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Commission between
Institutional Ambitions and
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The Point of No Return

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Abstract

Walter Hallstein, the first EEC Commission president (1958-67), often goes unmentioned in academic discourse about the European Union's founding fathers. Although he was a major force in helping to initiate and shape the European integration process at the legal, executive and academic level, his legacy appears both ambivalent and contradictory. This article explores central stages in Hallstein's biography, as well as his intellectual convictions and institutional approaches to the European unification process. By use of examples, it assesses Hallstein's political beliefs and actions with regard to the EEC's political viability and support among its member states during his time as Commission president. Finally, it traces the politics of memory surrounding Hallstein while evaluating his contribution to the normative and institutional development of the European Union.

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The dominant narrative of early post-war political developments in Europe proclaims that the founding fathers of European integration, such as Jean Monnet and Walter Hallstein, rejected the old political order and embarked in pursuit of a new one: European unity (Milward 2000: 318). However, when challenged by complex day-to-day reality, political aims do not always match political actions (Urwin 2003: 25). What is true for national policies and politics is even more valid for political concepts at the European level: namely, the tensions between visions for an integrated Europe and the practical steps to be taken in realizing them.

This article seeks to examine the challenges between ideas and (re-)actions towards an integrated Europe by concentrating on one of its central figures, Walter Hallstein, first President of the Commission of the European Economic Community. To that end, it focuses on the following questions: What were Walter Hallstein's intellectual approaches to European unity? What did they mean in practical terms? And how did he strive to realize them during his presidency? The central argument is that Walter Hallstein, driven by strong ambitions to unite Europe institutionally and politically, in some cases acted differently or supported different actions than his theoretical conceptions of European integration would have led one to assume.

By exploring central stages in Hallstein's biography and uncovering his intellectual roots, the aim of this article is not only to present Hallstein's contribution to the European unification process to an international audience.¹ As critical reviews of the approaches by the founding fathers have been centered all too often around the ideas of Jean Monnet, the article seeks to portray another no less significant architect of European integration, thereby re-examining the trajectories of history to illuminate their consequences for the problems that Europe is facing today.

Walter Hallstein and European Integration – An Unforeseen Dedication

To portray the German law professor, diplomat and politician Walter Hallstein as the 'forgotten European' among the founding fathers of European integration has become a staple of academic discourse (Kilian 2000: 38-39; Loth et al. 1995; Schönwald 2002: 13). Walter Hallstein indeed enjoys an ambivalent and contradictory reputation: All too often Hallstein's name goes unmentioned in the context of Jean Monnet or Robert Schuman, despite his having been crucial in the initiation and shaping of the European integration

¹ Until today, research focusing on Hallstein is mainly available in German only. Moreover, many publications are based on personal memories and anecdotes of the former EEC Commission president, such as the contributions by Michael Kilian, Hallstein's last personal secretary. Excepting a few articles by the historian Matthias Schönwald, a comprehensive academic work on Hallstein does not as yet exist.

process at three distinct levels: that of the legal, the executive and the academic (Ludlow 2006: 37; Steindorff 1966: 13).

As a *Staatssekretär* [State Secretary] in the Chancellery and Foreign Office of the Federal Republic, Hallstein led the West German delegation at the negotiations of the treaties of Paris (1951) and Rome (1957). Over 1958-67, he directly influenced the speed and direction of European integration as the first President of the Commission of the European Economic Community (EEC). Soon after the end of the Second World War, and throughout his life, he regularly gave academic as well as public lectures on the ideological underpinnings and challenges of a united Europe, publishing numerous articles and books. He can therefore be considered one of the early theorists of European integration (Schönwald 2002: 14; Steindorff 1966: 13). In fact, Walter Hallstein remains unique until the present due to his exceptional combination of conceptualizing, formulating and affecting the process of European integration; only the efforts of Jean Monnet seem comparable (Schönwald 1999b). Who was this man that dedicated his post-World War II existence to European integration in such an extraordinary way?

Several articles and obituaries on Walter Hallstein identify him as a ‘great European’ (Ramonat 1981; Elvert 2011; Kilian 2005; Piela 2010). Three general points stand out in this particular characterization: Firstly, that his pre-1945 biography and publications do not show him as exceptionally attracted to European topics. His dedication to European unity mainly developed after World War II. Secondly, during his lifetime and especially as President of the EEC Commission, he was frequently described as ‘the unloved European’ and his contributions to European integration were not always appreciated (Kilian 2005: 369). Thirdly, after his career within the European institutions and especially after his death in 1982, he quietly received the label of ‘the forgotten European’ (Ibidem; Loth et al. 1995). Only since the turn of this century has academic interest in the personality of Walter Hallstein risen again.

Biographical Reflections on Walter Hallstein

Walter Hallstein, born on 17 November 1901 in Mainz as the son of a Protestant state architect, studied law and economics at the Universities of Bonn, Munich, and Berlin (Kilian 2001: 119; Ibidem 2005: 371; Loch 1969: 18; Loth 2007b: 79). In 1925, at the age of 23, he submitted his dissertation in civil law at the Berlin University. After his teaching thesis (*Habilitation*) in 1930, he became the youngest law professor in the Weimar Republic at the University of Rostock (Buddrus/Fritzlar 2007: 174). As such Walter Hallstein had already made a successful career before Hitler’s rise to power. Although the National Socialist association of university lecturers had doubts about Hallstein’s ideological loyalty, he became a professor of law at the University of Frankfurt am Main and rector of the university’s

institute on comparative law in 1941 (BArch N 1266/271; see also Kilian 2005: 371; Freiberger 2010: 213-214).

During World War II, Hallstein served as a reserve officer in the *Wehrmacht*. At Cherbourg in France, he was captured by the U.S. army and imprisoned as a POW at Camp Como in Mississippi, where he organized a camp university, “thus demonstrating for the first time his capacity for large-scale organization.”² (Loth 2007b: 80) In 1946, after his release and return to Germany, he became the first rector of Frankfurt’s re-established university. Since Hallstein had neither close contacts to the National Socialist Party nor had collaborated with their regime, he was rehabilitated by the Allied powers after World War II without reservation (Kilian 2005: 371).

Invited by the Joint International Committee for European Unity, Hallstein first met Adenauer at the Hague Congress on European unity in May 1948 (Schönwald 2002: 19; Loth 2007b: 80). In June 1950, Konrad Adenauer, the first Chancellor of the young German Federal Republic, called on Walter Hallstein to become the head of the West German delegation for the Schuman plan negotiations that eventually led to the implementation of the European Coal and Steel Community (ECSC) (Loch 1969: 36). Thereafter Hallstein was offered the position of *Staatssekretär* in the Chancellery, and in 1952, became the first *Staatssekretär* in the Federal Foreign Office of Germany. Although not a trained diplomat, Hallstein can be considered one of the architects of the re-established Foreign Service and amongst Adenauer’s most important advisors in matters of law and foreign policy (Kilian 2005: 372, 378).

In 1955, in diplomatic circles and beyond, Hallstein became known through the ‘Hallstein-Doctrine’.³ This doctrine was, however, most likely not invented by Hallstein (although he supported its aim) but by one of his closest advisors, Wilhem G. Grewe. Hallstein’s main diplomatic efforts and personal investment went into the treaties of Paris (1951) and Rome (1957) (Oppermann 2006: 125; Loth 2007b: 82). Those treaties ushered in a new chapter in Hallstein’s political life following his choice as President of the EEC Commission by the delegations of the six participating countries, Belgium, France, Germany, Italy, Luxembourg and the Netherlands. Re-elected four times, Hallstein served the EEC for nearly ten years (January 10, 1958–July 5, 1967). In this early period of European integration, he assumed a central – if not *the* central – position in engineering its process and institutions (Kilian 2005: 372-373). As a German, his appointment as first president of the community’s institutions was an enormous step in the German Federal Republic’s process of

² This small camp university, which concentrated on law and economics, had comparatively high standards. The German universities recognized credit for two semesters of the prisoners who had attended Hallstein’s camp university. See Buddrus/Fritzlar 2007: 174; Schönwald 2002: 17; Loch 1969: 27.

³ The ‘Hallstein-Doctrine’ stated that West Germany would have reacted diplomatically if third countries had established diplomatic relations with the East German state, the German Democratic Republic.

rehabilitation. Although his nomination can be seen as a compromise between the member states, it is, nonetheless, testimony to his performance and achievements during negotiations of the treaty.

Until his death on 29 March 1982 in Stuttgart, Hallstein tirelessly published numerous articles and books about European unity, its communities and institutions. The book “Die Europäische Gemeinschaft” [The European Community], its last edition published in 1979, can be regarded as his political and intellectual legacy.⁴ Walter Hallstein was one of the few politicians during the early phase of European integration who elaborated their concepts on European integration at length in academic publications. His work offers detailed insights into European thinking and policy analysis from a first-hand perspective at the core of the continent’s unification process.

After his career in Brussels, he was briefly a Deputy in the German Bundestag; however, although he maintained close contacts to Christian Democrats throughout his time in Brussels, he never felt at home in the party machinery or the game of politics (Kilian 2005: 380; Bajon 2009: 122). Hallstein was neither a man of loud gestures nor a populist, but was respected as a person of integrity and effectiveness (Loch 1969: 8; Loth 2007b: 80). His rhetoric skills and writing style were marked by sobriety, rationality, and nuance, always concentrating on the precision of the argument (Kilian 2001: 125; Ibidem 2005: 387; Schönwald 2002: 25). These features supported the image of Hallstein as a cold and objective technocrat (Loch 1969: 15-16). Authors with personal knowledge of him, however, describe him as a cautious person and value his courage and generosity with close friends and colleagues (Kilian 2001: 122; Ibidem 2005: 386-387).

Walter Hallstein and the Roots of European Integration

Although Hallstein did not pay particular attention to the idea of European integration before 1945, several of his publications during the late 1920s and 30s analyze European-based law as well as Anglo-Saxon legislation (Schönwald 1999: 33). His commitment to European unity developed notably in 1944/45 as a POW in the US when he began to study the American political and economic system. In summer 1945, Hallstein attended the US War Department’s Administrative School in Fort Getty which instructed POWs in US democracy and administration, the English language and the failures of German policy

⁴ The book “Die Europäische Gemeinschaft” was published in five editions: The 1st (1969), 2nd (1970) and 3rd (1972) editions were published under the title “Der unvollendete Bundesstaat – Europäische Erfahrungen und Erkenntnisse” [The unfinished Federal State – European Experiences and Insights]; the 4th (1973) and 5th (1979) editions were published under the title “Die Europäische Gemeinschaft”. The different editions illustrate a constant process of intellectual debate that coincides with and reflect the process of European integration, see Kilian 2005: 376. The 3rd edition (1972/73) was published in English as “Europe in the making” (publishers: Allen & Unwin in London and Norton in New York). In this article, the analysis of “Die Europäische Gemeinschaft” will be based on the 5th and last edition published in 1979. For citations, said English translation, “Europe in the making (1973)” will be used if the content coincides with the 5th edition.

(BArch N 1266/271; Schönwald 1999: 40-41). As he later recalled this experience, “I was permitted to study the people and the institutions of this vast country. [...] [W]hen I left for home it was the comforting feeling of how strong the good man must be if a war as terrible as the last one was not able to destroy it.” (Hallstein 1952a: 458)

Even more important for his dedication to European unity than his years as a POW was Hallstein’s experience as one of the first West German visiting professors at an American university after the war. In 1948/49, in the spirit of the Allies’ democratization program for (West) Germany, Georgetown University in Washington DC invited Hallstein to lecture on continental European and German law (Loth 2007b: 80; Schönwald 1999: 47). In a press statement, Hallstein explained his decision to come to the United States by saying that he wanted to learn from America (BArch N 1266/1623). Summarizing the impact of his stay later, he stated “I left your country [United States, H.M.] deeply impressed with the value of its liberal institutions, with the forceful vitality of its people, with their large conceptions, their decisiveness, their love of action and dynamic change, and with their sense of fairness.” (Hallstein 1952a: 458)

Apart from these experiences, Hallstein also drew substantial attention to the idea of an occidental cultural community of the West (*Abendland*) based on Greek philosophy and Christianity, formed in equal parts by Germany, Europe and the United States (speech by Hallstein, 13 December 1958 in Milan [in Oppermann 1979: 93]; Hallstein 1952: 60; Ibidem 1979: 15, 420; Schönwald 1999: 42-43). For him, the United States were like a mirror reflecting Western (European) norms and values. As he later proclaimed, “Dean Acheson was right: the United States is a European power.” (Hallstein 1973: 311) In this concept, the single states of the Western hemisphere only represented variants of their common cultural background. Due to the idea of a shared Western civilization, Hallstein did not consider European unity a new phenomenon: “Europe is no new creation. It is a rediscovery. [...] for more than a thousand years the idea of a unified Europe was never quite forgotten.” (Ibidem: 15; Mausbach 2004)

Driven by the experiences of two world wars, Hallstein strongly believed in the feasibility of a joint policy to forever ban war in Europe (Kilian 2000: 39; Ibidem 2005: 380; Schönwald 2002: 16). “The war experience had been too overwhelming and clear-cut for the idea of a union to be opposed any longer – at least in theory.” (Hallstein 1952a: 459) For him, the traditional European nation state with its national sovereignty, as well as the old European order, had discredited themselves (Hallstein 1963a: 165; Freiburger 2010: 215). In his view, “[t]his system [of European sovereign nation states, H.M.] failed; it failed the only test that would have justified its continuance into our century: it failed to preserve peace.” (Hallstein 1973: 20; Ibidem 1979: 18, 20, 66; Schönwald 2001: 160-161) But the destruction of war was not the only reason the sovereign nation state had lost its legitimacy. Given the

rise of international law and growing global economic interdependence, Hallstein predicted that it was simply impossible for nation states, even the superpowers, to be independent and sovereign anymore in the traditional sense (Hallstein 1952a: 459; 1979: 50). As a result, the category of full national sovereignty had become largely obsolete.

This development, from a rather passive professor removed from day-to-day politics to an actively engaged supporter of Europe, and an analysis of Hallstein's intellectual convictions, illustrate that he had become politicized chiefly through his war experience – and not through Hitler's dictatorship. Challenged by both Soviet expansionism and overwhelming US economic power, Hallstein was convinced of the necessity for Europe to integrate in political, economic and defensive terms. "For us, there is no such choice as between Communism and freedom." (Hallstein 1959: 581) Apart from this appraisal of Europe's geopolitical situation, Hallstein's awareness of the end of the European nation state, his idea of a (united) Western civilization and his broad knowledge of and fascination with the American political system represent the three cornerstones of his enthusiastic and idealistic support for European integration. Hallstein's concept of a European union was not entirely developed when he began his work as close advisor to Konrad Adenauer; in fact, his ideas can be viewed as the result of a constant evaluation of European integration (Schönwald 2002: 22; Ibidem 2001: 158).

Hallstein's Understanding of European Integration

"We have tried to rise above the legal forms and traditions of the past. Many would no doubt call our attempt 'revolutionary', and it may well be that future generations will come to regard the philosophical and legal concept underlying Europe's constitution as the most creative achievement in the evolution of jurisprudence in our age, and perhaps even the most original feature in our effort to integrate Europe." (Hallstein 1973: 37; Ibidem 1979: 61) With that statement Hallstein set the tone for his vision of an irreversible process of European integration. Indeed, the originality of his work lies in the creation of a European supranational legal Community (*Rechtsgemeinschaft*). In Hallstein's view, 'supranationality' was not meant to suppress the nation state; rather, it sought to complement it at a higher level of governance (Hallstein 1979: 50, 53).

The European Economic Community as a legal Community fulfills several functions: Firstly, it is a legal system with contracts, treaties and legal institutions; secondly, a legal entity composed of states under the rule of law; and thirdly, the balance of power within the Community is determined by law and not by power or force – as had mainly been the case in international relations prior to 1945; fourthly, it is built on trust and confidence among the countries and its peoples; and finally, it serves as lever for integration – integration through law. In that context, the legal Community is also a political concept; it is an independent legal

entity (Hallstein 1963a: 168; *Ibidem* 1979: 61; Kilian 2000: 46). As Hallstein argued: “The European Economic Community is a remarkable legal phenomenon. It is a creation of the law; it is a source of law; and it is a legal system.” (Hallstein 1973: 30; *Ibidem* 1979: 53) Hence, the legal Community as conceptualized by Hallstein was both a vehicle for spurring the process of European integration and its result.

To sustain the dialectic of process and result Hallstein devised the so-called Community method according to which the four main institutions – Commission, the Council of Ministers, Parliament and Court of Justice – were supposed to work hand in hand (Oppermann 2006: 125-126). With the establishment of an independent Commission equipped with the right to take legal initiatives, Walter Hallstein helped to create an institution unprecedented within international law (Hallstein 1973: 57; Ludlow 2006: 40, 41). For the first time, an independent authority was created that, unlike the secretaries-general of international organizations, was supposed to be authorized to develop a common will independently from and equal to its member states (Hallstein 1963b: 6; Oppermann 2006: 126). For Hallstein, the Commission was not technocratic but of more political nature; for example, he expected to receive newly appointed ambassadors to the Community with a red carpet, and expected to be received according to official protocol (Schönwald 2001: 161).

“The function of the Commission is threefold: to serve as motor of the Community, as guardian of the Treaty, and as ‘honest broker’.” (Hallstein 1973: 58; speech by Hallstein, 25.03.1965 in London [1979: 551]; Hallstein 1979: 54) For Hallstein, the Commission stood at the center of the integration progress – “every action is initiated by the Commission as the executive organ of the Community.” (*Ibidem* 1973: 57; *Ibidem* 1979: 82) The right to take initiatives by the Commission is complemented by the treaty-based majority voting system in the decision making process of the Council of Ministers. The aim of this system was to avoid stagnation through a veto by one country (Steindorff 1966: 8). Both the majority voting in the Council of Ministers and the right to take initiatives by the Commission embody the new supranational quality of these institutions as they were supposed to be disconnected from traditional national interests.

Apart from its institutional organization, Hallstein’s dream of European unification found its intellectual fundament in ‘material logic’ (*Sachlogik*); a term that defines the dynamic-procedural dimension of European integration (White 2003: 118; Killian 2000: 44). – “[O]nce the idea of European unity has been achieved in one point, it cannot die again.” (Hallstein 1952a: 461) At the center of this logic lies the conviction that the process of integration, once started, cannot be stopped or reversed – and, of course, that it should not. Hallstein defined the term as follows: “It is an anonymous force, but it only works through human will. It might be called material logic. [...] [O]ne of its results is that action in one field of economic policy has repercussions in all the rest.” (Hallstein 1973: 24; *Ibidem* 1979: 22)

To this end, for Hallstein, economic integration had an inbuilt political dimension and impact: “The political nature of ‘economic integration’ is therefore plain. Integration in the economic field is not merely a step on the way to political integration: it is already political itself.” (Hallstein 1973: 28; Ibidem 1979: 27) For its rationality, Hallstein’s material logic of the integration process can be regarded as the convergence of his political and legal idealisms.

Although the EEC was no classical federation – which even today’s European Union is not – Hallstein emphasized the one element that the EEC had in common with a ‘true’ federation, namely a “sovereignty of its own, conferred upon it by and derived from its member-states.” (Hallstein 1973: 34, 38; Ibidem 1979: 59) The EEC was from its very beginning an independent legal entity. In the process of integration, the Community was supposed to achieve the character of a true federation: “[W]hat Europe is striving for is a federation, and not a unitary, centralized state [...]” (Ibidem 1973: 15; 1979: 13, 59) Taking once again the United States as a model, Hallstein was convinced that America’s most unstable period was prior to 1787 (Ibidem 1952a: 460). Before the ratification of its constitution, the U.S. was organized as a confederation. For Hallstein, only after the transfer of sovereignty rights to a federal government was the U.S.’s constitutional balance stabilized (Ibidem 1963a: 161; Freiberger 2010: 228).

Nonetheless, Hallstein made clear that he was not just a dogmatic federalist but in fact had a distinct sense of proportion and process. He was as such a moderate leader, although at the same time one who kept to his principles: “[O]ur ambition is not to set up a complete and perfect ‘federation’ in the true meaning of that term at one single stroke, for the very practical reason that we would be trying to set up a kind of ‘never-never-land’.” (Hallstein 1973: 42; Ibidem 1965a: 14, 16; Seidel 2010: 73-74) Although Hallstein was convinced of his material logic as the motor of integration, he was nonetheless skeptical towards the member states and saw certain obstacles in the progress to a federation. As a consequence, it was all the more important for him to reach *the point of no return* in the integration process. In his view, this would be reached with the completion of a common market and a common currency (Kilian 2000: 48; Ramonat 1981: 360; Bajon 2012: 34). His goal was to overcome hubris: “For the Community is neither. It is not a federation because it is not a state. And it is not a confederation because it is endowed with the power of exercising authority directly over every citizen in each member-state.” (Hallstein 1973: 40; Ibidem 1979: 64)

The brief analysis of his biography, convictions and conceptions indicate that although political offices dominated Hallstein’s post-war life, his profession as law professor remained at the center of his work. It was the compass guiding his political decisions and judgments. Hallstein’s main contribution to the unification of Europe was the idea of integration through law and not by power. The legal Community assumed equal treatment of

every state and every individual in every shared policy area within and among its member states (Steindorff 1966: 3; Ramonat 1981: 355). The strong convergence of political enthusiasm and in-depth legal knowledge enabled Hallstein to play one of the central roles in making proposals for the treaties of Paris and Rome. However, setting up an institution based on your ideas and running it on a day-to-day basis are not the same.

Hallstein and Day-to-day Policy – Challenging Convictions

To follow the tensions between ideas and actions, it is important to figure out first, what Hallstein's conceptions meant in practical terms. Taking his idea of the 'material logic' as a starting point, this concept was almost unrealistic and made itself obsolete politically due to its linearity and mono-causality (Wessels 1995: 304f.). "There is nothing automatic about this, but the development is a logical one and leads constantly to further decisions and activities." (Hallstein 1965a: 16) Besides his hair-splitting distinction of automatism and logic, Hallstein's commitment to the linearity and mono-causality of European integration seems inexplicable. It seems peculiar that he expected history to be a causal and linear process, especially when several different nation states had to work together at a new level of international decision-making. In addition, as the term 'material logic' shows, Hallstein concentrated too strongly on "the integrative impulse of competing material interests." (White 2003: 127) As demonstrated by the French president Charles de Gaulle during Hallstein's presidency, politics consists of more than material interests or the rationality of reasons; it also contains dynamics of surprise and personal preference. It is therefore evident that Hallstein's causality was all too often interpreted as an illegitimated expanding dynamic, which produced mistrust and helplessness among member states (Kilian 2000: 53; Wessels 1995: 306).

In his seminal 1958 work, "The Uniting of Europe", the American political scientist and neo-functionalist Ernst B. Haas expressed the idea of a 'spill-over' process in European integration from one policy area to the next. With regard to his 'material logic', Hallstein can be considered a traditional neo-functionalist although he mainly developed his political convictions during the late 1940s and early 50s (Freiberger 2010: 239; Bajon 2012: 31; Hallstein 1965a: 19; *Ibidem* 1965: 731). Although "basic notions of spill-over predated neo-functionalism", this academic discourse doubtless influenced Walter Hallstein and encouraged his beliefs and rhetoric (*Ibidem*). As Hallstein insisted on maximum demands towards de Gaulle in the CAP proposals (1965), it could even be argued that, while academic expertise appears objective and impartial, it helped or even seduced Hallstein, a scholar himself, to a misjudgment of the political situation (*Ibidem*: 125, 126, 129).

Moreover, Hallstein praised the new supranational level of decision-making between nation states on every occasion. For him, it was clear that ‘supranationality’ would not mean the suppression of the nation states but would complement their influence at a higher level of governance (Hallstein 1979: 50, 53). In this context, it is not surprising that the nation states feared losing their sovereignty through supranational decision-making. In fact, it is astonishing why Hallstein wanted to implement the supranationality based on an old concept: the federal state. Although Hallstein was convinced that the conventional nation state had become obsolete, he developed a somewhat traditional state-oriented federal concept supposed to be put into force through linear and stable integration: “Then let us create the European State – or is Europe finally to abdicate?” (Hallstein 1965a: 15; Kilian 2000: 53)

Walter Hallstein and the EEC Member States

With regard to Hallstein’s political convictions, the majority voting system in the Council of Ministers also appears unclear in practice. A majority voting system generally implies an integrated opportunity for opposition – an opposition that is kept within the political system. Opportunity to oppose is, in the case of the Council of Ministers, hardly given. Rather consensus is implied: Either a member state votes for a certain legal act or it is outvoted by the other member states. The opportunities to officially oppose a certain political direction are rare. If there is, however, no implemented procedural framework for (legal) opposition, a country is forced to either opt-out or to oppose the system as a whole (Steindorff 1966: 12-13).

This, amongst other factors, led to the 1965/66 Empty Chair crisis. In 1965, Hallstein put forward proposals concerning the Common Agricultural Policy (CAP). Initiated as a ‘package deal’, these proposals were designed to not only implement further steps towards the CAP, but to develop an independent budget for the Community alongside increased powers for the European Parliament (Bajon 2009: 108). In addition, based on the Treaty of Rome, the Council of Ministers was supposed to vote by majority from the year 1967 onwards. French President Charles de Gaulle opposed Hallstein’s proposals not only because of the demand for a Commission budget and an increased parliamentary authority, but saw these proposals as an opportunity to oppose the majority voting system. De Gaulle feared that his opinion could be increasingly outvoted in the on-going integration process and that, as a result, France would lose power to influence both the speed and direction of European integration. The Luxembourg Compromise of 1966, which settled the dispute, allowed unanimous voting in the Council of Ministers if one country determined that a certain proposal violated its national interests. As the compromise was only politically binding, rather than legally, Hallstein regarded it as a constant violation of the treaties (Hallstein 1979: 93, 112; Bajon 2009: 106).

In the 1970s, Hallstein considered the veto usage in the council as a major reason for the euro-sclerosis and standstill in European integration (Oppermann and Killian 1981: 376-377). However, “Hallstein had to accept that within the system of the Community there was no chance of opposition. Therefore opposition turned against the whole system itself.” (Schönwald 2001: 170) On the one hand, the right to veto slows down the process of integration. On the other hand, as the heads of national governments do not have to answer to each other, but only to their national constituencies, they simply cannot accept a proposal which is not in their national interest. In that sense, only the right to veto and the need for unanimous decisions would maintain the balance between majority and opposition. Moreover, as long as the member states held the major power within the Community, a veto – if in their vital interests – would de facto never be misdoing (Ibidem).

Hallstein later argued that the decision could not be between ‘majority voting or unanimity.’ In his view, ‘majority voting’ would take the lead but could do so only if the countries would have sufficient trust and confidence towards each other meaning that no country would be isolated (Hallstein 1966: 20 [BArch N 1266/1924]; Schönwald 2001: 170-171). It is ambivalent that Hallstein preferred political confidence to legal verification especially briefly after the crisis. It can, of course, be argued that while European institutions do not as yet have a government, it is not necessary to think in terms of majority and opposition. Moreover, Hallstein’s conception of a united Europe was based on the deep conviction that, following World War II, European integration was the only logical and rational way forward for Europe. The right to oppose certain steps of integration might not have appeared essential to him. However, the opportunity to oppose should be included explicitly into a system that was intended – especially by Hallstein – to be political and to govern a democratic Europe (Ramonat 1981: 356).

Further ambivalent behavior during the Empty Chair crisis originated from Hallstein’s belief in the rule of law. The President of the Commission did not anticipate that one country would break off from legal contracts. Hallstein, like many other enthusiastic integrationists, underestimated the reluctance of the national governments to lend their support to European measures, despite them having already signed the treaties (Coombes 1970: 300). Whereas for Hallstein, the treaties implied taking action – “une perspective maximaliste de l’unification européenne”, the member states interpreted the treaties more in the sense of having influence – “une interprétation restrictive selon une perspective minimaliste.” (Mollin 2005: 59) Hallstein thus invested less energy in convincing them otherwise. He failed not only to engage in closer negotiations with France, but also to focus on a stronger encouragement of Germany during the CAP negotiations.

This carelessness indirectly supported France’s strong position, too (Bajon 2012: 66; 71; Ibidem 2009: 114). From Hallstein’s perspective the treaties outlined everything

(concerning the CAP, see Article 3 (d) Treaty of Rome). He was indeed a political realist; but in the case of the CAP, he scarcely wanted to compromise on his demands (Bajon 2012: 77). Although the Empty Chair crisis was by no means only Hallstein's fault and the Commission indeed has the task to take political initiatives, Hallstein's ambitious tactic of "progressive Europeanization" to present a "grand solution" and bet on the 'good will' of the member states certainly exacerbated the crisis in 1965. Hallstein intended to protect the Commission's fragile equality towards the Council of Ministers. Yet his behavior indirectly let the Commission lose this role, in particular the role as honest broker and neutral arbiter during 1965/66 (Bajon 2009: 110, 111; *Ibidem* 2012: 79; 139; Mollin 2005: 68-69).⁵

Apart from de Gaulle, Hallstein faced further political opponents. Ludwig Erhard, for example, a German politician, Federal Minister of Economics and German Chancellor during the Empty Chair crisis was another significant adversary. At the center of Erhard's European ideas stood, just as for Hallstein, the economy rather than the law (Lappenküper 1991: 87). In Erhard's view, only a policy of fast European-wide economic liberalizations would help regain Germany's economic strength on the world market (Schönwald 1999a: 15-16). Erhard was convinced that supranational political integration would hinder the free mechanisms of market economy: Any institutions set up to coordinate economic policies would a priori be the site of increased bureaucracy and compromise, especially towards the more protectionist French side (Schönwald 1999b: 273; *Ibidem* 1999a: 20, 22; Lappenküper 2000: 240; *Ibidem* 1991: 90; Hentschel 1996: 229, 276).

Furthermore, it is evident that, taking the Common Agricultural Policy (CAP) as an example, European economic integration was and is characterized by the provision of subsidies and import tariffs – namely, economic protectionism.⁶ Although Hallstein stated that "[t]he limited individual markets of the European states, protected against each other by all manner of artificial means of state intervention will be replaced by a large common market, in which any form of discrimination on grounds of nationality is out of the question" (Hallstein 1952a: 460); he supported the partly protectionist political compromises at supranational level. Consequently, European institutions were also built on a controlled compensation and transfer union that clearly transcended Hallstein's market-liberal rhetoric (Hallstein 1963: 9; Schönwald 1999a: 28).

When compared to one of his closest intellectual companions, Jean Monnet, Hallstein appears, as his ideas and concepts towards European unification convey, more strict and one-sided. Both were convinced that the nation state had discredited itself in World War II, and that a European federal state – 'The United States of Europe' – would be the only

⁵ Hallstein's plan was indirectly influenced by the behavior of Robert Marjolin, the French Commissioner for Economic, Financial and External affairs, who behaved in an ambivalent way by first criticizing then finally supporting Hallstein's proposals (Bajon 2009: 112-113, 116).

⁶ Until today, the CAP amounts to the biggest expenses of the annual EU budget (2011 at least 41.3%).

solution to maintain the peace in a future Europe (Schönwald 1999b: 295). However, both adopted different strategies: Whereas Monnet was more flexible in how to achieve the common goal and concentrated on the main issue, the integration of Europe, Hallstein was all too often in danger of being excessively rigid, insisting on maximal demands (Ibidem: 296).

In the case of Britain's first application for EU membership (1961/63), for example, Monnet supported Britain's official request from the very beginning. He was convinced that a united Europe would only be possible with the participation of the United Kingdom, and that the overall idea of European integration enjoyed priority over any specific economic demands. Therefore, he was deeply disappointed by de Gaulle's veto in 1963 (Ibidem: 286-287). Hallstein instead remained skeptical – although not entirely unwarrantedly – about British membership. He constantly feared the weakening of integration due to compromises, particularly before the completion of the customs union (Loth/Bitsch 2007a: 64). For Hallstein, deepening integration was more important than enlargement, justifying a postponement of Britain's accession (Schönwald 1999b: 288; Herbst 1995: 259). Although he regarded it as a breach of confidence, Hallstein felt relieved about de Gaulle's veto to Britain's EEC entry at the time it was given (Hallstein 1963a: 175f.; Loth/Bitsch 2007a: 65).

Ludwig Erhard, Charles de Gaulle and even Jean Monnet observed that Walter Hallstein had an attitude which was in part dogmatic, combined with a certain inflexibility towards the member states as far as different agreements than those of the treaties were concerned (Monar 1995: 267, 270). Erhard and de Gaulle were political opponents of Hallstein; their criticism appears natural and logical. Still, it cannot be denied that Hallstein's teleological idea of the 'material logic' included almost dogmatic elements. Although Hallstein mentioned that the 'material logic' could only be realized through political will, it was evident for him that once the process of integration was started, it would inevitably proceed from one policy area to the next and would lead to an 'independent aggregation of integration' (Hallstein 1979: 22f.; Schönwald 1999b: 297; Mollin 2005: 60).

The President inside his Commission

Entering the Commission, Hallstein's actions, ambiguous in part, become much clearer in one of the most important fields of his career, namely the organization of the Commission's bureaucracy: "For Hallstein, having a clear-cut, hierarchical organizational structure was paramount." (Seidel 2010: 69; see also Kilian 2005: 379) As son of a higher civil servant in the German Reich, Hallstein adopted the role model of a Prussian civil servant (*Preußisches Beamtentum*) – hard working, loyal, concealed – at the center of his work ethic: "Hallstein was an old-school civil servant [...] 'a last Prussian', although he came from Hesse

[...].”⁷ (Beck 1992: 269, 297) After World-War II a sense of restoration was not uncommon especially in the era of Adenauer. There was a certain tendency or reflex to return to reliable old values. Although Hallstein did not explicitly cherish the antiquated order, he partly internalized these methods to build and shape the future of Europe. In that sense, the concept of a European federal state and the organization of the Commission as a skilled and loyal bureaucracy are not as innovative as they may at first appear (cf. Freiburger 2010: 241).

The Commission’s strict bureaucratic structure and focus on expertise does, of course, solely hail back to Hallstein. It needs to be placed in a context of broader enthusiasm for bureaucracies among European countries during the 1950s and 60s (Seidel 2010: 65-66; Bajon 2012: 34), Hallstein’s personal and academic background as well as his ambition still provided a driving force in establishing a working institution with him as the promoter and instigator at its center (Coombes 1970: 265, 299, 308).⁸ The Treaty of Rome, for example, provided neither detailed guidelines on how to run the administration or how to hire its personnel (Article 212 only proclaimed to establish staff regulations), nor was the official seat of the Commission certain until June 1958. Despite this, it was important to have personalities with clear conceptions how to run the Commission (Seidel 2010: 67; Mollin 2005: 63). However, Hallstein’s working methods, less oriented towards teamwork and consultation, strongly differed from those of Monnets (Seidel 2010: 67).

Hallstein’s ambitions to control and organize the establishment of the Commission are best shown in his claim for administrative powers. On the one hand, the Rome Treaty did not envisage the Commission president being head of the administration in order to prevent a plenitude of power. On the other hand, the Commission’s internal structure was not restricted by the member states, which allowed Hallstein, nonetheless, to obtain administrative powers. An example is his responsibility for the institution’s personnel policy and chairmanship of the ‘Administration working group’ DG IX: “Hallstein understood his presidential role as taking an overall view of Commission policy-making.” (Seidel 2010: 69; 90; Coombes 1970: 151-153; Loth 2007b: 84)

An interesting ambiguity in Hallstein’s actions concerning the administration occurred when he needed to make decisions about national balance within Commission recruitment. Unlike Monnet, who believed nationality should not play an overly important role in hiring Commission staff, Hallstein assumed a pragmatic position taking into account the member state’s preferences: “I have never shared the view that in selecting its civil servants the

⁷ “Hallstein war Beamter alter Schule. [...] *“ein letzter Preuße”, obwohl er aus Hessen stammte*”, Kilian 2005: p. 378; see also Schönwald 2002: p. 14. See also BArch N 1266/271, Military Government of Germany, written curriculum vitae by Walter Hallstein.

⁸ The organization of the Commission also stood under strong of the French bureaucrat Emile Noël, who headed the general secretariat of the Commission for nearly 30 years (1958-87) and strongly shaped the Commission’s institutional identity (Seidel 2010: 81).

Commission could loftily dismiss the question of the nationality of the candidates, by simply saying: ‘We recognize only Europeans.’ Such an attitude appears to me not only to be naïve and dogmatic but also to ignore political reality.” (Hallstein 1973: 61; Seidel 2010: 95-96)

However, the establishment of national quotas to maintain a balance with regard to staff recruitment most likely prevented the best matches between employee’s qualifications and the position, and as such reduced the Commission’s effectiveness. Hence Hallstein partly compromised to his claim for expertise and independence of the Commission (Seidel 2010: 96, 102). Hallstein’s approach for staff regulations points in the same direction: Although he wanted the Commission to be independent from the member states, he opted for a continuous staff exchange between Commission and national administrations. Hallstein feared that if there were only permanent job offers in the Commission, the most qualified personnel would not leave their domestic administrations. However, this also meant that the Commission was more dependent on personnel policies of national administrations than it would have been in the case by a separate recruitment policy (Seidel 2010: 99-100).

In summary, seen in retrospective Walter Hallstein indeed generated new concepts to bring Europe forward and unite its nation states. He constantly made the effort in theoretical and political terms to contribute to European integration. However, his concepts and methods do not just appear revolutionary and innovative as usually assumed. Moreover, in practical terms and procedural arrangements, Hallstein sometimes acted contradictorily towards his own convictions both within and outside the Commission. Inside the Commission he tended towards pragmatic and consensual solutions that partly undermined its highly valued institutional and administrative independence. Outside the Commission, he tended towards employing a more one-sided and strict political practice, maintaining his principles. Insisting on maximal demands towards the member states, while all the while the Commission’s task as honest broker and arbiter became more needed, made him appear dogmatic and rigid from time to time. As a result, his leadership style was frequently unsuited to the challenges and needs of the European unification process.

Conclusion

After the failures of the proposed European Defense and European Political Community (EDC, EPC) in 1954, there was scarcely any other possibility than to carry on down the road already taken. This was namely the road to economic integration that had begun in 1951 with the European Coal and Steel Community. An elite of decision-makers and advisors came to define the future direction and speed of European integration. Hallstein was one of them. The analysis of his convictions, approaches and actions has shown that

Hallstein, who worked to guide the EEC member states into a better future, frequently neglected his task as President of the Commission to build consensus among them in favor of his own institutional beliefs and causality of logic. The conflict of enforcing European integration against the resistance of some of its member states, with the consent and unity of these member states being integration's central purpose, remains vivid to this day.

Hallstein remained a child of his time. Shaped by the hierarchical autocratic structures of the German Reich, Weimar Republic and Third Reich, it is evident that the first political generation after 1945 could not emancipate itself entirely from its political heritage. Hallstein's concepts of the integration of Europe were steered mainly by an ideal of liberal-democratic legal principles. His concept of in particular the European legal Community reflects Hallstein's convictions of a Europe – “united in diversity” – as the official motto of the European Union now reads. However, in their realization Hallstein's single-mindedness of a “progressive Europeanization” sometimes ‘seduced’ him to enforce his ideas too strongly or misjudge the political situation, thus provoking the rollback effects he sought to avoid in the first place, exemplified in the Empty Chair crisis. This contradiction does not only hold true for Hallstein. In fact, it applies to the office of President of the Commission as a whole until today. Attempting to lead a commission, its president is forced to perform as a higher civil servant. Meanwhile, in the European political arena, the president has to act like a politician balancing national and common interests.

Taking into account his career – from law professor to head of Germany's Schuman plan delegation, to his post as *Staatssekretär* under Adenauer's Chancellorship, to the first *Staatssekretär* in the re-established Foreign Office and finally to becoming first President of the EEC Commission – Walter Hallstein should neither simply be reduced to the ‘Hallstein-Doctrine’ and the ‘Empty Chair crisis’ nor the ‘forgotten European’. Many of his ideas concerning the functioning of the European Community were implemented and were and continue to be accepted as common sense. His dedication to European integration was undoubtedly bold and courageous, and could certainly serve as a role model in its scope and vision of European unity today. His personality as well as his career should inspire future research as this would help to complement the knowledge of the early phase of European integration and support a better understanding of the challenges facing a united Europe today. However, though Hallstein was indeed regarded as a pragmatic realist by contemporaries, his insistence on maximal political demands in situations when political sensitivity was required secured him a rather contradictory and conflicted reputation. In addition, Hallstein's political and intellectual standing suffered from de Gaulle's criticism towards the first President of the Commission, which “[tinged] Hallstein's legacy [...] with a note of sadness.” (Loth 2007b: 89)

Hallstein once stated: "One cannot force people to accept what may be best for them." (Hallstein 1973: 41) In the context of the European Community, this raises the question of whether a more open, demos-based and politically liberal transformation would have been equally successful. Taking into consideration the Eurozone crisis of 2010 to the present, it remains debatable whether that 'point of no return' will ever be reached or indeed should be the goal, or whether the German proverb "Der Weg ist das Ziel"⁹ is a better description for the path of European integration.

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⁹ *The journey is the destination.*

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