

X. “For the Sake of Europe”: Prevailing Normative Disputes

1. *No Monopoly on the Definition of Europe’s Interests*

In Europe, Europe is everywhere and every EU citizen is a European. There is no need to participate in the political institutions of Europe to be recognized as European citizen. There is no need to go to Brussels in order to be in a European city. Yet, the political form of Europe is the sum of incremental consensus-building. As much as nation-building or integration-building is a constructivist phenomenon, interest-formation is a genuine and rather daunting phenomenon in Europe. Here, the role of the institutions and of centralized policy-making becomes relevant. In the absence of naturally evident, historically tested and comprehensive political European interests, their evolution is and will remain a process of ideational debate, political bargaining and public interpretation. When it comes to defining common political interests, the European Union is stretched between two opposing poles: Inside the EU, no country or institution can claim the monopoly to define what is “in the interest of Europe.” Looked at the issue from the outside, the expectation for Europe to define and project its interests is much higher than the performance of the EU and its self-acclaimed targets can be. European interests have to grow within a culture of consent that has evolved in more than five decades and yet has not achieved its final contours.¹ How to turn consent into new and commonly acclaimed power and authority remains a persistent struggle for the EU. As a consequence of Europe’s affluence and its rhetorical claims to uphold values that most reasonable people in the world can share in abstract terms, the European Union is expected to strengthen its capacity for action beyond all realistically available means and instruments. How to turn abstract and all-pervasive expectations into a coherent and sustainable projection of Europe’s interests remains a permanent pressure on Europe’s authority and power, both worldwide and as far as loyalty among its citizens is concerned.

Power is a function of ambition and will, of goals and resources, of strategies and tactics. For the European Union to execute power requires highly complex processes of formulating consent. This can undermine the EU’s immediate claim to authority, but might eventually increase its potential power once a consensual decision has been found. As not all issues exercise the same degree of relevance and impact, one has to be

1 On this issue in general and in the context of organized interest representation see Cini, Michelle, *European Union Politics*, Oxford: Oxford University Press, 2003; Greenwood, Justin, *Interest Representation in the European Union*, Houndmills: Palgrave Macmillan, 2003; Green Cowles, Marie, and Desmond Dinan (eds.), *Developments in the European Union*, Houndmills: Palgrave Macmillan, 2004; de Búrca, Gráinne, *EU Law and the Welfare State: In Search of Solidarity*, Oxford: Oxford University Press, 2005; Dinan, Desmond, *An Ever Closer Union: An Introduction in the European Integration*, Houndmills: Palgrave Macmillan, 2005 (3rd ed.); Richardson, Jeremy, *European Union: Power and Policy-Making*, Oxford: Oxford University Press, 2005 (3rd ed.).

highly specific about this matter. One general critique is unavoidable: The European Union often tries to square the circle by linking consensus and power with the claim that they mutually reinforce each other. Usually, the perception of the EU from inside and the perception of the EU from the outside differ substantially: EU citizens grant legitimacy to EU decisions if they reflect a consensual point of view. Europe's external partners expect the efficient use of the projection of EU resources and power.

It is not easy to identify the intersection between the two ends of the equation. It is relatively easy on matters of foreign trade policy where international consent expects the EU to act but domestic political reticence prevents it from doing so. The seemingly eternal quarrel over EU agricultural subsidies is a case in point. Sometimes, the opposite occurs: European Union citizens claim action, but their leaders cannot decide on what the action should be and which course they should pursue. The legacy of the failed intervention of the EU to stop the outbreak of the four Wars of Yugoslavian Succession during the 1990's was such an example.² Finally, relations between power and consent can have reverse effects when EU consent seems to sharpen a powerful weapon which in fact is undermined because certain member states do not accept the implementation of a common decision or stretch it to the point of sabotaging a commonly agreed to policy. Manifold examples across the EU demonstrate this bottleneck of implementing EU authority in the context of the realization of the Single Market.³ The only chance for the European Commission to enforce the implementation of commonly agreed law is the invocation of the European Court of Justice. This is a dramatic step. If such a step has to happen and if the final ruling of the European Court of Justice is accepted, eventually the result of such power conflicts has been the recognition of the supremacy of European law over national law and the primacy of European Union consent over dissenting national interpretations. But to get to this result can be a seemingly endless operation, binding human and fiscal resources on many levels and putting time and again the original authority of EU decisions in jeopardy.⁴

2 See Hammond, Andrew, *The Balkans and the West: Constructing the European Other, 1945-2003*, Aldershot: Ashgate, 2004.

3 See Furlong, Paul, and Andrew Cox, *European Union at the Crossroads: Problems of Implementing the Single Market Project*, Wyberton: Earlsgate Press 1995.

4 In 2001, EU member states agreed to reduce the number of Single Market regulations, which were not yet adopted into national law, to 1.5 percent of the complete body of Single Market regulations. In 2004, the share of non-implemented regulations was 4.1 percent in France, 3.9 percent in Greece, 3.5 percent in Germany, 3.2 percent in Luxembourg, 3.1 percent in Italy, 2.8 percent in the Netherlands, 2.1 percent in Belgium, 1.9 percent in Portugal, 1.8 percent in Sweden and 1.7 percent in Austria. Only Finland with 1.3 percent, Ireland with 1.2 percent, Great Britain with 1.2 percent, Spain with 0.8 percent and Denmark with 0.7 percent had complied with the criteria agreed upon by all 15 governments. According to the European Commission, more than 3,000 EU-norms were still pending in order to completely realize the Single Market. In many cases where member states have refused to implement the commonly agreed law, the EU Commission had to open an infringement procedure at the European Court of Justice. In 2004, 149 cases were pending against Italy, 125 against France, 104 against Spain, 94 against Germany, 79 against Greece, 77 against Belgium, 58 against Great Britain, 55 against Ireland, 53 against the Netherlands, 52 against Austria, 44 against Portugal, 39 against Luxembourg, 28 against Finland, 28 against Sweden, 24 against Denmark. All

Like many norm-giving decisions on matters of the Single Market, other components of the *acquis communautaire* continue to be reinterpreted differently in different EU member states and among different social and political groups.⁵ The interpretation of EU policies has been echoed by the continuous process of amending the EU treaty system. Only through such epistemological exercises does political authority take deeper roots in Europe. There is no other way in the absence of naturally ingrained comprehensive European interests. Traditionally defined common interests that could turn interests immediately into habitual and intuitive patterns of European behavior remain weak. As long as this is the case, the EU's multilevel governance polity will often appear to be suboptimal. Although it is not appropriate to measure authority, purpose and value only on the basis of rational categories of efficiency, the effectiveness of EU decision-making will remain an ongoing challenge for European policy makers.

All too often, European politicians claim that their personal position or the policy goal of their respective party is "in the interest of Europe." "For the sake of the EU," they often pursue certain political choices or actions, but all too often, these public pronouncements cannot be taken at face value. At best, they are contributions to an ongoing European debate. As long as these legitimate expressions of interest are conducted within EU institutions, nobody is irritated. Presenting them to the broader public through speeches, interviews and the like has become an integral element of public policy-bargaining in the EU. Still, the audience often needs clarification whether it listens to a mere pronouncement or to a relevant and binding decision. Most irritating is the promulgation of conflicting choices or ambitions outside the EU, where one might find it particularly difficult to distinguish between decision, promise and a tactical positioning for domestic reasons.⁶ In spite of these confusing and often frustrating

in all, around one tenth of EU regulations on matters of the Single Market was not applied yet when eastward enlargement took place: See *Frankfurter Allgemeine Zeitung*, July 27, 2004.

5 See Dobson, Lynn, and Andreas Follesdal, *Political Theory and the European Constitution*, London: Routledge, 2004; Church, Clive H., and David Phinnemore, *Understanding the European Constitution: An Introduction to the EU Constitutional Treaty*, New York: Routledge, 2006.

6 Three examples from the field of foreign and security policy within one month only illustrate the attitudinal difference between fact and desire. The first example was the announcement of French President Chirac during a visit to China in November 2004 that the EU would dissolve the arms trade embargo to China, while in fact the EU had not decided on the matter yet and was deeply divided on the position favored by the French President. During an EU-China summit only weeks later, the acting Dutch EU presidency had to tell the visiting Chinese Prime Minister that the time for a decision to lift the arms embargo was not ripe yet. The second example followed immediately after Chirac's China visit, when all EU leaders met their colleagues from ASEAN in Hanoi and clashed over the demand of German Chancellor Schröder to support Germany's bid for a seat on the UN Security Council. In the absence of a common EU policy on the matter, Italy and Poland did not want to support the German bid and prevented the issue from being discussed in the final communiqué of the meeting. The third example occurred in early December 2004, when Germany's Chancellor announced that his country would send military support to the peace mission of the African Union in Sudan while regretting that this could not happen as a EU action. It was left to the observer to judge whether the German government had ever tried to turn their interest in participating in the Sudan mission of the AU into an EU policy action.

experiences, the European Union is exercising self-binding attitudes among its member states. As a consequence of the slowly emerging habitual consent on the primacy of European interests over petite national or even domestic party political considerations, it must be expected that individual member states of the European Union will continue to resort to unilateral (but doubtfully more effective) activities.

As a pluralistic, multilevel structure the European Union will have to live with these idiosyncrasies.⁷ Continuous shades of confusion are the price for multilevel and consent oriented decision-making. It is not tolerable, however, when EU member states or EU institutions try to undermine, reinterpret and water down decisions they originally had agreed upon. When confronted with the national impact of certain of their decisions, some political leaders hide behind the EU as if it were an alien beast. They cite anonymous “EU pressure” they had not been able to prevent – although they were part of the decision-making process. Sometimes, they try to redo an EU deal in face of their own national constituents. This double-speak is possible only as long as decision-making in the Council is not transparent.⁸ Whether or not solid revisions for its working procedures will suffice to change this habit could only be judged after a reasonable period of time. The daunting search for a common denominator will most likely prevail for a long time, along with contrasting political preferences.

This obstacle to coherent European governance affects all aspects of European politics. No segment of the European body politic is exempt from the ongoing and incomplete struggle to define European interests. Over more than five decades, the European integration process has accrued an impressive set of commonly agreed upon norms, habitual interests and shared positions that are no longer object of repetitious contention among new majorities or due to sudden reconsiderations of specific national or institutional interest. The *acquis communautaire* is the institutional, legal and political structure of norms, the form and function of European integration.⁹ The term

7 See Hooghe, Liesbet, and Gary Marks, *Multi-Level Governance and European Integration*, Lanham: Rowman & Littlefield, 2001; Nugent, Neill, *The Government and Politics of the European Union*, Houndmills: Palgrave Macmillan, 2003 (5th ed.); Bomberg, Elizabeth, and Alexander Stubb (eds.), *The European Union: How does it Work?*, Oxford: Oxford University Press, 2003; Bache, Ian and Matthew Flinders (eds.), *Multi-Level Governance*, Oxford: Oxford University Press, 2004; on specific aspects of multi-level governance see Marginson, Paul, and Keith Sisson (eds.), *European Integration and Industrial Relations: Multi-Level Governance in the Making*, New York: Palgrave Macmillan, 2004; Rato, Helena, *Europeanization Impact on Multi-Level Governance in Portugal: Patterns of Adaptation and Learning (1988-1999)*, Oeiras: Instituto Nacional de Administracao, 2004; Hix, Simon, *The Political System of the European Union*, London: Palgrave Macmillan, 2005 (2nd rev.ed.); McCormick, John, *Understanding the European Union: A Concise Introduction*, Houndmills: Palgrave Macmillan, 2005 (3rd ed.).

8 See van Grinsven, Peter, *The European Council under Construction: EU Top Level Decision-making at the Beginning of a New Century*, The Hague: Netherlands Institut of International Relations, 2003.

9 See Pescatore, Pierre, *The Law of Integration: Emergence of a New Phenomenon in International Relations, based on the Experience of the European Communities*, Leiden: Sijthoff, 1974; Snyder, Francis, *The Europeanisation of Law: The Legal Effects of European Integration*, Oxford: Hart Publisher, 2000; Bankowski, Zenon, and Andrew Scott, *The European Union and its Order: The Legal Theory of European Integration*, Oxford: Blackwell, 2000.

acquis communautaire, however, is not very political and helpful for popularizing the interests of the European Union. As European integration is law-based, political in nature and exercised through institutions with a limited reconnection to the overall European public, it is essential to expand the sense of ownership of European integration among EU citizens. It will not suffice to merely broaden the scope of citizen's rights by giving the Charter of Fundamental Rights of the European Union a legal character to strengthen the sense of ownership with the EU and to raise loyalty to EU norms and procedures. As long as politicians and journalists, academicians and lawyers refer to a technical *acquis communautaire*, this will remain a hopeless exercise. Its reach will not go beyond the boundaries of Brussels. In order for European Union citizens to identify with the European Union and to exert loyalty to the European Union, they must be able to also emotionally share the sense for and the experience of common European interests.

The formulation of European interests requires a translation of European values and preferences into permanent answers to the question "Europe, why?". The continuous interest-formation does not and will not exclude political debates about the right answer to any problem on the future path of Europe. It cannot mean taking forever for granted what has once been agreed upon under specific circumstances. Interests might change and with them their European connotation. Yet, the understanding of European interests will have to continuously grow as a set of intentional and habitual attitudes and as a body of formal norms and functional instruments. In the meantime, the *acquis communautaire* of the European Union includes a broad set of acquired memories, although they may not be explicit in their origin or in their original purpose. The growth of European political identity is linked to the purpose of European integration. Both have developed and continue to develop in contingent correlation to the evolution and broadening of Europe's political agenda and experience.

Some key European interests have been identified in this study. So far, they constitute the acquired memory within the institutions of the European Union. They are a self-referential source of identity, certainly recalled in times of conflict and trouble. Whenever the representatives of the European Union fail to find agreement on crucial issues, it is most likely that one or the other of these principles will be invoked "for the sake of Europe," which is to say to safeguard Europe from a divided and indecisive leadership:

- A genuine "European spirit"¹⁰ as a habitual and intuitive mode of action recognizing the need for European solutions in cases of conflicting national or political preferences.
- Recognition of the European Union as an organic community of law with the

10 It is remarkable and sad that literature on the "European spirit" is only available for the immediate period at the end of World War II; for example, see Jaspers, Karl, *The European Spirit*, London: SCM Press, 1948; Reifenberg, Benno, *Does the European Spirit Still Live?*, Hinsdale, Ill.: H. Regnery Co., 1948.

primacy of EU law over national law, including national constitutional law.

- Compromise-building abilities in spite of different starting points and expectations, based on a synchronization of different methods satisfying different approaches, starting points and expectations among member states and other institutional actors.
- Dedicated political will among the main political actors that can be revitalized in creative ways with the help of refocusing topics, methods and instruments in case of deadlock.
- Growing consent as far as the protection of the European Single Market and the welfare state systems in Europe (“the European Social Model”) depends upon permanent processes of balancing local, national and EU-wide solutions that can grow into coherent and thus powerful new political realities in which social cohesion and liberal competitiveness are rooted.
- Recognition of the principles of solidarity and cohesion that require resource allocation in favor of the more backward regions and structures of the European Union in order to lower the political prize of integration in member states where reasonably large population segments feel marginalized or even victimized by European decisions.
- Understanding that a common monetary and fiscal policy requires not only economic cooperation, but in the end, the evolution of a European economic government.
- Awareness that the European Union needs to sharpen its international political profile through the coherent implementation of a common foreign, security and defense policy.
- Taking budgetary matters more seriously to consolidate the preconditions for the strength of the euro, the competitiveness of the European economy and the credibility of European politics.
- Confronting the impact of European integration on domestic constitutional, political, socio-economic and legal structures in a forward-looking way and recognizing European integration as opportunity for reform rather than as threat to national traditions.
- Accepting that all constituent parts in the European Union have the same right to contribute to the evolution of European interests and that no constituent part of the European Union can unilaterally claim to express by its own will a common position “for the sake of Europe.”

These are essential elements of consensually acquired European interests. The sad fact is that all these principles and common interests have been violated at some point by one or the other of the constituent actors of the European Union. This frustrating experience does not prove them wrong. It demonstrates the relative weakness of the implementing powers of the EU and the prevailing residual powers of national or

political resilience to accept self-proclaimed principles and interests on the European level. In order to come to terms with the ever-existing chasm between self-defined claims and objective realities, undoubtedly prevalent in all political systems in the world, it is helpful to categorize different levels of normative disputes and conflicting interpretations of self-proclaimed consent in the EU. One has to apply proportionality in order to judge the level of importance, the scope of a breach of acquired interests or the inability of constituent actors within the European Union to pursue the course toward new common interests. One has to put the contingent debates into broader perspective in order to understand their meaning and potential implication, or the lack of them. Finally, one has to apply mechanisms of differentiation in order to better judge the level of compliance or non-compliance of a given act.

On a different level, continuous disputes about principled beliefs, norms, political choices and integration goals have to be dissected according to their inherent quality and imminent plausibility. In the absence of a Europeanized media structure, this is one of the most difficult tasks for professional analysts of the European integration process. For ordinary EU citizens, the matter is even less transparent. They are charged with the heavy task to ultimately judge the legitimacy of the European Union while they can hardly understand the degree of implication of a certain issue, the connectivity of issues, the different policy preferences and choices with their respective impacts, and the scope of influence of a certain constituent part of the European Union. Lack of accountability is the biggest obstacle to an enhanced sense of public ownership and citizen loyalty to the EU. The issue of accountability is not only a matter of constitutional transparency and the ordering of competences: In the European body politic, it is inherently linked to the perception (and misperception) of political priorities and the absence of them.

2. “Bogeyman Debates” and Necessary Symbolism

The built-in degree of deliberative democracy, which is constituent for the European Union as a consensus-driven multilevel system of interlocking powers and shared modes of rule and authority (“consociationalism”), is often a hindrance for clear-cut media coverage that helps to transmit transparency and accountability.¹¹ For a comprehensive public perception of EU matters, their origin and context, their implication and relatedness, the situation is even more daunting. Such is the genuine fate of all democratic political systems. For the European Union it is even more delicate, because its political performance is still not free from suspicion about its very structure and scope of authority, power and rule. In the absence of consensual clarity about these

11 See Fishkin, James L., and Peter Laslett (eds.), *Debating Deliberative Democracy*, Malden, MA.: Blackwell, 2003; van Aaken, Anne, et al. (eds.), *Deliberation and Decision: Economics, Constitutional Theory and Deliberative Democracy*, Aldershot: Ashgate, 2004.

key determinants of a body politic, the EU has not only to cope with genuine conflicts of interests, power struggles and conflicting interpretations of its interests. The EU also has to cope with matters of illusion and symbolism.

Some political debates about European integration tend to resurface permanently although it seemed that they had long been laid to rest. This includes the question of whether or not the European Union is a genuine polity. This phenomenon also includes the consistently resurging dispute about “intergovernmental” versus “supranational” elements of integration.¹² More elementary is the dispute whether or not the European Union is a federation, should ever become one or will (“hopefully,” for some cynics) always fail to achieve federal qualities. This question is often linked to the matter of “political finality.” Any politics of fear is confronted with resurging phenomena: The fear of dissolution of the very EU structure (less and less articulated as far as the EU is concerned); the fear of integration overstretch (mostly articulated in the context of the geographical boundaries of the European Union, but also as far as its boundaries of political will, authority, power and rule are concerned); and the fear of too high costs of inefficiency (beginning with the matter of the costs for interpretation that amount to 140 million euros and for document translation in the EU of over 800 million euros, which after all comes down to not more than 2 euros per EU citizen).

Most European debates fulfill two symbolic and policy functions: They are usually directed toward a national audience that likes to support or oppose, according to prior positions and attitudes. Debates on the European level are also directed toward one’s own political clientele, mainly party loyalists and supporters. Many of them are “bogeyman debates.”¹³ In light of the stability of the EU’s policy-making processes, both formal and informal, it is overly exaggerated to assume that any debate – no matter how controversial – could either derail the whole integration process or redirect it substantially and immediately. No theoretical academic research or static historical comparison can help to find the right degree of measurement to assess the nexus of formal and informal, symbolic and substantial, national and European elements of any European policy-process. Each European debate and each EU policy-process has to be understood in its own right. This in itself demonstrates the intensity of European governance.

Invocations of a political finality of European integration (and the absence of it) will prevail. But rather than providing a norm, this rhetoric fulfills a functional purpose. Normally, this will promote a new momentum of integration – or just warn about the

12 See Sandholtz, Wayne, and Alec Sweet-Stone, *European Integration and Supranational Governance*, Oxford: Oxford University Press, 1998; Tallberg, Jonas, *European Governance and Supranational Institutions: Making States Comply*, London: Routledge, 2003.

13 To use Brendan Donnelly’s term which he applied to the contention that the European Union would eventually lead to a “federal superstate”: Donnelly, Brendan, “After the European Council, a Referendum to Win,” *EU Constitution Project Newsletter*, July 2004, www.fedtrust.co.uk. Since 1994, Routledge is dedicating a complete academic journal (*Journal of European Public Policy*) to reflect on European public policy and related debates.

impact of any such move. They might contribute to putting the development of the European Union in a larger historical context, but that will always have limited effects on the daily operations of the EU. It seems as if the European Union will always have to live with the actual finality reached by any given stage of integration, followed by a period of digesting it, and a creeping surge of new claims to deepen European integration on specific matters. There is no other reasonable way in coping with the notion of political finality in an infinite and “un-finishable” world.

Politicians apply a logic and rationality to their actions and decisions that is not always in accordance with their own goals and intentions. Should European Union citizens develop a stronger sense of ownership for the EU, they must certainly identify with its operations.¹⁴ Symbols define not only political toys and gadgets, but are essential for the rooting of a political identity. The flag, the anthem, the holiday, the passport, the currency – these are more than just paraphernalia of European integration. These are symbolic incarnations of the idea of a common political destiny and a shared polity. The symbolic tokens of identity are not only virtual ones. Still virtual, however, is the European capital: Most institutions of the EU are located in Brussels, including all diplomatic missions to the EU, the media and, increasingly, many lobbyists.¹⁵ For good reasons, the European Court of Justice in Luxembourg and the European Central Bank in Frankfurt are located outside Brussels in order to underline their physical and legal independence. It is much more difficult for law-makers and bureaucrats with executive functions to influence the proceedings and operations of a powerful institutional body that is based outside the city in which legislative and executive government work takes place.

More paradoxical and not helpful for the growth of Europe’s symbolic identity is the strange split in the location and operations of the European Parliament. Parliamentarians and their staff might be used to roaming around like political gypsies between plenary sessions in Strasbourg, twelve times per year, plenary and committee meetings in Brussels, and a secretariat based in Luxembourg. If it wants to be recognized once and for all as the prime co-decision maker and co-power-shaker of the European Union, the seat of the European Parliament has to be moved to Brussels. Before reaching such a decision, it would certainly be necessary to compensate France, and the city of Strasbourg, for the imminent loss. It would be worth to turn this issue from one of honor and pride into a much more pragmatic one. The matter of formalizing the capital of the European Union is of highest symbolic importance for the rooting of a European

14 See Bellamy, Richard, and Alex Warleigh, *Citizenship and Governance in the European Union*, London: Continuum, 2001; on the prevailing primacy of national loyalties see Bellamy, Richard, et al. (eds.), *Lineages of European Citizenship: Rights, Belonging and Participation in Eleven Nation-States*, Houndmills: Palgrave, 2004.

15 On this last aspect see van Schendelen, Rinus, *Machiavelli in Brussels: The Art of Lobbying in the EU*, Amsterdam: Amsterdam University Press, 2005 (2nd ed.).

political identity and it will have consequences for the increase in a sense of ownership among EU citizens.

Only after a final decision on Brussels, not only as the seat of the EU's legislative and its executive institutions but as the EU's actual capital, will the city gain the momentum to develop architectural features that can contribute to a European political identity. Such a development can be supported by the construction of a House of European History in Brussels with focus on the common traces in Europe's culture, the tragic failures to live up to the values in its history and the evolution of integration as a substantially new fact of Europe's political reality and identity. It is somewhat outlandish that regional representations are establishing palace-like offices in Brussels while the European Union presidency – that is to say the President of the Commission, the President of the European Council and the President of the European Parliament – cannot use representative buildings appropriate for their role. The overall structure and outlook of the “European quarter” in Brussels would certainly gain by a decision to grant the city the status of what it actually is: the capital of the European Union.

Strasbourg was symbolic for the first phase of European integration, organized around the notion of reconciliation between France and Germany. The reconciliation not only of France and Germany but practically among all European nations has been accomplished since the end of the Cold War. Strasbourg's traditional political symbolism has been outlived by the changing rationale of the European Union with its growing political role and increasing global relevance. Strasbourg is no longer the necessary symbol of inter-European reconciliation. Now, Strasbourg could become a symbol of harmonious cultural diversity in Europe, and hence the symbol of the dialogue among cultures and religions. In this spirit, Strasbourg would remain the perfect seat of the Council of Europe and its European Court of Human Rights. It could also make better use of its parliamentary architecture beyond the regular sessions of the Council of Europe. The parliament building in Strasbourg could be used as seat of a worldwide Parliament of Cultures. A Strasbourg-based Parliament of Cultures, initiated by the European Union, could perfectly institutionalize a universal cultural dialogue as one of the main priorities of the European Union and of the Council of Europe. Strasbourg could become a global household name for the dialogue of cultures.

3. The Institutional Balance: Self-Referential or Real?

Most EU citizens do not take interest in the institutional developments of the European Union. Primarily, these have been matters of relevance for the involved political class. Issues of institutional balance between the three main EU institutions will remain a permanent element of EU development. In reality, they have reached a new level of quasi-equality, if not in a formal, at least in informal sense. There can be

no doubt about the relevance of an institutional balance between the main institutions for the input-legitimacy of the European Union. As an object of governance studies, institutions will always be attractive to scholars. The fine-tuning of the EU's institutional balance will also remain a legitimate matter of dispute among the institutional actors. But for the majority of EU citizens, the intricacies of institutional balancing are not only beyond their experience, they are simply outside the horizon of their interests and expectations.

This does not belittle the importance of matters of institutional development and balance. But more than during past decades, European politicians have to be sensitive not to confuse their specific institutional, if not personal interests with the interests of EU citizens in integration. More importantly for EU citizens than abstract debates about institutional balances between Council, European Commission and European Parliament are the actions and effects of relevant EU decisions. There is ample room to make these processes more attractive and to reconnect them to the overall public interest in political output. It would help in this effort if debates in the European institutions would become more attractive to the media and hence to the European citizenry at large. It would, for instance, be worthwhile to install an annual State of the European Union Address of the President of the European Commission, the President of the European Council and the President of the European Parliament, all delivered to the European Parliament. Dozens of foreign presidents and many other dignitaries have taken the floor of the European Parliament. They have inspired generations of European parliamentarians, but they have remained rather unheard of among the broader European public. Time has come that European leaders try better than in the past to inspire the European public. The European citizens have a right and a transnational interest to be kept informed about the state of affairs in Europe as seen by the leaders of the three main EU organs. An annual State of the European Union Address would certainly make it on the front page of most relevant newspapers in Europe and onto prime-time television news channels. This would strengthen “the face” of European integration and give more public meaning to the EU's political discourse and the choices at stake.

During past decades, institutional disputes have largely been interpretations of the character of European constitution-building with the intention of achieving amendments in the inter-institutional balance between European Parliament, Council and European Commission. The time has come to realize the political and thus controversial character of the work in the three decisive institutions of the EU. Strengthening transparency and accountability of the European institutions will only work if European voters can acquire a sense of meaning in the pertinent debates on the future of Europe. Such debates must definitively go beyond the mechanical matters of governance, competencies and inter-institutional balances. The political debates among the three European institutions must deal with policy options and preferences on the key

questions relevant for the future of Europe. If the European debates cannot make practical sense for Union citizens, their interest in debates of the European institutions will continue to diminish.

It would be of interest to initiate a regular public discussion between the constitutional organs of the European Union, that is to say between the President of the European Commission, the President of the European Parliament, the President of the European Council and, perhaps as well, the President of the European Court of Justice. Such a regular public debate about the purpose and goal of European integration could nurture further deliberations about constitutional patriotism and the importance of public ownership in the European Union.

Often, European integration suffers from linking the right answers to the wrong questions. Never have loyalty, patriotism and public ownership in any state of the world been measured on the basis of the degree of the logic of its traffic order or on the absence of street lights. It would therefore be misleading to measure the degree of legitimacy of the European Union by the quality of EU decisions on technicalities of the Single Market. A fairer element of measuring loyalty, public ownership and constitutional patriotism in the European Union is the degree of voter turnout during elections to the European Parliament.¹⁶ As this is the standard measurement for ownership in national politics, one should not judge the degree of acceptance and loyalty to the EU by additional and, possibly, artificial norms alien to any such judgments on a national level. Voter turnout in the elections to the European Parliament will remain largely a function of the perception of whether or not elections really matter. The degree of relevance of EU decisions cannot be measured by the minutiae of evolving parliamentary powers and the idiosyncrasies of institutional balances. In the age of practical co-decision between European Parliament and Council on most relevant policy matters, the combined legislative powers will be judged by the ability of both the European Parliament and the Council to project their effectiveness to European voters.

For the future of the European Parliament this implies the pursuit of one priority: Projecting its will, ability, and continuity in increasingly shaping the EU budget. No parliament in the world has ever gained authority and power over time without crystal-clear budgetary rights. Even the European Constitution of 2004 would not have broadened the budgetary responsibility of the European Parliament in a substantial way. The European Parliament will continuously have to prove its claim to more budgetary authority through effective and visible actions: It has to demonstrate on the all possible European issues that it can represent the citizens of Europe through a competent,

16 On the evolving role of the European Parliament and supranational political parties in the EU see Kreppel, Amie, *The European Parliament and Supranational Party System: A Study in Institutional Development*, Cambridge/New York: Cambridge University Press, 2002; Steunenberg, Bernard and Thomassen, Jacques (eds.), *The European Parliament: Moving Toward Democracy in the EU*, Lanham: Rowman & Littlefield, 2002; Corbett, Richard, et al., "The European Parliament at Fifty: A View from the Inside," *Journal of Common Market Studies*, 41(2003): 353-373; Lodge, Juliet (ed.), *The 2004 Elections to the European Parliament*, Basingstoke: Palgrave Macmillan, 2005.

assertive and effective handling of its budgetary powers, no matter how limited they are. Beyond the existing framework of budgetary competences, the European Parliament will have to advance the legislative accountability of the EU budget. This could include an annual coherent presentation of a complete European budget, big enough as far as the grown tasks of the European Union are concerned, with a clear sense of those priorities that will define the future strength of the European Union and with realistic sense for political and economic possibilities. Even in the absence of complete budgetary competences, the European Parliament could advance the quest for budgetary autonomy of the European Parliament in complete co-decision with the Council. This could include permanent and fine-tuned proposals for the gradual dissolution of those fixed parts of the EU budget which are bound by subsidies without any convincing effect for the competitiveness of the EU. As early as 1984, the European Parliament presented its complete draft for a European Constitution.¹⁷ Ever since, the European Parliament has proven its authority as the leading proponent of deeper and constitutionalized integration. The commitment of the majority of members of the European Parliament to a full European Constitution prevails beyond the constitution-building roller-coaster of the first decade of the twenty-first century. In the years ahead, the European Parliament needs to advance the public understanding for the usefulness of a European tax with full budgetary rights for the European Parliament in co-decision with the Council.

This is not an issue about raising taxes. It is a matter of streamlining the existing methods of tax allocation and distribution under the label of one European tax. This would enhance transparency and accountability, and moreover the principle of connectivity between tax allocation and spending procedures. For the time being, this connectivity is totally obfuscated under the current budgetary system of the European Union. What is necessary is a budget of scales that can demonstrate the value of common spending over divided (and thus duplicated) budgetary lines among the EU member states. Preventing tax harmonization remains one of the last resorts of formal national sovereignty in Europe. However, also this national prerogative has come under pressure by the logic and the impact of European integration. Any change in the European tax law requires unanimous decision among all EU member states. The European Union does not yet have the authority to grant itself taxing competencies. It depends on the consensual acceptance of this idea by all member states. *De iure*, this limits the realistic potential for a harmonized tax policy in the foreseeable future. It might even make it unrealistic. One should recall that the United States can also live with different tax systems across its 50 states (and one federal district). There are plausible arguments to use tax policy as an instrument of competitiveness across the European Union.

17 See Capotorti, Francesco, *The European Union Treaty: Commentary on the Draft Adopted by the European Parliament on 4 February 1984*, Oxford: Clarendon Press, 1986.

The new EU member states from Central and Eastern Europe enjoy lower tax rates than most “old” EU member states. Although economists argue whether these capital costs or rather the implied low labor costs are more to their advantage,¹⁸ they show little interest in harmonizing taxes in Europe if that would force them to increase the tax burden for their people. In light of this situation, the European Commission has suggested to introduce a code of conduct for capital gains tax. It also has proposed measures to synchronize the level of taxable income.¹⁹ Instead of promoting the idea of direct European tax harmonization, the European Commission is emphasizing the concept of enforced cooperation allowing the Commission to propose more intensive cooperation in certain policy areas with at least eight member states supporting such a move. So far, however, this constitutionally approved principle has never been applied in tax matters. Eventually, this might lead to interesting rulings of the European Court of Justice affecting the last classical prerogative right of the European nation state.

With the growing impact of European integration on the political and socio-economic, but also legal-constitutional structures of the member states of the EU, the role of the European Court of Justice will certainly come under stronger scrutiny than in the past. It must be the unwavering role of the European Parliament and of the European Commission to support the claim of the primacy of European law over national law, even if this becomes an uncomfortable issue at times. The stronger the role of the European Court of Justice as final arbiter in constitutional and legal matters is, the more it can exercise the role of the ultimate protector of the European *acquis communautaire*. The less this role of the European Court of Justice is questioned, the less one has to worry about the role of the European Commission in the institutional triangle with European Parliament and Council. As the executive of a Union of citizens and a Union of states, it will always try to support compromises. It can hardly take a principled side with the European Parliament against the Council. The European Commission should also be freed from the superficial presumption that it is merely a secretariat, which it is not. As the institution with the right to initiate EU legislation and the obligation to help resolve differences by way of inter-institutional compromises, the role of the European Commission can at times conflict with its obligation as final arbiter of the *acquis communautaire*.²⁰ Therefore, it makes sense to relieve the European Commission of its

18 Labor costs are growing in Central and Eastern Europe and they are increasingly exposed to global standards of comparison and competition. While a direct investment of one million euros generates 70 jobs in Poland, 60 in the Czech Republic and 50 in Hungary, it generates 150 jobs in China. Lack of investment in Western European economies comes from a combination of high labor costs and high capital costs while an overly high state quota of the GDP also burdens these economies. Differences however prevail within the EU: While the state quota in Ireland is 33.6 percent it is overly high in Germany with 48.4 percent, in France with 53.8 percent and in Sweden with 58.5 percent compared with a US state quota of 35.3 percent.

19 See *Frankfurter Allgemeine Zeitung*, “Einstieg in die EU-Steuerharmonisierung,” September 13, 2004: 19.

20 See Nugent, Neill, *The European Commission*, Houndmills: Palgrave Macmillan, 2001.

original role as ultimate protector of EU law by the European Court of Justice, the Supreme Court of Europe.

4. Conflicts of Aims as Test Cases for the Authority of Rule

Conflicts of aims are about the organization and distribution of public goods. They demonstrate democracy at work. Contested priorities and ambivalent implementations, resisted decisions and restricted scope of actions are inalienable elements of any pluralistic political system. As such, they are not unusual, abnormal or unacceptable. Yet, the outcome of all conflicts of aims is relevant for the legitimacy and authority of a political system. The resolution of conflicts of aims reorganizes and redistributes power and the authority to rule. Conflicts of aims are a continuous pattern in the multifaceted, multilevel and multidimensional process of European integration. Arguably, their results matter more to the European Union than they matter to single or multiple European nation states.

It must concern all actors of European integration that the process of reforming the Common Agricultural Policy has been under way almost since the beginning of its implementation. Prejudice against and outright rejection of the seriousness of the European Union as a modern, competitive and trustworthy global partner for the advancement of free trade spread much faster than any serious effort to limit, redirect or even reduce the highly ambivalent amount of EU budgetary resources spent for agricultural subsidies. Criticizing Europe's Common Agricultural Policy has become one of the most widely spread stereotypes about presumed self-complacency and egotistic stubbornness of Europe. Common agricultural finances have continuously been used as the prototypical example of the inability of the European Union to correct bad policies and to increase the EU's global competitiveness. Moreover, the fact that for decades around 50 percent or more of the EU budget has been spent to subsidize 4 percent of the EU's population rightly questions the ability of the EU to properly define priorities even under the pressure of its overly limited budget.²¹

The assumption that the Common Agricultural Policy is primarily about agriculture has long been replaced by the understanding that it is primarily about the misallocation of EU fiscal resources. To be more precise, the Common Agricultural Policy of the EU is a French, and to a lesser extent, a German, Italian and even Danish budgetary rebate: France receives around ten billion euros annually in return for its farmers through the EU budget. This amount of money alleviates substantially the net contribution of France to the EU budget. This is the main reason why France has steadily insisted to continue

21 On the perspective of European farmers see Hennis, Marjoleine, *Globalization and European Integration: The Changing Role of Farmers in the Common Agricultural Policy*, Lanham: Rowman & Littlefield, 2005.

the basic parameters of a common market in agriculture, happily supported by other net recipients, no matter what they declare in public about the irrationality of the Common Agricultural Policy.

Also its policies of structural and regional cohesion puts the European Union experience on a permanent collision between expectation and performance. There is little doubt about the positive effects of structural and regional cohesion measures as they have been executed by the European Union ever since these policies came into existence with British EC membership in 1973. However, enormous regional asymmetries prevail.²² In fact they have grown to unprecedented degrees since the eastward enlargement of the European Union during the first decade of the twenty-first century: When the first ten post-communist countries entered the EU, their per capita income was between 30 and 40 percent of the average of the former fifteen EU member states.²³ This meant an overall reduction of the EU's per capita income by 12 percent. Taking a more revealing perspective, the GDP per capita in the EU member states ranged from 215 percent (above an average of 100 percent) in Luxembourg, 133 percent in Ireland and 123 percent in Denmark to 41 percent in Latvia, and 30 percent in Bulgaria and Romania. No structural or regional cohesion scheme will ever be able to level these differences by way of public reallocation of resources. Some asymmetries are the consequence of centuries of European economic history. Others, more short term, come from decades of state-planned mismanagement under communist rule.

Regional disparities also reflect the dichotomy between urban and rural regions that has not been transcended in the age of instant communications. Most prerequisites to generate production and productivity remain tied to conglomerations with at least relatively high population densities. This situation generates trade-offs, for instance as far as energy consumption, environmental protection and urban planning are concerned. Yet it is no surprise that the most dynamic zones in the European Union are those with advantages of population conglomeration and long-standing infrastructures that facilitate trading patterns, commerce and investment. The European Union's policy of enhancing the availability of trans-European networks – that is to say high-speed trains and a well-functioning infrastructure – is a plausible contribution to fostering cohesion in the EU. However, compared to the challenge, the speed of implementing the EU's infrastructure and transportation policy is excessively slow.²⁴ Even the issue of

22 See Scott, Joanne, *Development Dilemmas in the European Community: Rethinking Regional Development Policy*, Buckingham: Open University Press, 1995; Terluin, Ida J., *Rural Regions in the EU: Exploring Differences in Economic Development*, Utrecht: Koninklijk Nederlands Aardrijkskundig Genootschap, 2001; Adshead, Maura, *Developing European Regions?: Comparative Governance, Policy Networks and European Integration*, Aldershot: Ashgate, 2002.

23 On the implications see Hardy, Sally, *An Enlarged Europe: Regions in Competition?*, London: Regional Studies Association, 1995.

24 See Johnson, Debra, and Colin Turner (eds.), *Trans-European Networks: The Political Economy of Integrating Europe's Infrastructure*, Houndmills: Palgrave Macmillan, 1996; Turro, Mateu, *Going Trans-European: Planning and Financing Transport Networks for Europe*, Amsterdam: Pergamon, 1999; European Union, European Commission, *Trans-European Network: Implementation of the*

“roaming” with personal cell phones has not found a convincing European consumer friendly solution yet, although in the early summer of 2007 the search for an interim compromise has brought the undeniable relevance of the European Parliament in EU decision-making into the limelight. The slow path toward flexible, consumer-friendly and competitive solutions is all the more regretful as the density and speed of modern communications technology is the European variant of physical mobility in the United States of America, where people are much more ready to physically relocate in order to find new economic opportunities.²⁵ In Europe, they need to travel fast and telephone cheap in order to connect with new opportunities.

The conflict of aims between EU pronouncements and effective performance is also undeniable as far as the projection of the global role of the European Union is concerned. Foreign and security matters as defined by the ambitious security strategy of the EU require both an increase in effective spending on foreign and security matters and an efficiency-driven increase in pooled resources. The EU’s foreign, security and defense policies will also force the EU to reassess the details of its Single Market harmonization. For decades, the primacy of the completion of a Single Market was promoted with the argument that only the Single Market would be the unalterable band that could hold the EU and its common interests together. As the EU aspires to increasingly add foreign and security policy consensus to its list of genuine European interests, it can become more relaxed on matters of overly strict market harmonization. More than five decades after European integration was begun, the process will not derail because of, for instance, the instrument of “co-financing,” which might be introduced to enable agricultural subsidies at the level each country likes without burdening the EU budget. The gap between expectation and performance in matters of foreign, security and defense policy continues to question the ability of the European Union to project global authority through its mechanisms of power and rule. It is the utmost credibility test for the EU.

The continuous budgetary dispute between the European Commission and net-contributors among the EU member states is largely one between a top-down approach pursued by the European Commission and a bottom up-approach favored by the net-contributors. While on budgetary matters the European Commission argues for a more assertive policy posture of the EU, the member states with the highest contribution to

Guidelines 1998-2001, Luxembourg: Office for Official Publications of the European Communities, 2004; European Union, European Commission, *The Trans-European Transport Network: Revised Proposals on Guidelines and Financial Rules 2004*, Luxembourg: Office for Official Publications of the European Communities, 2004.

25 See Reid, T. R., *The United States of Europe: The New Superpower and the End of American Supremacy*, New York: Penguin Press, 2004: 205. Reid talks about the new generation of young Europeans as “Generation E” and describes them as loving to travel fast: on trains or by car, crossing the Channel or the Oresund, passing through France or Germany, Italy or Scandinavia, meeting in Prague or in Budapest. For them, Europe is a living reality, a life style, even without knowledge of too many of Europe’s languages and without the need to dislocate physically to another country for work and to settle.

the EU budget argue from a position of austerity, fiscal caution and national economic consideration. While the European Commission wants to apply more effectiveness to the self-proclaimed goals of the EU, the net contributing countries insist on efficiency and want to streamline and better focus its spending. This conflict has been at the core of more than two years of negotiations (2005-2007) over the European Union's financial perspective for 2007 to 2013. The next conflict between net-contributing member states, EU requirements and global expectations is inevitable as long as the EU does not have the right to define its autonomous budgetary sources. In order to produce public goods effectively and accountably under the roof of the European Union, in the long run there is no alternative.

5. *Political Priorities and Leadership Effects*

If all this was not already enough of a tall order, the European Union is torn between claims to increase its scope of organizing public goods in Europe while at the same time having to deal with its constituent nation states being confronted with the radical reduction of supposedly unalterable public goods. This is not a zero-sum game according to which the nation state is losing in competences over the generation and distribution of public goods whereby the EU is gaining. The dispute overlaps the debate about the relationship between de-regulation and re-regulation. On one end of the debate, proponents of deregulation argue that the continuous maintenance of deregulatory liberalization is essential to support market forces that are vital for the reproduction of affluence. They claim that a shift of regulatory activities from the nation state to the European Union would only push the problem one step up while the key challenge is the need to substantially liberalize, deregulate and limit the interference of public institutions in the development of the market. Some member states of the EU have been quite forthcoming with deregulatory reforms during the last fifteen or twenty years and are afraid that re-regulation would undermine the success they have generated. On the other side of the spectrum, proponents in favor of European-wide re-regulatory initiatives usually argue that the need for re-regulatory measures derives from the parameters of global competition that require the European Union to harmonize its market conditions in order to strengthen the global performance of all European market participants. Moreover, they argue, certain member states would never have started even minimal reforms without the pressure of the EU.²⁶ Germany, for instance, would hardly have experienced de-regulation and liberalization in the fields of postal communication and telecommunications, and in other net-based industries

26 See Eliassen, Kjell A., and Marit Sjoavaag (eds.), *European Telecommunication Liberalisation*, London: Routledge, 1999; Koenig, Christian, et al. (eds.), *EC Competition and Telecommunications Law*, The Hague: Kluwer, 2002; Buigues, Pierre A., and Patrick Rey (eds.), *The Economics of Antitrust and Regulation in the Telecommunication Sector*, Cheltenham: Edward Elgar, 2004.

(energy and water supply) and the railway system, if it had not been for EU-decisions and their eventual imposition. Further and stronger reforms of the structures of the welfare state and, even more so, of the public service state are a matter of urgency should the European model of social cohesion be preserved under conditions of ageing and shrinking populations and declining productivity. The domestic welfare state is no longer capable of generating the necessary resources and managing a fair distribution without undermining its own base. As the national welfare state inevitably shrinks, it needs – at least – additional European contributions to welfare and social cohesion.²⁷

This is one of the fundamental programmatic disputes that will prevail in the European Union. For 750 (plus 1) members of the European Parliament and 6,900 members of its twenty-seven national parliaments – not to mention deputies in regional and local parliaments as well as other party officials – the potential for political declarations on these and other matters related to the shaping of European policies is enormous. While members of the executive act, politicians pronounce. This is a legitimate and reasonable element in the process of agenda-setting, policy-formulation and the deliberative discourse preceding political decisions. It often however leaves voters confused about the level of discourse, the imminence of a decision and the seriousness of its implications. The spectrum of interests involved in these matters has grown exponentially without the same degree of knowledge proliferation about the mechanisms and the mechanics of Europe's multilevel polity. National interests and party preferences on the national level are increasingly mixed with European party interests and other considerations of the European institutions. At work is not a simple "principal-agent-mechanism."²⁸

The European discourse not only occurs between the EU institutions, but also takes place within them. Not only, but most obviously, this is the case with the European Parliament, where party preferences and national interests coexist among the political groups. It also happens in the Council, in the European Commission and between the different actors on the national level involved in formulating EU policies. The borderline between national considerations and Union interests is not as clear as any static view of these institutions would suggest. Often, political actors can hide behind a veil of complexity instead of defending their original position or decision. The complex picture of agenda-setting, policy-formulation and decision-making makes transparency a sophisticated science and hence ownership of the process by a larger percentage of European Union citizens rather unlikely.²⁹ Whether or not one has to go so far as to

27 See Bonoli, Giuliano, et al. (eds.), *European Welfare Futures: Towards a Theory of Retrenchment*, Cambridge: Polity Press, 2000.

28 See Pollack, Mark A., "Delegation, Agency, and Agenda Setting in the European Community," *International Organization*, 51.1 (1997): 99-134.

29 See Peterson, John, and Elizabeth Bomberg, *Decision-Making in the European Union*, London: Palgrave, 1999:4-30.

criticize politicians for living in houses without windows,³⁰ the quality of persuasion has become a core aspect of their credibility. This is not a specific matter for the European Union, but relates to other polities as well. Yet, as long as the European Union is under continuous scrutiny as far as its legitimacy is concerned – no matter whether or not this critique is justified – it requires particular commitment and leadership among European politicians to project the legitimacy of their actions. They simply must be as good and may be better than those of other political bodies in Europe in order to cope with the continuous suspicion of skepticism as far as their competences are concerned.

Leadership in the overly consociational system of power and rule of the European Union is not an easy talent to find. Projecting leadership beyond the internal sphere of party politics, national discourse and the European amalgamation of the two is a demanding job. Moreover, projecting one's attitude, one's action and its consequences to a broader European public is almost beyond an individual politician's capacity. At best, they manage to permanently reconnect with the voters in their constituency. For the power-brokers, for instance in the leadership of the factions of the European Parliament, the matter is one of permanent balance between formal and informal processes of networking, argumentation, persuasion, application of policy-processes, and the pursuit of a cohesive path through manifold deliberations before sustainable decisions and results can be achieved. Never is only one topic on the mind and calendar of policy-makers. The management of time is certainly an art that is overly underdeveloped in the structures of European politics. Output-legitimacy of the overall process is influenced by this deficit, whenever issues of public interest surface without finding immediate political response and answer. Explaining the complexity of institutional procedures can easily be perceived as apologetic.

An obvious difference exists between matters of a regulatory nature related to economic issues and those related to foreign policy questions. Economic issues normally do not invoke immediate political action and decision. The competences of democratic politics are limited to only framing market operations. This rarely happens under time pressure. It often takes too long for viable political decisions to emerge, yet the results might not stand any reality test. The legacy of the EU's Lisbon Strategy to make the EU the most innovative and dynamic knowledge-based economy in the world was a good example. The Lisbon Strategy of the EU was outlined in 2000 and presented with pomp and circumstance. Its main content: To increase the EU's employment rate from 60 to 70 percent; to fight poverty and social exclusion; and to improve gender equality, all as instruments to increase economic growth and social cohesion; to enhance innovation by dedicating 3 percent of the EU's combined GDP to research and development; to conclude the Single Market by minimizing bureaucracy and

30 Thus Vernon Bogdanor in his critique on the European Constitution Treaty: Bogdanor, Vernon, "A Constitution for a House Without Windows," *EU Constitution Project Newsletter*, July 2004, www.fedtrust.co.uk.

simplifying tax systems; and to enhance the EU-wide implementation of the Kyoto Protocol, meant to facilitate ecology-friendly sustainable growth. A mid-term review in late 2004 had to conclude with devastating results: The EU was about to completely fail in realizing its goals, an expert group of high ranking officials to the Economic and Finance Ministers of the EU stated. Productivity, economic growth and the creation of new jobs were still lagging behind, both compared with the US and in light of the EU's own targets. In order to reach these targets, the annual growth of the EU's economy was supposed to reach 3 percent per year. Full employment was to be reached on the basis of an employment rate of 70 percent, requiring the creation of 21 million new jobs. On average, the EU had grown only by 1.2 percent during the first half of the decade. The employment rate was 64.3 percent and productivity between European and American workers remained markedly different: In 1995, Europeans had produced 87 percent per hour of the work of their American colleagues, by 2004 this figure had gone down to 82 percent. The main reason for this slowdown of Europe's economic ambitions was the reluctance to implement sustainable and effective social and economic reforms in the leading economies of the EU. The reasons for this enormous underperformance of the EU were failures in national governance and not a market failure. They were also indicative of the absence of comprehensive economic governance on the EU level.³¹ In early 2005, the recently installed EU Commission under José Manuel Durão Barroso was forced to correct the original ambitions of the Lisbon Strategy and plea for a new start under the overall imprecise heading of a "plea for growth and jobs."³² Again, the EU had demonstrated that it was better in announcing its goals than in declaring how to implement them: New policy proposals promised to generate 3 percent economic growth and six million new jobs by 2010. How to achieve these goals amidst high unemployment rates across the EU, debt-ridden public budgets, and an ever-increasing productivity gap with the US, remained a secret even after the Lisbon Strategy's mid-term review.

Optimists might have hoped that inevitable economic decisions by the European Union might benefit from postponement. Economic policies are rarely projected as a matter of urgency although the European economic situation indicated otherwise. But, obviously, on economic matters politicians always find time for another complex analysis or go through endless deliberations on yet again the same matter. While the market or the voters and the media might lose patience, the speed of the process of socioeconomic decision-making is all too often disconnected from the urgency of the matter. This is also the case in matters of long-term political planning in external relations, such as foreign trade negotiations, development policies, global environmental issues. Crisis in foreign affairs however accelerate time and press for

31 See Kok, Wim, *Facing the Challenge: The Lisbon Strategy for Growth and Employment*, Luxembourg: Office for Official Publications of the European Communities, 2004.

32 European Union. European Commission, *A New Start for the Lisbon Strategy*, www.europa.eu.int/growthandjobs/index_en.htm.

immediate action.³³ Mostly, foreign policy is about events and too seldom about structures. After a serious terror attack, amid the escalation of a civil war or in the immediate aftermath of a power conflict stemming from election fraud in a neighboring country, the European Union – as all foreign policy actors – will be forced to react immediately. There is no time for scientific analysis and increasingly less room to justify the absence of a EU position with missing constitutional provisions to act, as was the poor excuse for not committing the EU in stronger ways to prevent the outbreak of the four Wars of Yugoslavian Succession during the 1990's.

It is not surprising that the logic of foreign policy can accelerate the speed of decision-making, provided the political will exists. Examples were the mediating role of the European Union in the Macedonian crisis of 2001 and in the Ukrainian crisis of 2004. However, the EU policy toward the grave humanitarian crisis in Sudan's Darfur province in 2004 again was an ambivalent combination of pronouncements, diplomatic mediation and resurging passivity. As foreign policy crises are also a matter of imminent media coverage, the pressure upon the EU not only to act, but to act both effectively and with sustainable results, is enormous. It is therefore appropriate that the European Union needs to massively increase its human resources and planning capacities if it truly wants to become a major actor in the foreign and security policy field perceived as acting with sustainable effects. Unlike efforts to generate economic growth, foreign policy answers must be immediate and cannot be relegated to some office dealing only with statistics. It is all the more astonishing how unfocused the budgetary implications of the increasing aims and tasks of the EU are in matters of foreign and security affairs.

So far, the European Union has not been able to appropriately convince the European media to project itself as efficient and as a powerful contributor to European solutions. This cannot simply be blamed on the media. Whenever the European Union has been widely perceived as contributing to the solution of a genuine problem of our time, the media reaction was favorable. Whenever the EU performance is fuzzy and blurred, the media reacts accordingly. In order to reconnect the European idea and the institutions of Europe with the Union's citizens, EU actors in leadership positions have to perform in a way that makes people proud of being European and enhances their claim in the ownership of the European integration process.³⁴ The overall media coverage of European Union events and developments increased across the EU, but the

33 See Zielonka, Jan, *Paradoxes of European Foreign Policy*, The Hague: Kluwer, 1998; Cafruny, Alan, and Patrick Peters (eds.), *The Union and the World: The Political Economy of a Common European Foreign Policy*, The Hague: Kluwer, 1998; White, Brian, *Understanding European Foreign Policy*, Houndmills: Palgrave Macmillan, 2001; Tonra, Ben, and Thomas Christiansen (eds.), *Rethinking European Union Foreign Policy*, Manchester: Manchester University Press, 2004; Mahncke, Dieter, et al. (eds.), *European Foreign Policy: From Rhetoric to Reality*, Brussels/New York: Peter Lang, 2004.

34 See Ward, David, *The European Union Democratic Deficit and the Public Sphere: An Evaluation of EU Media Policy*, Amsterdam: IOS Press, 2002.

image projected by the media about the work of the European Union is still highly ambivalent. Media coverage of EU actions has a strong impact on the perception of the EU's efficiency and effectiveness. Spectacular political conflicts – such as the resignation of the Santer Commission in early 1999 or the failure to ratify the European Constitution in 2005 – were properly reported and triggered rising media interest in EU matters. But it remains difficult to turn this media interest toward “positive” news. Disputes in the European Council over the weighing of votes in the Council in the constitution-building process of the early twenty-first century were power struggles among diverging national interests. Rulings of the European Court of Justice are usually reported as expressions of the primacy of EU law and defeat for the national governments involved. But the less spectacular matters that regularly evolve from the thick web of multilevel governance and shared competences are hard to report on at all, let alone in categories of power conflicts or rule. So far, European policy makers have not developed a genuine culture of controversy that would enable the media to report about clear policy choices without linking it to the usual stereotypes about EU underperformance or EU irrelevance. Whenever the matter is serious and affects the life of many EU citizens – such as the issue of the service directive in 2006 or the question of roaming prices for cellular phones in 2007 – the European Parliament is correctly presented as a genuine and increasingly relevant power-broker in EU affairs.

Often, it remains difficult to relate winners and losers of a certain policy process to a specific EU institution. Based on their national experience with democracy, the media are inclined to prefer such a constellation over the widely used deliberative and consensual decision-making in the EU. The quintessentially political nature of policy processes in the multilevel and interlocked governance system of the European Union is still a secret world to many of Europe's media.

The media coverage of European integration is a political but also an economic issue. Unlike in the US, in Europe print and electronic media are inevitably linked to the linguistic plurality of the continent. Over 600 TV channels with national coverage are one of the indicators of how intensive media consumption in the EU is. The revenue turnover of radio and television companies, approximately 62 billion euros annually, signifies the economic factor. Yet, European wide media, such as “EuroNews” with EU subsidized programs, and newspapers such as “EUReporter” or “The European” have never been able to challenge the market leadership of national programs and newspapers. As a consequence, the process of European integration can only gradually penetrate the established media scene in order to reach normal EU citizens. Leadership by persuasion and with patience becomes pivotal.

As far as the level of political actors in the EU is concerned, leadership by persuasion and with patience is not only a question of convincing principled beliefs, solid arguments and the ability to organize majorities across national borders and within and across party lines leadership by persuasion also requires the ability to synchronize

divergent expectations, interests and goals, the mechanisms of the national and of the European level, a balance between symbolic and substantial politics. This has always been a constellation of “give and take,” a bargaining process in which short-term and long-term gains need not be symmetrical. The more the bargaining mass of EU matters has grown, the less zero-sum-games have to occur, or even be looked for. Today’s minor loss need not be weighed against a relational gain on the next day as there will always be other occasions and different priorities and constellations in the decision-making process.

Strategic thinking is required if leadership is to be more than the tactical mastery of decision-making. The highly strategic nature of the EU Commission Presidency of Jacques Delors has often been lauded.³⁵ He knew how to combine progress in specific areas and issues with concrete timelines to turn goals into reality without getting lost in the mayhem of daily political bickering. This method was applied to pursue the creation and subsequent implementation of the Single Market (labeled “1992 project”). It was ultimately also applied as the successful strategy to implement the common European currency. Timelines to enter the next stage of the Monetary Union were linked with highly specific criteria defining the readiness of each member state to join full monetary union.

Dense and trust-based cooperation between then French President Mitterrand and German Chancellor Kohl left other EU partners without any doubt that this path and strategy was a serious matter and would not be abandoned by either the German or the French government amid public discontent about the idea, its speedy implementation, or doubts about the solidity of its foundation. Finally, the common European currency came about, pushed by a common European interest of the two leading economies of the EU, although rooted in highly different reasons and expectations: While France was interested in sharing the strength of the German currency as soon as possible, Germany was interested in a strong common European currency. In the end, they agreed to a speedy implementation based on strict criteria for future fiscal policies laid out in the EU Stability and Growth Pact.³⁶ All the more astonishing was the abandonment of the EU Stability and Growth Pact by a later German government in 2003/2004 in factual breach of European law. The content of the EU Stability and Growth Pact and its strict criteria as far as national fiscal and budgetary policies were concerned, was not only a matter of legitimate economic reasoning concerning the credibility of rigid criteria, such as the 3 percent mark for public deficit, which was not allowed to be reached without the consequence of a penalty. First and foremost, it was a matter of political credibility and reliability of EU law. Therefore, it was not astonishing to note that in other EU member states – both in euroskeptical countries and in smaller ones that often felt

35 See Drake, Helen, *Jacques Delors: A Political Biography*, New York: Routledge, 2000.

36 See Brunilla, Anne, et al. (eds.), *The Stability and Growth Pact: The Architecture of Fiscal Policy in EMU*, Houndmills: Palgrave, 2001.

“lectured” by the dominating economies – expressed grave disappointment about the obstructionist cherry-picking of Germany as far as its unwavering commitment to European law was concerned.

On March 23, 2005, the EU reached a highly ambivalent compromise. Amidst the third year in a row with German public debt above the 3 percent limit of the Maastricht Criteria, and all in all ten out of twenty-five EU member states failing to reach the deficit limit of the Stability and Growth Pact, the strict application of the pact was softened. The new definition provides EU member states with a long list of exemptions, excusing them if they break the 3 percent budget deficit limit of the Stability and Growth Pact. The list includes increased aid spending in developing countries and many other exemptions, but mostly relevant was the recognition of the additional costs of German reunification, covered as costs for the overall European unification. Germany’s government had insisted that the country’s net transfer from West to East amounts to 4 percent of the country’s economic power. While former German Finance Minister Theo Waigel, one of the architects of the original Stability and Growth Pact of 1997, criticized the softening of the Pact, and particularly his country’s change of attitude, a “shame,” the *International Herald Tribune* simply concluded that the reforms “effectively kill the EU’s growth and stability pact.”³⁷ EU leaders, notably the obstructionist German and French governments, had to explain to the world their economic logic according to which debts could create sustainable jobs. By losing its economic anchor, the EU was slipping into a serious crisis. A leadership crisis on the national level of the two biggest EU member states was beginning to turn into a crisis of confidence for the EU project as a whole.³⁸ European integration was defined by its limits and no longer by its opportunities – to the detriment of all.

It took the German parliamentary election of September 2005, and the French presidential election of May 2007, to somewhat turn the corner. The German Grand Coalition under Chancellor Angela Merkel was not the choice of the majority of Germans. It managed national politics by simply redefining the agenda. What had been a national disaster before the elections became an opportunity and a sign of hopeful change after the formation of the Grand Coalition. In European affairs, Chancellor Merkel demonstrated that she was a genuine successor to Helmut Kohl. With erudition and sensitivity she handled most European dossiers and gave new respect to the many smaller partners of Germany in the European concert. The first result was widely

37 Bowley, Graham, “EU bends fiscal rules with treaty in trouble,” *International Herald Tribune*, March 23, 2005; also see Feldstein, Martin S., *The Euro and the Stability Pact*, Cambridge, Mass.: National Bureau of Economic Research, 2005; Annett, Anthony, et al. (eds.), *Reforming the Stability and Growth Pact*, Washington D.C.: International Monetary Fund, 2005.

38 See Paton, Nic, “Europe’s Crisis: It’s Not Just the Politics, it’s the Leadership,” *Management Issues, News and Research*, 24 June 2005, www.management-issues.com/display_page.asp?section=Research&id=2273, and it was even covered in Pakistan, see Wajahat, Ali, “Europe’s Leadership Crisis,” *The Daily Times*, 24 August 2005, www.dailytimes.com.pk/default.asp?page=story_29-6-2005_pg3_5.

lauded: The budgetary compromise in December 2005 enabled the EU to initiate its next budget cycle for the period 2007-2013.

The global economic upswing helped the German government. In the course of 2006, the atmosphere in the country turned positive for the first time in a decade. The unemployment rate went down to 9.1 percent, the increase in the state deficit was cut significantly and by June 2007, the European Commission declared that all charges against Germany for breaching the Stability and Growth Pact would cease. By the end of 2007, only Portugal, the Czech Republic, Romania, Hungary and Poland were seen as breaking the Maastricht Criteria of a 3 percent state deficit. Germany was lauded for an economic growth rate of around 2.5 percent in 2007 and in 2008, the highest since German unification. Unemployment across the European Union came down to less than 7 percent in 2008, the best figure in years, while the inflation rate was not expected to go above 2 percent. Economic upswing helped to re-launch the political project of European integration.

The economic improvement across the EU came almost parallel to the election of Nicolas Sarkozy as new President of France in May 2007. His energetic style and tough activities were the strongest signal in a decade that France also wanted to bring to an end its internal frustration, helplessness and depression. Europe would certainly benefit would its two biggest economies regain self-confidence and, moreover, would again be able to define European integration from the vantage point of its opportunities. The first effect of this new and welcome attitude was the input of the French President in the process to realize the Treaty of Lisbon in 2007. Much more practical socio-economic steps had to follow. Optimists began to signal that France and Germany were returning to the necessary path of reform while pessimists saw a difference between reform rhetoric and (sluggish) reform performance. The German government, for instance, portrayed itself successfully as a pro-climate force during its EU Presidency in the first half of 2007. But when the European Commission presented legislative proposals to implement the overall strategy of reducing 20 percent of carbon dioxide emission and increasing renewable energy resources to 20 percent by 2020 (very much promulgated by the German Chancellor Merkel), this proposal received strong opposition from all political parties in Germany, including the government parties of the Grand Coalition. Deciding in Brussels and defending Brussels' decisions in the national capital remained a sensitive and often incoherent element in EU multi-level governance, not only in Germany.

6. National Drawbacks Overcast Input-legitimacy

It cannot be denied that the language of European constitutionalism raises concern and fear among a good number of citizens across the European Union. For different

reasons, they air resentment or caution as far as further integration is concerned. Skepticism about the European idea, fear of overly centralized European harmonization, outright nationalism, parochialism and fear of losing one's local identity to anonymous and faraway forces, frustration with efficiency and effectiveness of European policy procedures, general resentment against the political establishment, anti-politics and populism with multiple possibilities of content, object and presence are common reactions.

Across the European Union, the question of how to deal in a coherent and synchronized manner with matters of xenophobic populism and anti-European nationalism remains unresolved.³⁹ It is the most explicit challenge to both European integration and European democracy so far. Not handled with sensitivity and caution, it includes the potential to unravel some of the integration threads and some components of the democratic political culture that the European Union is always swift in defining as its underlying values.

A delicate case challenging the normative and legal cohesion of the European Union has surfaced after the 2004 election to the European Parliament. Along with the national conservative Union for Europe of the Nations that has existed since the 1999 election, the new formation Independence/Democracy has become the most outspoken advocate of Euroskepticism inside the European Parliament. After Bulgaria and Romania joined the EU in 2007, the number of members of the European Parliament was extended from 732 to 785 for the remainder of the election period 2004-2009. Paradoxically, both euroskeptical groups found further support among the new Bulgarian and Romanian members of the European Parliament. For a short period in 2007, even a far right, neo-fascist group was in existence (Identity, Tradition, Sovereignty). Since most of the 32 non-inscrit members of the European Parliament (for the remainder of the period 2004-

39 Across the European Union, similar trends occurred since the 1980s, although the local context differed in each particular case. To mention only the most prominent examples: "Front National" in France gained 15 percent of votes as of 1984, and during the presidential election in 2002, its candidate Jean-Marie Le Pen received 17 percent, reaching the second round of voting against incumbent President Jacques Chirac; "Vlaams Blok" in Belgium was renamed "Vlaams Belang" in 2004; by then it had become the third largest political force in Flanders with 18 percent of votes, gaining most votes during the communal elections in Antwerp and Mechelen in 2000; Italy's "Lega Nord," together with the countries neo-fascists entered the central government under Prime Minister Silvio Berlusconi in 1994, and again in 2001; Austria's "Free Party" under Jörg Haider was able to join the government as junior partner after it had gained 26.9 percent during the national elections in 2000; in the Netherlands, the "List Pim Fortuyn", named after its slain leader, achieved 17 percent in the 2002 national election, becoming the second biggest political force in the country; in Denmark, the "Danish People's Party" under the leadership of Pia Kjaersgaard joined the government after it gained 12 percent of votes in the 2001 national elections; in Germany's free state Hamburg, the party "Offensive rule of law" under its leader Ronald Schill joined the cities government in 2001 after gaining 19.4 percent of votes; one should also mention the Norwegian "Progress Party" gaining 15 percent under its chairman Carl Hagen in the 2001 national election and the Swiss "People's Party" under Christoph Blocher, who joined his country's government in 2004. The main topics overlapping among the highly diverse national-populist parties in the EU are: anti-immigration, law and order, anti-EU and social populism in the age of globalization. See Baus, Thomas, *Rechtspopulistische Parteien*, Sankt Augustin: Konrad Adenauer Stiftung, 2005.

2009) must be considered euroskeptical or even anti-European, the attitude represented by these parliamentarians has gained a firm place at the heart of the EU institution always cherished for being the most pro-integration and pro-European. Along with a strong contingent of representatives of the far left, the skeptical positions on parliamentary democracy and on European integration have never been as loud in either Brussels or Strasbourg. Given the prevailing resentments across the European Union, euroskeptical, anti-immigration or anti-parliamentary, positions will most likely continue to be heard in the European Parliament for many more years to come.

The different signs of national drawbacks from the cause of European integration are variants of the same topic. The future of the nation state in the age of European integration and overall globalization has become unclear and clouded. A reconfiguration of the role and relevance of the nation state has become inevitable and it does not happen without tensions in practically all member states. Mostly, the contested issues are variants of welfare state reforms necessary to reduce the scope of state intervention. Historically speaking, the welfare state has been the sibling of the nation state. With the process of European integration, the European nation state has been transformed and Europeanized. The welfare state in Europe has not yet been Europeanized. This produces the tensions visible across the EU. It has become necessary to recalibrate the role of individual responsibility and the scope of trans-national European-wide social solidarity. The issues are vexing and the debates controversial. They will remain so for many years to come. These debates are intensified by the consequences of migration into the European Union, notably of people of Islamic faith and with non-European background. The related challenges are complex. They cannot be resolved by politics of fear, but certainly also no longer by politics of denial.

For many decades, West Europeans had become used to perceiving politics as the way toward fulfilling their claim rights. The state was the service-agency that guaranteed continuous affluence. Obviously, this traditional role of the nation state has come to an end. As the nation state has come under pressure to redefine its role and purpose, it can no longer deliver the socioeconomic means of security, with which it became inextricably associated. Its old role as guarantor of national security has long been replaced by its role as guarantor of economic security. Not being able to fulfill this role anymore is frustrating for national political actors and generates political discontent in many EU member states. Yet, it is the right and best way ahead to position Europe in the age of globalization. Europeanization impacts traditional constitutional and political prerogatives of the nation state, while the EU member states are simultaneously losing powers and loyalty to the level of regions within their own states. Sometimes, the quest for a reinvigorated national patriotism can be heard. Increasingly, this quest becomes a hollow phrase if it is not connected to the simultaneous process of developing European constitutionalism.

In Central and Eastern Europe, the situation has been of a reverse logic from the trends in Western Europe. The effects, however, are not all too different. As in Western Europe, the communist state with its planned economy was largely perceived as guarantor of economic security, albeit in the absence of prosperity and political freedom. As this economic security went hand in hand with political repression, the legitimacy and credibility of all public order came increasingly under pressure. Since the end of communism, the Central and Eastern European states have been trying to recalibrate the role of the state under conditions of pluralism. The credibility of leadership and political parties has remained severely strained. The enormous and almost permanent changes in the structures of parties and parliamentary majorities since 1989 indicate a fragile and still transient political culture.

With EU membership of many post-communist countries, Western European states started to encounter Central and Eastern European states amidst a common situation of deep uncertainty about the future path of their societies. This constellation has exponentially enhanced the leadership problem for Europe as a whole. Many old concepts of how to guarantee stability and modernization under external pressure do not work anymore. New concepts might undermine either the stability or the leadership it takes to manage the challenging transformation and modernization. The European Union cannot resolve this dilemma on behalf of the European nation states. The European nation states encountered each other during a new period of European unification. Unresolved matters of loyalty, dilemmas of identity, and socio-economic uncertainty were visible across Europe during the first decade of the twenty-first century. The joy of overcoming the division of the continent has been replaced by an unresolved agenda of uncertainty. Across the EU, people have to learn again that uncertainty might be the inherent nature of pluralism and of the diversity Europe can enjoy today in freedom and peace. With an intuitive reflex, many people both in the old West and in the new West of Europe try to preserve structures that have become dear to them. By avoiding change, they might realize too late that this can only end in stagnation and stasis. The current destiny of the European nation state is the management of societal change, not the fulfillment of big visions, theories or ideologies. In the management of change and transformation, all European nation states will benefit from the exchange of experiences, from joint efforts and a common search for new horizons. To facilitate this process is the promise of European integration. It neither rescues the nation state nor makes it obsolete. European integration has become an indispensable partner of the nation state in managing the Europe-wide social change and cultural and political implications. The European Union is part of the solution and not part of the problem that the nation state is facing amid a recalibration of its purpose and reach.

“For the sake of Europe” the European nation states need to be supported by the European Union in redefining their purpose. Otherwise, nationalistic parochialism could

further grow. The European nation states have lost much of their credibility in the age of imperialism and nationalism. They overstretched their competition and antagonisms to the point of self-destruction. They have lost the capacity to pursue independent national policies. The logic of economic interdependence has facilitated the recognition of permeable national political structures as economic interdependence generated unprecedented affluence. Yet, across Central and Eastern Europe, the nation state remains the fulfillment of national aspirations of freedom. For those European states that were prevented by totalitarian rule from participating in the earlier West European experiences of shared sovereignty, the aspiration toward prosperity has been a legitimate motivation for joining the European Union. Neither in their case nor in the case of the Western European EU member states has the issue of the future purpose of the nation state been resolved successfully.

The ordering of competencies in the European multi-level system of governance will be a matter of continuous reconsideration of loyalty, legitimacy, and democratic accountability in Europe. Its interpretation will also keep the European Court of Justice busy. Ordering competencies in a complex multilevel system of governance is a daunting and complex process and not a matter of one venerable pronouncement. Competencies require not only transparency and accountability in legal terms. They require successful practical actions. The legitimacy of the newly emerging European order of competencies will be decisive for the lasting recognition of the European body politic. The successful use of constitutionally defined competences is the crossroads where output-legitimacy and input-legitimacy of the European body politic do meet.

7. The Problem: Not European Integration, but Post-modern Democracy

At its core, the dilemma European integration is confronted with is not just about integration. The seriously relevant normative disputes over the evolution of the European body politic and its order of competences are not caused primarily by the structures of European politics. Their resolution is relative to the structures of European politics. The core of the normative disputes over the public order in the European body politic is about democracy, its claims, opportunities and demands and, most importantly, its limits.

During the eighteenth and nineteenth century, the European nation states developed as the framework to protect, strengthen and support the nations of Europe through the means of their state. During the twentieth century, this process repeated itself wherever a European empire dissolved – in the German, the Austro-Hungarian, the Ottoman and the Czarist Russian cases. The process of national harmonization in clearly defined and uncontested boundaries has been completed as far as the various successor states of the German and of the Austro-Hungarian empires are concerned. It has not yet been

completed among the successor states of the Ottoman and Tsarist Russian Empires. In these regions, more than in Western Europe, supranationalism is sometimes perceived as an outright threat. And unfortunately, the immediate national neighbor is often still a source of fear.⁴⁰

Simultaneously with the transformation of empires into nation states under full sovereignty, the claim for democratic rule of law, separation of power, and popular participation grew throughout the nineteenth and twentieth century. Popular sovereignty and national sovereignty became intrinsically linked concepts. The nation state became the guarantor of national sovereignty and popular sovereignty alike. The convincing strength of this concept could not be destroyed by totalitarian rule either under the Nazis in Germany or under communism in Central and Eastern Europe. With the end of European dictatorships during the second half of the twentieth century and into the first decade of the twenty-first century, the nexus between national sovereignty and popular sovereignty was reconfirmed in each single case. In the meantime, however, both the nation state and the concept of popular sovereignty and democracy have undergone enormous transformations. European integration has permeated the homogenizing claims of the nation state and has initiated a voluntary, in fact a democratic, process of pooling of sovereignty on the European level. Democracy based on the idea that only the nation state can serve as the protector of the internal freedom of each nation has been enlarged and includes a European dimension: The European Union also protects those civil rights that legitimize its nation states.

Europe has been exposed to unprecedented levels of emigration unrelated to the original notion of any of the European nations and their condition. The reasons were manifold: Ironically, citizens from former colonies migrated to the lands of their former rulers; ethnic minorities migrated to the centers of their nation once their own state allowed them to do so; economic migration turned guest workers into permanent citizens; refugees from all over the world requested civil rights; and legal and illegal pressure has build up in recent years as a peaceful, welcoming, affluent and stable European Union has become a magnetic force particularly for people from the former Soviet Union and from North Africa. Original patterns of migration have changed and new ports of call have become prominent: In 2003, out of 1.6 million migrants into the EU, 594,000 went to Spain, followed by Italy with 511,000. Germany, in 2002 still the country with the highest number of migrants, received 144,000 new people, Great Britain 103,000, and France only 55,000.⁴¹

40 See Kupchan, Charles A. (ed.), *Nationalism and Nationalities in the New Europe*, Ithaca: Cornell University Press, 1995.

41 See Eurostat. European Demography in 2003, August 31, 2004, http://epp.eurostat.ec.europa.eu/cache/ITY_PUBLIC/3-31082004-BP/EN/3-31082004-BP-EN.PDF.

While Europe was traditionally a continent of emigrants, it has become a continent of immigrants.⁴² European democracy has not stayed in step with this development, whereas European integration has done so, albeit in a highly ambivalent way: Long-term studies indicate that European citizens increasingly consider non-Europeans, and no longer co-Europeans from other EU member states, as “the other.” As of 1988, for 63 percent of Germans, the Turks were perceived as “the other,” 56 percent of the French pointed to Arabs, 45 percent of Britons mentioned Asians as “the other.” The more homogeneous a migration group, the stronger is the ethnocentric reaction of indigenous Europeans.⁴³ In Great Britain, for instance, numerically the Irish were the biggest group of foreigners in the 1980’s. But Asians and not the Irish were perceived as “the others.” Unlike earlier boundaries among European nations across Europe during the first half of the twentieth century, in the early twenty-first century Europe perceives non-European migrants and no longer co-Europeans as “the others.” This corresponds with a usual pattern of polity-formation:

Table 7: Muslims in the European Union

EU member state	Muslim population	Percentage of Muslim population ⁴⁴
Austria	372.800	4.2 % (4,5%)
Belgium	382.870	3.7 %
Bulgaria	950.000-1.000.000	12-13 %
Cyprus	210.000	22 % (27,5%)
Czech Republic	20.000-30.000	2-3 %
Denmark	151.500	2.8 %
Estonia	5.000-10.000	0.36-0.72 %
France	5.000.000	8.1 %
Finland	21.000	0.4 %
Germany	3.400.000	3.9 % (4.1%)
Greece	372.600	3.5 % (3.4%)
Great Britain	1.591.000	2.7 %
Hungary	3.000	0.02 % (0.03)

42 For a broader perspective see Pooley, Colin G., *Migrants, Emigrants and Immigrants: A History of Migration*, New York: Routledge, 1991; Geddes, Andrew, *The Politics of Migration and Immigration in Europe*, London: Sage, 2003; Cuschieri, Marvin Andrew, *Europe’s Migration Policy Towards the Mediterranean: The Need for Reconstruction of Policy-Making*, ZEI Discussion Paper C 168, Bonn: Center for European Integration Studies, 2007.

43 See Riketta, Michael, and Roland Wakenhut, (eds.), *Europabild und Europabewusstsein: Bestandsaufnahme der europäischen Forschung und sozialpsychologische Forschungsperspektiven*, Frankfurt/London: IKO Publishers, 2002:46–54.

44 See Zentrum für Türkeistudien, (ed.), “Euro-Islam: Eine Religion etabliert sich in Europa,” *ZfT Aktuell*, 102 (2004): 41-42.

Ireland	10.000	0.2 %
Italy	705.000	1.2 %
Latvia	3.000	0.12 % (0.13%)
Lithuania	7.000	1.9 % (0.2%)
Luxembourg	7.500	1.6 %
Malta	3.000	0.8 % (0.7%)
Netherlands	750.628	4.6 %
Poland	4.000	0.005 % (0.01%)
Portugal	40.000	0.4 %
Romania	90.000	0.4 %
Slovakia	10.829	0.2 %
Slovenia	30.247	1.6 % (1.5%)
Spain	402.000	1.0 %
Sweden	305.500	3.4 %

A dividing line between “we” and “them” has been the usual trajectory as a line of demarcation for building political order and political identity. Across the European Union, Muslim migrants are often considered to be “foreign.” In the meantime, many of them have become EU citizens or obtained the right to permanent residency. This trend has brought forward the religious issue beyond the simple division between “we” and “them.”⁴⁵ Debates about the Islamic veil are but a superficial expression of the new uncertainty across Europe about how to cope with a new dimension of plurality and minority. The implications for integration policies, for issues of citizenship, language, religion, including religious service and education, but also for matters of foreign policy, including the war against terror and the struggle with Islamic fundamentalism, are enormous. They obviously challenge the traditional cohesion and basis of European democracy, although their figure does not exceed 3.5 percent of the overall EU population. Yet, Islam has become the second largest religion in sixteen EU member states. A possible EU membership of Turkey would increase the percentage of Muslims in the EU to 15 percent (that is to say to a total of 90 million people). It is noteworthy that the Muslim population in the “old” fifteen member states of the EU has grown from 6.8 million in 1982 to 15.2 million in 2003. The European Muslim community is younger than the non-Muslim communities in Europe, thus adding to the sense of uncertainty among many non-Muslims in the EU.

45 See Kroes, Rob, *Them and Us: Questions of Citizenship in a Globalizing World*, Urbana: University of Illinois Press, 2000; Siedentop, Larry, *Democracy in Europe*, London: Penguin Books, 2000: 189-214 (“Europe, Christianity and Islam”); Garton Ash, Timothy, *The Free World: Why a Crisis of the West Reveals the Opportunity of Our Time*, London: Allen Lane, 2004: 62-63.

These migration trends have grown in size and presence while European democracy itself has undergone a second fundamental transformation beside the process of integration. European democracy, by and large, has become value-free, if not value-relativistic. The controversial debate 2003/2004 about the inclusion of a reference to God in the Constitutional Treaty has demonstrated the dominance of liberal humanism and laicistic notions of statehood over the recognition of a public role for religion in today's EU, and the dominance of individual choice over authority, and of post-modern culture over traditionally binding norms. These cultural patterns, however, did not help the European Union in dealing with its new Muslim citizens and their religious creed and vitality. Since the end of World War II – the most massive moral assault on Europe's identity, triggering a moral and also religious rejuvenation immediately after 1945 – religiosity has continuously decreased across Western European Christian societies. Among strong segments in all Western European societies, religious creed, habits and knowledge have been replaced by secular notions of ethical conduct and liberal humanism. With the end of communist oppression, most societies of Central and Eastern Europe have begun to undergo similar processes of self-secularization.

Muslim communities, in turn, do not tend to follow this pattern of European secularization. Their culture has always been religious-based, if not dominated. As they look for self-assertion in a foreign environment, many Muslims while living in Europe resort to stronger, even radical and violent variations of Islamic teaching. Since the Islamic issue has become a permanent topic of fear and concern for terrorism in the West, this trend has accelerated. The legacy of "9/11" has generated fear among many secular Westerners and an undeniable radicalization of Muslims living in the West, no matter how many others build brave bridges and support the Europeanization of Islam.⁴⁶ This has led to cataclysmic eruptions challenging most European notions and illusions about multiculturalism. In fact, Europe's variant of multiculturalism never took shape under the organizing umbrella of a civil religion and a constitution-based patriotism as in the United States. Europe's variant of multiculturalism was defined by an excessive primacy for tolerance, parallel life styles and a weak, if not naïve concept of political integration. The challenge of fundamentalist Islam has shocked many European citizens and forced a good number of proponents of Europe's variant of multiculturalism to confront reality.

In Europe, Muslims do not struggle with pious Christians. They struggle with the concept of liberal secularism and libertarian humanism that tries to define their religiosity and tradition as pre-enlightenment and hence in need of correction. The idea of religious tolerance in Europe grew with its valuable meaning after the religious wars on the continent. Not all its subsequent developments ended in outright secularization.

46 See Al Sayyad, Nezar, and Manuel Castells (eds.), *Muslim Europe or Euro-Islam: Politics, Culture and Citizenship in the Age of Globalization*, Lanham: Lexington Books, 2002; Leggewie, Claus, *The Emergence of Euro-Islam?: Mosques and Muslims in the Federal Republic of Germany*, Bad Homburg: Herbert Quandt Stiftung, 2002.

But the dominating zeitgeist of Europe as it encounters fundamentalist Islam in the early twenty-first century is one of secularization, defensive Christianity and cultural liberalism. Europe of the twenty-first century has one of the least religious populations in the world. In Malta, 95 percent of the population believes in God. In Estonia the figure is as low as 16 percent. According to a 2005 Eurobarometer, the other EU member states range in between.⁴⁷ “A continent that is full of ancient churches and religious shrines,” an observer sadly wrote, “is increasingly empty of practicing religion.”⁴⁸ In France, Great Britain, Germany, Belgium and the Netherlands regular church attendance has gone down to around or less than 10 percent of the population. Some Mediterranean catholic countries present higher numbers. Church attendance in Scandinavian or Central European countries is even lower. Strange enough, in its active non-religiosity, Europe has become exceptional.

Many Muslims migrated to Europe in order to escape state oppression or poverty in their homelands. In Europe, an increasing number of Muslim migrants practice a strong, often rigid form of Islam that helps them to maintain their inner stability and personality. The Europe they encounter is not simply a Europe of tolerance that has allowed them to enter its territory. It is not even a world that is different in its own religiosity.

*Table 8: Belief in God in the European Union*⁴⁹

Malta	95 percent
Cyprus	90 percent
Romania	90 percent
Greece	81 percent
Portugal	81 percent
Poland	80 percent
Italy	74 percent
Ireland	73 percent
Slovakia	61 percent
Spain	59 percent
Austria	54 percent
Lithuania	49 percent
Germany	47 percent
Luxembourg	44 percent
Hungary	44 percent
Belgium	43 percent

47 European Union, European Commission, *Eurobarometer 225: Social Values, Science and Technology*, June 2005, http://ec.europa.eu/public_opinion/archives/ebs/ebs_225_report_en.pdf.

48 Reid, T. R., *The United States of Europe: The New Superpower and the End of American Supremacy*, op.cit: 215.

49 European Commission, *Eurobarometer 225: Social Values, Science and Technology*, June 2005, op.cit.

Finland	41 percent
Bulgaria	40 percent
United Kingdom	38 percent
Latvia	37 percent
Slovenia	37 percent
France	34 percent
Netherlands	34 percent
Denmark	31 percent
Sweden	23 percent
Czech Republic	19 percent
Estonia	16 percent

From their point of view, many Muslims have entered a continent that they perceive as a-religious and agnostic. For them, Europe is relativistic, but highly radical in the claim that liberal humanism is the ultimate stage of human progress. Political liberalism is the laudable and noble philosophy that limits power and rule in Europe. Libertarian cultural liberalism, however, has developed into another variant of fundamentalism in Europe. Self-critique is said to be part of its strength, but in its dealings with matters of religion and personal morality, libertarian cultural liberalism is rigid, and often insensitive if not bluntly ignorant of other people's principled beliefs. As libertarian cultural liberalism is skeptical about the value of principled belief in the first place, its proponents find it difficult to draw limits on their self-proclaimed right to criticize others or to force self-critique upon themselves.

The problem of value-relativism is not new to Europe. It has been intensified with the emerging challenge, if not outright threat of Islamic fundamentalism. As long as Europe's liberalism was only under threat from the absent enemy of communism on the other side of the Iron Curtain and from the absent enemy that is Europe's history with Nazi totalitarianism and religious warfare that came from within, the discourse was highly academic and without practical relevance. In face of the presence of radical Islam in Europe, the issue has begun to put Europe's democratic cohesion and the argument for it under pressure.

There has always been overt consensus that European integration could only have happened among democratic European countries. Democracy was always understood as the founding stone on which, and only on which, European integration could come about and flourish. No integration without democracy: This logic started as a principle of ordering the relations among Europe's states until it finally stretched to become the guiding principle for ordering the internal structures of the integration process. In overcoming the democratic deficit, European integration was assumed to reach its ultimate and indestructible peak. Proponents of this argument rarely reflected on the underlying rationale and the binding glue of democracy, the sources and roots of its meaning and sustainability.

Libertarian liberalism has become a challenge to the logic of the edifice on which Europe has been built. This affects Europe's Christian identity, but as a consequence also the public space of other religious identities in Europe. Cultural liberalism and value-relativism cannot produce and regenerate the moral resources and foundation that it takes to root democracy and help it to be better linked to European integration. The discourse about the relationship between European integration and European democracy has found consent: Without a proper establishment of parliamentary democracy, European integration will undermine the foundation upon which it is built. As for the relationship between European democracy and its very foundation and source, this discourse has not been focused yet, let alone has it generated potential consent. But there can be no doubt that the concept of secular, liberal humanism is not sufficient to root European democracy and Europe's emerging constitutional patriotism. Europe needs to rediscover its public religious space.

European constitutional patriotism – either in the national context or on the level of the European Union – cannot blossom through the sheer invocation of its name. One of its most indispensable roots has to be addressed again in Europe, the re-evaluation of the moral, that is to say pre-institutional, roots of democracy, including the role of religion in public life. Religion can gain a public space to the benefit of European integration as has been demonstrated by the first inter-religious dialogue organized jointly by the European Commission, the European Parliament and the European Council in May 2007. This event showed the right way ahead in order to make use of the moral resources of religion for the secular project of European integration.

Civic sense is among the essential virtues rooted in Europe's long tradition. Reinvigorating civic sense or making it grow is not a matter of political decision and its executive implementation. It has to grow from within a society and will always be related to the sense of purpose and the degree of loyalty it can generate. Whether or not a combination of the many specific national and one common European civic sense will come into life has become the most critical normative test case for Europe's nation states and for the European Union alike.

XI. Academic Evaluation: Theorizing European Integration

1. Coming Full Circle: Federation as Union

Finally, the European Union ought to be recognized for what it always was intended to be: a federation. The European Union is a distinctively federal structure with a wide array of functions that are best described as multilevel governance in a European polity encompassing states and citizens alike. The European Union is more than the combination of its parts. It is a body politic in its own right, a composed federation with ambivalent combinations of strong and weak federal qualities. Yet it is more than a moot phenomenon that can only be defined in antithesis to existing states. The European Union, for all intents and purpose, is what its name says, a Union. This reflects its genuine political character and ambition and hence its difference to other existing forms of political authority, be they states, nations or empires. The purpose of the European Union has to be recognized as political – as was the original idea of the Founding Fathers of European integration after World War II. Although purpose and goal of the EU are constitutionally defined as political, its method of policymaking has by and large remained functional. The impulses for the advancement of the EU are a combination of social constructivism, formal and informal political lobbying through legally established institutions based on principled beliefs of the political actors involved, and external pressure.

Federalism is the territorial variant of pluralism, as Karl Loewenstein aptly argued decades ago when discussing “the original telos of federalism as the vertical control of political power.” Together with individual rights, federalism and pluralism execute “the function as a sort of shock absorber within the power process,” he wrote.¹ Any social grouping that generates, executes and claims authority over people requires legitimacy, loyalty and purpose. A political Union has to be manifest in its constitutional character. A Union is not a contingent political promise, intended to last until limited interests are consummated. A political Union needs to be rooted in shared values, goals and commitments that are accepted by all participants of the Union to last potentially for an unlimited period of time. A political Union cannot be conceived without a set of permanent institutions with decision-making competences, without a territory defined by boundaries, and without a political purpose expressing interests and projecting ambitions, if not power. There can be no doubt that the European Union possesses all these qualities that identify it as a Union. As a Union, by definition, it is a federation.

The traditional use of the terms “federation” and “confederation” was intended to distinguish between strong and weak forms of federal unity. This distinction, invented

1 Loewenstein, Karl, *Political Power and the Governmental Process*, Chicago: University of Chicago Press, 1965 (2nd ed.):286.