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New perspectives in the study of European integration as compared to US integration

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Foreword

In this short speech it will be attempted to answer the questions posed by the organizers from the point of view of a lawyer. Indeed, only two Italian professor of legal disciplines have been appointed to a Distinguished Lecturer Chair: finding the reasons of such a low interest of Italian lawyers, or of such low success in the application procedure, may help to understand if and how legal studies may benefit from such an important exchange program as the Fulbright Program.

Meetings as the one organized by the Italian Fulbright Commission represent an exceptionally important occasion not only to compare different experiences and to evaluate how both US and European educational and research system may benefit from looking at each other, but also to analyze different methods of research and different objectives of their respective studies.

This report will concentrate on four points. It will be attempted, firstly, to evaluate how the US and European model of integration may be reciprocally influential; secondly, how the comparison between the US and the European integration may help to develop a new idea, or model, of State; thirdly, if a common heritage exists and how it could be possible to reconcile innovation and tradition; finally, what are the developments and problems of research and teaching on the two sides of the Atlantic Ocean.

1. United States and European Union: a comparison between different models of legal and economical integration

The comparison between US and European integration is a so well known topic that it may not be discussed here. It may suffice to point out that the United States are not only the model of a federal country, which seems – more and more as the time goes on – the arrival point of European integration.

Indeed, also the study of European integration may help to understand certain problems and techniques of US federalism. Moreover, from the comparison of the two systems, it comes out how European integration is, under certain point of view and in some specific fields, more advanced than US. Already in the almost thirty years old study by Donald P. Kommers and Michel Waelbroeck (*Legal integration and the free movement of goods: the American and European experience*, 1986) a comparison was attempted between the US Constitution *commerce clause* and the free movement principles established by the EEC Treaty. Even a comparison of the activism of the US Supreme Court and of the European Court of Justice in shaping both systems was attempted. Such seminal researches already showed how European integration model was, under certain aspects and circumstances, even more advanced and stronger than the US one.

Indeed, the principles upon which European integration is based on, as the principle of non discrimination on grounds of nationality, of mutual recognition (of rules and even of national systems), seem to have provided a stronger integration (of markets) than that accomplished by the US *full faith and credit clause* and the *commerce clause*.

The history of European integration shows that the integration of markets (and even that of currency) may even precede political integration. The model of the previous integration of the markets, as opposed to the model of the previous political integration, represents an important field of comparison and consideration.

2. State-model and model of a State

As it is well known, the US federalism represents the most important model and field of study and reflection for the researchers of federalism and of European integration. However it may be doubted that this construction is still valid and that – taking account of the developments of international and European law – the model to be used to represent the State could be that of gradual integration enshrined by the European Union.

In times of profound crisis of the idea and even of the notion of “State”, maybe the European “model” of integration may help in defining new landmarks and, for sure, new incentives for further research.

Moreover, trying to explain to American students what “Europe” is, overcoming the stereotypes and difficulties deriving from a widely diffused misconception, may help in achieving a better reciprocal understanding.

3. Common heritage and differentiation

Looking overseas may be helpful to understand how to reconcile tradition, on the one hand, and innovation and change, on the other one; and how to reconcile the safeguard of national heritages (which are, for their own nature, different from each other) with phenomena as the Americanization and, later, globalization, of both law and culture.

US problems as the reappearance of racism and the increasing number of pockets of population which do not speak English but only Spanish may resemble (of course, more or less) xenophobic attitudes of a growing number of political parties in Europe and the outbursts of violence in the Paris *banlieues*.

How it may be possible to reconcile the cultural heritage of the many different legal orders (and of their many different local communities)? A possible solution has been proposed by the Italian linguist Tullio De Mauro, as concerns the use of a common language amongst the 103 European languages: English language is to be used, but enriched by the cultural and linguistic contribution of other languages and cultures (so that this language will not be any more the language of the British, but of every European citizen).

Analyzing how US, on the one side, and Europe and Italy, on the other, are “differently modern”, may help in better understanding each other and also how to govern globalization (in order not to be driven by it without any known goal).

4. Research and teaching on the two sides of the Atlantic Ocean

A very important stimulus comes from the comparison of Italian and US university systems.

Before any reflection is drawn, it may be remembered that the comparison is usually targeted with the best US Universities. However, these universities – whose budget is not comparable with that of Italian universities – represent only a very small portion of the educational system, as there are many small “teaching” universities.

Only few points may be briefly pointed out.

First, the leading role of US Universities is usually connected with their market-oriented behavior. This means creating courses which are attractive and fashionable; investing in “big names” (i.e. hiring important researchers and teachers) and more and more on “future big names” (who cost less money), thus providing important opportunities to younger scholars.

Second, being fashion-oriented entails the risk of losing the intensity that historical reflection may provide. Legal and political institutions, and more generally, the society, may not be fully

understood if not taking account of their historical roots. In this respect, Italian and European universities and teaching methods may provide an important guidance.

Third, the best research universities have enormous libraries and electronic resources, often open all day and night long. The difference with Italian universities (especially with the medium and small ones) is clear. However, there is a trend of Italian universities towards an increase in the use of electronic resources.

Fourth, the comparison not only of teaching methods, but also of the methods used to disseminate research results is quite instructive. The traditional model of the huge conference, as compared to the specific seminar, may lead to a reflection also on this point.

Finally, I will conclude with two personal remarks.

When, in 2007, I taught at the BMW Center for German and European studies of the School of foreign service at Georgetown University, I found extremely challenging the question of the students (enrolled in a political science master program) on “why does law matter?” Was it a problem of lack of (legal) culture of American students, or did the question arise from their critical and open-minded approach to study?

The last remark relates to a sad problem of current Italian times. A few months ago, while I was doing a research at the *Biblioteca Centrale Giuridica* of the Ministry of Justice (which is supposed to be one of the best Italian law libraries, located in the building that hosts the *Corte di Cassazione*, the highest civil and criminal Italian judiciary) I asked the librarian an issue of the *Common Market Law Review*, the most important review dealing with European law. With my surprise, the librarian told me that since 2013 the library canceled the subscription because of the “spending review policy” of the library. Was it a problem of lack of money or of a wrong choice?