

The Dutch Intellectual Debate on European Integration (1948-present). On Teachings and Life

Jieskje HOLLANDER

Since the beginning of the new millennium, in the Netherlands dissension has grown about Europe's integration.¹ When on 1 June 2005 the Dutch voted with a considerable majority (61.6%) against the Treaty Establishing a Constitution for Europe this dissension turned into a crisis. What had happened to this Europe-loving country? In the Dutch debate on European integration, the call for answers to fundamental questions arose. What exactly was Europe? Was the European Union (EU) a super state in the making or was the basis of European unity still to be found in the national sovereignty of the member states?² And in line with this: what was Europe to become and what would that imply for the Netherlands?³ Now that the road to a European constitution had been cut off, the ultimate political aim had become more muddled than ever.⁴

From a historical perspective it is remarkable that these essential questions began to get their grip on the Netherlands only then. How was it possible that, after sixty years of progressive European integration, this country started to get ever more divided on what political form European cooperation should have and the purpose of this cooperation? What had we been talking about in the Netherlands since our first steps on the European path some sixty years ago? In recent debates on the political foundations of Europe little or no attention has been paid to the historical development that Dutch thinking on the subject went through. Journalists, jurists, sociologists and students of politics come up with questions as if they were brand-new, but also the

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2. See among others: L.J. BRINKHORST, *De EU wordt nooit een superstaat; Europa Lidstaten hebben EU nodig om zich te handhaven in nieuwe wereldorde*, in: *NRC Handelsblad*, 08.04.2008, p.7; C.J.C.F. FIJNAUT, *Een Copernicaanse Revolutie in de Europese Unie*, in: *Nederlandsch Juristenblad : weekblad behoorende bij de Nederlandsche jurisprudentie*, 6(2008), pp.335-336.
3. L.J. BRINKHORST, *Europese unie en nationale soevereiniteit*, Universiteit Leiden, Leiden, 2008. See: http://www.nieuws.leidenuniv.nl/content_docs/080408/oratie_brinkhorst.pdf; B. LIMONARD, *Het verdrag van Lissabon: eerherstel voor de natiestaat?*, in: *Jason Magazine*, 1(2008), pp.3-6, here p.6.
4. On 12 May 2000, in his famous Humboldt speech, Joschka Fischer introduced the question concerning the 'ultimate aim' of European integration. Although this *finalité* concept was immediately rejected by the Dutch government, the question that Fischer posed was subsequently heard in various contributions to the Dutch debate on European integration.

few historians who enter into the debate, omit to give it a more historical dimension.⁵ In this respect the Dutch debate is in contrast with the countries surrounding the Netherlands.⁶ Considering the interesting results of the historiography on European integration abroad, it is high time to reconstruct and analyse the debate on Europe in the Netherlands.

This article then seeks to map out that history of Dutch thinking on Europe on the basis of an analysis of the Europe-debate among public intellectuals. These persons are situated between politics and the wider society. Although the exact influence is difficult to measure, it is clear that in their role as public experts they translate political action into public opinion on it. The opposite holds true as well: politicians and policy makers are influenced by opinion makers. In the article the debate on European integration is reconstructed by the way it was held outside the political arena – government and parliament – but within public organisations, the world of scholars and debating clubs, by analysing it on the basis of publications. All sorts of people of diverse backgrounds had their part in it. Not only jurists, economists, journalists, sociologists, political scientists and a few historians but also (ex-)politicians in different capacities gave their opinion. They expressed their ideas as idealists, as political advisers, as scholars, independent publicists or orators, reacting to developments in politics or to each other's contributions. What binds them is their active reflection on the Dutch political debate on the identity of Europe. By doing so they became its fellow designers and one of the driving forces behind this debate as it was held over the past sixty years.

The contributions appeared in the form of monographs, pamphlets, lectures and orations (in print) but also as articles in journals like the *Internationale Spectator* and the *Nederlands Juristenblad*,⁷ in reports of the Scientific Council for Government Policy (WRR)⁸ and the Advisory Council on International Affairs, in reports of the scientific institutes of the major political parties in the Netherlands and as opinion

5. Historical overviews concerning the Dutch attitude towards European integration are largely confined to: A.G. HARRYVAN, *De historiografie van de Europese integratie*, in: W.A. CAMPHUIS, C.G. WILDEBOER SCHUT (eds.), *Europese eenwording in historisch perspectief. Factoren van integratie en desintegratie*, Europese Bibliotheek, Zaltbommel, 1991, pp.22-45; W.H. ROOBOL, *De geschiedschrijving over de Europese integratie*, in: *Internationale Spectator*, 12(1993), pp.681-684. These studies were never particularly aimed at analysing Dutch thinking on Europe.
6. In several European countries various studies on the thinking about Europe appeared in previous years. See a.o. T. HÖRBER, *The foundations of Europe: European integration ideas in France, Germany and Britain in the 1950s*, VS Verlag für Sozialwissenschaften, Wiesbaden, 2006; J.D. MEDRANO, *Framing Europe: attitudes to European integration in Germany, Spain, and the United Kingdom*, Princeton University Press, Princeton, 2003; I. PAVLOVAITE, *Paradise regained: the conceptualisation of Europe in the Lithuanian debate*, Copenhagen Research Institute, Copenhagen, 2000.
7. The choice for the *Internationale Spectator* and the *Nederlands Juristenblad* is based on the consideration that these are the most prominent journals that reflected, in a scientific manner and in broad context, on the process of European integration during the full period (1948-2005).
8. The reports of the Dutch Advisory Council of International Affairs that was established in 1997 have also been examined. However, the content of these reports appeared not to be of great relevance for this article.

making articles in newspapers. As far as the selection of the sources referred to is concerned, it is important to state that a well-balanced, but of necessity, restricted choice had to be made from the vast amount of material available. All the reports of the scientific institutes of the three major political parties, published between 1948 and 2005, have been examined. Especially the *B.M. Teldersstichting*, – the Dutch think-tank of the Liberal People's party for Freedom and Democracy (VVD) – turned out to have published many essays on the subject. Publications of the scientific institutes of the Christian-democratic People's Party (CDA) and its forerunners also served a useful purpose. Remarkable was the discovery that, in the period covered by this article, the *Wiardi Beckman Stichting*, the research agency of the Dutch Labour Party (PvdA), put forward only little on Europe's design. Consequently, contributions from that side will not be found here. However, certain groups and intellectuals attached to the PvdA did have a considerable influence. Examples are the political sub-movement *Nieuw Links* (New Left) in the 1970s and the influential PvdA ideologist Paul Scheffer in more recent years.⁹

From the analysis of the debate it will turn out that many of the present questions on the political identity of a uniting Europe have been asked since the end of the 1950s. It will also become clear that from the 1980s onwards a gap developed between public intellectuals who increasingly declared themselves in favour of an intergovernmental European identity and Dutch government policies which remained aimed at a further supranationalisation of Europe. Against this background I argue that an explanation for the fact that the present debate is determined by fundamental questions of political identity, is found in the opposite views of, on the one hand, public intellectuals who, as time went by, increasingly had doubts about the direction that the European project was taking and, on the other, the politicians who forced through the integration. It is also here that we find important indications for an explanation of the debacle of the Dutch 2005 referendum. However, the trends described in this article are never absolute. The article can be no more than an attempt to get an insight into the history of a complex debate that was of influence in the course of Dutch European history.

The analysis comprises the debate as defined above from its start shortly after the Second World War until the aftermath of the Dutch referendum on European integration of 1 June 2005; the moment when the confusion and discontent with regard to the political shaping of Europe became clear to its full extent. Negative as well as positive developments left their mark on the discussion on the European project as it was taking place in the Netherlands.¹⁰ In that way the debate reacted to new stages in the integration process. That is why it is examined in four phases. It is of importance

9. Also in the party journal of the PvdA, *Socialisme en Democratie*, the theme of European integration has been much debated. These contributions to the debate, however, were often characterised by a strong party-political undertone and are therefore not involved in this study of the intellectual debate. The same holds true for the party journals of the VVD and CDA.
10. The relation between actual developments in the integration process and Dutch thinking on Europe was not always predictable or unequivocal. Successes on the way to a unified Europe did not necessarily lead to an optimistic tendency in thinking on Europe.

to mention that the natural dividing lines in this phasing are formed by key moments in the integration process. They are the Congress of Europe (1948); the Treaties of Rome (1957); the Summit in The Hague (1969); the signing of the Single European Act (1986); and, lastly, the Dutch Referendum on the European Constitution (2005).

Deliverance by federalisation (1948-1957)

After the horrors of World War II it was clear to the West European national states that Europe could not go on the old way. Besides, new political realities had come into being. There was the Soviet threat from the East, Germany had been divided into two, the European economies were extremely enfeebled and the Netherlands lost its colonies. According to a growing body of thinkers in- and outside parliament, far-reaching European integration was the road to take.¹¹

It was under these circumstances that at the end of the 1940s two pro-European integration groups were founded: the Dutch Movement for European Federalists, the BEF, the Dutch branch of the *Union des Fédéralistes Européens* founded in 1947, and the *Europese Beweging* (European Movement) founded in that same year. The BEF was a post-war initiative of intellectual individuals dedicated to establishing a united Europe. The European Movement was supported by social organisations and strove after similar ideals.¹² It was these movements, led by the famous Hendrik Brugmans (1906-1957) and Hans Nord (1919-1996), that dominated the field of publications on the theme of Europe in this first phase.¹³ This vanguard of thinkers, going by the self-proclaimed name of 'Europeans', was reinforced by some lesser known authors who advocated Europe on a personal title. Examples are the theologian Thijs Booij (1923-2003) and the specialist in international law Jonkheer Haro van Panhuys (1916-1976).¹⁴

What their writings had in common, was the passionate character of their pleas in favour of a unified Europe, based on federal principles. Only the realisation of this ideal could save the nations of Western Europe from their ruin. It is on this note that the pamphlet entitled *Het uur van de Europese Federatie* (The Hour of the European

11. Prominent Dutch parliamentarians with a strong belief in the need of European integration were, for instance, Marinus van der Goes van Naters (PvdA) and Jos Serrarens (KVP). They stimulated a strong preference for European integration within their respective parties.
12. In 1958 both organisations merged into the European Movement of the Netherlands. See also H. ABEN, *Van 1947 naar 1992 en verder*, Europese Beweging Nederland, Den Haag, 1988.
13. Hendrik Brugmans was co-founder of the *Union des Fédéralistes Européens* and was for a long time considered to be the intellectual leader of the European Movement. The lawyer Hans Nord developed his enthusiasm for European unity during World War II as a member of the resistance movement. After the war he propagated this ideal as a member of the general board of the BEF and, afterwards, as chairman of the EBN.
14. Although it must be noted that Thijs Booij was for a long time chairman of the Dutch European Youth Council (1949-1960), the work referred to in this study was written on a personal title. Booij is better known as the personal secretary of Queen Wilhelmina.

Federation), published by the BEF in 1952, began: 'European civilisation, which is founded on the pursuit of liberty, justice and prosperity, finds itself in deadly danger'. Two world wars had overthrown all existing relationships with the result that subsequent 'post-war periods brought us the confusion of totalitarian adventures and of preparation for aggression'. For the peoples of Europe who regained their freedom after World War II or had 'still kept it' it was now, according to the BEF, a question of realising the ideal of European unification as soon as possible. Referring to the Soviet threat, unification was no longer a more or less desirable thing in a future more or less far, but 'a question of life or death, of a choice between liberty and slavery. And it is exceedingly urgent to make this choice now'.¹⁵

This kind of disaster-and-rescue argument is characteristic of publications of the BEF and EB in this early period.¹⁶ Specific metaphors were often used to express the urgency of the situation. The choice between unifying Europe in a federation or remaining an order of nation states was a choice between life and death, or freedom and slavery. The same holds true for the contributions of 'Europeans' that entered the public arena on a personal title. In an essay from 1953, bearing the metaphorical title *Ons groter vaderland* (Our Greater Fatherland) Booij stated: 'Europe is not only politically in distress, economically in distress, in desperate military circumstances, it is mentally ill besides'. The theologian predicted disaster if Europe did not continue on the path of unification:

'If Europe remains fragmented we will stay gagged, we will be impoverished more and more [...], then more and more minds will get ripe for communism, then defeatism will become an ever stronger power, then ...,then ..., only horrible things'.¹⁷

Also Haro van Panhuys, the legal adviser of the Foreign Ministry, deemed a United Europe essential for a better future of mankind. He welcomed the initiatives of the Dutch government to open up the constitution for the harmonisation of international and Dutch constitutional law. In order to create a new international legal order it was essential to partly give up national sovereignty, for nothing less than 'the progress of humanity'.¹⁸

Throughout all of the fifties the Europe-idealists of the first hour kept preaching their gospel of the benefit and necessity of a united Europe in such terms. The success of the establishment of the European Coal and Steel Community (ECSC) and plans of the six 'founding fathers' of Europe to achieve further political and economic

15. NN., *Het uur van de Europese Federatie*, Beweging van Europese Federalisten, Geneva, 1952, p. 3.

16. See a.o. A. MOZER, *Waar blijft Europa?*, Nederlandse Raad der Europese Beweging (NREB), The Hague 1951; J. LINTHORST HOMAN, *Europa's landbouw*, NREB, The Hague, 1951; J.C. BROEKHUIZEN, *Crisis in Europa*, NREB, 1951.

17. T. BOOIJ, *Ons groter vaderland Europa*, Ten Have, Amsterdam, 1953, pp.8 and 17.

18. H.F. VAN PANHUYS, *The Netherlands Constitution and International Law*, in: *The American journal of international law*, 47(1953), pp.537-558, here p.558.

cooperation, supported the idealists in their strivings.¹⁹ Actual disappointments half-way the fifties did not extinguish the idealistic flame within the Dutch discussion on Europe. Their only effect was a fanning of the idealists' fiery pleas. When in 1954 the creation of the European Defence Community (EDC) foundered, the BEF published a pamphlet with the revealing title *Toch ... Europa!* (Europe ... nevertheless!) It opened with the militant words 'European federalism has suffered its first big defeat; the battle, however, goes on'.²⁰ Setbacks were considered to be parts of 'an intermezzo in the history of European integration',²¹ expressions of conservatism which would not be able to stop the unification of Europe.

Characteristic of the idealists was that they did not only cherish uniform ideas on the necessity of a united Europe to meet the dangers of the times, but also on what form this Europe was to have. They emphasised supranational integration and the establishment of a European federal union. Stopping the fall of Europe implied a final breach with the system of sovereign states. Intergovernmental cooperation on the basis of traditional treaty law no longer sufficed. Putting an end to rivalry between the nations needed the transfer of sovereignty to a federal European government which should be equipped with institutional and legal powers. To develop a flourishing European economy it was necessary to create one market with one currency. And for protection from dangers from outside the union, a common foreign policy had to be formulated and a common European army brought about. The legal basis for this federation was not to be restricted to national constitutions with an open character with regard to treaty law. Ultimately a constitution – American model – was necessary.²²

What is striking about the argumentation of the idealists is the lack of doubt about the feasibility of their great objective. No words about obstacles, such as the refusal of nations to transfer sovereignty, or what to do if popular support was lacking. The question whether economic integration without political integration was possible at all, was not raised. There was no mention of Europe's future final borders. The reason for their silence on this is difficult to ascertain. It is hardly imaginable that the idealists did not occupy themselves with the problems and borders of a united Europe. It seems plausible that they were aware of these problems but preferred not to speak about them, leaving that to people not belonging to the group of Europe-devotees.

One of the first to start the offensive was the historian Pieter Geyl who in his *Studies en Strijdschriften* (Studies and Polemics) among other things also gave his comments on contemporary European developments. Although he deemed a Euro-

19. The striving for political integration reflected in plans for establishing a European Political Community (1953) and the *Assemblée Ad Hoc*. Also initiatives for a *relance européenne* in which the Dutch Minister Johan Willem Beyen was closely involved, raised trust in the feasibility of the integration process.

20. H. BRUGMANS, *Toch ... Europa!*, Beweging van Europese Federalisten, The Hague, 1954, p.2.

21. A. VOISIN, *Tien jaren, 1947-1957*, Beweging van Europese Federalisten, The Hague, 1957, p.5 and 28.

22. NN., *Het uur van de Europese Federatie*, op.cit., pp.18-27.

pean federation economically and militarily necessary, he criticised the way in which the union seemed to come into being:

‘What then are those objections, which have to be looked into and discussed before one is overawed by the overbearing tone of the shouts of the pro-Europeans? To begin with, the Europe they are talking about all the time is not Europe [...] the Europe of the six, that “little Europe”, [...] has nothing to do with a true European ideal. Why exclude England and Scandinavia?’²³

Another point of contention was the form this federal Europe was to assume. In 1954 a few legal experts in the *Nederlands Juristenblad* (Dutch Lawyers’ Journal) entered into the question of the most suitable form of (con)federal integration for Europe (a federation along the lines of the United States of America, the Soviet Union or the Swiss Confederation?) and which form would be in the best interest of the Netherlands.²⁴ It was also argued that the plans for the creation of a political European federation were premature and ill-considered, since a united Europe was lacking in political traditions which had taken shape in a common history: ‘Time and habit are at least as necessary to fix the true character of governments as of other human institutions’.²⁵ Notwithstanding this critique on the uniform ideas of advocates of a European federation, in this first stage even critics were in favour of the movement towards a United Europe. Although the practical elaborations of the ideal led to discussions, there was no difference of opinion about the great end in view. Classical nationalist positions were largely absent in the debate.²⁶ On the whole it can be said that the debate in the years 1948-1957 was characterised by great faith in a supranational and, ultimately, federal future.

From federal to supranational or intergovernmental (1957-1969)

Although in the period following the conclusion of the Treaties of Rome the European integration process led to visible successes, the Dutch debate during the second phase

23. P. GEYL, *Studies en strijdschriften: bundel aangeboden aan de schrijver bij zijn aftreden als hoogleraar aan de Rijksuniversiteit te Utrecht*, Wolters, Groningen, 1958, pp.469-478, here p.470. See also C.H. TELDERS, *De Europese Defensie Gemeenschap in de Eerste Kamer*, in: *Nederlands Juristenblad*, 3(1954), pp.49-56.
24. F. DOELEMAN, *West-Europese eenheid*, in: *Nederlands Juristenblad*, 13(1954), pp.270-272; J.L.F. VAN ESSEN, *Welke vorm voor de Europese samenwerking*, in: *Nederlands Juristenblad*, 17(1954), pp.357-359; W. KOOPS, *Federalisme: de Canadese variëteit*, Nijhoff, The Hague, 1955, p. ix and 127.
25. Words of George Washington cited by J.G. VAN PUTTEN, *De verdeling van bevoegdheden in de Europese politieke gemeenschap*, in: *Internationale Spectator*, 3(1953), pp.6-12, here p.12.
26. Political antagonists of an integrated Europe are found in these years among the Dutch Communists of the Communist Party of the Netherlands (CPN) and in Christian-conservative circles. However, in the public debate they were not very visible. An explanation for their silence in the public debate might have been an underestimation of the feasibility of the European idea; as long as European integration seemed a fiction instead of reality, fierce criticism seemed unnecessary.

was especially coloured by what was not achieved: geographical and political extension of the European undertaking. The United Kingdom tried to get into a closer relationship with the Six twice in this period of time. France, however, by means of Charles De Gaulle's veto, prevented this on both occasions. De Gaulle wanted a *Europe des États* and not the ideal of a United Europe in which the nation state was no longer the regulating principle. No longer did he attend meetings when England's admission or further political development were on the agenda. Whatever was tried, political integration did not get off the ground, that much was clear.

It was this theme that began to be the main subject of the Dutch discussion. The vanguard of European federalists of the first phase, remained dominant in the field of publishing on European integration, although they got frustrated by the lack of practical progress in the realisation of the federal objective. Their doubts on this found its expression via the platform of the Leiden Europa Institute. This branch of the Faculty of Law of Leiden University, established in 1957, was the first academic institution in the Netherlands where the European integration process as such was discussed. The former Minister of Justice, Ivo Samkalden, led this department as Professor of International Organisations. The lectures, published under the titles *Vier maal Europa* (Four Times Europe, 1959) and *Europa. Eenheid en verscheidenheid* (Europe. Unity and Diversity, 1964), are the first substantial and critical Dutch works on European integration. This academic criticism heralded a new phase in the Europe-debate. Although the members of the BEF and the European movement – merged by then into the *Europese Beweging Nederland* (EBN, European Movement of the Netherlands) – still made themselves heard at this stage as preachers of the federal ideal, their unbridled optimism was over.²⁷ The problems and delays of the process could not be ignored.

In the first volume of the Europa Institute, Geyl elaborated glowingly on the 'little-Europe' criticism which he had uttered before. That small continental Europe, which had named itself European Community by means of the Treaties of Rome, did not correspond to historical reality. According to Geyl, in every concept of Europe, England was essential:

'If we want to find unity in Europe in freedom, then it is absurd to leave out England that three times- the last time most gloriously- threw itself into the breach for the freedom of Europe'.²⁸

The jurist and former Minister of Foreign Affairs Eelco Van Kleffens summarised the essence of Geyl's criticism in a direct reaction to his lecture:

27. See for instance NN. *Naar de Verenigde Staten van Europa: program van de Europese beweging in Nederland*, Europese Beweging Nederland, s.l., 1967.

28. P. GEYL, *Historische achtergrond van de Europese eenheidsgedachte*, in: P. GEYL (ed.), *Vier maal Europa; acht colleges in het kader van het Studium generale der Rijksuniversiteit te Leiden*, Sam-som, Alphen aan de Rijn, 1959, p.23.

‘We get here to what, from a political point of view, we might call the fundamental paradox of Europe. It is found in the opposition between what Geyl has shown to be the unity of European culture on the one hand and Europe’s political fragmentation on the other’.²⁹

Both references to the need for expansion of Europe with, in any case, the United Kingdom must be interpreted in the light of Atlantic preferences; a long tradition in the history of Dutch foreign policy.³⁰

This was the first time in the debate that attention was paid to the problematic nature of the realisation of the object in view. Until then, only an incoherent and fragmented whole not corresponding to the initial federal ideal had been realised. According to Van Kleffens a clear and unambiguous system, working by unequivocal principles, was lacking. He was not alone in this. The economist and former Under Secretary of Foreign Affairs Ernst Van der Beugel also worried about the political relations within the Europe of the Six. However, where Van Kleffens thought it necessary to choose between an intergovernmental or a supranational union in which crucial political powers were transferred to supranational organs, Van der Beugel had already made his choice. Although he confessed that it was ‘one of the worst heresies in today’s Europe’, he was against the Netherlands giving up its sovereignty as long as its national interests had not been safeguarded.³¹ This was a clear break with the undivided optimism in the intellectual debate on creating a European federation; not only as far as its feasibility was concerned but also regarding its consequences for the Netherlands.

In the 1960s the debate got a new impulse. Disagreement on British entry and De Gaulle’s attitude towards Europe made clear that an answer had to be found to the question of Europe’s political identity. From that perspective the discussion in the volume of the Europa Institute in 1964, was a continuation of the debate started in 1959. ‘What is Europe-and who speaks for it?’, was the question which the secretary-general of the Action Committee for the United States of Europe, Max Kohnstamm, asked himself. He clarified:

‘What is Europe and what form will it take? Will it be a Europe on the basis of States, a *Europe des États*, or is it going to be a Europe based on common laws and common institutions, entrusted with the laying down of laws and upholding them, a Europe in which citizens remain citizens of their state but in which they become citizens of Europe at the same time’?³²

This second suggestion, referred to a union based on federal principles.

29. E.N. VAN KLEFFENS, *De politieke aspecten*, in: P. GEYL (ed.), *Vier maal Europa*, op.cit., p.28.

30. For more on the history and traditions of Dutch foreign policy see a.o. D. HELLEMA, *Neutraliteit & vrijhandel: de geschiedenis van de Nederlandse buitenlandse betrekkingen*, Het Spectrum, Utrecht, 2001.

31. E.H. VAN DER BEUGEL, *Economische aspecten*, in: P. GEYL (ed.), *Vier maal Europa*, op.cit., p.72.

32. M. KOHNSTAMM, *Europese staatkundige geschiedenis sinds 1945*, in: B.W. SCHAPER (ed.), *Europa: eenheid en verscheidenheid*, Sijthoff, Leiden, 1964.

Legal experts as well had doubts about the direction and feasibility of the integration process. In the *Nederlands Juristenblad* of 5 December 1964 we read that a merging of Community law and the laws of the member states would give legal problems: 'More and more numerous are the cases in which Community law and national law are possibly held in contradiction with each other'.³³ These contradictions made an answer to the question of priority imperative. Although the European Court of Justice, in the Van Gend en Loos and Costa-ENEL cases, had decided on priority in favour of European law, this did not result in clarity and harmony.³⁴ These decisions made national law subsidiary to community law. Was this desirable? What role would be left then for the national state? In a publication of Leiden University in 1966 with the title *Le juge national et le droit communautaire* the legal scholar André Donner, observed: 'On veut demeurer le maître de son propre ordre juridique, qui est le fruit d'une évolution séculaire'.³⁵ Other lawyers such as Ivo Samkalden and Haro van Panhuys welcomed the developments in international and European law, but Donner's observation makes clear that legal doubts were cropping up about the legal feasibility and desirability of the federal ideal.³⁶

Besides criticism on Europe's size and political form, the contributions to the debate in the years 1957-1969 were characterised by a growing paradox. Many refused a final farewell to the ideal of a truly United Europe without the old rivalries between the nation states. But disappointments on the path to this ideal led to a sceptical attitude leading to a growing tendency towards the safeguarding of self-interest. Not seldom did these contradictions lead to a schizophrenic frame of mind among Dutch thinkers, many of whom argued both for a new European order that subordinated the nation states and for the prevailing of Dutch interests. These two things did not always coincide.³⁷

All Dutch European-thinkers struggled with this paradox in this period. In practice the choice was either to fight for an 'intergovernmental Europe' or preach the inevitability of 'supranational' integration. The intergovernmental school wanted integration in certain (functional) domains (customs, internal market, etc.) but with much independence for the national member states. Those with a supranational inclination

33. L. ERADES, *Het recht van de Europese Gemeenschappen in opmars*, in: *Nederlands Juristenblad*, 42(1964), pp.1105-1114, here p.1105.

34. Costa-ENEL, ECJ, case no.6-64, 15.07.1964; Van Gend en Loos, ECJ, case no. 26-62, 05.02.1963.

35. A.M. DONNER, *Droit national et droit communautaire: points de rencontre*, in: A.M. DONNER, *Le juge national et le droit communautaire*, Sijthoff/Larcier, Leiden/Brussels, 1966, p.12. André Donner was a Judge with the European Court of Justice between 1958-1979.

36. See M.J. EMDE BOAS, *Jonkheer Haro F. van Panhuys 1916-1976*, T.M.C Asser Instituut, The Hague, 1987.

37. B.W. SCHAPER (ed.), op.cit., pp.10-11 and pp.20-21. The view that supranationalism should only be strived after in case it benefitted the Dutch interests has been termed 'instrumental supranationalism'. See for instance M. VAN KEULEN, *Going Europe or going Dutch: how the Dutch government shapes European Union policy*, Amsterdam University Press, Amsterdam, 2006, p.248; A.G. HARRYVAN, *In pursuit of influence: The Netherlands' European policy during the formative years of the European Union (1952-1973)*, Peter Lang, Brussels, 2009, p.174.

had in mind a united Europe, autonomous in many fields.³⁸ Then there was the discussion, in both camps, as to federalise or not to federalise Europe. In this period, the term ‘federalists’ was often used to denote the true believers of the EBN. In the disquisitions of the critics at the time an anti-federalist attitude could often be observed, although not necessarily coupled to a rejection of a supranational Europe. To describe the state of the process of integration in this period – a mixture of intergovernmental and supranational cooperation – the terms ‘pre-federal’ and ‘sui generis’ came to be used. But irrespective of the terms used, the dilemma between a further and true political integration on the one hand and protecting national interests on the other hand, was not solved.³⁹

How life grew beyond the teachings (1969-1987)

After De Gaulle’s resignation in 1969 and his death in 1970 the frosty relationship between France and the other five member-states began to thaw. The Dutch government and parliament still wanted the United Kingdom in the integration process and saw new chances for this objective to be reached. In December 1969 the Dutch chairmanship organised a summit in The Hague. Establishing a joint budget and setting up a monetary union were discussed, and, most important for the Netherlands, expansion, completion and broadening of the Union was agreed on. The door was opened for British entry. During the 1972 summit in Paris agreement was reached on a communal environmental and social action plan and on energy and industry policies. Furthermore it was decided a Union was to have been accomplished by 1980, in which the European Communities would be merged. These summits on expansion, where the word ‘union’ denoting Europe emerged, mark the beginning of a new stage in the integration process. Searching for new and more intensive cooperation, they were attempts to restore the tarnished idea of ‘European integration’ to its old lustre. Examples are plans in 1978 for a European Monetary System, together with the setting up of direct elections for the European Parliament in 1979 and the coming into force of the Single European Act in 1987.

Meanwhile Europe was expanding. Little mainland Europe, scorned by Pieter Geyl, came to an end. In 1973 the United Kingdom, Ireland and Denmark joined the European Communities, followed by Greece (1981), Spain and Portugal (1986). The new member-states submitted to European law, which together with the effects of increasing cooperation caused an increase of Europe’s legal authority. The European

38. Van der Beugel is an example of an intergovernmentalist author. For more supranationalist arguments see a.o. B.V.A. RÖLING (ed.), *Europese Toenadering: een bundel opstellen betreffende de Europese integratie door J.H. Beyen e.a.*, Bohn, Haarlem, 1959, pp.104-128.

39. See e.g. J.W. BEYEN, *United Europe: Federal or Supranational*, in: *Internationale Spectator*, 7(1965), pp.457-471; J. LINTHORST HOMAN, *De problematiek van het supranationale en het intergouvernementele*, in: *Internationale Spectator*, 1(1967), pp.27-50, here pp.42-43.

flag, introduced in 1986, can be seen as the symbol reflecting this growing and increasingly visible role of Europe.

Despite Europe's efforts to institutionalise it, political cooperation remained a source of anxiety in the Netherlands.⁴⁰ The oil crises of the seventies and the following economic recession had shown again that in hard times nations tended to withdraw behind the safe fence of the nation state. True, far-reaching political integration did not materialise and the debate in the Netherlands kept concentrating on its absence. In his much read commentaries in the *NRC Handelsblad*, the columnist Jérôme Heldring emphasised systematically the persistence of the nation state.⁴¹ The central point of the second phase remained the most important question in the third: to supranationalise or not to supranationalise? The tone, however, changed. Concentrated on the paradox of Europe, it had been critical, without being pessimistic on the feasibility of the federal ideal. In the third phase doubts began to creep in. The social-democratic sub-movement *Nieuw Links* (New Left) regarded Europe as a capitalist innovation working in the interest of multinationals.⁴² Its adherents argued that European integration should only be strived after if the process would lead to a socialist Europe.⁴³ The federalists of the European movement saw their great expectations frustrated as their original ideal was disappearing into the background. On the occasion of the fortieth anniversary of the EBN in 1987, Hans Nord, co-founder of the BEF and one of the faithful of the first hour, expressed his disillusionment:

'European unification has not become what we, in 1947, hoped it was going to be [...] European integration has become bureaucratic. It is done because it has to be done. But enthusiasm, no, nobody is enthusiastic anymore'.⁴⁴

As a result the European Movement did not publish any political pamphlet aimed at the federalisation of Europe anymore. The organisation remained active in the margin but its role of important stimulator of the European ideal was over.⁴⁵ The debate was

40. New plans for European Political Cooperation were presented during the European summit in Luxembourg (1970). However, not until the European Single act entered into force in 1987, did this form of cooperation become official and concrete.
41. See also J.L. HELDRING, *Dezer jaren: buitenlands beleid & internationale werkelijkheid*, In den Toren, Baarn, 1982, p.16; J.L. HELDRING, *Het verschil met anderen*, Van Oorschot, Amsterdam, 1975.
42. Nieuw Links arose in the 1970s as a consequence of the process of the breaking down of traditional religious and socio-political barriers that occurred in the Netherlands between 1945-1970 ('ontzuiling'). It resulted in a larger diversity of currents and sub-currents in the Dutch political landscape and, by consequence, also in a larger diversity in views on the process of European integration.
43. See D.F. BOSSCHER, *De Partij van de Arbeid en het buitenlands beleid (1945-1974)*, in: H.W. VON DER DUNK e.a., *Wederopbouw, welvaart en onrust: Nederland in de jaren vijftig en zestig*, De Haan, Houten, 1986, pp.63-83; G. VOERMAN, *De Nederlandse politieke partijen en de Europese integratie*, in: K. AARTS, H. VAN DER KOLK (eds.), *Nederlanders en Europa: het referendum over de Europese grondwet*, Bakker, Amsterdam, 2005, pp.44-63.
44. P. VAN NUIJSENBURG, *Europarlementariër Hans Nord over jubileum Europese Beweging: "Niemand loopt meer warm voor ideaal van Europese eenwording"*, in: *Leeuwarder Courant*, 01.10.1987, p.13.
45. From the 1970s onwards this change was reflected by a strong decrease in the membership numbers of the movement.

increasingly held in the academic world and especially in the world of political science. However, a change was also taking place there: a spirit of intergovernmentalism seemed to be abroad.⁴⁶ A new group of intellectuals in favour of European integration on an intergovernmental basis appeared in the debate. It reacted against the original federal ideal because it had reached the conclusion that the political will in the member-states was lacking. Self-interest came first.⁴⁷ Laurens Jan Brinkhorst's contribution to the volume *Nederland en de Europese eenwording* (The Netherlands and European Unification) is a good example of this. He stated clearly that the Netherlands and the supranational ideal did not go together. According to Brinkhorst – ironically, an ardent advocate of the supranational ideal – the Netherlands had never had in mind a United States of Europe:

‘Only a few ever warmed to the idea of a policy with an identity of its own. For many it [Europe] is only a geographical notion. [...] We simply do not see European unity with the emotions of someone who gets a new country of adoption’.⁴⁸

The discussion between the dwindling group of the ‘supranationals’ and those of the ‘intergovernmentalists’ got going by a continuing vagueness on the level of the European Communities. Because of the behaviour of the member states, many could in fact do nothing else but conclude that Europe still worked the intergovernmental way. European leaders and high-ranking European officials, however, did not take leave of supranational or even federal ideals.⁴⁹ The introduction of the term ‘Union’ (Paris 1972) was meant to suggest and bring about closer unity.⁵⁰ In essence, however, nothing changed. The name could work as a neutral concept corresponding with and legitimising an ever closer cooperation, without polarising the various political camps (intergovernmental versus supranational) of a Europe deeply divided on this.⁵¹ That way European integration could make progress where fundamental political choices were avoided.

Some public intellectuals, however, began to realise that the continuing discrepancy between the European ideal and its reality and the attendant vagueness on how Europe was to cooperate politically, would cause problems. This realisation led to a

46. F.H. ANDRIESSEN, *Eurosclerose: economische crisis werpt regeringen terug op nationale stellingen*, in: *Christen Democratische Verkenningen*, January 1982, pp.2-11.

47. See P.A. BLAISSE, *De EEG in perspectief*, in: *Internationale spectator*, 28(1974), pp.569-574, here p.570; R. VAN ELSLANDE, *Europa's toekomst*, De Nederlandsche Boekhandel, Antwerpen, 1975, p.23.

48. L.J. BRINKHORST, *Nederland in de Europese Gemeenschap: terugblik en vooruitzicht*, in: P.M. HOMMES, *Nederland en de Europese eenwording*, Nijhoff, Den Haag, 1980, pp.200-218, here p. 205.

49. K.H. BEYEN, *Internationale ontwikkelingen en buitenlands beleid*, B.M. Teldersstichting, Den Haag, 1979, pp.6 and 12.

50. D.P. SPIERENBURG, *Rapport van de adviescommissie Europese Unie*, Staatsuitgeverij, Den Haag, 1975, p.7.

51. In an article of a scientific staff member of the Europe Institute of the University of Utrecht it was stated in this context that: ‘It is not to be wondered at [...] that this term is guardedly used. There is over-anxiety of starting a quarrel with the consequent foundering of a plan’. H.A. AUDRETSCH, *De Europese Unie*, in: *Nederlands juristenblad*, 51(1976), pp.949-973, here p.949.

greater distance and abstraction in their thinking about Europe's political identity. For the first time several thinkers put themselves no longer in the federal, supranational or intergovernmental camp. They managed to show on a more abstract level what further intertwining of Europe and the member-state of the Netherlands, apart from political choices, implied. An example of this is Professor Jan Winter's contribution in 1988. In his book *Doordringend Recht* (Penetrating Law) he pointed at the paradox of a politically vague future of Europe and the far-reaching effects and inevitability of the European undertaking in the realm of economy and legislation:

'It has [...] become clear that effects of Community law in the national jurisdiction have institutional consequences: the authority of the judge as spokesman of Community law is greater and the authority of the national [legislator] has been curtailed. Further completion of the internal market will undoubtedly narrow the margins within which our constitutional bodies can still operate lawfully and functionally. All in all reason enough to subscribe to the correctness of the statement of Lord Denning, former Master of the Rolls: "The treaty is like an incoming tide. It flows into the estuaries and up the rivers. It cannot be held back"''.⁵²

An even more striking example is the statement of the Scientific Council for Government Policy of 1986:

'While here in the Netherlands we are deliberating upon the desirability of a fourth layer of government, this layer has come into being above us almost unnoticed. Its effects are spreading steadily and make themselves felt, sometimes by surprise, in policy areas at first sight considered far away from the economic integration process'.⁵³

The quotations show a growing awareness in this phase of the debate that in real life the economic and legal practice of European integration had far outgrown its political-theoretical design.

Entrenching behind the borders of the nation state (1987-2005)

After the coming into force of the Single European Act (1987) the transition from the eighties to the nineties was marked by major developments in international politics. The fall of the Berlin Wall (1989) and the Soviet threat gone, stripped the European integration process of one of its *raison d'être* and implied the knocking at the door of potential new member states. These developments undermined the foundations of European cooperation and as a consequence the leaders of the European project felt the need to take new important steps to strengthen European unity.

52. J.A. WINTER, *Doordringend recht: de invloed van het Gemeenschapsrecht op de nationale rechtsorde*, Tjeenk Willink, Zwolle, 1988, p. 7. See Lord Denning in his judgment on the case *H.P. Bulmer Ltd. et. al. v J. Bollinger SA et.al.* [1974]1 Ch 401, 418-419.
53. WETENSCHAPPELIJKE RAAD VOOR HET REGERINGSBELEID, *De onvoltooide Europese integratie*, Staatsuitgeverij, The Hague, 1986, p. 169.

At the end of 1992 the internal market was completed. Subsequently, a considerable institutional integrationist success was scored by the ratification of the Maastricht Treaty: making the European Union a fact. Long cherished plans of the Twelve for the creation of an economic and monetary union with a common currency were developed. New forms of cooperation in the field of defence and justice were specified and the concept of Union-citizenship was introduced. Citizens of the member-states were to have their national citizenship alongside a European one, giving them additional rights, among which the right to travel, work and live wherever they wanted in the EU.

Developing and attuning political cooperation still remained difficult. When in 1991 the then chairmanship of the Council of the European Union, the Netherlands, tried to expand its list of achievements with the founding of the European Union, this led to what has been referred to in Dutch diplomatic circles as 'Black Monday'.⁵⁴ The rest of Europe, except Belgium, turned out not to be ready for the far-reaching, supranational political cooperation as proposed by the Dutch government. In the Maastricht Treaty, concluded soon after Black Monday, little was left of the earlier Dutch draft. The position of power of the individual states remained more firmly embedded in the new treaty than the Dutch government had had in mind.

In spite of continual political-ideological bickering, Europe managed to keep the integration process going. In 1997 the Treaty of Amsterdam and in 2001 the Treaty of Nice were signed. From January 2002 the citizens of the Euro-zone had a new currency and from 1992 to 2005 the number of member-states increased to twenty-five. In 2004 the leaders of the member-states agreed on the Treaty establishing a Constitution for Europe. The giant step from fundamental disagreement on the foundations of political cooperation to a constitution supported by the government was, to say the least, remarkable.

Meanwhile, the discussion between the supranationalists and the intergovernmentalists went on,⁵⁵ and got new participants. After the academic world made its presence in the debate more and more felt, the media increasingly joined in. Television, newspapers, periodicals and the internet became ever more important for public intellectuals to put forward their views, making the debate public in a much wider sense. As a consequence, the intellectual debate and the world of politics became more intertwined as opinion makers and politicians appeared side by side in newspapers and television shows. As regards contents, a more general dislike of the federal ideal – until then not so explicitly present – tended to appear. Although in the previous phases, in particular in the second and third, the flaws of political integration and the desirability of the ultimate federal goal had been the subject of discussion, there were

54. On Monday 30 September 1991 the other EC member-states rejected a Dutch show-piece proposal for political integration. See for backgrounds and an analysis B. VAN DEN BOS, *Mirakel en debacle: de Nederlandse besluitvorming over de Politieke Unie in het Verdrag van Maastricht*, Koninklijke van Gorcum, Assen, 2008.

55. In these years the debate was dominated by the intergovernmentalists. F.H. ANDRIESEN, *De integratie van Europa: nu of nooit!?*, Universiteit Utrecht, Utrecht, 1991, p.26. Frans Andriessen was a supranationalist.

always idealists fervently arguing in favour of a renewed European élan and progress on the path to the goal of political cooperation on a federal basis. In this respect the fourth phase was different.

As early as 1992, the year following Black Monday and the year in which the Maastricht Treaty was ratified, a report of the *B.M. Teldersstichting* was published in which the authors abandoned the federal ideal. It was a remarkable move following and in line with the, at the time, even more remarkable public rejection of the federal ideal by the leading liberal politician Frits Bolkestein.⁵⁶ According to the scientific institute of the VVD only unnecessary confusion and emotions were aroused by the long-lasting discussion on the desirability of a confederal or federal ideal and, what was more, the terms were frequently misunderstood and used wrongly. It would be more fruitful to look at what was going on in practice and not to go deeply into the theoretical aspect:

‘We do not feel the need to work on the basis of some theoretical concept. The EU is a construction *sui generis* and that is how it should stay. The manner of decision-making depends on the subject under discussion’.⁵⁷

In a working document published by the Scientific Council for Government Policy it was also argued that ‘federal idealism’ on Europe needed revision.⁵⁸ Such an explicit and unambiguous dislike of the federal ideal in the domain of politics – possibly related to the reality check of Black Monday – had not been present in the discussion before in the Dutch debate on Europe.

Political scientists were not alone in their anti-federalist stand. The boundless objectives of the EU action plan ‘Europe 92’ and growing concerns on the consequences of globalisation and immigration policies caused numerous publications in which the need of reassessment was urged of the characteristics, culture and identity of the Netherlands and its role as an independent nation in the world. This at a time when Europe’s authority was growing due to the effects of the Maastricht Treaty. One such publication concentrating on the unique Dutch character and identity, was Paul Scheffer’s *Een tevreden natie. Nederland en het wederkerend geloof in de Europese status-quo* (A Contented Nation. The Netherlands and the Recurring Belief in the European Status Quo, 1988). National patterns had to be the starting point of Europe’s political identity, Scheffer claimed.⁵⁹ The idea of a borderless society, a

56. In 1992 the VVD coryphaeus Frits Bolkestein rejected the federal ideal publicly. The *Teldersstichting* ranged itself on his side with the report *Europa: een volgende akte*. G.M. VAN AARDENNE, *Europa: een volgende akte: een verkenning van de grondslagen en de toekomst van de Gemeenschap en de positie van Nederland daarin*, B.M. Teldersstichting, Den Haag, 1992.

57. G.M. VAN AARDENNE, *op.cit.*, pp.219-220.

58. P. SCHEFFER, *Machtsverschil en rechtsgelijkheid in de Europese Unie: drie amendementen op de Europese politiek van Nederland*, Wetenschappelijke Raad voor het Regeringsbeleid, Den Haag 1995.

59. Paul Scheffer is a well-known Dutch publicist and a prominent PvdA-ideologist. P. SCHEFFER, *Een tevreden natie: Nederland en het wederkerend geloof in de Europese status quo*, Bakker, Amsterdam, 1988, p.22. See also H. RIGHART, *Het einde van Nederland? kenteringen in politiek, cultuur en milieu*, Kosmos, Utrecht, 1992.

thing very much in sight with the completion of the internal market and the ratification of the Maastricht Treaty, was a 'contradiction in itself, for every nation exists because of contrast, kinship and protection. The thought that the disappearance of borders creates trust, is a liberal misconception'.⁶⁰ In 1996 he gave his opinion on the state of the European political integration. He denounced the lack of democratisation and the attendant absence of development of European citizenship. Organising these things on a national basis would be better. 'A reassessment of the national state as the carrier in the European Union of parliamentary democracy, social protection and constitutional principles' was needed.

'The picture of a Europe of federal states has been a naïve projection of German federalism on Europe as a whole. Classical thinking about integration fails to appreciate the tenacity of political and cultural loyalties'.⁶¹

Pim Fortuyn, sociologist and columnist, who was to play an important part in Dutch politics in the new millennium, shared Scheffer's views. He stated more than once, that the European order had to remain founded on independent nation-states.⁶²

The political scientist Koen Koch and the sociologist Nico Wilterdink agreed with the objections against the political modelling of Europe, but they did not support Scheffer's and Fortuyn's ideas. European integration had caused a permanent change in the relationships and had irreversibly dismantled the Dutch state. A 'melancholic nostalgia for a lost golden age' could not change that. Could there be a full return to an order of national states now that Europe was so powerful in so many fields? Transfer of sovereignty to European institutions had put pressure on the right of the nations to exist.⁶³ This discussion on the return to an order with the nation state at the centre versus the view that for that too much power had gone to Europe, made very clear the fundamental political problem of the integration process. Progressive European integration was causing the loss of the well-defined political identity of the nation when a clear-cut political identity for European cooperation had not yet been developed. This theme determined the Dutch debate on Europe during the whole of the fourth phase.

In this context criticism arose of the conceptual confusion seeming to dominate the integration process. Until then attempts had been constantly made to catch the political form of Europe in terms grafted onto the traditional state system. Two extreme options in the process of integration had always been started from. In the first, European cooperation kept its intergovernmental character. The binding element was the collective execution of those tasks meant to protect and strengthen the sovereign

60. P. SCHEFFER, *Nederland als open deur*, in: *NRC Handelsblad*, 07.01.1995, p.11.

61. P. SCHEFFER, *Over de politieke cultuur in Nederland*, in: K. KOCH (ed.), *Het nut van Nederland: opstellen over soevereiniteit en identiteit*, Bakker, Amsterdam, 1996, p.14.

62. See the many columns of Fortuyn published in the 1990s in the weekly Elsevier and also: W.S. FORTUYN, *Zielloos Europa: tegen een Europa van technocraten, bureaucratie, subsidies en onvermijdelijke fraude*, Bruna, Utrecht, 1997, pp.98-108.

63. K. KOCH, 'Denk nationaal dan bereiken we ons aller ideaal': *de natiestaat als lapmiddel*, in: *NRC Handelsblad*, 31.01.1995, p.11; N. WILTERDINK, *Het vraagstuk Nederland*, in: K. KOCH (ed.), *op.cit.*, pp.205-222, here p.216-217.

autonomy of the member-states. In the second, cooperation would develop into a supranational state-like entity, which would take over those tasks. This option implied a major transfer of sovereignty from the member-states to the European level. Jan Rood, head of the Clingendael European Studies Programme observed that both models in the discussion were rooted in Max Weber's concept of the state. The European integration project, however, was not like the classic processes of the creation of states in which power was one of the most important motives. The opposite was true. Its true character was pacification aimed at the removal of the power-political attributes of the state. 'What is the meaning of the preceding, seen from the classic dichotomy supranational-intergovernmental?', Rood wondered. 'In fact that these concepts fail in judging the state of the integration process'.⁶⁴

Although the concept *sui generis* was still useful to denote the political reality of the European integration, a growing need was felt for new concepts or paradigms to cover its reality. This became urgent when in the new millennium there came an increase in discussions on a constitution for Europe which was going to be developed. Europe was not a state. Why a constitution then? The jurist Van der Tang wondered if concepts such as constitution and constitutionalism were applicable to Europe, as they were used only in connection with classic nations.⁶⁵ The former judge of the European Court of Justice Jos Kapteyn thought a solution for the conceptual confusion on the identity of Europe necessary before thinking of writing a constitution because

'the political community must already understand itself in a certain way for the project of constitution writing and popular ratification to make sense'.⁶⁶

This disinclination towards defining Europe in terms of a 'state' gave rise to a remarkable situation. The majority of the Dutch thinking elite turned away from ideas of a federal state-like Europe and most of them kept preferring a nation-based organisation of Europe. Meanwhile Europe was moving into an opposite direction. By providing itself with state-like symbols as a flag, a currency and a constitution it increasingly assumed a state-like form. The realisation of the federal dream had never

64. J. ROOD, *De politieke finaliteit van het Europese integratieproces*, in: *Vrede en veiligheid*, 4 (2000), pp.554-574, here p.566. See also: K. KOCH, *Misbaar over de staat. Het proces van 'ontstatelijking' in Europa*, in: A. VAN STADEN (ed.), *De nationale staat: onhoudbaar maar onmisbaar?*, Van Gorcum/Instituut Clingendael, Assen/Den Haag, 1996, pp.17-30, here p.24-25.

65. G.F. VAN DER TANG, *Grondwetbegrip en grondwetsidee*, Gouda Quint, Arnhem, 1998, pp. 368-369; F. AMTENBRINK, S.B. VAN BAALEN (ed.), *Europa; eenheid in verscheidenheid?: Groningse beschouwingen over de Europese Grondwet*, Boom juridische uitgevers, Den Haag, 2005; J. PELKMANS, *Nederland en de Europese grondwet*, Amsterdam University Press, Amsterdam, 2003.

66. Kapteyn quoted here the words of American lawyer Paul W. Kahn. Kahn teaches in the field of constitutional law and theory, international law and cultural theory and philosophy at Yale Law School. P.J.G. KAPTEYN, *Een Europese grondwet: retoriek en realiteit*, Vossiuspers UvA, Amsterdam, 2002, p.26.

been so close. However, the lives of many federalists had ended. And as far as the Dutch debate on Europe was concerned, their ideals had died with them.⁶⁷

After the referendum: continuing introspection in the post-2005 era

In the running up to the referendum on the Treaty Establishing a Constitution for Europe, unsettling political events had taken place in the Netherlands. The rise and murder in 2002 of the decidedly 'un-Dutch' politician Pim Fortuyn was one of them. An assault on the Dutch tradition of ethnic and religious tolerance followed in 2004 when the Dutch publicist Theo van Gogh was assassinated. Adding to the confusion were the discussions on the demise of the Dutch 'Poldermodel'.⁶⁸ And then, when on 1 June 2005 the results of the Dutch referendum trickled in, another shock went through the political centre of the Netherlands. The ship of the Netherlands had sailed a consistent pro-European course and now all of a sudden its passengers mutinied. Although many political advocates of the Treaty had already feared that the constitutional novelty of approving a Treaty by way of a referendum might turn out differently from what had been hoped for, the actual statistics exceeded their worst nightmares.⁶⁹

Not surprisingly, the Dutch public intellectuals focused immediately on explanations of the outcome of the referendum. In the first years after 2005 there was an immense rise in the number of publications on European integration.⁷⁰ The government's unconvincing handling of the promotion campaign in the run up to the referendum and the media coverage of arguments in favour or against the Treaty were closely scrutinized and criticised.⁷¹ Much attention was paid to fundamental flaws in the way the Dutch political elite had dealt with the theme of European integration in the preceding years. Criticisms were uttered on the clinical, 'depoliticised' manner in which successive Dutch governments and the established Dutch political parties had dealt with the theme of European integration in previous decennia.⁷² It had resulted in decision making on the European level far away from the national political

67. Although the EBN still exists, the role and mission of the movement have changed drastically. J.L. HELDRING, *De nieuwe nuchterheid*, in: *NRC Handelsblad*, 10.10.1997, p.9.

68. The term Poldermodel has become a synonym for the typical form of the corporative economy that developed in the Netherlands after World War II.

69. Interview with the former Minister of Foreign Affairs Ben Bot, 24.04.2009.

70. A simple Picarta-search on the search terms Europe and the Netherlands is illustrative here.

71. P. LUCARDIE, *De campagne: David tegen Goliath*, in: K. AARTS, H. VAN DER KOLK (eds.), *Nederlanders en Europa: het referendum over de Europese grondwet*, Bakker, Amsterdam, 2005, pp.104-122; W.H. VAN ATTEVELDT, *Toen Europa de dagbladen ging vullen*, in: *Ibid.*, pp. 123-144.

72. P. VAN GRINSVEN, M. VAN KEULEN, J. ROOD, *Over verkiezingen, politisering en het Nederlands Europa-beleid*, Nederlands Instituut voor Internationale Betrekkingen Clingendael, Den Haag, 2006; R. LUBBERS (ed.), *"Een oorverdovende stilte...": over de plaats van Europa in de Nederlandse politiek*, Vereniging Democratisch Europa, Amsterdam, 2007.

arena, let alone the Dutch public at large. In that way the process of European integration had lost much of its political legitimacy on the national level. Internationally much debated themes such as reducing the ‘democratic deficit’ and interpreting ‘European citizenship’ received much attention in the post-referendum era.⁷³ However, instead of searching for solutions for these problems on the European level, in the Netherlands the focus remained on the national domain.

This is best shown by the continuation of a trend that had already set in the fourth phase: introspection and a focus on national identity. Soon after the referendum, various opinion polls were held in order to map out the motives of the Dutch people in the referendum.⁷⁴ The conclusion was that the Dutch had not turned their backs on Europe in general and that negative votes mainly stemmed from the fear of losing the national identity in a united Europe in which (in time) even Turkey might have a place. A united Europe, governed on the basis of a state-like constitution, resulted in continual attention for national identity within a European context. Many post-referendum contributions to the intellectual debate discussed this Dutch fear of the loss of identity and analysed what kind of identity was exactly to be lost. Even the Dutch constitution became subject of the identity-discussion when voices arose that this document should henceforth, more explicitly, function as an expression and protection of the Dutch legal and political identity. To this end, it was argued, Dutch constitutional values and Dutch national symbols such as the Dutch language and the national flag should be recorded in the Dutch constitution. Also the relation between the constitution of the Netherlands and the European legal order was examined and the call for an explicit recording in the constitution of the Netherlands of the Dutch membership of the European Union got louder.⁷⁵ This discussion got an extra impulse when the Balkenende IV government in July 2009 established a Royal Commission to investigate whether the, by tradition, simple Dutch constitution should be altered in this regard.

Thus the Dutch debate among public intellectuals concerning European integration developed further into a debate on the political, cultural and legal identity of the Dutch people in the post-2005 era. No longer was the debate determined by questions on the future of European integration. Instead questions on how this process should be dealt with within the Netherlands received attention. It could be argued that this debate is the mirror-opposite of the debate in the early post-war years in which the federalist intellectuals mainly worried on the future design of Europe while disre-

73. M. BECKER (ed.), *Na het referendum over Europa : een weg uit de impasse*, Damon, Budel, 2006; F. BECKER, M. HURENKAMP, M.S. DHIAN HO, *Het ongemak over Europa*, Wiardi Beckman Stichting, Amsterdam, 2008.

74. An overview of the result of these various polls can be found in the contribution of J. THOMASSEN, *Nederlanders en Europa. Een bekoelde liefde?*, in: K. AARTS, H. VAN DER KOLK (eds.), op.cit.

75. See a.o. H.L. WESSELING, *Een vredelievend volk: opstellen over geschiedenis*, Bakker, Amsterdam 2009; W. NOORT, R. WICHE, *Nederland als voorbeeldige natie*, Verloren, Hilversum, 2006; H R. HOEKSTRA, *Hart voor de publieke zaak: aanbevelingen van de Nationale conventie voor de 21e eeuw*, Nationale Conventie, Den Haag, 2006; J.W. SAP, *Een Nederlandse Ontwerp-Grondwet*, EON pers, Amstelveen, 2006; D.J. ELZINGA (ed.), *The Dutch Constitutional Monarchy in Changing Europe*, Kluwer, Alphen aan de Rijn, 2007.

garding the question on how a unified Europe should be embedded in the national constitutional order.

While the Dutch intellectuals tried to make sense of the unexpected and catastrophic upshot of the referendum and gazed at the Dutch identity and constitution, the process of European integration was not laid idle. In the summer of 2008 the Dutch parliament approved the Treaty of Lisbon. On 1 December 2009 it entered into force. By various public intellectuals the treaty was seen as a resurrection of the Treaty Establishing a Constitution for Europe; only stripped of its constitutional appearance.⁷⁶ Remarkably, this fundamental step was, apart from its technical legalities, not subjected to any significant intellectual debate in the Netherlands regarding its political desirability.

Conclusion

When on 1 June 2005 61.6% of the Dutch voters voted against the Treaty Establishing a Constitution for Europe, many, both nationally and internationally, were shocked. What had happened to the Europe loving Dutch?

In the history of the Dutch intellectual debate on European integration of the last sixty years a few outlines can be identified. The first thing to be observed is that it underwent a big institutional shift. In the early years, from 1948 to 1957, it was dominated by the idealists of the BEF and the European Movement but as time went on another picture appeared. The debate was 'academised' in the years 1957-1987. From then on, between 1987 and the present, it was characterised by politicisation and a public discussion in a much wider sense. This development is mirrored by the nature of the sources of reference. In the first period the debate was held in the form of pamphlets. In the second and third phases, volumes with lectures on Europe and reports by institutes of political science were published. The fourth and fifth phase of the debate were characterized by a growing number of academic and opinion leading contributions in the media.

The shift in the institutional frame of the debate was accompanied by a shift with respect to content: boundless optimism changed into growing doubts on the feasibility and form of political integration on the European level. Was a united Europe going to be governed supranationally or intergovernmentally? Between 1969 and 1987 these doubts made room for questions concerning the desirability of political integration. The following years were dominated by a determined aversion to the federal ideal, the demand for new concepts and, above all, by the focus on national identity. Thus the ideal picture of a European federation which had dominated the discussions in the earliest phase of integration raised a spectre in the last. It is remarkable that two

76. P.J. KAPTEYN, *In de spagaat: tussen Europa en Nederland: tien jaar Europa-debat Vereniging Democratisch Europa*, EON pers, Amstelveen, 2009, p.9.

developments in opposite directions can be noted. While the Netherlands were becoming an integral part of a federalizing system, the Dutch posture on the integration process turned more multi-form, critical and dismissive.⁷⁷

Seen from a historical perspective it is especially striking that the questions of the past decennium as put in the introduction are far from new. For sixty years Dutch public intellectuals had been debating on the whys and wherefores of European integration. Six decennia in which doubts about the feasibility and desirability of a European federation grew until this idea was definitely taken leave of in the nineties. Not only by the studied intellectuals, but also by their public: the Dutch people. Meanwhile, in the hands of communitarian-thinking government leaders and diplomats, Europe developed into a reality that did not bother about objections of public intellectuals. Federalisation came closer than ever when in 2005 a Constitution for Europe was presented. But by agreeing to hold a referendum on its introduction the Dutch government overplayed its hand. While government had turned a deaf ear to the criticisms of opinion makers, Dutch voters proved to have heard them indeed. As far as they were concerned the image of a state-like Europe had served its turn. Despite the shock, however, little changed effectively. While the public intellectuals of the Netherlands were busy explaining the result of the 2005 referendum and the role of the Dutch administration in it, the political elite was again one step ahead. With the ratification of the Treaty of Lisbon, a new step in constitutionalising Europe was a fact.

77. A. PIJERS, *Kanonnen en boter: beschouwingen over oorlog en integratie in Europa*, Mets, Amsterdam, 1996, p.135.