pointed to the importance of human rights in foreign policy and voiced objections to the SPD's allegedly fruitless and bland human relief policy. In his speech in the *Bundestag* on 29 October 1969, he took on a moralistic tone:

"Progress, for us, is where human rights and their basis in the society become more and more part of daily life's reality. A step back for us, is where human rights are not applicable, where structures are being established which suppress them or hinder their effective development."<sup>450</sup>

By forcefully arguing for human rights, Barzel criticised Brandt with the same argument that the SPD had used to attack Barzel's party when the latter was West Germany's leading force, namely that of insisting on legality and legal formulas.

At the end of the 1960s Barzel fought back, and reproached the SPD for overusing legal formulas. He argued that those formulas had to be put aside, and that human rights had to be pushed to the fore instead. By this token, he tried to recast his party as the political force who could ensure progress in "human matters".<sup>451</sup> During the negotiations with East Germany, Barzel claimed that human rights

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<sup>450</sup> Hacke, *Die Ost- und Deutschlandpolitik der CDU/CSU*, 27.

<sup>451</sup> Von Dannenberg, *The Foundations of Ostpolitik*, 185

had to be clearly emphasised.<sup>452</sup> He criticised the Kassel meeting (21 May 1970) between Brandt and his East German equivalent Willi Stoph because the so called “Twenty points” proposed by Brandt as the basis of a potential treaty with East Germany left no room for the right of self-determination of the German people.<sup>453</sup> He argued that “the lack of freedom in the other part of Germany was given ‘the purple cloak of legitimacy’ ”.<sup>454</sup> Barzel warned against what he regarded as a Soviet plan hidden behind the Helsinki smokescreen. Moscow was luring West Germany and Western European countries more generally away from United States. “The Soviet Union is trying to create an alternative to the West European integration and transatlantic partnership”.<sup>455</sup> This proved again that in Barzel’s opinion the SPD was conceding the European *status quo* to the Kremlin. In an interview with *Die Welt*, a German conservative newspaper, Barzel urged Western countries to table their own security policy at the CSCE and to focus especially on “freer movement of peoples, of information, and of opinion”.<sup>456</sup> The leader of the Bavarian Democrats and former Minister of Defence Franz Josef Strauss argued that there was a blatant discrepancy between Brandt’s notion of European *Friedensordnung* (peace system), and Soviet preferences. Brandt, in Strauss’ view, had developed his foreign policy on the false premise that the two coincided and was

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<sup>452</sup> Despite much talking about human rights, what Barzel intended was basically human relief for the German people. See Hacke, *Die Ost- und Deutschlandpolitik der CDU/CSU*, 29.

<sup>453</sup> *Süddeutsche Zeitung*, 23 and 24 May 1970, quoted in Clay Clemens, *Reluctant Realists: the CDU/CSU and West German Ostpolitik*, (Durham: Duke University Press, 1989), 69.

<sup>454</sup> Hacke, *Die Ost- und Deutschlandpolitik der CDU/CSU*, 29.

<sup>455</sup> Rainer Barzel, “Die Offensive des des Charme des Sowjetpolitik”, *Preuves*, quoted in *Die Presse*, Wien, 27 December 1971, in PAAA ZA 109292.

<sup>456</sup> *Die Welt*, 29 February 1972, in PAAA ZA 109292.

ultimately contributing to the “Finlandisation” of Europe.<sup>457</sup> By this token, the CDU pointed out that the SPD favoured lofty political ideas over fostering real human relief, and could easily show that it was not contrary to *détente* as such, but rather contrary to the kind of – reckless – *détente* pursued by Bahr and Brandt.

Thus, at the beginning of the 1970s and in the making of West Germany’s treaty policy human relief was a controversial point of *Ostpolitik*, and a particularly valuable tool for the CDU/CSU opposition. The CSCE was regarded as a stage – after the Moscow Treaty – of an offensive Soviet strategy aimed at producing a “Soviet-dominated, US-free Europe”.<sup>458</sup> Criticism of the forthcoming CSCE was part of a broader criticism of Brandt’s *Ostpolitik*, which was likely – in CDU/CSU members’ statements – to give away the country’s security, to renounce any claim to German unification, to grant Moscow a free hand in Europe, and to neglect human relief. However, Brandt succeeded in turning the CDU/CSU’s argument in his favour: espousing the cause of human relief and making it a priority at the CSCE was not only dictated by his conscience and his solidarity with severed German families, but was also a response to political tactics: he could win over public opinion and fend off criticism.

“Inadequate freedom of movement is the problem No. 1 of our divided country [...] none of the other countries participating in a CSCE is so directly affected as the federal republic of Germany by the discussion of the subject of “freer movement” [...] it was included in a *communiqué* of the NATO ministerial meeting for the first time in December 1969 thanks to a German proposal. [In order to

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<sup>457</sup> *Die Welt*, 23 February 1972, in PAAA, ZA 109292.

<sup>458</sup> *Die Welt*, 6 September 1971, in PAAA, ZA 109292.

achieve results, the West] should not put forward demands [...] in a too rigid and uncompromising manner [...] What we have in mind are not spectacular moves but the development of a concept which [...] leads to a maximum of practical result."<sup>459</sup>

### **The CSCE at a key juncture of *Ostpolitik***

Against this complex backdrop, Brandt was to take action in favour of human relief for the German people while developing sensitive negotiations with the Eastern countries. A closer look at *Ostpolitik* is now due before delving into the analysis of the CSCE negotiations, starting with the major tenets of Bahr's political idea.

In 1969, a few days before the general elections, Bahr formulated a political plan for the future government, and stated that before agreeing to participate in the security conference, the Federal Republic had to use it as leverage over East Germany: Bonn would give a green light to the CSCE only after an intra-German treaty had been concluded. Brandt argued that

"We have to try to use it as an instrument for the realisation of our interests. It gives a possibility to submit suggestions aiming at a security system in Europe and creating [...] conditions for a peace order. Above all, we should use the conference idea as a lever, forcing the East Germany to agree to a rapprochement of the two German states. We should utilise the interest of the East European countries and, if necessary, of the Soviet Union in the ESC for this."<sup>460</sup>

The Conference was at that time a bargaining chip in the Bonn-Berlin-Moscow negotiating triangle: it was first aimed at achieving

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<sup>459</sup> PAAA ZA 109310, "Information about the working paper presented by the German delegation in the CSCE Subcommittee (EPC)", 28 April 1972.

<sup>460</sup> AAPD, vol. 1969, doc 296, Bahr from New York, 21 Sep 1969; Garton Ash, *In Europe's Name*, 68.

substantial progress in the negotiations between the two German states in general, and then, from September 1971 onwards, instrumental solely to a satisfactory conclusion of the Berlin talks on a Four-power treaty.<sup>461</sup>

Interestingly, in preparation for the Conference Bonn timidly broached the freer movement of people, ideas and information: while agreeing with the Allies that freer movement was an essential topic, Bonn argued that the goal of a more liberal exchange between East and West could be achieved only very slowly, after substantial progress in the *détente* efforts towards the East. In November 1970, a memorandum by the Ministry of Foreign Affairs summarised the state of affairs of the CSCE-file and clearly stated, “we agree with the Belgians that a demanding ‘freer movement of people, ideas and information’ at the beginning of the East-West dialogue does not seem advisable”.<sup>462</sup> A second memorandum presented in December 1970 clarified that the issue could be raised only if acceptable conditions existed, *i.e.* if the regulations for citizens of Eastern countries asking for visas and work permits were simplified.<sup>463</sup> Secretary of State Bernd von Staden emphasised that West Germany aimed at a step-by-step long-term policy, whose ultimate goal was “the achievement of the free exchange of people, ideas and information with Eastern-European countries”<sup>464</sup>

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<sup>461</sup> Garton Ash, *In Europe's Name*, 76-78.

<sup>462</sup> PAAA, B20, 1601, “Memorandum on the CSCE”, 26 November 1970.

<sup>463</sup> However, lifting restrictive immigration and travel rules was not likely to be enough: Eastern citizens’ travel was hampered not only by red tape, but also by sheer lack of money, that worked “as effective[ly] as the police regulation” in putting them off travelling. See PAAA, B20, 1601, “Status of the discussion in the EC political consultations for the meeting on 2 December 1970”.

<sup>464</sup> PAAA, ZA 111521, “Memorandum of the German delegation”, CSCE subcommittee, 17 March 1972. PAAA, B150, 224, Reichel to IIA3, 18 Feb 1971.

Only once the treaties were signed, at the end of 1971, the CSCE file changed value and purpose: as recent literature has convincingly shown,

“The CSCE policy of the FRG evolved from a short-term tactical approach emphasising linkage and using the conference as a bargaining chip, towards a long-term strategic approach focusing on the substantive opportunities the CSCE offered”.<sup>465</sup>

The Finnish scholar Petri Hakkarainen has rightly argued that in a few years the CSCE turned from a valuable bargaining chip in bilateral *Ostpolitik* into a goal *per se* to “achieve substantially national foreign policy goals multilaterally”, and the German scholar, Kristina Spohr Readman has also advanced a *Realpolitik* interpretation of West German policy at the CSCE: Bonn pursued its own national interests. It did not run after lofty ideals nor act according to EC solidarity.<sup>466</sup>

Indeed, in late 1971 the CSCE became an excellent tool of *Ostpolitik*. First, Bonn could negotiate with the East behind the front of the Western coalition. Second, a Conference of all European states – both Germanies included – showed that the “German nation” would possibly share the same principles and values.<sup>467</sup>

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<sup>465</sup> Hakkarainen, *Amplifying Ostpolitik*.

<sup>466</sup> Spohr-Readman, “National interests and the power of ‘language’”, 1077-1120.

<sup>467</sup> Bender, *Das Ende des ideologischen Zeitalters*, 245.

## Bonn, EC and EPC

Thus, at the international level, the CSCE marked the multilateralisation of *Ostpolitik*, whose goals were tabled as issues of overall European concern and not as West German-specific national interests. This was aimed to allay the fears of the Western allies.

At the domestic level, it was part of a broader political debate on *Ostpolitik* raging between the two major parties in West Germany, the CDU/CSU and the SPD, and responded to a long-felt need for human relief. Human relief – what was subsumed under the heading “free movement of people and information” during the MPT, and eventually under the heading human contacts, in Basket III during the Geneva negotiations – was a goal in itself. Progress in human relief could mollify domestic public opinion and bring about substantial improvement in the life of German citizens on both sides of the Iron Curtain.

Above all, it “protected the [German] nation”, as Brandt claimed. Unity could not be achieved geographically in the short term: it could nonetheless be partly reached socially by a high permeability of frontiers. This idea was illustrated in a memorandum detailing the West German government’s line in front of its NATO allies in spring 1972.<sup>468</sup> Bonn adopted the same approach with its EC peers. A West German document presenting the major themes discussed during a EPC meeting devoted to the CSCE preparation indicated Bonn’s guidelines. The basic ideas for the ensuing negotiations were clear:

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<sup>468</sup> PAAA, ZA 109304, Memorandum, 6 May 1972.



“Basic statements reflecting the outstanding importance of the principle of freer movement should be included in an east-west declaration of principles in which freedom of movement is presented as a practical example of the realization of the generally-recognized human rights and basic freedoms of the individual.”<sup>469</sup>

This official political line was laid out by West German delegates taking part in the CSCE subcommittee’s meeting at the EPC, and was soon after presented to NATO members.

In spring 1972, the cornerstones of West German policy at the CSCE were outlined and fleshed out in a document enshrining the guidelines for the West German delegates gathering soon in Dipoli for the opening of the MPT. The basic tenet was spelled out outright: the West German government gave the utmost relevance to the question regarding the two German states, which was to be handled “with the greatest caution”.

A closer analysis of the document prompts three remarks.

First, the EC was mentioned exclusively in respect of “matters regarding economic and scientific cooperation”, later enshrined in Basket II. “The government thinks that the EC will play an important role in most matters regarding economic and scientific cooperation”. Bonn wanted to put to use the additional leverage provided by the cooperation with its EC partners in order to pursue “delicate” humanitarian goals: “[t]he government is committed within the country and in the consultation with our EC partners to investigate in depth all aspects of industrial cooperation”.

Second, the principle of self-determination – what was to become Principle VII in Basket I – was regarded as “particularly

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<sup>469</sup> PAAA ZA 109310, “Information about the working paper presented by the German delegation in the CSCE Subcommittee (EPC)”, 28 April 1972.

important” among the five thematic areas of the impending negotiations.

“The government regards as particularly important the right of peoples to determine their own future without external constraint is not affected and does not accept that the principle that the belonging to a specific social order ever provides an excuse for intervention Equally the recognition of the principle of self-determination, of human rights and of individual liberties as basic principle of interstate relations and as source of the freedom of peoples, ideas and information.”

That said, enhancing the principle of self-determination was conditional upon the improvement of communication between the East and the West of Europe. This included human contacts and exchange of information.

“Cooperation can not be improved without interstate communication. This is an essential element of any real progress in East-West relations, and the degree of its implementation is the most important, tangible and visible yardstick of *detente* and cooperation”.

Third, it is interesting to note that there was no mention of the EPC. To say the least, the EPC was not considered as a tool of foreign policy sufficiently relevant as to be indicated as a foreign policy tool for West German delegates.

Undoubtedly, this alone cannot justify an outright dismissal of the relevance of the EPC, Still, together with the documents analysed above, it calls for a critical assessment of the EPC stand in West German foreign policy. What emerges from this internal document is that Bonn had very clear political goals on its agenda.<sup>470</sup> These goals

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<sup>470</sup> AAPD, vol. 1972, “Guidelines of West German Government for European Security Conference”, 18 May 1972, 578-584.

were to be summarised as “human relief“, a concept that the West German leadership had developed in the early 1970s. Against this backdrop, it is now time to assess the stance and the room for manoeuvre of the West German Chancellor.

### “Human relief“

On 19 November 1972, three days before the beginning of the multilateral CSCE talks, Brandt’s coalition won a decisive victory in the federal election and achieved an increased majority that was widely perceived as a plebiscite on *Ostpolitik*. However, the memory of the vote of no-confidence on 27 April 1972 – which Brandt had successfully overcome – was still fresh. At home, Brandt had to accommodate public opinion and mollify political opposition: in the parliament as well as throughout the country there were passionate discussions as to whether coexistence with the East would make German reunification more difficult, or whether the access to the former German territories in the east would in fact be easier. The SPD leadership had to rise to the occasion and show that *Ostpolitik* was not only an ambitious lofty political plan, but could deliver benefits for ordinary citizens and improve their lives. At this point, the CSCE came in handy. As Chancellor Brandt affirmed during a SPD rally in Worms “German politics will be defined by the course and results of two important conferences: CSCE and MBFR”.<sup>471</sup> Brandt strongly advocated a new multilateral *Ostpolitik*: “the essential core of *Ostpolitik* would unfold in the CSCE-framework”.<sup>472</sup> In November

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<sup>471</sup> WBA, in AdsD, Box 475, “SPD rally in Worms”, 16 November 1972.

<sup>472</sup> WBA, in AdsD, Box 475, “Chancellor’s public statement after his electoral victory”, 19 November 1972.

1972 in a visit to Berlin, he stressed that he intended to help all Germans and stressed “human relief”.<sup>473</sup> He released an insightful statement to the press in West Berlin: “[r]ight in this city people know best what *human relief* – on which opposition places low value – really means”.<sup>474</sup> Along these lines the newly elected chancellor Brandt developed his foreign policy for the coming conference, where the fiercest struggles revolved around the principles in Basket I and the measures enumerated in Basket III.

The beginning of the MPT was not promising. The Soviet proposal for the declaration of principles presented on 17 January 1973 did not mention human rights and fundamental freedoms; self-determination was mentioned only in passing and in a vague formulation.<sup>475</sup> The Soviets were not ready to compromise: as assistant secretary Guido Brunner reported, the Soviet head of delegation, Mendelewitsch, firmly stated that Moscow could not “accept anything which touches our social structure”.<sup>476</sup> In light of Soviet intransigence, Brandt expressed a cautious, pragmatic stance:<sup>477</sup>

“I do think that an improvement of cooperation and exchange will occur: it won’t be a sensational change [...] In our view, free communications between communist and non-communist states would be too ambitious an expectation [...] Still, free movement and an increase in

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<sup>473</sup> Brandt claimed, “we want to find a new norm for mankind”. WBA, in AdsD, Box 475, “Brandt’s electoral speech on a rally in Berlin”, 18 November 1972.

<sup>474</sup> WBA, in AdsD Box 475, 18 November 1972

<sup>475</sup> AAPD, vol 1973, “Memorandum of Foreign Minister Scheel to the Chancellor Brandt”, 31 January 1973, 160-167.

<sup>476</sup> AAPD, vol 1973, “Memorandum of Assistant Secretary Brunner to the Ministry of Foreign Affairs”, 9 February 1973.

<sup>477</sup> Part of his cautious attitude may in part have come from the need to prove himself as a pragmatic politician and disconfirm the critics of the opposition who accused him of being a utopian.

contacts may be achieved. In this respect I would say that Helsinki will bring positive results".<sup>478</sup>

As for "positive results", the West German Chancellor meant small steps in the direction of what was later called "human relief", as Brandt spelled out in an interview released to the Yugoslav magazine "Politika" in April 1973:

"Actual results, which may be perceived in Europe and in Germany, that's what matters for the German government."<sup>479</sup>

In the draft for a speech at the Weizmann Institute to be held on 11 June 1973 Brandt wrote that with regards to the third commission (which worked on the issues of contacts, culture, cultural exchange and exchange of information) freedom of movement and free contacts were the keywords for West Germany. He made clear that those recommendations were of the utmost significance to him because they embodied what he called "politics for the people".<sup>480</sup>

In line with Brandt's statements, human relief for the German people and the idea of "change through *rapprochement*" (*Wandel durch Annäherung*) were the main thrust of Foreign Minister Scheel's speech at the opening of the CSCE. Scheel stressed the key role of contact between European peoples, and pointed out that human relief figured at the very top of Bonn's agenda.

"After all, our aim is to build bridges of cooperation between the systems, spanning the gulfs that divide them [...] the people wish to partake at long last in their daily

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<sup>478</sup> WBA, in AdsD, Box 482, „Brandt's interview to the *Neue Ruhr Zeitung*", Bulletin, 13 March 1973, Nr. 29/255

<sup>479</sup> WBA, in AdsD, Box 484, "Brandt's interview to the Yugoslavian newspaper *Politika*", 30 March 1973.

<sup>480</sup> WBA, in AdsD, Box 502, "Brandt's speech at the Weizmann Institute", 11 June 1973.

lives of the fruits of *détente*, to feel it with their hands.<sup>481</sup>[...] We must make it clear that *détente* implies an improvement of human contacts [...] *Détente* implies human practises along frontiers. We should also stop making frontiers an insurmountable barrier for severed families".<sup>482</sup>

Highly charged issues were at stake, like freer movement (in particular the reunification of families), human rights, and self-determination. The background information presented so far is essential to grasp Bonn's road map and its goals, and to highlight that well before the inauguration of the CSCE West Germany had a clear list of priorities already set, which did not stem from EPC guidelines.

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<sup>481</sup> Igor I. Kavass, Jacqueline Paquin Granier, Mary Frances Dominick, *Human Rights, European Politics, and the Helsinki Accord: the Documentary Evolution of the Conference on Security and Cooperation in Europe, 1973-1975*, (Buffalo, NY: William s. Hein & Co., 1981), 94.

<sup>482</sup> Kavass, *Human Rights, European Politics, and the Helsinki Accord*, 99.

## **Chapter 5**

### **Striving for human relief: pursuing national goals in Geneva**

#### **Introduction**

This chapter will examine West German negotiations on the reunification of families enshrined in Basket III, and on the principle of human rights and of self-determination in Basket I, and will define the scope and purposes of human relief policy. By doing so, it will scrutinise how the EPC impacted on West German foreign policy and to what extent Bonn aligned with its EC peers.

Negotiations on the “reunification of families” cannot be fully grasped without a closer analysis of the severed relations of thousands of Germans living in Poland, the Soviet Union, and East Germany. Against this backdrop – which was unique to West Germany – the chapter will illustrate how burning an issue the reunification of families was for Bonn, and will point out that, interestingly, the documents did not register any sign of EPC intervention or EPC cohesive action.

As for human rights, the analysis will demonstrate that West German delegates consistently complained about the wording advanced by a fellow EC Member State – Britain – but never mentioned the EPC as a possible forum for discussion to iron out their different views and elaborate a common position.

Equally, as for the principle of self-determination, it will be striking to note that in the documents elaborating the principle the

West German delegates did not mention the EPC and did not refer to an agreed set of common policies.

As an overall finding, the analysis will prove the importance of distinguishing between the notes and memo drafted at the Ministry of Foreign Affairs and generally addressed to the Secretary of State on the one hand – which occasionally vaguely praised the EPC –, and those written in Geneva and addressed to Bonn on the other – which never present any reference to significant political initiatives based on the EPC. It will be shown that there is no mention in the sources of an agreed EPC policy in these areas. Rather, the documents suggest that Bonn had a distinctive approach and a specific policy that could possibly be enhanced by EPC but was not influenced by it.

In conclusion, a scrutiny of West German policy opens up new vistas on the complex and diverse implications of the “human rights” issue for individual EC countries and bears witness to the need for scrutinising the international *and* domestic scenario to correctly frame the human rights policy of individual EC countries in order to fully grasp the impact – if any – of the EPC.



## The human hardship of the Germans

“We, citizens of German nationality living in the Soviet Union, address to all participants of the MPT of the CSCE taking place in Helsinki our painful pleadings: we ask to return to our fatherland, to our home country, to West Germany [...] We, Germans in the Soviet Union, deserve the same freedom that all peoples on earth already enjoy.”

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On 24 January 1973, the West German general consulate in Leningrad sent to Bonn a detailed report on the plight of German nationals in the Soviet Union: they wanted to emigrate, but were denied exit visas. At the time, organisations of Soviet-Germans active in Soviet Union tried to get all Soviet-Germans together and make their “desperate situations” known to the public through active demonstrations and public protests. Crumpled pieces of paper filled with handwritten pleas were addressed to West German authorities, and also to the West German representatives gathering in Dipoli for the MPT. In fact, with the CSCE underway, the matter of human relief gathered new momentum: the Germans in Eastern Europe drew renewed strength and hope from the CSCE and already before its official opening started to mention it in their pleas. The West German government on its part was under pressure to show concrete results to an increasingly alert public opinion. Exactly three days before the report from Leningrad reached the Foreign Ministry in Bonn, Foreign Minister Walter Scheel was quoted in an article published in the liberal-centrist West German newspaper *Süddeutsche Zeitung*. He stressed that the CSCE ought to spark a global process of *détente*, initiated by the States but developed and shaped by the

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<sup>483</sup> PAAA, ZA 111541, Report from Leningrad on the conditions of the Soviet-Germans, 24 January 1973.

people. Political leaders, so warned Scheel, could not be oblivious to the demands of their constituencies.

“A group of states have highlighted the meaning of an enhancement of human contacts and have demanded to include this issue on the negotiations’ agenda... [that said] *Détente* is not about states... The voters put our governments to test every four years. And that is a good thing. They can only pursue a policy that wins voters’ approval, if they want to stay in power. And the citizens want to live in peace, and they want to have contacts with their neighbors”<sup>484</sup>

Scheel’s statement did not stem merely from the political traditions of the FDP (Freie Demokratische Partei, Free Democratic Party) but arguably also from the genuine belief that it was high time to tackle the West German humanitarian crisis and to develop a different concept of *détente*.

The petitions sent from Leningrad and Scheel’s statement exemplify the urgency of “human relief” on Bonn’s agenda and powerfully introduce the specific item “reunification of families”. They show how deeply this theme cut across West German politics and society and how central it was at the CSCE for West Germany. Human relief at large was to be negotiated in Basket III – namely in the provisions on the reunification of families, and in Basket I in Principles VII and VIII, – the principle of protection of human rights and fundamental freedom, and the principle of self-determination respectively. These three strands of negotiations proceeded in parallel and had a similar fate. First, they advanced sluggishly in Geneva until spring 1974, when most participants grew increasingly impatient to reach a quick closure to the Conference. In the second

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<sup>484</sup> PAAA, ZA 111506, “Keine Entspannung ohne menschliche Kontakte: Randbemerkungen zur europäischen Sicherheitskonferenz”, Walter Scheel, *Süddeutsche Zeitung*, January 20/21 1973.

half of 1974, draft proposals were discussed in earnest and the basic differences between Western and Eastern strategies and purposes emerged. Compromise texts were finally discussed and honed from autumn 1974 until spring 1975, and in some cases – for instance, in the case of Principle VII – an agreement was reached only a few days before the official closure of the Conference.

For the sake of clarity, the analysis will develop thematically. However, especially in the case of West Germany, it is crucial to remember that those three threads pertain to the same background issue: human relief. The West German case will show that Bonn's policy developed in two stages. First, it praised EPC cohesion and aligned with its EC partners. Until the summer recess in 1974, namely before the negotiations entered their final – and most crucial – stage, Bonn was content with the EPC and reference to the EPC can be found in the documents. Interestingly enough, this occurred just when the provisions were being formulated: Bonn was evidently pleased by the simple fact that the human relief issue was taken in and that the EC countries were jointly in support of it. In this first stage, the Dutch already stood out for their independent stance. When the delegates convened after the summer recess in autumn 1974 and the negotiations entered their final stage, Bonn grew more vocal, while taking a more openly independent stance and thus following in the footsteps of the Dutch, they set very different goals.

## Freer movement and reunification of families<sup>485</sup>

As mentioned in the previous chapter, the theme “freer movement of people” was for the first time included in the NATO council’s communiqué of December 1969 on West Germany’s initiative and represented ever since a firm component of Western preparations for the Conference. Paragraph 11 of the NATO Declaration of December 1969 assessed the notion of “freer movement” proposed by the WP country in Prague in October 1969.

“Cultural exchanges between interested countries can bring mutual benefit and understanding. In those fields more could be achieved by freer movement of people, ideas and information between the countries of East and West”.

In its spring communiqué of May 1970 NATO put forward freer movement as an agenda point. In the communiqué of the NATO ministers in December 1971, which covered possible subjects of discussion with the Soviet Union and other Eastern European countries, freer movement of people, information and ideas, and cultural relations for the first time were included as a separate, independent agenda item.<sup>486</sup>

In March 1972, the tone was already set in Bonn for the MPT, due to start eight months later:

“We as well as our allies already confirmed during the preparatory meeting of the conference the essential meaning of the issue freer movement of peoples, ideas and information within the framework of the

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<sup>485</sup> The phrasing “freer movement” was substituted by “human contacts” in December 1972. However, both terms were used in the documents.

<sup>486</sup> Jan Sizoo, Rudolf Th. Jurrjens, *CSCE Decision-making: the Madrid Experience*, (The Hague: Martinus Nijhoff Publishers, 1984), 27.

improvement in East-West relations. Sparse free movement is the problem number 1 in our divided country. Right in this area it will be tested to what extent *detente*, to which our policy aims, can be achieved. No other participating state is therefore so directly affected by the negotiations on this theme as West Germany".<sup>487</sup>

However, Bonn was aware that there was a long way to go:

"In all likelihood the Eastern countries would like to elude any real implementation of the principle and would like to dismiss the idea by a very general wording. A cautious negotiating tactics aimed to achieve practical results will give us the chance to achieve gradual progress. In other words, it is not about spectacular acts, but rather about the development of a concept that will bring practical results to individuals and peoples."

Other areas of negotiations could provide some leverage. Concessions in the area of economic cooperation for instance could have a considerable impact on the negotiations on freer movement. It is interesting to consider that in the note sent from Bonn to the West German delegation, economic cooperation and enhancement of movement in Europe are framed differently. While the EC was unsurprisingly mentioned in the first case, any reference to EC countries more generally was absent when it came to the latter. Already at an early stage West German policy made a distinction between its special interest in human relief , and a commitment to economic cooperation with the East, common to all EC countries.<sup>488</sup> After a meeting of the Atlantic Council, the NATO communiqué published at the end of May 1972 re-stated the importance of freer movement.<sup>489</sup>

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<sup>487</sup> PAAA, ZA 111521, note sent from Bonn to the West German delegation of the sub-commission for CSCE, 17 March 1972.

<sup>488</sup> PAAA, ZA 111521, note sent from Bonn to the West German delegation of the sub-commission for CSCE, 17 March 1972.

<sup>489</sup> Jan Sizoo, Rudolf Th. Jurrjens, *CSCE Decision-making: the Madrid Experience*, (The Hague: Martinus Nijhoff Publishers, 1984), 27.

When the MPT started, West Germany's interest in human relief made it the natural candidate among the EPC ministers for developing proposals on human contacts during the MPT. Meanwhile West German authorities were being bombarded with requests sent from Poland, the Soviet Union, and East Germany that were just the tip of a massive iceberg. According to the aforementioned general consulate in Leningrad, the number of Soviet-Germans willing to emigrate exceeded by far the official statistics. The biggest group detected by the general consulate in Leningrad in the area was based in Estonia and counted up to 6000-8000 people alone in January 1973.<sup>490</sup> "Reunification of families"<sup>491</sup> was therefore an especially burning issue for Bonn. It is precisely against this backdrop of severed families and dashed hopes of a life in the West, that within freer movement, the agenda item "reunification of families' must be scrutinised.

In spring 1973 at the meeting of the first commission for Basket III, West German delegates presented drafts on weddings, family reunions and gatherings, on the elimination of prohibited areas, youth exchanges, and tourism.

The provisions on family gatherings and the reunification of families were particularly relevant. As for family gatherings, West German delegates wanted spouses to be free to leave their country with their children so to reunite with their partners in her home country, and spouses and children to be allowed to travel freely to the home country of one of the spouses. Draft provisions on the

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<sup>490</sup> PAAAA, ZA 111541, Report from Leningrad on the conditions of the Soviet-Germans, 24 January 1973.

<sup>491</sup> In the Helsinki Final Act Basket III resulted in a division into three thematic areas: human contacts, information, co-operation and exchanges in the field of culture, co-operation and exchanges in the field of education. The item "reunification of families" was enshrined in the area devoted to "human contact".

reunification of families advocated an easier and smoother visa process, and requested all participating states “to treat the applications fairly without making distinction on the basis of the country of origin or of destination...not to overcharge the applicants with high taxes... not to cause unreasonable delay in issuing passports and visas”.

In short, the provisions addressed the most burning issues in West German politics: families willing to immigrate to West Germany. Those families – as the letters piling up on diplomats’ desks testified – went through a cumbersome and exhaustingly slow procedure to be reunited. They were saddled with high fees for travel documents – that were not paid back in the event that the requests were for any reason turned down. For those who ran a commercial business, liquidating their activities turned out to be an impossible task. Bringing along properties or the profits gained from commercial activities was equally impossible. In addition to these economic losses, the emigrants were obliged to pay for the education they had received from the state.<sup>492</sup>

Once the reunification of families item was included in Geneva in a Danish proposal advanced at the NATO caucus in February 1973, West German delegates regarded the results as “satisfactory”.<sup>493</sup> However, the negotiations proceeded slowly, and in spring 1974, they came to a standstill. It was hard to break the impasse in Geneva and achieve tangible results in the negotiations with the Soviets. West German room for manoeuvre was virtually nil. Besides, Bonn “runs the risk of being isolated [among our allies] for our proposals and

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<sup>492</sup> PAAA, ZA 111540, Memorandum of the meeting of the CSCE subcommittee (EPC), 14 March 1973.

<sup>493</sup> PAAA, ZA 111529, Telex from Helsinki, 7 February 1973.

thereby of losing prospect of getting them through". The only viable tactic was thus to act behind the scenes and "keep secret our essential interests". The explicit reference to West German national "secret" interests is a key point as it proves that Bonn was determined to pursue its national interests by out-manoeuvring its allies.

In the second stage the subcommittee for the CSCE and the experts of Basket III gathered in Bonn, from 7 to 9 January 1974, to decide on the strategy before the beginning of a new round of negotiations in Geneva scheduled on 15 January 1974 after the Christmas recess. The group of experts examined drafts that had been preliminarily approved as well as ones that had been circulated but not deposited; it discussed when and under which conditions introductory texts could be accepted by the nine, and agreed on common tactics. As for the common tactics in particular, single countries would prepare a summary for each sub-commission, and possibly for the three commissions. Not surprisingly, West Germany was assigned the drafting of summaries for Commission III and thereby made responsible for the issues regarding human relief.<sup>494</sup>

Bonn's goals were in fact quite numerous. "Reunited" had to be replaced with "united" otherwise the provisions' effects would be limited only to households that had previously already lived together, and would have automatically left out a significant number of the applicants, such as the Germans living against their will in the East: many of them had never shared a common roof with their West German relatives. In addition, the test had to contain a non-discriminatory clause regarding the destination land of the applications and the applicants themselves: Bonn wanted namely to

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<sup>494</sup> PAAA, 111526, EPC working paper: consideration on the strategy to follow in Geneva as from January 1974, 4 January 1974.



preclude the inclusion on any restrictive provision regarding Eastern Europeans of German origin and/or applicants for exit visas to West Germany. Children under 16 years had to be registered on their parents' passports so as not to incur additional fees or taxes. All these points were tabled and discussed with the allies in Geneva in informal talks in spring 1974. Bonn's stance gradually diverged from those held by the other Western countries:

"The debate over the set of problems regarding reunification of families (also within the circle of our allies) is approaching a stage where we run the risk to be isolated and therefore to lose the opportunity to see it approved. The question is now how to change the stance so far formulated so to make for our allies easier to endorse our position and get nevertheless our interests satisfied."<sup>495</sup>

These comments from Geneva show that right when major West German interests were at stake the documents did not register any sign of EPC intervention or EPC cohesive action. Rather, primary sources show that the EPC countries were regarded as an obstacle, and that therefore Bonn sought to get round them. The -aforementioned memorandum makes it unquestionably explicit.

Detailed reports on the negotiations in spring 1974 from Geneva confirmed that addressing problems of daily life and grappling with the crude reality of the German question mattered for the "very sensitive West German public opinion" more than anything else.<sup>496</sup> The archival sources provide a fresh, fascinating insight on West German priorities. Fees levied on visa applicants were for instance a

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<sup>495</sup> PAAA, ZA 111542, Memorandum on CSCE talks on Reunification of families of the 4 June 1974, 6 June 1974. It is interesting to note that most documents– as in this case – refer to debates "with the Allies" (*Verbündete*), i.e. discussions held within NATO, and not to any debate or decision taken within the EC framework (in this case, the word would be *Mitglieder/Mitglied-Staaten*).

<sup>496</sup> PAAA, ZA 111542, Phone call Henze-Kruger on 1 July 1974, 2 July 1974.

burning theme at the Foreign Ministry: they were absurdly high, and deterred many people from even starting the procedure for emigration. In June 1974 the West German embassy in Rumania denounced that a pass valid for 6 months cost 60 Lewa or 90 DM, and that the same price had to be paid to renew the visa. The diplomat based in Sofia sadly remarked that the monthly average salary amounted to 140 Lewa: 60 Lewa was an astronomical price, a fortune that few could afford.<sup>497</sup>

In summer 1974, major problems arose throughout the elaboration of the wording of the single provisions and the negotiations came to a standstill.<sup>498</sup> Notoriously, informal talks by far

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<sup>497</sup> PAAA, ZA 111541, Memorandum from the German Embassy in Sofia, Increase of the passage taxes, 14 June 1974.

<sup>498</sup> PAAA ZA 111542, 11 July 1974. The preliminary version of the provision on reunification of families in July 1974 read as follows:

“The participating states will deal in a positive and humanitarian way with the applications of persons who wish to be reunited with members of their family living in another[country][participating state], with special attention being given to application of an urgent character – such as applications submitted by persons who are ill or old.

They will deal with applications in this field as expeditiously as possible.

They will, where necessary, lower the fees charged in connection with these applications to ensure that they are at a moderate level, taking into account [D: the special situation of families with minor children] [SU; notamment des conditions materielles objectives de vie des personnes en question]

Applications for the purpose of reunification of families which are not granted may be renewed and will be reconsidered at reasonably short intervals by the countries of residence and destination [SU: elles entraineront des droits si elles sont acceptee] [D'elles entraineront pas des deoits si elles ne sont pas decidees favorablement]

Persons whose applications for reunification of families are granted may bring with them or ship their household and personal effects[D: existing regulations will be applied in this spirit] [SU> pour des object don't l'exportation est normalement interdite (oeuvres d'art, bijouterie,metaux et pierres precieux) les reglements en vigueur doivent etre respectes]

Until members of the same family are reunited, meeting and contacts between them may take place in accordance with the modalities for contacts on the basis of family ties.

The participating states will support the efforts of Red Cross and Red Crescent Societies concerned with the problem of reunification of families.

outnumbered the words put on paper at Geneva. In June 1974, the Soviets seemed willing to make overtures at a dinner taking place in Geneva on a Yugoslav initiative. The Soviet vice foreign ministry Kowaljow figured in the list of key guests, Danish and West German delegates joined in as representatives of the Western countries, the Soviet and Hungarian delegates as spokespersons of the WP interests, and the Swiss and Yugoslav delegates as spokespersons of the Neutrals. Kowaljow reassured the West that the Soviet Union “has no intention to change the positive practice in reunification of families carried out so far. On the contrary, it is ready to improve it, if possible”. A handwritten note closed up the telex from Geneva, whereby an anonymous foreign officer sourly noted that nothing was put on paper after the dinner. If the CSCE was to set a minimum standard in the reunification of families, and represent therefore the starting point for further improvement, then “this should [at least] be expressed also in the CSCE documents”.<sup>499</sup> Declarations of goodwill went nowhere and Kowaljow’s statements did not bring along any breakthrough in the negotiations. However, they show how easily hopes could be frustrated, and the extent to which Bonn’s concern about the Soviet stance was justified.

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They reaffirm [SU that applications for reunification of families will be considered in accordance with the rights provided by law to all whom it may concern] [D: que la presentation du demandeur et celle des membres de sa famille]

The receiving participating state will take appropriate care with regard to employment for persons from other participating states who take up permanent residence in that state in connection with reunification of families with its citizens and see that they are afforded opportunities equal to those enjoyed by its own citizens for education, medial assistance and social security.

The participating states [D: ont l’intention d’améliorer la pratique existante selon les dispositions ci dessus] ».

<sup>499</sup> PAAA, ZA 111542, Note on the statement of the Soviet Foreign Minister Kowaljow at the CSCE, 25 June 1974.

In October 1974, after the summer recess, von Groll wrote at the Ministry of Foreign Affairs in Bonn a long note for the West German state secretary Manfred Schüler<sup>500</sup> where he summarised the proceeding of the overall negotiations on the freer movement of people, ideas and information, and highlighted its meaning and bearing on West Germany.

“The concept of *Freizügigkeit* or “freer movement of people, ideas and information” was used at the beginning of the CSCE negotiations in particular by *the USA*: [the Americans] thought that the CSCE had scarce prospects of success: by fostering unrealistic positions (like for instance the elimination of all exit visas) [Washington] aimed to prove the inadequate willingness of the eastern country to pursue real *détente*. During the NATO preparatory stage [of the negotiations], *the Nine* asserted their position, and claimed that it was necessary to try to make of CSCE starting points for human relief. ...hitherto reunification of families in *our bilateral relations to Soviet Union* has rested on a Soviet declaration and a German counter declaration, whereby both sides stated their support for the principle of family reunion. In our bilateral relations to Poland [our bilateral relations have rested] on a unilateral Polish statement (Information). Now [thanks to the CSCE] it is clearly acknowledged that [reunification of families] is a legitimate issue in [multilateral] international negotiations.

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First, the note highlighted Washington’s initial lukewarm approach to the item “freer movement of people, ideas and information”, which was tabled without any genuine belief in the success of the negotiations.

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<sup>500</sup> Schüler (SPD) was called by Helmut Schmidt at the Head of the West German Chancellery in May 16, 1974. He was West German Secretary of State until the 1 December 1980

<sup>501</sup> PAAA, ZA 111533, Notes on CSCE freer movement for people/travel relief, 10 October 1974.

Second, it emphasised the role of the EC countries, who adopted human relief as their own policy at Helsinki.

Third, it stressed again the West German special interest in making the reunification of families an item for international negotiations. Discussing family reunion did not boil down simply to enhancing basic Western European human rights standards, and inserting them into East-West dialogue. It was not necessarily about asserting a new European role in international relations. For Bonn, negotiating on Basket III meant pursuing a policy that could change the life of German citizens, of people of German origin, and of severed German families. This was a steady trend in West German foreign policy that – as seen above – had grown in momentum since the building of the Berlin Wall. Well before the opening of the MPT, the tone was set: “the lack of free movement is the problem n.1 in our severed land...no other country is as affected as West Germany by the issue of freer movement” ...“For us it is one of the main themes of the conference”.<sup>502</sup>“Our priorities lie in the human relief”.<sup>503</sup>

However, open human relief advocacy could easily backfire: Moscow would be likely to make its restrictive practices yet more repressive if West Germany proved self-assertive. One can therefore suppose that presenting proposals together with the EC countries could make them more palatable to the Soviet bloc and ultimately more likely to gain Moscow’s seal of approval.

Those proposals, as well as the negotiations on freer movement, and reunification of families in particular, reflected Bonn’s goals. In autumn 1974, according to a note sent from von Groll to the Secretary of State, the Nine achieved a realistic starting point for the

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<sup>502</sup> PAAA, ZA 111505, Memorandum from Helsinki, 3 May 1973.

<sup>503</sup> PAAA, ZA 111503, Status of the negotiations, 27 May 1974, p. 5.

negotiations on “freer movement of people” that “derives from the principle of human rights and fundamental freedoms”. Von Groll remarked that “the proposals advanced at the Conference by the Nine as for “human contacts mainly derived from West German inputs”. This confirms that the reference in this and similar documents to the EC countries' stance has to be taken with a pinch of salt. Arguing on the basis of the archival sources that the EC countries' common position derived – up to a certain negotiating stage – from Bonn's initiative and responded therefore to Bonn's goals, is quite different than claiming that the Nine engineered together a position that they all espoused and fostered, as has been claimed so far.

Additionally, one should further notice that the two notes analysed above were written in Bonn for the Secretary of State. They painted a rosy picture of the ongoing negotiations. Von Groll reported that “the Nine could push through their idea, *i.e.* that it must be tried to set real starting points during the CSCE to develop and promote human relief”. Despite the less innovative force of the concept, that from “free movement” had been re-named “freer movement”, the Nine succeeded ... to set the guidelines for a future negotiations.”<sup>504</sup> The importance in distinguishing between the notes and memo drafted at the Ministry of Foreign Affairs and generally addressed to the Secretary of State on the one hand, and those written in Geneva and addressed to Bonn on the other, should not be overlooked. It is interesting to note that the only positive references to the EPC were presented in these official documents informing the Secretary of State of the positive performance of the Ministry of

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<sup>504</sup> PAAA, ZA 111533, Notes on CSCE: freer movement for people/travel relief. Bonn, 10 October 1974.

Foreign Affairs. On this point further comments will follow in a later stage of the analysis in this chapter.

As for the reunification of families specifically, even though the West German delegation's work was mostly done behind the scenes, Bonn still remained a key player throughout the entire negotiations. In October 1974, the registration of the draft depended on the Soviet and West German green light. One of the major hurdles in striking an agreement in Geneva, and one of the most powerful sources of future disagreements was the clashing interpretation of single words. This was the case for "family". For the Soviets, "family" comprised only children still living at home and the married couple. "The formulation ... could thus entail, that the Soviets by upholding this wording could change and worsen the current practice". They indeed did so as from the beginning of 1975.<sup>505</sup>

A second stage with a different political climate started exactly when the negotiations entered their final stage and the definite wording gradually crystallised. At that point, Bonn's special interests emerged more clearly. This is proved by a closer scrutiny of the last stage of the Geneva negotiations in 1975. A document sent from the West German embassy in Moscow to Bonn and meant only for internal use helps grasp the full picture: the comments were far than benign. The embassy had been informed with an official communication that following the advice of the Nine's political committee, the negotiation on the "reunification of families" item had passed to the third stage, and it was "satisfactory". The comments from the embassy in Moscow were quite sour. The text could not be changed any more: it left Moscow with enough leeway

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<sup>505</sup> PAAA, ZA 111542, Telex from Moscow to Bonn, reunification of families

to implement restrictive policies and could not be presented to the West German public as a success – even though, quite ironically, Soviet leadership concluded that the delegates in Geneva had given away too much, and that the current practice therefore had to become yet more restrictive.<sup>506</sup> Again, here the mismatch should be stressed between the official notes sent out by the Ministry of Foreign Affairs in Bonn and those drafted by the West German officials who were directly involved with the negotiations in Geneva or – as in the case mentioned above – had to face the burning issue of the reunification of families.

In early 1975, the gradual mismatching between West German priorities and the less burning concerns of the other EC countries was quite evident precisely on the “reunification of families” issue. For Bonn it was a crucial point on the foreign policy agenda. In February 1975, the West German embassy in Moscow recorded that requests were rejected because close family relations were not allegedly proved<sup>507</sup> The West German consulate offices in Moscow informed Bonn about the cases of hardship where the consulate had intervened from the end of 1974 until February 1975. The consulate had only received an oral reply for 12 cases. Typically for the opaque Soviet system, the reasons for denial were only seldomly provided: in most of those cases, requests for exit permits were denied on the same ground: “in most cases [the Soviet authorities] argued that an essential requirement justifying family reunion was missing, namely a family relationship”. During his conversation with his Soviet peer, the West German official mentioned the negotiations on

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<sup>506</sup> PAAA, ZA 111542, CSCE sub commission on contacts, reunification of families, 31 January 1975.

<sup>507</sup> PAAA, ZA 111542, Telex: “repatriation of Germans form Soviet Union”, 24 February 1975.



“humanitarian matters” at a high political level, and enquired, whether then in light of the many emigration permits denied, he should infer that Soviet practice had changed. The Soviet official responded, that “this was absolutely not the case. “[The requests of exit permits had been turned down because] the Soviet concept of family was quite narrow, and comprised only the spouse and her minor children”. As a consolation, applicants could re-apply after one year. The officer at the West German consulate came to the obvious conclusion that the Soviet authorities – regardless of the longish talks in Geneva and of their half-promising tones – wanted to keep full control over the emigration of Germans, and were determined to use a restrictive conception of family ties to prevent Soviet Germans from leaving the country.<sup>508</sup> Defining the concept behind single words was therefore a crucial issue for West Germany.

In spring 1975, immediately before the third and final stage of the Conference, the expression “at mutual acceptable conditions” was fiercely debated. It was inserted as a preamble to the chapter on human contacts – enshrining also the provision on the reunification of families – in Basket III. Originally the Soviets demanded that the whole Basket III be put under the reservation of “the principle of respect of sovereignty, of laws and customs of nations”, but the Western countries rejected the proposal. It was then that Moscow proposed to insert the clause “at mutual acceptable conditions” as an introduction to the chapter on human relief. The provisions on human contacts were meant to be the first step for a progressive and steady improvement in human conditions in Europe but the Soviet formula risked turning the CSCE provisions into dead ends. If the

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<sup>508</sup> PAAA, ZA 111542, Telex from the German embassy in Moscow to Bonn, 24 February 1975.

clause “at mutual acceptable conditions” was included, then any Eastern country was ultimately allowed to turn down any request for negotiations on sensitive issues like human relief by arguing – without further specification – that the conditions set by the West were not “acceptable”.

In June 1975, a few weeks before the closure of the conference, an agreement on the provisions on Basket III was finally reached.<sup>509</sup> In the preamble to the chapter on human contacts a difference was made between the measures agreed in the text – that had to be carried out after the conclusion of the CSCE – and further, (not well-defined) efforts that the participating states were to make in order to improve human conditions in Europe. Only for the latter part was the limitation of the expression “at mutual acceptable conditions” valid. The sources referred to the “Western countries”, and did not mention the EPC or the Nine acting as a group.<sup>510</sup>

The final text of Basket III, “freer movement of peoples, ideas and information” – what was then renamed “cooperation in humanitarian and other fields” – was finalised in late June 1975, in the very last stage of the Geneva negotiations. Since the beginning the items of Basket III, “family visits and reunification of families”, had been clearly a key issue for West Germany for at least two reasons, since its provisions hinged upon the country’s dire humanitarian emergency, and the government’s political credibility partly rode on a successful handling of the problem.

If the EPC had indeed played a significant role in the negotiations, then one would reasonably expect to come across

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<sup>509</sup> PAAA, ZA 111533, Status of the negotiations in Geneva, 9 June 1975.

<sup>510</sup> HSA, box 6655, Economic issues at the CSCE: major problems for the East, by Dr. Karl-Heinz Narjes, MdB (DUD) Bonn, 7 July 1975.

references to the coordination of the Nine. Instead, this coordination is mentioned only a few times, and almost exclusively in the documents written in Bonn and addressed to the West German political leadership. Indeed, the documents sent from Geneva to Bonn suggest that West German delegates were actively involved in direct negotiations with their Soviet colleagues on several points under discussion without coordinating with the EC countries. West Germany did not act according to EPC guidelines, but rather tried to accomplish its domestic goals.

“Our experiences lay at the basis of the resolution on family visits and reunification of families. [Eastern European countries] have turned down [so far] all negotiation attempts on these themes as they regarded them as interference in internal affairs. Now [these very themes] have [eventually] become legitimate negotiable issues... We will take a tough line in implementing the resolutions and we will fight to achieve any [form of] relief, as we have never been able to do so far”.<sup>511</sup>

In short, Bonn turned a highly sensitive bilateral issue into a “legitimately negotiable” item that was discussed within a traditional multilateral framework. The EPC was part of the range of political tools used by the West German leadership, but did not influence significantly Bonn’s policy in Geneva.<sup>512</sup>

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<sup>511</sup> PAAA, ZA 111533, Freer movement of people and travel relief, 10 October 1974.

<sup>512</sup> PAAA, ZA 111533, Freer movement of people and travel relief, 10 October 1974.

## Human rights: the quest for a dynamic principle

The provisions on “freedom of movement” in Basket III and the principle of human rights in Basket I were intertwined. For Klaus Blech, the West German deputy head of the CSCE delegation, this link had to be made explicit. In June 1974, he urged the inclusion of an explicit mention of “freedom of movement”.<sup>513</sup>

“We should not delete the reference to single human rights [and thereby meet Soviet requests], we should [rather] try to take in an additional human rights, freedom of movement, after agreeing with our partners.”<sup>514</sup>

He reiterated his view several times in the notes sent from Geneva to Bonn. Blech’s insistence is revealing. The principle was not relevant *per se*, but only insofar as it reinforced the provisions on freedom of movement in Basket III.

As for the scope of the principle of human rights, Blech wanted to mention in the provision the UN declaration of 10 December 1948 in addition to the UN pacts on human rights of 1966. Including a document on human rights standards that was not, technically, a treaty of international law was aimed to avoid the general impression that the respect of human rights existed in international law only if treaty-based. For Bonn, it was crucial that the CSCE developed standards for human rights that did not rely on international treaties.<sup>515</sup>

In July 1974, a few days after Blech’s note to Bonn on the inclusion of the UN Declaration, the proposal was in principle

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<sup>513</sup> PAAA, ZA 111533, Telex from Geneva, CSCE sub commission on principles: principle VII, 4 July 1974.

<sup>514</sup> PAAA, ZA, 111533, Telex from Geneva to Bonn, 24 July 1974.

<sup>515</sup> PAAA, ZA 111533, Telex from Geneva, 4 July 1974

approved. West German delegates in Geneva reported to Bonn that the Nine agreed on a common position and “agreed to present a text jointly”. However, the West German delegate in Geneva urged his colleagues in Bonn at the Foreign Ministry to study the proposed text carefully. West German delegates in Geneva, while refraining from objecting to the EPC position, drew Bonn’s attention to the possible flaws of the proposal advanced.<sup>516</sup>

“The participating states will respect human rights and fundamental freedoms.

They will endeavour jointly and separately to promote universal respect and observance of human rights and fundamental freedoms for all, without distinction as to race, sex, language of religion in accordance with the general principles and standards of international law, and the provisions of international conventions and instruments by which they have accepted as setting out a common standard of achievement.

Therefore, they will respect and promote the establishment for all of civil, political, economic, social and cultural rights and freedoms, including freedom of thought, conscience, religion or belief..<sup>517</sup>

The wording presented three major flaws for West German negotiators.

First, the wording “the participating states will *respect* human rights and fundamental freedoms” was regarded as too vague and general. It left room for interpretation. Due to no further specification in its implementation, the state in question could argue that the norm did not apply to its domestic sphere. As a result, the norm would have an effect only in the foreign policy realm, whereas in the domestic realm the state remained unchallenged and internationally unaccountable, free to exert full and unrestrained control over its

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<sup>516</sup> PAAA, ZA 111533, Catalogue of principles: human rights, 10 July 1974

<sup>517</sup> PAAA, ZA 111533, Telex from Geneva, Subcommission on Principle VII, 10 July 1974.

citizens. By contrast, “it is very important that the CSCE states emphasize their will to align their domestic policy with the basic principles of human rights”. The Eastern bloc was quite capable of proclaiming its respect for human rights in general while continuing to make it impossible for applicants to leave for West Germany, and for West Germans to visit their relatives in the East. In Geneva, Bonn tried to push through a wording that could directly benefit German people.

Second, West German delegates dismissed the wording “general principles and standards of international law” as fairly “useless”, since it did not clear up the vagueness typical of human rights documents. One of the missing pieces in international law was indeed a clear definition of human rights as well as an undisputed human rights standard. “In international customary law there are few concrete rules in the domain of human rights, and they are being developed with many reservations...human rights standards are not uniform, and the no-written standards differ [too]”. This allowed for a flexible use of the concept and for its dynamic development. It was reiterated that a reference to the general declaration of human rights of the UN assembly of 10 December 1948 was “imperative” because it would allow for a more flexible interpretation of human rights, and would avoid the idea that human rights mattered only once enshrined in international law treaties.

Third, it was crucial not to leave too much leeway to the states in implementing human rights standard. The human rights branch of international law notoriously developed with tottering steps, and at that time was entirely dependant on the will of nation-states . One of the major difficulties in the development of the international law

protection of human rights was the fact that the individual was not a subject of international law.<sup>518</sup>

After the summer recess, problems started to materialise. West German delegates reported to Bonn that the British delegates stubbornly insisted on including in the text the word “duties”. A British proposal advanced on 24 July 1974 represented the basis of discussion when the negotiations re-opened in September 1974. As for Principle VII, in a note sent to the Secretary of State from the Ministry of Foreign Affairs, the assistant Secretary of State Günter Van Well reported that the CSCE-sub commission of the EPC had met in Paris on 3-4 September and had agreed that the catalogue of principles ought to contain a mention of the principle of respect for human rights and fundamental freedoms. The CSCE sub-commission agreed that it ought to affirm the duty for every state to respect and enhance them. That duty ought not to be limited. The agreed text was regarded as a basis for further negotiations.

Van Well then referred to what had to be further done in Geneva. The UN Pact on civil and political rights could be mentioned despite its provisions “which restrict human rights for the sake of the public order. What matters is that the text won’t contain any expressed limitation to human rights”. Van Well further insisted on the inclusion of the freedom of movement mentioned at the very beginning of Principle VII, “even though the prospects of success are slim”. He did not mention the wish or need to coordinate with the Nine.<sup>519</sup>

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<sup>518</sup> PAAA, ZA 111533, Catalogue of principles: human rights (internal note), 5 August 1974; PAAA, ZA 111533, Catalogue of principles: human rights, 10 July 1974.

<sup>519</sup> PAAA, ZA 115333, “Principle VII”, 9 September 1974

Indeed the coordination of the Nine seemed haphazard. With regard to Principle VII, it is striking to note that West German delegates consistently complained about the British stance and never mentioned the EPC as a possible forum of discussion to iron out their different views and elaborate a common position. London upheld the view that the provision had to mention both rights and duties and backed the following phrasing: “they confirm the right of the individual to know and act upon his rights and duties in this field”.

Rights and duties are traditional and undisputed concepts in constitutional law. Citizens enjoy rights and fulfil duties towards the state, and one would regard as perfectly normal to be enjoying rights only insofar as he respects the will of the Queen expressed through law. However, in international law, the state is entrusted with duties towards its citizens and towards the individuals under its sovereignty, but the individual is not bound to any specific duty. That is easy to explain: human rights are by their very nature inalienable and unconditional, i.e. they cannot be bestowed, granted, limited, bartered, or sold away. In short, they cannot be made dependent on the fulfilment of duties. Interestingly, the only soft law document mentioning duties beside human rights is the American Declaration of the Rights and Duties of Man (April 1948), predating the much more famous Universal Declaration of Human Rights adopted by the UN General Assembly.<sup>520</sup> However, in the international context, this could have adverse effects on individual human rights.

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<sup>520</sup> The Preamble of the Declaration reads: “[t]he fulfillment of duty by each individual is a prerequisite to the rights of all. Rights and duties are interrelated in every social and political activity of man. While rights exalt individual liberty, duties express the dignity of that liberty.”



West German delegates attacked the proposal as “pointless” and “harmful”.

Firstly, it was “pointless”, since human duties did not exist in international law. Individual states had to guarantee a minimum standard of human rights, and only states were bound by the obligation stemming from the principle of human rights in international law. Due to this intra-state obligation, the principle had then a positive, beneficial effect for the individual, but the individuals had no obligation towards the nation state which granted her the rights.

Secondly, the mention of “duties” was “harmful”, since it was vague and open to dangerous interpretations. An undisputed definition of human rights did not exist, nor did a list of duties. The British delegates mentioned “duties” in the area of human rights for the first time in Geneva. No interpretative framework existed: the very concept and scope of “human duties” had to be spelled out from scratch. The only indication provided by the British was that human rights were always coupled with human duties. This left Moscow much room for manoeuvre. Since it was ultimately the state which defined when an infringement of the duties occurred, Moscow was free to define it in very wide terms and could easily argue that “in case [“human duties”] were infringed, then the state was not obliged any more to protect unlimitedly human rights, or respect them at all”.<sup>521</sup> By this token, “human duties” could legitimise the Soviets in turning down any request for respecting/improving human conditions in Eastern Europe.

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<sup>521</sup> PAAA, ZA 111533, Catalogue of principles: telephone calls nr. 1548 and 1555 of 6 November 1974 from Geneva (delegation note n. 678 and 680), 11 November 1974.

Understandably, Bonn tried to delete reference to the word “duties” in the text until the very end of the negotiations. Less than two weeks before the signature of the Final Act, on 20 June 1975, Bonn urged its delegates to meet informally with their British counterparts and convince them to drop their proposal, but with scarce success. Eventually it was officially accepted in the run-up to the third stage and ended up in the Final Act.<sup>522</sup> This shows that the pursuit of a common text was daunting in light of different views and interests. Interestingly enough, on the problem posed by the word “duties”, Bonn urged its delegates to “find an occasion in Geneva to talk with the British delegation, to explain/clarify our concern with regard to the words “and duties” and with the further goals, to understand, what makes the British insist so much on this point.”

What is interesting again here is that no reference was made to a EPC meeting or to a sort of EC coordination, but the first thing that Bonn suggested when it came to achieving substantial results – and not to simply reassure the Secretary of State of the well-functioning of the EPC, like in other notes mentioned previously – was to talk simply with the British peers. No reference to the EPC mechanism or to discussions on this issue within the EPC framework is present in the sources.

A Yugoslav proposal provided instead a window of opportunity for the German cause. Belgrade proposed to include in the principle a mention of the respect for minorities. Still, the simple mention of “minorities” with no further specifications lent itself to a restrictive interpretation: German minorities scattered over Eastern Europe risked being left out. Bonn thus wanted to rephrase the proposal as

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<sup>522</sup> PAAA, ZA 111533, Memo, 20 June 1975.

“the rights of members of [national] minorities”, thereby recalling article 27 of the International Pact on Civil and Political Rights of 19 December 1966.<sup>523</sup> By this token, the provisions would cover also the members of the German minority in Eastern countries.<sup>524</sup> The case of the Yugoslav proposal is interesting as it highlights once again that protecting the German minority was a top priority for Bonn: public opinion expected results and it was not politically sustainable to ignore or dismiss it. It was not advisable to go public with audacious requests clashing with the Soviet bloc’s stand. Ambitious requests were likely put off the Eastern countries and jeopardise the negotiations. Bonn therefore played it cool, since it walked a tightrope between advocating human relief for the German people – without disrupting bilateral relations with Soviet Union and the WP states in general – and showing great assertiveness in foreign policy, thereby disproving CDU/CSU accusations of being too soft on the Soviets.

That said, the practical measures enumerated in Basket III were more important than the general principles in Basket I. Tangible results evidently mattered more than principles for Bonn. The latter mattered only insofar as they reinforced and underpinned Basket III.<sup>525</sup>

Comparisons between the West German and Dutch stands are illuminating. For the Hague, the principle of human rights was of

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<sup>523</sup> “In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language”

<sup>524</sup> PAAA, ZA 111533, Synopsis on the principle of human rights to the permanent representation of West Germany by the UN and by other international organizations from Geneva, 5 September 1974.

<sup>525</sup> PAAA, ZA 111533, Telex from Geneva, 4 July 1974.

paramount importance in a new setting of European international relations. Western countries had to force the Soviets to comply with a new set of rules for Europe, which was likely to snowball into profound domestic changes. This thesis does not want to inflate the role of the Dutch as the knight in shining armour for European ideals: they also stressed the importance of Basket III. However, by setting human rights at the top of their agenda they advanced a different idea of the CSCE. The scope of human relief was instead the first concern for the German people, and responded to primary domestic concerns resonating throughout the 1960s in West German political discourse. Setting the CSCE human relief in this analytical framework allows for an understanding of its meaning and scope: for Bonn CSCE Basket III was the continuation of human relief *a l'allemande*, and it was meant to be a policy to be negotiated between the states. Bonn therefore dismissed a radical, abrupt solution. Human relief was a policy to negotiate and implement at the intergovernmental levels and hinged on crude reality.

Briefly, the two countries not only had different interests, but also different priorities. The Dutch made a big deal of principle, the Germans of its practical effects. The EPC was a tool to different ends.

Reconciling these two visions could prove quite arduous.

### **Self-determination: a window of opportunity for German reunification**

The principle of self-determination was the third pillar of West German human relief policy. It had already found expression both at the national level – in the Basic Law – and at the international level – in the UN Statute, and in article 1 of both UN human rights Pacts of

1966 and the UN declaration on friendly relations and cooperation between states. External self-determination was a highly controversial concept at the time as shown in chapter 3. Until the 1960s, self-determination was understood mainly as internal self-determination: the UN Declaration on the Granting of Independence to Colonial Peoples of December 1960 arbitrarily abridged the inalienable right of subordinate peoples to national self-determination by excluding external self-determination. West Germany was one of the few states which advocated for a further development of the principle in international law in Geneva: Bonn argued, “[o]vercoming colonialism is...a very important case of the implementation of the principle, but not the only one” and finding an agreement with the Allies proved arduous.<sup>526</sup> Historical and political differences were hard to overcome, and Bonn realised quite soon that “it is not the task of the conference to reduce the different political objectives of the participating states as well as their opinions on self-determination to a common denominator”.<sup>527</sup> That said, the West German delegation did not renounce its claim: the principle was coterminous with the aims of *Deutschlandspolitik*, and was essential to guarantee a future for a united German nation.<sup>528</sup>

“For us it is essential, that the principle of self-determination of people is enshrined in a clear and

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<sup>526</sup> PAAA, ZA 111534, Internal note nr. 375/74, 22 February 1974.

<sup>527</sup> PAAA, ZA 111534, Telex from Geneva on the principle of self-determination, 12 December 1973. See for ex. the Italian case. The Italians would acknowledge internal self-determination exclusively, “partly for having a bad conscience, in the case of Südtirol, partly for exaggerated fears (Sicily and Sardinia)”, PAAA, ZA 111531, telex from Rome: telephone calls no. 319 of 26 January and no. 103 of 30 January 1973, 31 January 1973.

<sup>528</sup> PAAA, ZA 111532, Telex from Bonn: telephone calls no. 744, of 21 May 1974 and 28 May 1974. See also PAAA, ZA 111532, Memorandum on the Yugoslav proposal on self-determination presented at Geneva on 13 December 1973, 31 January 1974.

unequivocal way in the CSCE catalogue of principle, and that its formulation does not clash with our *Deutschlandpolitik* goals”<sup>529</sup>

It was strictly connected to the acute problems of German people, and central to European stability:

“The principle of self-determination is regarded by the west German government as a central principle for national and international law and stability.”<sup>530</sup>

During the first year of negotiations in Geneva, West German goals in Principle VIII crystallised into four major points. First, the wording of Principle VIII should very clearly state that its content was the freedom to determine people’s political status, in domestic and international politics as well as with regards to economic and political structure. Second, the bearers of the right as enshrined in the Final Act should not be the states, but the people in general, without any restriction to the national peoples as divided at the time by post-war borders. Third, the delegates would fight off any attempt from the WP states to make the right to self-determination a mere manifestation of the principle of non-intervention.<sup>531</sup> Fourth, in the Principle there should be no mention of a ban on threats to political unity and of the prohibition of dismemberment, as the Canadians and Yugoslavs requested<sup>532</sup>, as they would have reduced to nil any prospect of national reunification.<sup>533</sup> Delegates were instructed to

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<sup>529</sup> PAAA, ZA 111531, Telex: self-determination, 24 January 1973.

<sup>530</sup> PAAA, ZA 111534, note nr. 375/74 of 22 February 1974

<sup>531</sup> Eastern countries used to interpret it as a principle ruling out any interference with the state policy of another state.

<sup>532</sup> PAAA, ZA 111534, Telex from Geneva: the principle of self-determination, 15 October 1974.

<sup>533</sup> PAAA, ZA 111534, Telephone call from Geneva, 14 October 1974, 15 October 1974.

prevent the WP states and some Western countries from turning the principle into a reinforcement of the *status quo*.<sup>534</sup>

In November 1974, the draft of Principle VIII seemed to have reached a passable form:

« By virtue of this principle all people have the right to determine their internal and external political status in full freedom and without external interference and to pursue their economic, social, and cultural development and all states have the duty to respect this right »

Inconspicuously, Bonn tried to reinforce *Deutschlandpolitik* further and sneak into the text the wording “right of self-determination”, instead of “principle”, since the definition of “right” was already used in art. 1 of the UN statute and also in most declarations on *Deutschlandspolitik*.<sup>535</sup> Bonn stated its goals at the EPC: “West German policy aims to achieve a status of peace in Europe, whereby the German people can regain its unity in free self-determination”.<sup>536</sup>

Again, it is striking that in the documents elaborating on the principle the West German delegates did not mention the EPC and did not refer to an agreed set of common policy. On February 20, 1975, a preliminary text was finally registered.

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<sup>534</sup> PAAA, ZA 111534, Telephone calls on the right of self-determination, 17 October 1974.

<sup>535</sup> PAAA, ZA 111534, Report from Geneva, n. 1599, 18 November 1974.

<sup>536</sup> PAAA, ZA 111534, Coordination meeting of the Nine, report nr. 1658 of 29 November 1974, 3 December 1974.

## **More than an effective multilateral framework? EPC revised**

According to its long-standing human relief policy, Bonn's foreign policy pursued free movement of people, the principle of self-determination and less crucially the principle of human rights through low-profile diplomacy and multilateralism – namely, NATO and the EPC. It is now necessary to pause, and briefly elaborate on the developments in Bonn's foreign policy within the EPC framework. As illustrated in Chapter 1, scholarship regards the CSCE as the first EPC success, and has therefore developed a "EC narrative of human rights" at the CSCE. The history of the Helsinki process has been written as if it were an EC story, not the separate stories of separate states.

In light of the archival sources, such an interpretation cannot be embraced. A closer analysis of West German archives in particular provides a fresh look at the functioning of the EPC and its bearing on West German politics. What archival sources indicate is that the EPC was more a facade of cooperation, and of a fairly loose nature. The Nine indeed met on a regular base to discuss foreign policy and assigned individual states with individual tasks. Still, what does emerge is that in the practical implementation each country pushed its own line, at least as for the countries under scrutiny.

The analysis advanced so far leads to two conclusions.

First, two phases may be detected. Coordination worked during the preliminary and initial stages of the conference, where all issues were basically open to discussion, and in fact there was not much at stake. During the MPT, EC countries agreed on a working method for the EPC meetings: single issues under scrutiny at the negotiations



would be assigned to single countries, which would elaborate drafts based on the documentation available. A document sent to the West German President Gustav Heinemann shows that during the third MPT round in Dipoli specifically on Basket III, West Germany was in charge of the questions tabled in the first sub commission on freer movement of people<sup>537</sup> while France focused on culture, Belgium on education, and the UK on information.<sup>538</sup>

Single states advanced already national concerns: West German delegates for instance drew attention to the problems of marriages between foreign workers.<sup>539</sup>

At the closing of the MPT, Bonn equally drew a positive balance of EPC and NATO coordination at Dipoli. "The Western guidelines were advanced, and the 'community spirit' (*Gemeinschaftsgeist*) was reinforced". EPC gained "substantial importance and effectiveness". The efforts to achieve agreements in the Political committee, in the CSCE sub commission and in the ad-hoc Group "contributed to advance Western stands in crucial areas and ... made the EC stronger".<sup>540</sup> That said, it is interesting to note that the documents praising EPC effectiveness were prepared in Bonn and addressed to the President, a representative figure with a mostly ceremonial role. This may indicate that one matter was the political show set up at the EPC and praised by the officials in front of their superior officers;

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<sup>537</sup> In the original version "marriage, rencontres de familles, regroupement de familles, suppression des zones interdites, échanges de jeunes, tourisme. See, PAAA, ZA 111540, Meeting of the CSCE subcommittee of 14 March 1973, 28 March 1973.

<sup>538</sup> PAAA, ZA 111540, Note of the Belgian delegation on the meeting of 27 February 1973 of the CSCE subcommittee, 28 February 1973.

<sup>539</sup> PAAA, ZA 111540, Meeting of the CSCE subcommittee, 28 February 1973. See also PAAA, ZA 111540, 16 March 1973.

<sup>540</sup> PAAA, ZA 111501, Memorandum for the President on CSCE, 28 May 1973.

another matter entirely was the actual development of a coordinated policy in Geneva.

In a second phase, after the summer recess in 1974 and in particular from late autumn 1974 onwards, the West German stance sharpened. The delegates elaborated extensively on their goals, gauged their room for manoeuvre, and in practice never mentioned EPC proceedings or reported to be acting according to the EPC. As for human rights, free movement of people and travel simplification, the EC countries presented proposals as a group in a first phase, but in the last stage of the negotiations after the summer recess in 1974, political strategy diverged. As has been shown, debates on Principle VII raged on.<sup>541</sup> During a meeting of the CSCE committee on 2 and 3 September 1974 in Paris, the Nine simply agreed that “the declaration of principles must contain an adequate formulation of the principle of respect of human rights and fundamental freedom”.<sup>542</sup> Such a broad definition left most substantial questions open to individual states’ interpretation.

Later on, West German delegates welcomed progress on the relief of trans-border traffic.<sup>543</sup>

“The current registered text on the principle of human rights is quite in accordance with key points made by the Nine and proves certain willingness to compromise on the part of the East.”<sup>544</sup>

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<sup>541</sup> PAAA, ZA 111533, Note from West German delegation in Geneva to Bonn: principle of human rights, 9 July 1974.

<sup>542</sup> PAAA, ZA, 111533, Notes from West German delegation in Geneva to Bonn, 9 September 1974 and 10 October 1974.

<sup>543</sup> PAAA, ZA 111533, Notes from West German delegation in Geneva to Bonn, 10 October 1974.

<sup>544</sup> PAAA, ZA 111533, Notes from West German delegation in Geneva to Bonn, 10 October 1974.

Effective coordination resulted in consistent practice, especially concerning human rights.<sup>545</sup>

“The text so far registered for the principle of human rights correspond to the major points advanced by the nine (*essentialia*) and proves that the east is to a certain extent ready to compromise.”<sup>546</sup>

However, there is no indication of a consistent European project, or of specific issues dealt with by the Nine as a group. There is only a vague mention of the useful results of coordination: “the cohesion had amazingly held”. Cohesion provided Bonn with greater advantage “for its special interests”, and boosted West German confidence over a positive conclusion of the Conference, as reported from Geneva in September 1974, after more than a year of negotiations.<sup>547</sup>

The pursuit of different national goals led to frictions within the EPC, as the Dutch case has clearly shown. In November 1974, West German sources reported on the maverick-like attitude of the Hague in the case of the principle of self-determination. Dutch delegates regarded the verb “determine” as too weak and pushed for the use of the verbs “adapt and change”, which were both unacceptable for the Soviet Union; Moscow stood firmly against the mention of the verb “change”: it could not be registered even in parenthesis. Moreover, in EPC meetings the Dutch vocally demanded for the inclusion of the word “inalienable” in the text, as has been shown in chapter 3. In order not to provoke Moscow, which was absolutely negative about the Dutch proposals the West Germans supported a low-profile

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<sup>545</sup> PAAA, ZA 111533, Telex from Geneva: principle of human rights, 9 July 1974.

<sup>546</sup> PAAA, ZA 111533, Notes on freer movement of people, 10 October 1974.

<sup>547</sup> PAAA, ZA 111503, Notes from Geneva, 11 September 1974.

approach, and openly blamed the Hague: “the Dutch stand won’t be of much use”.<sup>548</sup>

West German representative Gehl captured in a few sentences the reality of the Geneva negotiations: in the conclusive stage of the negotiations on Basket III, he pointed out different Western countries' interests – in the case at hand, he referred to the Americans, French and the Dutch – and wryly noted in April 1975:

“Different interests come in very useful for us, since we will gain time for advancing our requests and we will not be the only ones to be blamed by the Eastern states for delaying the negotiations”.<sup>549</sup>

Talking of a European *détente* seems therefore an overstatement. In the end, the goals of the policy were decided according to the specific guidelines of the individual national policies.

### **May 1974: a change in West German leadership**

West Germany's specific guidelines were set out in Bonn, by a newly-appointed Foreign Minister from May 1974. The change at the helm of the Foreign Ministry was quite significant. Although political changes at home resounded remotely in Geneva, in 1974 two factors – the first domestic, i.e. political change in German leadership, and the second international, i.e. world economic turmoil – arguably affected Bonn’s policy in Geneva. A closer look at the political role of Foreign Minister Hans-Dietrich Genscher contributes to illuminating further the reasons for the West German stance in the last stage of the negotiations.

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<sup>548</sup> PAAA, ZA 111533, Telex from Geneva: self-determination of people, 15 November 1974.

<sup>549</sup> PAAA, ZA 11540, Status of the negotiations on Basket III: telephone call from Geneva, 24 April 1975.

Brandt stepped down in May 1974 amidst a spy scandal and Helmut Schmidt was elected chancellor on 16 May 1974. Brandt's coalition partner and leader of the FDP, Walter Scheel, became president, and Hans-Dietrich Genscher (previously minister of the interior) succeeded Scheel in the Cabinet both as a Foreign Minister and as vice-chancellor, and later as party chairperson of FDP. The transition from Scheel-Brandt to Genscher-Schmidt did not signal a substantial change in foreign policy but a shift in foreign policy's priorities following the serious global economic crisis – the demise of the Bretton Woods system and the oil crisis – and to the economic and institutional crisis in the European Community. The change in emphasis in the foreign policy agenda was coupled with a pragmatic repartition of political tasks, which occurred quite naturally. A soft-spoken master-tactician like Genscher was better suited to pursuing a policy of political “weaving” (*Verflechtung*) that lay at the core of *Ostpolitik*, whereas a former Minister of Finance and economist like Schmidt was more inclined to address economic problems. Schmidt played a less active role than Brandt concerning human relief. As he took office, he stressed his commitment to continuity and stated that he was going to perpetuate the guidelines of Brandt's Chancellorship. Only with regards to two issues – relations with East Germany and the crisis of the European Community – would he develop a new policy.<sup>550</sup> As for the EC, he intended to work at overcoming the economic crisis and at improving its Byzantine and inefficient institutional framework. In his “new” policy towards East Germany Schmidt did not emphasise the importance of human relief as Brandt did. For example, during a talk with Belgian Prime Minister

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<sup>550</sup> HSA, Box 6931, Meeting between Schmidt and American Ambassador held on 6 June 1974, 7 June 1974.

Tindemans in July 1974, it was West Germany's Foreign Minister, Genscher, who made substantial remarks on Basket III:

“In Basket III the issue regarding information cannot be put on the same level of [other] humanitarian wishes, like bringing families together. The number of the Soviet kiosks selling newspapers is less important than the minimum degree of human relief that we also need in our relations with East Germany”.<sup>551</sup>

While the Foreign Minister voiced the need to press the Soviets on Basket III, Schmidt focused on what he knew best: economics. Certainly – much like Scheel – Genscher was not as directly involved with the negotiations. Contrary to the daily exchange of notes and information between Dutch Foreign Minister van der Stoep and Dutch delegates in Geneva, no record of his direct involvement with the daily negotiations is to be found in the archives. However, his political figure upstaged the Chancellor in the Helsinki negotiations and his contribution to the development of an articulate human rights policy cannot be ignored. Genscher had shown enthusiasm for a CSCE since the beginning of the 1960s. On 6 September 1966 Genscher held a speech in Stuttgart on the 20<sup>th</sup> anniversary of James F. Byrnes' speech. The thrust of his intervention was the pursuit of German unity.

“It seemed important for me to define the maintenance of the sense of belonging of the Germans and the implementation of a humanitarian minimum program as political goal on the way to unification”.<sup>552</sup>

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<sup>551</sup> HSA, Box 6933, Bonn, Notes on the talk between Schmidt and Tindemans, 3 July 1974.

<sup>552</sup> Hans Dietrich Genscher, *Erinnerungen*, (München: Goldmann, 1995), 93.

Genscher believed that the CSCE could open up windows of opportunity: "I firmly believed that the conference and the project CSCE could lead to a fundamental change in Europe.<sup>553</sup> In an interview he linked "human contacts, the overcoming of painful consequences of the division of Europe and of our severed land".<sup>554</sup> In front of the Bundestag he conceptualised West Germany's political role at Helsinki as a three-level game: as a NATO member, as an EC member, and as a part of a divided nation.<sup>555</sup> The results of the conference had different meanings according to these three different roles. Three different questions thus emerged. What purpose did the CSCE serve for "West Germany-NATO member"? What purpose did it serve for "West Germany-EC member"? Finally, what purpose did it serve for "West Germany-divided nation"? In light of the archival sources, one can reasonably argue at this point that the advocacy of human relief served an exquisitely national purpose to be pursued through a multilateral framework.

"Nobody has a stronger interest than us, the Germans, that the conference achieves its goal, which is improving the relations and contacts between countries and people in all Europe<sup>556</sup>...and at the same time, nobody would avoid the national duty to finally help the destiny of a divided nation, nobody would hesitate to contribute to this process"<sup>557</sup>

Further on, Genscher mentioned in general terms the importance of the conference for the people in the divided Germany, for the people in Europe and for peace in Europe, and claimed that

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<sup>553</sup> Genscher *Erinnerungen*, 97.

<sup>554</sup> HSA box 6656, Bulletin nr. 95, p. 897, 29 July 75.

<sup>555</sup> HSA box 6656, Bulletin nr. 94, 26 July 1975. Speech held on the 183<sup>rd</sup> session of the German Parliament over the CSCE on 25 July 1975.

<sup>556</sup> This meant "Berlin included"

<sup>557</sup> HSA, Box 6656, Draft of Genscher's speech at the Bundestag, 25 July 1975.

the conference had to have an impact on all the people in West Germany, Berliners included, and that a peaceful result had to be achieved so that the German people may exercise their right to self-determination and become one again.

A second highlight of Genscher's speech lay in its drafting process: the draft of the speech presented some interesting discrepancies with his final speech.<sup>558</sup> While in the first draft emphasis was laid not only on the action of governments and institutions but also on individuals who were regarded as relevant players in the scenario of *Ostpolitik* and *détente*, it is interesting to note that the mention of human rights and fundamental freedoms was then erased. This was in line with the conclusion, where Genscher stressed the importance of the conference for the people in the divided Germany, for the people in Europe and for peace in Europe. Peace and human relief (and not human rights) were the two elements emphasised in the final text that could bring about unification. It can be reasonably argued that if human rights advocacy had ended up giving a free hand to the people of Europe in their internal matters, it would have destabilised the fragile equilibrium promoted by *Ostpolitik*. *Ostpolitik* could be successful only if guided from the top by political leaders. Human relief was instead a more practical and manageable goal, that could be – and had to be – guided from the top through negotiations, and that would eventually trickle down to the people.<sup>559</sup>

Two conclusions can be drawn: first, human relief was a constant major theme in domestic debate, and the ultimate goal

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<sup>558</sup> HSA, Box 6656, Draft of Genscher's speech at the Bundestag, 25 July 1975.

<sup>559</sup> HSA, Box 6655, Proposal of resolution of the government of Bayern on CSCE: draft of the intervention of federal minister at the Bundesrat to be held on 11 July 1975, 10 July 1975.



pursued by Bonn at the CSCE. Second, the advocacy of human relief, and the silence on human rights, throw light on Genscher's idea of the purpose and effect of human relief advocacy. Human relief was a process to be controlled and negotiated by the national governments, as previously done at the bilateral level throughout Brandt's chancellorship and accomplished through a successful treaty-policy. In fact, this was in line with the consolidated interpretation of *détente* as a conservative project and with West German foreign policy (see Introduction). Genscher's caution was a far cry from van der Stoep's dauntless commitment to human rights, and understandably so, because any political move aimed at empowering people in Europe and encouraging them to assert their rights, could alienate Moscow, jeopardise the process of *Ostpolitik*, and more broadly undermine European stability. Uncontrolled upheavals of Eastern Europeans would have hindered the process leading to a peaceful situation in Europe and would have played against *Ostpolitik*.

In conclusion, although human rights were certainly the bedrock of human relief, still, the two concepts could have two different effects and serve two different purposes.<sup>560</sup> The first could become a force for change setting the individual for the first time against her own state and therefore likely to run amok. The second was instead a second step towards a mid-term solution of the German problem (once the Treaties had settled territorial issues, negotiations on human relief could settle the humanitarian ones).

In his commitment to human relief, Genscher represented continuity with Brandt's CSCE policy at its best. It is therefore important at this point to devote attention to the "slippery figure" of

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<sup>560</sup> Scholarship has proved, though, that human rights also served conservative goals. See Introduction.

the West German foreign minister and to grapple more with his political vision. Biographical elements are particularly relevant to having a deeper understanding of German politicians, and Genscher's life confirms how the sombre reality of his people's condition affected his political thinking.<sup>561</sup>

### **The human factor in West German foreign policy: Genscher's background and political programme**

Genscher became Foreign Minister on 17 May 1974 when the Helsinki conference was already ongoing, and made his debut on the Helsinki stage only in 1975 when the Final Act was signed. He called for a "realistic *Ostpolitik*"<sup>562</sup> and a "foreign policy of responsibility", *Verantwortungspolitik*. A foreign policy of responsibility opposed to the traditional *Machtpolitik* was a recurrent theme in Genscher's politics and stood for a blend of restraint, humanitarianism and multilateral cooperation. The concept caught the essence of West Germany's foreign policy. Every move had to be carefully considered: the country could not overstretch towards the East and acquiesce to any sort of demands from its Eastern counterparts, nor could it scare Western allies with the prospect of a Soviet-friendly West Germany, wedged in the heart of the continent. A realistic politics of responsibility had to set itself practical goals: it had to achieve what was possible. Change in Europe could proceed only gradually: improving living conditions was thus a perfectly realistic goal, high on Genscher's political agenda.

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<sup>561</sup> Expression used by American Ambassador Richard Burt in the 1970s to refer to Genscher.

<sup>562</sup> Hans-Dietrich Genscher, *Außenpolitik in Dienste von Sicherheit und Freiheit*, (Stuttgart: Verlag Bonn Aktuell GmbH, 1976), 42, 77.

His political stance in the 1970s was consistent with his education and professional experience. Genscher had been interested in human rights-related themes well before engaging in politics: after his degree in law he started a PhD on “crimes against humanity”, and as from November 1946 he joined a group of trainee lawyers who used to meet in the library of the district court. He had experienced the Third Reich and growing up during the early days of the Second World War. In what had become the East Germany, he realised how law could be used to scare people into submission and destroy freedom. In East Germany people were denied human rights, were denied the right to reunite with their families, and the right to choose where to live. In 1952 he was also denied the right to leave the country as a free man, and so he decided to escape. Therefore, Genscher was familiar with the issue of denied human rights not only for having studied the subject, but also for having his own rights trampled upon. As a German citizen first, and as West Germany’s foreign ministry second, he set human rights in the German context. He elaborated on the possibly most successful way to alleviate the suffering of many German families. The advocacy of human rights in general would not have directly served this purpose. Human relief instead would. During the last part of the Conference, he was aware that he had to play his cards right to steer *détente* to West Germany’s benefit:

“We have to be clear: *détente* policy is a complex, difficult policy as the Federal Democratic Party (FDP) understands it, it is a policy of down-to-earth realism; it doesn’t gloss over, but faces the hard reality of the East-West Germany

differences, it is geared to what is possible, but does not lose sight of what is wishful".<sup>563</sup>

Those benefits would come only if the focus was on the people of the two Germanies and if the ultimate goal was to alleviate their condition:

"The German people (of both Germanies) do not want to understand the word *détente* in an abstract way, but for them *détente* has a value only if it consists of more human contacts; in the overcoming of the painful consequences of the severed Europe and also of their severed countries"<sup>564</sup>

In the final stage, Genscher would stress the importance of Basket III, as he explicitly stated to his British colleague, James Callaghan. Basket III touched straight upon Genscher's "emotional core": in front of the Bundestag, he stated that

"Basket III...is about issues that regard directly the life and destiny of innumerable people. It is about, whether people can visit their families, if families, which are severe, reunite, if people, who love each other, can get married, if the people can get to know more about each other across Europe, if they could better understand each other...the value of the conference will be assessed accounting to the practical effects of these provisions".<sup>565</sup>

This statement powerfully sums up the distinctive position of West Germany among the Nine and is a vivid account of the close interrelation between international and domestic policy.

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<sup>563</sup> Hans-Dietrich Genscher, "Die zentralen Aufgaben der deutschen Aussenpolitik", in *Deutsche Aussenpolitik (I)*, Stuttgart 1977, p. 16 (author's translation, S.L.M.).

<sup>564</sup> HSA, Box 6656, Bulletin 26 July 1975, nr. 94, p. 889, "Die KSZE: eine Chance für Europa" Interview of the Minister of Foreign Affairs for the "Frankfurter Gespräch" of the *Hessischen Rundfunk*.

<sup>565</sup> HSA, Box 6656, Bulletin 26 July 1975, nr. 94, p.889, Statement of the government on the CSCE, delivered by the Minister of Foreign Affairs in front of the Bundestag, 183 session on 25 July 1975.

## **Chapter 6**

### **The distorting effects of the EPC mythology**

#### **The findings**

This thesis has provided a fresh account of the negotiations on the principle of respect for human rights and of self-determination of peoples in Basket I, and of the provisions on human contacts in Basket III and has offered an explanation for the deeply different views of two EC members. The Netherlands – for geopolitical, domestic and social reasons – fostered human rights as a lofty ideal to be defended and promoted straightforwardly and through international law, and it specifically focused on the principle of self-determination. The Dutch were staunch advocates of human rights and open critics of the Brezhnev doctrine. During the MPT and the Helsinki conference, they acted quite independently and were often criticised by other Western countries for their confrontational stance. If coordination with the EC members implied compromising on principles, they took an independent line. Within the European Community, where European Political Cooperation (EPC) was supposed to develop a coordinated foreign policy and a common line, they did not encounter much support. When the Dutch pursued the principle of self-determination, free correspondence and diffusion of literature with tenacity and persistence, the general response from the EC members was lukewarm or annoyed. EC members were not inclined to relent and let through Dutch proposals. The difference between the Dutch and their European peers lay not just in their tactics, but also in the basic understandings

of *détente* on which those tactics hinged (see *infra*). In contrast, a very practical goal was high on West Germany's agenda: human relief. The analysis of West German foreign policy has showed that coordination was not coterminous with common understanding, and that Bonn's political designs were intrinsically different from those driving other EC members. The conspicuous sufferings of German people – that German leaders had personally experienced – had a prominent place on political parties' platforms and in *Ostpolitik* in particular, and a tremendous impact on West German foreign policy.

In conclusion, underneath the cloak of "human rights" and "human contacts" lay two different items for The Hague and Bonn. In that respect, the two countries differed sharply.

Both countries pursued national goals. The Netherlands promoted human rights in international law as a tool to loosen the Soviet yoke on Eastern Europe. West Germany aimed to make the reunion of the German people possible and easier – if the reunification of the German land was not yet feasible.

I am not suggesting that there was no coordination at all between the EC countries. Rather, I am arguing that the short-lived coming of age of the EC as a third actor in international affairs cannot be mistaken for the development of a shared moral code where human rights had a place of honour. The much-praised fact that the EC countries "spoke with one voice" cannot be used as evidence of a common EC will. National values and purposes were more influential. The West German and the Dutch "thick" national identities were far more powerful than a "thin" European identity.

At this point, broader reflections on the concept of European identity, on the narrative of European integration and on human rights are due.

### **The narrative of European identity**

Grasping “European identity” is no easy task: the statements heralding it were vague to say the least, and its results – labelled as success – debatable. Moreover, European identity is an expression widely used in IR studies and European integration studies. This can cause some confusion between the different meanings and implications of the term.

The origin of the expression does not help. As has been pointed out already, “the [Davignon] report was formulated in general terms and referred vaguely to a ‘harmonization’ of [the states’] views, the coordination of their positions and where it appears possible or desirable, common actions” (Part II, section I).<sup>566</sup> There was merely the hope that the member states might be able to “determine some common interests in the near future,” which indeed they managed to do during their first EPC meeting, in November 1970.<sup>567</sup> The report was primarily aimed at defining Europe's role vis-a-vis that of the US: spelling out a European identity was one of the tools to prove to Atlantic partners that the EC could play a role in

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<sup>566</sup> Christopher Hill and Karen E. Smith, *European Foreign Policy: Key Documents*, (London: Routledge, 2000), 77.

<sup>567</sup> Ine Megens, “The December 1973 Declaration on European Identity as the Result of Team Spirit among European Diplomats” in Jan van der Harst (ed.), *Beyond the Customs Union: the European Community's Quest for Deepening, Widening and Completion, 1969-1975*, (Bruylant/Bruxelles: Nomos Verlag, 2007), 318. Pinning down common interests was a daunting task in times of political and economic turmoil. When the CSCE was officially inaugurated on 1 July 1973 for instance, the oil crisis jeopardised the European economy and the US foreign policy relegated the EC to the role of “regional power”.

foreign affairs as a distinct entity, as was already stated in the Paris summit from 19 to 21 October 1972.<sup>568</sup> Davignon indeed mentioned l' "entité européenne" and the fact that Europe was to be defined in relation to the US and the political committee (formed by the political directors of the departments of foreign affairs of the member countries) focused heavily on US-European relations. In light of the sorry state of US-EC relations, the declaration of European identity issued on 14 December 1973 – deemed to define EC relations with other countries – expressed the "determination of the Nine to establish themselves as a distinct and original entity" and was supposed to work as a basis for European-American relations. This is a very important point: while France still toyed with the idea of an independent Europe vis-à-vis the US, an EC with its own identity would emerge, which would not include the US as tenth decision maker.<sup>569</sup>

The EPC served as a tool to differentiate Europe from the US, to promote the impression that the EC was not only a conglomerate of differentiated political wills but a real third pole in international affairs. It was to represent "a *fait accompli* and a forceful demonstration of the *personnalité européenne*".<sup>570</sup> However, the quest for a political identity was erratic and was not coterminous with unconditional solidarity among the EC members. With the Middle East Declaration, the EC countries developed a distinct approach but

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<sup>568</sup> Megens points out that the Davignon memorandum (a paper on US-European relations sent to the political directors of the EC member countries) was issued on 17 April 1973 and Kissinger's speech on 23 April.

<sup>569</sup> Claudia Hiepel, "Kissinger's Year of Europe – a Challenge for the EC and the Franco-German Relationship", in van der Harst (ed.), *Beyond the Customs Union*, 289.

<sup>570</sup> Megens, *ibidem*, 287.



the solidarity soon crumbled away in light of the dire oil crisis.<sup>571</sup> It is quite telling that the first comprehensive study on European identity carried out under the supervision of René Girault did not produce any meaningful results for the definition of a European identity.<sup>572</sup> A leading scholar in the field regards the “overall outcome of this project...partially disappointing in that it appeared impossible to identify common characteristics of a common European identity” and points out that the follow-up project focused not on European identity but on “European identities” instead.<sup>573</sup>

Historical data and the first narrative on European identity therefore caution against overinflating the concept of European identity. However, as shown in the introduction, in recent times scholars have largely focused on the fact that the Nine spoke with one voice without further investigating if the Nine were indeed all united by an underlying European identity. The idea of the EC shared community of values would help the argument that despite the lack of practical achievement, the EC indeed had advanced – if not economically and politically – “morally”, shaping itself as a real *persona*. Crudely put, it would compensate for the numerous EPC failures in the first half of the 1970s.

Contributions from IR studies on European identity provide a powerful stimulus to further enquiry. As shown in the Introduction, constructivist insights might be used to generate theoretical propositions on collective identity constructions and causes, and on their effects on the integration process. Social constructivist scholars

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<sup>571</sup> Megens, *ibidem*, 291.

<sup>572</sup> René Girault, (ed.), *Identité et conscience européennes au XXe siècle*, (Paris: Hachette, 1994).

<sup>573</sup> Antonio Varsori, “From Normative Impetus to Professionalization”, in *European Union History: Themes and Debates*, 17.

in European integration studies have dwelt on how being part of the EC/EU has shaped individual identities, a process called “Europeanisation”. According to this line of reasoning, as Thomas has argued in *The Helsinki Effect*, states would have “felt” that *European* identity was *their* identity. It follows that, if human rights were a constitutive part of the states’ *European* identity, then human rights advocacy would have been equally regarded as a constitutive part of the individual states’ identity, and consequently the EC states would have all fostered human rights in harmony. However, constructivism has a major shortcoming for historical studies. It does not explain the reasons for EC human rights and the process whereby the identity was formed. To prove that states’ identity hinged on human rights the only evidence provided is indeed states’ human rights advocacy.

This work has shed light on the difference between Dutch and West German foreign policy, and has outlined the reasons for such different policies. Ultimately, it has laid bare that the EPC was not underpinned by any shared sense of “Europeanness”: it was likely to work when the countries had nothing really to renounce or to lose.

### **No teleology of human rights**

This work has shown that the scope of the human rights debate in two EC countries was profoundly different. No agreed common idea of human rights existed within the EC group. Far from being a call for relativism, the analysis highlights that in the 1970s the human rights discourse was highly multifaceted, and that its complexity would be lost if human rights were intended as one single concept evolving from the Enlightenment or from WWI and

then developed *inter alia* by the peace-loving EC members. The present analysis offers a glimpse on the complexity of the development of the idea of human rights in Post-War Europe.

“The historical understanding implicit in this entire debate is astonishingly jejune. A great deal is assumed ... by both supporters and critics on the basis of cursory readings of foundational texts, and there is very little acknowledgement of the mixed motives that accompanied their drafting”.<sup>574</sup>

The British historian Mark Mazower reminds us of the dangers of simplistic readings of history: “when historians confuse the utopianism of their subject with their own it is easy to be led astray”.<sup>575</sup> Historians mapping the very idea of human rights should be wary of “teleological perspectives that draw a straight line of causality from human rights and the Helsinki final act to the revolution of 1989 in Europe and the end of the Cold War.”<sup>576</sup> Despite the fact that he addresses his critiques to UN literature, the excerpts quoted above would aptly fit into any critique of the human rights narrative in European integration studies. Similarly, the present study argues that human rights have to be seen in their historical context, and their purpose inquired into through the lenses of their advocates. As the American historian Jeremi Suri has claimed “human rights were embedded in *Realpolitik*. They did not have an independent existence, as philosophers posited, but grew out of

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<sup>574</sup> Mark Mazower, *No Enchanted Palace: The End of Empire and the Ideological Origins of the United Nations*, (Princeton: Princeton University Press, 2008), 5.

<sup>575</sup> Mazower, *ibidem*, 6.

<sup>576</sup> Jeremi Suri, “Détente and human rights: American and West European perspectives on international change”, *Cold War History*, vol. 8, no.4, 2008, 540.

institutions and agreements between leaders in the international system".<sup>577</sup>

In light of the existing literature and of the new findings, different concepts of human rights – and different perspectives of the implications and consequences of their advocacy – emerge. Human rights as advocated by the state-actors were not the same human rights voiced by individuals and transnational groups. As pointed out in the introduction, for most states human rights were not alternatives to the Cold War. They were, in fact, products of the Cold War aimed to “improve the existing system of international relations”.<sup>578</sup>

In the 1970s human rights grew out of the idea of *détente*, and this is thus the essential frame of reference for any analysis in the field. This poses yet another analytical conundrum, as there is no clear-cut definition of *détente*. If we understand *détente* as mainly the time when the Soviets and the Americans launched an era of summit diplomacy and nuclear arms limitation talks, then it appears merely as a passing phase in the long history of the Cold War. It could also be read as an American strategy to deal with the relative decline of its global power or simply as part of an effort to find an acceptable exit strategy from Vietnam. Suri defines *détente* as “an effort by a number of great powers to deal with their internal problems”. American and European leaders did not necessarily share the same views.<sup>579</sup> Differences notwithstanding, Suri argues that politicians

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<sup>577</sup> Suri, *ibidem*, 529.

<sup>578</sup> Suri, *ibidem*, 530.

<sup>579</sup> Robert Kagan, *Paradise and Power: America and Europe in the New World Order*, (London: Atlantic Books, 2003). Jussi M. Hanhimaki, “Conservative goals, revolutionary outcomes: the paradox of *détente*” in *Cold War History*, vol. 8, no. 4, 2008, 510.

agreed on one overall tenet: *détente* “was a conservative response to the global society upheavals of the 1960”.<sup>580</sup>

The West German stand at the CSCE corresponded to this conservative idea of human rights highlighted by Suri. Bahr and Genscher conceived of human rights not as an unrestrained force for change empowering all the peoples in Europe and therefore likely to spin out of control. In fact, human rights advocacy was acceptable only as part of *Ostpolitik*, thus as a policy engineered by political leaders and orchestrated from the top of the state leadership. The Hague held the opposite view. Van der Stoep departed from this quite widespread frame of mind. Achieving an official sanction of individual human rights and granting individuals a say against the states could do no harm to Dutch domestic and foreign policy, but rather enhance long-established Dutch tradition as a pioneer in the domain of human rights and respond to public opinion’s calls for a more engaged foreign policy.

However, the Dutch were an isolated case. Human rights as a force for change was an idea alien to most politicians in the first half of the 1970s, which broke through only from 1977 onwards, marking the last chapter of Soviet dominance in Eastern Europe. The “revolutionary and subversive concept of human rights” as we know it today germinated elsewhere, namely in transnational networks. The provisions on human rights in the Helsinki Final Act empowered dissidents and discredited communist regimes *despite* the conservative design of most of its authors. The Finnish scholar Jussi Hahnimäki looks at the motivations driving policymakers in the late 1960s and early 1970s and concludes that

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<sup>580</sup> Suri, *ibidem*, 504.

“*Détente* may not have caused the dissident movement to emerge but it ultimately gave the various groups important tools to advance their cause and undermine the totalitarian controls that, in the end, were at the heart of the bipolar Cold War structure”.<sup>581</sup>

The peoples of Europe reshaped the meaning of human rights: “Courageous men and women re-defined human rights in anti-communist and anti-Cold War terms...They also received support from a new group of politicians ... who shared their discomfort with the *status quo* qualities of *détente*”.<sup>582</sup> In his latest work the American historian Samuel Moyn has argued that at the end of the 1960s, at a time when hitherto dominating ideologies were dead or in a moribund state, human rights represented the “last utopia”.<sup>583</sup> The first “utopia” to fall was communism. After Khrushchev’s secret speech a breach opened in the system, and people hoped to reform it from the inside. However, the Prague spring showed that there was no reason for hope: Moscow would categorically stand against any reformed socialism. The assassination of Salvador Allende in Chile in September 1973 equally proved that revised socialism would possibly never catch on, neither in Europe nor in Latin America. As a result, Moyn argues, dissidents called for a new moral code and human rights rose on the grave of socialism:<sup>584</sup> “For the first time in large numbers, people started to use the language of human rights to express and act on their hopes for a

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<sup>581</sup> Hanhimaki, *ibidem*, 509.

<sup>582</sup> Suri, *ibidem*, 530.

<sup>583</sup> Moyn’s work is a good example of the growing attention of scholars regarding social movements and transnational groups. According to this narrative, human rights history requires a genuine transnational history, which goes beyond the traditional narrative of nation-states and enquires into all sorts of transversal groups instead.

<sup>584</sup> Samuel Moyn, *The last utopia: human rights in history*, (Cambridge, MA: Harvard University Press, 2010), 138.

better world".<sup>585</sup> People in Eastern Europe started to enjoy "after decades of irrelevance...startling spike in cultural prestige".<sup>586</sup> Moyn calls the results of social movements' activity an "amplification" of human rights that "broke through so substantially on the terrain of idealism, for ordinary people, and in public life", and highlights the role played by Amnesty International, which was the first to provide a new style of social mobilisation.<sup>587</sup> As for the CSCE, the author agrees with existing literature: it "was not intended as a stimulus to human rights". When invoked by Western countries, it boiled down to rhetoric.<sup>588</sup> The CSCE had nevertheless the merit of "canonising" human rights for the first time and setting the scene for Carter's foreign policy, which definitively sanctioned them.<sup>589</sup>

In conclusion, Western European policy on human rights was highly varied. Three strands may be singled out: human rights as a tool to preserve the *status quo* – exemplified by West Germany; human rights as a means to advance international law and promote individuals' interests – exemplified by the Netherlands; and human rights as a force for change enacted by the peoples of Europe. The profoundly different stances of The Hague and of Bonn are emblematic of the diversity of opinion within what scholars have often depicted as a compact group of countries, and make a powerful case for a closer analysis of individual national policies.

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<sup>585</sup> Moyn, *ibidem*, 121.

<sup>586</sup> Moyn, *ibidem*, 122.

<sup>587</sup> Moyn, *ibidem*, 129.

<sup>588</sup> Moyn, *ibidem*, 149. Interestingly, Moyn mentions the Dutch: "perhaps there were some, like the Dutch, who in the process of negotiating[...]had the secret intention of overcoming *détente*"

<sup>589</sup> Moyn's argument may sound at times somewhat vague and simplistic. By way of example, expressions like "better world"(see *supra*) or oversimplifications like the definition of the pre-Carter times as "decades of irrelevance" (see Moyn, *ibidem*, 149) would certainly need further elaboration to sound properly convincing.

Once drawn this conceptual divide between human rights as a force for domestic change supported by the people, and human rights as a tool to maintain the *status quo* supported by politicians, conclusions may be drawn not only regarding West German and Dutch human rights policy but also on the kind of *détente* both countries pursued. Here again differences emerge. Human rights for West Germany were not an instrument of change, but a tool to make life in the East more bearable for Germans and the frontiers more porous. It follows that Bonn's idea of *détente* – both during Brandt's and Schmidt's chancellorships – was close to Kissinger's, at least in the short term. Bonn's *détente* did not welcome upheavals and turmoil that risked jeopardising hard-won political achievements. Social unrest had already caused a hardening in the Soviet and East German position, such as in the case of the transit of people from East to West Germany. At the other end of the spectrum, the Dutch showed dogged determination to promote human rights. The Hague welcomed norms empowering individuals with human rights, and showed great political bravery in standing up to the Soviets. The small kingdom of the Netherlands boasted a solid tradition in international law and developed – for historical necessity – a deep-seated faith in the transformative power of international norms. The Dutch idea of *détente* ran against the *status quo*-oriented *détente* prevailing in Bonn.



## Standing for cross-disciplinarity

This thesis wants to make the case for an alternative narrative of European integration history and for cross-disciplinarity. Therefore it blends analytical tools from international law, political science and history. That said, cross-disciplinarity must be advocated with caution. Inaccurate cross-fertilisation between contemporary history and political science for instance may result in haphazard use of historical empirical data. Political scientists' research is often theory-driven and weakly documented, as the long debate raging around Moravcsik's rational choice liberal intergovernmentalism epitomises.<sup>590</sup> A more strictly legal analysis of historical data is equally beneficial. In this case for instance the analysis of the legal implications is essential to grasp to what extent the Dutch – and in particular van der Stoep – were committed to the enhancement of international law as an instrument against restrictive communist practice. Among EC members, the Dutch did not simply stand out for their dogged determination to advance human rights, but also for their deep knowledge of international law and for the personal commitment of their foreign minister throughout the negotiations.

Two lessons are to be taken from this. First, political science and international law are analytical tools that may open new perspectives on the history of European integration. Second, this should not become self-referential. The best antidote to teleology seems to be including the history of European integration in

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<sup>590</sup> Andrew Moravcsik, *The Choice for Europe. Social Purpose and State Power from Messina to Maastricht*, (Ithaca, NY: Cornell University Press, 1998); R.H. Lieshout, M.L.R. Segers and A.M. van der Vleuten, "De Gaulle, Moravcsik and the Choice for Europe. Soft Sources, Weak evidence", *Journal of Cold War Studies*, vol. 6, no.4, 2004, 89-139.

contemporary European history according to standards of multi-disciplinarity. Indeed, there is a lack of integration of the subfield of the history of European integration in contemporary European history.<sup>591</sup> The consequence is that the story is told from the perspective of the EC – in this case from the narrow perspective of the EPC – and that no counterfactual history is ever taken into account. EC/EPC saliency is taken as a fact. In this work this approach has been shown as being unconvincing: the Dutch and West German approaches were not likely to change without the EPC. Had the EPC not existed, their policies would not have changed significantly. This is not equal to say that the EPC was irrelevant: it was indeed relevant, but to the external perception of the EC as a third bloc.

This work has shown how profoundly the picture changes once the focus shifts from an EC-centred perspective to a national one, and that questioning the centrality of the EC role helps redefine European history and do justice to the role of national frameworks and to their bearing on foreign policy.

### **Methodology**

This work is mainly country-based and has been carried out according to a traditional methodology. The historiography of European integration studies now entering “a third phase of refinement” might decry it as outdated.<sup>592</sup> Historical research has gone decisively beyond the analysis of national policy. New fields of

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<sup>591</sup> Wolfram Kaiser, “From Isolation to Centrality: Contemporary History Meets European Studies”, in *European Union History: Themes and Debates*, 47.

<sup>592</sup> Katja Seidel, “From pioneer work to Refinement: Publication trends” in *European Union History: Themes and Debates*, 26-44.

enquiry have provided alternative narratives of the EC role in the Cold War, the constitutive effects of European law and policies, the role of European integration in shaping social identities and the interests of actors in individual states.

That said, country-based analysis is still quite relevant. Romano, when addressing the maze of European countries' foreign policy at the CSCE, claims, "It would have been short sighted to overlook national positions on these policies [Atlantic policy, *détente*, and Eastern policy]". However, further on, she points out that "the author has not enquired the national political debate within the countries".<sup>593</sup> A country-based historical study is indeed still missing. Two main reasons may account for scholars' self-limitation. The first one is technical. Any scholar dreams of archival ubiquity and endless research grants. In practice, time and budget constraints hardly ever allow both. However, this should not lead to the exclusion of domestic political debates from the picture, but rather to the use of additional caution when advancing interpretations.<sup>594</sup> Second of all, as outlined in the introduction of this thesis, the West European narrative of the CSCE has become a hunting ground of the EC/EU narrative, which tends to blur the differences between individual states.

In conclusion, opening new vistas on alternative methodologies and perspectives should not obliterate the relevance of the traditional research tools, which are still quite valuable to explore old fields that have not been thoroughly illuminated.

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<sup>593</sup> Angela Romano, *From Détente in Europe to European Détente. How the West shaped the Helsinki Final Act*, (Brussels: PIE-Peter Lang, 2009), 22.

<sup>594</sup> Romano, *ibidem*, 125.

## **Final remarks**

In light of all the factors mentioned above, there has been so far only a dominant narrative on the history of human rights in the 1970s in European integration history, which has been developed from the EPC point of view. This work has shown the wide array of factors that shaped two EC members' stances at the CSCE, which so far has mostly gone unaccounted for. Different priorities inspired the individual actors under scrutiny, and no European identity-driving force lay behind Dutch and West German human rights policy. An overall consideration underlies this thesis. Teleological narratives may easily lure us with linearity and consistency, but they come at a price, as they leave us bereft of the yet more fascinating complexity underlying historical events.

## **APPENDIX: West Germany's counterpart *par excellence*: East Germany**

The pictures of the opening session of the multilateral preparatory talks on 22 November 1972 show the two German delegations sitting side by side. They cost time and energy and had been one of the major achievements of the opening conference. The forceful debate on the delegation's seating order is the epitome of the centrality and the complexity of the German question in the CSCE. It highlights that even deciding the seating order of the two delegations was a major diplomatic and public issue.<sup>595</sup>

Indeed, Genscher's reference to "the hard reality of the East-West Germany differences" emphasised the need for compromises with a profoundly different political system. Negotiating realistically for human relief required a good knowledge of the other negotiator, a careful assessment of its domestic and international room for manoeuvre for concessions and of its "perceptions of the Other". Only in taking into account East Germany and the underpinnings of its policy, can Bonn's cautious stand be fully grasped.

This thesis aims to show that human rights policy originated in countries' special interests, which were at times successfully blended in the EPC but, still, did not boil down to a common understanding of the final policy goals. The analysis has shown that in the negotiations on human rights, West Germany's special interest was human relief, which pertained more broadly to *Ostpolitik* and to the human tragedy of the severed German nation. At this stage, it should be obvious that Bonn's stance on human relief cannot be fully

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<sup>595</sup> Kristina Spohr Readman, "National interests and the power of 'language'", 1084-1086.

grasped without considering its counterpart in the East, East Germany. Only in taking into account East Germany and the underpinnings of its policy, can Bonn's cautious stand be fully grasped. Certainly, an analysis of all the WP countries directly involved with populations of German origin would be ideal to document the battle for human relief. As we have seen in the case of the Pass Agreement and of the Eastern Treaties, Warsaw and Prague played a major role, not to mention Moscow's powerful influence. However, this would make for a new field of analysis and would overstep the boundaries of the present study. The present analysis will therefore show how East German leadership charted and assessed the impact of human relief policy, and will highlight the distinctive features and special interests of West Germany's human rights policy at the CSCE as part of a divided nation.

Looking at human relief policy from East Germany's perspective not only adds to our understanding of Bonn's policy, but also to the analysis of the perception and impact of the EPC in the East. Was human rights policy perceived as a campaign pursued by just one, or a few, individual country/-ies? Or was it rather regarded as a broader offensive to East Germany's system pursued by a united EPC front?<sup>596</sup>

That said, understanding East Germany's policy at the CSCE requires some preliminary contextualisation to illuminate the country's situation. Three major elements will be taken into account: the reasons and consequences of the country's economic plight in the 1970s; the country's political dependency on the Soviet Union; the

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<sup>596</sup> Ideally, a sweeping analysis of the WP countries would provide the complete picture of perceptions of EPC. However, an analysis limited only to East Germany is nonetheless extremely telling of the siege mentality prevailing in the East in general.

powerful role of East Germany's secret policy in foreign policy decision-making

### **East Germany's economic plight**

Two elements are crucial in grasping Berlin's room for manoeuvre and will be preliminarily highlighted. On the one hand, East Germany desperately needed technological and financial assistance from West Germany. On the other, East German leaders fretted over Western infiltration and West German attempts for human relief.

It is essential to mention that the prospect of gaining new technology was an important attraction for East Germany in negotiations with the West. Bonn had great leverage on Berlin. Berlin at the CSCE traded off concessions in Basket III for access to long-coveted Western technology addressed in Basket II, which covered economic, scientific, technological and environmental cooperation.

The reasons for the miserable state of East Germany's economy are to be found at the beginning of the 1960s when in the newly regained isolation granted by the Berlin Wall, East German party secretary Walter Ulbricht saw an opportunity to revamp the regime and reform the economy, in order to reverse the steady production decline affecting the country, and launched the NÖS (*Neues Ökonomisches System*, New Economic System) at the IV Party Congress in January 1963.<sup>597</sup> The NÖS was in practice a failure. A

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<sup>597</sup> For the first time, decision-making powers were delegated to the socialised enterprises (the *Volkseigene Betriebe*, or VEB), and to eighty supervisory units, which were established to oversee different branches of production (*Vereinigungen Volkseigener Betriebe*, VVB), and for the first time in the East German regime, profits were the benchmark for firms' performance, and prices of energy and raw

communication by the Politburo Central Committee to the Soviet Union in connection with the preparation of the long-range planning for 1971-1975 illuminated the dire consequences of the halfway reform and East Germany's chronic dependency on supplies from the Soviet Union. East Germany was in need of everything, from nuclear power to cereals.

"In the consultations between East German and Soviet delegation in July 1969, we suggested that nuclear power supply of 5000 megawatt [foreseen] till 1980 be increased of additional 3000 megawatt up to 8000 megawatt [...] East German delegation requested that the supply of oil, copper, cellulose, paper and asbestos be increased. [Besides,] after the extremely dry summer, the figures for the production suggested that the production [of cereals and food in general] will be lower than expected. [Therefore] we would like to ask to check whether in 1971 Soviet Union could increase the cereals supply from the planned 1,5 million tons by further 0,7 million ton, so to reach 2,2 million tons in total [...] we would like to ask to check whether at least the supply of butter and fish could be continued at the following rate".<sup>598</sup>

At the domestic level, it opened the floodgates to internal opposition of Ulbricht, who was ousted in June 1971, at the Eight Party Congress, and replaced by Honecker, who reinstated the unity of social and economic policy.<sup>599</sup> Honecker's economic policy had

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materials were raised to reflect real input costs. For all their limits, the reforms were potentially "explosive". Maier points out that "the logic of decentralization, incentives, and free prices was inherently expansive". See Maier, *Dissolution*, 88-89. See also Micheal Keren, "The Return of the Ancient Regime: the GDR in the 1970s", *East European Economics Post-Helsinki - A compendium of papers submitted to the Joint Economic Committee of Congress of the United States* (Washington, U.S. Government Printing Office, 1977), 720-65.

<sup>598</sup> SAPMO, DY 30/3530, 6 February 1970.

<sup>599</sup> Many factors contributed to Ulbricht's ousting: his New Economic System launched in 1963 which had heavily indebted the country, his age – he was 78 – and most of all his independent course as well as his will to obtain recognition of East Germany as a fully sovereign state. See SAPMO, Barch, Büro Honecker, DY



worse and momentous inner flaws. It limited the investment that East Germany required to produce goods that might be internationally competitive, and therefore doomed the country to economic stagnation and eventual collapse.

“In July 1970 Brezhnev urged Honecker to liquidate the NÖS. He told Honecker: ‘you have to change it’[...] After 1970, once the NÖS was abolished, profit as criterion of economic productivity died out, too.”<sup>600</sup>

This brief excursion into East Germany’s economic plans illuminates one of the major reasons for its dependency on the Soviet Union, leaving aside ideological affiliation and Honecker’s subservient attitude. East Germany on its way to Helsinki was a country with a failed economy that escaped collapse only thanks to subsidised prices of raw materials, to the CMEA, and to the inflow of credit and cash from the West, especially from West Germany.<sup>601</sup> Honecker opted for a disastrous populism aimed to placate the population in the short term. Under these conditions, West Germany was more than ever East Germany’s economic safety net. It provided East Germany with capital flow, export and technology that East Germany would need in increasingly large amounts. Ultimately, Helsinki provided a fabulous chance to prop up the system.

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30/2118/2119, Letter from Honecker to Brezhnev, 28 July 1970. For a detailed analysis see Monika Kaiser, *Machtwechsel von Ulbricht zu Honecker: Funktionsmechanismen der SED-Diktatur in Konfliktsituationen 1962 bis 1972* (Potsdam: Akademie, 1997).

<sup>600</sup> *Der Spiegel*, (Hamburg), no. 37, 9 September 1991, 96.

<sup>601</sup> In 1969 Ulbricht had confidently predicted that by 1975 East Germany would be selling computers to the West. See Jeffrey Kopstein, *The Politics of Economic Decline in East Germany, 1945- 1989*, (Chapel Hill & London: University of North Carolina Press, 1997), 73. His forecast was tenable only if the accumulation-investment rate skyrocketed to 22/30% of the national income in the following six years, thereby gobbling up all resources for consumption. This was the price to pay for achieving the East German model. As briefly outlined, in a few months Ulbricht’s ambitions crashed. Economic reforms were dismissed as well as the idea of high investment rates at the expenses of East German consumption.

Eventually, at the beginning of the 1970s, East Germany was economically and politically dependent on Moscow, and relied heavily on West German economic support. The new Party First Secretary Honecker acted according to a “defensive pragmatism”<sup>602</sup>: he aimed at the final acknowledgement of the frontier separating the two German states, at the *de jure* recognition of East Germany’s international status, and at an agreement on West Berlin that would recognise the city’s status as an independent political entity. He relied on the Ministry for State Security (*Ministerium für Staatssicherheit*: MfS), the so-called Stasi, to keep domestic dissent at bay and to spy on Western countries.

### **The effect of the provisions on human rights:**

#### **MfS’ self- belief**

The Stasi was the “shield and sword” of the Party and its most powerful instrument to secure the dictatorship: it was in charge of domestic control and foreign espionage and played a major role in East German political decision-making.<sup>603</sup>

When it came to assessing the impact of human rights provisions in the domestic sphere, the Ministry for State Security

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<sup>602</sup> Oliver Bange, “The GDR in the Era of Détente: Conflicting Perceptions and Strategies, 1965-1975”, paper presented at the Conference “Entspannung und KSZE in Europa”; Prague 12-15 October 2008, 11.

<sup>603</sup> A methodological point regarding East Germany’s decision-making process has to be raised preliminarily. So far, the Archives of East Germany’s Ministry of Foreign Affairs and of the ruling party of the DDR (*Deutsche Demokratische Republik*, German Democratic Republic), the SED (*Sozialistische Einheitspartei Deutschlands*) have been standard research tools. However, the Ministry for Foreign Affairs was the SED puppet in what was ultimately a “Party-state”. See Siegfried Suckut and Walter Süß (eds.) *Staatspartei und Staatssicherheit: zum Verhältnis von SED und MfS*, (Berlin: Ch. Links, 1997), 8. The authors point out that the Communist Party in DDR had seized every joint of the state machine and made it functional to its goals. Only the SED-MfS relationship was of a different nature.

was the very first institution to provide the East German leadership with analyses and data: on this information, major decisions were based.<sup>604</sup> In those years, MfS activity bulged and the Ministry swelled its ranks: the number of MfS officials for instance increased from 40,000 to about 60,000 between 1969-1975 and the ZAIG – the analytical unit of the East German secret police, *Zentrale Auswertungs- und Informationsgruppe* – produced between 1969 and 1979 around 8500 reports still available to historians today, providing us with both detailed overviews and political analyses of the domestic state of affairs.<sup>605</sup> MfS sources unveiled the complex interweaving between MfS and East German leadership, and how the former influenced the latter when it came to decisions on human rights- and human relief-related issues.

Personal factors bolstered the Stasi's institutional power: major security issues for East Germany were discussed directly between the SED Secretary General, Honecker, and the Minister for State Security, Erich Mielke. The two men thought alike: they fought for a common goal – fending off “subversive” threats from capitalist countries – and most importantly shared a common security-centred conception of the world. SED and MfS interlocked: Mielke – like his Soviet counterpart, Yuri Andropov – became first a candidate member of the Politbüro in 1971, and then a full member in 1976. He also played a crucial role behind the scenes: in secretive private talks held after the weekly meeting of the Politbüro, he reported to Honecker on the country's security status,

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<sup>604</sup> Oliver Bange and Gottfried Niedhart have recently requested a closer analysis of perceptions in the study of the Helsinki Conference: see Oliver Bange, Gottfried Niedhart, (eds.), *Helsinki 1975 and the Transformation of Europe*, (New York: Berghahn Books, 2008), 6-7.

<sup>605</sup> See Jen Gieseke with Doris Hubert, *Die DDR-Staatssicherheit: Schild und Schwert der Partei*, (Bonn: Bundeszentrale für Politische Bildung, 2000), 86.

and received instructions. When in the 1970s contact with the West and the number of exit-requests increased, the MfS turned into a kind of “compensation body” in charge of making up for the damage to security policy caused by *détente*.<sup>606</sup>

In February 1972 Minister Mielke called for an improvement “in the organization and effectiveness of the network of informants, in their training and their selection”. He lamented “insufficient purposeful political-operative activity, insufficient preparatory work and the poor quality of the analytical work”. The VIII Party congress had set the guidelines to counteract the pitfalls of the New Treaties with West Germany, and MfS focused on averting the “subversive plans, intents, means and methods of the enemy against East Germany”.

Mielke’s major concern was penetration from the outside and from West Germany in particular. Overall, the Party urged the improvement of strategies to fight back against external threats and the forthcoming CSCE was not given much relevance at the time.<sup>607</sup>

Besides, MfS provided information infusing optimism: the Conference seemed a safe, easy ride for a number of reasons. First, the West German leadership was more interested in MBFR (Mutual Balanced Force Reduction) negotiations on conventional arms control in Europe.

Second, West Germany’s allies seemed reluctant to discuss sensitive issues like free movement of people and exchange of information.

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<sup>606</sup> Gieseke, *Der Mielke-Konzern*, 100-101.

<sup>607</sup> BStU HA I 16161, “Directorate’s plan for 1972-1975”, 19 June 1972.

Third, MfS reported that the United States regarded the Conference as merely instrumental to gaining more leverage at the MBFR.

Fourth, diplomatic circles in Geneva failed to reach coordination.<sup>608</sup> Western countries were not a compact front and American involvement in the MPT was not only lukewarm but was made even less efficient by countless administrative deadlocks within the US administration: the decision making process hinged on a time-consuming exchange of views between the Ministry of Foreign Affairs and the White House that took a long time to be completed.<sup>609</sup>

The CSCE was therefore the ideal venue to advance the Soviet idea of peaceful coexistence and to boost the East German status on the international scenario. It was a historic opportunity for East Germany: the country could eventually secure its borders, and acquire international status.<sup>610</sup>

That said, the CSCE was not a primary concern. Right before the beginning of the MPT in November 1972, the SED Central Committee only swiftly touched on the CSCE issue. Only three points were included on the agenda of the Central Committee's meeting:

1. "Guarantee of European security and of the principle for interstate relations in Europe.

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<sup>608</sup> BstU, HVA 1132/72, "Memo on Western views regarding the MPT in Helsinki", 4 January 1973.

<sup>609</sup> BstU, ZA 92, "Memo on the problems encountered in the preparation of the CSE from the point of view of Western government circles", 8 March 1973.

<sup>610</sup> Participation in multilateral venues – CSCE and MBFR negotiations – served a traditional political goal of Post-war East German policy: being acknowledged as an international actor on equal terms with the other European countries and the USA

2. increase of commercial, economic, scientific, technical and cultural relations and similar issues, environmental protection included
3. a permanent body.<sup>611</sup>

The conference agenda was only marginally analysed during the Central Committee's meetings and the delegates from the Ministry of Foreign Affairs were instructed to act only after consultations with the Soviet Foreign Ministry.<sup>612</sup>

West German cultural policy was instead an issue : MfS reported a significant increase of Western (not further specified) "infiltration" in 1972 in connection with the treaties with East Germany and the USSR. In Bonn in mid 1971, the Foreign Ministry's internal guidelines for cultural policy *vis-à-vis* the socialist states hinged upon fostering and developing cultural exchange with a special emphasis on the long term. West Germany's programme of "cultural infiltration" was clearly laid out, and developed in progressive stages: contacts, meetings, cultural exchange, cooperation, and relied increasingly on a network of private institutions. The goals of cultural and information "attacks" on East Germany were detailed in a MfS report in January 1973 as follows:

- 4) "stirring interest for West Germany abroad
- 5) explaining West Germany's political stance in international and bilateral issues
- 6) improving West Germany's prestige abroad"
- 7) contrasting and dissipating deceptive and erroneous images and prejudices on West Germany"<sup>613</sup>

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<sup>611</sup> DY 30 J IV 2 /2/1422, "Memorandum for the preparation of the CC meeting of 14 November 1972".

<sup>612</sup> DY 30 J IV 2 /2/1444, 17 April 1973.

<sup>613</sup> BstU, ZA 88, "Report on the public relations and cultural activities of the BRD with regards to socialist countries", 23 January 1973.

MfS reported that the West German government was strongly determined to take any occasion to widen its influence in culture and information in Eastern Europe. In light of this purpose, Bonn had increased the budget for cultural activities abroad by 5%: it amounted to 72.29 million DM in 1972 (*i.e.* 4 million more than in 1971) and 8% of this money – about 6.7 million DM – was allocated for “activities in socialist states”. West German infiltration was regarded as cause for concern, and required a steady enhancement of the MfS apparatus.<sup>614</sup> A siege mentality prevailed, and obscured the impact of the CSCE negotiations from the MfS officers, who were all too busy detecting the dangerous cultural infiltration seeping into the country from the West.

In conclusion, in 1972 the Helsinki Conference was not regarded as a relevant issue of foreign policy or as a danger for the MfS to East German internal stability. This may be easily explained by the fact that at that time human rights and human contacts (what became respectively Principle VII in Basket I and Basket III) were not yet on the Conference agenda. MfS instead focused on cultural infiltration not strictly related to the CSCE. It was only when they started to be discussed at the MPT that the tone changed: in January 1973, the East German delegation complained to the Politburo that the NATO states had changed the “nature” of the conference (*Umfunktionierung*).<sup>615</sup>

Three points should be clear at this stage. First, the CSCE unfolded at a politically key moment for the two German states.

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<sup>614</sup> SAPMO, DY 30 J IV 2 /2/1422, “Minutes of the meeting of the Central Committee”, 14 November 1972.

<sup>615</sup> BstU, ZA 88, “Report on the public relations and cultural activities of the BRD with regards to socialist countries”, 23 January 1973.

Second, when the MPT started the basis of East German foreign policy was Moscow guidelines. Third, the MfS played a crucial role in reinforcing the siege mentality in the East German leadership.<sup>616</sup>

### **MfS: revising expectations**

Soon after the conclusion of the first phase of the conference in summer 1973, the East German delegates grew more wary of the Western countries' compact front. Despite diverging attitudes in a number of questions of content, the coordination of EC and NATO countries seemed likely. Moreover, after the winter recess in 1973 the East German leadership wanted the principle of sovereign equality, of non-interference in internal affairs and of respect for the domestic order to be included in the Final Act. East German delegates encountered considerable resistance: the Politburo revised its expectations accordingly, and issued new guidelines:

“The principle of respect for human rights and fundamental freedoms could also be included” and “in case it is impossible to get this approved either, [it] could be agreed to a general reference to all the ten principles of relations between state”.<sup>617</sup>

After the Easter recess in 1974, according to the Foreign Ministry's guidelines, the East German delegation in Geneva had to make sure that “in the principle of respect of human rights and fundamental freedoms there should be no reference to the freedom of

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<sup>616</sup> PAAA MfAA C 368/78, “Analysis of the preparatory works for a European Security Conference”, 25 September 1971.

<sup>617</sup> SAPMO, DY 30 J IV 2 /2/1486, Report on the course of the CSCE 2nd stage and conclusions for the following appearance of East German delegation, 15 January 1974.



thought and conscience". Only a reference to the UN conventions on civil and political rights, and on social, economic, and cultural rights was regarded as "possible", since East Germany was member of both.

In Basket III, the issuance of recommendations in the field of culture, education, information and contacts could be included only if the concerned states had mutually agreed to them. By this token, East Germany would have remained – theoretically – firmly in control of the effects of the Helsinki provisions.

"As for 'culture, education, information and contacts', it has to be assessed that only recommendations are adopted with regards to the measures to be taken, so that their implementation will follow only according to agreements signed between the concerned states...under these premises, some proposals of the Western states on the draft of the WP states could be taken in, in particular [for instance] with regards to the 'benevolent' [*wohlwollende*] treatment of applications for emigration, family reunion and marriages in urgent cases ... under these premises, some Western proposals on access to foreign newspapers and magazines may be accepted as well, like for instance the 'improvement of library loans', and 'the increase of availability of foreign books, newspapers and magazines'"<sup>618</sup>

East German guidelines were in line with Soviet fundamentals: still, it has to be ascertained whether beyond allegiance to the USSR Berlin had a deeper understanding of the possible implications of those provisions. At that time, MfS reports drew undoubtedly a less rosy picture than in 1972. The ZAIG had a clear understanding of the three main problems to address – human contacts, increase of

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<sup>618</sup> SAPMO, DY 30 J IV 2 /2/1501, Report on the CSCE and guidelines for the forthcoming negotiations, 23 April 1974.

information and expansion of cultural relations.<sup>619</sup> ZAIG memoranda reported on West Germany's assessment of the Soviet bloc at Helsinki: Helsinki did not signal the success of Comrade Brezhnev's peaceful coexistence, it was rather "a *quid pro quo* agreement, where the USSR bartered a political success with the principle of respect for self-determination and human rights". Besides, the Helsinki conference provided Western countries with a venue where they could prove "their cohesion and their conceptual unity."<sup>620</sup>

By reading ZAIG reports one could easily come to the conclusion that the Conference did not simply put the seal on the European *status quo* according to the Soviet wishes.<sup>621</sup> It was rather part of the West German subversive policy thoroughly analysed in previous memos. In 1973 and 1974, extensive reports highlighted the unwelcome recrudescence of West Germany's "subversive policy": enhancing contact and boosting thereby freedom of movement, exchange of information and opinions were high priorities on Brandt's agenda and were regarded as part of a "cultural penetration" that Brandt had inaugurated in 1973. According to ZAIG analyses, West German cultural infiltration in the East was part of a major strategy targeting the whole socialist Bloc: West Germany's long-term goal was making the populations in WP states

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<sup>619</sup> BstU ZAIG 4645, Assessment of the CSCE negotiations, in particular of the goals, views and actions of the imperialistic countries against the community of socialist countries, 15 July 1974.

<sup>620</sup> BstU, ZA 103, Information on the assessment of Soviet policy in 1973 by the West German Institute for Eastern and International Studies, 21 January 1974.

<sup>621</sup> This point has been made and extensively recounted by Petri Hakkarainen, *Amplifying Ostpolitik: the Federal Republic of Germany and the Conference on Security and Cooperation in Europe, 1966-1972*, Thesis submitted for the Degree of D.Phil. in Modern History, Hilary Term 2008. Oxford.

aware of the limitations of their basic freedoms.<sup>622</sup> West Germany had more leverage to implement its strategy, as improved cooperation was achieved between the social democratic leadership and CDU/CSU opposition. To make things worse, EC states exerted more pressure on WP countries at the CSCE. The West was aware of the fragmentation of the Soviet front: French delegates for instance were instructed to make use of the advantage stemming from the different stances in the WP states<sup>623</sup> in the “Gordian knot” of Basket III.<sup>624</sup>

MfS was thus alert on two fronts, internal and external. First, the “enemy” had new opportunities to penetrate East Germany through its hostile contact-policy and contact-activities. Second, the number of exit permits for non-socialist countries as well as the number of requests for temporary permissions was on the rise. Indeed, MfS was not on red alert, but a revision and updating of its tactics were necessary.

Mielke showed a great determination to fight back: he compiled a comprehensive strategy and set up an effective “infrastructure” against the “subversive forces” at work inside and outside the state. In addition, Chief Directorate XX informed that the final wording of Basket III was bound to require a higher level of order and security

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<sup>622</sup> BstU, ZA 103, Memorandum on West German assessment of the relationship between East and West Germany in the field of cultural policy, 14 December 1973.

<sup>623</sup> Poland and Hungary were more flexible, whereas East Germany, the Soviet Union and Romania would boldly counteract.

<sup>624</sup> West Germany’s political forces agreed on forming a common front with the SPD on the CSCE provided that 1) the Helsinki Final Act included the possibility for the “peaceful change” of frontiers; 2) human contacts were improved; 3) economic exchanges between the two Germanies were given special attention when dealing with development of the economic cooperation between East and West. BstU, ZA 112, Memo on Western view on the state and further proceedings at the CSCE, 27 November 1974.

in the areas of MfS competence.<sup>625</sup> The MfS had to make full use of the expertise developed in particular in the implementation of the Basic Treaty between West Germany and East Germany:

“Difficulties, that cannot be coped with thanks to the expertise gained in the implementation of the Treaties with West Germany and West Berlin, have to be addressed through centralised national rules and MfS counterintelligence”

That said, it was not a bleak picture: first, MfS had swiftly elaborated new tactics. Second, the implementation of provisions on human contacts was possible only if mutually acceptable conditions were settled: the mutually acceptable conditions clause sheltered East Germany from unwelcome intrusions into its domestic sphere.<sup>626</sup> Even assuming that the publications of the Final Act could arouse illusions on the extent and timing of the implementation of the Helsinki provisions as well as of their subversive use, the Helsinki provisions were not perceived as threatening.

Against this backdrop, the SED central committee had thus every reason to trumpet the elaboration of the principle of inviolability of frontiers – a self-standing principle in the catalogue of principles – as a remarkable success of the socialist states. As for freedom of people and ideas, while Western countries had undoubtedly scored a point in the area of information and contacts, those statements were not likely to represent a threat to the stability of East German society. The East German leadership was confident to have the country in its grip, and its success was not thwarted by

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<sup>625</sup> BstU HA XX 289, Report on problems and possible effects of the adoption of the guidelines of the so called Basket III at the CSCE in Helsinki, 15 July 1975.

<sup>626</sup> BstU 290, First comments and conclusions to explain the CSCE provisions on human contacts and information, 21 July 1975.

the concessions made in the catalogue of principles, where human rights and fundamental freedoms had been included.<sup>627</sup> There seemed to be no reason for serious concern. Mielke gave a reason for confidence: MfS could efficiently cope with any domestic scenario. In a report in August 1975, he also presented the Helsinki Conference as an extremely positive political result: “new favourable conditions have been created [through the Conference] for the further development of the process of *détente* at the bi- and multi-lateral level and for the strengthening of Socialism in Europe”. He stressed the important role of the Ministry in the defence of the domestic equilibrium:

“The Ministry has the task to unveil and stop with all the necessary tools hostile attacks against *détente* launched by imperialistic circles...who aim to exploit the Conference’s results for their subversive purposes against weak and hostile people within East Germany.”

<sup>628</sup>

Mielke was not just confident. He lavished praise on the Conference: it was a major step in East German foreign policy, a victory for socialism, and his speeches echoed SED official statements and the self-congratulatory tones coming from Moscow. MfS’s task was to watch over this victory:

“MfS has the task to inform and prevent in a timely fashion with all the forces, means and methods at its disposal all the attempts of the enemies of the *détente* and of other imperialistic circles to exploit and to misuse the conference’s results for their purpose against East Germany and other socialist states, to mobilize hostile

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<sup>627</sup> SAPMO DY 30 J IV 2/2/ 1573 Memo on the first results of the II Stage of the CSCE, 28 July 1975.

<sup>628</sup> BstU, HA VIII, 924/6, Memorandum, 6 August 1975.

and wavering East German citizens and deploy them in hostile negative actions”

Mielke gave instructions to the HVA (*Hauptverwaltung für Aufklärung*, the Stasi’s foreign intelligence arm) not only to carry out its ordinary tasks but also to watch people’s reactions during the final phase of the CSCE and the Final document “carefully and thoroughly”.<sup>629</sup> He thought to have the country firmly in his grip, and that the Conference had boosted West Germany’s image: “comrade Honecker has strengthened the politics of our state...President Ford and Chancellor Schmidt had to talk to comrade Honecker, because they could not go past East Germany”.<sup>630</sup>

Such was his self-congratulatory mood after the closure of the conference, right when many local authorities were reporting that

“East German citizens increasingly apply to emigrate to non-socialist states and to West Berlin, to attend wedding ceremony with citizens of non socialist states and West Berlin, and in individual cases apply for release from citizenship. The applicants refer to the Final Act of the CSCE to the UN Charter and to the East German constitution and demand a faster and positive examination and verdict on their requests.”<sup>631</sup>

This was the first symptom of a spontaneous domestic combustion. Still, the report concluded recalling, “the role of East Germany as state on equal terms with other states has been recognized and the country has gained international visibility”. As from August 1975 MfS reports increasingly examined the people’s reactions: a remarkable increase in applications for exit visas was

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<sup>629</sup> BstU, HA VIII, 924/6, Memorandum, 6 August 1975.

<sup>630</sup> BstU, AKG 1059, Information on problems, opinions and discussions regarding the conclusion of the CSCE, 25 August 1975.

<sup>631</sup> BstU, ZAIG, 4646, Memorandum of the reactions arising out of the closure of the CSCE and CSCE-related problems to date, August 1975.

recorded, still – so it was argued in many reports – the overwhelming majority of the population regarded the conference as a positive result for socialism. Indeed, “subversive talks” did not win over the population. “Unklarheit” – lack of clarity, confusion, disorientation – was one of the most frequent words to be found in the reports on East Germany’s domestic state of affairs used to explain subversive behaviour. East Germany’s population was a victim of “Unklarheit”, of false information and of deceptive Western political messages: the few East German citizens inclined to a pro-Western view were presented as mere victims of fraudulent manipulation by the West or of their own lack of understanding.

Only a few isolated cases were regarded as real dangers to internal stability. Unquestionably, “the imperialistic states... will try to exploit the Conference to their own advantage...Their ideological battle against East Germany and the other real-socialist states will grow harsher”.<sup>632</sup> Despite the increasing number of reports peppered with strong ideological tones and despite the apparently fairly sharp awareness of the dangers for real-socialist countries, confidence in MfS tools and efficiency was thus not shaken. The MfS could cope, no matter what the danger and subversive tactics. If ideological subversive activity was carried out for instance through the media, then the Chief Directorate for Agitation was to deal with it. If West German media tried to misuse “in an anti-Soviet way” the principle of change of frontiers and Basket III then the ill effects of those provisions were to be counteracted with a strong emphasis on the

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<sup>632</sup> BstU, AKG 1059, Memorandum on a number of problems, opinions and discussions regarding the conclusion of the CSCE, 19 September 1975.

implementation of the principle of non-interference in internal affairs.<sup>633</sup>

At the end of August 1975 the *Sekretariat* of the Central committee echoed the MfS reports and pointed out the effects of the CSCE on the press, radio and TV of East Germany. The effect of the contacts was downplayed: the principle of non-interference was the protective shield against external intrusions.

“As for the development of contacts between socialist and capitalist states in the area of culture, education, information and tourism, it has to be pointed out that all what happens in this area has to be implemented in accordance with the principle of non interference in the domestic affairs of another state”.

Repeatedly MfS reports stated that the conference was a remarkable success for socialism and that it had increased East Germany’s visibility. Tellingly, the only element regarded as potentially dangerous for the system was the principle of the peaceful change of frontiers, and not the principle of human rights.<sup>634</sup>

As for Basket III, Mielke referred to the need to “watch over” the population and to assess carefully people’s reactions. The provisions of Basket III called for a reality check of MfS activities but did not cause real concern. Mielke’s writing was imbued with self-confidence that passed over to the SED leadership and vice versa. Mielke was confident that the octopus-like Ministry could effectively preserve domestic stability and keep the country and its citizens insulated from the rest of Europe. In conclusion, the SED leadership had no reason to feel under serious threat, since the MfS presented

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<sup>633</sup> BstU 290, Analysis of the document of the CSCE, 15 September 1975.

<sup>634</sup> SAPMO DY/30/J IV 2/3 2354, Meeting of the Secretariat of the Central Committee, 27 August 1975.



itself as the efficient guardian of the nation. Therefore, East German foreign policy did not boil down to mere miscalculation of the people's dissent. Honecker relied on hyper-inflated and pervasive MfS activity to keep dissent in check and was thus confident of the system's resilience. Throughout the negotiations, no real danger to the regime seemed to materialise.

### **East Germany and EPC**

Looking at human relief policy from East Germany's perspective does not only add to our understanding of Bonn's policy, but also to the analysis of the perception and impact of the EPC in the East. Was human rights policy perceived as a campaign pursued by just one, or a few, individual country/-ies? Or was it instead regarded as a broader offensive to East Germany's system pursued by a united EPC front?<sup>635</sup>

A word of caution is due here. References to the evil Western capitalist NATO- and EC-countries abound. The siege mentality typical for the MfS presumably obfuscated MfS officials and biased their assessment of Western policy. However, their – more or less biased – assessment was based on detailed and basically objective reports of the Western countries' stance. First, the MfS meticulously reported the information gathered by its sources in the West: the reports were fairly thorough and unbiased. At a second stage, the objectively reported information was processed by MfS' reporters: it was only at this stage that paranoia about external infiltration from

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<sup>635</sup> Ideally, a sweeping analysis of the WP countries would provide the complete picture of the perceptions of the EPC. However, an analysis limited only to East Germany is nonetheless extremely telling of the siege mentality prevailing in the East.

the West flourished. Even though these two levels of analysis are intertwined in the reports, they can nevertheless be detected and analysed separately, thereby providing valuable and quite objective information on the EC and EPC. A careful scrutiny of the sources therefore entails a two-level analysis, which is quite revealing of the perception and impact of the EPC in East Germany. Interestingly, this scrutiny confirms what has been pointed out in the previous two chapters: in the area of human rights and in Basket III, the EC countries had a certain degree of cohesion until summer 1974, but the interests of individual countries like West Germany prevailed once the negotiations entered their last and most crucial stage.

First of all, East Germany was very well aware of the goals of the EC countries for political coordination, of their internal divergences and of the friction between the EC and the USA. An interesting document dating to July 1972 reported in detail the functioning of the EPC and the clashes within the EC. As for the EC countries' goals at the CSCE, the MfS duly registered that groups were formed "that were aimed at the preliminary analysis of the most controversial issues". The EC countries were mentioned only when it was about economic cooperation, and it was especially highlighted that Bonn aimed to foster trade agreements between the West and the WP states. Inevitably, the report concluded by drawing the picture of a bunch of "capitalistic countries" fighting against the socialist system.<sup>636</sup>

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<sup>636</sup> BstU 385, "Report on the differences of opinion in the preparation of the EC summit of the Heads of state and of governments of the enlarged EC", 12 July 1972.

In March 1973 the MfS reported British and Belgian sources: the EC had reached a better level of coordination than NATO, and EC countries were committed to act not as single and independent negotiators but as representatives of a previously agreed Western position. The MfS report informed of the good coordination of the EC countries during the first stage of the MPT..<sup>637</sup> Once the MPT were concluded and the Conference officially started in July 1973, the MfS highlighted the increasing cleavage between American and Western European interests: in winter 1973, it was evident that the EC countries were determined to follow their interests, and that those of the EC did not necessarily coincided with the American ones.<sup>638</sup> It was therefore clear to Berlin that at the CSCE the Western front was not simply a compact force of capitalist enemies of socialism. That said, the first stage of the negotiations was a “success for the West”, EC coordination had proved effective and the West had acted in concert and elaborated common positions.<sup>639</sup>

During the second stage, the MfS highlighted Bonn’s intention to make Basket I dependent on Basket III, and the special role played by West Germany. There was no mention of the EPC. In Basket II it was the particular intention of the USA and of West Germany to use the economic issue as a leverage to spark ideological change in the socialist countries. Bonn’s role was regarded as paramount: “the position of the EC states is influenced by West Germany’s plans... it is clear that the Western countries aim to formulate the provisions ...in detail, so to commit the socialist countries to them and

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<sup>637</sup> BstU 92, “Report on the problems encountered in the run-up to the CSCE from the Western perspective”, 8<sup>th</sup> March 1973

<sup>638</sup> BstU 390 “report on the western view on the MPT”, 4 January 1973.

<sup>639</sup> BstU ZAIG 4645 “Assessment of the hitherto negotiations at the CSCE”, 15 July 1974

ultimately to undermine socialist countries' domestic law". As for the specific issue of human contacts, there was no mention of the EPC but only of the West German position.<sup>640</sup> Bonn's role in the negotiations on the provisions regarding human relief was carefully assessed. In winter 1974, a report pointed out that Bonn played a powerful role in Basket I in the EPC framework, and that only thanks to the EPC framework did it gain more leverage. It is important here to note that the EPC was used to amplify Bonn's action. It is equally interesting to note that with regards to Basket III the report did not mention the EPC but only the West German action. This cannot be solely justified by the fact that the MfS devoted special attention to Bonn. It can be instead explained by the fact that West Germany played a crucial and paramount role in that basket. This is confirmed by the fact that collective action of the EC was instead specifically mentioned in the negotiations on economic issues.<sup>641</sup>

One can draw two preliminarily conclusions. First, the EPC worked especially on the economic issues, i.e. in Basket II. Second, EC countries achieved cohesion in Basket I and III as well, but only up to a point. MfS documents confirm what has been established in the previous chapters when analysing West German sources: as long as the delegates toyed with different proposals, Western countries achieved some degree of coordination, except in the case of the Netherlands. However, when the negotiations entered their final and most delicate stage after the summer recess of 1974, the cohesion proved weak. Individual countries did not refrain from pushing forward their special interests. In the case of West Germany, this was

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<sup>640</sup> BstU ZAIG 4645 "Assessment of the hitherto negotiations at the CSCE", 15 July 1974

<sup>641</sup> BstU 12, Report on the western view on the status and further development of the CSCE", 27<sup>th</sup> November 1974

done discreetly, far more discreetly than in the case of the Netherlands, for the many reasons already explained.

Caution notwithstanding, Bonn indeed pursued its own goals behind the EPC screen.<sup>642</sup> In October 1975, a MfS report mentioned that West Germany aimed to “pursue its goals with the help of the EC”. As a matter of fact, individual West German policy was framed in the EPC to make it more palatable to the East as well as to the West. “On initiative of West Germany the political committee of the EC at the beginning of September 1975 was constituted with a large mandate to analyse different topics related to the contact with eastern states”. Reports like the one quoted show that the East German leadership was aware that the Bonn was taking the lead in that area among the EC countries and was advancing its own line.<sup>643</sup>

One year after the closing of the Conference, MfS guidelines took a delirious tone in the analysis of culture, education, information and contacts in Basket III. There the MfS argued for an “offensive of real socialism” and urged a forceful “propagation of the socialist culture and education politics and of their great accomplishments”.<sup>644</sup> Also in this later stage, no EPC activity was detected, nor a specific coordination of the EC countries. The MfS in 1977 was well aware that the implementation of Basket III was “the absolute focal point of the attacks of the imperialistic states against socialism” and acknowledged the success scored by the Western countries and their propaganda, but did not detect a common EC

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<sup>642</sup> BstU 112, Report on the western view on the status and further development of the CSCE”, 27 November 1974

<sup>643</sup> BstU 4647, ZAIG, October 1975, “ Summary of the hitherto reactions to the CSCE and the problems ”, October 1975.

<sup>644</sup> BstU 291, “Submission for the Politburo on the guidelines resulting from the implementation of the CSCE Final Act for East Germany”, 10 February 1976.

action. The reports rather highlighted the role played by two countries in particular, the USA and West Germany. This proves that despite Bonn's siege mentality, which powerfully resounded in the reports, the MfS officials were not blind to the differences in position among the Western countries, and they differentiated between the USA, West Germany, France, Italy, Belgium and Great Britain.

Ultimately, cross analysis of West and East German documents leads to the conclusion that one needs to analyse the EPC with caution. In a preparatory document before the Belgrade conference the MfS noted "the NATO and the EC developed internal policy-documents for the conference" and "the Political committee and the multilateral CSCE-subcommittee of the EC in the EPC framework played a leading role".<sup>645</sup> However, as the sources clearly show, the coordination was not unconditional. The MfS sources instead confirm that once a EC country like West Germany had a special interest in a specific area of negotiations, the coordination held only as long as it served that special interest, and was regarded as acceptable only if it was instrumental to achieving greater leverage.

### **Conclusions**

Human relief was a long-standing goal of West German policy and had been central to *Ostpolitik* since Brandt's coming to power for domestic and personal reasons: Bonn fought to win over East Germany's suspicious attitude, and lure Berlin into negotiating looser

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<sup>645</sup> BstU 291, "summary of the policy of the imperialistic states against the socialist states after the CSCE", July 1977.

exit-visas conditions.<sup>646</sup> West Germany pursued human relief for German people successfully and the EPC came in very handy: Bonn could let its peers force through the proposals without getting too much political exposure and without looking too aggressive to its Eastern counterparts.

In short, at the CSCE, pursuing German national interest for human relief and supporting the European project were two perfectly compatible goals. *Deutschland* and *Europapolitik* came together, as the latter was instrumental to the former. The present analysis has shown that EPC euphoria should not make us oblivious to the political fault-lines among the EC members and of their different national goals: in the case of West Germany, the political designs and motives behind the commitment to human rights and human rights-related issues boiled down to the German question. Human relief was a long-standing goal of West German policy and had been central to *Ostpolitik* since Brandt's coming to power for domestic and personal reasons: Bonn fought to win over East Germany's suspicious attitude, and lure Berlin into negotiating looser exit-visas conditions.<sup>647</sup>

In conclusion, the "secret dimension" of West German policy is a key chapter in the CSCE history of human rights and human relief and cannot be overlooked for the sake of EPC narrative. The EPC emerged clearly as a useful tool for domestic purposes given the domestic and international circumstances and the need to approach

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<sup>646</sup> For instance by using economic aid and technology transfer that the country desperately needed. This aspect has not been fully developed in the present work, but simply presented as a major explanatory factor for East German participation in the CSCE (see Chapter 4).

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East Germany to wring concessions on exit visas, but did not play a significant role in intra-German negotiations. Human relief required collaboration with a wary partner, and any available tool that could smooth and enhance the intra-German dialogue – like the smokescreen of the EPC, and at times the compact EC front – was welcome.



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<sup>648</sup> The STASI archive is not open to the public. Therefore, the researcher is not allowed to sift through the documents and see the real files, but is provided with the copies of individual folders by the BStU's archivists..