

1 Why political identity and legitimacy matter in the European Union

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In this introductory chapter I first take note of the various and confusing meanings of ‘identity’ that can be found in academic and political discourse and propose a phenomenological rather than normative approach to it, based on a reflexive notion of identity (what the citizens and the elites perceive as shared values and principles: a process of self-identification). Given the ineliminable double nature of the European Union (EU) (half a regulated single market with high integration, half a would-be polity), in the section on ‘Political identity’ I argue that it is only possible for it to possess, if any, a thin, strictly political identity, which does not tend to cancel the national identities, or to replace Europe’s cultural diversity. As for legitimacy, I stick to a broad understanding of it based on its conformity with models of good governance, supported but not able to be replaced by its economic performances, and ‘wrapped’ in shared memories and symbols (see the section on ‘Legitimacy’). Why in a union of states identity is still an essential condition for institutions and policies to be legitimized, and what makes the development of a European identity so difficult, is explained in ‘What has identity to do with legitimacy?’. In the conclusion I argue that only the correction and relativization of old notions about democracy can clear the way for a non-populistic understanding of it in the would-be polity that is the EU.

Definitions

Political identity (and legitimacy) in the EU can be broached in so many ways that the question can only be raised if all the authors mean the same thing. A credible answer is no. There is hardly so confused and polysemic a topic in European affairs as identity. What follows is a catalogue of this not-so-productive diversity:

- 1 identity as a set of things (say, European security and defence Identity) or
- 2 as a set of laws (constitutional first of all) and court rulings or public policies generated by the EU;
- 3 European identity as a substantive definition, derived from normative ethics, of what the EU ought to be (a deliberative democracy in the

- Habermasian sense as in Eriksen (2005), a superpower, a caretaker for the rest of humanity) or
- 4 European identity as a substantive definition, based on historical and philosophical considerations, of what Europe could and should be [a civilian power, see Telò (2006); a regional state, see Schmidt (2006); an offspring of Renaissance Humanism and Enlightenment, see Rudolph (2001)];
 - 5 political identity as a reflexive feature: how the Europeans, common citizens and elites, perceive the Union, how far they perceive themselves as European, what potential for identity formation and for legitimating EU policies and institutions is or is not contained in their mindset. A further question, beyond the phenomenology of European identity, regards how far those potentialities may correlate with the evolution of world politics, in which Europe's future is embedded.

I call 1 and 2 analytical approaches based on a reified notion of identity, 3 and 4 respectively a hypernormative and a moderately normative approach, and 5 a phenomenological approach. My first preference is for 5 and only at a distance for 4, but in the following I will at least sketch the reasons for rejecting 1–3. This starts with a political and meta-scientific consideration based on my assessment of the present predicament of the EU as a deep crisis that could develop into an existential crisis if the present discrepancies between the member states increase and no new strategy is devised in order to address the post-enlargement and post-referenda paralysis.¹ Things being as they are,² I cannot help sensing some intellectual futility, largely out of touch with the political process, in approaches such as those regarding the legislation passed in Brussels or even the EU declaratory policies (Manners 2006) as sufficient proof of the existence of our identity as Europeans; or those inferring from an interpretation of Rawls' *Theory of Justice* (it could as well be Plato's *Republic*, for that matter) the prescription for making the EU a superpower (Morgan 2005), a theorem that is light years away from what the Europeans wish for and what they can effectively bring about. For all scholars, but particularly those who are citizens of the Union and do not need to evoke a promising if a little fictional EU as a land of salvation to be gazed at from the shores of Bush's America [cf. again Morgan (2005) and Rifkin (2004)], the prevailing interest seems to me to lie elsewhere: we are interested in deploying our best analytical and critical tools rather than in developing prescriptive wishful thinking, in order to find out if a *political* enterprise as tortuous and open-ended as the European process still has a chance of becoming consolidated; that it will go on and thrive is not certain, and an eye should be also kept on the possibly disrupting consequences of this enterprise running indefinitely out of steam. Furthermore, to look with curiosity at the multifarious appearances of a European consciousness as can be read from what citizens and elites think and imagine, wish or reject, to conjecture where these attitudes may lead, and what could lead them in one direction rather than another is a more exciting intellectual task than inventing and touting the perfect formula capable of making

Europe a state or a community. To understand identity formation in the odd EU beast³ the phenomenological sociology of Schütz, Berger and Luckmann is a better source of inspiration than an approach from a historicist (finding Europe's identity in its past) or engineering (let us make a blueprint of it and then wait for the people to implement it) angle; even good old Hegel, who in the *Phenomenology of Mind* studied the process through which self-consciousness evolved from personal and collective experience, can inspire us to develop a phenomenology of the European consciousness that integrates empirical and theoretical tools in order to interpret in an evolutionary context what people think and where they are heading. In the end, it is as ever less the academic debate and rather the attitude of the people (leaders, elites, citizens, in varying configurations) that determines if and which 'idea of Europe' or normative project will play a role (and how much of it) in shaping the final design of tomorrow's Union. This is why it is the method of studying the identity–legitimacy complex rather than the debate on its possible contents that is at the centre of this chapter.

Having sketched in this first round the contours of my position in the research on identity, I will now define it in a more systematic manner.

Political identity

If 'political identity' is to be used as a conceptual tool connected to 'legitimacy', we have to agree on a well-defined language, which excludes *four* fairly common usages.

First, political identity is not whatever feature (a governance mechanism, a set of policies or declarations) may be attributed to the EU or produced by it as an institution, but only what is clearly or confusedly perceived and talked about by Europeans (common citizens and elites) as a communal issue. Just to mention an extreme example, the notion of a 'European defence identity' made of military units, common procurement and joint command is a conceptually abhorrent reification of the identity concept. Policies and institutions are not 'identity' in themselves, but only as far as they are perceived by the individual actors as something which is meaningful to their self-description as Europeans as well as relevant to the image of themselves they want to project onto external actors. Political theory is different from objectivistic *Soziographie*.

Second, when talking about political identity we are not necessarily assuming an inescapable *path dependence* that is a dominance of the past over what we would like to be in the present and the future. The cultural heritage, the 'idea of Europe' celebrated in so many philosophical and historical books from Husserl to and Gasset, from Croce to de Rougemont and Gadamer does matter, but what is more important for the understanding of political reality is the re-elaboration we make of it in our projects for the future. Here we should not overlook that in the age of globalization the cultural heritage itself is changing more rapidly than ever and producing

'glocal' life forms, which admittedly are often inspired by American rather than European models.

Third, identity is not based primarily on *exclusion*, and Huntington's view that 'we know who we are when we know whom we are against' is an oversimplification, and a distorting one at that. It means taking a pathological development, e.g. the ethno-nationalist identity, for the very nature of identity. Suggestions aimed at shaping European identity as what is opposed to American culture and politics or, on another count, to Islam are not very far from this approach. Yet it is true that even the identity of a liberal and tolerant group, made predominantly of the sense of having certain shared values and goals, needs to be accompanied by the distinction between 'us' and 'the others'; otherwise identity vanishes into diffusiveness and does not accomplish its task of defining political groups, giving them internal cohesion and making their coexistence and interaction possible ('good fences make good neighbours'). Group identity⁴ always contains two moments: the *mirror*, in which the group reflects and redefines its features, in a conversation among members of a group (development of a common political culture, constitutional debates), and the *wall*, by which the group (nation, political party, social community) gives itself a self-contained image which also defines its relations to other groups in a more open or exclusive or aggressive way.⁵ New and post-national it may be, but European identity cannot be *cosmopolitical* in the sense that Europeans should see themselves as citizens of the world who just happen to live on the European continent, but refuse to identify themselves as citizens of a particular polity with certain geopolitical problems and interests (cf. Fuchs 2000); or should take responsibility as representatives for the rest of humankind, as suggested by Bauman (2004). The universalistic values on which the Union is based should rather be reconciled with the inevitable particularistic features of the European polity by keeping the configuration of the EU open to those values, but this constitutive philosophical and legal problem cannot be addressed here,⁶ although it remains relevant to its legitimacy, if this is meant in the sense outlined in the following section on 'Legitimacy'.

Fourth, the identity that plays a pivotal role for legitimacy is *political*, not social or cultural.⁷ Epistemologically and ontologically, society and polity are two different things, the second is not simply a by-product of the first, as some Marxists and most sociologists would have it, and has specific features: the ability to make ultimate decisions acting as one sovereign actor⁸ (in this sense it is premature to call the EU a polity, as it is at best a would-be polity) and the normative framework (usually a constitution plus ordinary legislation, but also the ethics of patriotism or civic obligations) in which the preferences and projects of social groups are put in hierarchical order and reconciled with each other.

In its *core definition*, political identity is the overarching and inclusive project that is shared by the members of the polity, or in other words the set of political and social values and principles in which they recognize themselves

as a 'we'. More important than this set (identity) is the process (self-identification through self-recognition)⁹ by which the people recognize themselves as belonging together because they come to share, but also modify and reinterpret those values and principles which are the framework within which they pursue their interests and goals.¹⁰ To do so, a degree of homogeneity in the *political* culture (say, an orientation favouring liberal democracy) is needed as a pre-condition, while a convergence of the entire cultural world (language, religion, morality, images of the world and forms of everyday life, cf. Joas and Wiegandt (2005)) is not. This is why to speak in the same sentence of the 'European cultural and political identity' is flawed, and leads inevitably to denying the Europeans any chance of achieving a political self-awareness of themselves as an actor, since a unified European culture exists and will exist to as small an extent as a European society – perhaps with the exception of football. On the other hand, a thick cultural and political identity could foster the dangerous image of a Fortress Europe, or result from the ethnocentric projection of mistaking one's own national or ideological identity for the European identity as a whole (Mummendey and Waldzus 2004). With regard to the history of modern nation-states, developing a purely political identity that is not backed by a unitary culture is admittedly an unprecedented *challenge*, one it is not yet clear if the Europeans are up to. Recent signs do not go in this direction: the debate on the failed Constitution, particularly its rhetorical preamble, was burdened by the temptation to establish a European cultural identity, with or without 'Christian roots', by means of an international treaty, while the cancellation of all common symbols (the flag, the anthem) from the next envisaged treaty, as provided for by the European Council of June 2007, reveals a frantic, if unrealistic fear of loss of identity on the part of certain national leaderships or public opinions.

On the one hand, the problem is whether in Europe a political design can take hold that out of the persisting diversity of culture and society and beyond the functional ties dictated by the single market, but also building on them, can achieve the consensus and stabilize the institutions that are necessary to take the Union to full actorness within and without. So far this design has failed to score a decisive step forward twice (in 1954 and 2005), and could even be reversed, by the effect of stagnation (cf. Alesina and Giavazzi 2006) and outside pressure rather than by anti-European forces. The Constitution project and the elites supporting it were not equal to the complex requirements raised by that design. Whatever may happen now, the emergence of a European self-identification process depends on future political developments much more than on cultural pre-givens. More precisely, we are speaking of a twofold dependence. First, it depends on the type of Union: a predominantly *intergovernmental* entity (of British flavour) aimed at best regulating the single market does not need much of a political *idem sentire* on the part of its citizens.¹¹ Vice versa the predominantly intergovernmental nature of the Union and its failure to act jointly on

major issues is the first, though by no means the only, reason why identity among the citizens is very slow in developing. As a counterfactual example, think of how far the sense of being European would have been enhanced had the European governments spoken with one voice against or in favour of America's intervention in Iraq. It is indeed the effect of shared decisions in *high political issues* such as war and peace or reshaping versus dismantling the social protection network that could generate political identity, along with communicative conditions that will be mentioned later; it is not mere institution building or constitutional debates or identity-promoting policies such as establishing more public symbols of unity or launching awareness campaigns, although all of these would hold some sway.

On the other hand, there is no reason why a mature political identity of the Europeans should not form along the same contours as in European multilevel governance, which rules out a European identity overriding and replacing national identities; it rather prefigures a composite identity structure, for example in the sense of the typology (nested, cross-cutting, marble cake identities) sketched by Risse in the concluding chapter to Herrmann *et al.* (2004), and typical of a 'flexi-polity' (Lord and Beetham 2001) in which the degree of unity and self-identification varies from policy area to policy area and varies over time because the still open territorial borders also intersect with evolving functional borders.¹² This seems to fit the post-modern, more agile political culture of post-national (or rather, not-only-national) Western democracies, in which the unicity of allegiance to either the region or the nation-state or the union or federation or superstate is overcome; nor is the EU a superstate, except in the fantasies of Europhobes. This is the point missed in the *Bundesverfassungsgericht* ruling of 1993¹³ with its request to have at the European level a *demos* with exactly the same traits as the culturally homogeneous *ethnos-demos* in which elder EU citizens including this writer were born. The alternative to this obsolete perspective is however less the idea of a new political identity generated by means of constitutional patriotism, lastly because we have now learnt that the Europeans are not going to have a Constitution with its evocative force; rather it is or could be the idea that out of partly converging interests and ideas we Europeans can achieve a much stronger commonality or even unicity of action in some policy areas, including the build-up of more legitimate institutions as well as the sharing of the political principles that support them. It is not even said that these institutions have to be less and less intergovernmental and more communitarian to allow for the development of a stronger sense of being one party under many (but not all) profiles; if by a fortunate set of circumstances the European Council were over a long period able to set high political issues of EU and world politics on its agenda and to make enforceable decisions on them, the identity-building effect would be nearly the same.

Having sketched the lexicon of identity discussed preliminarily with the authors of this volume, it remains to me to raise and briefly respond to two

questions of delimitation: 'Whose identity?' and 'What is the stuff from which self-identification is distilled?'

To the first question, in a nation-state the answer would be: the citizens'. But this is different in a post-national, compound quasi-polity such as the EU, in which the citizens are only partly direct members of the polity, while indirect membership through the national governments remains prevailing in weight. In a mix whose proportions can only be defined from case to case, European identity has to be studied by looking at elites, opinion leaders and bureaucracies as well as at common citizens, whose choices only hold full direct sway in the case of referenda. Here lies one of the reasons why in several chapters of this book the press, being a medium of conversation of the elites among themselves, has been used as a main source for the study of European self-identification processes.

Second, the stuff from which self-identification is distilled does not exactly coincide with the experience of the EU as such. The cognitive ability and the will to distinguish between the Union institutions and the member states cannot be credited to be very developed among the now half a billion Europeans; it should be cautiously tested when interviewing people, inside and outside the Union. Where this ability has not been established, it seems safe to assume that in a majority of cases what the people, particularly outside the elites, have in mind while assessing the legitimacy and performance of the emerging polity is 'Europe' (the composite effect of what the EU and the member states have done) rather than the EU as a distinctive body.¹⁴ Its *popular image* on the continent is said to be that of a big market for all, characterized by freedom of movement, and also a bloc competing with others on the world stage (Díez Medrano 2003). This minimalist picture should, however, be complemented by the more political traits that can be read in the Europeans' ascertained openness towards having a common foreign and, even more, security and defence policy (respectively 68 per cent and 76 per cent according to Eurobarometer 2006).

Lastly, a few words on *how to study political identity in empirical terms*, also with regard to this volume, even if this cannot be seen as full implementation of the ideal methodology I am going to sketch; this would have required much greater funding, more time for setting up and testing the single tools, and more contributions in other issue areas, with the likelihood of exceeding the limits of a single volume. First, qualitative analysis should prevail over quantitative. The results of elections and referenda are too rough and momentary a tool to reveal the citizens' 'soul'; opinion surveys are fundamental, but can be distorted by ill-formulated questions or by the omission of essential questions. Quantitative data can prevail only in the first approach to the issue, or *faute de mieux*, as long as a more refined and penetrating analysis is not available.

In particular, I would like to stress the importance of the *content analysis*:

- of what the media directly or indirectly tell the public about Europe (this is carried out in most chapters with regard to the press only, TV being far beyond our funding);
- of constitutional and parliamentary (in the European Parliament as well as national chambers) debates, which is done only occasionally in the chapters; but also
- of the motivations with which national and EU policies are introduced and the debates accompanying them, which would require a more thorough examination of the available archives and in-depth interviews with the policy-makers involved. I again want to stress that analysing a policy (say, foreign or security or human rights policy) adopted by the Union and attributing it by default the meaning of representing European identity is not the correct way to go about investigations. However, policy analysis (cf. Cedermann 2000; *contra* Herrmann and Brewer 2004) does become relevant to our research the moment in which, as we have tried to do here, the focus is shifted to the motivation and meaning of a policy in Europe's political cultures and public opinions on the one hand and the reception given to it by the media and the citizens interviewed on the other.

Legitimacy

The legitimacy of the EU (of the Union itself as an institution, then of its policies and lastly of its leaders) is an only slightly less polysemic notion to identity; for example, legitimacy is easily mistaken to be *consensus*, which is a phenomenon not unambiguously related to it, while the *legal* legitimacy based upon the treaties is just a background element of political legitimacy; but it remains subject to the theoretical disagreements which I am now going to discuss.¹⁵ Its link to identity is hardly addressed in most of the literature written under this heading, while it is highlighted in only a segment of the literature on legitimacy (very clearly in Scharpf 1999; cf. also Schmidt 2006).

My own approach rests on the following theses:

- 1 legitimacy cannot be reduced to output legitimacy, nor input legitimacy easily replaced with the latter;
- 2 properly said, legitimacy does not comprise two equal and exchangeable components, because output legitimacy is the set of conditions for legitimacy to be able to work rather than a second type of legitimacy;
- 3 there is a deeper, Weberian layer in the notion of legitimacy which goes beyond input legitimacy itself as based on 'what the people will'.

On thesis 1. Output legitimacy, based on the performance of the EU as a caterer of wellbeing to the citizens (Scharpf 1999), is just one component of the whole; to see it as all-encompassing and capable of legitimizing the Union

altogether is not just (normatively) a technocratic reduction of the European process; it is (analytically) out of touch with the real history of European integration, as this process is known to have gone for better or for worse beyond the stage of a single market that makes economic actors, acting on their predefined self-interest, cooperate.¹⁶ Cooperation complemented by integration among the member states has got them involved in high political questions such as the reshaping of the welfare state, also as a consequence of the Maastricht stability criteria, the attitude towards other peoples (the Doha Round; the scrapping or preserving of the Common Agricultural Policy, which also involves questions of international justice and impacts on the EU's image)¹⁷ and last but not least in security crises such as in Lebanon 2006 or Iran – although the EU remains an incomplete security community, being embedded as a junior partner in the larger community of NATO and being incapable to speak with one voice on all occasions. In other words, legitimacy in and of the EU is neither the nation-state legitimacy model written large nor the legitimacy of an entity that can choose to act one day as a market regulator and the next as a fledgling polity. As it has developed in the last 20 years, this *double nature of the beast* is at work at all times and does not allow for the political aspects and deficits of the process to be silenced by a better economic performance.

In other words, the integration process has gone beyond the point in which the legitimacy of the EC/EU may have been totally based on what it did for our economic wellbeing. It has thus acquired or claimed to possess a political substance whose nature and extent remain so far unclear, and far from giving birth to a fully-fledged polity; but it has in any case unleashed 'democratic' expectations, even if the meaning and procedure of democracy at a post-national, but non-federal, level have not been redefined. The scholars' task under these circumstances is to clear the way from the relics of an obsolete set of notions and to help forge redefined concepts.

On thesis 2. To prevent confusion and unduly mistaking terms, the expression 'output legitimacy' should be dismissed and replaced with 'substantive conditions of legitimacy' (cf. Cerutti 1996): whatever their fundamentals, as we are going to see, the legitimacy claims (related to 'input legitimacy') of a polity or regime allow for its effective legitimization only if it also proves able to provide the basic common goods (security, minimal wellbeing, legality); performances that are fragmented between the Union and member states rather than shared. Being a condition of something is not the same as being the thing itself.

On thesis 3. (Input) legitimacy is mostly defined as what results from the 'will of the people' (where government *by* the people prevails) being the basis of government, thus making the even costly decisions of some on behalf of others acceptable to the latter, when (Bartolini 2005: Ch. 3) in collective decisions neither unanimity nor exit are available to the ruled.¹⁸ But this regards only the procedural rule that makes legitimacy possible, that is, its being generated from a presumably ultimate authority (the will of

the people). Most real people, however, are not fully satisfied with this procedural foundation of legitimacy and look to substantive elements beyond and underneath it: to grant legitimacy to a polity they want to have grounds to perceive its *conformity to a model* of just and good governance, which citizens have in mind and refer to in an emotional and/or discursive way, as it embodies the deep-seated values, principles and overall goals they believe in as members of a polity. In other words this property can be attributed to political power only if this is able to justify its existence and its actions by claiming to be somehow related to fundamentals or sources of collective life that are not of an everyday nature (Weber: *ausseralltäglich*). This is what I call Weberian legitimacy, the ground layer of any other version of 'legitimacy': for the EU it means its claimable conformity to, say, a democratic, social and federative polity model which guarantees peace and some protection from the side-effects of globalization.¹⁹ Without the people feeling like this, the mere input of the 'will of the people' (for example, in an election whose issues do not relate to those models) is not sufficient to establish the legitimacy of power, nor do economic performances or benefits by themselves enhance the loyalty of the people (there is little Europeanism among the French farmers, who benefit most from the Common Agricultural Policy).

Finally and most importantly, it is not even the sum of the conformity to a model upheld by shared beliefs plus the credibility achieved by a well-performing regime that can ensure that the EU or one of its policies will be recognized in their legitimacy claims. The good economic and social reasons (satisfaction with former EU policy results and further expectations of gains) and the acceptance of (existing pieces of) EU government because it is 'democratic' or even 'social' have to be linked to each other and embedded in the shared belief that the EU institutions are 'our' government for certain, though not all matters of governance. But this cannot be done and communicated if they are not at the same time perceived as somehow embodying a shared *memory* of our controversial history (cf. Chapter 3 by Chiara Bottici) and speaking to us through accepted and understandable *symbols*, including the shaping of the politically relevant space of capital cities, as Göran Therborn shows in his chapter. The Union is not a new nation or supranation, but political discourse on it must take place inside the countries as well as transnationally if its polity moment is to survive and to develop with legitimacy.

An example: the downfall of the Constitutional Treaty at the hand of the Dutch and French voters came not only from the lethal blend of an overdose of Weberian legitimacy (the normative overweight of the Constitution itself) and diminished performance (the presumed inability of the Union to protect underprivileged layers from the effects of globalization), but also from a large lack of an emotional and symbolical grasp on the citizens' souls by the political elites, which were almost unanimously in favour of ratification. The European integration process is much more complicated a

business than politicians, technocrats and social scientists obsessed with economic models of politics have been able to understand, and the disaster in France and the Netherlands has given everybody bitter food for thought.²⁰

Recapitulating this section, to denote the case in which (Weberian) legitimacy is successfully claimed thanks to motivating decisions in high politics, and the claim is made more credible by good performances and also comes 'wrapped' in shared memories, narratives and symbols, I propose to speak of *substantial legitimacy*. Substantial legitimacy²¹ is not an empirical quantity that can be easily measured by quantitative tools such as polls on the approval rating of a public policy. In its core, legitimacy resides in the reservoir of meanings, arguments and symbols to which political power can reasonably resort in order to justify its existence and behaviour. It is the job of the political leadership to decide what meanings and symbols to activate at a given stage of the political and social conflicts that the polity has to deal with, thus actualizing legitimacy, translating it into consensus and stabilizing it around institutions; actualizing legitimacy is the process we habitually call *legitimization*, in which the conditions now known as 'output legitimacy' first play a role.²² The several fathers and mothers of the Maastricht Treaty succeeded in this enterprise, appealing at the right moment to the Europeans' search for a new role after the end of the Cold War and to the economic and symbolic promise of the single currency to come. In contrast, in order to push forward political integration, the luckless fathers and mothers of the constitutional project chose the wrong instrument, a legal text evoking the image of a bureaucratic superstate, submitted it to popular vote, as if the EU were a single democracy with a traditional *demos*, and also chose the wrong timing (the sluggish economic recovery and lingering unemployment favoured the populist search for a scapegoat, which was found in 'Brussels').

What has identity to do with legitimacy?

The link between legitimacy and political identity in the EU can be best understood as a problem: why should there be *one* actor (or, more philosophically, one subject), the EU, seeking legitimacy for its actions? Only when people come to find that staying united is at the same time convenient for their well-being and relevant to their image of collective life can a new polity reach the critical point of acceptance. In other words, they would then find that decisions concerning ultimate issues such as peace or war, openness or closure towards the rest of the world, social solidarity or deregulated competition should not be left to the veto power of national governments, or the dynamics of globalization, but rather made within the new polity, whatever (federal, semi-federal, multilevel, etc.) method of government this may have chosen.

Substantial legitimacy thus contains as a core condition the political identity or rather *self-identification* of the people involved. Only institution building or policy-making perceived as legitimate by a public that feels it is

one actor can *create meaning* for the recognition of the new polity, meaning being the scarcest resource in the post-modern globalized world as well as a powerful basis of allegiance and participation.²³ It is only by grasping the complex legitimacy–identity link, particularly in front of such a strange beast as the EU, that we acquire the conceptual tools and the sensitivity that are necessary to keep our eye on *political change*, which always includes legitimacy crises or even the disruption of the polity – against which the EU is also not safeguarded.

Now, in the case of the EU the legitimacy problems surrounding institution building and policies are complicated by the circumstance that, beyond all questions regarding the social, economic or legal substance of the issues, a question of political *entitlement* remains open: in a Union only those acting as members of the whole ('the Europeans' as a sole constituency) called to justify or delegitimize new institutions and policies are entitled to decide for the whole. The French and Dutch majorities against the Constitutional Treaty were instead allowed to decide for the rest of Europe because they were called to the polls on that particular French or Dutch election day, rather than on the same day for all Europeans; this *built-in democratic deficit* was the result of a choice made by a European Council, unaware of how political identity and legitimacy play into each other, and should be focused on well before all worries about the much talked-about 'democratic deficit' of the Commission. Referenda should have not been held, as I argue below in the 'Conclusion', and the main reason for that is the lack of a political discourse among Europeans rather than the lack of a common election day, which was however to be observed if the referenda were to be legitimate.

Finally, it is obvious but perhaps not pointless to remember that neither identities nor legitimization processes are *monolithic*. On the one hand, national identities still play a prevailing role in European countries; however, not without fractures along regional and local or class and generational lines. On the other hand, on the acceptance of the EU itself Europeans have been for a long time and indeed remain divided into roughly two halves for and against the Union, according to the recurrent results of the Eurobarometer.²⁴ From this point of view, the question of the legitimacy of the European institutions remains open and controversial, a matter of a *political and cultural struggle* between nations, parties, ideologies and interest groups, in a constellation that is bound to change depending on economic developments, social movements and the communicative strategies of future leaderships, but still bound by the double nature that does not allow for the market regulator to ignore politics nor for the would-be polity to expand into a classical state.

At the moment, however, the growth of a political identity among European citizens and elites and its impact on the Union being felt as a trustworthy and efficient institution is made difficult or even smothered by several structural factors.

First comes what I have dubbed the double nature of the beast, the constraints that each of the two natures, market regulator and quasi-polity, put on each other. This ambivalence is made even more visible by its two sides being distributed among countries with contrasting attitudes, the UK and Denmark on the market-only side, France, Germany and Italy on the polity side. The two terms of the ambivalent nature are, however, unlikely to remain unchanged, even if the functionalist spillover from functions of economic regulation and integration into politics does not work as it did in previous decades: if ever, the European polity will only become fully-fledged as the result of political decisions.

Second, there is a difficulty that is previous to granting or refusing legitimacy to the Union: its scarce visibility, the difficulty for the public to focus on and become familiar with Delors' *objet politique non identifié*, which is an absolute and odd cognitive novelty (the federative, but non-federal polity; the multilevel system of governance, in which even experts can get lost) for generations that have still been socialized with the pyramidal and homogeneous modern state model in mind; a model in which government of, by, for and with the people (Schmidt 2006) tends to coincide, while these sides are now being disconnected and distributed, part on the member states, part on the Union.²⁵

Third, this is aggravated by two structural circumstances: EU legislation is executed not directly by Union institutions, but by the national ones, which retain the gratitude expressed by those favoured by the legislation, while in case of protest they can still resort to 'EU-bashing'. Also, while fundamental economic policies (think of the Stability Pact, or the EU stance in WTO (World Trade Organization) negotiations) are determined at EU level, the cake baked under those policies is then distributed among social groups, lobbies and generations at the national executive and legislative level, which thus seems to be the true venue of decision-making and attracts a lot of attention – also because national debates are immediately 'readable' by the public.

The last reason resides in the communication structures through which the EU is perceived or 'framed'. They are still overwhelmingly national, with the EU being a preoccupation or a scapegoat for politicians and journalists (whose political culture remains widely national) rather than a free-standing entity. Suffice it to remember that of the whole volume of European information flows only 7.5 per cent regards the EU, while 62 per cent of the information citizens possess on the Union comes from the TV, which with its event-related news is hardly instrumental to the understanding of the complex EU institutional framework.²⁶ The communicative deficit regarding Europe is the so far failed Europeanization of national public opinions (cf. Schmidt 2006) rather than the lack of a Europe-wide public sphere based on its own media. Or, in the case of Euronews, the lack of serious efforts to advertise this multilingual TV channel across Europe and its aseptic style, with some policies, but no politics coming into its reporting and debates.

Conclusion

The first use of the notions of legitimacy and political identity that I have tried to redefine is to help us better examine the question of how far the EU can be regarded as a polity and has attained political actorness. In a further step, they are essential in order to understand how far a *post-national polity* can arise, based on patterns of political identity and legitimacy that are different from those of the nation-state as well as of the neo-medieval empire conceptualized by Jan Zielonka (2006). This is perhaps the paramount question: if voters, journalists, intellectuals and politicians in the member states remain conceptually stuck to national patterns, if they believe that the same 'national' type of glue or cement must be put to work in the EU in order to make some European identity keep the citizens together and to legitimize in their eyes the authority of the Union, this belief is doomed to unleash competition with the nation-states, in whose eyes 'Brussels' will remain a den of techno-bureaucrats, despite all pretensions of being home to all Europeans. A chance for European identity to put down roots is given only if we conceive it as a purely political identity, not competing with national identities on the same level, being *thin* rather than thick, as large as is needed to make the polity moments of the Union legitimate (with no extension to matters outside EU competence), and capable of asserting its present *finalité politique* (the governance of globalization) in a measure compatible with its double nature. That the EU must come to terms with (in comparison with the nation-state) slimmed-down legitimacy does not mean that it can give up its constitutive elements and be happy with an *Ersatz* legitimacy such as 'output legitimacy'.

Let us lastly mention another framework condition, which has already emerged in this text and needs to be more clearly formulated: I mean clarification of the usage of 'democracy', not just in scholarly discussions but in political discourse as well. Its articulation into government of, by, for and with the people, as most recently developed by Vivien Schmidt (2006), is an important step in this direction. Another one would be to clarify that democracy does not have its supreme model in direct democracy, which is almost a mockery (like in the 'constitutional' referenda, see Cerutti 2005) when explicitly or unconsciously applied to a Union of (27) states and only secondarily of citizens, with a degree of complexity in government never heard of in previous polities and – as we have just seen – little or no communication among the people and the peoples. What representative democracy may mean in this context, and how much *countermajoritarian democracy* is needed to prevent democracy from degenerating remain open questions which must be discussed if the notion of legitimacy is to make sense in the EU framework. Last but not least, a crucial question is how far democracy in its most widespread sense as an electoral and parliamentary check on government can go in a Union of states based on multilevel governance. The problem is whether the interests and ideals of the peoples of

Europe are better served by continuous checks of that kind, which do indeed misuse the fascination of 'democracy' and help paralyse the process, or by the continuation and acceleration of an integration that, beneficial to all as it has proved to be, cannot but be elite driven; all the more given the ultra-complex and for the common citizens difficult-to-comprehend nature of the odd EU beast. This was so even in less complex times: had the myriads of German and Italian medium-sized or small states held referenda on each step of the *Reichsgründung* and *Risorgimento* respectively, Germany and Italy as states would possibly never have come into existence. It is true that Europe, if at all will become one polity by the *word* and not the *sword*, but this is exactly why words such as democracy should be carefully tested before being used in the EU debate. Otherwise this word remains surrounded by the polysemies and misrepresentations that characterize much of the debate in the member states on EU legitimacy, with delegitimizing effects not just on the Union but on the member states as well, because they seem to have just lost portions of their sovereignty.

Refocusing our attention on a more problematic understanding of legitimacy and identity as is attempted in this book goes hand in hand with a suggestion regarding our *research programme*. It is a suggestion to shift our main attention from policy analysis and the study of formal institutions to what in German classical philosophy was called the subjective or active side of history, 'agency' being a pale successor to that notion. I mean the degree of meaningfulness of the EU in the minds of citizens and national or European elites, the motivations they feel while acting in one way or the other in EU policy-making, and the resulting degree of participation in European politics,²⁷ seen in its interplay with national politics.

On this volume

While the contents of the chapters shall be discussed in Chapter 13, it may be useful here to outline the structure of the volume. Its main thrust lies, as mentioned above, in exploring the relevance that ethically significant EU policies as well as certain aspects of its foreign policy may have for the fostering of a political identity among Europeans and the legitimization of the Union. We regard the inquiry into the contents of a common attitude that may arise around policy issues (first among the policy-makers and then the public, the two levels researched by most of our authors) more productive than those methodologies that just look at how far a (presumably) holistic national identity remains untouched or spills over into a European one. Identities are not things that can be moved around like blocks of wood, so the question 'how much do you feel European, or just French, or European and French, or French and European' is only a very rough and initial tool.²⁸

Policies on biosafety and medical technology are by definition ethically relevant because they touch upon notions of life and nature that are constitutive of our stance in the world; policies on climate change may raise

questions in the near future regarding our effective solidarity with future generations. We assume that ethically relevant policies such as those mentioned (see the Chapters 5, 6 and 7) will assume an enhanced role in the decades ahead, because they challenge the modern model of adversary politics and rather require a joint effort of humankind in saving global commons such as the atmosphere.²⁹ As the former ethical neutrality of technology and of its public regulation is fading away, we also assume that these policies, that is, the way they are formulated and how they are received by the public, play and will play a role in shaping the developing Europeans' identity.

That foreign policy plays a major role in this shaping is not in need of any demonstration, even less in the case of the EU human rights policy examined in Rosa Balfour's (Chapter 10) contribution; besides, human rights issues share ethical relevance with technology-related ones. However, in this volume a further, rarely investigated dimension of that role is examined, that is, the effect that the external image of the Union³⁰ might have on the identity formation process among the Union's citizens (see Chapter 12 by Fioramonti and Lucarelli as well as the theoretical introduction to this research area developed by Sonia Lucarelli in the next chapter).

Two more policy areas are investigated with regard to their effects on identity-building and to what they may contribute to the Union's legitimacy. Vaia Demertzis looks at the 'European social model', which is an identity-promoting signal or codeword rather than a policy, while Daniela Piana goes through the attempted Europeanization of the judiciary in the enlargement countries with an eye to those effects. Another significant codeword for European identity formation is 'civil society', which Debora Spini examines both in its conceptual definition(s) and empirical evidence.

A book whose theoretical frame of reference stresses the importance of the symbolic elements for the substantial legitimacy of the EU could not fail to explore this level of identity formation as well. This is done, again in both the conceptual and the empirical dimension, in Chapter 3 by Chiara Bottici on the memory of the Second World War and the Holocaust in present-day Europe, while Göran Therborn looks from the viewpoint of historical sociology at the role of politically defined space, specifically the typology of European capital cities, including Brussels, in the shaping of each polity's identity.

Since the authors are political philosophers and political scientists, with the participation of a sociologist, the book has a strong multidisciplinary and to an extent interdisciplinary character, which we believe to be particularly suited to a matter as intricate and elusive as the identity and legitimacy of a new powerful, but still undefined and incomplete, polity.

Notes

- 1 At the time of writing, autumn 2007, it is unclear or even unlikely that the current Intergovernmental Conference and the following Council meetings can

generate such a strategy, which would require a strong leadership that does not exist in Europe at this time.

- 2 That Europe was politically short of steam and that it was approaching the 2004 enlargement without a cohesive and determined leadership was already clear at Nice 2000, well before the debacle of 2005.
- 3 Cf. Mayer and Palmowski (2004).
- 4 I follow Berger and Luckmann (1966: 174) in using this expression instead of the currently widespread 'collective identity', since this retains for me an aftertaste of totalitarian ideology, which makes group identity a hypostasis and places this collective entity over the individuals.
- 5 More in Cerutti (2001). Unlike my own views, boundary formation is put at the centre of identity formation by Eisenstadt and Giesen (1995); for its role in the EU see Cederman (2000). I am grateful to the members of the Political Philosophy Group in my university's department of Philosophy for the help received in preparing this chapter, particularly in discussing the existing literature.
- 6 See however Beck and Grande (2004).
- 7 This notion of a European identity being political and not cultural is not far from the notion of civic identity used by authors such as Bartolini (2005) and Herrmann *et al.* (2004), but I cannot discuss similarities and differences here.
- 8 Herrmann and Brewer (2004) also sees the relevance of this element for the differentiation of social and political identity. It is impossible to address their complex relationship here, and for argumentative purposes in this text I stress the distinctiveness of political identity.
- 9 This is perhaps what Vivien Schmidt (2006: 17–20) alludes to when she writes that identity is more an issue of doing than of being.
- 10 The most recent snapshot of some of the fundamental values heeded by the Europeans is in Arts and Halman (2004). In the multilevel European polity things are made more complicated by the fact that sharing for example views on social solidarity and protection by the state so far has not translated into the citizens' wish to transfer competence in this field from national governments to the EU. Holding identical views in matters of social policy does not yet mean requesting and legitimizing an EU social policy. For a view on how values and principles along with their interpretation shape European identity see Lucarelli (2006).
- 11 See Moravcsik (2002). Eder (2001) rightly points out that a greater complexity of society (a higher degree of EU integration, in our case) requires more 'collective identity'.
- 12 Examples of these variations are the transfer of issue areas from pillar to pillar and the extensions of qualified majority voting on the one hand, and the successive enlargements on the other.
- 13 Its rightfulness has been upheld among others by Scharpf (1999: 10) which limits the acceptability, but not the usefulness of a book that remains the most penetrating discussion of the relationship between identity and legitimacy.
- 14 EC/EU history is correctly intertwined with the history of the member states in Judt (2005).
- 15 On the plurality of legitimacy claims in the case of the EU cf. Lord and Magnette (2004).
- 16 The reduction of legitimacy to output legitimacy is also criticized in various ways by Olsen (2004) and Bartolini (2005).
- 17 As for the still little researched problem of how far the external perception of Europe (by which I mean the EU + member states) feeds back into identity formation within the Union see Fioramonti and Lucarelli (Chapter 12) as well as Lucarelli (Chapter 2) in this volume.
- 18 At a first sight EU decision-making in foreign policy has little need to find full political legitimacy, as exit is formally available and has been also practised in

high controversial situations like the Iraq war, as the EU simply ceased to exist as an international actor (technically it was a suspension of partnership rather than the exit of opting-out partners).

- 19 This is just an example of what many, though not all Europeans may expect from the EU when thinking about its legitimacy.
- 20 More in Cerutti (2005).
- 21 It is perhaps worth remembering that 'substantial' regards the very core of something, whereas 'substantive', as opposed to 'procedural', looks at the specific contents of a process or institution.
- 22 The link between legitimacy and legitimization cannot be further discussed here, and is best explained using single concrete examples. The complex structure of legitimacy is differentiated by Fuchs and Schlenker (2006) into legitimacy/trust and subjective/objective legitimacy.
- 23 How these two elements develop (or rather struggle to develop) in the EU and play into each other cannot be further developed here (see Cerutti 2003 and more in-depth Schmidt 2006).
- 24 This also holds true in the case of the Constitutional Treaty: the referenda killed it politically, but let us not forget that it was ratified by a large number of parliaments and a majority of Spanish and Luxembourgian voters. Also, according to Eurobarometer (2007) 66 per cent of EU citizens still support the idea of a Constitution, although this finding cannot be easily translated into a probable majority of voters in every country (this Eurobarometer having been made available a few days before this volume went to the publisher, its data could be taken note of only in this introduction). As for the rate of acceptance, in the sense of having a positive view of the EU, it was 46 per cent in 2006 and it is 52 per cent in Eurobarometer (2007)
- 25 This difficulty has been enhanced by the legal-bureaucratic Eurospeak of the Brussels institutions, which seem determined to make the EU impermeable to the understanding of the citizens. A paradigmatic example seems to be the case of the utterly confusing coexistence of the 'Council of Europe' and 'European Council', which a name change of the latter would easily have avoided.
- 26 See Garcia and Le Torrec (2003). Cf. also Seidendorf (2007).
- 27 This is said without ignoring the problem signalled in Vivien Schmidt's formula of 'policy-making without politics in the EU, politics without policy in the member states', Schmidt (2006: 5 and *passim*).
- 28 Books and articles based exclusively on the corresponding findings of the Eurobarometer or similar surveys seem to have no awareness of this.
- 29 A theory of global challenges can be found in Cerutti (2007).
- 30 Cf. Lucarelli (2007).

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