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**The missing piece of the European Crisis:
Europe's autoimmunitary disease**

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The missing piece of the European Crisis:
Europe's autoimmunitary disease

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Abstract

The present paper will attempt to map out the current analyses of the state of crisis affecting the EU. The goal is to show that the problem of the European people, namely, how is it possible that, notwithstanding the longevity and stability of the EU, a European people – as opposed to European peoples – is yet to emerge as a concrete and active political subject has been overlooked. In order to properly assess such problem it is proposed to read the historical development of EU law through the lenses of Roberto Esposito's philosophical framework on community, demonstrating that the cause of the non-emergence of a European people is to be found in the immunitary logic of EU law, a logic that, among other things, is turning the EU against itself and is to be identified as the root of the long decade of the European crisis.

Introduction

It is by now a trope that the European Union is in crisis. Surely, the European Union has evolved through crises,¹ each time becoming stronger and more integrated,² but at the current historical juncture it is hard to resist the temptation that we are witnessing a series of convulsions whose strength and syncopation remind the familiar end of empires and spell doom for the future of the European project.

In the last decade or so, several crises have followed each other in close succession, highlighting troublesome fissures in the institutional structure and political body of the EU. These crises have not been entirely unexpected. As a matter of fact, since the rejection of the Constitutional Treaty and the subsequent adoption of the Lisbon Treaty, several commentators had warned that the adopted reforms, while representing a step ahead in democratic terms, were not sufficient to secure a solid future for the EU and that troubled waters lied ahead.³ On the basis of the recent turmoil, a new round of analyses on the underlying causes of the crises and the sticking points affecting the EU have been offered, ranging both in scope and outlook. The present paper will attempt to map out these analyses and suggest that a fundamental piece of the puzzle has been missing. If we want to produce fruitful proposals for the positive evolution of Europe, we need to properly identify this missing piece and evaluate its implications vis-à-vis the blockages that are threatening the EU. The paper will proceed as follows. First, it will map out the various diagnoses that have been proposed with regards to EU's crisis. Second, it will analyse these diagnoses with the goal of showing that they are all overlooking – or at least not properly questioning – the problem of the European people, namely, how is it possible

¹ Jean Monnet in his *Memoirs* (Collins, 1978) stated 'Europe will be forged in crises and will be the sum of the solutions adopted for those crises'.

² For an analysis of the relationship between the EU and its crises see S. Cassese, 'L'Europa vive di crisi?', *Rivista trimestrale di diritto pubblico*, 2016, 3, 779-790

³ J-C. Piris, *The Lisbon Treaty: A Legal and Political Analysis*, Cambridge University Press, 2010; P. Craig, *The Lisbon Treaty: Law, Politics, and Treaty Reform*, Oxford University Press, 2010. For an earlier criticism of the aborted Constitutional Treaty which preceded the Lisbon Treaty see G. de Burca, 'The Drafting of a Constitution for the European Union: Europe's Madisonian Moment or a Moment of Madness?', *Wash. & Lee L. Rev.*, 2004, 61(2), 555-583.

that, notwithstanding the longevity and stability of the EU, a European people – as opposed to European peoples – is yet to emerge as a concrete and active political subject. Finally, the cause of this problem will be assessed through the lenses of Roberto Esposito’s philosophical framework on community, demonstrating that the cause of the non-emergence of a European people is to be found in the immunitary logic of EU law, a logic that, among other things, is turning the EU against itself and is to be identified as the root of the long decade of the European crisis.

Four perspectives on the crisis

The wave of crises that have affected the EU in the past decade or so is impressive. In a short span, the EU has withstood four crises – the debt crisis (or the Euro crisis), the migrant crisis, the RoL crisis, and, *dulcis in fundo*, Brexit – that have shook it to the core.⁴ A slew of doomsday titled contribution have been produced in their wake, offering a wide range of diagnoses as well as solutions. The ensuing panorama is expansive because, while there is an (at least overlapping) consensus on the efficient causes that have determined this enduring state of crisis, certainly suggestions on the way forward are fragmented and often at odds with each other. Notwithstanding their variations, analyses of the state of the EU run along a pretty familiar spectrum between the poles of a resection of EU’s competences and their expansion and intensification. Below we will briefly describe four major contributions that are representative of the field as a whole.

Giandomenico Majone in ‘Rethinking the Union of Europe Post-Crisis’ (bearing the spoiling subtitle ‘Has integration gone too far?’),⁵ offers a harsh critique of the European project, decrying EU’s never really abandoned neo-functionalist foundations.⁶

⁴ L. Torchia, ‘In crisi per sempre? L’Europa tra ideali e realtà’, *Rivista trimestrale di diritto pubblico*, 2016, 3, 617-620.

⁵ G. Majone, *Rethinking the Union of Europe Post-Crisis: Has integration gone too far?*, Oxford University Press, 2014.

⁶ E. Haas, *The Uniting of Europe: Political, Social and Economic Forces 1950–1957*, Stanford University Press, 1958; L Lindberg, *The Political Dynamics of European Economic Integration*, Stanford University Press, 1963; L Lindberg and S Scheingold, *Europe’s Would-Be Polity: Patterns of Change in the European*

Arguing that, since its inception, Europe has been not just an elitist construction, but one that structurally and consciously aimed at dispensing from mass participation in the process of integration (according to the early formula of ‘Europe without the Europeans’ by Ernest Haas),⁷ Majone attacks relentlessly the theoretical lineages of the EU and their institutional implementations. According to Majone, the central sin of the European Union has been not to recognise that the neo-functionalist spill-over theory, that ideally would have organically led to increasing degrees of ‘deep integration’ (sliding from the trading to the economic to the political), was conceptually flawed and badly implemented.

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Conceptually speaking, neo-functionalism as applied to Europe, proposed that supranational institutions would have been better equipped at coordinating the economies of different national European states. Against this, Majone opposes that it is precisely the kind of supranationalism that has characterised EU institutions that has proven self-defeating. The problem is that – differently from comparable historical experiences of quasi-federal nature like the USA – the central bodies devoted to the EU’s exclusive interest are at the same time too weak and depending on national governments and yet wield immense legislative power (the Commission - whose effort towards a strong executive independence spearheaded by Hallstein and Delors have yielded pale results and still has a stranglehold on legislative initiative) or too independent and not sufficiently embedded in the political-institutional texture of the EU to be held in democratic check by other institutions (like the ECJ which, shielded from political backlash – unlike the USA Supreme Court – and anchored to the paradigm of ‘integration through law’ has constitutionalised the treaties well beyond the initial intentions of the contracting parties and the explicit wording of the Treaties themselves).⁹

Community, Prentice-Hall, 1970; L Lindberg and S Scheingold, *Regional Integration*, Harvard University Press, 1970.

⁷ P.C. Schmitter, ‘Ernst B. Haas and the Legacy of Neofunctionalism’, *Journal of European Public Policy*, 2005, 12(2), 255–72.

⁸ Majone, 2014, 160-165

⁹ *Ibid.*, 170-78.

From the point of view of implementation, European neo-functionalism's concrete results have been between largely underwhelming (Europe's heralded economic miracle appears as largely detached from the integration process, its internal peace-keeping nature superfluous given the American military hegemony in the West) and patently failing (the CAP, the Balkan wars, and the Kosovo Rule of Law mindboggling costly project being the disheartening and prime examples).¹⁰

The result is, in Majone's reading, an almost complete failure of the EU in eliciting any kind of sense of belonging in the European peoples whose privileges as citizens of western social democracies have been secured by the national welfare states and who see the EU as a remote and technocratic Behemoth under the heel of intergovernmental bargaining, lacking in both democratic legitimacy and accountability.

From this point of view, the EMU represents for Majone the disastrous metaphor for the unbridled and unfounded optimism of European leaders which, following the intergrationalist credo, have vainly adopted a monetary straightjacket, hinging on an insulated technical institution (the ECB), without any particular concern for the immense difference between the various economies of the Member States. The not-unlikely result has been an economic reform of the EU in explicit intergovernmental terms (the Six-Pack) representing the worst that Europe could offer in terms of democratic dynamics and internal solidarity.¹¹

Against this doomed path, Majone argues, on the basis of the economic theory of clubs by John Buchanan¹² and Alessandra Casella,¹³ for a return to a revised kind of integration *à la carte* as proposed *illo tempore* by David Mitrany¹⁴ and subsequently by Ralf

¹⁰ For a dismal assessment of the performance of the EU across the decades see P. Anderson, 'Ever Closer Union?', *London Review of Books*, 2021, 43(1), , available at <https://www.lrb.co.uk/the-paper/v43/n01/perry-anderson/ever-closer-union> (last accessed on 30.07.2021).

¹¹ Majone, 2014, 20-58.

¹² J .M. Buchanan, 'An Economic Theory of Clubs', *Economica*, 1965, 32(1), 1-14.

¹³ A. Casella 'Free Trade and Evolving Standards', in J. N. Bhagwati and R. E. Hudec (editors) *Fair Trade and Harmonization*, The MIT Press, Vol. 1, 1996, 119-56.

¹⁴ D. Mitrany, *The Progress of the International Government*, Yale University Press, 1933.

Dahrendorf,¹⁵ focused on flexible functionalism rather than a one-size-fits-all regionalism. This solution would not only be a more rational approach to a very large and diversified market as the European one – leaving various private and public ‘clubs’ formed around shared interests to set up the rules of their particular games – but also one in line with the tradition of the European continent, which – according to a certain historical narrative¹⁶ – achieved its global supremacy precisely thanks to the agonistic cooperative competitiveness of its various nations. Such an approach would necessarily imply the abandonment of a coherent political union and a refocus on national states and policies.¹⁷

On the left side of this liberal ‘Less Europe’ take on EU crisis, we find the economic sociologist Wolfgang Streeck. The perspective of Streeck’s analysis in ‘Buying Time’¹⁸ is radically different from that of Majone, in fact antagonistic in terms of considerations of political economy, but the overall assessment of the state of the EU and functional (not normative) solutions are markedly similar. Streeck’s criticism of the EU focuses – not differently from Majone – on the limits and allegedly disastrous consequences of the EMU but it is framed within a broader thesis on the evolution of late capitalism. According to Streeck we are fast approaching the final stages of capitalism as we know it. Contrary to theories developed by the Frankfurt School in the 1970s (by people like Jürgen Habermas¹⁹ and Claus Offe²⁰), capitalism was able to eschew a ‘legitimation crisis’ in the national state simply by moving the signpost of its structural limits to more economically abstract spheres. Differently from widespread predictions, capital became a reactive actor that has victoriously fought against the taxation policies that made possible the welfare state with its relatively stable social peace and not outrageously unequal distribution of

¹⁵ R. Dahrendorf, *Plaedyer Fuer die Europaische Union* (‘Plea for the European Union’), R. Piper & Co., 1973.

¹⁶ E. L. Jones, *The European Miracle: Environments, Economies and Geopolitics in the History of Europe and Asia* (2nd edition) Cambridge University Press, 1987; and D. S. Landes, *The Wealth and Poverty of Nations*, W.W. Norton, 1998. For a radical alternative version of the roots of European dominance see J. Diamond, *Guns, Germs, and Steel*, W. W. Norton, 1997.

¹⁷ Majone, 2014, 316-322.

¹⁸ W. Streeck, *Buying Time*, Verso, 2017.

¹⁹ J. Habermas, *Legitimation Crisis*, Beacon Press, 1975

²⁰ C. Offe, ‘Structural Problems of the Capitalist State’, in K. Von Beyme (ed.), *German Political Studies*, Sage, 1974, Vol. 1, 31– 54

resources.²¹ Unable to expand the tax base and reign in capital, the solution by national economies was to accumulate state debt in order to sustain consumption. When this became unsustainable, the consolidation phase begun, shifting the accrued debt from public finances to the private sector with a progressive, and often brutal, roll-back of welfare. As a consequence, Streeck posits, capitalism was able to survive by progressively shifting the breaking point of its own dynamics, from the tax state, to the debt state, to the consolidation state.²² By intensively expanding its financial reach, capital has been able precisely to 'buy time' through a mechanism of debt accumulation (first accrued by the nation states in the 1990s and then shifted to the private sector during the hard implementation of the neoliberal project) that has allowed the creation of immense wealth in the hands of the few to the detriment of the masses of wage earners. Within the broader pattern, the EU has been an illuminating example of how the sovereignty of the markets has gutted the sovereignty of the people.²³

Streeck describes the ordoliberal genealogy of the European union by pointing out that the general design of the European project was something originally theorised by Hayek in 1939.²⁴ The Austrian economist, in an article investigating the conditions of international peace, suggested a strong connection between the denationalisation of economy and its liberalisation. Hayek essentially argued that the federalisation of Europe would inevitably lead to a process of economic liberalisation that would create a common market freed from parochial political influences. Streeck points out that such vision has been so thoroughly implemented in the EU that we could speak about an Hayekization of European capitalism that has mainly taken place after the 1970s in a double process entailing both the '...rapidly advancing liberation of the economy from democracy and the separation of democracy from the governance of the economy, intended to enshrine the

²¹ Streeck, 2017, 10. The problem of the Frankfurt crisis theories of the 1970s was that they did not think capital capable of any strategic purpose, because they treated it as an apparatus rather than an agency, as means of production rather than a class.

²² Streeck, 2017, 17-25.

²³ *Ibid.*, 54-57

²⁴ F. Hayek, 'The Economic Conditions of Interstate Federalism', in *Individualism and Economic Order*, Chicago University Press, 1980 [1939], 255– 72.

institutional hegemony of market justice over social justice'.²⁵ Streeck describes the EU, in possibly excessive but frighteningly reasonable terms, as a machine chiefly focused on 'integration through supranational liberalization, or liberalization through international integration',²⁶ as a project in the thralls of the neoliberal doctrine where '...the only "growth policy" considered worthy of the name consists in eliminating organizations or institutions of any kind that are regarded as obstructing markets and competition, be they cartels, chambers of commerce and industry, trade unions and taxi guilds, or minimum wages and employment protection".²⁷ Condemning the Euro as a 'frivolous experiment'²⁸ and urging that the EMU and the idea of Europe are two starkly different things, Streeck sees in the in national polities (and, it seems, institutions) the only sites of any possible democratic counteraction to unrestrained global capitalism, and expresses profound doubts that the different national identities of the various Member States could happily cohabit under the same rules, thus branding the constitutionalisation of Europe as a true '...labour of Hercules, requiring a creative optimism not a whit less than that of the neoliberal market technocrats.'²⁹ It almost comes as a twist that such a radical critic of capitalism, eventually advocates the formation of a European Bretton Woods,³⁰ that, in practice, does not seem to be so distant from the reformist proposals advanced by a staunch liberal such as Majone.

A more nuanced position, one that emerges out of a careful analysis of the EU taken in the methodological perspective of international relations and comparative politics, is supported by Sergio Fabbrini in "Which European Union? Europe After the Euro Crisis".³¹ Fabbrini, studying the historical development of the European bodies, argues that the European Union has been characterised by a multilinear process of institutionalisation that has led to a differentiated legal order dangling between the two poles of supranationalism and intergovernmentalism, the unresolved and counterproductive

²⁵ Streeck, 2017, 54.

²⁶ Ibidem.

²⁷ Ibid., 70 (footnote omitted).

²⁸ Ibid. 91-92.

²⁹ Ibid., 93 (footnote omitted).

³⁰ Ibid., 96-98.

³¹ S. Fabbrini, *Which European Union? Europe After the Euro Crisis*, Oxford University Press, 2015.

tension between the two the result of a development occurred through contingent agreements and in the vacuum of agreed constitutional criteria.³² The Euro crisis had done nothing than highlighting the shortcomings of the European institutional structure as well as the different conceptions of Europe that even if converging on a sort of ‘overlapping consensus’ during less troubled time, have showed irreconcilable differences concerning the future of the EU. These different visions see the EU respectively as economic community, a intergovernmental machine, and a parliamentary union.³³ Fabbrini, closely scrutinizing each model, convincingly concludes that each framework cannot properly describe what the EU is nor offer a proper blueprint of what it could be. Clearly, the level of integration that the Union has achieved is far too advanced for it to be considered a mere economic arrangement.³⁴ The intergovernmental design of the European Union, on the other hand, has shown very unsatisfying functional and normative limits, producing a centralised, technocratic, and judicialized policy regime that has led to a kind of ‘euro-zone fiscal colonialism’³⁵ that cannot provide an adequate political stability, especially in the face of Germany’s economic predominant role.³⁶ Finally, the parliamentary perspective clashes with the limited competences of the EP, and most importantly does not take into sufficient consideration the role that the European Council has forcefully come to play since its explicit inclusion in the Treaties and its performance during the recent crises.³⁷

In order to offer a viable alternative to these wanting perspectives, Fabbrini, taking in consideration comparative federative models – namely, the USA and Switzerland – suggests the path of what he has termed ‘compound democracy’.³⁸ According to Fabbrini, compound democracies are characterised by multiple separations of powers which run both vertically and horizontally, and whose ‘political logic is mainly motivated by

³² Fabbrini, 2015, 64-90.

³³ Discussed across three chapters in Fabbrini, 2015, part II.

³⁴ Fabbrini, 2015, 123.

³⁵ P. Legrain, ‘Euro-Zone Fiscal Colonialism’, *The New York Times*, op-ed page, 21 April 2014.

³⁶ Fabbrini, 2015, 150-152.

³⁷ Fabbrini, 2015, 182-184.

³⁸ Fabbrini has previously explored this model in *Compound Democracies: Why the United States and Europe Are Becoming Similar* (Oxford University Press, 2010).

divisions between states or regions of the union.’³⁹ Differently from competitive and consensus democracies (which are the standards for national and federal states), compound democracies represent an ideal-type defined by ‘the lack of a government as a single institution and the existence of a cleavage between territorial units.’⁴⁰ Fabbrini argues that the EU fits the ideal-type of compound democracy both descriptively and normatively. Surely, Fabbrini is well aware of the foundational and developmental divergences between the EU and its cognate comparators from a genetic, constitutional, and institutional point of view. However, he points out that the political blockages of the EU really are to be imputed to the wrong and half-hearted implementation of the compound democracy model. In this regard, Fabbrini asserts that ‘...the EU is a union of states whose political logic is conditioned by its interstate cleavages, but obstructed in its functioning as a coherent compound democracy because of the political ambiguities of its foundation, the lack of an agreed constitutional framework and the institutionalization of an intergovernmental decision-making regime.’⁴¹

Fabbrini’s stance is not, however, defeatist. He offers a clear path to reform that can rationalise and bolster the ‘unionist’ nature of the European project. First he identifies three dilemmas that the EU must resolve to move forward: the need to recognise weight of intergovernmental interests in the decision-making process of the EU, while implementing a logic of separation of powers that would work in an union of asymmetrical and differentiates states; the rationalisation of the de-facto double executive represented by the European Council and the Commission, balancing the tension between intergovernmental and supranational nature of the two bodies; the transformation of the EP in a congressional sense, emphasising its legislative nature and powers to distance it from the debating legislatures of most national states.⁴² Secondly, Fabbrini, while opposing the idea of a Europe *à la carte* or a multi-speed Europe, proposes a ‘unitary, internally differentiated, organisation’ that ‘...would lead to the institutionalization of an EU based on concentric policy circles, with different clusters of

³⁹ Fabbrini, 2015, 213.

⁴⁰ Ibidem.

⁴¹ Fabbrini, 2015, 248.

⁴² Fabbrini, 2015, 247-255.

member states participating permanently in different policy regimes with different degrees of integration.’⁴³ This should be coupled with an institutional reform that would redefine the relationship between a constitutionalised euro-area and those members only interested in regulation of the single market, and a renewed political compact that spell out the nature of the EU properly. The general idea is both to implement a stronger and more committed separation of powers and to find a balance between intergovernmental and supranational needs that in the EU are – for obvious historical, social, and economic reasons – of a much more serious magnitude than those present in the USA and Switzerland. To this end, Fabbrini has a clear road map that he summarises in a slogan: separate, recompose, connect. He spells it out like this: ‘First, it is necessary to separate the member states interested only in a single market (the non-euro-area member states) and the member states involved in a process of deeper integration. Second, it is necessary to recompose the two perspectives, the supranational and the intergovernmental, on the EU as a political project within an original framework whose constitutional logic and institutional structure are coherent with a compound union model ... Third, it is necessary to connect the various member states participating in a single market community and the compound union through a flexible agreement aimed at preserving and regulating their economic cooperation.’⁴⁴

In what we could call the ‘More Europe’ camp – unsurprisingly for anyone who has been paying attention to the last twenty years of debate on this topic – we find Jürgen Habermas, who has certainly been one of the most powerful voices in favour of an integrational development of the EU that would expand the economic project into a political one. Habermas has participated to the debate concerning the nature and the future of the EU since the 1990s and, even if his stance has slightly shifted through the years, he has maintained a coherent position urging for an original European supranational model based on a common constitution, made necessary by the challenges of globalisation, and framed by a cosmopolitan ideal.⁴⁵ Habermas’s focus on a European

⁴³ Fabbrini, 2015, 269.

⁴⁴ Fabbrini, 2015, 285.

⁴⁵ Classical works by Habermas in this field are J. Habermas, ‘Remarks on Dieter Grimm’s “Does Europe Need a Constitution”’, *European Law Journal*, 1995, 1 (3), 303-307; and J. Habermas, ‘Why Europe Needs a Constitution’ *New Left Review*, 2001a, 11, 5-26.

constitution descends from his more general theoretical assumptions concerning communicative action and the co-extensive relationship between public and private rights.

Against the so-called ‘no- demos thesis’⁴⁶ – which postulates the need for a certain degree of ethno-cultural homogeneity within a given population to sustain a corresponding polity – Habermas argues that the old social and cultural artefact of national identity – that made possible the establishment of solidarity among the citizens of the newly established states – is not needed any more.⁴⁷ Rather differently, in a multicultural society ‘the solidarity of citizens is shifted onto the more abstract foundation of a “constitutional patriotism”’.⁴⁸ Taking the European Union as an example of democratic regimes to come, he suggests that in order to create a new politics that would go beyond national borders, what is needed is not a technocratic institutionalisation of economic markets but the fostering of a new civil solidarity. Such solidarity, once limited to the national dimension, should ‘expand to include all citizens of the union, so that, for example, Swedes and Portuguese are willing to take responsibility for one another’.⁴⁹ The failure to achieve a European constitution, as the proposal was rejected by France and the Netherlands, and the process of ratification ground to a panicked and temporary-turned-into-definitive halt, was therefore a heavy blow to Habermasian hopes, with the German philosopher criticising both the substance and the method of the subsequent Lisbon Treaty that incorporated many of the Constitutional Treaty provisions. According to Habermas, the Constitutional treaty was supposed ‘to create the preconditions for: (a) a change in the way politics that has been conducted until now; and (b) a decision concerning the final form (or finalité) of the European Union’.⁵⁰ However, the Lisbon Treaty failed in both

⁴⁶ The standard statement of the thesis was put forward by D. Grimm, ‘Does Europe need a constitution?’ *European Law Journal*, 1995, 1(3), 282–302.

⁴⁷ Habermas attacks the fictitious nature of national identity: ‘[P]recisely the artificial conditions in which national consciousness arose argue against a defeatist assumption that a form of civic solidarity among strangers can only be generated within the confines of the nation. If this form of collective identity was due to a highly abstractive leap from the local and dynastic to national and then to democratic consciousness, why shouldn’t this learning process be able to continue?’ (J. Habermas, *The Postnational Constellation: Political Essays*, MIT Press, 2001b, 102).

⁴⁸ Habermas, 2001b, 74.

⁴⁹ Habermas, 2001b, 99.

⁵⁰ J. Habermas, *Europe: The Faltering Project*, Polity Press., 2009, 80.

respect given that it engendered an 'elitist character of a political process which is remote from the populations',⁵¹ and its final institutional arrangement was stuck at the crossroads between integrationism and Euroscepticism, excessively limiting the role of the pan-European democratically elected EP.

This botched constitutional moment, far from moving Europe towards a renewed and democratically legitimised supranational constellation, has lurched the EU towards a form of 'executive federalism' turning the European project on its head, making it 'an arrangement for exercising a kind of post-democratic, bureaucratic rule'⁵² whose entrenchment has only been strengthened by the recent Euro crisis.

The Lisbon Treaty, however, is not seen by Habermas as an unmitigated disaster. Quite the contrary, Habermas reads into it the seeds of a novel form of legitimation that resolves or, to put it in better terms, constitutes in a fruitful dialogue the fundamental tension between national and European sovereignty. Using his method of rational reconstruction so effectively deployed in 'Between Facts and Norms',⁵³ Habermas suggests that we need to make explicit and rationalised what is implicit in our legal system. With regards to the EU, more specifically, this means reading the Lisbon Treaty as an agreement that takes as its founding subjects not the Member States, but rather the European individuals understood at the same time as European citizens and as citizen of the various national polities that make up the EU.⁵⁴ With this idea of 'dual sovereignty' or '*pouvoir constituant mixte*', Habermas retroactively suggests a new legitimating ground for the EU that would at the same time anchor both the transfer of power to the Union institutions to achieve the level of legal protection and social cohesion that individuals enjoy nationally, and the keeping of national legal systems as 'guarantors of law and freedom'⁵⁵ that the same

⁵¹ Ibid., 81.

⁵² J. Habermas, *The Crisis of the European Union: A Response*, Polity, 2012, 52.

⁵³ J. Habermas, *Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy*, MIT Press, 1996.

⁵⁴ Habermas, 2012, 35-36.

⁵⁵ Ibid., 41.

citizens have historically fought for and grown to enjoy.⁵⁶ In this sense, Habermas embraces the ‘cunning of economic reason’⁵⁷ that sees the small (and big) nation states powerless in the face of the tides of globalisation and forces them to pool their forces to preserve their hard-gained social and political milestones.⁵⁸ He therefore squarely rejects any nostalgic return to national states by reducing the competences of the EU, and urges instead for decisive institutional reforms (namely the strengthening of the EP and the expansion of its remit, the democratic anchoring of the Commission, and the curbing of the powers of the ‘anomalous’ European Council)⁵⁹ coupled with a different role played by the media environment in order to foster a collective European sense of belonging.⁶⁰

The missing piece

As noted earlier, while there is a broad consensus on the efficient causes of the enduring crisis of the EU, the picture is much more fragmented and even polarised when it comes to the deeper (one would even say final) causes of the state of the European project, leading to a spectrum of solutions, none of which supporting the preservation of the status quo.

Starting from the efficient causes, one can observe that authors agree on two fundamental points. First, it is abundantly clear that the institutional structure of the EU is largely unsatisfactory for its nature and performance potential. The nature of the deliberative European institutions, in fact, is not just at odds with the traditional exemplars that have long characterised the variances of the separation of powers principle practised in national states (not necessarily an unforgivable sin in and of itself), but it prevents them

⁵⁶ J. Habermas, ‘Citizen and State Equality in a Supranational Political Community; Degressive Proportionality and the *Pouvoir Constituant Mixte*’, *Journal of Common Market Studies*, 2017, 55, 171-182.

⁵⁷ J. Habermas, *The Lure of Technocracy*, Polity, 2015, 57.

⁵⁸ J. Habermas, *Ibid.*, 29-30. This has been a longstanding preoccupation for Habermas, see *The Inclusion of the Other* (MIT Press, 1996), at 106 (“[t]he globalization of commerce and communication, of economic production and finance, of the spread of technology and weapons, and above all of ecological and military risks, poses problems that can no longer be solved within the framework of nation-states or by the traditional methods of agreement between sovereign states”).

⁵⁹ Habermas, 2015, 13-16.

⁶⁰ Habermas, 2015, 39.

to perform their systemic function. To put it briefly and summarising the positions examined above:

a) The Commission is an emasculated executive with limited space for political manoeuvre and executive autonomy as it is fundamentally subordinated to the Member States' interests expressed by the Council and the European Council, and without sufficiently strong operative ties with the directly democratically elected EP; in addition, the Commission's almost absolute power of legislative initiative can certainly disrupt or delay the adoption of European legislation, however, it cannot properly spearhead it because of the lack of real political bargaining power against the Council and the EP;

b) The European Council is a serious systemic and democratic anomaly given its determinant force of 'moral suasion' over key decisions taken within the EU and its fundamental unaccountability vis-à-vis the European peoples and other EU bodies;

c) The EP – which should be the democratic powerhouse of the whole system - suffers from multiple weaknesses ranging from a weak concrete democratic mandate (considering the limited popular participation in European elections), to a dynamic of political aggregation that does not rest on the classical organisation along party lines and conversely suffers from occasional national partisanship, to substantive legislative powers limited only to certain areas under the competence of the EU, to relatively weak powers of check and balances against the other EU core bodies;

d) The European Council, with its intrinsic intergovernmental mandate is structurally at odds with the EP, and it has also increasingly adopted a subordinate role to the European Council where even the principle of intergovernmental solidarity has given way to the predominance (especially in economic matters) to the larger states (especially Germany and France, and especially during the debt crisis).

In other words, the piecemeal development of the core European institutions and competences according to the competing and diverging logics has turned the classical system of checks and balances into one of blockages and obstacles. To this regard, Fritz

Sharpf has observed that ‘The problem, in a nutshell, has been, and still is, the ‘joint decision trap’ (JDT), i.e., the fact that European legislation must be adopted in a multiple-veto system, and therefore presupposes broad consensus and is easily blocked by conflicting economic, institutional and political interests and preferences among the multiple participants footnote omitted)’⁶¹

Secondly, the adoption of the EMU has been very underwhelming at best, and an almost total disaster at worst. While the EMU served short terms interests in that has guaranteed high level of export for the Northern countries of the EU and improved the borrowing capacities of the Southern countries, the structural effect has been that of depriving Member States with the faculty of devaluing their national currencies in the face of global economic pressures.⁶² The consequence has been that, in the face of the 2009 debt crisis and barred devaluation, consolidation measures have been imposed on the weaker states ushering in a series of neoliberal reforms which had as their almost explicit aim the dismantling of the remnants of national welfare systems.⁶³ This has resulted in the devilish combination of exacerbated national social tensions, stoked resentments between Member States, and showing the worst of EU economic technocracy. On this point the academic (and more general) consensus is virtually absolute: the EMU which was supposed to be a further step towards a closer political union has yielded the double perverse outcome of fracturing whatever modicum of EU solidarity had existed (something Hayek eerily predicted with relish)⁶⁴ and growing Member States apart from each other, and prompting a series of institutional reforms for the governance of economy in the EU (e.g. the Six Pack) that have shown the problematic side of European

⁶¹ Fritz W. Scharpf, ‘De-constitutionalisation and majority rule: A democratic vision for Europe’, *European Law Journal*; 2017, 23, 315–334, 323 (footnote omitted).

⁶² P. Krugman, ‘Revenge of the Optimum Currency Area’, *NBER Macroeconomics Annual*, 2012, 27(1), 439-448

⁶³ P. De Grauwe, ‘Foreword’, in M. Marco, *The Economics of the Monetary Union and the Eurozone Crisis*, Springer, 2013; B. Eichengreen, ‘The Eurozone crisis: the theory of optimum currency areas bites back’, *Notenstien Academy White Paper Series*, 2014, 1-18.

⁶⁴ F. Hayek, *Individualism and Economic Order*, University of Chicago Press, 1948, 255–272.

intergovernmentalism, impermeable to supranational accountability and heavily skewed in favour of the stronger economic actors.⁶⁵

With regards to the deeper causes of the ongoing European crisis – that is the causes that have generated the efficient causes just discussed – the opinions diverge, and with those the possible solutions.

Let us first assess the positions by Majone. Majone's seems to have clear liberal (in economic terms) sympathies but he spells out his argument in fairly objective terms. His suggestion to move Europe towards the model of 'club of club' (which is virtually an Europe à la carte model but supported by a better economic theory) stems from Rodrik's political trilemma which sees an unresolvable tension between hyper-globalization, the nation state, and democratic politics, where only two elements can co-exist at the same time.⁶⁶ This trilemma has been particularly felt in Europe where the conflict between the preservation of the nation state and democratic politics has manifested itself starkly. Because, at a closer look, in the EU the dilemma, given the need of the Member States to participate effectively in hyper-globalisation in order to maintain their living standards, has really become a dilemma: should the EU move towards federalisation or should we preserve the nation states (and their respective traditions of democratic politics) and risk exposing them to the pressure exercised by the brooding omnipresence of global markets?

⁶⁵ F. W. Scharpf, 'Legitimacy Intermediation in the Multilevel European Polity and its Collapse in the Euro crisis', *Cologne: Max Planck Institute for the Study of Society*, Discussion Paper 12/6, 2012, 29: 'The Monetary Union, the euro crisis and the policies defending the euro have created an institutional constellation in which the control of democratic member states over their economic fate has been largely destroyed. Since the effective instruments have been removed, the loss cannot be compensated by ever more intense European controls of the remaining national options. Instead, effective macroeconomic control at the European level would require the capacities of a federal state with a large central budget, centralized capital taxation and social and employment policies – and with the capacity for democratically legitimated majoritarian policy-making.

⁶⁶ D. Rodrik, 'How Far Will International Economic Integration Go?', *Journal of Economic Perspectives*, 2000, 14(1), 177–86; *The Globalization Paradox*, Oxford University Press, 2011. Majone (2014, 309) expresses the alternatives in the following terms: 'If we want deep globalization ('hyper-globalization'), we have to go either with the nation state, in which case the domain of democratic politics will have to be significantly restricted, or else with democratic politics. In the latter case we would have to give up the nation state in favour of global federalism. If we want democratic legitimacy we have to choose between the nation state and deep globalization. Finally, if we wish to keep the nation state, we have to choose between democratic legitimacy at home and deep globalization internationally'.

Faced with the *aut-aut* between the nation state and democratic politics, Majone's answer, as the joke goes, is 'yes, thanks', in the sense that he opines that national states (and their forms of democracy) can still have an edge in the global arena provided they are able to strike the right balance between pooling their market interests through (regional and global) international agreements and retaining their comparative competitiveness vis-à-vis each other and the world at large. I do not have the knowledge to assess the soundness of Majone's proposal from an economic point of view (nor, I should add, Majone offers proper economic calculations to support his claim) but one must question at least two aspects of his reasoning.

First, while it may well be true that the nation state model can still play its part on the world stage, is it also not true that in hyper-globalisation crises have an unprecedented and sweeping force, that the interconnectedness of the markets has already to a large extent exauthorized national institutions of their substantive democratic autonomy (this is in fact Streeck's argument)? To what extent would the dismantling of the European integration project improve this situation? Have not the Member States of the EU achieved a stronger voice globally,⁶⁷ precisely because they together reach a critical mass they would not have on their own (hence the overwhelmingly negative of Brexit assessment among the quasi-totality of the economists)?

Secondly, and most importantly in my opinion, why dismiss the possibility of democratic politics beyond the nation state? Is not the defence of the nation state form a kind of ideological fixation that denies the possible evolutions of human social forms? Undoubtedly, the current situation in the EU does not warrant optimism with regards to emergence of that kind of deep (almost irrational) mutual solidarity which is at the basis of democratic practice within national polities, but should we not focus precisely on investigating the problem of why, after several decades, such solidarity and political integration have not followed suit market integration?

⁶⁷ A. Bradford, *The Brussels Effect: How the European Union Rules the World*, Oxford University Press, 2020.

Similar criticisms could be moved against Streeck's position, not least because the German sociologist's whole framework of analysis is based on the premise that late capitalism – because of its own abstract financial global nature – is irredeemably at odds with democracy as whole as we know it.⁶⁸ Streeck, in fact, openly speaks of a 'depoliticization of economy' where capitalism is finally freed from forms of democratic influence and is 'anchored in reorganized nation-states under the control of international governmental and financial diplomacy insulated from democratic participation, with a population that would have learned, over years of hegemonic re-education, to regard the distributional outcomes of free markets as fair, or at least as without alternative.'⁶⁹ ⁷⁰ As we have seen, Streeck takes the EU as the most notable laboratory for the experiments of late capitalism and the EMU, in particular, as a 'frivolous experiment'⁷¹ destined to fail. In particular, Streeck expresses very pessimistic ideas with regards to the democratisation of 'Euroland'. He argues that it is not possible to unite under a single economic policy many different economic cultures and that the socio-economic disparities present across Europe would require a redistribution of resources that would be both massive (and therefore politically unrealistic under the current conditions) and probably destined to fail anyways.⁷² Instead, as we have seen, he pushes for a sort of European Bretton Woods that would allow participating nations to use monetary devaluation in order to correct global market injustices.⁷³

⁶⁸ Streeck, 'Why the Euro Divides Europe', *New Left Review*, 2015, 95, sept-oct, 5-26.

⁶⁹ Streeck, 2017, 25.

⁷⁰ In this sense, Streeck talks about the victory of the financial *Marktvölks* (2015, 42-47) over the concrete *Staatsvolks* but given the abstract nature of the former subject and the virtually absolute coincidence of their decisional spectrum with that of market logic, the heuristic value of this anthropomorphisation is unclear.

⁷¹ Streeck, 2015, 91-92.

⁷² Streeck (2015, 70-76) uses as comparators the examples of unitary Italy and reunification Germany to argue that, even within a single national polity, substantial reallocation of resources (from North to South in Italy, and from West to East in Germany) can fail their purposes in levelling-up economies. For a critical answer to this argument see Habermas, 2017, ch 7.

⁷³ Streeck, 2015, 95: 'The right of devaluation is nothing other than an institutional expression of respect for nations (represented by their states) as special communities involving a shared life and destiny. ... Devaluation is a crude instrument – "rough justice" – but it is better than nothing. If a country that is no longer keeping up, or does not yet wish to keep up, devalues its currency, the export opportunities of foreign producers diminish and those of domestic producers increase; this improves the job opportunities for people in the devaluing country, at the expense of other countries with a higher level of employment.'

Again, I am no economist to properly judge the technical soundness of a devaluation strategy, but both the feasibility of a European Bretton Woods and, even more so, the hypothesis that national states might have the strength each, single-handedly, to oppose the tides of global capitalism seem far-fetched. If Streeck's general argument is correct, that is, if late capitalism has acquired agency and operated strategically on the (international first and global then) market to progressively counterbalance state control and eventually hollow out democratic institution of any real weight in the field of political economy,⁷⁴ then how reasonable is to expect the very victims of this plan – the nation states – suddenly to turn the tables against the ravenous markets? Here the point made earlier against Majone can be replicated in full. Would not a block of democratic states better suited to reject the diktats of late capitalism? Why this dismissal of potential forms of supranational democracy and this insistence on the old nation state ideal-type which, for its part, has clearly failed to contain the worst capitalistic tendencies? Why the plain acceptance of national identities as an unmovable monolithic given and utter lack of interest for new dynamics of political aggregation that would go beyond the parochialism of nationhood? After all, nationhood is both a fairly recent and fictional ideology (even if a perplexingly powerful one). Why not taking the democratic possibility of the EU seriously?

In this regards, both Fabbrini and Habermas offer a refreshing alternative that attempts to explore the untapped democratic potential of the EU. Fabbrini, in particular, delves deep into the historical development that have led the EU to the current impasse and scrutinises its institutional structure with a vigorous empirical ethos, comparing its nature and function with comparable existing models. Based on this kind of approach, the Italian political scientist opts for a modular proposal for the reform of the EU, trying to strike a realistic path between the Scylla of a return to unabashed

⁷⁴ Streeck, 2015, 10: "Capital proved to be a player instead of a plaything, a predator instead of a working animal, with an urgent need to break free from the cage-like institutional framework of the post-1945 'social market economy'". Streeck (2015, 45) further notes that "The rising indebtedness of the rich democracies has for some time been curtailing their effective sovereignty, by subjecting the policies of their governments to the discipline of financial markets", reporting the following, frankly brazen, statement by the high priest (necromancer?) of global neoliberalism Alan Greenspan "We are fortunate that, thanks to globalization, policy decisions in the US have been largely replaced by global market forces. National security aside, it hardly makes any difference who will be the next president. The world is governed by market forces."

intergovernmentalism and the Charybdis of one-fits-all supranationalism. As mentioned, his slogan is 'separate, recompose, connect'. The final goal is to restructure and rationalise the EU project both by strengthening the features of 'compound democracy' that Fabbrini sees as the only possible way forward to a political union, and resecting EU membership according to a program of 'differentiated integration' so as to recognise the various levels of commitment towards progressive integration between the current Member States. Crucially, Fabbrini insists that his is not a plea for a multi-speed Europe, rather his idea is that of an institutional configuration that would not be predicated on the teleological, diachronic convergence of all Member States towards a common future but recognise the relative stability and independence of various 'concentric circles' of integration formed by various groups of Member States. This would not solve all the problems at once,⁷⁵ but following comprehensive Treaties reforms along the lines of institutional differentiation, this could lead to a proper democratic government of the EU balancing the concurrent supranational and intergovernmental perspectives. In this sense there should be a de-constitutionalisation of the Lisbon Treaty – which, duly expunged of excessive regulatory constraints would serve as the basis for the single market– and (for the Euro-area members) a new political compact rooted in a constitutional basis.⁷⁶

The very latter, however, is the weak spot of Fabbrini's argumentation. Fabbrini, rightly points out that the polity formations narrative of both French and German tradition (one appealing to the pre-existence of the state as a machine able to constitute the people, the other presupposing a people to constitute a state) do not fit Europe's historical and current conditions, and instead he invokes the American and Swiss experiences (the only

⁷⁵ Fabbrini (2015, 269-271) is conscious that this would not address the problematic status of the Fiscal Compact, and also the intergovernmental logic at the core of the EMU together with neoliberal conceptual framework that characterises it.

⁷⁶ Fabbrini (2015, 274) outlines such political compact thusly: 'The euro-area member states should agree on signing a political compact treaty to set up a new organization – a political compact that should have (as the comparison with the other two compound unions has indicated) the features of a basic treaty specifying the values and aims of the compact instituting the union, the rights and duties of the member states and the citizens, the competences and resources allocated to the supranational and national levels of the union, the separation-of-powers architecture to organize its functioning at the former level, and the power of the judiciary in protecting citizens' rights and member states' prerogatives. The political compact treaty might also decide a new name and select new symbols for the euro-political union.' On the de-constitutionalisation of the EU see D. Grimm, 'The Democratic Costs of Constitutionalisation: The European Case', *European Law Journal*, 2015, 21(4), 460–473.

two examples in the world of ‘compound democracies’) that brought about their political model through the act of signing a constitution. Fabbrini is adamant in asserting that ‘Forming a euro-political union would necessarily be an act of will, not the outcome of an evolutionary process, as the comparison with the other two compound unions has indicated.’⁷⁷ The equanimous reader cannot be but puzzled by this intimation. As a matter of fact, it is difficult to distinguish the ‘political compact treaty’ (also supposed to work as a Basic Law for the EU) that Fabbrini suggest for Europe from an ordinary Constitution. It is also surprising that Fabbrini clearly envisions the political compact as a willing ‘act by political elites able to win over the political consent of the citizens of their states’⁷⁸ as the only way to aggregate and transform politically separated states and culturally distinct citizens into a functioning democracy. The question that naturally comes to mind is: why would this solution have any different outcome from the abandoned Treaty establishing a European Constitution that failed in 2005? Is not this yet another technocratic, top-down, elitist project which treats European citizens as idiots (in the original, political, etymology of the term) whose myopic vision is against their own better interests? Has not the idea of a constitution-as-catalyst already been empirically falsified by the facts?

On this question, Habermas – who was the foremost supporter of the constitution-as-catalyst hypothesis – appears to be a few steps ahead of Fabbrini. We have remarked the slight theoretical shift that Habermas has undertaken since his debate with Dieter Grimm on the ‘no-demos’ thesis.⁷⁹ While at the time Habermas argued that a European Constitution would have fostered a sense of belonging in European citizens by protecting and implementing a new set of individual rights, thus creating a sense of ‘constitutional patriotism’, now the attention of the German philosopher has moved to the democratic normativity inherent in the current Lisbon Treaty. Hence his focus on the question of double sovereignty (or *pouvoir constituant mixte*) that should form the fundamental basis of EU’s current political legitimacy and solve the delicate balance between national identities and European belonging. Given the originality of the European project,

⁷⁷ Fabbrini, 2015, 278.

⁷⁸ *Ibid.*, 282.

⁷⁹ V.M. Heins, ‘Habermas on the European Crisis: Attempting the Impossible’, *Thesis Eleven*, 2016 133(1), 3–18.

Habermas's idea of a 'nested' constitution-building process – differently from the classical two-stage model where 'the political processes within the constituted polity are based on the constitution of the state powers'⁸⁰ – implies a three-stage model which 'already presupposes the existence of democratically constituted nation-states'.⁸¹

The idea of double sovereignty thus postulates that 'the EU has its own constituent power – a founding authority that is maybe not detached but still distinct from the constituent powers of the member states'.⁸² With this theoretical reconstruction, Habermas pursues the goal to bridge the position between those who see Europe as a democracy and underplay Europe's supranationalism,⁸³ and supporters of regional cosmopolitanism who, on their part, do not give sufficient weight to national polities.⁸⁴ It must be stressed that Habermas's double sovereignty theory is not intended as an exercise in constitutional consolation. Quite the contrary, it represents the springboard that would make possible the working out of the non-hierarchical relationship between Member States and the EU through the self-understanding of European individuals acting as subjects engaging in an internal dialectic with themselves and each other as both national and European citizens.⁸⁵ The idea of double-sovereignty, in other words, represents the normative justificatory anchor for a process of self-realisation of the EU to be operated within the legal framework provided by the current European Treaties and with the goal of a new constitutionally enshrined identity. Surely, such journey is far from a delightful measure and more akin to a dreadful march. As the long decade of European crises testifies, and historical comparators confirm, the agreement on a 'spectrum identity' including both national and supranational belongings '...which Europeans must reach with themselves, is ... the result of a painful learning process ... that precedes the actual process of

⁸⁰ Habermas, 2017, 181

⁸¹ Habermas, 2017, 181.

⁸² M. Patberg, 'Introduction: The EU's Pouvoir Constituant Mixte - Exploring the Systematic Potential of an Innovative Category', *JCMS*, 2017, 55(2), 165–170, 166-7.

⁸³ K. Nicolaidis, 'European Democracy and Its Crisis', *JCMS*, 2013, 51(2), 351–369

⁸⁴ B. Crum, 'The EU as Multilevel Democracy: Conceptual and Practical Challenges'. *PADEMIA Online Papers on Parliamentary Democracy*, IV, 2016, available at https://www.pademia.eu/wp-content/uploads/2016/03/Crum_PademiaOnlineSeries.pdf (last accessed 30.07.2021)

⁸⁵ See Habermas (2012, 36–7) who references approvingly the work of Claudio Franzius, *Europaisches Verfassungsrechtsdenken*, Mohr Siebeck, 2010, 57

constitution making'.⁸⁶ Understood in these terms, as Walker opines, Habermas's double sovereignty 'to put it at its lowest but most plausible ... offers the least unpromising lodestar for the "painful process" by which our many discordant conversations about the constitution may eventually become a single joined-up constitutional conversation in which the shared predicament of all of Europe's constituencies is commonly acknowledged and acted upon.'⁸⁷

I have just said that Habermas's is not to be intended as an exercise in constitutional consolation, but is it such a thing though? One should be cautious to accuse Habermas of wishful thinking, especially giving his theoretical caveats and his recent realistic (and pessimistic) assessment of European politics.⁸⁸ There are, however, problems with Habermas's thought that cannot be overlooked. At the outset, as correctly noted by George Duke, 'the justificatory force of exercises of constituent power is dependent, from a normative perspective, on more fundamental legitimating criteria such as democratic participation, respect for equality and rights or the provision of welfare'.⁸⁹ The consequence is that 'on a normative level *pouvoir constituant* is either impotent or redundant: impotent insofar as the justificatory force of more robust conceptions of constituent power is all but non-existent and redundant insofar as normative conceptions derive their justificatory force from concepts (such as self-rule and autonomy) that are fully intelligible without reference to real or hypothetical acts of constitutional founding'.⁹⁰ It would be possible to retort on this point that this idealisation would operate as a sort of efficient *point de cation* (quilting point) able to fix that floating signifier that still European identity is within the ideological constellation of a supranational democracy *in*

⁸⁶ J. Habermas, 'Democracy in Europe, Why the Development of the EU into a Transnational Democracy is Necessary and How it is Possible', *European Law Journal*, 2015, 21, 546-557, 556.

⁸⁷ N. Walker, 'Habermas's European constitution: Catalyst, reconstruction, refounding', *European Law Journal*, 2019, 25, 508-514, 514; K. Gunther ('Divided Sovereignty, Nation and Legal Community', *JCMS*, 2017, 55(2), 213-222) compares this constitutional conversation to the one that has historically occurred within nation states.

⁸⁸ J. Habermas, "'New" Perspectives for Europe', *Social Europe*, 22 October 2018, available at <https://socialeurope.eu/new-perspectives-for-europe> (last accessed 30.07.2021)

⁸⁹ G. Duke, 'European constitutionalism and constituent power', *European Law Review*, 2019, 44(1), 50-66, 64.

⁹⁰ *Ibid.* 66.

*fierr*⁹¹ – something akin to Walker’s loadstar argument described earlier. But here comes the quandary. For a *point de caption* to work an affective investment on the part of the political subject must obtain. In the specific case, European peoples would have to want to be a European people in order to ground the theory of double sovereignty. Or at least they would need a messianic horizon to unite them together for that purpose.⁹² Contrary to logic but perfectly in line with history, collective identity formation is an act of sheer will in the form of fictional bootstrapping.

So, what is missing for European self-identification to occur and flourish? This, it seems to me, is the implicit problem that all the proposals so far examined by Majone, Streeck, Fabbrini, and now Habermas have run against: why, in the almost 70 years of EU, has a European people failed to materialise?

To the root of the crisis

Undoubtedly, I am not the first one to ask this question. Certainly, several answers, more or less articulated and divergent, have been offered in the literature. Generally, I believe that these could be grouped quite comfortably in two camps, reflecting the ‘Less Europe’ and ‘More Europe’ options. On the one hand, we have those that reject the seriousness of democratic forms outside the confines of the nation state; on the other hand we have those

⁹¹ A floating signifier is one that is not attached unequivocally to a signified, but where, instead, ‘either an over-determination or an under-determination of signifieds prevents it from being fully fixed’ (Laclau, *Emancipation(s)*, Verso, 1996, 36). The quilting point is thus the nodal element that retroactively fixes the meaning of the floating signifiers within a given discourse. To give a practical example: democracy, freedom, feminism, ecologism, peace movement can be considered floating signifiers. Attach them to a quilting point (Communism, Liberalism, Anarchism, etc.) and they will each acquire a specific – and very divergent – meaning.

⁹² J. H. H. Weiler (Federalism and Constitutionalism: Europe’s Sonderweg’ in K. Nicolaidis and R. Howse (eds.), *The Federal Vision: Legitimacy and Levels of Governance in the US and the EU*, Oxford University Press, 2001, 55-70) decries precisely the dissipation of Europe’s messianism as one of the reasons of the recent crises. Vincent Della Sala, in a series of interesting articles (‘Political Myth, Mythology and the European Union’, *JCMS*, 2010, 48(1), 1–19; ‘Homeland security: territorial myths and ontological security in the European Union’, *Journal of European Integration*, 2017, 39(5), 545-558; ‘Europe’s odyssey? Political myth and the European Union’, *Nations and Nationalism*, 22 (3), 2016, 524–541) similarly suggests that Europe is in need of a new political myth.

who believe that the EU has not given to the burgeoning European people a proper democratic forum to develop and express itself.

As it should be clear from the tone of my previous argumentations, I do not find the position of the 'nationalists' persuasive neither strategically nor theoretically. Strategically, given the enormous pressures of global society (and especially global markets), betting on the survival of localised democratic practices shielded merely by the carapace of national institutions flies in the face of evidence and common sense. The pooling of social, economic, and political resources appears the only route for traditional states to make their voice heard on the global stage, not to mention that more general frameworks of legitimate democratic global government seem necessary as we face one systemic crisis after the other (climate and economy being at the top of the list). Theoretically, the idea that democracy is inherently linked with national forms is very unconvincing – not least because the argument rests on the essentialist fallacy that only forms of aggregation that historically occurred are practically possible, a position that, paradoxically, negates the possibility of that same history that brought them to being. After all the nation state is an historical phenomenon, and as every historical phenomenon, it has had a beginning and will have an end.

I therefore side with those that see in the wrong-headed development of the EU the key to the failure of the emergence of a European people. My perspective, however, is slightly different from the received wisdom that the institutional arrangement of the EU, accused of lacking sufficient direct legitimacy and accountability, and favouring obscure intergovernmental brinkmanship and technocracy over the EP as the only institution that could give voice to the European people itself, is to blame or that the European media should do more to build a European public sphere for public debate. This is certainly the case. My suggestion, however, is to have a more philosophical perspective on the problem in order to unearth its deepest roots. The present will necessarily be a preliminary proposal, the sketch for a new theoretical framework through which we could read in a fresh light the European predicament. More work will need to be done to confirm the persuasiveness of such proposal and to work out its implications towards a solution of the crisis. But if I am even preliminarily right, we would have achieved the not so negligible result of problematising the European crisis so as to achieve what Michel Foucault called

‘eventalisation’, that is to achieve a ‘breach of self- evidence, of those self-evidences on which our knowledges, acquiescences, and practices rest’.⁹³

With this goal in mind, I suggest that the very way in which the European project has been set up has fostered an idea of the Other – understood as the subject not immediately belonging to the national polity – that has proven as a political and ideological stumbling block to the formation of the European people. In this perspective, I argue that the EU has been built along immunitary lines that have made the figure of the European Other as an inassimilable alien subject, therefore dooming the possibility of a European people – and therefore of a ‘united Europe. – to failure from the start. The various, echoing, crises that have plagued the EU in the last long decade are therefore to be read as a sort of ‘autoimmunitary disease’ that, developed within the Europe is turning against Europe itself, threatening its very existence.

Allow me a brief philosophical detour. The suggestion that the idea of immunity is fundamental to understand community in modern times has been advanced by Roberto Esposito in a series of seminal works. Against prevailing communitarian thought – ranging from German organicist sociology on *Gemeinschaft* (community), to ethics of communication, to American neocommunitarianism, and which links community to a given property that is commonly shared by its participants – Esposito explored the etymological roots of the word *communitas*, highlighting that, at its core, lies the concept of the *munus*, a personal “gift” or obligation that each member must offer to the community in order to constitute the community itself.⁹⁴ In this sense, the community is not a space that is commonly owned or that collects a group of people that share a common property (ethnic, religious, political, etc.) but an expropriative phenomenon which merges its members on the basis of a constitutive lack,⁹⁵ ‘the interval of difference,

⁹³ M. Foucault, ‘Questions of method’, in J. D. Faubion (ed.), *Power. The Essential Works of Michel Foucault 1954–84*, Penguin, 2002, 223–38, 226–7.

⁹⁴ For an overview of Esposito’s thought on the trilogy *Communitas, Immunitas, Bios*, see T. Campbell, ‘“Bios,” Immunity, Life: The Thought of Roberto Esposito’ *Diacritics*, 36(2), 2006, 2–22

⁹⁵ “To belong entirely to the originary *communitas* means to give up one’s most precious substance, namely, one’s individual identity, in a process of gradual opening from self to the other’ (R. Esposito, ‘Community, Immunity, Biopolitics’, *Angelaki*, 2013, 18(3), 83–90, 84

the spacing that brings us into relation with others in a common non-belonging'.⁹⁶ The *munus* is however always compensated by an immunitary mechanism which allows each individual to retain a sphere of autonomy and independence against the demands of the community.⁹⁷ Immunity is thus the 'tendency to protect life from risks that inhere in the relationship among men and women even at the cost of ending communitarian bonds'.⁹⁸ As Esposito remarks there is a double bind that connects *communitas* and *immunitas*, a knot that has structured the modern thinking about community: 'one may well conclude that if community breaks down the barriers of individual identity, immunity is the way to rebuild them, in defensive and offensive forms, against any external element that threatens it'. Crucially, Esposito continues '[t]his applies to individuals, but also to particular communities, which also tend to be immunized against any foreign element that appears to threaten them from outside'.⁹⁹ The relationship between *communitas* and *immunitas* is thus essentially negative. To the extent that we open up to each other in the community, the immunitary mechanism keeps us separated and uncontaminated the one from the other, maintain as essentially static both personal and collective identities. Immunity is a mechanism that both protects and negates life.¹⁰⁰

Inherent in the immunitary mechanism is always its paradoxical reverse: autoimmunity. We have an autoimmune crisis when the immunitary system becomes excessively 'exclusive and exclusionary toward all other human and environmental alterities'.¹⁰¹ When this happens the immunitary system turns against elements of its own community that it now identifies as foreign bodies to be destroyed for the sake of the community itself. This perverse logic can result in the total annihilation of the community in order to protect its ideal form of life.¹⁰²

⁹⁶ R. Esposito, *Communitas*, 1998, Standford University Press, 139.

⁹⁷ This is particularly clear in Hobbes' theorisation of the Leviathan, which Esposito posits at the beginning of modern communitarian thinking. According to Hobbes the constitution of society is possible only if each individual renounces to their right to everything in exchange for the sovereign's protection against the violence of everyone (Esposito, 1998, 20-40).

⁹⁸ R. Esposito, *Terms of the political*, Fordham University Press, 2012, 71.

⁹⁹ Esposito, 2013, 84.

¹⁰⁰ R. Esposito, *Bios: Biopolitics and Philosophy*, University of Minnesota Press, 2008, 45-77.

¹⁰¹ Esposito 2013, 86.

¹⁰² As Esposito (2012, 84) points out, analysing the infamous Telegram 71 in which a besieged Hitler order the destruction of the means of subsistence of the German people who had shown their weakness in the face

Is this not precisely this dynamic at the root of the European project? Was not Europe's communitarian conception (a common space where all European individuals would) interlocked since the beginning with a counterbalancing immunity system that, in fact, prevented integration? Was not the *munus* or public obligation on the part of states to accept foreign individuals always predicated upon a system that posed limitations to movement and required integration conditions of migrating individuals in order to protect and perpetuate national identities and boundaries?

I cannot fully substantiate here the (in fact, I believe, rather banal and yet overlooked) claim that European inclusion has been historically achieved – one would even say furtively pursued if we take the European Founding fathers seriously¹⁰³ – through forms of exclusion, but a few, brief points might, even if only provisionally and partially, persuade the sceptic reader:

a) The regime of free movement has always avowedly been a regime of free movement of workers, thus subjecting the opportunity to move within the EU to the economic function of the individual. This relation has not been substantially changed either by Regulation 492/11 nor Directive 2004/38 (CRD). Both secondary legislations, indeed, clearly distinguish between economically active and non-economically active individuals,

of the enemy, the ultimate preservation of life that can be achieved only by its ultimate erasure. (The present author must confess that he found no primary sources for this rather elusive Telegram 71 which is cited without references in a series of texts (e.g. G. Deleuze and F. Guattari, *A thousand plateau*, University of Minnesota Press, 1987, 255; *The Virilio reader*, J. Der Derian (ed.), Wiley 1998, 47). These citations might probably refer to the so-called Nerobefehl (Nero Decree) issued by Adolf Hitler on March 19, 1945, which called for the destruction of all basic German infrastructure to enact a scorched earth tactic against the Allied advancement. Nevertheless, Hitler's autoimmunitary reasoning is not into question. As reported by Albert Speer in his autobiography, Hitler embraced it fully. Speer reports Hitler saying the following in relation to the Nero Decree: 'If the war is lost, the people will be lost also. It is not necessary to worry about what the German people will need for elemental survival. On the contrary, it is best for us to destroy even these things. For the nation has proved to be the weaker, and the future belongs solely to the stronger eastern nation. In any case only those who are inferior will remain after this struggle, for the good have already been killed.' (Speer, *Inside the Third Reich*, Simon and Schuster, 1970, 588).

¹⁰³ Jean Monnet reportedly said: '[S]ince the people aren't ready to agree to integration, you have to get on without telling them too much about what is happening' (cited in G. Ross, *Jacques Delors and European Integration*, Polity Press, 1995, 194).

favouring the former over the latter in various respects,¹⁰⁴ the CDR being explicit in the rationale of this discrimination in recital 10 of the Preamble with its reference to the ‘unreasonable burden on the social assistance system of the host Member State’.¹⁰⁵ The jurisprudence of the ECJ on the topic has followed a similar trajectory, progressively limiting the rights of non-economically active individuals (after a period characterised by a more relaxed approach)¹⁰⁶ while protecting the mobility of workers across borders even when this meant effectively condoning practices akin to social dumping.¹⁰⁷ The free movement, in other words, is a very partial freedom, always remembering the European migrant that they are accepted only insofar as they represent a positive element to the market, but not as individuals tout-court;

b) The introduction of the European Citizenship with the Maastricht Treaty, while initially hailed as a watershed moment in EU history, has fallen under the same immunitary logic, through a series of judicial readings that – after initial openings – have become increasingly restrictive because of the application of the doctrine of ‘wholly internal situations’ (heavily criticised, but in vain, by AG Sharpston)¹⁰⁸, and by reshaping European citizenship ‘as being deserved by hard-working, self-reliant individuals prepared to take responsibility for themselves.’¹⁰⁹ In this sense, European Citizenship, far from being the ‘the fundamental status of nationals of the Member States, enabling those who find themselves in the same situation to enjoy the same treatment in law irrespective

¹⁰⁴ The Workers Regulation 492/11 provides a more favourable regimes in terms of taxation (art. 7.2); any conditions of employment and work, in particular remuneration, dismissal, and, should the worker become unemployed, reinstatement or re-employment (art. 7.1); vocational training (art. 7.3); access to housing (art. 9); and trade union membership (art.8). See C. Barnard, ‘Free movement of natural persons and citizenship of the Union’ in C. Barnard and S. Peers (eds) *European Union Law*, Oxford University Press, 2020, 420.

¹⁰⁵ ‘Persons exercising their right of residence should not, however, become an unreasonable burden on the social assistance system of the host Member State during an initial period of residence’.

¹⁰⁶ Dano C-333/13, at 74: ‘To accept that persons who do not have a right of residence under Directive 2004/38 may claim entitlement to social benefits under the same conditions as those applicable to nationals of the host Member State would run counter to an objective of the directive, set out in recital 10 in its preamble, namely preventing Union citizens who are nationals of other Member States from becoming an unreasonable burden on the social assistance system of the host Member State.’

¹⁰⁷ See the (in)famous cases Viking C-438/05 and Laval C-341/05.

¹⁰⁸ See e.g. her opinions in cases Walloon C-212/96 and Ruiz Zambrano C-60/00.

¹⁰⁹ B. Anderson, “‘Heads I Win, Tails You Lose’”. Migration and the Worker Citizen’, *Current Legal Problems*, 2015, 68 179-196, 195.

of their nationality’,¹¹⁰ has been flattened into a market citizenship¹¹¹ that reduce the individual as a mere economic entity, to be considered only through the lenses of the economy. Again, what we see is a dynamic of inclusion through exclusion, of an uneasy acceptance always intertwined with the possibility of rejection;

c) The political and legal dynamics concerning irregular migration and refugees are also illuminating on this point. The legislative framework on external migration has, since its inception, moved towards harmonisation of national regimes but this homogenisation – pointing towards a communitarian approach – has also been accompanied by a strengthening of the means of control of irregular migrant fluxes – a clear instrument of immunisation against the migrant Other. On this point, a tension has emerged between such regulatory push and ECJ’s liberal reading of the legislative framework in light of human rights, furthering additional legislative (immunising) proposals ‘to reduce the rights of irregular migrants by amending the Returns Directive, *inter alia* to increase the possibility of detaining them’.¹¹² The asylum regime has been subject to a similar dynamic creating a communitarian drive (an ultimately negative one, where integration is a burden and not a resource) through immunitarian politics, testing the robustness of European cooperation.¹¹³ In this sense, EU legislation has been difficult to apply uniformly in the wake of the ‘refugee crisis’, leading to a reimposition of controls on internal borders.¹¹⁴ This has been accompanied by significant frictions amongst Member States with regards to the distribution of responsibilities towards refugees (showing that the principles of solidarity and equity – often referenced in EU’s official documents and communications – have had a very limited effect on the matter),¹¹⁵ and even militarisation of the borders,

¹¹⁰ Grzelczyk C-184/99, para 31

¹¹¹ D. Kochenov, ‘The Oxymoron of ‘Market Citizenship’ and the Future of the Union’, in F. Amtenbrink, G. Davies, D. Kochenov and J. Lindeboom (eds), *The Internal Market and the Future of European Integration: Essays in Honour of Laurence W. Gormley*, Cambridge University Press, 2019, 217–230.

¹¹² S. Peer, ‘Immigration and asylum’, in C. Barnard and S. Peers (eds) *European Union Law*, Oxford University Press, 2020, 835.

¹¹³ S. Angeloni and F. M. Spano, ‘Asylum Seekers in Europe: Issues and Solutions’, *International Migration & Integration*, 2018, 19, 473–495.

¹¹⁴ S. Peer, 2020, 830-832 and 844-845.

¹¹⁵ E. R. Thielemann, ‘Between interests and norms: explaining burden-sharing in the European Union’, *Journal of Refugee Studies*, 2003, 16(3), 253–273; ‘Why EU policy harmonisation undermines burden-sharing’, *European Journal of Migration and Law*, 2004, 6(1), 47–65.

with obvious detrimental consequences for the cohesion of the EU and – even worse – the refugees' safety;¹¹⁶

d) Finally, Brexit can be seen as the acid test of EU's 'autoimmunity disease'. First of all, it is notable that the UK was the first country ever to leave the EU given the litany of opt-outs and exceptions that the British government had been able to achieve, throughout the decades, as a compensation for being part of the EU. *Pace* proponents of such approach, one of the countries that had the most flexible and *à la carte* membership arrangements, and one that crucially shaped the evolution of the EU throughout its long membership,¹¹⁷ was the also the one that eventually failed to develop a strong bond with the European project. Second, much of the rhetoric that has led to the narrow victory of the Leave campaign and thus triggered for the first time in history art 50 TEU, was in fact based on hostility towards immigration – when not on outright xenophobia – and misguided fears about national sovereignty under threat.¹¹⁸ The UK, in other, crudely put, words, seems to confirm that the communitarian European attempt has encountered its most bruising failure, precisely where immunity counterbalancing mechanisms – allowed to appease legal and political nationalistic identities – have been most liberally applied.

The obvious question, at this point is: why the inclusion of the Other, even if partial and conditioned, has not led to more interpenetration among the European peoples, but, arguably has achieved the opposite effects of something akin to a transplant rejection? (Again, here my suggestions will be tentative with the hope of developing these lines of reasoning elsewhere in the future.)

I believe that the answer lies in the fact that the immunity logic of inclusion of the Other which – as we have briefly seen – characterises the EU is a form of legal reification that

¹¹⁶ T. Brian and F. Laczko, *Fatal journeys: tracking lives lost during migration*, Geneva: International Organization for Migration, 2014; N. A. Aziz, P. Monzini, and F. Pastore, *Changing dynamics of cross-border human smuggling and trafficking in the Mediterranean*, Roma: Istituto Affari Internazionali, 2015.

¹¹⁷ P. Craig, 'Brexit: A Drama in Six Acts', *European Law Review*, 2016; L. Warlouzet, 'Britain at the Centre of European Co-operation (1948–2016)', *JCMS*, 56(1,) 2018, 1-16.

¹¹⁸ A. Kent, 'Political cartography: from Berlin to Brexit', *The Cartographic Journal*, 2016, 53(3), 199–201; J. Todd, *The UK's relationship with Europe: struggling over sovereignty*, Palgrave Macmillan, 2016.

by its nature prevents any concrete form of authentic integration. Briefly stated, the concept of reification comes – as it is known – from Marxist theory and was initially developed by Gyorgy Lukacs. He argued that reification occurs when as ‘a relation between people takes on the character of a thing and thus acquires a “phantom objectivity”, an autonomy that seems so strictly rational and all-embracing as to conceal every trace of its fundamental nature: the relation between people.’¹¹⁹ According to Marxist theory, reification is a consequence of the commodity-form whereby the personal qualities of each individual (like one’s knack for numbers, or ability to play football, or beauty) are not anymore an organic aspect of the person’s existence but – under the conditions of the market – become in effect commodities that one owns and that therefore can be exchanged. As a result, individual properties become objectified, quantifiable, calculable, and socially they largely lose their human, subjective, relational meaning.

Adapting this concept to the legal field, Peter Gabel – characterising reification as an ‘experience in which a collective attributes to the world a frozen character, a thing-like character, because there appears to be no way out, no inter-subjective channel that could allow the true longing in each person to (spontaneously) emerge, or burst forth’ – ¹²⁰ has highlighted the role that law plays in such process, in that by connecting individuals through their abstract legal personas (the buyer, the seller, the citizen, the immigrant, etc.) law surreptitiously endows social practices with a normative force and, at the level of collective interpretation, it denies possible experiences of illegitimacy.¹²¹ In simpler terms: by giving us rights and obligations depending on our legal situation – and therefore by framing our actions – the law tells us and everyone around us who we are. In this perspective, Axel Honneth has rightly pointed out that reification should be understood as the ‘forgetting’ of an original interpersonal relation and self-relation and therefore as a blockage both of self-recognition and of recognition of the Other.¹²² Through reification individuals lose the possibility of properly developing together the qualitative, open-

¹¹⁹ G. Lukacs, *History and class consciousness*, MIT press, 1971, 83.

¹²⁰ P. Gabel, *The Desire for Mutual Recognition: Social Movements and the Dissolution of the False Self*, Routledge, 2018, 98.

¹²¹ P. Gabel, ‘Reification in Legal Reasoning’, in *Research in Law and Sociology*, S. Spitzer (ed.), JAI Press, ed. 1980, vol. 3, 25-51, 28-29.

¹²² A. Honnet, *Reification: A New Look at an Old Idea*, Oxford University Press 2008, 58.

ended dimension of social relations, and therefore become atomized and isolated subject, 'frozen' in Gabel's powerful image.

By framing the European Other through immunitary inclusion, it appears to me that EU law has favoured precisely this dynamic of reification that prevents both self-recognition and other-recognition, and therefore fatally undermined the initial step that could lead to the interpenetration of European peoples and their mutual co-integration into a more unitary polity. This can be seen, I believe, both from the perspective of the European migrant and the hosting community.

From the point of view of the European migrant moving from their home country to another Member States, the process of inclusion is fundamentally foreclosed as a proper, self-standing European process. As a matter of fact, the EU through the CRD has really only strengthened permanent residence¹²³ together with access to social security, but has not included deeper forms of political participation. These are preserved for fully-fledged citizens. The rules concerning citizenship are established by each Member State, often including tests to evaluate how the (European) Other has internalised the way of living of the hosting country. Not only, the citizenship regimes are very different – some of which requiring quite strict conditions – but clearly what we are facing is a logic of parochial colonisation where the foreign individual can be fully accepted (granted national citizenship) not because European, but because they have submitted themselves to the local social norms.¹²⁴ Being European is therefore a conduit, a transient condition instrumentally used to 'ease in' in the national polity, not a foundational status that guarantees absolute acceptance because of its nature. In this way, the European Other can never understand themselves as part of a local community because of their being European but notwithstanding it, perfectly in line with the tropes of colonising ideology: 'You belong to our community because you are now like us, embraced our ways, because

¹²³ This being subject to certain exception as interpreted in Tsakouridis C-145/09 and PI C-348/09.

¹²⁴ D. Kostakopoulou, 'The Anatomy of Civic Integration', *Modern Law Review*, 2010, 73, 933-958, 935; L. Orgad, 'The citizen-makers: Ethical dilemmas in immigrant integration', *European Law Journal*, 2019, 25, 524-543.

you have made your previous identities quietly recede in the background while you are with us'.¹²⁵

Second, from the point of view of the hosting community, an Other that is accepted only insofar as they are a positive addition to the national economy will always represent a strange and constantly estranged entity, one that has no intrinsic value but only a partial and instrumental one. If the Other is this foreign object in the body of the community, an uneasy guest that we must accept but only if they contribute to our prosperity, only if they are not an 'unreasonable burden', then clearly there is little that they can contribute in terms of identity and self-identification to their host polity. Rather than a mirror through which we can see and authentically recognise ourselves, they are an opaque glass obfuscating our vision, 'a perennial Other, that we can never entirely know and trust, someone that, after all, is fundamentally alien to our society and who should be kept under control, on a tight leash, strictly disciplined, always under threat of expulsion'.¹²⁶

Against this background, I am not here in the position to offer concrete reform proposals that would correct these dynamics of mis-recognition that, I believe, are at the basis of the auto-immunitary disease that is affecting Europe. Nor am I suggesting that such proposals would be the silver bullet to rescue the European project from its current throes. Without a doubt, the complexity of Europe's crisis calls for complex, articulated solutions that would encompass wide-ranging institutional, economic and social aspects, at the national, supranational, and global level, where the question of the 'inclusion of the Other' is but one piece of a daunting puzzle. If, however, this is indeed such a piece, then probably it is a good one to begin with. The severity of Europe's crisis demands radical

¹²⁵ Zygmunt Bauman, in an interview, describes this process as "assimilation" and defines it as an 'antropophagic' approach to the Other (*Postmodernity and its Discontents*, Polity Press, 1997, 18). He remarked: 'If you want to be a French citizen you have to become a Frenchman in your behaviour, your language, the way you act, your ideas, preferences and values.' (I. Stiks, 'The Past of Central Europe is the Future of Europe, an Interview with Zygmunt Bauman', *Citizenship in Southeast Europe*, at <http://www.citsee.eu/interview/past-central-europe-future-europe-interview-zygmunt-bauman> [Accessed on 30.07.2021]). Bonnie Honig (*Democracy and the Foreigner*, Princeton University Press, 2001, 55–58) moves a similar kind of criticism against the cosmopolitan approach to integration suggested by Julia Kristeva in *Strangers to Ourselves* (Columbia University Press, 1991).

¹²⁶ D. Acosta Arcarazo and J. Martire, 'Trapped in the Lobby: Europe's Revolving Doors and the Other as Xenos', *European Law Review*, 2014, 362-379, 376.

changes and as Marx intimated “To be radical is to go to the root of the matter”. It is important that we do not forget the second part of the quote “For man, however, the root is man himself.” Europe will stand or fall depending on the idea of the individual it will choose as its seed.