

Fortress Europe or Pace-Setter? Identity and Values in an Integrating Europe

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Abstract:

The article represents a contribution to discussions about the basis, motives, and goals of European integration stimulated by the recent “normative turn” in EU studies. My aim is threefold: By addressing the issue of internal legitimacy in EU decision-making, I wish to show that the European Union is in need of a public “story” of European integration; however, a closer analysis suggests that there is much normative disagreement on the values and principles that are supposed to define such “Europeanness”. This is also relevant for Europe’s role within the scene of international or global politics, where the EU aspires to become a leading actor or is supposed to do so by cosmopolitan-minded authors. Lastly, the text defends the usefulness of the traditional conceptual apparatus of political theory, which has – in relation to European integration – in recent times come under attack.

Key Words: European integration, European identity, normative turn in EU studies, legitimacy, common values, affective dimension of citizenship, cosmopolitanism, European foreign policy

The Lisbon Treaty, an heir to the rejected Constitutional Treaty, is a firm step in the direction of a politically integrated Europe – a *sui generis* type of body politic that is meant to supersede the existing model of a territorially defined sovereign state.¹ For the purpose of this article, I will take the European Union as a model case of “transnational level” political functioning, as distinguished from the national and global levels. Such an approach allows for a dual but complementary perspective: On the one hand, the view “from below” addresses the motives and goals of European integration, as well as the question of what holds (or is supposed to hold) European diversity together. On the other hand, the view “from above” considers the place of “Europe” in the wider scheme of transnational/global politics, and puts such considerations in the context of post-national and cosmopolitan political theorizing.

The article starts by delineating the concept of legitimacy, and argues that affective identification with an overarching political authority – which the EU is lacking – represents an essential component of the legitimate and stable exercise of power. While a source of such identification, captured also by the notion of trust, is traditionally supplied by nationhood,

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a similar source is lacking on the EU level. The article proceeds to question the existence of common European values and the suggested ease of constructing a shared European identity. Aside from the most general conceptual (“declaratory”) level, there is a great deal of normative disagreement on what values and principles should define Europe both “inwards” and “outwards”. This should preclude both the uncritical “great European narratives” so frequently found in official documents and statements, and overly optimistic views regarding the leading cosmopolitan role of integrated Europe. In general, the text represents an implicit plea for retaining the traditional conceptual apparatus of political theory, which in recent times has increasingly come under attack.

1. Deficits of Legitimacy and the Need for Normative Argument

Such a mode of inquiry follows what has been termed the “normative turn in EU studies”, which denotes a shift from a performance-based or “pragmatic” perspective towards a “strategic-oriented action or normative argument concerning the purpose, underlying values, future shape and desirable structures of what Jacques Delors once called ‘un objet politique non-identifié’”, as Bellamy and Castiglione (2003: 8) put it. Much in this normative argument depends on the concept of legitimacy, which, in turn, might raise questions about common values and identity as forming a necessary precondition.²

Although the concept of *legitimacy* belongs to the traditional apparatus of political theory, concerned predominantly with the liberal-democratic state as the basic unit of reference, it seems to be equally valid for the emerging Euro-polity.³ Or at least a strong case could be made that this ought to be so – that “the criteria of liberal-democratic legitimacy are indeed appropriate for the EU level” (Beetham and Lord 1998: 3; cf. Ch. 1). As such, the concept should escape the charge of backward-looking attitudes towards the EU, which has been levelled against authors such as Larry Siedentop for applying “sociological and philosophical dogmas two centuries old” and requiring the EU to conform to “the same democratic standards as its member states” (Moravcsik 2001: 116; cf. Siedentop 2001). What Siedentop and similarly-minded authors try to defend is a need for certain common foundation that would ensure the legitimacy, acceptability and consecutively stability of the EU. In other words, they search for a sociological substrate, a kind of European *demos* which, as a “primary source of law”, traditionally forms the basis of democratic legitimacy for the given polity (cf. Belling 2008: 245).

Following Bellamy and Castiglione, it is useful to distinguish the *internal* and *external* aspects of legitimacy, as well as two dimensions upon which they bear – *polity* and *regime*. Our concern here is with the internal legitimacy of the EU – “the ways people within any organization, including a state, relate to each other and to the institutions governing their lives” – because there is little dispute that the proposed criteria of external legitimacy, concerning if and how institutions satisfy certain “formal and substantive norms”, are readily met.⁴ According to the authors, the traditional theoretical approaches to European integration – neofunctionalism and liberal intergovernmentalism – tend to assume (in the pragmatic/performance-based vein) that external legitimacy somehow entails the fulfilment of criteria for internal legitimacy, which is doubtful; neither the neofunctionalist spill-over mechanism

nor the values of ever-increasing peace and prosperity can do the job of justifying (or legitimising) a specific model of the European *polity*, and even less of a particular *regime* that fills the polity with substance. Confusing external with internal legitimacy, as well as the polity and regime dimensions, leaves many important issues beyond theoretical reflection, especially the regime criteria that (1) its institutions in their scope and style(s) “recognize ideals, interests and identities of governed”, as well as that (2) “collective decisions [are] seen as authoritative because [they] involve mutual recognition” (Bellamy and Castiglione 2003: 11). These issues loosely correspond with what has been termed the *cultural* and *democratic* deficits of the EU (Delanty 2007), and it is exactly at this point that the “normative turn” in EU studies gains its momentum.

When the authors claim that the “broad consensus [on the external criteria of polity and regime] does not in itself generate any particular allegiance to the EU” (Bellamy and Castiglione 2003: 14), they in fact hint to a related issue which they do not explicitly address but which extends their argument to the specific *outputs* of EU decision-making. Andreas Føllesdal in this sense distinguishes, on the one hand, the *normative legitimacy* of a given polity and/or regime, which roughly corresponds to the various dimensions identified by Bellamy and Castiglione, and on the other, a more demanding condition of *political obligation* to abide by the individual commands of the political authority. This second criterion (or condition) requires, on the part of the citizens, “trust in the future compliance of other citizens and authorities with such commands and regimes”, and conversely, trustworthiness of institutions and fellow citizens (Føllesdal 2006: 457). Føllesdal notes that this can be, following David Easton, restated as a distinction between *diffuse* and *specific* support for (and perhaps compliance with) a given polity/regime, where the diffuse kind of support – which stems from abstract values and objectives, rather than specific policy outcomes – is much strengthened by the citizens’ believing that they have a *common good* which the authorities seek to promote (ibid: 451). Two points are worth stressing: First, universal principles such as human rights, solidarity and rule of law offer little guidance as to what kind of regime should be in place, as well as which particular policies might be accepted by the citizens. Second, some of the “standard normative principles” contained in the apparatus of traditional political theory seem still perfectly appropriate to be applied to the Euro-polity, notwithstanding its complex and sui generis nature.

Føllesdal frames his discussion in broader terms and distinguishes four specific conceptions of legitimacy, all of which are normatively relevant:⁵ Legitimacy as (1) *legality*, which overlaps with the external aspect of legitimacy outlined above; (2) *compliance*, which covers both the question of internal legitimacy and political obligation in particular cases; (3) *problem solving*, which corresponds with the intergovernmentalist and neofunctionalist pragmatic and/or performance-based outlook, such as achieving peace and prosperity in Europe, and finally (4) *justifiability*, which most closely alludes to a political-philosophical account of what citizens of the European Union’s member-states *would* consent to in a hypothetical contractual situation. Moreover, there are different channels of granting legitimacy available, including *participation*, *democratic rule*, *actual consent* and *output* (ibid: 445–450). (Note that the first three channels address the “democratic deficit”, while the fourth is closely related to the problem-solving conception of legitimacy). Lastly, Føllesdal enumerates six objects or levels of legitimacy: Particular *political decisions*, *political actors*, *public institutions*, the *regime*, the

regime *principles* and the *political community*. Although such a conceptual clarification might seem to provide alternative and perhaps complementary perspectives, the unfortunate fact is that the specific recommendations and their practical-political consequences too frequently stand in contradiction; as Føllesdal notes, “efficiency, democracy and constitutionalism may obviously conflict, even in principle” (ibid: 452).⁶

For example, the notions of *output* or *performance* legitimacy, adopted especially for the “technocratic vision” of European governance (Beetham and Lord 1998: 16–22), explicitly emphasize expert knowledge and the deliberate depoliticisation of EU decision-making process in the name of “ideological neutrality”. However, as will be argued in more length below, the nature of *any* political decision-making is simply *political*, which in the end means normative. Eschewing what Beetham and Lord call democratic authorization, accountability and representation (ibid: 26–28, 59–93) might aid in reducing the performance deficit, but hardly helps in combating the democratic one. As such, it is at best ambivalent with regard to the condition of *political obligation* (see above). Similarly, E.O. Eriksen and J.E. Fossum argue that the problem-solving conception of legitimacy, embodied in the so-called “permissive consensus” (where, in short, the EU was legitimized as long as it was able to “solve problems effectively and efficiently, and [...] to deliver goods that people demand”) cannot by itself deliver “trust-generating values”. According to them the question remains, “What are the outcomes for?” (Eriksen and Fossum 2007: 4).

Føllesdal suggests that the task of overcoming the “trust-gap” or “compliance-gap”, in the absence of a thick collective identity or a clearly delineated common good, requires both (a) institutions which are simple and transparent, and at the same time effective and efficient, and (b) public political theory or philosophy “regarding the objectives and normative standards of the political order, such as democracy, subsidiarity, solidarity and human rights” (ibid: 456–457). The latter, a kind of “story” of European integration, is directly concerned with alleged common values and their interpretation and will be discussed later.

Stressing the role of institutions, such as the European Court of Human Rights (ECHR), should not be overstated though. Because their creation is closely linked to changes and general “progress” in the realm of fundamental European treaties (until recently, these developments had an explicitly *constitutional* flavour), institutionalism faces the same “inherent risk” as over-reliance on constitutionalism: As one author puts it, there is a danger of “a reified constitutional discourse which consciously seeks to ‘alienate’ legal subjects.” (Ward 2001: 37). We need not fully embrace the discourse of critical legal studies, where the phrase has its roots; the point is still clear: The “legalistic twilight” inherent in the “meta-narrative” of constitutions and treaties and exhibited in continuous attempts to “compose yet another random scattering of rights in a shiny new Charter” (ibid: 32) misses the real issue, which is persuading citizens of EU member states of the meaningfulness of further deepening European integration. The worry that “The more [the citizen] waits for the law, the more he forgets why” (ibid: 39), is in this sense fitting.⁷ Overstating legality is, in this sense, similar to overstating performance as the principal basis of legitimacy.

Is there then a “substrate” upon which the story of European integration could be erected? This will be the main concern of the following two sections.

2. Identity and Nations in an Enlarged Europe

We can now consider the issue of trust and legitimacy “from below”. I have already pointed out that widespread trust in others’ compliance, as well as trustworthiness of institutions, is an essential component of the legitimate and stable exercise of power. This is especially relevant for the EU, whose official motto is “United in Diversity”: It is widely recognized that the more numerous and diverse a group of people is, the lower the degree of altruism and mutual identification, which in turn negatively affects their sense of solidarity and willingness to cooperate (Lehning 2001: 256). Some authors would even argue that societal trust requires thick collective identity as its precondition (cf. Miller 1995). Nevertheless, European citizenship, construed as a liberal-democratic one, and proposed as a potential solution to the “trust/compliance gap” problem (cf. Lehning 2001: 257; Tully 2002) cannot rest solely on a legal basis and do without the element of common identity, as was already hinted above. Here the issue of national attachments comes into the picture.

In his article on cosmopolitanism and nationalism/statism, Brian Barry borrows a few lines from James Joyce’s *Ulysses* that depict Leopold Bloom’s understanding of the concept of nation and nationality (Barry 1999: 12). In short, Bloom claimed his nation (that is, nationality) was Irish because he was born in Ireland, which came naturally to him. Although Barry proceeded to sharply criticize nationalism and statism from a liberal cosmopolitan perspective, I will utilize his well chosen citation for a slightly different end.

Would an ordinary citizen of, say, France, speak differently today than Leopold Bloom did? This question should not be dismissed merely because it is allegedly entrenched in “methodological nationalism”, or because it rests on the (implausible) fiction of a “closed society”, popularized recently by John Rawls (Benhabib 2002: 101–102; cf. Rawls 1993: 41). That would represent a disconnect between much of the academic treatment of national identities, couched in “post-national” terms and sometimes highly critical of the object of its research (cf. Habermas 1998; Hedetoft and Hjort 2002a) on one hand, and on the other, real-world processes and developments, which speak in a voice rather different from normative post-national theorizing. This conclusion is strikingly similar to that of Brian Barry, who criticizes “academic nationalists” for defending a benign “civic” ideal, which is decisively remote from grass-root realities (Barry 1999). The problem lies in the fact that feelings of belonging to a certain group and/or place are defined affectively, not cognitively, and as such resist rational rejection as being “outdated”, a “matter of the past”, and so on; “Europeanness” then cannot serve “as an emotionally convincing substitute for nationality, no matter how intellectually and morally appealing such wider identifications might be” (Hedetoft and Hjort 2002b: xviii). Feelings of “belonging to the EU” remain at best diffuse, notwithstanding the economic success of the European Community (Abélès 2000: 44), so there is a strong *prima facie* reason to take national loyalties seriously. The complicated process of forging national identities and allegiances is centuries-long and while no one claims this long-term process to be entirely just, its results (i.e. nations and territorially defined states) nevertheless have a firm place in the modern political vocabulary.⁸

At this point, several possible strands of counter-argument may be put forward. (1) The critic might raise an array of objections to the very concepts of nation and nationalism, for example that nation-states are not in fact nation-states, in the sense that the equation 1 nation=1

state never holds; that such territorially enclosed entities only exacerbate inter-ethnic frictions due to unequal relations between majorities and minorities; the fact that for a committed liberal, the very talk of “nations” in one line with “individuals” represents a certain recipe for a headache (cf. Barry 1999); that crucial existential questions of one’s life are better served by religion or self-reflection than by national attachments; that there is nothing ontologically or morally necessary about nationalism, and so on.⁹ These are relevant issues, but it is beyond the purpose of this article to try to judge, for example, whether liberal nationalism is an oxymoron or a magic formula (cf. Tamir 1993; McKim and McMahan 1997; Beiner 1999; Patten 1999). Suffice it to say that nationalism is almost certainly not a matter of the past. At present, there are many national selves, some cosmopolitan/post-national, and many others yet to be constituted; this is what matters with respect to democratic decision-making. Therefore, it is much more plausible to claim that nationalism should at least take on a “civic”, as opposed to “ethnic” form.

(2) A similar reply is available to the charge that my exposition is guilty of an unjustified assumption that national and European identities stand in some kind of *a-priori* mutually exclusive relation, or in other words, that I tacitly – either intentionally or unknowingly – ignore the possibility of multiple and/or overlapping identities, by creating an artificial distinction between the two. As a distinguished author puts it, there is “nothing contradictory about being Scottish, British and European, or, transcending civilizations, feeling Muslim and European (...)” since “feelings of belonging to a European, national or regional community are not mutually exclusive” (van Gerven 2005: 50–51). This seems to be especially valid for the younger generation(s), eliciting hopes that “we can expect to see a rising tide of popular support for globalisation and for the EU in future decades” (Norris 2002: 1, quoted in van Gerven 2005: 49).

What to make of these claims? First, I believe that the alleged non-exclusivity of identification with different levels of political community depends to a large extent on the way the questions in various surveys are formulated: For example, it is one thing to tick predefined boxes, asking whether one feels somehow “European” or not, and another to express actual feelings toward the citizens of other countries. The problem lies in the fact that when speaking about European values and European identity, people usually accentuate their *aspirational* aspects while suppressing the necessary *exclusionary* ones. Take, for example, the Buttiglione case, the result of which has been (among others) that issues of private morality do not belong in Europe/European politics (Bialasiewicz et al. 2005; cf. Holmes 2001). How then to establish the link between the public and private spheres? Who decides on the conditions of inclusion and exclusion? And what stance to take vis-à-vis doctrines for which the separation of ethics and politics is inconceivable?¹⁰

My second remark is related: Although individuals *can* hold multiple identities, “Europe” and “Europeanness” mean different things for people in different countries. Subsequently, the content of their image of “Europe” is likely to reproduce their own values, so that Europe as conceived by the Germans looks more or less Germanic, while for the British, Europe represents “the Other” against which they define themselves. As it has been argued on the basis of social psychological research, the rise of European identification among citizens of European countries might in fact result in less positive evaluations of their respective nations, complicating rather than facilitating tolerance and mutual respect (Risse 2002).

My general point is that there are certain identities which do not overlap, and which are not easily accommodated, even less so at the European level. Many hard cases (to borrow a term from legal theory) pop out as soon as one starts to think of European politics as truly Europe-wide – cases which have no clear solution even within the territorially defined member states of the EU, counting out simple majority decisions. What precisely is so magical about EU decision-making that these controversial issues cease to be controversial?¹¹

3. Constitutional Patriotism and Common Values

(3) Instead of plunging into the complex debate on the pros and cons of nationalism, it could be argued that there is no need to retain the language of nationalism itself. In other words – *Why bother much with existing loyalties and identities?* Should it not be possible to *construct* European identity, European citizenry, just as most national identities have been constructed (cf. Thiess 2007)? This is what Jürgen Habermas and others have argued for. There is presumably an implicit set of common political values that cut across national communities and which these communities could accept if expressed explicitly, which in turn would lead to a gradual emergence of an awareness of being European – a so-called “constitutional patriotism” (Habermas 2001; cf. Habermas 1996a: part III).

It is important to distinguish the plea for constitutional patriotism and its offshoots from another “great European narrative”, which looks rather to the past in order to unearth some kind of common history. Such attempts, embodied for example in the Preamble of the rejected Constitutional Treaty, aim to create a new retrospective myth, a kind of a European “Dream”, that has found its latest expression in the process of European integration – a firm step in the direction of an abstract “common destiny” that is unique to the peoples of Europe. But there have been as many fault lines in European history as common heritage in ideals, dreams and visions, and a selective reading of European history is hardly more acceptable than a selective reading of national histories (cf. Beck and Grande 2004: 164). Besides that, it has been argued that by “simply dismissing various elements of nationalism *in toto*” that were presumably among the causes of the bloody European past, post-national theorizing does itself “no favours” since the ethnic element – missing at the European level – has been instrumental in buttressing the growth of democratic regimes in Europe, with all the ancillary achievements such as the rule of law, human rights or political equality (Chalmers 2006: 440–441). Put more straightforwardly, the relation between nation/nationalism and democracy is most probably conceptual, not merely a historically contingent one (Lacroix 2005: 1). Also, as one author notes, such visionary justifications of European integration go well beyond the bulk of contemporary political philosophy, which “seek[s] to ground arguments on [such] daily concerns” – be it immigration, unemployment, relations with the developing world and so on (Eleftheriadis 2004: 9).¹² So the theoretical construction of common identity, if it is not to rest on dubious “great narratives”, has to be particularly convincing in order to support deeper political integration of the EU.

Is the appeal to constitutional patriotism, preferably stripped of the historical-visionary baggage, and focused rather on the concept of political culture, a promising path to common identity? I suspect that, on its own, it cannot do the job it is expected to. The reason is threefold:

(A) First, political values such as freedom or social equality are rather empty and likely non-functional without a shared cultural and historical horizon. While the latest Eurobarometer survey on European cultural values suggests that there are several values that a majority of Europeans generally agree on (peace, social equality and solidarity, respect for nature and environment, freedom of opinion etc.), it also shows that a small majority of respondents (53%) believe that there is “no common European culture, because European countries are too different from one another” (European Commission 2007).

The original objectives of the EC/EU might be summed up as (1) peace in Europe, (2) integration of Germany and (3) economic prosperity (Habermas 2001: 2–8). Peace and economic well-being are universally acceptable values/objectives both from the perspective of EU-insiders and EU-outsiders. The problem with them is that they do not seem appealing enough to hold European diversity together; or more precisely, it is not at all clear that they point in the direction of further integration, let alone of any sufficiently robust European identity, and do not by themselves offer any clear guidance for common policy.

A more detailed and up-to-date list is to be found in the Maastricht Treaty, as amended by the Lisbon Treaty and the rejected Constitutional Treaty, both of which contain a list of values and objectives assumed to be “European” (Treaty on European Union: Preamble, Title I; Constitution for Europe: Art. I-2, I-3; cf. Lisbon Treaty):

Values: Liberty, Democracy, Human Rights (including the rights of persons belonging to minorities), Individual Freedom, Rule of Law, Human Dignity, Pluralism, Tolerance, Social Justice, Equality, Solidarity, Non-Discrimination etc.

Objectives: Promoting peace, economic growth, solidarity between generations, respecting cultural and linguistic diversity, protection of human rights, eradication of poverty, combating social exclusion and discrimination etc.

These seem to be pretty obvious “positive” values that are worth striving for and that overlap with what the individual member-countries as well as their individual citizens endorse. However these are highly abstract concepts, which remain empty without further interpretation. All of these values represent *contested concepts* and some of them even *essentially contested concepts*, that is, concepts we all agree that are good (or bad) but necessarily disagree on the criteria for their application. Take for example the values of Democracy, Tolerance, Social Justice, Equality or Human Rights. A glimpse over the recent history of political thought reveals that no agreement exists; on the contrary, powerful arguments have been put forward by each of the major schools (or representatives) of political philosophy (cf. Kymlicka 2002). There is a heated debate over what social justice requires, pitting, for example, mainstream liberals (liberal egalitarians) against successors of the radical-democratic tradition (Young 1990; Anderson 1999). Similarly, theories of democracy offer different accounts of the desired arrangement of a democratic community (cf. Held 2006). As for tolerance, there is the long-standing issue of whether to tolerate – in the name of normative multiculturalism – illiberal practices of certain identity-based groups within a general liberal framework. Equality is an extremely tricky concept; even such an ostensibly uncontroversial conception as “equality of opportunity” is a victim of much indeterminacy (Arneson 1995; cf. Sen 1992). Or sticking with multiculturalism, is it right (fair) to treat certain groups favourably (i.e. treat others unequally), so that their members feel as equals in a democratic society? Some would consider it a criminal betrayal of fundamental liberal values.¹³

In other words, the values included in these documents are too general and hollow to ground any substantial moral allegiances, or as it has been termed, “entries in a collective dictionary”. Some even speak about a hypertrophy of values that makes their declaration “diffuse and powerless” (von Bogdandy 2005: 298, 310; van Gerven 2005: 56). Let me take a concrete example of why this is so: The Common Agricultural Policy (CAP) with its roughly 40% share of the EU budget, most likely does not correspond with principles of economic liberalism, besides being widely known to be a heavy burden in terms of fiscal policy. Quotas limiting the permitted area of vineyards in member countries speak a similar language as agricultural subsidies to certain regions. However, Art. I-3 of the rejected Constitutional Treaty speaks about “free and undistorted competition” in the internal market. Now my point is not to defend economic liberalism, but to express astonishment that this is not understood and interpreted as a *political* issue that has roots in a systematic *theoretical* and *normative* account of what is right and wrong in a society – specifically, how a just society distributes the goods produced. Rather, such policies are usually presented as some kind of “technical” decisions driven by unspecified “necessities” of European citizens and/or firms. In other words, European politics is in this sense highly *depoliticized*, as if the asserted common values had unique substance once and for all – which is simply not true (cf. Beetham and Lord 1998: 20). Policy decisions are not value-free simply in virtue of being made on the EU level, and the supposed “ideological neutrality” is only a case of wishful thinking. My earlier discussion of the performance vs. democratic aspects of legitimacy can be applied here: Since there is no such thing as non-political political decision-making, there is again a *prima facie* reason to ask how and from whom its legitimacy stems. Returning to Habermas for example, it is not at all clear why the privileged philosophy of the EU should be *social democratic*. Are other philosophies or ideological visions of a good society somehow “less European” (Eleftheriadis 2004: 8)?

(B) We can now consider the second difficulty with political values: Namely that their existence in a pure form is a myth, no less than narratives of the foundations of national identities. As Bernard Yack remarks, the first half of Ernest Renan’s famous definition of a nation as “a daily plebiscite”, which points to the key role of “rich legacy of memories”, has been too often left out in order to highlight the individual and consensual aspect of certain common identities (Yack 1999: 107; Renan 1882). Even a politically defined community will articulate certain cultural norms, such as the date of bank holidays, official language(s), school curricula or limits for immigration. The United States, universally considered to be a paradigm of politically defined citizenship, is a case in point, for example with regard to their school system.¹⁴

(C) Lastly, even if a viable political conception could be found or constructed, it would not follow that full inclusion has been guaranteed, or that the problem of membership (citizenship) has been solved: For (i) certain individuals or groups may (and do) consciously oppose values such as freedom of opinion or religion, or may disagree with the boundaries of such freedom, and (ii) they still would not be disqualified from citizenship – because citizenship rights are simply not conditioned upon general political principles, but upon such principles such as one’s place of birth and/or line of descent.

4. Transforming Political Theory and Society

The upshot of the previous paragraphs is that a political conception of identity does not represent a unique solution to the problem of European identity. But there is still another way to cope with shared identities: (4) Denying that the traditional conceptual apparatus of western political theory is capable of capturing contemporary developments. Since the EU is a political system *sui generis*, old recipes and methods lose their ground and legitimacy.¹⁵ According to Ulrich Beck and Edgar Grande, unless we (political and social theorists) dispose of categories such as nation, state, sovereignty etc., our understanding of European integration will be necessarily erroneous and deformed – for example in the sense that the relation between European-level and state-level political institutions will be perceived as a zero-sum game, i.e. as *either-or*, instead of *both-and* (Beck and Grande 2004: 27, 245).

Beck and Grande's departure point is again a critique of methodological nationalism in social and political theory which precludes embracing a dynamic perspective on European integration and traps one in a "Europe-blind", zero-sum game perspective, incapable of capturing the epochal societal transformation currently taking place. Against what they call the National, Neoliberal and Technocratic "Lies" (*Lebenslügen*) distorting our perception of possible European trajectories, Beck and Grande put forward an ambitious theory of a *reflective cosmopolitanism*, a realistic utopia (also called *cosmopolitan realism* by the authors) that will enable embedding European integration in the more general context of reflective modernization. In this way, "old" and presumably obsolete distinctions – the so-called *duals* and *coordinates* – such as inside × outside, national × international, society × politics or we × the others will be eroded and eventually disposed of (ibid: 51). The resulting theoretical project, which mirrors the desired direction of European cooperation, is what Beck and Grande call *Cosmopolitan Europe*. The process of *Europeanization* then reappears as a regional model case of *globalization* (both understood obviously in the "correct way"), and as such does not, should not and in fact cannot have any unambiguously defined borders both inwards and outwards.¹⁶ Such a perspective allows the authors to perceive the EU as a limitlessly open and inclusive entity, which at the same time accommodates and dialectically lifts up the many divisions and seemingly exclusive identities – and most interestingly – also does so vis-à-vis the rest of the world.

Beck and Grande explicitly claim that their attack on methodological nationalism steers clear of its counterpart in "methodological Europeanism". They also claim that through their "story of Europe", they do not aim to adopt a "universalistic view", and that their understanding of Europe does not amount to a construction of a "cosmopolitan philosophy". By setting their "cosmopolitan realism" between globalism and nationalism, they wish to avoid "Eurocentric normative universalism". But it is doubtful whether one can coherently speak about Europe as a post-hegemonic Empire based on a universalistic and open logic of functioning, presenting this project of "newly thought Europe" as a solution to the numerous problems of the "world risk society", as well as stating explicitly that political *realism* prescribes to subordinate the interests of nation-states to cosmopolitan aims (such as procurement of democracy and freedom; ibid: 325), while claiming that such a project is free from cosmopolitan normative pretensions.

Beck and Grande put a lot of emphasis on the pioneering role of judicial activity, which, through the precedential decisions of the European Court of Justice (ECJ), has indeed acquired a position of central importance to European integration. However, faith in the ECJ's spearheading role in this respect is ill-founded. As it has been put, "courts are imperfect vehicles for expressing either a national or European community view that reveals how citizens identify with each other at either level" (Bellamy and Castiglione 2003: 24). Courts cannot by themselves ensure the *internal legitimacy* of a given polity. Decisions about common foreign policy, agricultural policy, educational system, tax system, criminal issues, policy of equal opportunities etc. are *political* by nature, and as such cannot be justified by vague reference to ECJ-guaranteed "norms", within which the desired "discovery of Europe" (*Erfindung Europas*) is to take place. Again, *solidarity* might be a value shared generally by the vast majority of European countries and their citizens, but it is much less clear what it means with regard to their pension or health care systems. Decisions of this kind require legitimacy, which in turn requires trust. To drive the point home, trust can be built neither around highly abstract values and/or principles, nor on the findings of the ECJ. The project of "Cosmopolitan Europe" therefore tells us very little with regard to issues that are crucial for decision-making on the European level. Thorny and persistent problems (cf. Beck and Grande 2004: 148–150) will not be solved by labelling them as "outdated" and "backward-looking", or by dissolving them in a dialectical conceptual "game".

The proposed erosion of antiquated conceptual distinctions being put forward as a solution to the incongruence between concept and reality that forms the root of the "misinterpretation of Europe" suffers from a similar weakness: In the quest for "inclusive duals" based on the *both-and* logic, the concepts are emptied of their meaning, and thus lose their descriptive and explanatory significance. I do not believe that celebrating the *Mehrdeutigkeit* (equivocation) of concepts, as opposed to their (allegedly obsolete) *Eindeutigkeit* (non-ambiguity) is the right way to go, because it prevents clear thinking about what is at stake (cf. Gaus 2000). The EU might be a *sui generis* entity, however, political concepts such as equality, interest, justice, sovereignty, power or identity retain their content – a much disputed content of course, but that does not amount to a wholesale rejection of "old political theory".¹⁷ As I have argued above, European politics is also about power and distribution, no matter how much effort is put into dialectical denials of this fact, and in such a game there are always winners and losers. Beck and Grande are also wrong when they claim that politics on the EU level rests on a culture of consensus (Beck and Grande 2004: 110, 121), because it is at best a culture of compromise – and the difference lies not only in spelling. More generally, the dialectics of *both-and* cannot obscure existing divergent interests and identities, for example in the realm of energy policies, educational systems or minority policies. Claiming that "Europe is characterized by what it is not" (ibid: 284–285) will take us only that far.

Margaret Canovan notes that the fact that so-called "nation-states" have so often failed to live up to the ideals that buttress them does not authorize one to claim that some kind of supra-national entity should step in and "take care", that is, create and embrace "a rich plurality of semi-autonomous communities presided over by a benevolent but impartial regional authority," because "the most likely effect of any such attempt at a divorce between the communal and the political would be to further politicize communal identity, while depriving the political structure of an affective support it needs to be able to command allegiance" (Canovan

1996: 117). Here we again stumble upon the affective dimension of citizenship, which cannot be supplanted by rationalist (legal and political), top-down, elite-driven constructions of a “new Europe” (cf. Fossum 2003: 337).

At the very least, there is something to Canovan’s scepticism as there is to Beck and Grande’s optimism, and with respect to what is at stake, one should not feel ashamed to take the “jeopardy” attitude (Hirschman 1991), so frowned upon by the progressive theorists among which Beck and Grande certainly belong. Of course this is not to say that the 20th-century “nation-state” marks the end of history. The EU is indeed an experiment in the making and no general and preferably empirically validated theory is at hand. Because nations are not entirely homogenous and exclusionary entities, we can speak about forging a common overarching identity. One of the paths toward this goal might be something reminiscent of a Rawlsian “overlapping consensus” on a list of values and/or principles, and if we accept the claim that “European awareness” is rising, especially among the younger generations, then the long-term perspective looks rather more optimistic.¹⁸ However, I remain quite reserved with regard to a top-down construction of European citizenry, accompanied by a doubtful “culture of uncertain urgency” on the part of European elites, aiming to “[go] forward without looking behind” and “digesting events without considering all of their consequences” (Abélès 2000: 32–33).¹⁹

5. Fortress Europe or Pace-Setter?

Beck and Grande’s drive for a “Cosmopolitan Europe” invites us to consider the final issue, and that is the place of the “new Europe” in the wider scheme of global politics. Or put differently, what kind of relationship exists between the internal dynamics of European integration and the role of the EU on the international scene (cf. Bickerton 2007: 25). Gerard Delanty has proposed a fourfold typology of European identity that stretches across the space defined by the *universalistic* and *particularistic* poles (Delanty 2002). On the universalistic side, he identifies “moral universalism” and “post-national patriotism”, both of which are decidedly thin identities – the former embracing universal norms such as human rights, justice or humanitarianism, while the latter stresses a distinctive legal dimension of European integration. The related political/philosophical traditions are *liberal democracy* and *civic republicanism*, respectively. On the particularistic side, Delanty puts “cultural particularism”, which leans heavily towards symbolic and ethnocentric conceptions of Europe, and “European pragmatism”, which is instrumental in its nature and feeds off “economic and social aspects of life” (Delanty 2002: 351). The respective traditions in this case are *Euro-federalism* (or *communitarianism*) and *social democracy*. Delanty suggests steering a middle course by combining the second and fourth models, which “share a certain kind of openness that is consistent with cultural pluralisation and reflexivity” and retain transformative potential (ibid: 353). Such an alternative identity allows, according to Delanty, for a “possible reconciliation” of universalism and particularism. *European Cosmopolitanism*, as Delanty calls it, would then emerge from the awareness of “conflicts, traumas and fears” of the European past, rather than searching for a “transEuropean cultural heritage” (ibid). The discursively established, reflexive European Cosmopolitanism could be internally thickened by recourse to Social

Democratic values, which differentiate Europe from the USA and the majority of the rest of the world. Universal principles are thus particularised through concrete European experience, while specifically European “ways of life” are de-particularised in the process of reflection and dialogue.

Although this tells us little about the actual content of EU foreign policy, the author’s opposition to the particularistic model of “Fortress Europe” (embodied especially in the third model) is apparent. This “drive” is even stronger in the case of Beck and Grande, who present us with an image of a principally open, border-less and inclusive political entity, whose expansion is fundamentally unconstrained. When they finally although quite briefly discuss what they call the “dilemma of universalism”, that is, what set of norms should define Europe vis-à-vis the rest of the world, who should decide on this set and whether it has to remain procedural or acquire certain substantial content, they eventually settle on *human rights* as a necessary minimum, which is after all complementary to Empire-building. Thus a new kind of a *Menschenrechts-Empire* (*Human Rights Empire*) ought to emerge, whose universalistic ambitions are unambiguous; while of course retaining tolerance and respect for diversity and Otherness (Beck and Grande, 2004: 385 an). Their cosmopolitanism bases itself “on a framework of norms that are connectional and binding for all, with the help of which a slip into a post-modern particularism should be prevented (ibid: 28–29).

It is legitimate to assume that *if* Delanty’s European cosmopolitanism is to retain any aspirations of moral universalism, *human rights* will be again a serious candidate, although actual foreign policy principles will probably be more ambitious, along the lines of the amended Maastricht Treaty.²⁰ In any case, human rights and possibly democracy seem to be among the core principles defining the EU vis-à-vis the rest of the world, upon which it can build its pace-setting role. Similar conclusions are in fact also reached by Eriksen and Fossum (2007: 13–14) upon considering several cosmopolitan accounts of the future of European democracy.

However, the perceived self-evidence of universal human rights cannot withstand closer scrutiny. Even if we leave aside the contested issues of the *grounds* and the *scope* of human rights (cf. Cranston 1973; Gewirth 1979; Shue 1996; Donnelly 2003; Ferrara 2003), it might be plausibly argued that human rights represent a consequence of the functioning of liberal democratic polities, not their causes, which means that the conceptual separation of human rights and democracy is not so easy (Brown 1999: 111). Although there might be an ostensible planetary consensus on the Universal Declaration of Human Rights, that does not tell us much about the actual level of human rights fulfilment. Many governments are paying only lip-service to it, for a simple reason: Unless these human rights become legally and not only morally binding, we cannot expect their fulfilment in countries that do not possess a liberal democratic legal order. The “mobilization of shame” may help in specific cases of human rights violations, but structurally, the connection between the widest possible fulfilment of human rights as they appear in the UDHR and a functioning liberal democratic polity seems to be empirically true.²¹ This is a somewhat schizophrenic position – the EU would wish to promote a supposedly universal principle, but not as a full package, which would be too reminiscent of its ethnocentric imperial past. However, the UDHR and related Covenants do represent a comprehensive account of a good society, not a “necessary minimum” – which tends to get overlooked because the international community struggles to uphold even core human rights,

such as the right not to be subjected to torture or cruel, inhuman or degrading punishment. One would find it difficult then to conceive of human rights as a defining feature of Europe in the wider context of global politics, official declarations notwithstanding. This theoretical quagmire is further complicated by real-world tension between EU's pretensions to pursue a unified pan-European foreign policy in the name of European "people", and the mode of its creation and legitimization, which remains entrenched in the discourse of "damage limitation" oriented towards "mere" *coordination* of national foreign policy priorities (Bickerton 2007).

Is there anything which could characterise the EU as a global player, besides its economic strength, military weakness, economic protectionism, strict migration policy and moralistic jargon (see the recent proposal of the European Parliament to put a worldwide moratorium on the death penalty through the UN General Assembly)? Are the EU's core principles and values capable of transcending cultural and geographical borders, making it a global leader? In a Rawlsian world governed by a liberal Law of Peoples such questions would be perhaps superfluous, because the normative principles of international politics are exhausted in this model by a fairly short list of fundamental human rights, and a duty of assistance to the "burdened societies", thus approximating with certain qualifications the current state of affairs (Rawls, 2001). More ambitious visions of a future world order, on the other hand, such as those projected by Beck and Grande, Held (1995), Tan (2000), Pogge (2002), Caney (2005) or Moellendorf (2002) would push the EU into a much more demanding position – in order to spearhead, for example, reform of the United Nations, procure the UDHR as an "indivisible whole", or establish an effective global judicial system. This is, however, not a task suitable for a political entity that is shy of openly embracing its supposed cosmopolitan mission, that builds – or is advised to build – its identity partly in opposition to the naïve and dangerous idealism of the USA, and struggles to establish its internal legitimacy.

6. Conclusion

Whether the project of political unification is viable, and whether a politically united EU will be able to take the position of a global "pace-setter" with respect to its core defining values and principles, remains to be seen. In this paper I have tried to restate some of the links between the concepts of legitimacy, identity and common values which I hope shed light on the complex internal nature of European integration and the inherent problems it faces. Of course, these issues deserve more detailed treatment than I have been able to offer here. Let me conclude the text with an example of why it makes sense, in my view, to look into the past, or at least the present, and not just forward. The EU's celebrated openness to ethnic, religious and value diversity has recently given way to rather traditional concerns over the unity and stability of member-state societies. To use a much-favoured watchword of the last decade, normative multiculturalism has been to a large extent replaced by a concern for civic toleration and its limits (Barša and Baršová 2005), which is again a *classical notion of political theory*, no matter what some authors have said about its obsolescence and uselessness. What I have tried to arrive at is a belief that, with respect to the main points of this paper, normative self-restraint is a precondition for thinking more clearly about and acting more realistically upon the challenges that the EU is, and will continue to be, confronted with.

Notes

1. See Lord and Magnette 2002: 24, who argue, with regard to the issue of legitimacy, that the EU “appears more like a laboratory for changes that are more or less present elsewhere than as a *sui generis* system.”
2. My aim here is not to provide an exhaustive account of metatheoretical debates on the concept of legitimacy in relation to the EU. Rather, I wish to concentrate on certain aspects of the concept, which seem especially relevant to me. Admittedly, as one reviewer has observed, such an approach does not do full justice to several interesting works and/or perspectives, such as Lord and Magnette 2002; Eriksen and Fossum 2004 and 2007; Scharpf 1999 and others. However, a full-fledged account would reach well beyond the intentions of the article, and would deserve a separate and more focused treatment.
3. The concept of legitimacy has, of course, a rich intellectual history. One reviewer suggested inclusion of an overview of this wider theoretical framework, in order to make the following text somewhat more “nested”. Due to space constraints (and partly to reasons outlined in the previous footnote), I leave it to the kind reader to consult the classical contributions by Max Weber (1919), Carl Schmitt (2004 [1932]) or Jürgen Habermas (1996b) (to stick with some of the suggested authors)
4. These include formal criteria – (1) *de jure* compatibility with international law (*polity*) and (2) legality, or regular system of governance which is not arbitrary (*regime*), as well as substantive criteria – (3) the polity’s viable existence does not entail oppression of insiders or outsiders (*polity*), and finally (4) the regime not being oppressive, unjust or incompetent (*regime*). Bellamy and Castiglione 2003: 10–11.
5. Føllesdal speaks of four different *concepts*, however I believe that the distinction between an overarching *concept* and its various interpretations (that is, *conceptions*) is useful here. For the original exposition see Gallie 1956; cf. also Gaus 2000: 26–32.
6. Cf. Lord and Magnette 2002: 13–14 for a similar comment, although they are more optimistic with regard to resolving such conflicts, or even to their conduciveness to establishing a functional democratic polity
7. The quote comes from Franz Kafka’s *The Trial*. Again, I do not want to pursue Ward’s argument to the proposed “leap beyond constitutionalism” and similar radical conclusions.
8. For one possible account, admittedly ambitious and complex, see Flora 1999.
9. Of the many critical accounts of nationalism and its defences in political theory, Bhikhu Parekh sums up nicely the most important points in his ‘The Incoherence of Nationalism’; see Parekh 1999.
10. Asking these questions, we are back in the realm theoretical discussions that have in recent decades dominated the landscape of political philosophy, such as the ethical neutrality of the liberal state or the exclusion of comprehensive moral doctrines from political deliberation.
11. This claim could be further strengthened by noting that there is a crucial component of modern politics that is too often ignored in academic debates on European politics and identity – and that is the issue of *power*. A sober reflection such as “What is totally lost from view is that politics, even “new” European politics, is about *power and distribution* (...)” (Weiss and Wodak 2000: 49, emphasis added; cf. van Schendelen 2002), is quite rare. However, political power and the model of economic (re)distribution traditionally stand in need of justification and popular authorisation. This is the very domain of political philosophy, concerned with substantiating and/or rebutting arguments for certain normative rules and principles.
12. Beck and Grande, whose work will be discussed shortly, suggest the exact opposite – to rediscover “great goals of great politics”. Beck and Grande 2004: 240.
13. For one of the most eloquent and entertaining elaborations of this “hard-nosed” liberal attitude see Barry, 2001. Kymlicka 1995 makes a case for the opposite approach.
14. For an extended discussion of the case of the USA see Macedo 2000.

15. Such a general attitude may of course take various forms. See, among others, Beck and Grande 2004; Moravcsik 2001; von Bogdandy 2005: 296; Rosenfeld 2005.
16. This is, in a nutshell, Beck and Grande's reply to the issue of further expansion of the EU.
17. For a discussion of EU decision-making centering on the concepts of *sovereignty* and *legitimacy*, see Belling 2008.
18. For the original exposition see Rawls 1987. For an extensive use of this concept for the issue of European identity, see Lehning, 2001. It should be noted, though, that Rawls developed the concept of the overlapping consensus in close connection with the concept ("idea") of *public reason*. This concept requires a certain degree of public consensus on political values and principles, as well as a "public sphere" where citizens' deliberation is to take place. None of these is presently at hand in the EU, and in this respect this particular mode of legitimization presupposes the solution it is meant to provide. Cf. Rawls 1999; Larmore 1993; Lord and Margette 2002: 16.
19. The process of Europeanization of political parties is a promising channel of establishing a common "field of issues", for example in the form of newly emerging "European" cleavages within the party system(s), while retaining a crucial instrument or channel of democratic legitimization. Again, however, this is predominantly a "bottom-up" process. Cf. Flora et al. 1999; Ladrech 2002; Featherstone and Radaelli 2003; Poguntke 2007.
20. "The Union's action on the international scene shall be guided by principles which have inspired its own creation, development and enlargement, and which it seeks to advance in the wider world: democracy, rule of law, the universality and indivisibility of human rights and fundamental freedoms, respect for human dignity, the principles of equality and solidarity, and respect for the principles of the United Nations Charter and international law." Art. 21 of the amended Maastricht Treaty.
21. And perhaps not only empirically: As Andrew Hurrell notes, if taken in its complexity, the human rights agenda cannot be logically disengaged from comprehensive accounts of good society (Hurrell 1999: 280.).

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