# THE NEGATIVE FREEDOM AND POLITICS OF MODUS VIVENDI

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#### ABSTRACT

**Aim.** The aim of this study is to provide a selected theoretical-methodological analysis of the concept of negative freedom in relation to the political sphere of its application, to reveal and clarify the main political implications and normative claims that its recognition implies for political theory.

Concept. From a methodological point of view, the study is based on three justified assumptions: (1) that in modern political philosophy the idea of individual freedom is the main normative basis for political theories, (2) that philosophical development has brought several competing concepts of this idea and (3) that from its own content the concept implies basic requirements for its social and political application. For the purposes of theoretical-methodological analysis, we distinguished two different moments in the concept of individual freedom (freedom as a question of will and freedom as a question of practice) and from their point of view we examined the selected concept of negative freedom in an attempt to reveal its implicit claims at the political level.

**Results.** In the article, we have succeeded in formulating and arguing for the thesis that the concept of negative freedom in its applicability programmatically leads to a modus vivendi model of politics. We have shown that the concept of freedom and the model of politics are interrelated and normatively interdependent.

**Conclusion.** The main conclusion of the study is that the above model of politics cannot be generalised and considered equally acceptable for all conceptions of freedom and the good life.

**Keywords:** moral autonomy, negative freedom, normative political theory, politics of modus vivendi

#### **INTRODUCTION**

Normative political theories are characterised by their close connection and dependence on certain moral ideals that they defend and try to articulate at the political level, either critically or constructively. Above all, herein lie the so-called moral foundations of politics (Shapiro



2003). Modern political philosophy, unlike ancient and medieval philosophy, is distinguished by its emphasis on individual freedom as the main normative demand. First of all, in considering individual freedom as a normative concept, however, it is necessary to come to terms with the fact that we are not dealing here with one coherent and consistent concept, but are simultaneously confronted with several fundamentally different concepts of freedom that compete with each other for the position of a normative basis for political theory. The philosophical development of modern political thought has generated several concepts of freedom, and the widespread notion that only some political philosophies defend the ideal of individual freedom is deeply mistaken and rather the result of a certain effort to ideologically privatise this key value. Similarly, we are confronted with different ways of interpreting this development and distinguishing it. Theoretical difficulties are also caused by the fact that the boundaries of the scope of these concepts are quite diffuse and their contents often overlap with each other. Therefore, "it is not always clear what "freedom" means, in either popular parlance or academic discourse" (Askland, 1993, p. 124).

The most widespread conceptual distinction of individual liberty in political philosophy is in the form of negative and positive liberty, popularised in contemporary discourse primarily by Isaiah Berlin (2002) with his famous essay "Two Concepts of Liberty". In contrast, Axel Honneth's (2014) more recent reconstruction of the philosophical development of the idea of freedom as individual autonomy reveals three distinct concepts of freedom: negative, reflexive, and social freedom. Both models of the differentiation of freedom coincide in the identification of the negative concept as a certain initial concept in modern political philosophy. They differ primarily in their interpretation of the later conceptual development of freedom, what Berlin summarises as positive freedom, Honneth distinguishes in the separate notions of reflexive and social freedom. Based also on these models of differentiation, in this study we will focus on the theoretical-methodological analysis of the negative concept of individual freedom in relation to the political sphere of its application in an attempt to reveal and clarify the main political consequences and normative claims that result from its recognition for political theory.

## INDIVIDUAL FREEDOM IN MODERN POLITICAL PHILOSOPHY

When looking at modern political philosophy from Thomas Hobbes to John Rawls, one value especially stands out above all, the value of freedom in the sense of man's moral autonomy. In the words of Immanuel Kant, a leading philosophical authority in the political defence of freedom as individual autonomy, this value expresses the deep conviction that:

no one can force me to be happy in his way (according to how he conceives the welfare of other human beings), rather each may pursue happiness in the way that he sees fit, as long as he does not infringe on the freedom of others to pursue a similar end. (Kant, 2006, p. 45)

In a similar spirit it is characterised and highlighted also by another classic and a passionate defender of freedom, "the only freedom which deserves the name, is that of pursuing our own good in our own way, so long as we do not attempt to deprive others of theirs, or impede their efforts to obtain it" (Mill, 2001, p. 16).

The fact that it is the value of freedom that has acquired such a dominant position in modern moral and political thinking has its justification, its content and focus best expresses the individualising nature of modern society and the normative demands contained in it. As Honneth states, "of all the ethical values prevailing and competing for dominance in modern society, only one has been capable of leaving a truly lasting impression on our institutional order: freedom, i.e. the autonomy of the individual" (Honneth, 2014, p. 15). The mystery of the political success of the value of freedom in the sense of individual self-determination, according to Honneth, lies in the fact that, compared to other competing values of modernity, it systematically and normatively combines an understanding of the individual with a political conception of the ordering of society. They cannot be consistently thematised in isolation, because the political implications for society flow directly from the way in which individual freedom is understood, "its conceptions of what the individual regards as the good also contain indications of what constitutes a legitimate social order" (Honneth, 2014, p. 16). And in principle the reverse is also true, in every normative political theory it is possible to identify and reconstruct a certain understanding of individual freedom, a certain value and interpretative attitude towards it.

### INDIVIDUAL FREEDOM AS A NEGATIVE CONCEPT

In modern moral and political thought, the concept of negative freedom is undoubtedly the most widespread understanding of individual freedom. This is already due to the fact that, historically speaking, this notion stands at the very beginning of this thought, and other ways of understanding freedom were formed in contrast to it, above all as a critical reaction to its limits; this is already evident in Jean-Jacques Rousseau and Immanuel Kant. The negative concept of freedom is an original creation of modern moral and political philosophy, unparalleled in its pre-modern forms, as shown by the well-known distinction of freedom into ancient and modern forms formulated by the French philosopher Benjamin Constant (2015, also see Květina 2013). It has its philosophical roots in the moral-political thought of the early modern period, in social contract theories, and is a con-

sequence of their specific methodological perspective, especially the way they conceptualise the relationship between the individual and society. The concept of negative freedom can therefore be found formulated in its classical form already in Thomas Hobbes (1965), according to whom "Liberty, or Freedoms, signifieth (properly) the absence of Opposition; (by Opposition, I mean external Impediments of motion)" (p. 161) and "a Free-man, is he, that in those things, which by his strength and wit he is able to do, is not hindred to doe what he has a will to" (p. 161). The attribute of the negative in connection with freedom thus refers to the absence of social obstacles that would hinder individual self-realisation, and a simple proportionality logically applies to the exercise of individual freedom understood in this way, "the wider the area of non-interference the wider my freedom" (Berlin, 2002, p. 170). In this form it is such a broadly naturalistic understanding that it can be applied not only to humans but equally well to animals, as Hobbes notes. This remarkable fact alone should raise doubts as to whether this is a sufficient and adequate concept for representing and thinking normatively about human freedom. In any case, the negative understanding of freedom is characterised by a number of specific features, which we would like to point out in more detail.

From a formal point of view, any complete notion of individual freedom as autonomy or self-determination contains in some way two moments. The first moment concerns the relationship of the individual to the determination of his goals; the question here is whether these goals are an expression of the individual's own will, or whether they are merely determined, given or imposed in some way. In its normative form, this moment emerges as a categorical demand that the individual determine the goals of his or her life by his or her own will. The second moment then concerns the question of the possibility of practical realisation of these goals, it concerns immediate practice and takes into account the possibilities of the individual to transfer his will from the plane of consciousness to the plane of being, i.e. to successfully realise his goals in practical action. In relation to the goals that he has the possibility to realise, the individual is free, otherwise he remains practically unfree (whatever we call it). In the first case, freedom is a matter of determining the will; in the second, it is a matter of the possibilities and means of practice that the successful realisation of the will requires. These two moments are closely related and dependent on each other, without being identical. Methodologically and analytically, these issues can be separated, but any formulation of a meaningful notion of freedom must deal with both issues in some way. To capture the proper, specific content of the concept of negative freedom, we will look at it first in terms of the first question and then move on to the second.

# NEGATIVE FREEDOM AS A QUESTION OF AUTONOMOUS WILL

The question of the determination of the will and the goals of practice is dealt with by the negative concept of freedom in a simple and straightforward way; the relation of the will to the goals is always and fundamentally considered autonomous, respectively this will is attributed the status of autonomy and moral acceptance only by virtue of the fact that its immediate and final bearer is a certain person, regardless of the concrete motives, specific content or practical orientation of this will. Everything that an individual wants in some way is unconditionally regarded as an expression of his autonomous will, an expression of his freedom. From the formulation of the concept of liberty, it logically follows that no additional restrictive requirements or criteria can be placed on this will, as this would contradict the very negative definition of the individual's liberty; it would constitute an interference with his or her freedom. From this then also comes the now widespread argument for ethical pluralism, with its normative demand for value neutrality, for political respect for the irreducible and incommensurable range of values and goals that individuals in modern society pursue (Turčan, 2019). Simply expressed, whatever the individual wants is an expression of his freedom and free self-determination, and therefore legitimate and lawful. It is from this simplicity, according to Charles Taylor, that the notion of negative freedom derives its popularity and persuasiveness, "it allows us to say that freedom is being able to do what you want, where what you want is unproblematically understood as what the agent can identify as his desires" (Taylor, 1985, p. 215). It is an expanded understanding of freedom in the common consciousness, "the idea which people most commonly have of freedom is that it is arbitrariness" (Hegel, 2008, p. 37), that "freedom is the ability to do what we please" (p. 38). In the sense of choosing one's goals and forms of self--determination, the individual is fundamentally and always free, so the question of negative freedom actually lies in practice, in the possibility of practically fulfilling one's chosen goals, not in setting them. In this sense "from the use of the word Free-Will, no Liberty can be inferred of the will, desire, or inclination, but the Liberty of the man; which consisteth in this, that he finds no stop, in doing what he has the will, desire, or inclination to doe" (Hobbes, 1965, p. 161).

But if we look critically at the negative notion of freedom from this point of view, it turns out that it is "a concept of freedom whose primary aim is to defend idiosyncrasy" (Honneth, 2014, p. 23); "all life aims, however irresponsible, self-destructive or idiosyncratic, must be viewed as part of the aim of realising freedom, provided they do not violate the rights of others" (p. 25). At the very least, "it is fairly clear that the negative sense of freedom largely ignores concerns about self-realisation and false consciousness" (Askland, 1993, p. 131). This is because it defines the question of

self-realisation only negatively, considering this definition to be sufficient for its success, and it does not problematise the question of consciousness by distinguishing between true and false consciousness, nor does it problematise the question of will by distinguishing between autonomous and heteronomous will. On the contrary, he simplifies these questions phenomenological as much as possible and therefore lacks any normative criteria for such a distinction. In the philosophical milieu of the early modern period this was partly understandable, given the degree of scientific knowledge, but in contemporary philosophical discourse such naive simplification seems dubious to say the least.

Most authors defending the negative concept of freedom in their political theories do not operate with such a "pure" form of it; for example, Taylor in his critique identifies such an understanding only with Hobbes and Jeremy Bentham, Honneth reveals it in contemporary political philosophy especially in Robert Nozick (1974). Many theorists, on the other hand, seek to soften the above implications by introducing or assuming certain intrinsic constraints on the individual's will in setting his or her goals. In doing so, they most often invoke rationality, sometimes even compassion or solidarity. At that point, however, such theories inadvertently leave the proper terrain of negative freedom and move beyond it towards the so-called concept of reflexive freedom (Honneth, 2014) or self-determining freedom (Taylor, 2003) or positive freedom (Berlin, 2002).

### NEGATIVE FREEDOM AS A QUESTION OF SOCIAL PRACTICE

A specific feature that characterises the negative understanding of freedom, in its various theoretical forms, is also the principled and categorical separation of freedom from its necessary means. The question of means is irrelevant from the point of view of negative liberty, not because it has been declared irrelevant or unimportant to the exercise and enjoyment of liberty; negative liberty theorists are, of course, aware that the realisation of ends in practice is contingent upon and dependent upon the availability of means, but because they deliberately exclude the question of means from liberty as belonging to a different sphere, precisely by reducing the notion of liberty to the absence of external impediments to freedom of movement that may be imposed by others, whether individually or collectively, "but when the impediment of motion, is in the constitution of the thing itself, we use not to say, it wants the Liberty; but the Power to move" (Hobbes, 1965, p. 161). Freedom is understood as a free social space for potential movement, and the means necessary for real movement do not fall directly into the sphere of freedom. In a negative sense

being free is a matter of what we can do, of what it is open to us to do, whether or not we do anything to exercise these options ... it is a sufficient condition of one's being free that nothing stand in the way. (Taylor, 1985, p. 213)

According to critics, the exclusive focus of freedom on the absence of constraints fundamentally devalues this value in practice and makes it practically worthless for many, aptly illustrated by Anatole France's sardonic quip, "that under the French law of his day the poor were prevented no more than the rich from sleeping under the bridges of Paris, begging in the streets, and stealing bread" (Shapiro, 2003, p. 85).

The reasons for such a minimalist definition of freedom, according to Taylor, are to be found in the anti-metaphysical, materialist and naturalistic orientation of the philosophical thought of modern civilisation (Taylor, 1985). In the actual field of moral and political philosophy, however, one particular idea in particular, which is closely related to this orientation, becomes decisive here. It is a modern individualist paradigm that presents the idea of man as a fundamentally antisocial being and the relationship between the individual and society as antagonistically oriented. Starting from a methodological individualism, from an individualistic anthropology that abolishes all social ties that transcend the horizon of the individual, a conception of man as a being whose essence is natural, unsociable and self-sufficient is formulated. Man is perceived here as an isolated atomised subject, deprived of any broader social or cultural context, society is reduced to an aggregate of freely moving atoms, and only the atoms themselves are attributed (moral) value. Society is understood only as an additive accumulation and purposeful grouping of individuals. Only the individual has a natural constitution and intrinsic moral value; society is merely an artificial construction of individuals, and therefore rationally disposable.

Any consistent formulation of a negative concept of freedom seems to depend on that modern model of thinking, and at the same time the negative idea itself reproduces and privileges an atomised idea of society. This can be clearly seen in Nozick's theory, which has fully rehabilitated this notion in contemporary moral-political philosophy. The adoption of this paradigm has far-reaching implications for moral and political philosophy. From the perspective of freedom, it leads to the key thesis that the individual is by nature absolutely free, and that his own freedom is threatened and relativised only by a competitive relationship with other people who are equally free. From a moral point of view, it is actually such an understanding of individual freedom that leads each person to see in the other person not the realisation but, on the contrary, the limit of his freedom; the freedom of the other is a threat to my freedom. Paradoxically, negative freedom is a threat to itself. A negative understanding of freedom therefore necessarily leads to the right to the private sphere of the individual, to his privacy as a refuge from external interference, it is a demand for the privatisation of life and a claim to a free space, to a certain defined area of non-interference by society. It both assumes and demands alienation. Such an understanding of freedom inevitably leads to defence of "the separateness of each individuality" (Dubniak, 2021, p. 25), even if it presents it as a virtue, as liberalism does. The negative concept of freedom as self-deter100 Ethics

mination is exhausted by the notion of personal, individualised and privatised freedom. In practice, freedom is programmatically and normatively banished to the realm of privacy. Ultimately, this has far-reaching negative consequences in social practice, on individuals' quality of life (see Hapon et al., 2021) and on their socialisation (see Lesková, 2021).

### POLITICAL CONSEQUENCES OF NEGATIVE FREEDOM

From the own content of the concept of negative freedom implicitly arises also the basic normative requirements at the political level. The main political implication of the negative understanding of freedom defined above is the fundamental requirement "that a frontier must be drawn between the area of private life and that of public authority" (Berlin, 2002, p. 171). This demand is above all a logical consequence of the privatisation of freedom, its limitation to the sphere of privacy. The normative question of where this dividing line should lead and how to draw it has been and still is the subject of endless debate, and attempts to answer it theoretically have produced a number of different, even contradictory, solutions. From a strict limitation of individual freedom in favour of public authority bordering on its denial, as in Hobbes, to the broadest possible measure of individual freedom compatible with the equal freedom of others, as in Rawls. From the way in which the problem of freedom is posed here, only the political form of its solution stands out logically. Since absolute or perfect negative individual freedom is simply not socially sustainable, it is obvious that its preservation under social conditions requires some limitation of it. Limiting the range of goals and practices that an individual can legitimately pursue, unhindered by society. The question of the manner and extent of this limitation remains open.

The problem of the social applicability of negative freedom is thus a question of the coexistence of freedom, the solution of which enters into the necessity of an institutional restriction of freedom, thereby also defining the political dimension of negative freedom. The main normative effort of political theories based on or growing out of a negative understanding of freedom is aimed at discovering or formulating an ideal political solution for the peaceful coexistence of citizens possessing freedom in the private sphere of their lives. It is this policy orientation that is referred to in the academic debate as modus vivendi politics and is fully characteristic of theories defending a negative conception of freedom. "Modus vivendi arrangements are, first of all, institutions that enable us to live together in peace under circumstances of disagreement and conflict" (Wendt, 2016, p. 351), and although there may be some differences of interpretation or naming in discussions and in the particular theories, there is a fundamental determination that "all modus vivendi arrangements realise peace, by definition" (p. 352). The politics of modus vivendi can be explicitly justified and defended in theories and debates by other normative arguments, than only negatively understood freedom. However, in principle, in all of these arguments, a closer examination can reveal a negative understanding of individual freedom. Peace itself, the immediate argument of modus vivendi politics, has only an instrumental relationship to individual goals, "peaceful coexistence is not an *a priori* value ... it is desirable only insofar as it serves human goals and needs" (Gray, 2000, p. 20). Security here is not a value in itself or an end in itself; it is individual freedom negatively understood. Otherwise, the fulfilment of security could be more effectively achieved by the complete and unconditional subordination of individuals to public authority, rather than by delimiting their sphere of action. In other words, by political means to suppress and abolish the social conflict that results from negatively understood individual freedom, not to seek political conditions for its social preservation.

Since individuals are conceived here abstractly as non-social and ahistorical beings, this solution is in principle universal, universally applicable and socially transferable. The politics of modus vivendi transcends cultural, social and historical constraints because it is merely a solution to the general problem of negative freedom. Hence, then, also the widespread tendency to normatively universalise this model of politics as universally acceptable and desirable for all particular conceptions of the good life, "nearly all ways of life have interest in common that make modus vivendi desirable for them" (Gray, 2000, p. 20). However, such a generalisation is false because it overlooks the existence of distinct concepts of individual liberty as self-determination, the successful exercise of which presupposes far more far-reaching claims to politics and public authority than modus vivendi politics can provide. This kind of politics is in principle adequate only for conceptions of the good life based on a negative understanding of individual freedom, but for conceptions of the good life based on a reflexive or social understanding of freedom (Honneth, 2014), by contrast, this model is fundamentally limiting.

Another important political consequence is that political power does not base its justification and its commitment on the active consent of citizens, but makes do with rational hypothetical consent. This is another reason why negative understandings of freedom and modus vivendi politics are so closely linked methodologically in political philosophy with social contract theories.

On the question of the degree of restriction of freedom and the manner of its determination, the various theories differ fundamentally, but agree on the manner of its implementation. Restriction of freedom is only possible through right. The delimitation of private life and public authority happens through the legal institutionalisation of equal freedoms; the meaning and purpose of modus vivendi politics is only the institutional establishment and preservation of this right; the idea of the rule of law is the political expression of negative liberty. Modus vivendi politics is fundamentally minimalist, programmatically oriented to principally limit the sphere of politics and minimize its impact on people's lives. In this sense, "right is the restriction of the freedom of each to the condition of its being compa-

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tible with the freedom of all" (Kant, 2006, p. 45). An important and generally valid normative requirement for the normativity of freedom, which is revealed here, is that the limitation of freedom does not happen because of some external goal, but only because of freedom itself. According to Kant, the very nature of freedom does not admit of any other kind of limitation, because our reason, that dictates this limitation to us,

pays no regard to any empirical end (all of which are conceived under the general name of happiness). For with respect to their empirical end and what it consists in human beings think very differently, such that their will cannot be brought under a common principle and hence also under no external law that is in harmony with the freedom of all. (Kant, 2006, p. 45)

Rawls later argues similarly when he talks about the principle of the priority of freedom in his theory of justice,

the priority of liberty implies in practice that a basic liberty can be limited or denied solely for the sake of one or more other basic liberties, and never, as I have said, for reasons of public good or of perfectionist values. (Rawls, 1996, p. 295)

Restricting liberty for some purpose other than its own preservation seems to negate in an important respect the value of liberty itself, relativizing it in an undesirable and potentially dangerous way. As we have already shown, even political theories that explicitly justify the restriction of freedom in their argumentation by the need for security rather than by freedom itself, such as Hobbes's or Nozick's theory, can be convincingly interpreted in terms of freedom, in that security is here understood as a fundamental condition for the exercise of freedom, and in this manner its binding force is also normatively justified. Security is only a means to freedom, not the other way around. The idea that freedom can be limited only for its own sake can undoubtedly be regarded as the most significant contribution of the negative concept of freedom to the philosophical inquiry into freedom, since it is a persistent and irreversible normative principle that appears in other, competing concepts of freedom as well.

The second important and generally valid idea that emerges in connection with the social restriction of individual freedom is that this restriction becomes at the same time a justification of the need for law and politics. As social institutions, law and politics are always essentially characterized by their exercise of coercive power, i.e., some form of violence. However, as John Stuart Mill has already rightly remarked, from the point of view of individual freedom "the power itself is illegitimate. The best government has no more title to it than the worst. It is as noxious, or more noxious, when exerted in accordance with public opinion, than when in opposition to it" (Mill, 2001, p. 18). The establishment of coercive power and its social exercising requires justification. In the modern understanding, the coercive power of social institutions derives its legitimacy precisely from the appeal to individual freedom,

thus becoming a form of legitimate domination, socially accepted and recognised. However, in the case of negative freedom and modus vivendi politics, the claims for this social legitimation of politics are significantly minimized.

### CONCLUSION

The proper way in which individual freedom is defined in negative concept - as non-interference in the activities of the individual - represents its strong, but also its weak point, its Achilles heel, so to speak. In its simplicity and directness, it corresponds to an intuitive and experiential understanding of freedom, from which it can draw its persuasiveness, and thanks to which it is able to continue to influence philosophical-political debates about individual freedom. In any normative political theory, as long as its goal is not the total subjugation of society, the creation of some uniform, soulless and faceless mass of individuals (which, after all, is best resisted by reality itself), but the ensuring of the social conditions of individual freedom, it is necessary to respect and ensure also a certain sphere of negatively defined freedom, the sphere of the exclusive privacy of the individual, inaccessible to the social disposition. In this sense one can only agree that "no doubt every interpretation of the word 'liberty', however unusual, must include a minimum of what I have called 'negative' liberty" (Berlin, 2002, p. 207). What is far harder to agree with, however, is that the negative concept of freedom exhausts the idea as such. This concept, however, makes such a categorical claim; from its own perspective, it stands out as an exclusive one, which does not admit other concepts, neither of reflexive nor of social freedom, alongside each other. The reason for this is that the inherent negative definition of individual freedom translates as not only a necessary but also a sufficient condition for it. Then logically, each additional condition of freedom raised appears to be a departure from the content of the concept, the concept of negative freedom is the only "correct" concept of freedom. Hence the widespread tendency of proponents of negative freedom to label other concepts as "false" and "confused" and their authors as "enemies of freedom".

It is remarkable how the same implications of this concept are manifested also in his political demands. The politics of modus vivendi promoting the privatization of individual freedom, aimed at establishing the conditions of peaceful coexistence of citizens possessing individual freedom only in the private sphere of their lives, is not only the most appropriate political expression of negative freedom, but also a complete one. Any more ambitious political model is already in conflict with a negative conception of freedom, so it appears here as a political negation of individual freedom, as a form of politics based on and promoting a certain particular conception of the good life at the detriment of others. It appears that such politics must, in principle and in equal measure, suit all individual notions of the good life if they are to retain their ability to develop freely. What is overlooked is that in fact it is

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rather the other way around, that the politics of modus vivendi, by excluding the question of the good life and freedom from politics, in principle already realises the conceptions of the good life associated with a negative understanding of freedom, while other conceptions of the good life associated, for example, with a reflexive or social understanding of freedom, are on the contrary constrained by this model of politics. In principle, it constrains all other conceptions of the good life in proportion as their own normative demands on politics go beyond the requirement of ensuring elementary security.

### **ACKNOWLEDGEMENTS**

The paper is the output of the project VEGA 1/0725/21 *Plurality of forms of good life and disputes over the concept of political*. Project is supported by Scientific Grant Agency of the Ministry of Education, science, research and sport of the Slovak Republic and the Slovak Academy of Sciences.

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