

An uncertain ontological as well as (in the case of identity) epistemological status characterises the issues this article is about. The Constitution exists as an international Treaty, which may or may not be ratified. According to the time¹[1] of writing and each individual author's orientation in making political predictions we can even think that it will not, that the constitutional process will be disrupted and the EU come out of the subsequent crisis in a very different shape from now, perhaps even split into two concentric circles: a narrow polity of a few countries with a Constitution and a larger Common Market without political frills, least of all political identity and legitimacy. The Constitution is thus in the balance between existence and non-existence, and this circumstance can have little relevance only to those who do not see the difference between a (before ratification still incomplete) legal product of the EU-leadership (the European Council of June 2004) and a political process which is far more incomplete because of its insufficient and uncertain roots in the European constituencies. On the other hand, European identity is not only put on the same jigsaw between existence and non existence, but also reveals changing and confusing features as soon as we take it from a research field to another, from a school of thought to a different one. To make at last some steps out of this confusion, this article will thus have to provide some definition before discussing the substantive issue, i.e. the relationship between Constitution and identity²[2]. Moreover, this discussion must remain characterised by conditionality: whatever can be said about that relationship, it will prove true or false only in case the Constitution is ratified and the EU makes a step forward towards becoming a polity which is not only a matter of the Constitution coming or not into force, as we shall see. On the contrary, my basic contention is that the constitutional process plays a role in identity-formation, but a limited one, as political identity must be conceived of as a broader and deeper process than the only drafting and passing of a second-grade Constitution such as the European one (3).

To carry this point, I shall have first to clear the way from some conventional wisdom about identity, in particular the beliefs and fears about identity mowing down all diversity (1), and being at the same moment political, cultural and social (2) a clear case of conceptual *Unterdifferenzierung* and one is lead to say theoretical naiveté³[3].

1. European Identity and the Preamble to the Constitution.

The postmodern and (in Germany) post-Adornian⁴[4] fashion of bashing all notion of identity as being the namesake of totality and repression has to some extent retreated in the last years. But it happens to survive in the most diverse mental locations, say in the British Europhobics' obsession with Europe or Brussels' swallowing all British home rule and making Europe a bureaucratic One. Nor was it helpful that in political literature the notion of identity was best known from its American (but also Australian or South-African) usage in politics of identity, quite the opposite of what we address with European identity. While this is about the possible political unity of the European peoples, the politics of identity, to put with Arthur Schlesinger jr., may rather result in the disuniting of America⁵[5], as it translates the search for cultural self-awareness by underprivileged groups into the defining feature of their political agency. On the whole however, in the last years identity has become accepted as a problem of the present stage of the European

¹[1] Autumn 2004.

²[2] This relationship is discussed in Habermas 2004 as well.

³[3] Witness the widespread attitude to talk about political identity descending from a prologue in heaven, in which the general theory of identity, believed to encompass logics, psychology, sociology, must be first outlined. This attitude is indeed based on a scholastic self-delusion: it bows to the presumptive constraint that you have to find for every word an all-encompassing unitary theory. Is it so difficult to accept that knowledge is a regional process, and identity is all but identical with itself across the several semantic fields?

⁴[4] I am speaking derogatively of a fashion because this has not much in common with Adorno's *Negative Dialektik* itself, which is deemed to be the legitimating source of all identity bashing. The book is on the contrary a differentiated and subtle analysis of the relationship between the identical and the non-identical.

⁵[5] See Schlesinger 1998.

process, both in political science as well as in policy debates, because it is no longer seen as monolith contrary to all diversity.

Secondly, some awareness of European identity not being simply national identity writ large is also coming up. While this last picture is dominated by an acritical bias (national identity as the ultimate form of identity), how far European identity differs from national identity remains an open problem about which we know little because the underlying real process, that is identity formation in Europe, is still developing. On the one hand, the world of globalisation and (in the West) post-modern politics^{6[6]} creates an anthropological and cultural environment which is unfavourable to the birth of a Supernation. On the other hand, there are analytical reasons for Europe not going to be a new nation: on the societal level, there are plenty of transnational segmentary networks, but there is nor is going to be an European society. Before any other consideration, the impossibility of a common language makes social integration as a matter of everyday life equally impossible. On the political level, the member states will keep a crucial role in the Union^{7[7]} and so will do their political, bureaucratic and cultural elites, an other factor that will impede a development of the EU into a nation-like federation. We should not overstate ♦the lessons of history♦, but also not forget that all the federations we know in Europe and North America came out from militarily supported process or event of federation\unification: so was the case of the Soviet Union, of Tito♦s Yugoslavia and, as far as it is comparable, the USA with the Civil War, while the antebellum USA rested on an original ethnic and religious unity (Anglo-Saxons interspersed with German and Dutch, all referring to Protestant denominations). As the voluntary association EU does not come out from processes like these, it is unlikely for it to ever attain a similar degree of cohesion like in classical federations ♦a cohesion that is in itself far from eternal, as we have seen after 1989. A marginal note: given the horror story of European nationalism, we must welcome the perspective of the Union never being bound to become a Supernation. The economic might of our continent will be in itself terrific, once all the good effects of the single market and single currency have ripened, and adding to it excesses in cultural self-esteem as in the old times of nationalism would not promote world peace.

One leading aspect of the relationship between national and post-national identity is whether or not political and cultural identity can be kept from each other^{8[8]}. In national identity they tended to coincide, because the core of the *Staatsnation* used to lie in the pyramidal organisation of power and the assimilation of pre-existing cultures under the demanding and encompassing arch of the national cultures. A national education system, in many cases a national church, the spreading of a centrally educated and organised bureaucracy were instrumental in implementing the political project to build or reshape the emerging or existing territorial states as unity of state and nation. In the EU the landscape is completely different. Between political and cultural identity the relationship is one of distinction, not separation nor assimilation. Let us make clear what political identity means in the Union as in any political group^{9[9]}: the set of political and partly ethical values and principles^{10[10]} by *recognising* and discussing which we come to feel like ♦we♦. Because it has origins and structures that are not those of a federal state (it is neither federal nor a state) the European Union must not and has indeed in its history not pretended to include in its identity the philosophical, religious, moral and aesthetic values that any citizen or any country or part of it may link to the acceptance of those political values and principles. In doing so, we have extended to the Union the understanding of political identity that has come up in post-war European countries, after the demise of nationalism and the loss of

^{6[6]} In the hyphenated form post-modern is what comes after modernity, the end of which can be reasonably argued, regardless of the postmodernists♦s ideological conclusions.

^{7[7]} Presently the problem seems to be whether they will allow the Union to exist as a polity rather than the risk for the nation states to see their role dwindle.

^{8[8]} Cf. Meyer 2004. This question is not clarified in Gutmann 2003, which however provides a useful typology of identity. The same holds for Eder 2001 as well as for the Introduction to the same volume.

^{9[9]} My preference goes to the sociological notion of group in its most abstract meaning rather than to the more usual wording ♦community♦, to which a communitarian aftertaste can remain attached, very much against the orientation of this author. For similar reason I reject the use of ♦collective identity♦, which may suggest that there exists an identity pertaining (by hypostasis) to the collective identity as such, whereas ♦group identity♦ refers to the identities of the individuals constituting the group.

^{10[10]} This definition should not be misread in an ♦idealistic♦ sense: the leading value can be and often is the ♦sacred egoism♦ of one♦s own community and the first principle the maximisation of one♦s own group interest. But to shape an identity they must be formulated as values and principles, universally valid within the group, not as randomly and occasional choice.

credibility of the very idea of nation after 1945¹¹[11]. It is true that in order to define a political identity a certain degree of convergence among the actors in matters of philosophical (primacy of the individual, in the West) and juridical (religious neutrality of the state or at least tolerance, rule of law) values is required, but this regards the *political* culture of a group, not its entire culture world; moreover, convergence is not identity.

This is what the members of the Convention, first of all its Chairman, failed to grasp. They wrongly believed to be their duty not only to find about the constitutional values and principles and the institutional architecture of the Union, but also to determine where those values and principles come from and how much each of them weigh in the present European conscience. This pretension also had the avoidable side-effect of incensing the Catholic Church because the text lacks any mention of Europe's Christian roots. Giscard d'Estaing thus wrote and the Convention members passed a Preamble in which the hotchpotch of politics and culture generates little monsters such as the cultural, religious and humanist inheritance of Europe as were religion and humanism something different from culture. Also, not a single word was spent to recall the tragedies of the European history, while it was exactly the will not to have them repeated to inspire the founding fathers. What came out was a bombastic low-quality document, signalling the sad fact that the underlying culture of some European leadership is still not very far from that of a *wilhelminischer Provinzialschulrat*, to put it with Adorno¹²[12], or perhaps rather of a *sous-prefet de la Troisième République*. The Preamble has been later slightly changed to the better in the version adopted by the European Council and signed in Rome in October 2004. But this cannot conceal the illiberal nature of the act by which a political body (first the Convention, then the Council) legislated over cultural matters that in liberal democracies are supposed to be left to the free play of debate, research and imagination. There was no technical or historical necessity to do so, as a largely similar and intellectually more serious Preamble was already contained in the Charter of fundamental rights, now part two of the constitutional Treaty, while a special article in the body of the Constitution is dedicated to specify the values upheld by the Union¹³[13]. Historically, the authors of the European Constitution have taken little notice of the fact that the two more representative Constitutions of post-war Europe, the *Costituzione della Repubblica italiana* and the German *Grundgesetz*, have no comparable Preamble¹⁴[14].

To sum up: none of the apparent reasons for writing the Preamble is credible when we look at the text that effectively came out. If we do not consider its existence as the mere result of unlucky circumstances (the confusion between politics and culture, the thin philosophical level of its author and the like), we could malevolently argue that this unnecessary attempt to define by ways of a poor rhetoric an official EU-philosophy of history is a symptom of two serious problems: first, how to cover up the real lack of an European political identity, how to make the people believe that we do already have one simply by ceremoniously proclaiming that we do. Second, by proclaiming a fictitious and shallow cultural identity to be the base for the political one, the EU leadership¹⁵[15] bows to the bias of their coincidence, thus to an outdated mental constraint. In doing so, this leadership shows once again the narrow limits of its culture as compared to the unprecedented width of the real European process, of which this leadership is itself part, though with insufficient awareness. Here we have another case to which a famous quote from Marx applies: *Sie tun es, aber sie wissen es nicht*.

2. Interpreting Political Identity.

¹¹[11] This is clearly mirrored in the post-Fascist Constitutions of Germany and Italy. On the link between post-Fascist and European constitutionalism see Fioravanti 2002, 273-298.

¹²[12] The suspicion of a resemblance with the prototypical high school teacher, a most loyal subject of Kaiser Wilhelm the Second, was directed by Adorno, stingily enough, against the Marxist philosopher Georg Lukacs and his bureaucratic rhetoric, see Adorno 1981, 252.

¹³[13] Art.I-2. The needless redundancy of the Preamble lies also in the circumstance that it can only proclaim the good will of sticking to those values, while only values and principles stated in the articles of the main text are legally binding and for this reason politically effective.

¹⁴[14] The Italian Constitution has none, while the Preamble in the *Grundgesetz* stems from the legal necessity to define the relationship between the Constitution and the German people in the time of the nation's division.

¹⁵[15] This does clearly refer to the whole of this leadership, the national governments in the first line.

In political philosophy distinctions are drawn not to divide things from each other, but rather as a first step to better understand their complex relationship. That the EU is able to develop a political identity while not aiming at doing the same with the cultural one, instead keeping in full life its cultural diversity is not only a prediction based on the specificities of the Union's origins and structure. It is at the same time a normative position: the Union should refrain from any temptation (like in the Preamble) to achieve a political and cultural identity, not only because the pressure on our cultural diversity would be unacceptable to the most and threats to disrupt the integration process. Second, should that goal be achieved, the resulting concentration of power and conformity to power would be deadly for a liberal democracy of continental dimension. Third, it should refrain from that temptation lest it wastes energy and pays high costs for the resulting tension because the unity of the two identities is an unnecessary constrain, stemming from a false and outdated belief, while political identity can be achieved without coupling it with the cultural one. So far the distinction. Do the two poles of group identity come together again?

This happens, and necessarily happens, as political identity is not only a list of core values and principles, like those stated in the fundamental rights section of recent Constitutions. Political identity is first of all an *tat de conscience* of citizens (as individuals as well as, in certain cases, representatives of institutions, such as the EU member states) and lives only in their interaction, which I have termed before a process of recognising those principles as ours. This is something we do first in the founding act of underwriting a Constitution or a covenant, but then also in the every-day interaction in which we enliven our core identity and apply it to the problems and decisions we are faced with. To do so we need to interpret those articles of faith on which our political association¹⁶ is based, and the interpretation of shared fundamental values and norms is exactly the daily business of parliaments, supreme and lower courts, public administrators, professors of law and social science, columnists but also of school teachers and parents while transmitting the articles to the new generation. And interpretation is where cultural identities, excluded from the definition of the political *idem sentire*, come again into play: religious, moral beliefs, assessments of historical events, aesthetic orientations cannot but influence the way how the partners in the political association, especially if it is a voluntary association among diverse peoples, try to give concrete shape to their core identity. This opens a process of understanding, bargaining and betting (how far can I risk to break up the polity with my insistence on my interpretation of its founding covenant?) which constitutes the public sphere of the association, the proper location for its identity to be continuously put to the test of conflict and reshaping. It is in the *Öffentlichkeit* that political identity and cultural diversity are confronted with each other in a space marked by two extremes: a political identity so inflated as to make the diversity of cultures meaningless for decision-making, and a self-asserting cultural diversity that does not refrain from the risk to break up irreversibly what used to keep the partners together. The first extreme is utterly unlikely to ever become a real trend in the EU, whatever monsters Europhobics may imagine. The second extreme is also unlikely in the common form of the secession from an existing Union¹⁷, but has a tremendous strength in postponing the political maturity of the European process or perhaps in disrupting it altogether. Not that the diversity of cultural identities can by itself disrupt the process, but it can do so in the middle of a crisis of the institutional and political integration, in which cultural dislike for each other can fill the vacuum left by political inaction, or even be mobilised by identity entrepreneurs in an anti-EU strategy.

I have so far attempted to clarify some basic elements around the notion of political identity in the EU. In this article I cannot discuss the fundamental question: what is the use of political identity? Why is it necessary? The answer lies in the link to legitimacy, a key category for the understanding of power, especially in the case of *principati novi*, to which Machiavelli would ascribe the Union. This holds if we have a full political understanding of legitimacy, an understanding not limited to its legal roots, nor to the technocratic or efficiency (out-put legitimacy) component of the power that strives for legitimacy. On the other hand, to argue in this direction makes sense only if we want (normatively) the Union to become a full political actor and/or read (analytically) its dynamics for the past fifty and more years as oriented towards that end. We shall come back to this meta-condition of inquiry in the conclusion. But now we turn our attention to the role of the Constitution in the promotion of identity as compared with other sources.

¹⁶[16] In the Weberian most abstract sense (*politische Vergesellschaftung*). Others would say community.

¹⁷[17] Although this is now a legal possibility in the EU, see art. I-60 of the Constitution.

3. Identity-formation in the EU.

Which are the sources fostering political identity-formation in a post-national entity is hard to tell. There is little debate and even less empirical research on this matter. We can think of four of them:

1. education
2. symbolic effects of European experience in every-day life
3. the Constitution and the constitutional debate
4. shared political decision-making

1. On education there is little to say, because its influence in promoting identification with and allegiance to the polity is well known from the history of the nation state, in which it was complemented by conscription-based military service. Now conscription is gone even in the nation state, while there is no European school system nor will there be one for the foreseeable time; neither there should ever be one, because this should remain an area of diversity. This is however not to exclude that the teaching of EU history and the illustration of its institutions may (and indeed should) become mandatory on an intergovernmental basis in all member states, leaving to them how to shape it.

2. By European experience I mean the presence of legal (regulations), economic (euro, regional and structural funds), political (statements released by the president of the Commission or Monsieur PESC) elements generated at EU level in the world we experience day by day. They conspire to create a mental space ♦Europe♦ in which we increasingly feel to live a part of our collective life ♦ even if for the moment on a continent of football fans the UEFA Cup and the Champions League represent the existence of an European space on a more massive scale. Mental space means a geo-political (from polity) space, in which we feel to be contained along with others with whose interests and wishes a balance must be struck because nobody can go alone any longer¹⁸[18]. It also means a normative space, in which we are aware that we share certain obligations with others (do not put anybody to death; do not exceed 3% of GDP in your deficit; do not use OGMs except within limits dictated by the EU). It is finally a symbolical space, in which our partial acceptance of the integration is expressed by referring to certain items endowed with a general significance: the very word ♦Europe♦ in political sense, the starred blue flag, the Constitution or, negatively, ♦Brussels♦ as the quintessence of all bureaucracy. Symbols rarely can be created artificially, and identity cannot be fostered by creating more and more sophisticated symbols. Even less can they substitute for the lacking political will and the lacking ability to make unitary decisions and to stick to them. But the EU agencies as well as the member states are too shy (the former) or unwilling (the latter, probably) in helping citizens and institutions fix around recognisable objects the interest and participation (vague and confuse that these may be) in European politics for which they are available, as we shall see later in the case of foreign policy.

An example: the public use of memory, the politics of memory is known to be a decisive passage in identity-formation¹⁹[19]. The ♦national♦ states were perfectly adept at this, which in most cases came close to a politics of myth-building. After more than fifty years history of the European institutions, there is no recognisable monument to remember its turning point. Moreover, it has taken until now to proclaim in the Constitutional Treaty a ♦day of Europe♦²⁰[20], but this will take effect Union-wide only after the ratification of the Treaty, which may mean in five, or ten years or never. It is like the politicians, diplomats and bureaucrats who have been working on European issues had secretly decided, very much in a British attitude, not to give the EU any chance to outgrow its ♦single market regulation+some other governance♦ status, thus forbidding it any step that may catch the people♦s attention. More likely, the EU leadership simply lacks a culture that

¹⁸[18] In philosophical terms, this is the beginning of a non-voluntaristic association, which classical theory tells us to be the only fully political. But the game is far from over, as we shall see in the conclusion. Others would probably say ♦community of destiny♦, but I am not comfortable with this turgid expression, nor with the nationalist or ♦*volkisch* ascendance of *Schicksalsgemeinschaft*.

¹⁹[19] I have discussed this aspect in Cerutti 2001, 12.

²⁰[20] The ninth of May (1950), the day of the Schumann declaration.

goes beyond regulations and budget calculations and looks into the imagery and the meanings that come up in the mind of the citizens ♦ the ♦subjective side♦ of politics, to put it in classical terms. In the background we can perhaps guess a post-totalitarian preoccupation with not raising the impression to use manipulative techniques ♦ a benevolent assumption, I must add. But being bombastic\manipulative or dry and business-like is not an alternative that can be taken for granted to be the only one. Politics is about finding a third way.

3. We should not mistake the constitutional debate in the EU for a rerun of historical debates in the revolutionary countries of the xviii. century (USA and France) or in the post-fascist countries in Europe. There is no pre-given territorial entity²¹[21] in Europe nor a single and century-old civil society with a dominant language, striving for political empowerment; not even a considerable transnational public sphere: there is no relevant EU-wide newspaper or weekly, while the multilingual Euronews digital channel is little known and watched around the continent²²[22]. This poses an array of qualifications on the significance of that debate. It is true that the ♦Convention method♦²³[23] has been a real innovation in the procedure of EU legislation\deliberation. But, regardless of the possible disruption of the constitutional process because of negative referendum outcomes, there is little chance for that method to be extended to further proceedings such as the InterGovernmentalConferences (IGC). This apart, and in spite of the consultations between Convention and representatives of national parliaments and civil societies, it cannot be said that the articles of the draft Constitution have been widely discussed in the national public arenas; national parliaments have been not involved in their entirety, thus failing an effective channel in raising the public opinion♦s level of attention. The politically most relevant articles such as those regarding finance and foreign and security policy have been almost exclusively seen as the best available outcome of the bargaining among the current governments of member states rather than provisions established on the basis of public argumentation within and around the Convention on how to best enhance the effectiveness of European policies in the world arena²⁴[24]. Much futile attention, at least in Catholic countries, has been devoted to the question of the Christian roots, which without the unlucky Preamble would have never been raised.

Will the ratification process substantially enhance the identity-building effect of the debate on the Constitution, particularly in the countries in which a referendum will take place? In principle it will, because there is theoretically²⁵[25] no better way to foster the self-identification of the Europeans than letting them all discuss and vote on our *Grundgesetz*; in an ideal picture, it could be the bang of European identity. But a thorough answer must look in the very same moment at both procedure and contents of the process: it makes little sense to discuss the relevance of the Constitution if we do not look into the text and ask which agenda and which decisions are made possible or excluded from the Union♦s competence. Furthermore, focusing alone on procedures, institution-intern processes, and intentions enshrined in legal texts without a vivid perception of what is going on in the broad and crude world of politics can be punished by nasty surprises.

At the time of writing, the limited commonality (as I shall soon argue) expressed in the Constitution finds little support in an electorate that may still be open to ♦Europe♦, but does not love the present institutions and policies, as shown by the disappointing election for the European Parliament in June 2004. Voters all around the EU feel perhaps that the Union is deeply divided and in fact non-existent on crucial foreign policy choices (Iraq, transatlantic relationship), unable to launch economic policies that can promote higher growth rates and reduce unemployment, unwilling to address immigration policy along common lines. The intended European governance of globalisation remains far from taking shape. This may explain why the European vote has been this time again more about national than European issues, why the EU has often been more a scapegoat than an asset for the future, and why so many Eurosceptics have entered the Parliament and so many voters, particularly in some new eastern countries, have stayed away from the polls. There is no

²¹[21] The United States were (♦was♦ came into use only after the Civil War) not one such entity either, but under the pressure of the common British enemy the individual States had little choice of staying aside.

²²[22] I have rarely seen reference to or commercials for Euronews on popular national channels. There would be much work to do in order to improve its journalistic quality as well as its diffusion.

²³[23] Cf. Liebert 2003, Lucarelli-Radaelli 2004 and Tel♦ 2004, particularly chapter 5.

²⁴[24] See below with regard to foreign policy.

²⁵[25] This is the conventional wisdom, I will soon advance another hypothesis.

guarantee that the same factors will not undermine the ratification process, in which EU-bashing may become a choice for some government and not just for anti-European parties on the extremes. In the present stage of western democracy, parties, government coalitions and politicians are more sensitive to the mood that prevails among electors in the given moment rather than the strategic requirements for the future. Statesmanship is a very scarce resource in Europe. This is not only unhelpful in front of the problem of Union's future, but also fails to bind the possible European loyalty of the citizens to reliable leading figures comparable to the Adenauers, De Gasperis and Schumanns of the founding years.

It is also with regard to the Constitution as a normative text that we should ask about its political substance. However, before we do so, let us consider its significance in symbolic and institutional terms. To have a Constitution is important because otherwise the values, principles and fundamental policies the association of the Europeans is about would remain floating, while they can now (provided it is going to take force) be addressed in an institutionalised, well visible and reproducible form; unlike the Treaties, the Constitution is something we can circulate in schools, parliaments, military units, and show to our partners around the world²⁶[26]. High, though ambivalent, is also the symbolic value of having a Constitution, which signals unity in a polity, thus creating a precondition for the acts of that polity to be seen as legitimate. It is ambivalent in two regards: first, the European polity is a mix of individual citizens and states, the Constitution is not a covenant that directly binds the citizens together, but as a second degree-constitution it does so over the still partly sovereign member states. Granted there will ever be a full political identity of the Europeans, it will hardly be Ernest Renan's *plébiscite de tous les jours* that binds all together with each other and with the imagined community of the nation. On a shorter range, a fair deal of ambivalence can also lie in the contrast between a unitary act like passing a Constitution and the disunion and inaction presently prevailing among EU members. Under this regard the unifying symbolism of the Constitutional Treaty can result illusory, a mere symbolic policy²⁷[27] adopted to cover-up the real political disunion.

This may be a malevolent suspicion; that the Constitution allows for only limited unity among the Europeans is not. The exclusion of the foreign and security policy and the related security and defence policy from majority vote as well as the simply coordinating competence of the Union in financial and economic policy reproduce for the future the present status of paralysis. How to reach an ambitious goal like making the knowledge society of Europe a leading competitor in the world markets by 2010 (the Lisbon program) and how to make the euro a second worldwide reserve currency without a strong common economic and financial policy for the whole of EU is a question that only needs to be raised to denounce the self-illusory character of a status quo policy, as codified in the Constitution. Further: after the break-up of the Union on Iraq, how to give back some confidence to the citizens if in front of a new challenge like America's unreasonable war on Iraq differences are not to be discussed in the end perspective of a decisive vote that will lead the Union to act this way or the other way, but can remain unresolved, thus paralysing Europe again? Nothing like Germany's electoral campaign for attaining a seat on the Security Council and its row with Italy over this country's proposal to give the seat to the EU visualises the step back taken by the member states on the road that was once supposed to lead to an even closer union in foreign policy as well²⁸[28].

The unanimous and intergovernmental or confederate decision procedure is a particular stumbling block over which both political effectiveness and identity-formation will come to a stop if not to a backward movement, as paralysis means stagnation and in stagnation times things never remain as they were at the beginning, but rather take some other direction (in the unlikely best case, a much smaller but closer Union or Federation of some of the continental countries). All the provisions regarding the Common Foreign and Security Policy (I-16, III-293\295), the Union Minister for Foreign Affairs (Art.I-28, III-296\308), the Common Security

²⁶[26] This reflection proves how elitist and non-political was the position of those, like Joseph Weiler, who opposed the drafting of a Constitution with the legal argument that it is already contained in the Treaties of Rome, Maastricht and Amsterdam, cf. Weiler 2001, 45-54. While Part I and II (Part III is only for insiders) of the Constitution is somehow readable for the educated citizen, the very idea of asking a high school class to read the Treaties sounds horrific.

²⁷[27] A symbolic policy is the instrumental use of a signifier without the real thing, while the symbolic dimension of politics is pervasive and essential, not by itself instrumental.

²⁸[28] A pathetic shadow was cast on this development by the circumstance that the German campaign has been led by Foreign Minister Joschka Fischer, who still in the year 2000 (speech given in May at the Humboldt University in Berlin) was a leading figure in the effort to give a federal direction to the integration process.

and Defence Politics and the European Defence Agency as well as the ♦structured cooperation♦ among members with higher military capabilities (Art.III-309\312) make little sense without a central decision-making mechanism that makes the Union act, and act as an Union, a single actor. It is not the institutional (the Foreign Affairs Minister, or *Monsieur PESC* before) or military structure that primarily counts, it is the political will as expressed in all-binding decision-making. The wording of Art.I-41, 229[29] highlights counter-intentionally the inconsistency of the EU as international actor under the Constitution. As a defence community, being which is still a major mark of political agency, the EU may or may not exist, according to the circumstances, the rule being that it will not, should one single country, big or tiny that it be, disagree. Should for example Malta or Cyprus disagree, so will the neutral Ireland or Sweden have to count on their own for defence, while the thrust of EU-members will take refuge from the EU paralysis into the US-led arms of NATO. Given these constitutional limits on the development of a single decision-making capacity in high politics, it is also not easy to see how the ♦structural foreign policy♦ of the ♦civilian power Europe♦30[30] (the external relations of the EU, in Europeak) can develop, or even maintain itself, because structural lack of unity in high political decisions (foreign policy, in Eurospeak) can reverberate on aid and cooperation policies and on the long run disrupt their base. It is now as if the European statesmen had decided to prove true the view of some American EU-scholars who have always seen the Community and then the Union as a flourishing *condominio*31[31], by its very nature unable to attain an existence as full-fledged polity and international actor. In any case, on this basis European citizens can hardly develop any consciousness of a ♦common fate♦32[32].

This point is telling because of a second circumstance: it is not that a stable common foreign and security policy would run against the resistance of the national patriotism of the Europeans. Quite on the contrary, this is one of issue areas on which the citizens, according to opinion surveys, would be largely in favour of a ♦closer union♦: in the year 2003, 65% (70% in the enlargement countries) were in favour of PESC and even more (70% and 80% respectively) of PESD. About 71% of the citizens (54% in the UK) believe Europe should become a superpower like the US and around 50% also favour a more independent approach, yet not so much as to counterbalance America (20%) and rather to better cooperate with it (74%)33[33].

To sum up: the EU citizens, particularly in the old Union, seem to be favourable to strengthening the Union♦s importance and incisiveness as a new world power, which is exactly what the limits set to its decision-making capability as a single actor and now codified in the Constitution make difficult or perhaps impossible. Whether only difficult or outright impossible will obviously depend not only on the internal procedural rules, but also on the type of challenges the Union will have to face on the worldwide stage in the near future. Under these constraints it is hard to see how the Union will be able to achieve the goal to develop an European governance of globalisation it was created for, starting in the mid Eighties; in particular how it can assert a strong and independent role for Europe in the fight against terrorism and the regulation of global issues such as global warming and social imbalance among countries. Instead of the hoped for cooperative but autonomous attitude towards the US, Europe♦s impotence in foreign policy will possibly reproduce the present mix of dependence in acting and anti-Americanism in the thinking of politicised Europeans, a mindset which is sometime mistaken for the cornerstone of an emerging European identity34[34]. An anthropologically or culturally motivated America-bashing instead of a rigorous assessment of what is right and what is wrong in

29[29] ♦The common security and defence policy shall include the *progressive* framing of a common Union defence policy. This will lead to a common defence, *when the European Council, acting unanimously, so decides*♦♦ (italics mine).

30[30] The best account of this theory including a neoregional framework is to find in Tel♦ 2004.

31[31] Philippe Schmitter, who introduced this word to assess the likely development of the Union after Maastricht (see Schmitter 2003), is however concerned with the democratisation of the Union (see Schmitter 2000), while Andrew Moravcsik dismisses the ♦democratic deficit♦ problem as generated by the bias of an ideal plebiscitary or parliamentary democracy, see Moravcsik 2002. Political processes, particularly in times of peace and war, are rarely as unproblematic and undramatic as in Moravcsik view on Europe♦s ♦quiet incrementalism♦ (Moravcsik 2004).

32[32] On the role of the international standing of the EU for identity-formation among its citizens see Lucarelli 2005.

33[33] For these data see www.eosgallupeurope.com/images/transatlantictrends.swf/ 2003 and 2004.

34[34] The vocal anti-Americanism prevailing among intellectual ♦lites in many European countries seem to dominate the political scene more than the rather relaxed attitude (autonomy *and* cooperation) emerging among average citizens in the surveys quoted above.

American policies at a given moment is not only in itself ugly, it is a striking sign of weakness, as is all identity based on resentment and enmity for a stereotyped Other.

A question comes up at this point: if the public opinion was sufficiently in favour of reinforcing the power of a single actor Europe, why has this actor not been created and why has the denial to create it been made final^{35[35]} by writing it into the Constitution? The instruction given by the governments, particularly Britain^{36[36]}, to the Union ^{37[37]} hands off from foreign, defence, finance and economic policy^{38[38]} is the last episode of the so far victorious resistance of national ^{39[39]} elites^{40[40]} to the threat of losing further and very substantial bits of their power to a new centre of power which does not have its origins from a single, organic society. The new elite would not come from the same schools and universities, would not read the same newspapers and go to the same holiday resorts, would not have identical patterns of behaviour distilled out of a century-long history like in the nation states; briefly, it would be out of the control exerted by the usual mechanisms of national societies and, what is more, its behaviour would be unforeseeable. The defence of power (in the case of the political leadership), but also of jobs and privileges (in the case of the administrative elites and their *clientes*) plays obviously a major role^{41[41]} in all this. But the resistance deriving from the disorientation in front of a radical novelty (the devolution of the power on war\peace and taxation to a higher power of voluntary nature, i.e. not under the constrain of the sword) should also be taken into account, though not as an insuperable impediment: the countries of Euroland have already and not too painfully renounced the other *totem* of modern state, the power on currency. But in foreign and military policy there is no equivalent for pressure resulting from the visible and impersonal functional imperatives of monetary economy. Therefore is the road much longer, or perhaps leading to a dead-end. This hold even more true because of two further reasons: first, there is among the European elites and personalities none in sight who can be trusted with the ability to present a grand strategy that can persuade the national elites to redesign their role in a really ^{42[42]} closer Union^{43[43]}. This is not primarily a problem of persons, but rather of the structural lack of vision and statesmanship created by the recent development of western democracies. Second, although there is not a unitary attitude of the American leadership across the political and intellectual spectrum, the present federal administration, and possibly not just the present one, is opposed to the emergence of a world power Europe that does not warrant to remain as loyal as Britain to whoever seats in the Oval Office.

In short, in the light of the present situation in the EU and particularly of the Constitution there is little chance for a political identity of the Europeans to emerge. But the Constitution is the not last word. Looking back to how my argument has developed in this article, it will come to no surprise for the reader if I now maintain that

4. What binds citizens and ^{44[44]} elites together and fosters their identity is above all making and implementing common decisions in high political questions and bearing the consequences that derive from them. This position results from the idea of political identity as something that is not given to us by a common history (historicist fallacy) or common culture (culturalist fallacy), but rather consists in enlivening and also reshaping shared values and principles while cooperating and\or struggling in the political arena; this is what I have called before a ^{45[45]} recognising^{46[46]}, in the philosophical sense of recognition\Anerkennung. It is a praxis-based notion of identity-formation as a process, not as something we receive from the past or from some constitutional *Grundnorm* and carry on in a preserved state ^{47[47]} as it appears to be in common language.

On this ground, we are now in an ambivalent situation. On the one hand the Constitution as it is prevents most high political decisions to be taken in common by the Europeans citizens and states by the compelling mechanism of majority vote. The Union, as we have seen in the case of common defence, can even decide from case to case not to exist as a Union. On the other hand, Constitutions and covenants matter

35[35] Nothing is ever truly final in politics, but norms of a constitutional Treaty among 25 states are probably much less easy to change than common treaty-based or customary rules.

36[36] For the role national elites play in the identity-shaping decisions concerning the ^{48[48]} common man^{49[49]} (health care, pensions, education), thus appearing to the electorate to be the ultimate sources of power, see Cerutti 2003.

37[37] As Max Weber remembers us, the loyalty of the staff to the political leadership is not based on the sole belief in the leadership^{50[50]} legitimacy, and needs to be fed by tangible awards (*materieller Entgelt*) and recognition of the staff^{51[51]} social prestige (*soziale Ehre*), see Weber 1992, 10. The fear of losses due to the partial replacement of the national by a supranational leadership may provoke resistance to the change.

in political life, as do in general institutions³⁸[38]. But they are one instance in the process, not the whole of it. New circumstances, unexpected events (such as the terrorist attacks on American soil, or the American adventure in Iraq) and unforeseen change of mind among public opinion and electorate can blow up predetermined limits, such as the competences of the Union, or rewrite the agenda, thus making fresh thinking about what the Union should be possible. At the end of this reshuffling, Constitutions can be amended. Not that I see a big chance for this shift to take place: if the failure of the Kyoto Protocol, the upsurge of worldwide terrorism and the dangerous American unilateralism have not been enough to convince the European leaders to finally give themselves the power to regain power in the world by empowering the Union, it can be doubted that new events can do so. Theoretically however the door must be kept open: the struggle to overcome the present limits of the Constitution, provided it is taken on by significant parties and leaders, can become itself a major moment of identity-formation³⁹[39].

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³⁸[38] In the broad sense of this word, not as legal institutions alone.

³⁹[39] Giving leeway to political imagination, in case the Constitution is ratified we can think of a coalition of the willing taking the initiative of a closer union as the smallest concentric circle in the EU (a *sui generis* structured cooperation) or outside of it, as the UK and other countries will hardly consent to the continental members going alone this way; paradoxically, if the Constitution fails ratification, the legal field would be even more free for that coalition (obviously excluding Britain, Denmark and other countries opposing a polity Europe) to move on.

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