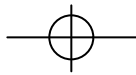# The European Identity

Paolo Pombeni*

One could almost write forever about the European identity : the utopias (or proposals, if preferred) that have formulated various kinds of "United States of Europe"[1] or, on the other hand, famous declarations against the very existence of something that can be defined as Europe, such as Bismarck's well known remark, "whoever speaks of Europe is always wrong". There are also edifying stories like when Thomas Mann in a conference in June 1953, upon his return from exile in the United States, exhorted his public (students in Hamburg) to struggle no longer for a German Europe but for a European Germany.[2]

Nevertheless, one wonders whether these exercises serve any purpose in the present context and above all as a support to the Convention on the Future of Europe. Not that they're not important. There's a strong demand for some kind of "constitutional document". This was made clear, for

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[1] For a useful synthesis of this debate, see H. Mikkeli, Europa. Storia di un'idea e di un'identità (Bologna: il Mulino, 2002).

[2] Quoted in E. Conze, "Deutsche Frage und Europäische Integration", Historisches Jahrbuch, vol. 114, 1994, pp. 412-26.
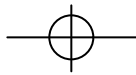
example, in the Commission Communication, "A Project for the European Union" of 22 May 2002, as well as in the ongoing debate between jurists, political and social scientists, and members of civil society. Basically, the transition from the word "Treaty" to another that may somehow be linked to a "constitutional" terrain underlines that we are facing a sea change – from "cooperation among nations" to the founding of a new international political subject. It's only natural that this should draw opposition, but the decision to open a Convention points – albeit cautiously – towards a constitutional goal.

In this context, the question of identity takes on great importance, not as an abstract historical question or philosophical issue, but as the inevitable premise (preamble) of a text of this type. In fact, all constitutions open with the definition of the subject from which the constitution emanates, be it a sovereign or a representative body able to assert, "We, the people…".[3] Without this fundamental and unifying premise concerning the subject, the text is no more than a treaty, that is, an agreement among a plurality of international subjects that convene on a certain number of objectives to be achieved together and on the relative decision-making procedures.

Some claim that the European Union already stepped down the road to constitutionalisation when it approved the Charter on Fundamental Rights in Nice in December 2001. Indeed, that text will most probably be incorporated in its entirety into the final document drafted by the Convention.[4] Significantly, not only does it stake out a common and acknowledged ground of "civil rights", designing an ideal kind of "European citizenship", but this was done through the joint action of the Council (the member states), the Commission (the body which acts as the "incarnation" of whatever European institutional subjectivity there may be), and the European Parliament (a representative body elected through direct and universal suffrage). This would certainly seem to be the "setting" for, if not yet the "substance" of, a constituent power: what is important here is that it produces instruments for the construction of a "European identity", the indispensable premise for constitutional action. Attesting to it is the broad and rich "preamble", a declaration of both "intents" and "principles",

[3] For an evaluation of this matter, fundamental in European constitutionalism, see P. Pombeni, "Cultura politica e legittimazione della costituzione" in Fioravanti, M. and S. Guerrieri (eds) La Costituzione italiana (Rome: Carocci, 1999) pp. 139-89.

[4] Indeed, the Convention set up a special commission to decide on this subject. On 22 October 2002, the third point of its report (CONV 354/02) stated that "the Group considers the Charter Preamble as a crucial element of the overall consensus on the Charter reached by the previous Convention. The Group therefore recommends that this element should, in any event, be preserved in the future Constitutional Treaty framework."

conceivable only in a constitutional perspective.[5]

This is only partially true, however. The Charter is not an objective in itself or a phase of an evolutionary process; rather, it is the reassertion of a will and a culture that can be found in all the documents that have forged the new "community institution" since 1953. This is not to diminish the value of the document but to underline it: the persistence of the same cultural approach over time and through changing political conditions and contexts attests to the progressive affirmation and birth of an "institution" that will hopefully be able to produce a more solid legitimation by transferring its powers of imposing "political obligations" from the sphere of the contingent to that of identity.

But first, in order to clear the field of a number of misunderstandings, the problem of identity must be stripped of all the trivialities of anthropomorphism, a disease that unwittingly affects a large part of political and social scientific thought. The identity underlying a political or institutional subject is not the same as the feeling of belonging or participation, the sense of "compassion" that human beings feel as part of an elementary community (the family, the clan, etc.) or an elected community (the church, a political group, etc.). Identity is a product of culture in the anthropological sense of the term, that is, a system of instruments for understanding and orienting positions which human beings, as social beings (in modern terms: as components of a defined and delimited political space), perceive as the horizon needed to organise their relational life.[6]

The construction of identity as the basis of the legitimation of a political institution (the *idem sentire de re publica* allows me to recognise my fellow citizens; in recognising myself as a member of this *civitas* I look at its institutional forms as referents of the organisation of co-existence in the public space) comes from history and not from any decision-making process or particular acts of will. At the beginning of the last century, the great jurist, Santi Romano, recalled that "constituent power" is an extra-juridical feature which enters into law *a posteriori* and only if it is a success; if a failure, it's remembered as a criminal act or, at best, an expression of

[5] On the drafting of the Charter, see A. Manzella, E. Paciotti, S. Rodotà, Riscrivere i Diritti in Europa (Bologna: il Mulino, 2001); for an assessment of the Charter, A. Bourlot and V. E. Parsi, "Il 'racconto' della cittadinanza europea nella Carta dei diritti fondamentali" in V. E. Parsi (ed.) Cittadinanza ed identità constituzionale europea (Bologna: il Mulino, 2001) pp. 105-82; R. Bifulco, M. Cartaria, A. Celotto, L'Europa dei diritti. Commento alla Carta dei diritti fondamentali dell'Unione Europea (Bologna: il Mulino, 2001).

[6] See P. Pombeni, Autorità sociale e potere politico nell'Italia contemporanea (Venice: Marsilio, 1993); P. Pombeni, Partiti e sistemi politici nella storia contemporanea (Bologna: il Mulino, 1994).
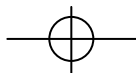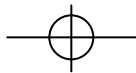
vain ambition.[7] This has been mentioned here because, in considering the European identity as serving to legitimate a European "constitution" and above all as a political form able to transmit obligations towards its members – above and beyond their "individuality" (which in this case contemplates not only the traditional components of race, religion and ethnic group, but also the much more intriguing one of "national belonging") – the starting point has to be history, but not the general history of the continent and the vicissitudes of its intellectuals and politicians seeking unification, but the "particular" history of a specific and determined process of "integration" among the states of the continent that started after the end of the Second World War. Soon, it will have been going on for more than half a century, a "glorious" half century:[8] not only has it never been interrupted, but it has grown constantly, has accomplished remarkable goals (the latest being the introduction of single currency in a vast area) and has changed the historical coordinates of our time.

It is often pointed out that the EU has guaranteed a half century of peace on the continent. That's true, but it's also very relative: peace has also depended on the lack of significant wars in the global system. The most important novelty is not the long absence of war (there was almost a century of peace, with minor interruptions, after the Napoleonic wars) but the demise of a culture that considered war among European states a possible and normal option.[9] Today, war among European states has become technically unthinkable. Thus, while the nation state is still the fulcrum of the European political system, each has renounced an indispensable part of the rationale of the modern state: power politics.

Awareness of this phenomenon, which is really "constitutive" of a new European reality, is limited. True, the ideology of peace and political stability has been emphasised in the preambles of all European documents since 1953,[10] but in a perspective that one might – roughly – define as "post-

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[7] Taken from the item "Costituente", written by Santi Romano for Digesto Italiano, republished in Pombeni. P. (ed.) Potere Costituente e riforme costituzionali (Bologna: il Mulino, 1992) pp. 166-71.

[8] B. Olivi, L'Europa Difficile. Storia Politica dell'integrazione europea (1948-2000) (Bologna: il Mulino, 2001).

[9] On the evolution of the system of international relations with respect to war, see A. Panebianco, Guerrieri democratici. Le democrazie e la politica di potenza (Bologna: il Mulino, 1997).

[10] From the Draft Treaty instituting a Political European Community adopted by the Extraordinary Assembly in Strasbourg on 10 March 1953 to the project for the unitary systemisation of the European treaties worked out for the Commission by the Schuman Centre in Florence in May 2000 and finally the Charter on Fundamental Rights of Nice, the structure and the argumentational approach of the Premise (whatever the name) are all identical.
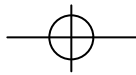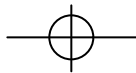
fascist". What is needed now is a step forward from the ideology of "universal peace" (never again the tyranny and ultranationalism that produced the folly of war and brought European states' well-being and development and their centrality in the world system to an end). Half a century after those events, Europe can and must, on the one hand, admit that peace in Europe does not necessarily mean universal peace (this is dramatically evident in these very months) and, on the other, reflect on the fact that the increase in its prosperity has been linked to the progressive weakening of the nation state in its usual form. Even in terms of "promoting economic growth", another fundamental factor in the construction of the new community, the benefits of the new reality have been increasingly evident: Great Britain, which long held out against this new historical trend (and may still be doing so, underneath it all) paid for its choice with a considerable loss in competitiveness and industrial development.

These processes are mentioned in all founding documents as the basis of the European community's development and, thus, as possible pillars of a new identity. But upon closer scrutiny, three main pillars pose the question of European identity: 1) Europe as the guarantor of peace or the impossibility of a repetition of the tragedy of world wars, with the more recent corollary of the end of the division of Europe; 2) Europe as a privileged context for the political form linked to modern constitutionalism (which ranges from individual freedoms to a representational democratic system and the organisation of political society based on a system of solidarity among its members); 3) Europe as a decisive factor in "economic progress" (also with interesting and even curious extensions ranging from the concept of "raising the standard of living and quality of life" written into Article 2 of the Treaty of Rome to the concept of "sustainable development" found in the most recent texts under discussion).

Does all of this constitute a sufficient basis for the construction of a "European identity"? And if not, what are the alternatives? These are the ponderous questions being tabled today and which the Convention will have to address if it wants to draft something more than a simple list of rules for interactions in a new form of alliances among nation states. This article goes over some of the more crucial points of the debate currently under way.

The subject/object of a European constitutional charter

The first is the subject/object of a European constitutional charter. According to our constitutional tradition, it should be either a "people" or a "nation", but identifying/founding either is difficult since they both involve,

according to Weber's formula, "a common destiny".[11] This is shaped around historical pillars such as a common language, a common ethnic group, the sharing of certain decisive events, without which the formation of the nation state in the modern sense is difficult. To confirm this, some Eastern European political systems, from the Hapsburg Empire to Zsarist and Soviet Russia, are used as examples in which the lack of these prerequisites prevented the formation of political systems based on modern constitutionalism.[12] This is countered by the claim that there is another way of forming a state – a way which, in addition and sometimes in alternative to a "common destiny", involves a "common law" or "civic nation", in which the impact of language, ethnic belonging and other factors is annulled by the foundation of citizenship on a "civic religion" (or "republican identity") as the element of inclusion and subsequently approbation, applicable *erga omnes*. The reference is to the US experience which, it is believed, reflects these dynamics. Given the impossibility of founding the new united Europe on a "common destiny" in that the nation states want to maintain exclusive control of this formula, one can fall back on the criterion of "common law".

All of this seems rather abstract, but in reality both factors – common destiny and common law – co-exist in all constituent processes: first, because language, ethnic group and common history are cultural constructs and not elements found in nature and, second, because only with a good bit of imagination can it be claimed that the inhabitants of the United States did not and do not perceive a common destiny (suffice it to think of the civil war and the recent tragedy in New York). Thus, it seems illusory to think that question of identity can be resolved by isolating one of the two horns of the dilemma, also because a common law inevitably presupposes rules of "inclusion" and a setting of "confines" (otherwise it would simply be a declaration of universal rights). And this itself presumes a "sharing of destinies", precisely that of enjoying the advantages and shouldering the burdens deriving from inclusion in such a system – a sharing which derives from living in a geographic space defined in a certain way.[13] It is important

[11] It is interesting to note that this formula was used by Altiero Spinelli in point 2.1.1 ("Gli aspetti positivi dell'integrazione finora realizzata") of the Documento di lavoro sugli orientamenti del parlamento Europeo per la riforma dei trattati, 10 February 1982: "il senso della comunanza di destino e la tendenza di ricercarlo in comune, nonostante i numerosi insuccessi" [a sense of common destiny and the tendency to seek it together, despite numerous failures].

[12] On this point, see the stimulating thoughts of A. Graziosi, *Guerra e rivoluzione in Europa* (Bologna: il Mulino, 2002).

[13] The issue has recently come to the fore once again with the debate over the inclusion in the European Union of Turkey, a country which raises questions about its stance with respect
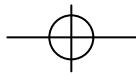
to add that this can be defined as "destiny" because of the involuntary nature of the choice: not only does inclusion in that community of law normally depend on objective factors (the ius sanguinis or ius soli, inclusion by insertion into a certain economic system, etc.) but the individual, once included, cannot withdraw from the political obligations deriving from it.

Therefore, let's return to conceptual horizons that make it possible to deal with the problem head on. Two definitions of a constitutional political subject are widely accepted: the first is by Ernst-Wolfgang Böckenförde, who defines it as a group of human beings who have become conscious of constituting a political entity and who, as such, intervene as an actor in history; the second is by Dieter Grimm, who speaks of a subject which has a sense of belonging sufficiently strong to support the decisions of the majority and the enactment of solidarity.[14] Both definitions seem very significant and perfectly suited to delineating the identity of the subject being sought: the new institutional form of the European Union as a system of inclusion and belonging that no longer simply refers to a kind of "second class belonging" and transfers onto the individual and other legal subjects the effects of adhesion of the nation/state to which they belong, leaving the nation/state as the only body that can legitimately construct citizenship.

Yet, before examining the implications of these definitions on the problem of the construction of a European identity as the foundation of a new constitution, another question has to be dealt with. When speaking of the "inducing effect" of the constitutional process, Jürgen Habermas asks whether the existence of such a subject is a prerequisite for or the objective of a constituent process.[15] One can only be surprised by the closedness of the two alternatives, which does not seem to be reflected in history. In no constitutional system has the subject invoked during founding ever existed before in the form to which the constitution referred. At the same time, no constitutional processes have ever – by themselves – created a subject of which there was not already an historical embryo. Reality is always forged by two factors: the simultaneous presence of social and cultural tensions between components with leadership ability, able to further the transformation of a certain conglomerate of historical subjects into a new

to the democratic values and system of law that constitute the European standard, and about the real perception of its culture as belonging to Europe's "common destiny".

[14] E.-W. Böckenförde, "Il potere costituente del popolo, un concetto limite del diritto costituzionale"; D. Grimm, "Una Costituzione per l'Europa?", both in Zagrebelsky, G and P. P. Portinaio, J. Luther (eds) Il futuro della Costituzione (Turin: Einaudi, 1996) respectively, pp. 231-53 and 339-67.

[15] J. Habermas, "Perché l'Europea ha bisogno di una costituzione?", in G. Bonacchi (ed.) Una costituzione senza stato , (Bologna: il Mulino, 2001) pp. 145-66. He feels that the latter is true.
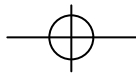
constitutional subject, and the ensuing action that develops thanks to the opportunities offered by the social, legal and value system. The new subject thus created is not a fixed and unmoving entity, but a living community that continually redefines itself within the constitutional system and, in so doing, strengthens itself and its feeling of belonging.

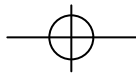## The objectives of democracy and economic growth

In the recent past – that which has shaped our identity of belonging to what is defined as the "new historical era" – a new parameter for measuring "civilness" has emerged: it is based, on the one hand, on a common legal and constitutional system[16] and, on the other, on the broadest possible increase in prosperity. From the French Revolution onwards, but undebatably after 1945, the parameter chosen to measure "civilness" in Western Europe has been the promotion and guarantee of the well being of all citizens.[17] The very origin of the European economic community was related to this.[18] It was no doubt the first time in history that an improvement in the standard of living constituted an international political objective and a constituent programme. But, the new ideology of "economic growth" also made the problem of redistribution less of a political burden, in that it was thought that the additional resources required for distribution to the less well to do could be created *ex novo* without touching the resources already present. Now that doubts are emerging about the possibility of endlessly creating new resources , this poses serious problems for management of the system of affluence and calls for recourse to the old mechanism of reallocation of existing resources.

But attention must also be drawn to another fact. This kind of language had no difficulty in penetrating, nor did it create divisions between the partners that built the first community institutions. There weren't even any discordant evaluations about the prescriptiveness of the liberal-democratic model. Indeed, the last countries in Europe with authoritarian regimes and lacking a Western constitutional system, that is Portugal and Spain, remained at the margins and were excluded because of their inability to meet the standards set. Finally, thanks especially to Europe's power of

[16] See M. Fioravanti, S. Cannoni, Il 'modello costituzionale' Europeo: Tradizioni e prospettive", in Bonacchi, Una costituzione senza stato, pp. 23-70; A. Pizzorusso, Il patrimonio constituzionale europeo (Bologna: il Mulino, 2002).

[17] P. Pombeni, "La legittimazione del benessere. Nuovi parametri di legittimazione in Europa dopo la Seconda Guerra Mondiale", in P. Pombeni (ed.) Crisi, Consenso, Legittimazione. Le categorie della transizione politica nel secolo delle ideologie (Bologna: il Mulino, 2003).

[18] Article 2 of the Treaty of Rome reads: "the Community shall have as its task … to promote … harmonious, balanced and sustainable development, the raising of the standard of living".

attraction, the dictatorships fell in both countries without bloodshed or major rents in the social fabric – truly exceptional occurrences in history – because even the elites in power realised that the country could not progress or acquire international status without a liberal-democratic system.
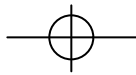
Looking at the post-1945 European constitutions, including those of Portugal and Spain, it is easy to see that the language is substantially the same and the ideology behind them identical, above and beyond the diverse legal-institutional mechanisms to which they refer. Then again, this is not surprising if one thinks of the great political-constitutional dialogue that swept through Europe in the nineteenth century, forging all Western political ideologies. All the major idealisms – liberalism, socialism, social Christianism – are largely shared, albeit with strong national specificities, throughout the continent[19] This common heritage is also experienced daily by European scholars who exchange opinions, read each other's works and build on intellectual contributions, regardless of their country of origin. Why then are the nation states so reluctant to give up part of their sovereignty?

A direct relationship

The problem lies in the very way in which the European constitutional experience has been metabolised. On the one hand, it has a strong anti-federalist base: that is, there is the conviction that equality can only be ensured by a direct relationship between the citizen and public authorities.[20] Everything that lies outside of this parameter is considered not only a constraint on growth (corporatism is seen as an obstacle to the entrepreneurial spirit), but also a constraint on individual creativity. It would be short-sighted not to realise that these problems are coming back today in a much more complex form through the movements of peoples across the continent or the birth of multicultural societies in which integration seems difficult. It would be even more myopic to envisage a political system not based on the representation of equals converging in a single centre to discuss and govern, and backed by a shared civic culture and, more generally, shared political acculturation. This calls for a rethinking of our constitutional ideology which has not yet been seriously undertaken.

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[19] On the common background of all European political ideologies, see *Reassessing political ideologies: the durability of dissent*, Freeden. M. (ed.) (London: Routledge, 2001).

[20] On the problem of citizenship, see P. Costa, "La cittadinanza fra stati nazionali e ordine giuridico europe: una comparazione diacronica", *Una costituzione senza stato*, pp. 289-326.
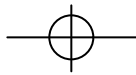
A common destiny

On the other hand, the community of equals on which the European constitutional system is founded calls for a "nation" as its base, that is a body which sees itself united by indissoluble and unrelinquishable historical and cultural ties and international relations. In the past, national language was the façade used to represent this unity, actually largely the result of a long cultural construction. What can be more unrelinquishable than language? No one chooses it: as an old southern Italian proverb says, you drink it in with your mother's milk. Actually, what you take in is the dialect, that is the family language, not the national language. But in a translational way, the parallel was nevertheless expanded and language came out as the primary symbol, able to filter the shared community through literature, the educational system, etc.

What language does Europe speak, in a world in which various national languages are already losing their status as languages that shape identity? And if it doesn't have a common language, what else can it use to construct that common destiny that Weber considers the basis of the modern state? These are not easy questions, but answers to them have been found in the past.

At the same time, the risk implicit in using history and culture indiscriminately should not be underestimated. Max Weber wrote that for a new constitutional system to be successful, the figure of the "legislator" must be accompanied by that of the "prophet". More simply, the regulatory activity of the new public space must be rooted in an interpretation of both the past and the future. In fact, a prophet judges a people's past (including its mistakes and betrayals), but does so to ensure the people's redemption, that is, its future. In the process, the prophet reconstructs the identity, manipulating the past in view of the future and preparing tools for the interpretation and the construction of significance of both the "before" and the "after".

What must be avoided in building a European identity – always seen in terms and within the limits of a tool for the founding of a constitutional process – is recourse to either a simple "declaration by assembly" of institutions and legal principles (as some critics feel was done for the Charter of Fundamental Rights adopted in Nice) or a confabulatory reworking of historical myths imposed on societies that have lost or are losing contact with them. Indeed, a rather serious risk facing the Convention is to give in to pressures from various sectors seeking to gain from acknowledgements or mentions made in proclamations dealing with identity. It becomes clear at this point that preambles are strongly political operations: mention of this or that historical root, past event or legal tradition would make the construction of a future Europe more rigid by laying the premises for accusations of "betrayal" of the constitution. This

would mean giving populist trends of whatever cultural background ideological tinder with which to ignite devastating fires.

Two golden rules should be recalled in this context: the first concerns the brevity and conciseness of constitutional texts; the second, their "indeterminateness". It might seem a contradiction, but a constitution must, especially in its more conceptual articles, allow for ample and continuous interpretation, otherwise it rapidly becomes obsolete and loses all effectiveness.

The past 50 years

This is particularly true of the articles relating to identity. Returning to the very pertinent definitions of Grimm and Böckenförde, it can be seen, for example, that the only history to which reference can be made is recent history, and not that of Europe in general, but that, specifically, of the European Community/Union. For the reasons already mentioned, it can be said that Europe has, since the mid-fifties, been a subject "aware of itself as a political entity" and that it has, as such, "intervened as an actor in history". The fact that it has not been able to exclude the presence of other actors acting on their own behalf even though a constituent part of the new entity in fieri does not mean that the EC/EU does not consciously exist (to the point of being conscious of its own limits) or act in its own name (even if moved by outside pressures).

From this point of view, it is surprising that all documents produced to date, from those of the working groups of the Convention to the one drafted by the Commission, have shown a reluctance to make recourse to that source of "pride" – certification of the results achieved – as the confirmation of a new reality. The main reason for it is the lack of a strong subject, leader, person or institution able to take on the task of proclaiming that success, and the fear of the reactions of the competitors (that is, the member states), which would feel diminished by such a proclamation.[21]

Actually, there have been constant references to Europe as a resource, but also as a limitation and even as an obstacle, and that should be enough for the purposes of the argument being made here. Furthermore, it should not be overlooked that the entity has grown and plans to continue to do so, that it has refined its instruments for intervention (central was the creation of a directly elected parliament),and that it has survived various storms that threatened to wipe it out. These cases all made it clear that there is a "sense of belonging sufficiently strong to support the decisions of the majority". While as regards solidarity, the history of the transfer of funds, incentives

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[21] In the Preliminary Draft Constitutional Treaty that circulated on 28 October (CONV 396/02) worked out by the Praesidium, care was taken to emphasise this.
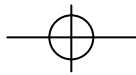
and subsidies now dates back far enough to attest that the instruments and principles of subsidiarity have – not without difficulty – been consolidated.

This should suggest that the EU can now refer back to its early history as an instrument of legitimation, without having to venture out onto the uncertain and slippery terrain of the mythological interpretations now circulating: from a Carolingian Europe to a Europe of the Enlightenment, from the republic of letters to the refounding of Christianity. A common European cultural heritage exists and everyone is aware of it – no need to go into detail – even if it has no constitutional relevance per se. Just as a language does not found a nation (the German language is not the foundation of Germany, since German is also spoken in Austria and Switzerland), a cultural heritage does not automatically mean a constitution: Christianity or the Enlightenment, the Jewish-Christian or Greek-Roman cultures are no more the foundations of Europe than they are of the US (without mentioning that they are available to anyone in the world who wants to make use of them, even if they do not want to be included in Europe).

Projected as it is into the future, the European identity should limit itself to boasting its immediate roots, that is, the work of the last fifty years in overcoming the continent's system of division into nation states competing for hegemony. The rest of history – of anything but negligible importance – has an "objective" weight, but has to be left to the interpretation and elaboration of the various components, so that each can find further vehicles for inclusion, discovering in the general value system roots that tap into its specific culture.
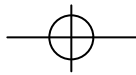
Pitfalls to be avoided

One important, albeit controversial, point is that no mention must be made in this new frame of reference of peace as a founding concept of the European institution. No one doubts its value, but to claim that the EU was born to guarantee and maintain the peace would be like signing a blank cheque for its dissolution: if ever this condition were impossible to maintain, it would be a powerful justification for asking for its break-up. It can be objected that peace in this case refers to relations with the other member states. But even this reasoning is weak because it implies that the states maintain their former configuration, which includes the right to wage war. Instead, there already is a qualitative difference, even if not yet at the constitutional level: the member states of the Union have given up that significant portion of their sovereignty that allowed them legitimately to wage war against each other. If a conflict of this type were to break out now, it would be perceived as a "civil war".
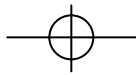
It is obvious that not mentioning peace as a founding concept may be painful and unpopular, apparently diminishing the attractiveness of an institution which is in many ways the offspring of pacifist ideologies. But the risks implicit in any other choice should not be underestimated, if only for the way in which they interfere with the creation of a common system of defence. This obviously does not mean going back to a vision of "power politics" which numbers war among the normal political options: in some part of the constitution other than the preamble there could be a provision expressing awareness of the high cost of war and the desire to resort to it only in "extreme" cases. De facto, the Preliminary Draft already mentioned lacks any explicit reference to peace, speaking openly instead of the "devel-opment of a common foreign and security policy, and a common defence policy, to defend and promote the Union's values in the wider world" (Title I, Article 3).

The issue of the "right to affluence" also deserves some discussion. In some ways, it is only natural that a constitution promise that the new institutional subject will provide a "greater good" for those participating in it. Since that good can no longer be "power", as it has become doubtful that it can create the conditions for happiness or spiritual elevation, recourse has been made to a better standard of living. In this sense, the Preliminary Draft actually seems more cautious than in the past, in that there are no explicit promises of "prosperity": it only mentions the promotion of economic and social cohesion; a strengthening of the internal market and Economic and Monetary Union, and the fostering of a high level of employment and social protection. However, given the current situation, dominated by the demand for greater consumption, but also doubts that such expansion can be maintained, it's not quite certain what this means. Thus, it would be better for the EU to consolidate what it has already achieved, leaving economic development as a target towards which to strive, but which cannot be guaranteed, and above all to state explicitly that it may no longer be able automatically to right imbalances.

These precautions are particularly important in view of enlargement. For the first time, it will bring into the Community sphere areas of unbalanced growth and economic backwardness that are no longer marginal portions of nations otherwise up to EU standards. These areas sometimes encompass almost the entire country, thus economically less developed areas could have direct representation in the decision-making mechanism. To promise that the gap between the standards of living of the member countries will narrow and that there will be improvement in all sectors could – like peace – result in a clause that could lead to crisis, if not dissolution, if and when either of the following conditions were to obtain: 1) disequilibria persist and remain serious; 2) the standard of living in significant parts of the Union not only does not improve but actually worsens. It is to be hoped that these

scenarios can be avoided for some time. It's highly probable that they will come to pass sooner or later,however, and must therefore be taken into account in laying the foundations of a constitution meant to establish an "eternal" subject.

The right of withdrawal

Another remark related to identity concerns what is defined as the right to withdrawal. Many, including the author, feel that in a new kind of political system like the one the European Union will inevitably constitute, member states must be given the right of withdrawal.[23] This safety valve is needed to facilitate the handing over of portions of sovereignty in that, if the states have the right to withdraw, withdrawal will represent a "momentary" measure, with participation seemingly "freezing" – but not annulling – the member's status as a nation state. Indeed, the members would maintain the right to reactivate it (this should also restrict the desire of others to repress rights intolerably, given that the members would have an instrument with which to react).

It is obvious, though, that the right of withdrawal should never be exercised. And to prevent demagogues of various kinds from taking advantage of it to weaken or sabotage the European construction, the mechanisms that define identity must be refined: both in general terms, that is by defining an identity from which one cannot withdraw without losing one's own,[24] and in more procedural terms, by linking identity to a free public opinion and representative institutions based on the exchange of opinions and able to control the exercise of government functions.

All of this may fit into a preamble that is short but sufficiently pregnant to provide intellectual drive for the building of that "constitutional patriotism" able to ensure integration into the civic nation of all those who are progressively won over by it. At the same time, it should serve, in the development of a new culture, as a starting point for rereading the past and constructing the future of the new political configuration to be taken on by the European Union. If the process is successful, it will – like it or not – result in a common destiny.

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[23] Article 46 of the Preliminary Draft speaks in a rather involuted manner of "the possibility of establishing a procedure for voluntary withdrawal from the Union by decision of a member state, and the institutional consequences of such withdrawal".

[24] This is exactly what happened for the nation state with respect to pre-existing "regional" identities, which lost their competitiveness and their alternative character with respect to the new national identity.