

**THE NORDIC WELFARE MODEL, LAW,
AND THE FINANCIAL CRISIS**

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(I) belonged to a victorious generation. (...)
What we didn't even dare to hope for has happened. (...)
The fight for the daily bread is over. Now the question is
one of distributing prosperity.
*The chairman of the Danish Federation of Labour
Thomas Nielsen (retired in 1982)¹*

Abstract: The paper focuses on the problems of history, development, axiology and future of the Nordic Welfare State (NWS). The considerations are made in context of the financial crisis that began in 2007. The author considers also how the NWS ideology influenced state law and legal way of thinking in Scandinavia and, more widely, in the Nordic countries. The case of Finland is used to show how the law in both the content and methodology was changed. It is claimed the NWS is still changing because of many social or financial factors or crisis. The NWS ideology is a very practical philosophy about how to provide equal opportunities (the minimum social security, access to health, free education) for everybody in a society. The social contract is a basis of the NWS. The NWS might be changed due to economic crisis to some extent, of course, but its philosophy remains the same: help the weaker.

Keywords: welfare state; financial crisis; equality.

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¹ There was also another slogan created by the leading Swedish Social Democrats, Ernst Wigforss, "poverty is more easy to endure when it is endured equally by all", but this was not commonly accepted as being too pessimistic (HECKSCHER, 1984, p. 5).

1 Introduction

What is the aim of this paper? The aim of this paper is to shed the light on the history, idea, development and future of the Nordic Welfare State (NWS), in a very comprehensive way, with a special attention paid to the characteristic of Nordic countries, values and philosophy (philosophical origins), and justification or legitimacy of this system and to the impact of the NWS on legal thinking in Scandinavia and the Nordic countries, especially in Finland. The context to which the paper pertains is the Financial Crisis that began in 2007 in the US and due to the contagion that became global by 2014, having some huge influences on many countries. However, my perspective is legal-philosophical, I refer to many sociological or some economic analyses, too.

By the way, it is necessary to say, following the title of this paper, that the Nordic Welfare Model² means a Nordic pattern of a welfare state. I used the concept of “model” in the title. In fact, the Nordic Welfare State (NWS) means the same. So, I use the NWS in the text then. On the other hand, when I talk about legal philosophy, I mean by that also legal theory or legal way of thinking (reasoning) as a part of legal culture. In the English speaking world, it is jurisprudence. The same was originally known in the Roman times – *iuris prudentia* – i.e., a knowledge about law.

One conceptual thing must be made clear. Scandinavia is not the same as Nordic countries. In English, the term “Scandinavia” is often used to describe all the Nordic countries. But, the truth is that it refers only to some of them. The Nordic countries include five countries: Iceland, Denmark, Norway, Sweden and Finland, and their autonomous territories. Scandinavia includes three of those countries: Denmark, Norway and Sweden, which have a common cultural and historical heritage and similar languages. From both the ethnic and linguistic point of view, there is a big difference between Finland and the Scandinavian countries. Iceland has a (West) Scandinavian language, but it is not Scandinavia geographically and ethnically. Anyway, all the five Nordic countries cooperate very close in the Nordic Council. In this paper, I talk about the Nordic countries as well as the Nordic Welfare State³.

1.1 Theses/Ideas

In the beginning, I propose to read some theses/ideas concerning the research subject in order to make the reader more conscious of the problems he or she must have to face here.

² This concept is used by the Nordic Council that is a political and economic organisation of cooperation in the Nordic region, including five states: Sweden, Denmark, Norway, Finland, Iceland, with their autonomous territories.

³ Thank you Dr. Joni Virkkunen (The University of Eastern Finland) for your help in making the clarification of the mentioned concepts. See also “Introduction” in this journal.

1. The NWS has been still changing or is still changing due to many impacts or factors, such as contemporary immigration and migration, ageing society, financial or economic crisis.
2. One must remember that Nordic countries (at least some like Finland) were very poor by the second half of the 20th century and had met many social problems such as emigration, unemployment and hunger before.
3. The financial crisis of 2007-2014 is not a very ground-breaking in the history of the NWS. Paradoxically, its impact is not very strong, due to the state protection of national economies in the Nordic countries.
4. The NWS remains important both a constitutional principle and practical value in the Nordic countries. What is behind this idea is a social contract/consensus in the Lockean sense.
5. This way of life of the Nordic states and societies, while producing the NWS, was based on the ideas of egalitarianism, equality, human dignity and the minimum social security, emancipation, fighting poverty, and finally reducing inequalities. Geographically or even politically, in the 1940s (but in fact, since 1917), the Nordic countries were between socialism and capitalism, so they have chosen the political-economic system “between”, however, in fact, social and economic rights became possible after the French Revolution and emancipation from the old social rules and religious bonds came (KANANEN, 2014, p. 2).
6. The philosophical foundations of the NWS are deeply rooted in the idea of human dignity and correspond directly to social democratic ideas and socialist ideas from the end of the 19th and the beginning of the 20th centuries as well.

But theoretical ideology is not so important in the NWS: many political parties of many colors and ideologies in the Nordic countries agreed to the NWS for some pragmatic reasons only, not the ideological ones. It was wonderfully described by Tapani Paavonen (1991) how it happened after the Second World War (WWII) in Finland – between social democrats (socialists), left labor movement and the trade unions (impressed by communists), the agrarian party, the conservatives, and parties of the right (that were liberal bourgeois parties before (PAAVONEN, 1991)⁴. It was a pragmatic choice to have founded the NWS and it is a pragmatic choice still to keep it alive. The NWS was not made by lofty ideas but, by practice, practical ideas, debates, political and social struggles, labor movements after the WWII, practical political philosophy that was able to say clearly that there is hunger, poverty, unemployment, no pension benefits, no unemployment benefits, no population policy, no housing policy, and what must be changed.

⁴ But also see Esping-Andersen (2008, p. 26).

7. The NWS had and still has also a great influence on legal thinking in Scandinavia and the Nordic countries (see points 8 and 9).
8. Open texture of statutes, policies (goals) in statutes, and general clauses are most important in the legal thinking related to the NWS (Aarnio's thesis I).
9. Material justice is made by open texture of statutes (Aarnio's thesis II).
10. The rule of law is related to the principle of justice (Viola's thesis), at least it is so in Scandinavia and in the Nordic countries.
11. On the other hand, one must meet some concrete criteria to be a beneficiary of the social system, so the elements of formal justice are still strong, too. Human rights and (in)feelings of justice are somewhere behind the provisions and decision-making processes then, not having a great influence on a given decision, as the decision is determined by a given rule or provision coming from formal justice.
12. However, there is a lot of stereotypes abroad on the NWS, one of them is that all public service is free of charge, what is not true, as in the NWS, we can meet many elements of fees, and there is "a lot of capitalism" in the NWS, or at least there is the principle: "the system gives, the system takes" (on the one hand, by social benefits and, widely, social-economic rights, on the other hand, by progressive taxation, public fees in many social spheres etc.).
13. The metaphor of "a warm water in a pipe"⁵ fits with the expectations of the citizens in the Nordic countries. The NWS is socially justified and acceptable, as it is a result of a historical social consensus and deal in the societies in Scandinavia and the Nordic countries. However, some problems and challenges like migration⁶, demoralisation due to social benefits, the financial crisis should have some impact on the new ways of development of the system in which, paradoxically, formal justice and the Welfare nationalism (the protection of own citizens, excluding immigrants) may be more important than the material one.

Anyway, the NWS is not a Utopia, but rather a pragmatic idea. If some circumstances are changed, the NWS might be also changed in sense: "even restricted, not being a universal system anymore".

14. The NWS is consistent with the European Union's aims and values. It is necessary to add that peace and welfare were two pragmatic values in the European Communities since 1940s and 1950s, and nowadays active state social policy is crucial in the eyes of the Brussels recommendations.

⁵ The concept used by one Polish conservative journalist while criticizing a Welfare state.

⁶ There are many problems such as assimilation or social integration of Muslim people or incomers from Africa (e.g. the Somalis), and the danger of Nordic "favelas", i.e. ethnic "ghettos", where the level of well-being is lower and dependent on social benefits only. There is also a problem of indigenous peoples (Saami), while the question remains open: would they be happier being based on the traditional way of life regarding reindeer herding and husbandry, if there was no Welfare State in the Arctic? And as one Canadian journalist wrote: "Justice is something else that's endangered in the Arctic", what should be practically referred to the situation of the indigenous peoples, too.

2 The history of the welfare state in scandinavia

In this part, we try to define the concept of the Nordic Welfare State (NWS). We present also the most basic information concerning Nordic countries. Then, we describe the development of the Nordic Welfare State. It seems impossible to understand the NWS without a kind of fundamental knowledge about the Nordic countries.

To clarify some concepts, I must admit that since the Welfare State was built in Sweden (in Scandinavia), then it is also said of a “Scandinavian welfare state”. However, I use the concept of the Nordic Welfare State. The Swedish model was implemented in the other Nordic countries: the Scandinavian countries (Denmark, Norway) and non-Scandinavian countries (Finland and Iceland), and in all the autonomous territories of the Nordic countries.

2.1 What is the idea of Welfare State in Scandinavia?

Much has been said about the Welfare State⁷ and the Nordic Welfare State⁸. Scandinavia and the Nordic countries are famous around the world because of the Nordic Welfare State. But what do we mean by that? What is the Nordic Welfare State? What is the most fundamental idea behind of the NWS? The basic idea is based on providing good conditions of living for everybody by a state. The state is responsible for well-being of citizens. The role of the state is to provide such services and benefits as are necessary to make people happy and keep them living in good conditions. Well-being, good conditions of living, social satisfaction are behind the NWS. It corresponds with the idea of equality: everybody should have equal opportunities of self-development and self-realization and of living. In fact, it is about good material conditions and mental health and feeling of safety and happiness and self-realization. The material part is very important as it concerned conditions of housing, clothing and food. The mental part has become also important, as the mental health and the feeling of happiness are equally important as the material conditions of living. The mental part is related to the intellectual part. The intellectual part is about providing such possibilities as free education and access to university or schools without any barriers and with support for the poorer. Thus, also issues concerning work conditions, social-economic rights, respect for worker’s rights, respect for women’s and mother’s rights (gender ideology and the problem of how to combine duties of mother and worker), have been put on the table as well as problems concerning environmental issues such as climate change, clean environment tend to raise. The price of the NWS is relatively high: a social consensus or deal that was behind the foundations of the NWS includes an approval of high taxes (progressive taxation) but

⁷ For instance, a very good contribution to the theory: Spicker (2000). Look also at these considerations more relevant in American context in Martin (1990).

⁸ Many important works were written by Nordic scholars, e.g. Danes (Danish people) like Esping-Andersen (1990).

also consists of many social benefits and public services free of charge. Thus, the Nordic states enjoy free kindergartens, health care, and high education and well developed social insurance systems, maternity benefits, social help, unemployment benefits etc. However, the cost of such systems is high and there is the agreement for that in Nordic countries. The provisional scheme of the most important ideas in the NWS could be presented as the following:

Chart 1. The ideas in the NWS

Man – family – work – local communities – society
Happiness – family – work – communities
Well-being – good conditions of living (house, health, education, salary, social benefits and public services)
Friendly environment – clean environment, access to nature

Source: Elaborated by the authors.

2.2 The Nordic countries

We cannot understand the NWS and law in Scandinavia and the Nordic region without understanding the most important features of the countries there. When we talk about the Nordic countries (just not to restrict to Scandinavia only! – see “Introduction”), we mean Denmark, Finland, Iceland, Norway, Sweden, and the autonomous regions of the Faroe Islands, Greenland and Åland. There are about 25,1 million inhabitants in the Nordic countries (2012 figures)⁹. Sweden is the biggest in terms of population among the Nordic countries, with a total area of 447,420 km² and a population of 9,555,893 (2013 figures). Here are also the figures of the other countries: Denmark – as the smallest of the five Nordic countries in terms of territory – has 43,561 km² and 5,602,628 inhabitants (2013), Finland – 338,440 km² and 5,401,267 inhabitants (2012), Iceland – 103,440 km² and 321,857 inhabitants (2013), Norway – 323,787 km² and 5,051,275 inhabitants (2013). The autonomous territories have such figures: the Faroe Islands that belong to Denmark – 1,396 km² and 48,197 inhabitants (2013), Greenland as the world’s largest island (covered in almost 80% by an ice cup and many glaciers) that belongs also to Denmark – 2,166,086 km² and 56,370 inhabitants, and Åland is an archipelago of islands belongs to Finland – 1,580 km² and 28,502 inhabitants (2013)¹⁰. Now, I would like to present some demographical,

⁹ See more: the website of the Nordic Council: <<http://www.norden.org/en/the-nordic-region>>.

¹⁰ See more: the website of the Nordic Council: <<http://www.norden.org/en/the-nordic-region>>.

economic, political, environmental and social-moral factors and characteristic in order to clearly and simply show the character of the Nordic countries.

In terms of population, the Nordic countries are a sparsely populated part of the world, except Denmark (130.1 people per km²; 2013, but in Finland, Sweden, Norway – 16-23, in Iceland – 3,5)¹¹. Geographically, Nordic people inhabit the Northern Europe, quite large territories that have rather a cold weather (the rule is that the nearer the North Pole the colder, so Rovaniemi is colder than Helsinki). The climate is “interesting”, since winters are very long, and very cold, and dark even at day, and summers are short, even quite warm, and very light at nights¹². Of course, even here, change climate and global warming are the most important environmental issues, and the discussion on climate change is very visible. It might have been that this environmental and natural character of their sparsely populated and cold territories had influenced on peoples’ morality, style of life and organisation of social life in the past, what have some impact on the today situation (people were supposed to be rather not expressive too much but hard working to survive in difficult climate conditions etc.)¹³.

In terms of economy, the five Nordic countries and the autonomous territories (regions) are well developed economies, with a high standard of life and well developed social security systems. The national economies are based on capitalism, competition, private property and free market; however, there are some strong state companies, high state regulation, high taxation, and strong state employment policy. Gross Domestic Product *per capita* in the Nordic countries usually belongs to the highest in the world.

In terms of political systems, Denmark, Norway and Sweden are constitutional monarchies, and Finland and Iceland are republics. Each country is a well-organized democracy – with a high level of social trust and participation – that respects political freedoms such as free elections, freedom of speech, the right to private life etc. The most shocking event in the Nordic political systems after the WWII was the assassination of the Swedish Prime Minister Olof Palme in the central Stockholm street in 1986 (for unknown reasons).

In terms of demography, the Nordic countries are getting older. There are forecasts predicting a population increase of 3 million in the next 40 years. It is an aging population, and only Iceland will become young. In Finland, the number of citizens aged 65 and over is 25% of the population of working age now, but by 2013 it will be 50% (in Sweden, Denmark -40%, in Norway -35%)¹⁴.

¹¹ See more: the website of the Nordic Council: <<http://www.norden.org/en/the-nordic-region>>.

¹² In Iceland, the average high temperature is 13-14°C in July. In Finland, summers differ from year to year and the temperature depends on the year – between + 15 and 30 °C. In Lapland (northern Scandinavian Peninsula, traditionally inhabited by Sami, indigenous peoples), we can notice the temperature fall down to -45°C in winter. At Finland’s northernmost point, there are so called night-less nights in summer (but it appears also in Eastern Finland, to some greater extent), what means that during summer the sun does not set for 73 consecutive days. In the North, what is interesting because makes the world dark, the sun does not rise at all for 51 days during winter. By the way, a day in Eastern Finland is short in winter then and lasts about only 4-5 hours.

¹³ Compare Lewis’ considerations on values in Finnish society and references to the climate (LEWIS, 2005).

¹⁴ See the website of the Nordic Council: <<http://www.norden.org/en/the-nordic-region>>.

In terms of environmental issues, the Nordic countries flash on the protection of environment (e.g. forestry) and on fighting the environment pollution and global warming. For instance, forest and plantations in Sweden estimate 282,760 km², more than a half the total area (in Norway, more than one third, 123,840 km²; in Finland, more than two third, i.e. 227,767 km²)¹⁵.

In terms of morality, all the countries are liberal. They accept laws permitting abortion on demand or homosexual marriages. Divorce is a big problem (in 1962, 3% of the population in the Nordic region were divorced, and 50 years ago, it was 11%). Mothers have become much older (in the age 30-34 years old, as we have a look at age of mothers of most babies born nowadays)¹⁶. These rights are understood as a realization of the right to private life and of the most fundamental Welfare idea – the idea of happiness and self-realization in a given community. Although the Lutheran Churches are state and official churches, they are not involved in current political debates or debate on state laws, being absolutely politically neutral, and try not to criticize any state laws. It is not exaggerated to say that the Nordic countries are culturally Lutheran/Protestant, with a dominant Lutheran or Protestant ethics of labor. It seems that the character of the Nordic people was not only environmentally determined, but also culturally or religiously determined. Lutheranism (since the 16th century) brought new ideas of predestination, hard work, and being restraint and silent, but hard working only. It must have had some influence on Nordic societies and the individuals till nowadays. Of course, globalisation as a complex process may change such stereotypes and peculiarities or norms of behavior. However, while talking about religion, we must add that the societies are not very religious (Finns, the most conservative and religious Nordic people, attend the Church holy services very rarely, twice a year), although the majority in each Nordic country formally belongs to the Lutheran Church¹⁷. What is important also is that there are some special rules concerning constitutional, organisational and legal position of such state and official state (or at least “folk” state). The division of church and state in Scandinavia and in the Nordic countries is not formal, but practical – freedom of religion is a fact really. Furthermore, there are still some institutional links (e.g., in Denmark, a king must be member of the Lutheran church that is a state church¹⁸; in Norway, at least a half of the members of the State Council must also be the member of the official Church; in Finland, by the 1990s, a bishop was nominated by the President of the Republic). Lutheran teaching is also visible and obligatory in schools.

In terms of social life, especially, equality, differences, and well-being, the Nordic countries are very egalitarian, successfully eradicating poverty in the past, and

¹⁵ See the website of the Nordic Council: <<http://www.norden.org/en/the-nordic-region>>.

¹⁶ See the website of the Nordic Council: <<http://www.norden.org/en/the-nordic-region>>.

¹⁷ In Finland, in 2012, 76.4% of the population belonged to the Evangelical Lutheran Church of Finland. This Church has a special position: as the only one church is mentioned by the Constitution of Finland, the state collects church taxes from believers, and the state regulates the structure and organisation of the Church. That is why I call it “official” or “state”, or “constitutional”, or “folk” church. See <<http://evli.fi/EVLen.nsf>>. Access in: 2 sept. 2014.

¹⁸ See par. 6 of the Constitution of Denmark: “The King shall be a member of the Evangelical Lutheran Church”.

nowadays reducing material inequalities in living conditions to minimum, and appreciating educational opportunities to maximum.

Gender as a social and cultural relation of powers and opportunities between a man and a woman is important: most students are women. Salary demands (also of women) are high, so good qualifications through education are needed to find out a job to satisfy own expectations and needs¹⁹. Women play a great role in politics, business, social life and have a strong position at home²⁰.

However, the Nordic countries are also quite homogenous societies, with dominating Nordic cultures. On the other hand, in the recent years, all the countries became very open for foreigners and incomers (13% of the Swedish population were born abroad; also in Norway and Denmark – 8% are immigrants, in Finland – 4%), which has both positive (new workers and economic growth) and negative consequences (the lack of integration with the dominant majority and culture, and the danger for social security system). Generally, asylum seekers come to Sweden and Norway.

Public health care system is of high quality. Of course, there are some social or medical problems like drinking or diseases (cancer). But people are living older indeed in general terms²¹. Also the Nordic education systems, from kindergarten to universities, have a good reputation in the world. Almost everybody speaks very good English (unofficially, it is the real “second” language in the Nordic region; at many universities, it is so also officially).

Ethnically, among the Nordic countries, Finns are not Scandinavians, but they are also not Slavs or Germans. They belong to the Ugro-Finnic group (like Hungarians, Estonians, Karelians, etc.), that is not an Indo-European in a strict sense (LEWIS, 2005). Culturally, Finns might be called Scandinavians only by unexperienced foreigners, as Finland belonged to Sweden for more than five centuries (since the 13th century till 1809), however, they have the sense of separateness in cultural (or linguistic) terms (LEWIS, 2005). By the way, Swedish is still the second official language in Finland. Scandinavian (Swedish) influence was and is visible in many aspects of social life like administration, organisation of social life, Welfare State ideology, culture, literature, law, legal science, philosophy etc.²²

Linguistically, Norwegian, Danish and Swedish are very similar languages. Almost 80% of the Nordic populations speak one of them. Norwegians, Swedes and Danes can understand each other while talking to themselves in their own languages²³. Finnish (used by less than 20% of the Nordic population) is completely different (one of the Finno-Ugrian languages). Icelandic probably comes from Norwegian, however it is different. The Faroese language had some links to Norwegian as well, but remains

¹⁹ See more at the website of the Nordic Council: <<http://www.norden.org/en/the-nordic-region>>.

²⁰ See LEWIS, 2005, p. 143-149.

²¹ See the website of the Nordic Council: <<http://www.norden.org/en/the-nordic-region>>.

²² Compare the part written by Matti Niemi.

²³ See the website of the Nordic Council: <<http://www.norden.org/en/the-nordic-region>>.

a different language, too. In addition to that, there are many small minority languages like North Sami, Inari Sami, the languages of Gypsies, the Kvens, Karelians, etc.

In general terms, nowadays, since the post war era (actually since the 1960s, when the Welfare State was ready) the Nordic region is supposed to be the best place to live or one of the best places to live. It is supposed to be friendly, peaceful, open, welfare and green region in the European North, without poverty and inequalities. Economic development is at a high level and political systems are stable and predictable. Democratic culture is based on ideas of human rights, balance of power and citizens' active participation at all levels of decision making processes in a state (by elections, consultations, public debate, traditional media and new media, etc.). Corruption does not exist. Nepotism is reduced to minimum. Transparency is a value in a public administration and in public sector. For instance, in the recent report of The Fund for Peace (Fragile States Index 2014), Finland is on the "bottom" of the list – it is the world's least fragile country, recognized as the only one country in the world as "very sustainable". Many economic, political, and social factors were taken into consideration in the report. Also Sweden (the 2nd place), Denmark (the 3rd), Norway (the 4th) were in the first five with the title "sustainable" (Iceland was also "sustainable", place 8th)²⁴. We can also add that the Nordic countries provide very peaceful foreign policy, some of them are neutral (Sweden) in military terms, as well as they are interested in humanitarian aid dedicated to the Third World.

2.3 Development of the Nordic Welfare State (NWS)

Some scholars say that the beginning of the NWS was deeply rooted in the 19th century, and some of them talk rather that it was after WWII (KANANEN, 2014). As usual, there is a lot of the truth in both statements, what I will try to show by following the Swedish-speaking Finn and recognized scholar Guy Bäckman's (1992) narrative. To understand the presence, we must go back to the past. According to Guy Bäckman (1992), during the whole 19th century, the Nordic countries were agrarian (in 1890, 80% of the Finnish economically active population worked in agriculture, in Sweden – 60%, and in Denmark and Norway – about 50%). From that time, there has been a systematic decrease of the agriculture sector. The countries have become more modern and industrial. Bäckman (1992) says that for many scholars it was clear that the modern NWS is "the product of Bismarck's social policies in the 1880s" (BÄCKMAN, 1992). This is true, as for instance, in Finland, The Labour Protection Decree of 1889 and the Accident Insurance Act of 1898 were the first reforms under such influence in the industrial society (PAAVONEN, 1991).

It is necessary to remind the reader that in 1883, Reichstag, the German parliament, agreed to a proposal of a national sickness insurance scheme for all industrial workers. It was a ground-breaking event in the world of the 19th century "wild"

²⁴ Fragile State Index 2014. The Fund for Peace (Washington), <<http://ffp.statesindex.org/>>. Access in: 25 ago. 2014.

capitalism in Europe. Bäckman (1992), following Kuhnle's, Korpi's and Esping-Andersen's (1990) analyses, states that the "liberal impulse" (economic development based on capitalism and liberalism) was the strongest in Denmark and Sweden; as a result, those countries were "the head of the creation of the welfare state in the Nordic countries". They had two models: their own way or the United Kingdom as the model. Probably, they were impressed by the UK model, to some extent. Bäckman (1992) adds that initial legislation in other countries like Finland and Norway seemed "more in line with Bismarck's model" (BÄCKMAN, 1992, p. 2).

We should also remember that in that time, in the 19th century and in the beginning of the 20th century, Norway, Sweden and Denmark were independent constitutional monarchies, while Finland had a political and economic autonomy within the Russian Empire ruled by absolute tsars. Iceland was a part of Denmark, without own political entity. And we must realize that Sweden or Denmark were more industrial and just richer than agrarian Finland (an autonomy within the Russian monarchy since 1809, and the independent republic since 1917) and newly-founded Norway (independent since 1814).

It is clear for the NWS scholars that the expansion of a "Scandinavian welfare model", that we called the "NWS" here, appeared after World War II. Of course, in the end of the 19th century and in the beginning of the 20th century, a so called labor movement in the form of workers' trade unions or socialist or even communist slogans used by political left activists became stronger and a really serious political actor in the Nordic countries, but the influence of the capitalist elites and bourgeois was still very visible indeed by the WWII. Workers' rights became one of the most important social issues (PAAVONEN, 1991, p. 4). However, we must remember that there was also a phenomenon that might be called a "struggle of interests" in the Nordic societies (maybe it was not a class conflict in a Marxist sense). Thus, to implement some workers' rights like sickness insurance, it was necessary to make some social deals or compromises between important social groups; workers and capitalists or even agrarian sector, what was quite difficult but fortunately appeared in the Nordic countries. In fact, Sweden was the pattern for the other Nordic countries in this field of how to start discussing on the Welfare State, how to put them on the table in decision making processes, political life and legislative paths, and how to realize the welfare ideas in practice. Going back to the considerations on the Welfare State in Sweden, we must notice that, by many scholars, Sweden was recognized as a Welfare State even before the post-war decade. Protection of workers' rights and general social insurance was visible there in the 1930s. The other Nordic countries chose the same way, following Sweden many years later, just after the war (that finished in 1945).

What is interesting, when the philosopher of law Aulis Aarnio (2002, p. 9) speaks of the changing of the political constellation of the society (just in Finland but it was also in all the Nordic countries), unprecedented economic change, the industrialisation, some phenomena as urbanisation or regional differentiation, organisation, a rise in the level of education after the WWII. The NWS scholar Johannes Kananen

(2014) puts on the table three important factors for the NWS such as, going back to the past (since the 18th and the 19th centuries till the 20th century): 1. “the modernisation of agriculture (the temporal impulse)”, 2. “establishment of universal education” (the reorientative impulse)”, 3. “the establishment of the modern polity (the relationship between individual and community)” (KANANEN, 2014, p. 35). In fact, they both speak of the same phenomenon of a great economic and social development in Scandinavia and the Nordic countries.

Actually, we may consider whether before the postwar period “the Nordic countries had not differed in any greater extension from international trends, but the new postwar era gave rise to a ‘Scandinavian Welfare Model’” (BÄCKMAN, 1992, p. 2). It seems that Sweden had been a glorious exception before (KANANEN, 2014). It is clear that after the WWII, “the cornerstone of the modern welfare state was laid” in Europe and many other countries (BÄCKMAN, 1992, p. 2). In Bäckman’s (1992, p. 3) opinion, “the construction of the welfare state can be divided into two stages”, and the first one is that “the dominant concern was to establish a comprehensive system of universal social protection on the basis of the flat-rate benefit system”, and the second one is about that “In the 1960s the policy shifted towards earnings-related benefits and a stronger emphasis on adequacy” (BÄCKMAN, 1992, p. 2). Consequently, “the emphasis in the social policy was on solidarity, which was expressed in universal coverage and equal treatment of all citizens” (BÄCKMAN, 1992, p. 2). In this sense, the Nordic countries implemented T. H. Marshall’s idea of “social citizenship” of 1950 (what meant “a status bestowed on those who are full members of a community”) in their social legislation. Thus, it is true that the Nordic countries provided a social policy that was different that the policy in other countries. Why? It seems that the background of the social policy was deeply rooted in solidarity and equality understood as social values, what in practice meant that nobody who is a citizen might be socially excluded and everybody should have a good standard of living and equal opportunities (e.g. to find out a good job or get a good education). What is so peculiar in the NWS then? As Bäckman (1992) mentions, “the Nordic countries constructed universal, noncontributory, and unified programs” (BÄCKMAN, 1992, p. 2), what meant that even if somebody does not pay contributions to the system he or she is entitled to get some benefits because of the solidarity principle. Thus, Bäckman (1992) states that “this model reminded more the Beveridge than the Bismarck model”²⁵. In fact, two ideas are rooted in this model: a full employment and the general social insurance (PAAVONEN, 1991). Both are dependent on an interventionist policy of a state (indirect measures like taxation, public work, unemployment benefits, or some economic impulses made by

²⁵ It is necessary to remind the reader these two names. William Beveridge (1879-1963) was a British economist and progressive social reformer. He published on unemployment and social security. His report on social insurance of 1942 became the basis of the post-war Welfare State in the UK. John Maynard Keynes (1883-1946) was a famous British economist, who developed own theory of macroeconomics, supporting active interventionist policy of states in economy, especially in employment or stimulating and retaining economic growth. To be honest, he was much more interested in macroeconomics, the gold standard, the causes of business cycles, or relations between unemployment, money, and prices, than in social insurance exactly. Beveridge mostly flashed on “social insurance and allied services” already.

the state, but it is not about any nationalisation of economy!). This is also true that the NWS was not a “residual” model but the social policy has been the institutional one. It means that “the social expenditures are high” (BÄCKMAN, 1992, p. 4).

While in Scandinavia and in the Nordic countries, the NWS was developed very much in the 1960s and 1970s, however it started in the 1940s. The Nordic countries passed many new legal provisions in the field of unemployment benefits, the general social insurance, housing policy, family policy, child benefits, educational policy etc. The whole system was ready and well-built in the 1970s, and has worked well since the 1970s to nowadays. For instance, if we have a look at the relationship between economic growth and social expenditures since 1950s to 1990s, we can notice that the relation is clear: high economic growth implied higher public expenditures, and as it was still the time of the economic growth after the WWII till the collapse of the Soviet Union, then public expenditures were still increasing as well²⁶.

On the other hand, as Paavonen (1991) showed, in Finland, public expenditures were increasing together with social expenditures, and this cost of both public expenditures and social expenditures within the public one was financed by the increase of tax rates, just by a taxation. For instance, Finland (but also Sweden or Denmark) is still considered as a “country of heavy taxation” (MYRSKY, 2002, p. 558). Even in the 1990s, the costs of social welfare as a percentage of GDP in the Nordic countries were about 30%, although after the collapse of the Soviet Union some economic problems like in Finland (the export went down) and social crisis (the unemployment rate rose) appeared, too (BÄCKMAN, 1992).

The NWS was also called “strong” in the literature, not only “institutional”. So we speak of the institutional or strong welfare model\social policy. In this sense, “The social policy is an integrated part of the society. The Nordic welfare model is a universalistic model. The institutional model does not recognize any fixed boundaries for public welfare commitments. The principle is that all citizens should be equally entitled to a decent standard of living and that full citizenship rights should be guaranteed” (BÄCKMAN, 1992, p. 7). What is also important in the 1980s is that the concept of welfare pluralism was created, and informal, voluntary or private sectors have been included in the social policy. The ideas of “more participation, more decentralisation, more bureaucratisation” and charity and voluntary work became important in the NWS, as being attractive by giving many alternatives (BÄCKMAN, 1992, p. 7). However, the concept of “welfare mix” is better, as “the supply of welfare benefits is mixed” (multiplicity of fees, insurances, non-payable services) (BÄCKMAN, 1992, p. 4).

But what happened few years after the famous economic crisis of the oil prices increase of 1974 was symptomatic for some new considerations and points of view on “welfare spending” in the Nordic countries. That is also why in fact I do not pay a special attention to the financial crisis of 2007 only, but also to such crisis situations or socially dangerous phenomena and economic “disasters” in general. The

²⁶ Compare T. Paavonen (1991, p. 15) when speaks of “the breakthrough of the Welfare State” since the 1950s.

reaction of the system was correct in that time indeed. In Denmark, direct cuts in the social security system seemed to be radical in the 1980s. The system provided income tests in family benefits and pensions, and restricted benefit levels as well access to health and unemployment benefits. It was a very “selective social policy”. Since that time, social policy in Denmark is not universal anymore: it is a “more selective, restrictive and residual” system (BÄCKMAN, 1992, p. 5).

Although the Danish system in the new millennium, in the 2010s, is still based on the idea of equal access of all citizens to social security, nowadays the Danes, trying to follow new challenges of globalisation, employment and economic growth, promote the idea of “flexicurity” as a compound between flexibility and security. It is to promote employment security over job security, but makes the system more flexible (e.g. it is not so difficult to dismiss employees, and 25% of the workers in Danish private sector change jobs every year). However, active labour market policy is strong (Denmark spends 1.5% of its GDP for that), and unemployment benefits are at a relatively high level (up to 90% for the lowest paid workers)²⁷. It is not the case of Finland, where the stability of a job is the most important thing in every worker’s life and dismissing him/her is very difficult (even because of the constitutional rule).

Anyway, according to Paavonen (1991), the Welfare State is possible only in a society based on regular wage work and monetary economy, as this economy implies unemployment and disability. But “in the old peasant society there prevailed – e.g. in the Nordic countries – a certain social responsibility, which within the new industrial society was difficult to continue without social institutions” (PAAVONEN, 1991, p. 23). Probably, the NWS would have never emerged in a different society, Paavonen (1991) adds. However, Paavonen’s interesting statement does not explain why the Welfare State did not happen in other industrial countries and whether some cultural or other factors are not behind such state of things. It seems that Esping-Andersen (2008) explained these differences better, also trying to say that the different “welfare-state regime-types” (“middle-class welfare states”: “social democratic” as in Scandinavia and “corporatist” as in Germany, and the “liberal”, “residualist welfare state” in the US, Canada, Britain) explain “not only their past evolution but also their future prospects” (ESPING-ANDERSEN, 1990, p. 27).

Furthermore, we can ask what else happened in the NWS development? We should agree to Kananen (2014) who pays a special attention to the last stage of the development of the NWS called “establishing a New Social Order based on ‘Workfare’”²⁸ in the Nordic countries since the late 1970s, and what was especially visible in the 1990s, i.e. “commercialisation and government restructuring” (Sweden), “innovative reforms in income support and unemployment insurance” (Denmark), “corporatisation, commercialisation and privatisation of public functions” (KANANEN, 2014, p. 101)

²⁷ See the Official Website of Denmark. Available at: <<http://denmark.dk/en/society/welfare/>>. Access in: 3 sept. 2014.

²⁸ Actually, the idea was taken from the US (invented in the late 1960s and the early 1970s). It is a combination of the social activities one must do in order to receive social benefits and improve one’s skills. It is also to improve the recipient’s job prospects.

(Finland), but also in some more restrictive reforms in unemployment benefits and other social benefits, social and professional activation by education, public or bailout work, and training or courses. By the way, the elements of the New Social Order based on mentioned ideas such as corporatisation or privatisation was introduced and implemented without a public debate in Finland, because it was only discussed at a level of politicians and experts (KANANEN, 2014, p. 143).

3 Axiological foundations of the welfare state in the nordic countries

In this part, we shortly consider what axiology is and what the concept of value is. We flash on two important values in Scandinavia and the Nordic countries: justice and equality. We also present some conflicts between the values in the Nordic region due to the financial crisis.

3.1 What is axiology? What is value?

Due to the length of this part, we should define axiology in the simplest of the possible ways. Axiology is value theory²⁹.

Axiology is about what is the most important of the most important things and about justification of given priorities and choices³⁰. To some extent, axiology is related to ethics and moral philosophy. However, axiology is about values in a wide sense. Thus it is not only about moral values, what is so important in ethics (i.e. systematized lecture on a given vision of good and evil) and moral philosophy (i.e. a moral life of the individual but also of a given society). What is a value then? A value is a state of things that is important. It is a state of things we desire. It is a state of things that is desired from social and individual point of view. There are also anti-values, i.e. states of things that are not desired or required because they, without doubts, harm others physically or mentally in an offensive way. For instance, welfare, love, justice, equity, fairness, equality are values. They are chosen important states of things. Poverty is an anti-value. Values are based on the people's experience and common sense.

²⁹ There are many good books on axiology I was impressed by, first of all, these two: FRONDIZI, R. *What is value?: an introduction to axiology*, Illinois: La Salle, 1971, and HEISKANEN, H.; AIRAKSINEN, T. *From subjective welfare to social value: axiology in methodological and philosophical perspective*, Helsinki: Distributor Akateeminen Kirjakauppa, 1979. Have a look also at: ALLINGHAM, M. *Value*, Hong Kong: Macmillan Press, 1983; ANDERSON, E. *Value in ethics and economics*, Manchester: Harvard University Press, 1993; COWELL, F. R. *Values in human society: the contributions of Pitirim A. Sorokin to sociology*, Boston: F. Porter Sargent, 1970; PUOHINIEMI, M. *Values, consumer attitudes and behaviour: an application of Schwartz's value theory to the analysis of consumer behaviour and attitudes in two national samples*. Helsinki: The University of Helsinki, 1995; VERKASALO, M. *Values: desired or desirable?*. Helsinki: The University of Helsinki, 1996; VILKKA, L. *Intrinsic value of nature*. Amsterdam-Atlanta: Rodopi Bv Editions, 1997.

³⁰ Heiskanen and Airaksinen (1979, p. 11) give this definition: "Axiology is that part of philosophy which specializes in the Theory of Value. It deals with the nature, types, and criteria of values, value-concepts, and value-judgements". The great contribution to this independent field of research was made by the 19th century scholars such as R.H. Lotze, C. von Ehrenfels, A. Meinong.

Of course, the problem with values is more complicated, as we can ask: are values desirable? Or are values desired? Are values valuable because they are values objectively (and it does not matter what I think)? Do we desire values because they are values then? Or are they values because we desire them? The distinction is clear and is put on the table between two approaches: the objective dimension and the subjective dimension. Who decides that some values are values? Experience, social knowledge, history, tradition or my autonomous moral mind, my-self? That is the problem in this context. Nevertheless, I think that many people may agree to some social values, some states of things that are socially recognized and appreciated. These are peace, property, order, family, justice, love, welfare, even food, etc.

What is also important there are many categories of values such as moral, social, religious, economic ones etc. Sometimes, we also speak of the so called intrinsic values like life of the unborn child. *Some-thing* is so deeply important by own biological or social nature that is protected, recognized and is a value. I think also that we may say that – due to a common sense, that is so fundamental in given society, as well as taking some kind of natural law into consideration – we should agree to at least two values such as justice and equality. I think also that if we live in a given society, we must respect some important values that are socially recognized – in both a social life and a private life. In this sense, the Hartian minimum content of natural law³¹ is inspiring for us also. Otherwise, there is no society then but just what we have is anarchy only and the Hobbesian state of nature: *homi homini lupus est*, i.e. the war of everybody against everybody.

What does “welfare” mean? From the axiological point of view,

[...] this notion pertains to an individual or a group of individuals as members of a larger community and relates to the personal or social conditions of his/its well-being. Our ‘welfare’ is deliberately a broad notion comprising both resource and happiness (hedonic) considerations. Welfare thus conceived is the basic goal of social life (HEISKANEN; AIRAKSINEN, 1979, p. 15).

Two “changes in welfare” are important: “benefits” and “harms”, say Heiskanen and Airaksinen (1979, p. 15). The concept of the minimum social security is a bit more below “welfare”.

Generally, I appreciate the Nordic understanding of the concept of value. It seems to me that even if we proudly talk that a value is an idea (it does not matter whether it lives in Plato’s world of ideas, really), we should highlight that any value is conceptualized and realized in human action and many human acts. Of course, we can try to describe some ideal of any value (like love, justice) but it does not work too much, as we have cultural or even personal differences of understandings of the same concept. Of course, in the Nordic countries some values are understood as universal.

³¹ [...] “obvious rules” that come from “natural facts”. We are humans and we have the human nature. What does “The minimum content of Natural Law” mean? It is “universally recognized principles of conduct which have a basis in elementary truths concerning human beings, their natural environment, and aims” (HART, 1961, p. 193).

Welfare is treated as such a universal right – the right to the minimum social security for everybody, the right to equal opportunities, but it means the practical right, not a slogan. So what is important in the Nordic way of thinking: a value is described as an action and is derived from a practice of life, and it is not described as the ideal that is taken from the heaven or from the best declarations of laws and rights. Of course, we use some slogans (constitutional ones, or in the public) on ideas/values to highlight the significance of values but it concerns the action, not the ideal.

Values must be realized at many levels of social life, e.g. in legislation, in public administration, at universities, in education, in job market, in living conditions, housing policy, child benefits etc. This Nordic approach is not Platonic but seems much more Aristotelian, however in Scandinavia or in the Nordic countries, nobody used such philosophical examples, as the NWS is a result of their own social development, experiences, struggles, compromises, history, but not the effect of the history of philosophy.

3.2 Justice. Going back to Aristotle? Or to Marx? Against liberalism and libertarianism?

When we talk about the NWS, we can consider whether Justice (let us the block letter in the beginning) is not the most important value in the NWS. The second thing is, if so, how to *justify* Justice³².

The Nordic countries are rather very pragmatic nations that grew up in very difficult environmental circumstances near the North Pole, where natural resources were very limited and ordinary life was poor and harsh. One could ask whether the Nordic countries were inspired by Aristotle's ethics on what we call commutative and distributive justice³³ or by Aristotelianism in general? Or is the NWS based on the ideology that was against libertarianism and neoliberalism – those ideas based on the appreciation of individual responsibility for own life and very limited intervention of state in a society or economy? One could say also that if the Nordic countries agreed to establish high taxes in order to sponsor the NWS (high unemployment benefits, free education or health care system) and a high quality of public services, then it must be taken for granted that the whole state Nordic ideology is against all economically liberal ideologies and American individualistic philosophy of social life. But it is not the case.

³² See also Timo Tammi's article, where he tries to show how moral aspects such as trust, morality, fairness – in context of very high level of civic capital – influenced establishing of a very egalitarian system of the Welfare State in Scandinavia and Finland or Iceland as well as had a great impact on the economic growth.

³³ As in Aristotle, *The Nicomachean Ethics* [1893], book V (especially chapter 2, 3, 4, 5, 9, while talking on "distribution" and justice). Chapter 3 titled "Of what is just in distribution and its rule of geometrical proportion" is important, although smells of mathematical pattern for justice: "Let us say, then, $a/b = c/d$, or $a/c = b/d$. The sums of these new pairs then will stand to one another in the original ratio [i.e. $a + c/b + d = a/b$ or c/d]. But these are the pairs which the distribution joins together, and if the things be assigned in this manner, the distribution is just". For example, in chapter 4, the Philosopher says: "For that which is just in the distribution of a common stock of good things is always in accordance with the proportion above specified (even when it is a common fund that has to be divided, the sums which the several participants take must bear the same ratio to one another as the sums they have put in), and that which is unjust in the corresponding sense is that which violates this proportion".

The Nordic countries are pragmatic nations and they decided to establish the NWS not because of some ideological reasons or being impressed by some legal-political or social-economic doctrines taken straight *ex cathedra*. To be honest, even the inspiration by John Maynard Keynes or William Beveridge is visible more *post factum*, as they had not been so influential in the academic communities in Scandinavia and the Nordic countries before the NWS was established. What I want to say is: the Nordic countries chose their own way while establishing the NWS in their states, of course, having some knowledge about the German Welfare State traditions (Bismarck's reforms on sickness insurance of workers), social-democratic ideas from the West (Keynes, Beveridge, while talking on the full unemployment and the general, social insurance) as well as the Soviet collectivist proposals, to which they did not want to agree. They followed own way, far away from Marxism and wild capitalism. They had some experiences of both of them. The Soviet Union was just "a next door" since 1917 till 1991. On the other hand, capitalism was an economic system of the Nordic countries in the 19th and 20th centuries. In this sense, the NWS was a result of industrial society. When the Nordic societies were developing their industries in the end of the 19th and the beginning of the 20th centuries, it came into their minds that it would be good to protect the rights of all citizens in such economic and social system.

In this sense, it was about Justice. However, the justification of Justice was not taken from Aristotle (1893) or it was not directly made against capitalism or economic liberal doctrines. It seems to me that the process we are talking about was like a modification of economic system called capitalism, and the end of ends, it was done only for pragmatic reasons. In fact, by some social compromises concerning the establishing of the NWS, it was easier to distribute welfare and economic growth, to protect the rights of the poorer, e.g. workers in factories etc. Finally, it was easier to avoid social riots and public outrage as well as Marxist or communist narrative on class conflict and hatred towards a bourgeois, what would be difficult in case of greater economic stratification and bigger economic class division.

Justice was a value in a social life – it concerned the distribution of welfare in a socially better way, the protection of the poor and the workers' rights, equal opportunities in access to education and health care. In fact, the aim of the NWS was to avoid class conflicts and to make the societies more just, more thinking in terms of common good, not only of egoistic needs of the rich individuals. Justice was about that the richer should support the poorer. So it was about a distribution of wealth and income. Of course, *post factum*, we can analyze this practical idea by saying that it seems to be similar to John Rawls' (1971) theory of justice and rules made in "the original position" but "behind the veil of ignorance"³⁴ or to Aristotle's (1893) distributive justice, according to which some people should receive some benefits because

³⁴ See Rawls (1971). This Rawlsian contribution is rooted in the social contract tradition taken straight from Thomas Hobbes' *Leviathan* (1651) and John Locke's *Two treatises of governments* (1689).

they are citizens and they are equal. However, such an academic dispute would have no sense.

The NWS was a very practical idea – it has never been a theoretical doctrine. There has never been Kant of the NWS like there was Kant of the Enlightenment. Maybe just in the second half of the 20th century and in the beginning of the 21st century, some scholars who might be called the NWS scholars like Esping-Andersen (2008) started to describing the most fundamental elements of the system called the NWS. Nowadays, it is accompanied by a discussion on the future of the NWS.

3.3 Equality. Going back to the French Revolution's egalitarian ideas and Rawls?

One could say that Scandinavia is about equality. This is true to a greater extent. The Nordic countries are supposed to be very egalitarian societies. But it is not an abstract idea taken straight from the French Revolution to be put on Nordic constitutions. As mentioned, about Rawls' theory (1971) is also only the abstract idea that has nothing common with Scandinavia and the Nordic countries. The idea of the NWS was a practical, not an abstract idea.

Equality as a social value means in this sense no more than only just equal opportunities in complex education, housing conditions, education of children, access to healthy food, medical service or job market etc. Generally, it is also an equal access to public services. It was obvious that richer families were able to finance education of their children, and the poor were not to do that. This difference coming from the economic conditions required an equal treatment of both groups by a state. That is why the state created a free education system or the access to health care. On the other hand, people who worked had measures to live at a good level, and people who had no jobs lived at a lower level. That is why the second group should have been supported by the state in order to make them live at a good level, with appropriate housing conditions, food, etc. Unemployment benefits, social help and social work as well as maternity benefits and good education were created to reduce the difference between the people in one society. However, it was not an ideological change – rather, it seems to me, it was like making the lives of the people better, more equal, more friendly. Anyway, also social or class conflicts might have been resolved only within the NWS model in the best way based on peace and dialogue.

By the way, what is equality? It is just an equal opportunity. What is "equal" then? It is just "the same" (e.g. the same or, let us be more realistic, a comparable and similar standard of living).

In this context, it is good to mention how equality is realized by social policy. Social policy is to localize social problems to work out programmes for eliminating the effects of such problems. In Finland, scholars treat social policy as not an isolated island, but as a part of the welfare policy. Then they divide the welfare policy into three sectors: 1. cultural policy (education, arts, etc.), 2. economic policy (taxation, employment policy,

finance policy), 3. social policy, that is divided to six activity sectors: industrial relations, social security, housing policy, health policy, education policy, regional policy and international social policy. Social policy in such system is to guarantee three things: “a fair level of living”, “social security”, “social satisfaction”. What is also very important nowadays, social policy is interested in family and working conditions, as the aim of every man is supposed to be “an optimal quality of life” and “the best way of life” and “self-realization”. Thus, “improving the mutual relations of the family members and social relations in general” are a crucial element of social policy as well.

What is also interesting is that the Nordic countries realized the social policy based on the values of Justice and Equality without constitutional slogans. For instance, it is necessary to mention that the modern Finnish Constitution was passed in 1999, the Constitution of Norway comes from 1814, Sweden has four constitutional acts, so the social policy as the realization of the NWS was carried out without very strict constitutional slogans concerning welfare. It was just a practice of politics, practice of law, practice of social life – a result of dialogue and struggle of different social interest in the Nordic countries. For instance, the constitution in Denmark has never used such concepts as “welfare”, “justice”, “solidarity”, “well-being”³⁵, but the practice of politics was based on the idea of the Welfare State (just have a look at the motto of this paper).

There are not many slogans on the Welfare State in the Nordic constitutions. However, for instance, Finns highlighted the equality principle, but understood it in a very legal sense (equal before the law: chapter 2, section 6).

As the Constitution of Finland³⁶ is a very modern constitution (the previous one was from 1919!), the law-giver put some new social rights (not too many, but seriously treated) on the act *expressis verbis*:

1. Section 18 – The right to work and the freedom to engage in commercial activity. Everyone has the right, as provided by an Act, to earn his or her livelihood by the employment, occupation or commercial activity of his or her choice. The public authorities shall take responsibility for the protection of the labour force. The public authorities shall promote employment and work towards guaranteeing for everyone the right to work. Provisions on the right to receive training that promotes employability are laid down by an Act. No one shall be dismissed from employment without a lawful reason;

2. Section 19 – The right to social security. Those who cannot obtain the means necessary for a life of dignity have the right to receive indispensable subsistence and care. Everyone shall be guaranteed by an Act the right to basic subsistence in the event of unemployment, illness, and disability and during old age as well as at the birth of a child or the loss of a provider. The public authorities shall guarantee for everyone, as provided in more detail by an Act, adequate social, health and medical services and promote the health of the population. Moreover, the public authorities shall support families and

³⁵ See The Constitutional Act of Denmark of June 5, 1953.

³⁶ See The Constitution of Finland of 11 June 1999.

others responsible for providing for children so that they have the ability to ensure the well-being and personal development of the children. The public authorities shall promote the right of everyone to housing and the opportunity to arrange their own housing.

Interestingly, also environment is a constitutional value – the state of things worthy of being protected:

Section 20 – Responsibility for the environment. Nature and its biodiversity, the environment and the national heritage are the responsibility of everyone. The public authorities shall endeavour to guarantee for everyone the right to a healthy environment and for everyone the possibility to influence the decisions that concern their own living environment.

3.4 Struggle of non-Platonic values in the financial crisis?

As it was said in context of the considerations on Justice as a value, the Nordic countries prefer very pragmatic approach to life and prefer to skip metaphysical or speculative considerations.

Value is a practice. Value is a behavior. Value is not an abstract or lofty idea. It does not matter whether you talk that a given value lives in the heaven and comes from God or it is written on the paper by Aristotle – it must work in practice of a given society and in life of the individual. Otherwise, there is no sense to talk about any values. Of course, there were many inspirations to talk about Justice or Equality. One of them could have been the French Revolution with the ideas of freedom, equality, fraternity. Fraternity is solidarity. Equality is about reducing the difference. Freedom concerns political and civil rights. Maybe the French republican egalitarian ideas were more visible and influential in social practice in Europe and America (but not fully from the very beginning, but just later, as it was a process and development of rights and consciousness) than Plato's ideas of Truth, Good and Beauty.

Anyway, if we admit that the Nordic dimension to values is not Platonic but very pragmatic (in the style “show me how it works in practice”), we can observe that even in the Nordic countries there were some conflicts of values during the development of the NWS: there were different financial interests of classes such as merchants, agricultural sector, bourgeois, workers in factories, both in the 19th and 20th centuries; there were different understandings of the concept of justice, e.g. justice might have been also about the law and the law accepted social inequalities like different financial situations or statuses of ordinary people³⁷.

³⁷ However, it seems to me that Hobbes would accept social inequalities like those concerning a standard of living or access to education. I think that Hobbes suggests we should accept social inequalities, but never natural inequalities. In Hobbes' philosophy, people are equal only in natural terms, as humans. They are naturally equal and free (in dignity, in rights, duties, although it sounds like a slogan for us now). But legal inequalities are not accepted then, are they? It is not clear in Hobbes' theory. Probably, he could accept social inequalities, and consequently also legal inequalities as coming for the social ones. For instance, the dominant position of landlords in the election system was a standard for Hobbes, as he was not against it. See Hobbes, *Leviathan*, ed. 1909 (1651), especially chapters XXI and XXVI. The Online Library of Liberty.

Also in the time of the financial crisis that began in 2007 in the US, we may ask whether some struggle of values is not visible. In Scandinavia and in the Nordic countries, at least this form of such a struggle is presented nowadays: austerity versus equality. The austerity, due to the financial crisis, a lower economic growth (GDP), and aging society (more pensioners than workers) and immigration of the people using the social security system, becomes an answer for the questions concerning the NWS as a “ticking bomb”. The ticking bomb may have to face the demographical situation and the Leviathan of the NWS with such many benefits in many life events and such a big bureaucratic system. Austerity as a value might be justified and related to Justice in itself.

Chart 2 – Struggle of values: the NWS and economic crises

Non-Platonic values: Justice and Equality. Harmony.
Conflicts (values v. anti-values; values-values):
The Past: Justice against Inequalities and Poverty -----Equality against Differences and Poverty
The Present: Austerity against Equality -----Austerity and new Justice? Austerity: “we must be very modest and restraint in spending public money”. Equality: “we are equal in the light of law, but also in terms of equal opportunities in a job market, access to education, and of an equal standard of living (even if it is guaranteed only as the minimum social security by unemployment benefits etc.)”; “poverty and inequalities or material differences are anti-values”. Justice: “the social contract is over again, we must do a new social deal, as some social differences concerning the standard of living are obvious as well as direct cuts in the budget are necessary...”.
The solution: The struggle of the values will imply a new pragmatic order, even with some restrictions if necessary. This Hegelian struggle presented on the small scheme above and such academic deliberation like mine is like Plato’s considerations to some extent, but in fact, the Nordic countries are always to choose rational, touchable and pragmatic or practical solutions, and our considerations are only to repeat that loud.

Source: Elaborated by the authors.

4 The financial crisis and its social impact in the Nordic countries

In this part, we flash on problems concerning the financial crisis that began in 2007 in the US. It looks like a never-ending crisis, as we are still talking only about it. The context in which we shortly analyze this phenomenon is related to the economic and social situation of the Nordic countries during and after the global crisis. The question is whether the crisis (this one or another of similar range) may be so influential that can change the essence of the NWS. Can any crisis change the NWS? Using the concept of the financial crisis in the paper title is a little exaggerated, as the analysis of this concrete crisis is short, however, my conceptual choice focuses on chosen dangers concerning functioning of the NWS.

4.1 Genesis, contagion and global effects of the financial crisis of 2007

These considerations on the financial crisis, this one that began in 2007, are like a prolegomena to a wider problem of whether any economic crisis may break the NWS. It was not the first economic or financial crisis, there were many and there will be many.

The financial crisis that began in 2007 in the US was caused by the crisis on the American mortgage market. Liberal policy of many American banks as well as deregulation in the financial sector and banking supervision were probably the most important factors of the crisis. There were also many other problems such as frauds, misinformation, sophisticated financial institutions, too much risk in financial operations, moral hazard, bail-out etc. On the other hand, some scholars propose to understand the financial crisis as an ethical crisis (BUNIKOWSKI, 2013; SISON, 2008; CAMERON, 2002; MILLER, 2010; BAUMANN, 2008; NELSON, 2001; ARGANDOÑA, 2012)³⁸, noticing that greed was a problem and the most important reason of the crisis (especially Benedict XVI (2009) ascertained this problem very early and precisely enough). The spectacular collapse of Lehman Brothers or other American investment funds or banks became a symbol of that time and economic drama. Nationalisation of the Northern Rock (bank) in the UK or bankruptcy of Icelandic or Spanish banks showed the global dimension of the crisis. Nevertheless, the effects of the financial crisis were and are as huge as it had never been before in such crises. Banking and insurance sectors failed, many people lost houses bought on credits, unemployment rate rose, public debts increased, financial markets lost credibility – it happened in many countries, not only in the US, but also in Europe, Asia, Latin America, etc. Some countries suffered much more than others. Greece, in fact, lost sovereignty, being enforced to follow directives of the so called “troika” (the Monetary International Fund, the World Bank, the European Commission) to get out of the debts. How was it in the Nordic countries?

³⁸ Nevertheless, the most excellent ethical analysis was made by the Pope Benedict XVI in *Caritas in veritate*, Vatican, 2009.

4.2 The Nordic countries policy against the financial crisis

The financial crisis didn't have a great impact on the Nordic economies, except Iceland. Due to the very liberal risk policy of the Icelandic banks, the whole Icelandic economy was in a huge crisis in 2008 and 2009. But it did not happen in Norway, Sweden, Denmark, Finland so dramatically (even if the economic growth was about zero or below³⁹), as their economies were stronger, bigger, more advanced, diverse, sophisticated, industrial. The difference also was, for instance, that rules concerning mortgage credits in, say, Finland were relatively strict.

The Nordic governments were always to be flashed on the protection of the national economies by greater state regulation, banking supervision, employment policy, and by promotion of commercial patriotism (shortly, "we consumers are to buy only own national products"). The Nordic governments may always go back to even more interventionist policy in time of such economic or social crises; it seems to me as well.

4.3 The minimum social security as a value. Inclusive or exclusive system?⁴⁰

However, the question arose whether the social security system is inclusive or exclusive. It means two things: whether the system is to support only the members of the system, and whether the system is to support only citizens.

There are many possibilities here. For instance in Finland, one can be a member of the social security system (called "Kela", responsible for social benefits), not being a citizen. The membership implies the right to social benefits in some life events like unemployment, low salary, bigger family with children etc. It does not matter that you are not a citizen. This model is both inclusive and exclusive. The inclusive one is because it allows to join new foreign members (who of course must apply for a membership). The exclusive is because the decision on membership is arbitrary – it lies in the hands of officials, who follow some open texture criteria, and there are no the two same cases, as all is based on officials' arbitrariness and on assessment of the concrete life situation of a foreigner.

The another problem also is whether citizens should be treated better than non-citizens, as they are just citizens, who grew up on the spot, know the language, history and tradition of the country they live in, and are already in own country, at

³⁹ For instance, the Gross Domestic Product in Sweden in 2008 was below 1.5% in 2009 – fall down to -4%, but in 2010 rose over 2%, and in 2014 is near 2%. See <<http://www.tradingeconomics.com/sweden/gdp-growth>>. Access in: 2 sept. 2014. In Finland, the crisis came in the second half of 2012: the GDP fall down to -1.5% going finally down to -2.4%, and in the beginning of 2013 to -2.8%, but later in 2013 was more stable as the GDP picked a little bit below zero – between -0.2 – 0.6%. Available at: <<http://www.tradingeconomics.com/finland/gdp-growth-annual>>. Access in: 2 sept. 2014.

⁴⁰ See also Sainsbury (2013).

homeland, where we face such-and-such economic crisis, etc. First of all, in this narrative, only citizens should be protected.

4.4 Poverty, ethnic “ghettos”, and asylum rights – the case of Finland and Sweden

What makes the Nordic countries special in the world is that many years ago they focused on eradicating poverty, hunger, poor living conditions very strongly.

There is no poverty in Scandinavia and the Nordic countries in this sense as it is still in the US or in many poorer areas of the European Union, not mentioning Latin America, Africa or Asia. However, some problems appeared. It is not easy to talk about them loud due to the ideology of political correctness in the Nordic countries. The problem is that many new incomers came in and they do not know any Nordic language (or English well enough) and have no job or property, but they have a big problem with assimilation and social integration towards the dominating Nordic culture. They live on social benefits in Scandinavia and the Nordic countries. They live in, say, ethnic “ghettos” (e.g. symbolized by communal houses), and there are special programmes of the government, dedicated to this group.

The adequate example is the Somalis in Finland or the Muslim in Sweden. The Somalis were granted asylum rights by Finland after the civil war of 1991 in Somalia, and many of them arrived in Finland (1990-1995). Finally, there were 15000 Somalis speakers after the year of 2000, but many of them, about one third or more received Finnish citizenship, and the others got residence permits (HELSINGIN, 2014). Their population is growing fast (a high birth rate). Also Sweden officially claimed in the 1980s that is an open society and all foreigners are welcome. As mentioned, about 13 percent of the Swedish population⁴¹ were born abroad. It implies some social problems, of course, especially those related to the social integration.

The most visible act of social disintegration, feeling of injustice of the second-class category citizens and of fight for their own rights was the Muslim riots in Stockholm in 2013 (Sennels. 2013). On the other hand, we have a peaceful example – one thirtieth of the Icelandic population is of Polish origins, but there are no such social integration problems.

Finally, such problem depends on the personality and the culture of an incomer. But it also depends on living in poverty and without social integration as well as on access to education or its lack. It also touches the complicated, for Muslims, problem of respect for non-religious rules in a secular society, too. Obviously, some nationalist or national feelings have arisen (the case of Breivik⁴²) and might be a

⁴¹ Who does not remember the great Swedish football players in the 1990s like Martin Dahlin and Henrik Larsson, whose origins were not Nordic in 100%, but who both grew up in Sweden in a full respect and equal opportunities given or recognized by others?

⁴² On 22 July 2011, Anders Behring Breivik, the Norwegian far-right extremist, bombed government building in Oslo, Norway, killing 8 people, and then killed 69 people, mostly teenagers, in a mass shooting at a Workers' Youth League (AUF) camp on the island of Utøya. By that, he attacked the liberal and multicultural policy of the Norwegian governments, especially Social Democrats, criticizing the “Muslimisation” of Europe.

tremendous problem in the future, as the “so far”, “old” citizens may not feel like in own country, at home. But again, on the other hand, younger Nordic generations are open for changes, incomers, and multiculturalism.

Unfortunately, I must skip in this part a wider narrative on a very serious and unresolved problem of recognition of land rights of Sami people in Scandinavia and the Nordic countries. But something must be said about this kind of the cultural ghetto the Nordic countries did. There is only one aboriginal nation (indigenous peoples) in Europe, the Sami people, living beyond borders in northern parts of Norway, Sweden, Finland and Russia, was depreciated by the national states and their awful deliberate policy in the 19th and the 20th centuries. Their culture, lifestyle and languages were destroyed. Feeling of injustice is strong among Sami now, who strongly claim a right to self-determination, going back to customary laws, new natural resources management, more political power in northern Scandinavia (precisely, in the three Nordic countries: Norway, Sweden, Finland) (BUNIKOWSKI, 2014). This process of political and cultural emancipation and deliberation of the indigenous peoples is coming in the North. The Nordic countries, while welcoming new immigrants like Somalis or Muslims, have forgotten about their big moral unresolved internal problem concerning the Sami. Was it not a kind of hypocrisy anyway?

4.5 The “Welfare state in transition”. “Welfare state in crisis”. “Under pressure”. “Welfare change”. “Welfare pluralism”

Nowadays, especially in the Nordic environment on the NWS⁴³, we can notice a kind of narrative on “welfare state in transition”, “welfare state in crisis”, “welfare state under pressure”, “welfare change” or “welfare pluralism”. What is in roots of such considerations is a care on the state of the NWS. Especially, the last thirty years (since the 1980s) have shown us an increasing interests in the future of the NWS in context of demographical problems and aging society or economic crises. Lofty titles full of attentions on possible dangers remain only the paper. The NWS is still changing. The literature must follow it.

One can follow the new popular narrative on the NWS by listening to a conversation about “Welfare state in transition”, or what is more interesting for media, “Welfare state in crisis” or “under pressure”, but if we have a look at the world or Nordic contemporary literature, we will find out some really increasing research interests concerning the Welfare State, with topics such as: “construction, deconstruction, reconstruction” of the Welfare States (LEIBFRIED; MAU, 2008), going “from emancipation to discipline” in the Nordic Welfare State (KANANEN, 2014),

⁴³ It is good to mention that the best research centres on the NWS are e.g. The Nordic Centre for Welfare and Social Issues, in Stockholm, that is an institution under the Nordic Council of Ministers, and The Centre for Welfare State Research (CWSR) at the University of Southern Denmark, and The National Institute for Health and Welfare (THL), Helsinki, Finland.

“success and problems in Scandinavia” (HECKSCHER, 1984), the way “from a welfare state to a welfare society” (RODGER, 2000), “the new political economy of welfare” (PIERSON, 1991), “dilemmas of social benevolence” in context of capitalism (GILBERT, 1993), “welfare citizenship and welfare nationalism (SUSZYCKI, 2011), “dilemmas of care in the Nordic welfare state” (DAHL; ERIKSEN, 2005), but on the other hand, also we can notice new opportunities like “competition for global talent” in the NWS (RAUNIO; FORSANDER, 2009), philosophical-moral questions “Is the welfare state justified?” (SHAPIRO, 2007), a narrative on “the new welfare state” (BONOLI; NATALI, 2013) or again questions on “future of the welfare state” (GREVE, 2006), “welfare state and life transitions” (ANXO et al., 2010), “embracing globalization and sharing risk” in the Nordic model (ANDERSEN et al., 2007), or just on some differences in “the three worlds of welfare capitalism” (ESPING-ANDERSEN, 1990).

4.6 Some impressions of the internal outsider in Finland

In the last point of this part, treating it as an intellectual experiment, I will share my experience on the NWS with the reader. As a non-Finn, I am like an *internal outsider* in Finland⁴⁴.

I have no impression that all public services are free of charge or the system is a paradise on the earth. More, I would say that I have noticed functioning of such rule: “the system gives you, the system calls from you back”. In my opinion, even if it is a little exaggerated we must say that there are good opportunities in education and equal opportunities at universities. Every student is financially supported by the state (flat and food). There is no poverty or beggars living in the streets. If somebody speaks of ghettos or favelas in Finland seriously, it means that he or she is not a serious person, and is the person who has never seen America, Africa, Asia or Brazil. The social security minimum is guaranteed by the state really, especially if somebody has no financial resources to live, without own “guilt” (one wants to work but there is no job for him/her now). Workers’ rights are treated really seriously. But there is a lot of bureaucracy due to the development of social law and the public administration well, what is wrong. However, officials (like in Tax Office, *Vero*, in Social Security Office, *Kela*, in Customs Office, *Tulli*) are like partners or advisors, who are willing to explain some complicated rules or provisions, but they are never like strong men proud of having a power. Many official matters are managed to do by the internet also. So going back to the rule I have found out, Finland is an egalitarian society, where in fact the majority earn the same, and in which the middle class is strong and wide (as if you earn more, then you pay also more salaries in taxes, so finally the differences are very easily reduced by a progressive tax system). On the other hand, if you go to a doctor, you must pay about 20% of the whole cost of a given medical service...

⁴⁴ Thank you, Professor Patrick Dillon (Exeter, UK), for inventing this phrase during our talks.

But the health care system is well-organised and technologically advanced. There are some fees also for public services like providing a day care in a kindergarten (but again, on the other hand, children in schools receive books and all the school materials or tools free of charge; at the universities books are ordered by teachers to be bought for students by libraries).

So is it so socialist as the lovers of the NWS abroad Scandinavia and the Nordic countries really believe in this narrative that it is so? For me, it is much more complicated what we have here. It is a capitalism based on a private property and free market, with elements of strong social policy. I have no impression that I live in a socialist state, as some more libertarian-oriented people could ever think of that. As it was said, the NWS is changing, the rules are changing, and any ticking bomb is not seen. It is time to end up this kind of the narrative based on participating observation, in order to go to the last section on legal thinking: how the NWS influenced the way of thinking of lawyers in Scandinavia and in the Nordic countries?

5 Aarnio's theory of legal thinking in the Nordic Welfare State

In this part of the paper, I show the most important contemporary Finnish philosopher of law Aulis Aarnio's (2002) considerations on Finnish legal culture as well as on the impact of the Nordic Welfare State on this way of thinking and legal culture. The case of Finland is interesting, as its legal culture is based on the Swedish patterns and there is nothing strange in the Finnish legal culture for the other Nordic legal cultures. So it is just a good example of one of the Nordic legal cultures (see also Matti Niemi's consideration in this journal, that confirm this thesis directly). What is very interesting Aarnio (2002) rightly defined some problems and challenges concerning the NWS and state law twenty years ago⁴⁵. But before we start with Aarnio's (2002) narrative on Finnish legal thinking and the Welfare State, we have to face some other narrative also made in the West, in one of the Welfare States.

Very interestingly sound the words of the French academic legal scholar Francois Ewald (1985), who wrote that "Welfare state" is not a state that can be analyzed in terms of the liberal model, but it is not a way to a future socialist state either (EWALD, 1985, p. 40). He also noticed that because of the economic crisis (in the 1980s!), the social security expenditure is growing. Thus, we develop a special branch of law – social law. What is it? He says

[...] if social law is thought of both as a process of transforming the law, bound up with specific governmental practice, and as the development of a new type of law with a structure no longer the same as the old one, it takes on quite a different sense from that given to it by its reduction to labour and social security law alone (EWALD, 1985, p. 40).

⁴⁵ However, it is necessary to add that also in the German jurisprudence there was a lot of interests in challenges concerning the NWS and law. See especially this collective work: TEUBNER, G. (ed.), *Dilemmas of law in the welfare state*; Berlin, New York: Walter de Gruyter, 1985.

So social law is not about labour or social security law, but it is about “the formation of a new legal system from the viewpoint of sources as well as logic and modes of application” (EWALD, 1985, p. 40), “the way of thinking about the relationships of the whole to its parts, about the mutual relationships of individuals”, “the way in which the social contract is conceived” (EWALD, 1985, p. 41). This point of view corresponds with the Finnish legal theorist Kaarlo Tuori (2002), according to whom, social law is both a “special sphere of law” to regulate matters concerning “*social security*” and “*health care*” and is visible “within the whole legal system”, i.e. in administrative law, labour law, insurance law, law of torts, intentional law and constitutional law (TUORI, 2002, p. 468).

a. Finnish legal thinking

It seems to me that we can present the following scheme to show the development of Finnish jurisprudence (and way of thinking) since the 19th century till the 21st century⁴⁶.

Chart 3. Legal way of thinking in Finland

Doctrines, ideas	Natural law Hegelianism	Conceptualist legal dogmatics	Analytical legal school	Welfare State law doctrine
Behind the doctrines and ideas.	Metaphysics of law. Ontology of existence. Natural human values. Human nature. God or secular order of things.	Legalist approach. BGB as the pattern. Legal positivism. With constructive modification. Critique: by interest jurisprudence. Domination since the half of the 19 th century to the years following the WWII.	Modern Scandinavian realism. No speculation. No superfluous concepts in law. Dynamic society. Dynamics of law.	Legal policy. Social policy. Open texture. Principles. Discursive methods. Aims in law. Weighing and balancing (interests, principles).

Fonte: Elaborated by the authors.

In fact, we have three eras here that were important: the 19th century conceptualist legal dogmatics (inspired by the German tradition and jurisprudence and

⁴⁶ I focus on Aarnio's considerations (2002, p. 5-12). One may have a look also at a short but interesting introduction to this problem at Klami (1982).

related to legal positivism), the post-war analytical legal school inspired by the Uppsala school and Scandinavian legal realism (dominating after the WWII), and the contemporary Welfare State way of thinking (strong since 1970s, and dominating nowadays). What is interesting is that as a process there was a tendency of how to get rid of natural law and all ontological and speculative considerations in law and on law from the legal order, including the legal doctrine. It seems to me this process of the eradication of ontological-naturalistic dimensions did not resolve many problems concerning legal institutions, as they are still based even not on ontology directly, but on epistemology and epistemological questions and problems concerning e.g. intentionality and intention in law.

According to Aarnio (2002), in the 19th century, Hegelian philosophy was influential, but more in philosophy of state than in philosophy of law. The very Hegelian work on philosophy of law (*Rättsläran*, The Doctrine of Law) by the Finnish thinker of all the times Johan Wilhelm Snellman was never accepted as textbook for law students in Helsinki while his book on doctrine of state (*Läran om Staten*, The Doctrine of the State) was mandatory for them. If we talk about natural law significance in Finnish philosophy of law in the 19th century, we should mention that secularized version of natural law doctrine had a greater influence than Hegelianism. The mandatory reading was the 19th century German jurist Heinrich Ahrens' famous work on natural law. We must also remember that the official language at the university in Helsinki by the 1920s was still Swedish due to the traditions (actually, Finland was occupied by Swedes for five centuries by 1809), although the Great Duchy of Finland was a part of the Russian Empire since 1809.

In the end of the 19th century, the so-called conceptualist legal dogmatics (*Begriffsjurisprudenz*) won as a doctrine in the legal philosophy (theory). As Aarnio (2002, p. 5) explains, "the main idea behind conceptualist legal dogmatics is to identify those conceptual categories that are an essential part of every legal order". This tradition started by Georg Puchta in Germany and was developed by Finnish lawyers such as Robert August Montgomery or Robert Hermanson. As Aarnio (2002, p. 5) writes, "The explanation that the scholars representing conceptualist legal dogmatics gave for the pushing aside of natural law is interesting". It was simple: "a complex societal situation" required "more advanced conceptual instruments" than it was in a static society (*Rabbe Axel Wrede*). In the beginning of the 20th century, conceptualist legal dogmatics was dominating in the legal doctrine till the years following the WWII.

But due to some political and social reasons such as political liberalism, the autonomous status of Finland within Russia, the repression of the Czarist government, political conflict between language groups in Finland (Swedish- and Finnish-speaking), the rise of industrialization versus "anti-industrialist attitude" of the Finnish national movement, some new "constructive thinking" was needed (AARNIO, 2002, p. 6). So the "constructivist way of thinking" was near conceptualist legal dogmatics, especially after the 1918 Civil War, as still "legalist tendency" was significant. However,

the way of thinking was changed: even if we have some given legal norms, they are to be interpreted and systematized. As Aarnio (2002, p. 8) says, “In other words, the content of the valid legal order had to be uncovered by means of research”. It was a much more flexible way of thinking than the very legalist approach of the conceptualists. Of course, the “German constructivist” theory was so influential: “the conceptual system of the German *Bürgerliches Gesetzbuch* even provided a systematic model”, so “legal thinking was a means of working out the tasks and foundations of legal policy rather than a theory of research” (AARNIO, 2002, p. 8).

Rudolph Ihering became influential in Europe (a translation of his book was published in 1902 in Finland, showing the direction of the key issues of legal philosophy at that time, especially in Germany). The conceptualist legal dogmatics was modified by constructive way of thinking in terms of tasks or aims rooted in the law. It was a very important change in the Finnish way of legal thinking.

But so called interest jurisprudence (near Ihering) was more influential in research on legal policy than in the methodology of legal research, being only as a “warning signal” for “radical versions of conceptualist legal dogmatics” (AARNIO, 2002, p. 6). However, the discussion on jurisprudence in the end of the 19th and in the beginning of the 20th centuries was fertile (AARNIO, 2002, p. 8). Sadly, in the first decades of the 20th century, Finnish legal thinking was on the way: it was “the situation in disarray”, as it “was in search of itself” (AARNIO, 2002, p. 8). The domination of conceptualist legal dogmatics was undoubted, but the critique was also visible (the critique of the metaphysics of law by from the Scandinavian realism movement since the 1920s).

It is necessary to add that it was also the time of Scandinavian realism (the Uppsala school) and a very analytical and strict approach to statements, norms, values, etc. After the WWII, the Finnish-speaking scholars took responsibility for “the modernization of legal thinking” (AARNIO, 2002, p. 10). The clue of their ideas was deeply rooted in the modern Scandinavian realism (the realism was created in Uppsala by Axel Hägerström, and developed by Karl Olivecrona, Anders Vilhelm Lundstedt and Alf Ross). The Finnish representatives of this analytical way of thinking were Osvi Lahtinen, Simo Zitting, Jorma Vuorio and P. J. Muukkonen, and the father of modern legal thinking in Finland, Otto Brusiiin. Especially Zitting was important for Finnish analytical legal theory. For instance, he discussed the problem of property rights in context of social factors that are reflected in the position of especially the real-estate owner: when there are some limitations of property rights by public law, then we have also a pressure to change and reform the concept of ownership in itself. Aarnio (2002, p. 11) concludes in this context: “In other words, the dynamics of social development posts new challenges for traditional patterns of legal thinking. Legal research in itself must undergo a renewal, and this implies a revision of its basic theoretical frame”. It was Zitting who was supposed to have said: “there is some reason to take a critical stand on the traditional concept of ownership” (AARNIO, 2002, p. 11).

The criticism of traditional legal dogmatics by analytical legal dogmatics (theory) was of two reasons: 1. all “superfluous factors”, elements, and “essentialist speculations” inspired by the German legal dogmatics, must be “eliminated as far as possible from the language of legal dogmatics”, and this argument is also visible in Matti Niemi’s paper, while talking on ontology and law, 2. legal theory must be relevant to changes in a dynamic, not static anymore, society, and also “grasp the internal dynamics of the legal system”, so “the solving of problems aroused by the dynamics of society was an important practical motive for this argument” (AARNIO, 2002, p. 11).

However, in spite of the fact that the influence of the analytical school has been still strong and many results of this way are recognized by the “science standard” and the adjudication (the courts, practice of law), “modern law also opens other types of challenges than those met by the analytical school” (AARNIO, 2002, p. 12). The Welfare State creates new problems indeed. As Aarnio (2002, p. 12) says, “the law of the Welfare State compels legal thinking to adopt new ways to master societal problems. Instead of traditional rule-type norms, open texture norms of all kinds as well as principles have an increasingly important role in legal orders”, what is similar to Ewald’s (1985) point of view described above. “The world of principles” and balance or optimization of the colliding principles changed the lawyers’ way of thinking, so the methodology of law has been also changing, as Aarnio noticed (AARNIO, 2002, p. 12). So some new schools have come and are essential in the Finnish jurisprudence nowadays: the Finnish argumentation theory (Aulis Aarnio and Urpo Kangas), social civil law (so called alternative legal thinking: Lars Eriksson, Thomas Wilhemsson, Juha Pöyhönen), critical legal positivism (Karlo Tuori).

But what was behind all the theories was the Welfare State, new social and legal challenges, new ways of thinking on law – not as about a rule, not in a very legalist or only analytical way, but much more like about a balance of principles, the balance of interests, what was a completely new run in legal thinking. It seems quite similar to the Dworkin “revolution” (DWORKIN, 1986). Was it “the rhetoric run” in the jurisprudence? – as Aarnio (2002, p. 12) says about the argumentation theory; in global terms, it was something wider, as it was just, say, the *Welfare run* on legal thinking.

It is also interesting how fast the jurisprudence (legal philosophy/theory) became very practical: first, natural law as primitive or speculative considerations was eradicated, then all conceptualist speculations were removed to get rid of all ontological or axiological issues in law. It is also characteristic of the Nordic Legal Culture. Now pragmatism is a part of the Welfare State law ideology that as pragmatic tool to achieve some aims of social policy is not based on natural law but on, say, the practice of living and the strong principle of equality that went from social democratic movement. Methodologically, this anti-ontological approach in law might be wrong, as the first notion of the minimum social security is a presupposition on the most fundamental

human needs and rights coming from just both human dignity and nature (so what is the human nature? And why are we to protect some social rights?).

b. Impact of the Welfare State on Finnish legal thinking

Anyway, in the previous part, we explained a little bit the way how Finnish legal thinking was developed and determined and how an average Finnish lawyer may think due to some “historical” reasons. Now, we consider how the Welfare State and its ideology or policy influenced Finnish legal thinking. We still keep the case of Finland to be methodologically consequent.

What seems to me to be important in Aarnio’s narrative on the Welfare State and its impact on state law is of two kinds. Actually, these two theses are important:

1. Open texture of statutes, policies (goals) in statutes, and general clauses are most important in the legal thinking related to the NWS (Aarnio’s thesis I).
2. Material justice is made by open texture of statutes (Aarnio’s thesis II).

Paradoxically, Aarnio (2002) starts with the rule of law, claiming that the Welfare State changed the rule of law ideology. So the one ideology that is unquestionable paradigm of Scandinavian and Nordic societies changes the other one that is an unquestionable in legal theory/philosophy or constitutional law and all the legal doctrines almost everywhere.

It is interesting that also Francesco Viola (2007) flashes on the problems of the relationship between the rule of law and justice. As Viola (2007, p. 106) observes in this context “(...) it is not enough to do correct things, but it is also necessary to do them in a just or correct way”. Viola (2007, p. 107) pays attention to people’s beliefs that what the (even bad) ruler is doing is just. That is why he says: “This, however, confirms that in the common sense of the term the rule of law as a state of affairs has something to do in its own way with issue of justice”. So justice in a material sense must be related to the rule of law ideology, even if it is only about people’s feelings and imaginations of how just the ruler’s policy is. Viola (2007, p. 107) concludes, referring to fundamental political values that are behind any law:

In this sense even the most rigorously formalistic conception of the rule of law has to admit that its principles also have a moral meaning and a moral status in the sense that *rebus sic stantibus* it is unreasonable to reject them, because they protect ethical-political values, though functional ones – first of all the value of legality⁴⁷.

Also Aarnio (2002) talks about the material justice, too.

Thus, going back to Aarnio (2002), he maintains that the ideology of the rule of law (state) has been very widely accepted in Finland and the Finnish jurisdiction

⁴⁷ Also the Nobel Prize winner and economist Joseph E. Stiglitz (2012, p. 234) considers “how inequality is eroding the rule of law” and whether the US as a state guarantees “justice for all”.

has been very formalistic or legalistic as to its nature, character. However, Finland as one of the “Scandinavian Welfare States” had to face the changing role of this paradigm. First, we must go back to what “the formal rule of law ideology” is. Aarnio (2002) enumerates the following elements of this ideology: 1. “the *separation of state powers*”, with independent position of judges; 2. “a special *legal profession*” (professional lawyers; historically, first, against absolutism, and later, to take care of legal issues in societies); 3. “the idea of *legal protection*”, and arisen from this “expectation of the citizens for legal protection” and “expectation for legal certainty”; 4. the idea of “legal certainty” guaranteed by “*discursive principles*” and “*legal procedure*”; 5. the structure of legal norms is clear: there are rules and principles; “the *role of principles*” is subordinate to the rules such as commands, prohibitions, permissions, and “the principles are complementary to the rules”; the principles are like an “umbrella” over the system of rules; 6. “the *structure of the argumentation* is formal in nature” (based on a syllogism, however, Aarnio (2002, p. 16) shows that “the syllogism idea refers only to an *ex post* justification”, when the judge must write down the justification, then he “clothes” his decision in a “logical form”, he says); 7. emphasis of “*formal justice*”. Aarnio (2002) takes an example of the formal equality of spouses, saying that it does not guarantee the substantial justice, referring to Kelsenian theory of pure law. Any rule-based system can guarantee a substantial justice, this is always true.

For Aarnio (2002, p. 17), it is clear that the Nordic countries that are “the Scandinavian Welfare States” (which a phrase he prefers to follow) are “text-book examples how the materialization of the rule of law idea functions”. By the way, the materialization of law was mentioned by Max Weber (while writing on rationality in Europe). Aarnio (2002) enumerates the two essential and necessary elements and goals of social policy of “the Welfare State ideology” (he also prefers this expression): 1. “the minimum social security for everybody”, 2. a “good life” (AARNIO, 2002, p. 18). There is nothing new here, as we have repeated that many times in the paper. What is new is Aarnio’s (2002) theory of how the rule of law was changed, and this seems the most interesting for modern lawyers in many countries.

First, Aarnio (2002) states that even the separation of state powers is doubtful and “blurred” in the Nordic countries. He takes the case of Finland to consideration. He flashes on the problem of the strengthening position of the executive power in relation to the legislator (e.g. the example of how the state budget is prepared) and the problem of the relationship between the parliament and the Supreme Court (that became a precedential court with a great practical power in the legal order). Secondly, while talking about “*legal profession*”, he says that other types of professionals (sociologists, economists, people with administrative education) “are responsible for functions that earlier belonged only to lawyers (jurists)” (AARNIO, 2002, p. 18). Their quality of legal education is different, and as they are responsible for the law application, also the application of law changes.

However, Aarnio (2002) admits that many formal and important features of the rule of law ideology are still valid such as legal protection, legal certainty, the possibility

to appeal, procedural rules. So what changed the most? Aarnio (2002, p. 18) refers to the mentioned above points 5, 6, 7 of the features of the formal side of the rule of law ideology, so the most important changes concern “the *role* of principles”, “the *structure of the argumentation*”, “*formal justice*”. Here Aarnio (2002, p. 18) finds out “the true core of the materialization of law”. The materialization of law is, as I could understand it, like giving a law new interpretations due to some important social reasons, or like the rule conceptualization by the social context in which we must make a decision in the law application or just in legislation as well.

First, what we have is the radical change of the “*structure of statutory norms*”. Aarnio (2002, p. 19) speaks about the “bulk of the legal order” as a set of statutory rules and “the classical principles” (such as *nullum crimen sine lege, in dubio pro reo*), but this bulk was changed by many new types of statutory norms. The Finnish scholar gives such examples of the new norms: 1. statutes are to “only define the *goals* (policies), not exactly the legislative means”, especially what is visible in the field of social welfare and planning policy; 2. “the so-called *resource norms*” give many new opportunities to officials, as there are no “exact prescriptions on how the resources have to be allocated”; 3. but the most interesting are “*general clauses* and statutes of *open texture*”, as they are characteristic of the “Scandinavian Welfare States”, as Aarnio (2002, p. 19) says. What is the clue here is the notion “By means of such “open” statutes, society tries to produce *material justice*”. The general clauses are the most important proofs of the materialization of law. Also human rights or the constitutional rights are very significant in this context. What is clear for Aarnio (2002, p. 19), “Material (substantial) justice and reasonableness cannot always be reached by means of strict rules”.

Then the judge may “*weigh and balance*” different factors such as the protection of the weaker party or the interests of the parties in general. Aarnio (2002, p. 19) presents one of the provisions of the Swedish (and Finnish Act) of Contracts: according to this provision, the court has the right to adjust the unreasonable terms of a contract (it is so even if we have to face the old Roman principle *Pacta sunt servanda* in our mind). The aim is clear: to protect the weaker part of the contract. The same is with the weaker members of the society that is also based on a kind of contract (the social one, not a legal contract in strict sense) in the Nordic countries.

Secondly, Aarnio (2002, p. 19) claims that “*thinking operation* cannot any longer be simply a logical one”. So “all kinds the *discursive methods*” are more relevant in the modern Welfare State, also (or “even”) in Finland. And “weighing and balancing” is “*built in*”, in “the modern post-industrialized statutory interpretation”. For Aarnio (2002, p. 19), although many elements of the formal side of the rule of law ideology (it is also his phrase) such as the most fundamental concepts, principles, forms, formalities, etc., are still valid, and the formalities and forms “keep” the legal order as a whole, “the materialization tendency” made the idea of formal justice very weak. However, it seems that Aarnio (2002) is not consequent or not precisely puts the accent on these parts of the story while describing, first, the collapse of the forms and

formalities and all general doctrine in the beginning, and then in the end, saying that these forms and formalities are still important indeed. But maybe I am wrong, and these two tendencies are happening together nowadays indeed.

What is crucial in Aarnio's (2002) conclusions is the analysis of the tendencies that "*meet* in the modern law": 1. "the tendency towards formal qualifications (as formal justice)", 2. "material qualifications (as material justice and reasonableness)". The problem is "how to *balance* them". It is a very big practical problem, as like Aarnio (2002) notices, the Welfare State the courts often follow general principles, using very discursive methods. Aarnio (2002, p. 19) ends up as follows:

The possibility to control the *content* of decisions thus becomes extremely important. However, the only *means* to realize this kind of control is to open the decision to well-founded and coherent reasoning. That is why court decisions *have to* be debated in a proper and public way and why, in a Welfare State, they are often argued according to these principles.

Public discourse and public legal debates on courts decisions are also crucial in this kind of new legal order, as ordinary people should understand why the courts had decided so-and-so, what kinds of arguments it used, and why these ones and not such-and-such etc. Social understanding of both such legal processes and the basis of the legal decisions, which are made on a very open ground, can increase the legitimacy of the whole legal and political systems, as it means that the people are treated seriously as the citizens, not only consumers or voters.

In the past, such legal philosophy or legal reasoning in courts as described by Aarnio (2002) would be impossible, as the way of thinking was more legalistic and formalistic in the past. The NWS changed the way of thinking of the Nordic lawyers.

c. New challenges for the legal thinking in the Welfare State due to the financial crisis

What new challenges for/of the legal thinking in the NWS does Aarnio notice? Since the theory of legal reasoning faces new demands unknown for the formal rule of law ideology, then Aarnio (2002, p. 20) puts on the table the following problems and challenges:

1. "New standards for rational legal discourse: the standards of communicative rationality".
2. "New discussions about the substantial criteria for reasonable decisions" (a new doctrine of the source of law; deeper deliberation on law and morality; and analysis some "crisis tendencies").
3. The "crisis tendencies" are: "The complexity of the order"; "The weakening of general doctrines" ("the weakening role and significance of all kinds of forms and formalities"); "Excessive specialization of the legal profession"; "The possible alienation of ordinary people (who are not specialists) from

legal reality” (AARNIO, 2002, p. 20). By the way, staying here for a while, I think all of them are real facts now, e.g. every legal order is too far from ordinary people who use ordinary language and do not understand not only any law but also any lawyers and officials. On the other hand, I agree to the sad statement on loosening the ballast of the general doctrine (like the rule of law) and not paying a special attention to any of them (maybe formally only, to human rights doctrine in the West), but the thesis on weakening of forms and formalities is rather doubtful, as I said: there are many formalities in the contemporary early 21st century NWS. The bureaucratic machinery of the formal side of the NWS is like a new Leviathan in the most pejorative sense of this word. Sometimes those formalities may overturn even good arguments and morally or rationally, well enough, justified claims in decision-making processes.

It seems that Aarnio (2002) still sees many new opportunities for lawyers in the future while talking about the NWS. He admits that due to the economic crisis (he meant this one from the beginning of the 1990s, after the collapse of the Soviet Union!) some traditional features of the NWS might be changed or gone to lose. However, the mentioned above “the changing features of the modern world” must be taken into consideration (AARNIO, 2002, p. 20). Who must do it are lawyers or philosophers of law, or political and social theorists.

6 Conclusions

All theses from the beginning of the paper should be repeated here; I think they were defended. But instead of doing that, I flash on additional issues also to sum up my theses and considerations. My aim was to conduct a kind of very comprehensive research: to understand the NWS, its development and philosophy, and its impact on legal thinking, and to understand how the NWS reacts for crises such as this one of 2007. In fact, it was also necessary to try to understand the Nordic countries history, culture, values.

For me, the NWS is both a political philosophy (as an ideology and as a practice) and contemporary economic policy in the Nordic region.

In the NWS ideology, I see a kind of strong respect for socialist, conservative and liberal values in the eyes of a Nordic pragmatic nation – dignity and well-being were put on the table against poverty and hunger. Is it generally possible? It’s like the great philosopher Leszek Kołakowski’s (1990) dreams on how to be a liberal-conservative socialist being come true: all the ideas such as liberal ones (freedom of speech, of religion, of association, of conscience; the right to private life), conservative ones (values of family; of marriage; of taking care of children; of public morality) or socialist ones (state social help for the poorer; egalitarian society; progressive

taxation; wide social expenditures; Welfare State) are important in a given society based on the NWS ideology.

Sometimes the NWS scholars use a metaphor of mountain to show some challenges facing the NWS. So as Hellman et al. (2012) write, following Christiansen et al. (2005), what we see is “an image of a large and solid welfare state mountain that is gradually being eroded by evil forces, often embodied by capitalist and neo-liberal values” (HELLMAN et al., 2012, p. 15). However, Hellman et al. (2012, p. 15) think that a better metaphor for the NWS is the notion of “*välfärdsbygge*” (in Swedish), what means “an ongoing building site for welfare construction”. They explain also that: “the structures of the building will manifest the entity, and although the frontage or shape of the corpus may change, there are still some basic pillars that must be in place in order that it can be counted as a welfare state” (HELLMAN et al., 2012, p. 15).

The aim of the NWS is (and was) to make a society equal, the society of equal opportunities, with the minimum of social security, free access to education and health system as well as to social benefits and knowledge or job market, etc. In the 20th century, human rights like the right to privacy, freedoms of speech or associations are to support the NWS. Of course, while talking about the NWS, we should consider what is written on the paper (constitutions, laws, policies, strategies, documents) and what is done in practice (real actions of officials and citizens, people; decisions, etc.). It seems interesting that the American constitution says about right to be happy, and in the American society, the shoeshine boy’s myth based on individualistic philosophy is important, while happiness in Scandinavia and in the Nordic countries means to have the right to a good standard of living conditions, but what is interesting – the right that is guaranteed by a state. It is an absolutely different practical political and social philosophy. It is also necessary to break some stereotypes about the NWS: “all is free” is a tremendous myth. Although a system based on the NWS might be still universal and non-contributory, nowadays it may turn into some restrictions as well. But the essence of the NWS – that it is a system based on Justice and Equality as practical values – remains unchanged.

Paradoxically, Christopher Pierson is right when writes that “the welfare state is certainly paradoxical” (PIERSON, 1998, p. 221). On the one hand, we have “the minutiae of the pension and benefit rights of millions of citizens”, and on the other, “the sheer scale of its growth is one of the most remarkable features of the post-war capitalist world” (PIERSON, 1998, p. 221). But, he says, there are many misunderstandings on “the crisis” of the welfare state, as even the crisis is passing, and the system is changing, having to face many new questions like relationships between economic and social policy or employment and income etc. (PIERSON, 1998, p. 221). Of course, to be honest, there are some problems regarding “contradictions of universal entitlement” shown by e.g. Neil Gilbert (1993)⁴⁸.

⁴⁸ He starts: “One of the most forceful claims for universal entitlement to social services is the social solidarity inspired by government’s ministering to the common needs of all citizens irrespective of income. When everyone is eligible for subsidized services, even if fees are charged on a sliding scale, society is not sharply divided into classes of givers and receivers, and the latter are not stigmatized by recipient

What is also important is that the NWS is consistent with the European Union's aims and values. The EU was based on two pragmatic values from the very beginning (since 1940s): peace and welfare⁴⁹. On the other hand, although J. J. Rodger (2000, p. 183) refers to "the human foundations of the Western European welfare state tradition", he admits that the EU is not able to provide "a defence of the principle of state welfare", since it is the task of the member states. The idea of the minimal state where the state is not a provider of social services sounds strange for many European countries. So is for the Nordic countries.

In the Nordic countries, welfare is related to peace, as without peace (in external relations) and dialogue (in internal affairs) welfare understood as a good living (material sense), good well-being, good life conditions, good quality of life (also immaterial sense, just individual and social satisfaction) is not possible. In this context, the NWS model is directly related to the EU values as well. The EU model proposes a kind of intervenient policy active in job market and by social work, however the two models are comparable only in general categories, but are not the same in details. So going to the end with these considerations, I would bravely say that even if I have some serious attentions or obstructions concerning a bureaucratic character of the NWS, it seems to me there are many ways of going to and reaching social happiness, and one of them is the NWS, that worked and works in practice, not only on the paper like it is in many cases of constitutional slogans on social and economic rights used around the world, from America via Europe to Asia or Africa.

Like a bolt out of the blue, it may sound that there are many capitalist, liberal and corporatist solutions in the NWS nowadays. In Finland, for instance, the system of pensions is private, so social contributions are transferred to private fund investments only. Is it a socialist country?

It must be also said that there are also differences between the Nordic countries; there are more liberal and flexible countries like Denmark (workfare!) and more conservative ones like Finland, where during all the recent elections in the new millennium the old Welfare State is mentioned as a pattern ("a strong maintenance of a political rhetoric about preserving old welfare state ideals" (KANANEN, 2014, p. 160)). In Finland, stability of job and security of job prevail over stability of employment. In Denmark, employment in private sector is flexible, but unemployment rate is low: because it is about security of employment, not about security of a concrete job for a whole life.

Welfare liberalism is more capitalist, flexible, dynamic and new way-oriented. Welfare conservatism is more social-democratic, static, stable (*status quo* of the

status. Universalism is believed thus to have a binding influence on the social fabric" (GILBERT, 1993, p. 70). These "universalist proposals" coming from "humanistic philosophy" destroyed the difference between receivers and givers, but in the US, individualism and the market economy "still hold the edge over socialist doctrine" (p. 71-72).

⁴⁹ More about the two pragmatic values of the EU since the 1940s: D. Bunikowski, *Chosen Axiological Problems Concerning the Treaty on a Constitution for Europe*. In: MALISZEWSKA-NIENARTOWICZ, J. *European Union at the crossroads: the need for constitutional and economic changes*. Toruń: Jean Monnet Centre for European Studies, Faculty of Law and Administration, Nicholas Copernicus University, 2007.

welfare privileges and rules) and socialist. Welfare conservatism is – in this context – a kind of conservative socialism that is not to be reformed (unreformable) and does not want any changes in the system. The first way may prevail in Scandinavia and Iceland, and rather not in Finland (sections 18 and 19 of the Constitution). Maybe a bit more later it may appear also in Finland, due to the economic perturbations and difficult both international and domestic geopolitical situation in the Nordic and Baltic regions.

The end of end, going back to the title of the paper, I claim as follows:

The NWS changed the law. The law was changed in two ways. The content was changed. It is based on social law. The methodology (way of thinking) was changed. It focuses on weighing and balancing the best interests and principles and on open texture of statutes.

The financial crisis of 2007(?) did not change the NWS. There were many crises like that, e.g. the oil process crisis of the 1970s and the economic crisis of the 1990s after the collapse of the Soviet Union. So was the financial crisis of 2007. But the NWS is still changing indeed.

The very practical and pragmatic philosophy behind the NWS remains the same: to help citizens in difficult life situations such as unemployment, or in access to health care, and to create equality of opportunities by education and the minimum social security. When we talk about changes in the NWS, many factors must be (and are) still taken to consideration: demographical (the population is ageing etc.), financial (limited financial resources, especially in time of economic crises), social issues (like migration and disintegration – we face many new incomers).

The deal on the NWS within the Nordic societies is always modified by some external factors in relation to the social contract. The NWS is of course not a religion in a strict sense, but it is like a “secular religion” (as people believe in such a value as the Welfare State) – but even religion in a strict sense, *stricto sensu*, always changes, since its interpretations and social factors are still different. Interpretations and changes of the NWS are also such a problem and a case.

O MODELO DE BEM-ESTAR NÓRDICO, DIREITO, E A CRISE FINANCEIRA

Resumo: O artigo foca nos problemas da história, do desenvolvimento, da axiologia e futuro do Estado de bem-estar nórdico. As considerações são feitas sob o contexto da crise financeira que começou em 2007. O autor leva em consideração também como a ideologia do Estado de bem-estar nórdico influenciou o direito estatal e a maneira do pensamento jurídico na Escandinávia e, amplamente, nos países nórdicos. O caso da Finlândia é usado para mostrar como o conteúdo e a metodologia do direito foram modificados. Afirma-se que o Estado de bem-estar nórdico ainda está

em mudança devido aos fatores sociais ou financeiros da crise. Tal ideologia é uma filosofia muito prática sobre como prover oportunidades iguais (o mínimo de segurança social, acesso à saúde, educação gratuita) para todos na sociedade. O contrato social é a base do Estado de bem-estar nórdico. Ele poderá ser modificado devido à crise econômica até um certo ponto, claro, mas sua filosofia permanece a mesma: ajudar o mais fraco.

Palavras-chave: social; crise financeira; igualdade.

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