

# The History and Foundations of European Integration: A Contribution to the Debate on the Future of the Union

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I believe that all of this – life and the universe – is not just ‘in and of itself’. I believe that nothing disappears forever, and less so our deeds, which is why I believe that it makes sense to try to do something in life, something more than that of which will bring one obvious returns.

Vaclav Havel, *Disturbing the Peace*, 1990

## 1 Introduction

The Treaty of Lisbon has probably ended an intense period of almost 20 years of continuous reform of the European treaties, which began in 1990 with the negotiation of the Maastricht Treaty. In this period the European Union has increased the number of its Member States and has acquired ever more competences and assigned tasks. Public debate regarding European policies has taken off. The exercise of power in Brussels has finally been somewhat politicised. Different formulas for reconfiguring Community institutions and policies have been tried, while Europe and the world have been changing rapidly. The political goal of integration has been debated and a serious attempt was made to ratify a treaty called the European Constitution. For the last seven years, however, serious political efforts have been dedicated to an introspection which has not yet been very fruitful.

At the end of this period of reform, the principles and foundations of European integration are still in place. In recent years we have witnessed attempts to change this model and substitute others for it (statist, federal, intergovernmental or so-called flexible). In spite of this we can still praise the successful ‘Community model’ although paradoxically the expression

‘European Community’ has disappeared from the reforms signed in Lisbon in December 2007.

Yet during the last five decades the original ideals of the European Community have been developed to a large extent to make a profound process of economic and political integration compatible with the renewal of the national and historical identities of each Member State. These distinctive ‘Community’ features of the project were there at the very beginning. But thanks to the work of institutions, courts and especially political leadership, they have become more deeply ingrained.

In 2009 the European Union is in a delicate situation, and it is fair to ask Member States and their political classes to pay more attention to Brussels. With a failed constitution and a severe economic crisis, the Union is still in the midst of a crisis of confidence that could have serious consequences. The current Union runs the risk of provoking indifference and apathy in governments and citizens with respect to its debates and proposals, exactly the opposite of what we were trying to do with the constitutional debate initiated in 2001.

This essay defends the current validity of the Community model of European integration from a historical perspective and emphasises its normative dimension, based on certain ideals. It seeks to provide reasons for thinking about the Union’s future by taking into account these foundations that can still provide guidance and norms.

Two notes of caution. First, together with this general European view it is necessary to offer a complementary view of Spain’s interests in the European Union of 2010, which is quite different from the Community our country joined in 1986. In any case, this analysis of interests must be linked to an overall utopian and axiological reflection about the direction the Union should take. Second, the brief deliberation on European identity proposed here does not cover the other great half of the debate, dedicated to the self-understanding of Europe as this flows directly from its nation states, its societies and its values. These varied national experiences of freedom and economic and social development have evolved alongside the integration process and have been enriched and greatly influenced by Europeanisation, but would require specific and wider treatment.

## 2 The Origin of Integration: The Original Imperative and Ethical Ideals

Often it is said that European economic integration, focused on building a common market, was possible because it did not invade the political space and was limited to technical questions. This is far from true. It is true that the European Economic Community was launched after a failed attempt at European defence integration. Nevertheless, a technocratic explanation cannot clarify the important influence in the transformation of European politics that the Union has had and continues to have.

The EEC was, above all, a shared peace and prosperity plan that consolidated the reconciliation between Germany and its former enemies better than any other international agreement. The protectionism and nationalism of its members was put under permanent scrutiny. European integration was not only conceived as an alliance of interests but was also founded on values and ideals, that is to say, on an ethical vision which rose above political convenience and ever-changing power games. Joseph Weiler (2003, p. 39) has explained that thanks to this desire to be an ethical community, Europe is today not only an empirical reality, it is also an idea, an ideal, a project of a 'better community' or polity.

In this sense, the founding of the European Communities in the 1950s was a special moment in European history in which governments accepted a clear set of rules and made a long-term commitment guided by those aspirations, which also coincided with their basic interests in the post-war situation. This new beginning took place in a context of continental destruction, where recent history had been very disheartening, the role of the state discredited and the fight against totalitarianism had to be continued: once Nazism and Fascism had been defeated the struggle against Soviet Communism immediately began.

It is true that the method chosen for European integration was based on coalitions of interests and guided by political and bureaucratic elites bent on resolving specific economic problems. On the other hand, most political and historical analyses of integration, from realist or neo-realist perspectives, insisted on national interests and calculations of political benefit to the ruling class at each step. But as Joseph Weiler (1999, p. 239) has argued, the origins of integration cannot be understood without an axiological dimension, a commitment to 'the promise of Europe' that captivated and mobilised its leaders. These ideals are not only different types of the

Original Imperative with an altruistic component, but are based on an ethic which is non-relativistic and cannot be reduced to a mere reflection of social behaviour (Weiler, 1999, p. 243). Ole Wæver (1993) explains how the First World War put the idea of universal values through a period of crisis, but the reaction after the Second World War was different, more favourable to a certain rationality that would leave behind the combination of the irrational and nationalism present in the post-romantic and totalitarian mentality that had destroyed Europe. Isaiah Berlin (1991, p. 202) wrote in 1959: 'What has emerged from the recent holocausts? Something approaching a new recognition in the West that there are certain universal values that can be called constitutive of human beings as such.'

Joseph Weiler (1999) analyses the three fundamental ideals of European integration – peace, shared prosperity and supranationality – which are collectively understood as a new way of overcoming chauvinism and of contemplating relationships among the European nation states. None of these ideals can be reduced to a simple analysis of interests, and all of them required sacrifice and a transformation of the politics of previous decades.

Peace must be understood in the post-war context where hate against Germany in countries such as France, Holland or Denmark was enormous and understandable. Peace as a basis for a community of equals would be inspired by the Christian values of forgiveness and reconciliation between enemies, which was a view linked to the personal beliefs of Jean Monnet, Robert Schuman, Konrad Adenauer and Alcide De Gasperi, founding fathers of integration.

Shared prosperity is an ideal which is intimately related to peace, as the Schuman Declaration of 9 May 1950 makes clear. It starts with a vision of the market as an instrument of freedom and includes everything from the free movement of goods and services to the exchange of ideas. It includes respect and mutual awareness among the different European societies as well as an element of collective responsibility and solidarity. In this respect, one of the founding fathers of the Communities, Robert Schuman, wrote at the time: 'Borders, instead of being barriers of separation, should become lines of contact where material and cultural exchanges are organised and deepened; they will delimit each country's own tasks, responsibilities and initiatives in those problems that go beyond borders or even continents, and make all countries supportive of each other' (2005, p. 33).

Supranationality was an ideal which held that nationality should not become the main and practically only point of reference in exchanges and in

the freedom of movement among nation states. The market economy and a community of law would limit economic protectionism and the terrible excesses of nationalism in the past. This supranational discipline would be directed not at overcoming the values of the nation state but, on the contrary, at revitalising each one of the European nation states. The most important work on the history of the integration, that of the English historian Alan Millward (2000), concludes that integration was embarked on as a strategy to develop the nation state through the selective ceding of competences to the Communities, starting from a concept of 'security' that clearly included economic aspects. The Common Market in fact reinforced the national plans of its members, who were embarked internally on the creation of welfare states and were favoured by the economic dynamism of freedom of movement of different factors of production and free competition.

The idea of a European nationalism which over time would substitute for state nationalisms is, therefore, contrary to this ideal of supranationality. The European project was created not as the germ of a future power that could rival others, but as a community of civilisation and prosperity in a context of Atlantic cooperation.

In our examination of the original ought-to-be of the Community, it is important to remember that European integration was possible thanks to the US. Its contribution was essential at all levels of reconstruction and cooperation among Europeans. The Soviet threat made European unity an urgent priority, and the first step in the economic and political unification of Europe was the Marshall Plan. Two years later, NATO was created to guarantee the West's freedom and security.

In this period, Jean Monnet cooperated closely with the US government and society to launch the European Communities, which were designed to favour Western cooperation and interests as a whole (Schwartz, 1991, pp. 104–105). René Schwok (1992, pp. 9–12) explains how Secretary of State Dean Acheson supported, for geopolitical reasons, the creation of the European Coal and Steel Community (ECSC) in 1951, despite it being an exception to the multilateral and anti-discriminatory GATT regime which had gotten underway in 1947. Jean Monnet himself was able to convince President Eisenhower, in spite of his initial qualms, to back the European Defence Community, which later failed. In the words of René Schwok (1992, p. 17), Monnet knew how to address the American spirit: 'There are few comparable examples in history of an individual resident in a foreign

State, who has been able to have so much influence among leaders and high-level officials of a nation [...] He insisted on four elements which fit well with American psychology: a pragmatic approach to problems, the importance of economic development to promote political stability, a solution inspired by the federal model, which echoed the American experience, and the role of a united Europe in sharing the US's world responsibilities.' When General de Gaulle came to power, he became suspicious of the close relationship between Germany and the US and vetoed the incorporation of the United Kingdom into the Communities, among other reasons because of their closeness to the Americans, but he knew that he was straying from the original European project.

### **3 The Material Constitution and the European Market (1958–1992)**

Between 1958 and 1992 the Community gradually became a legal federation based on a political confederation, a successful endeavour that combined pragmatism and idealism. This original mix of legal and political elements was the means to achieving the goals and ideals of integration, and opened a 'third way' between federal and intergovernmental theories by taking advantage of the best of each domain in the name of economic and political integration.

During this period the EU developed its own constitutionalism, based to a large extent on judicial decisions and directed at limiting and guiding the use of power in the European sphere and creating a community of law. It equipped itself with what has been called a material constitution (Poiarés Maduro, 2003). This is a 'low intensity' constitutionalism which lacks the classic constitutional foundation of a nation state (especially a demos around which the union is organised). This means greater imagination and adaptation are needed to respect pre-existing national identities and at the same time to create a new European-wide polis.

This constitutionalism regulates the relationship between the Community and its citizens, based on the idea of a legal code of its own, with legal rules that uniformly regulate the relationship with the national legal orders and create individual rights that citizens can invoke before national courts, effectively making these adjudicators part of a decentralised European judicial power. These individual rights are mostly economic rights related to

the fight against discrimination due to nationality, economic protectionism and the distortion of free competition, although protection of fundamental rights on a European scale has also been developed to guarantee that Community law also recognises this material limit.

In the same way European constitutionalism regulates the relationship between the Community and Member States from the standpoint of compliance with Community law, the responsibility of states for non-compliance and the distribution of competences between the two levels of government.

The European political confederation is based on a combination of supranational viewpoints (Commission, European Parliament), with open representation of national interests in the Council of Ministers and its auxiliary bodies. In reality this is more complex because both the Commission and more clearly the Parliament are receptive to national sensibilities, and in the Council the defence in all cases of each Member State's national interests is tempered by the widely extended rule that decisions are made by qualified majority. Another essential component of this confederation is made up of broad, in fact almost general, European competences, after progressive centralisation by way of judicial interpretation, institutional practice and through the reform of the treaties (Chalmers et al., 2006, pp. 86–311).

However, we use the expression 'political confederation' because the Member States continue to be the owners of the European treaties. This is demonstrated by the successive reforms to the texts and their subsequent ratification processes, because the use of force continues to lie with the Member States and because they are also decisive in key decisions regarding the funding of European policies. We must also add that European Union law, with its federal-like principles such as direct effect and supremacy, is based on a voluntary subordination of the Member States through their own constitutional and legal mechanisms – the so-called 'constitutional tolerance', in which national sovereignty is subject to major limitations and legal and economic discipline – but that these limits are accepted by the Member States (Weiler, 2000).

The creation of the European market in the first 35 years of integration took place in an 'Atlantic era' context where the US guaranteed the defence and security of the European states, whose defence instruments were never comparable and never achieved true operational capabilities outside of NATO. In general, the US benefited from the development of the European

Community in this long period, but never stopped understanding European integration as part of the much-needed cohesion among European partners in the context of the Cold War.

With the existence of a European market, analysis of European and national policies was generally done from a free market economic point of view, although occasionally its recommendations were ignored, such as with agricultural policy and the 'regulatory excesses' recognised by Jacques Delors at the end of his mandate at the Commission in 1994. All of this happened while the welfare state was being developed to a greater or lesser degree at the national level, and in the midst of periodic political crises caused by European Community adjustments due to its constant growth in members and tasks and to the evolution of the international economic situation. Once it was clear that an oversized welfare state was unviable, the original task of creating a European market provided the states with a successful economic solution at the end of the 1980s.

The current European market is in many ways a forerunner of globalisation and its necessary economic, political and social debates. In the scenario of a single currency and a limited European budget, the case is often made for greater liberalisation, competition and price and salary flexibility in the EU, although within European institutions and in many Member States there is presently no consensus for this type of structural reform, as we have seen since 2000 with the Lisbon Agenda.

The creation of the European market has had a profound impact on areas apart from promoting free market ideas. It has produced at least three historic changes. In the first place, it has allowed the transfer of important state competences to European institutions, so much so that the real European constitutional debate is to a great extent focused on the need to set material limits to European legislation. The challenge is to do so without sacrificing flexibility when making decisions to harmonise or regulate new domains and above all by improving accountability for those who take decisions in Brussels.

A second consequence of the European market has been the move to majoritarian decision-making in the Council of Ministers of the EC, a change that for years was inconceivable and which is the basis for efficient decision-making. In this way, in the context of the European market, all governments accept that sometimes they may be in the minority in the European legislative process and that the results will become supreme law that national judges will enforce.



The third transformation that the European market brought about has been to encourage a permanent debate about truly important values for the citizens of each Member State and for Europeans as a whole. Any national exceptions in the European market have to be justified with political, social and cultural arguments, which are politically and judicially scrutinised by the Union. In the Community sphere, there is the same debate about the values that drive or limit market logic and, deep down, shape the collective identity of Europeans. In short, the heart of integration today continues to be the European market, which is not a denial of politics, but the best context to plan and carry out different visions of Europe.

#### **4 Towards the Democratisation of the EU (1992–2009)**

One way to understand European integration from the beginning of the 1990s when the Maastricht Treaty was negotiated up to the present day is to say that it is going through what Oxford Professor K. Nicolaidis (2005) calls the ‘Tocqueville moment’. Following in the steps of the French aristocrat, we as Europeans have started asking ourselves the difficult questions asked by any democracy, in this case how to transform an elitist scheme such as the economic and political integration born in 1950. In less than half a century numerous competences have been transferred to the European domain and we govern ourselves more and more from Brussels. It makes perfect sense, therefore, to turn to democratic theory to clarify the ethical components of European identity (including an important debate about Christianity), improve accountability and transparency, rethink the distribution of power between centre and periphery, adjust the requirements for creating majorities and effectively protect fundamental rights.

The risks to this move can be found on two different fronts. On the one hand, there is the federal and statist rhetoric that denies the idea of a Community and its original ideals and substitutes for them European nationalist formulas. This way of thinking does not take into account the consequences of this paradigm change – doing away with national identities instead of preserving and enhancing them through integration – and the danger of social engineering on this scale.

On the other hand, there is the risk of falling into a strict intergovernmental and instrumental view of European institutions, nostalgic for a non-existent past, because integration has been possible thanks to its suprana-

tional component and an idea of Community that went beyond traditional international organisations and overcame many of the their operational and axiological dilemmas (Weiler, 1999, p. 232).

The democratisation experiment of the 1990s and the beginning of the twenty-first century has not been easy because the Union began its ‘Tocqueville moment’ at the same time that the world was rapidly changing. In particular, the European continent was going through profound transformation with the breaking up of the Soviet Union, German reunification and the political and economic transitions in Central and Eastern Europe. The EU responded by making strategic decisions, from the creation of the single currency to enlargement to the East, that deeply transformed the project, subjected it to new tensions and demands and made constitutional and political debate more necessary.

The failed European Constitution should be understood in this context of continuous reforms and the search for greater democratic legitimacy. This process has not been in vain because it led to four changes to the treaties, agreed to in Maastricht, Amsterdam, Nice and Lisbon. This is not the place for an in-depth analysis of the constitutional rescue proposed by the new Treaty of Lisbon in December 2007, still awaiting ratification by all the Member States. But we should point out that even if the agreement is desirable in its content and also, in an intelligent way, stays away from the symbols of a European state – anthem, flag etc. – the path chosen to achieve this result is worrying. During the so-called constitutional rescue the Union has gone through a hurried, almost secret and again elitist discussion about the means and distribution of power. It has deliberately resorted to the most obscure legal and technical language available to disguise the salvaging of most of the European Constitution. Hence European leaders have left aside the dimension of ideals that explain and make up European identity. Moreover, in Lisbon the word ‘constitution’ is not used, which seems justified, but awkwardly its drafters have also stated that there is no attempt to do anything of a constitutional nature or that might be inspired by that constitutional spirit. This devalues the already existing material constitution and its principles of supremacy, direct effect, state responsibility and so on, and exposes the Community model to future attacks from the Euro-sceptics.

## 5 Some Conclusions

1. The task pending today is not so much to find comfort in the origins and achievements of integration but to develop a basis for creating a new political self-confidence in the European Union in accordance with the role it has to play in the world in the twenty-first century. The European continent has undergone profound change in this period, and we could argue that the original ideals of peace, shared prosperity and supranationality have been achieved for the most part. Therefore we must ask ourselves if they are still valid and, if so, if it is necessary to reformulate them or add others.
2. It is true that the Union should not dedicate all its efforts to constitutional introspection. In many areas – defence, energy, immigration, economic reforms – the Union does not yet have the means or the political will to defend its common interests and therefore will not achieve the necessary results. But if the legitimacy of the European process is not reinforced and made more understandable, and if a greater voice is not given to European citizens, it will not be possible to improve the EU's ability to act. The EU's future depends on listening to suggestions about ways to improve its exercise of power, and on facing difficult dilemmas with regard to democracy on a European scale.
3. One of the ongoing debates, to name the one that has had the most impact on public debate in quite a few Member States, has to do with the effective limitation of European powers. The solution to the future problems of the Europeans will not always be 'more Europe', or new European policies and more funding for them. In crucial areas such as immigration, social integration, demography or the response to multiculturalism, Member States should be the predominant actors. But future harmonisation should not be excluded in very important new areas (financial services, energy, economic governance or defence).
4. The European Union of the future cannot be based only on a coalition of the short-term interests of national leaders or economic actors in the European market. The future Union should not aspire to substitute for Member States or define itself by opposing the US, which is an essential partner in the European project. The Union moves forward and can be explained thanks to being part of Western civilisation. Therefore the Union should be committed to fulfilling values and ideals. We should contribute to building a story which brings the Member States and

European citizens together, an original and demanding imperative which goes beyond the communication and marketing campaigns widely used to talk about European policies.

5. The values of political and economic freedom and the sense of Community which explain and inspire the European model have led Europe to fight against the excesses of nationalism for more than fifty years. This has been essential in eliminating economic protectionism among the European partners and creating a 'Community of law' with clear democratic features, different from the national legal orders but open to their values. From this starting point, we have established non-discrimination on the grounds of nationality, freedom of movement of factors of production, free competition, macroeconomic stability, economic and social cohesion and foreign policy initiatives in defence of common values, which we share most of the time with other Western democracies. It seems reasonable to maintain the best parts of past Community experience when drawing up its future, although the degree of complexity of the current Union is much greater due in part to the successive enlargements (de Areilza, 2004).
6. The Community model underlying European integration deserves to continue for many more years. It is an open legal and political model, not in the sense that it lacks definition in its values, competences and components, but as a permanent mechanism of legal and economic discipline over Member States, which leads them to renew and enhance their values and identities. Each Member State is 'opening' itself to integration and to its European partners through participation in the European market and the acceptance of legal limitations. For this model to work, it is important to avoid false solutions in the name of an artificial European nationalism and to discard federal plans that dilute the identities of the different European peoples.

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