

## **NEW EPILOGUE: EUROPE'S BROKEN CONSCIENCE.**

Those recognized as the "Fathers of Europe", responded in conscience to the spectacle of ruins left by European politics in the first half of the twentieth century. They knew that: "to serve right and to fight against the dominion of wrong is and remains the fundamental task of the politician."<sup>1</sup> As Hannah Ahrendt wrote in 1945: "The problem of evil will be the fundamental problem of postwar intellectual life in Europe – as death became the fundamental problem after the last war."<sup>2</sup> The Fathers of Europe clearly understood that a radical break with the European past was necessary. After the Second World War and the onset of the Cold War, they saw it to be their task to reconcile France and Germany and to unify Europe. The Governments of the six states who concluded the ECSC Treaty in 1951, fundamentally agreed on:

- (1) *The purposes* to be pursued: reconciliation, peace, solidarity and federal unity;
- (2) *The road to follow*: concrete actions and the fusion of essential interests; and
- (3) *The method of common action*: creating supranational institutions capable of giving direction to their future common destiny.

This agreement on the peaceful organization of common action has been solid enough to provide the constitutional foundation for peaceful cooperation in an enlarging European Union.

Still, European conscience is fragile. Already in 1954, it was too weak in the French National Assembly to accept a European Defense Community. It was partly restored through the creation of EEC and Euratom, but soon faded, during the Gaullist era in France, again. Thereafter, the compromise reached at The Hague Summit (1969) and the first enlargement

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<sup>1</sup> From the Address of Pope Benedict XVI to the German Bundestag. Berlin 22 September 2011. Full text on my website, European Union, Document E. 7. 1.

<sup>2</sup> As quoted by Tony Judt, *Post War A History of Europe Since 1945*. In his Epilogue, 'From the House of the Dead.

(1973) with Great Britain, Denmark and Ireland weakened it further. In 1973 the British disagreed as much as in 1950 with the three fundamentals of the ESCS Treaty. This time Britain had post-Gaullist France on its side. The Single European Act (SEA), after the years of crises in the 1970's, caused the integration process to deviate further from the spirit of the founding fathers. It moved the European Council from foreign policy forum to centre place. It enlarged the scope of action but blurred the distinction between community policies and intergovernmental coordination. It resumed the effort to transform the European Community into an Economic and Monetary Union (EMU). To that end the SEA created a new transitional period towards completing the internal market. With EMU in perspective, the completion of the internal market was no longer guided by the original three agreements. With the objective of removing all barriers to the freedom of movement for persons, goods, services and capital, the Eurocrats from the Commission and the Member States embarked on a program of detailed and intrusive regulation or harmonization of policies with an economic dimension, driven by the requirements for achieving the internal market.

In the absence of agreement on the purposes to be pursued, it was no longer possible to properly identify the interests deemed essential enough to be fused on the road to unity. The Treaty on European Union (TEU) in December 1991 marked the formal burial of the two original purposes of solidarity and political unity – a tragic irony as it coincided with the end of the Cold War. If ever, it was in the 1990's that these two original purposes would have made sense for Europe as a whole. The TEU of Maastricht thus marks a twofold deviation of the original spirit of the founding fathers. The transformation of Community into Union marked the end for political unity. EMU marked the end of real solidarity. Henceforward it was accepted that Britain and others could opt-out of EMU and other major programs. A so-called "two-speed" Europe, is not a Union in which states can reach the same goal at different points of time; it has become a Europe in which Member States can pursue different goals within the Union.

In 2016 Britain opted out completely. The absolutely irresponsible decision by Prime Minister Cameron in 2013 to call a referendum on British membership, resulted on 23 June 2016 in a small and completely unexpected majority for BREXIT. Negotiations on withdrawal on membership are governed by article 50 of the Lisbon Treaty:

## *Article 50*

*1. Any Member State may decide to withdraw from the Union in accordance with its own constitutional requirements.*

*2. A Member State which decides to withdraw shall notify the European Council of its intention. In the light of the guidelines provided by the European Council, the Union shall negotiate and conclude an agreement with that State, setting out the arrangements for its withdrawal, taking account of the framework for its future relationship with the Union. That agreement shall be negotiated in accordance with Article 218(3) of the Treaty on the Functioning of the European Union. It shall be concluded on behalf of the Union by the Council, acting by a qualified majority, after obtaining the consent of the European Parliament.*

*3. The Treaties shall cease to apply to the State in question from the date of entry into force of the withdrawal agreement or, failing that, two years after the notification referred to in paragraph 2, unless the European Council, in agreement with the Member State concerned, unanimously decides to extend this period.*

*4. For the purposes of paragraphs 2 and 3, the member of the European Council or of the Council representing the withdrawing Member State shall not participate in the discussions of the European Council or Council or in decisions concerning it. A qualified majority shall be defined in accordance with Article 238(3)(b) of the Treaty on the Functioning of the European Union.*

*5. If a State which has withdrawn from the Union asks to rejoin, its request shall be subject to the procedure referred to in Article 49.*

Everyone responsible for Brexit then resigned immediately and the new government (to which Boris Johnson now belongs as foreign secretary) with the usual British arrogance, decided to take its time to notify the European Council. In case the government will do so in early 2017 at least two more years of useless and difficult negotiations and uncertainty might be wasted before the EU can resume its normal tasks.

EMU also marked a new dictatorship of economic values in the era of globalization. There is no more "sense of common purpose". The Euro, once devised as a means towards economic

and political unity, became the principal source of conflict, divergence, disunity and distrust between member states.

Together with Brexit and the Euro-crisis, the inability to handle the tsunami of refugees and the new aggressive Russian policy caused a profound crisis of European unification.

The history of European unification presented in this volume is a story of a fragile if not broken European conscience: in law and language, in virtues and values, in politics and economics, in rights and wrongs, between en inside nations and in memory and forgetting.

### **Any lessons learned?**

The first lesson one could draw from the new method for organizing common action is a positive one. The new institutional method introduced by Monnet, Schuman and the ECSC Treaty has significantly modified relations between nations and men, indeed. Europe, for the first time in its turbulent history, became an (expanding) zone of peace and cooperation, characterized by the dependable expectation that conflicts and crises can be solved with peaceful methods. The underlying ideas formulated in the exceptional circumstances of a Europe ruined by war and translated into the law of the ECSC Treaty have proven to be a solid, constitutional foundation for the process of European unification. From this perspective, the drafting of "a constitution for Europe" in the early years of the 21<sup>st</sup>. century and its adoption in the shaky Treaties of Lisbon in 2009 were a sad example of organized forgetting.

A second lesson one could draw, is that crisis-resolution by peaceful methods has been producing more agreement than feared before the crisis, but less than hoped for. Despite recurrent crises, enlargement has proceeded apace. Modest institutional improvements have been possible, such as the merger of the institutions of the three original communities, direct elections for the European Parliament, the granting of limited budgetary and legislative powers to the European Parliament, and increased use of decision by majority in the Council of Ministers. Still, as the transformation from communities to Union is showing more and more, the crisis-resolution capacity of the enlarged Union is in serious disrepair. The management of the sovereign debt crisis in 2010-2011 and the Greek debt crisis in 2015 manifested very troublesome and expensive deficiencies. Summitry did not produce coherent

foreign policies, only doubtful German predominance. It is an unsuitable instrument for conducting common economic and monetary policies. It leads to serious failures in time of crisis.

A third lesson is that the most serious challenge to the new method for organizing common action is the growing opposition of member-states in the enlarged Union to the application of the new method within the extending scope of the European Union. That opposition - so to say - has been legitimized in the creation on French initiative of the European Council of Heads of State and of Government - a body standing above the European law, acting as the final instance in crisis-deliberation, but only capable of issuing guidelines to the institutions by laborious compromise and presidential conclusions. One should not overlook the irony in the history of European summits now formalized into regular meetings of the European Council. De Gaulle's proposal in 1962 was rejected exactly because of the purely intergovernmental nature of the summit meetings he wanted. The compromise agreed upon in 1969 had been that Summits could be used for promoting European Political Cooperation as an activity outside the scope of the European Communities. Today, the European Council stands at the apex of decision-making in all matters within the scope of the European Union. With its twenty seven national *prima donnas* as members, it does not manage to reach clear and workable conclusions.

A fourth lesson one could draw, is that agreement over the 'political finality' of the European Union is unlikely ever to be achieved. Despite the clear message of the Eurozone crises that one currency requires federal authority over economic, fiscal and budgetary policies, the political solutions offered for "economic government" are just a little bit more of the same. The European Union now has a fifth president in addition to the four already in the Treaties of Lisbon.<sup>3</sup> In other words and contrary to the original fundamental agreement, essential interest are no longer to be merged. They are to be dealt with in the European Council, which by its composition and task is incapable of giving direction to a future common destiny of the European states.

At best the European Union will continue to be a common market for all, an Economic and Monetary Union for some and a political union for none; that is: an overload in *acquis communautaire*, a diverging Eurozone, and twenty-seven speeds for foreign policy and

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<sup>3</sup> The President of the Euro Summit in addition to the President of the European Council, the President of the Council of Ministers, the President of the Council of Ministers for Foreign Affairs and the President of the European Commission. See Summit Statement of 26 October 2011 in Document EC. 135.

defense. At worst Brexit, Eurozone, refugees and Russia will bring the post-war process of European unification to an unhappy end.

A fifth lesson to be drawn is that the transformation of Community into Union has adversely affected the legitimacy of the European unification process. The EU's diminished legitimacy has two aspects. The *one* is the growing gap between the endless stream of resounding declarations on principles, values and objectives - and the increasing emphasis on national interests in actual negotiations. The *other*, related aspect is the growing gap between the Eurocrats (community and national officials) - and the citizens of the European Union, reflected for instance in the outcome of referenda, the rise of populist anti-Europe political parties, the low turn-out in European elections and the negative perception of the EU in the Member States. Whereas the process of transformation and admission to the EU was a political success story, the transformation was a failure from the perspective of everyday life, as it caused pain, bitterness and disappointment for so many people through unemployment, corruption, growing inequality and immorality. Enlargement since the end of the twentieth century continued in South-Eastern Europe despite the fences erected in 1993; often by not applying the very principles of 1993. Deepening integration was repeatedly proclaimed as a priority task. Opaque negotiation processes produced just a little bit more of the same, from the 1991 Maastricht Treaty to the latest Lisbon Reform Treaties on European Union.

The most important lesson to be drawn is that a Union directed by a collective Emperor in the garments of the European Council and standing above the law, is undermining rather than solidifying the process begun with the Schuman Declaration in 1950. The European Union is in deep crisis and not only due to globalization and the world economic crisis. In the glare of television cameras the appearance of compromise conceals lack of true progress and absence of common purpose – as has been made all too clear in the recent crises.

### **EMU's Fragile Construction.**

The development and management of the Economic and Monetary Union (EMU) have become the core-business and the greatest headache of the European Union. The financial, banking and sovereign debt crises of 2008-2011, have proven the EMU to be a flawed construction. The criteria for entering the Euro zone were loosely applied. Besides the

European Central Bank (ECB), there is no institution capable of giving direction to the policies required to uphold monetary union. The criteria for sustaining the monetary union were laid down in the (non-binding) Stability and Growth Pact<sup>4</sup>, adopted in 1997 on German initiative, but equally loosely applied. In 2005 the two leading states in the EMU – Germany and France – violated the criteria, but were not penalized. Thereafter the rules were relaxed for every state participating in the Euro zone.

It is not surprising, therefore, that the EU badly handled the crises since 2008. The only policy-instrument available for handling such crises was the European Council and became the European Central Bank once Mario Draghi became its president. Since the entry into force of the Treaties of Lisbon, the European Commission has been given a back seat. As a consequence the European Council stumbled, fully media-covered, from crisis to crisis with half-measures acceptable to the German Chancellor and her Bundestag. The French President could not but follow, the others had to accept, the outer ten were invited for drinks only.

The "last chance" special session of the European Council/Euro Summit took place on 26/27 October 2011. On the three items mentioned, the concluding statement announced possible measures *to be taken by others*, but failed to deliver the required solutions.<sup>5</sup> The crucial and underlying question how to resolve the serious sovereign debt crisis in the European Union has not even been addressed. The same applied to the question, how to assure public accountability on the huge sums made available to the debt-ridden countries. Even more shocking is the neglect of the social consequences of the draconic austerity measures imposed on countries like Greece, Italy, Ireland, Portugal and Spain.

In its concluding statement the Euro Summit offered just more of the same on the governance structure of the Euro area. Policy-making continues to be handled by more meetings on the Summit level. As already mentioned, a fifth president is to be added to the list of presidents provided for in the Lisbon Treaties. The reality remains that Germany is in the lead with France coming along and the others bound to follow. Euro zone members with excessive debts and deficits are required to adopt draconic reforms to achieve debt and deficit reduction. Their implementation is to be checked and monitored by the European Commission. Necessary further integration is promised but not spelled out. The ten measures to improve the governance of the Euro area, listed in Annex 1, are just a variation on the well-known summitry practice. Still, it is for the first time that structures parallel to the EU

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<sup>4</sup> Government annual deficit not to exceed 3% of GDP and national debt not to exceed 60% of GDP.

<sup>5</sup> Cf. Document EC. 135. The October 2011 Summit was neither the first nor the last "last chance" session.

structure for the twenty eight, are emerging for the Euro Member States; a development that is bound to further undermine unity and solidarity in the European Union. In the light of the failure of the Stability and Growth Pact, paragraph 26 of the Statement is the most deficient one. Instead of recognizing the need for supranational institutions capable of upholding the EMU, implementation is left to national measures. Nobody in the Summits appears to have learnt the lesson that a functioning EMU needs, in addition to the ECB, a European treasury, truly common European economic, budgetary and fiscal policies carried out by a capable and competent supranational European Commission. Robert Schuman would surely have understood.

The Conclusions of the 'last-chance' Summit tell us sadly that in times of crisis there is no real solidarity and there are no supranational institutions capable of giving direction to the EMU. In summitry Europe, leadership unavoidably returns to the strongest Member States, France and Germany. It is bound to be poor leadership. Consecutive French Presidents have made it quite clear that they are stuck to a summitry Europe. While preaching federalism, the German Government refuses any solution based on real solidarity within the European Union. In the absence of a shared common purpose, the French lack the political vision and the Germans lack the solidarity, required for unifying Europe.

Progress made since the last-chance Summit, has not been impressive. On 2 March 2012 EU member states – without Britain – signed the Treaty on Stability, Coordination and Governance in the EMU<sup>6</sup>. Essentially the Treaty confirms the conclusions of the European Council of 26 October 2011. Surveillance of the implementation of the rules already agreed upon in the Growth and Stability Pact, is to be strengthened. The agreement to improve the governance of the EMU is restricted to strengthening economic policy coordination through an informal summit, twice a year with its own president. In July 2012, the European President, Herman van Rompuy, submitted a report to the Summit, offering four building blocks for a stronger EMU: a Bank union, a Fiscal union, a more enforceable framework for economic policy coordination and a strengthening of democratic legitimacy.<sup>7</sup> At best, Council Members disagreed on the way to proceed.

Disagreement between "North" and "South" in the Eurozone, was sharpening again during 2015 while called upon to handle the renewed Greek crisis following the election victory of Syriza in Greece. Deadline after deadline passed until a dreadful compromise was

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<sup>6</sup> Text in Document E.7.3.

<sup>7</sup> Text in Document E.7.4.



reached in the Euro Summit of 12 July 2015.<sup>8</sup> The compromise imposed on Greece was much worse than the one rejected previously by the new Greek government. It was nevertheless accepted by the Greek Parliament and the German *Bundestag*, despite the warning of the IMF that debt relief would be needed to restore debt sustainability.

The EURO was conceived with a mixture of flawed economics and ideologies, according to Joseph Stiglitz in his latest book: "*The EURO and its Threat to the Future of Europe*".<sup>9</sup> The ideologies primarily responsible for its flaws are market fundamentalism and neoliberalism.

I had no doubt, that the Euro was flawed though more for reason of European politics than economic ideologies. After all, one of the founding fathers of the Euro was Jacques Delors, French socialist and President at the time of the European Commission. As he argued in one of his last interviews, with the Daily Telegraph on 2 december 2011: "The Euro came into existence without strong central powers to stop members running unsustainable debts, an omission that led to the current crisis..."[Still] all European countries must share the blame for the crisis, with Germany as the principal culprit for its stubborn ideas on monetary control of inflation, austerity and reform; and its refusal to consider debt-restructuring, as advocated by INF.

Stiglitz is making a number of crucial points on the negative role of Germany in the Euro crisis, on growing divergence rather than (the intended) convergence inside the Eurozone and on growing inequality. The fact that Germany as creditor nation with a huge trade surplus calls the shots in the European Union, rather than an impartial supranational authority, is the consequence of the flaws at birth. It is also responsible for the growing rift between Northern and Southern member states. The book does not advocate a smooth exit from the Euro. It ends with - what might be called - three options: (1) an improved Eurozone with a Banking Union that includes a common deposit insurance and a common regulatory system; (2) an amicable divorce, where he suggests that Germany should leave first; and (3) A flexible Euro. What he rejects as a viable road is to continue muddling through as has been the case so far, but he clearly favors the first option for economic, political and historical reasons.

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<sup>8</sup> Text in Document EC. 162

<sup>9</sup> Published in August 2016 by W.W. Norton and Company.

Short of a European Monetary Community with its own institutions and its own treasury, the European Monetary Union is bound to remain a system in permanent crisis, or to become a complete failure.

### **Pertinent Questions.**

Towards the end of the first Polish six months Presidency of the EU Council of Ministers, Foreign Minister Radek Sikorski gave a most remarkable address in Berlin on 28 November 2011,<sup>10</sup> asking his audience “where do we want to go” and I quote:

“We have two fundamental options. Before I say what they are, let me say that Euro zone’s failings are not the exception but, rather, are typical of the way we have constructed the EU. We have a Europe with a dominant currency but no single Treasury to enforce it. We have joint borders without a common migration policy. We are supposed to have a common foreign policy, but it is divorced from real instruments of power and often weakened by member states cutting their own deals. I could go on.

Most of our institutions and procedures depend on the goodwill and sense of propriety of member states. It works tolerably well when the going is good. But then a wave of migrants shows up on the EU’s border, or a civil war blows up in our neighbourhood, or markets panic. And then, what do we habitually do? We run for cover in the familiar framework of the nation state.”

The European Union since the Treaty on Union of Maastricht has seriously failed in its mission as intended by the founding fathers of the European Communities and by the “founding fathers” of enlargement since 1989. Among the reasons for the failure are the arrogance and the ignorance with which the Central and East European member countries were and are being treated by the Western European leaders since 1989. This arrogance killed the European spirit in the new member states of 2004. In countries like Poland and

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<sup>10</sup> "Poland and the Future of the European Union". \_Full text in Document E. 7. 2.on my website under European Union.

Hungary nationalism and resentment against EU (German) dominance are on the rise as strongly as in some of the Western member states.

## **The European Union and the world.**

From the beginning, foreign policy has always been seen as a national prerogative and – at most – as subject to consultation and intergovernmental cooperation, to be kept outside community Europe. As we saw in Part II, Chapter 5, foreign policy cooperation remained the prerogative – as Charles de Gaulle wanted in 1962 – of the political leaders in Summit meetings now called the European Council. As such it continued to manifest three fundamental weaknesses.

The first one is that it proceeds by case-by-case political compromise rather than by formulating and implementing a strategy and contingency planning. The second one is that it gives emphasis to projecting the EU method of peaceful cooperation to relations with third countries. The third most fundamental weakness is its persistent intergovernmental character. For any union of states, unity of purpose and power in relations with third countries is vital.

The EU, as we saw already, surrounded herself with illusionary arrangements like a partnership with Russia, an Eastern Partnership, a new Neighbourhood Policy and a new Mediterranean Union.<sup>11</sup> In the same vein, the EU also drew up the Common European Asylum System (CEAS).<sup>12</sup>

As a consequence the EU was caught unprepared when Russia invaded Ukraine and when the "Arab spring" descended into bloody and complex warfare in the Middle-East.

### ***Next to the Black Hole.*<sup>13</sup>**

The collapse of the Soviet Union, following upon the 'Year of Truth' in East and Central Europe produced monumental geopolitical confusion. Russia, shrunk to its seventeenth and

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<sup>11</sup> Documents E.5. 17 A-E.

<sup>12</sup> Document E. 7. 5.

<sup>13</sup> Term from Zbigniew Brzezinski, *The Grand Chessboard. American Primacy and its geostrategic imperatives.* Basic Books 1997. Also of interest his: *The Grand Failure. The Birth and Death of Communism in the twentieth century.* Charles Scribners 1989.

eighteenth century borders, but is surrounded by former Soviet Republics, ruled by former Soviet apparatchiks, with the exception of the three Baltic Republics. Administrative borders imposed by Moscow suddenly became State frontiers recognized in the Final Act of Helsinki (1975) and the Charter of Paris (1990) as inviolable.<sup>14</sup> External Soviet frontiers suddenly became frontiers of the new former Soviet Republics; all of them drawn by Soviet expansion at the end of the Second World War. The black hole, it must be emphasized, was the outcome of more than seventy years of totalitarian terror and communist, criminal mismanagement.

For obvious reasons, the newly independent European Republics wanted to move away from the Black Hole and associate themselves with the West, the United States and unifying Western Europe. When American foreign policy, around 1995, shifted from East-West cooperation to democratic enlargement,<sup>15</sup> NATO and the EU in its wake embarked upon the process of enlargement. At the same time member states of NATO and EU kept devising formulas for special partnership arrangements with shrunken Russia. They did so in the expectation that enlargement would draw Russia into the process of internal democratization and multilateral cooperation, while upholding the inviolability of frontiers agreed upon in 1975 and 1990, and reaffirmed for Ukraine in 1994.<sup>16</sup>

As we found out since Vladimir Putin became the Russian leader, Western and European expectations proved to be illusions. Putin embarked upon a policy to re-fill the black hole with a revived Russian Empire, by force when necessary and by destabilization of the "near-abroad". The annexation of the Crimea is meant to restore the power of Russia in the Black Sea and towards the Middle-East. The destabilization of Georgia, Moldova and Ukraine is meant to prevent their association to the European Union and restore their submission to Russian imperial rule.

The Eastern Partnership and the EU-Ukrainian Association Agreement<sup>17</sup> are seen by Ukraine as a step towards Europe and away from Russia, whatever the EU declares to the contrary. Moscow clearly sees it as an effort to prevent Russia from reviving the Russian Empire and will continue to further destabilize Ukraine. It should also be kept in mind that Russia's history as an orthodox Christian nation began with the baptism of Prince Vladimir of Kiev in

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<sup>14</sup> Cf. Chapter 8 in my: *The Illusions of détente*. WLP 2009. Volume II of *Footprints of the 20<sup>th</sup>. Century*.

<sup>15</sup> Cf. my: *Western Cooperation*. WLP 2009. Volume III in the series *Footprints of the Twentieth Century*.

<sup>16</sup> Cf. Document E. 7. 6.

<sup>17</sup> Text in Document.E. 7. 8. Explanation in Document E. 7. 7.

988 A.D. Part of Ukraine has always been part of Russia – from Kiev to Odessa. Its present borders were drawn by the Molotov-von Ribbentrop Pact of August 1939.

From Moscow's point of view, the EU-Ukrainian Association Agreement is a threat to Russia. Kiev and Odessa should belong to the Russian Empire rather than be part of a unifying Europe. As a primarily economic and monetary union, the EU is too weak to deal with the Russian geopolitical challenge. In the real world of power politics, soft power is no power.

### *After the Arab Spring....*

A similar conclusion shall have to be drawn from the EU's involvement in the real world of Middle-East politics. During the First World War, Britain, France and Russia thought they could carve up the territory of the Ottoman Empire into zones under their control.<sup>18</sup> After the Bolshevik *coup d'état* in 1917, Russia withdrew from the agreement. After the second Peace Treaty with Turkey in 1923, only Syria, Iraq, Jordan, Lebanon and Palestine were left to be placed under French or British control.<sup>19</sup> Following the Second World War, France and Britain withdrew, leaving a turbulent area behind them. Israel came into being in 1948 following the UN General Assembly Resolution on the partition of Palestine; a territory marked by continuous warfare and excessive interest on the part of Europe and the international community. Jordan survived as a reasonably stable kingdom. Syria and Iraq (until the American invasion in 2003) came to be ruled by cruel dictators, who allied themselves with the Soviet Union. Following the American invasion of 2003, Iraq descended into prolonged internecine warfare. Syria descended into an excessively cruel civil war in which the Assad regime of terror survived so far only by Iranian support, Hezbollah fighters, Russian weapons and – very recently – Russian military intervention. The beautiful plans for a Mediterranean Union, for contributing to peace in the Middle-East and for turning dictators (like Gadhafi and Assad) into respectable, democratic leaders had all failed.

There is very little the EU apparently can do to end the wars in Iraq, Syria and elsewhere. Increasingly, however, the EU has to cope with one of the consequences of the wars: the massive numbers of refugees from Syria and Iraq - most of them already in camps in Turkey, Lebanon and Jordan – trying to reach EU countries by whatever means of transport they can find and afford. With great difficulty over the past years, compromises had been found inside

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<sup>18</sup> The Sykes-Picot Agreement 1916 to which Russia was associated. See Document GL.11 on my website.

<sup>19</sup> Cf. Chapter 7 in my: *Neither Justice nor Order. Reflections on the State of the Law of Nations*. WLP 2014. Vol. V in the series Footprints of the Twentieth Century.

the European Union on how to deal with asylum seekers.<sup>20</sup> However, the Common European Asylum System broke down in the face of the massive numbers of migrants trying to enter the EU by illegal means – largely because the rules of the CEAS prevented them from coming by legal means.

Still in the midst of the refugee crisis, no other conclusion can as yet be drawn. Yes, again summits are called to find solutions and produce opaque compromises.<sup>21</sup> One can see the two principal weaknesses of the EU. The one is the absence of a European Foreign Policy where contingency plans could and should have been made to deal with the foreseeable consequences of almost five year Syrian civil war. The second one is the lack of solidarity and unity in time of crisis, inside the EU.

### *The European Union and the United States of America.*

The two external relations crises faced by the European Union, unavoidably bring us back to Europe's relations with the United States of America and the ongoing negotiations on "**The Transatlantic Trade and Investment Partnership (TTIP)**".<sup>22</sup> Whatever the economic merits of such partnership, negotiations are moving very slowly and resistance against it, is building up on both sides of the Atlantic.

European Unification since 1950 was made possible by the Alliance with the United States, the Marshall Plan, OEEC and NATO.<sup>23</sup> The Marshall Plan enabled economic recovery; OEEC did the groundwork for economic integration; NATO ensured Europe's security in the process. Over the years European unification intensified, deepened and extended from two to twenty eight (before Brexit) European states. All of this was made possible by the close alliance between a unifying Europe and the United States. Some Europeans may have dreamed that the European Union could do without America, first during the era of détente, thereafter in the post-Cold War era. They failed to wake up to the reality that an independent European foreign policy needs federal unity and strong military power. In its absence, a strong alliance with the United States was the only alternative.

The strength of the alliance and the reliability of the United States can no longer be taken for granted. The ill-fated invasion of Iraq in 2003 ended American predominance, President

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<sup>20</sup> See Document E. 7. 5. On the CEAS.

<sup>21</sup> See for instance European Council Conclusions since 2014.

<sup>22</sup> For a brief description see document E. 7. 9.

<sup>23</sup> See my: *Western Cooperation*. Volume III in this series Footprints of the Twentieth Century.

Obama preferred prudence over leadership in foreign policy. What American foreign policy will be after the November 2106 Presidential elections is anybody's guess!

## **Europe's Conscience: Fading, Failing and Fragile?**

*In our early twenty-first century, Europe's conscience is fading and failing indeed..*

As Tony Judt wrote in 2008: "In the West we have made haste to dispense whenever possible with the economic, intellectual, and institutional baggage of the twentieth century and encouraged others to do likewise. In the wake of 1989, with boundless confidence and insufficient reflection, we put the twentieth century behind us and strode boldly into its successor swaddled in self-serving half-truths: the triumph of the West, the end of History, the unipolar American moment, the ineluctable march of globalization and the free market."<sup>24</sup> Elsewhere, Tony Judt wrote: "But we have become stridently insistent – in our economic calculations, our political practices, our international strategies, even our educational priorities – *that the past has nothing of interest to teach us*. Ours, we insist, is a new world; its risks and opportunities are without precedent."<sup>25</sup>

What Tony Judt refers to is what Milan Kundera called 'organized forgetting' in the totalitarian states of the twentieth century. Where ideology reigns, the past is even more uncertain than the future; history though must continuously be rewritten to suit the policies of the ruling leaders. It is the heritage affecting all of Europe, East as well as West. Such 'organized forgetting' is a product also of the Western ideologies of progress, revived after 1989 in the ideology of economic growth through globalization and privatization.

*The "European Union may be a response to history, but it can never be a substitute".<sup>26</sup>*

Herein lies the problem of Europe's *fading* conscience. The EU Summits, since 1991, with their conclusions on enlargement, monetary union and "constitutional" reform have been trying exactly that: to present the EU as a substitute for history. The "collective emperor's" disowning of the past includes the Holocaust, specifically discussed in Judt's epilogue; it also

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<sup>24</sup> Tony Judt, 'What Have We Learned, If Anything? *The New York Review of Books*. May 1, 2008.

<sup>25</sup> Tony Judt, *Reappraisals. Reflections on the forgotten twentieth century*. Penguin Press 2008. From his Introduction: The World We have Lost on p. 2.

<sup>26</sup> Tony Judt, *Post War. A History of Europe Since 1945*. Penguin Books 2005. Concluding sentence from the Epilogue to the book on p. 831.

extends to the spirit of the founding fathers of Europe, the spirit of *Solidarnosc* and the Christian heritage of Europe.

*Europe's conscience is failing if not broken down..*

The EU has failed to recognize and resist the dictatorship of economic values installed by the new ideologies of globalization and privatization; in fact the EU supported both ideologies by the way in which the internal market was completed. Through instruments like the Public Procurement Directives, public services like railways and post were forcibly turned into private companies<sup>27</sup>. Debt countries were forced to accept privatization as panacea for austerity and reform. The interests of the citizen were replaced by the interests of the shareholders. Private profit replaced public service. Governments were expected to act in conformity with market rules, rather than pursue the common good..

The search for principles to provide a solid foundation for pursuing European unity degenerated into an open ended discussion on European values and the almost frivolous decision to write the European Human Rights Charter into the law of the European Union. Rather than recognizing the fundamental problem of evil (Hannah Ahrendt), the discussion moved beyond good and evil into a new language of value relativism. I would urge the reader to re-read part I (chapter 3 in particular) of this volume after having studied the history of European Unification proper in the second part.

### **Europe's conscience has become very *fragile*.**

As Pope Benedict XVI said to the German Bundestag:

"The conviction that there is a Creator God is what gave rise to the idea of human rights, the idea of the equality of all people before the law, the recognition of the inviolability of human dignity in every single person and the awareness of people's responsibility for their actions. Our cultural memory is shaped by these rational insights. To ignore it or dismiss it as a thing of the past would be to dismember our culture totally and to rob it of its completeness. The culture of Europe arose from the encounter between Jerusalem, Athens and Rome – from the encounter between Israel's monotheism, the philosophical reason of the Greeks

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<sup>27</sup> See e.g. Dir-Jan Eppink, *Life of a European Mandarin. Op,cit.*



and Roman law. This three-way encounter has shaped the inner identity of Europe. In the awareness of man's responsibility before God and in the acknowledgment of the inviolable dignity of every single human person, it has established criteria of law: it is these criteria that we are called to defend at this moment in our history."<sup>28</sup>

The tragedy of the European Union today is the denial of this European heritage in the name of economic growth and secular multiculturalism. Schuman was just as clear, as Pope Benedict, when on 19 March 1958 after his election as the first President of the Common Assembly of the European Communities, he said: "*Tous les pays de l'Europe sont imprégnés de civilisation chrétienne. Elle est l'âme de l'Europe, âme qu'il faut lui rendre.*"<sup>29</sup> Marcello Pera fully agreed. Europe is imbued with revolutionary Christian ethic principles. Without them democracy, human rights, the rule of law and European Unification would have been unthinkable. Indeed, Schuman saw the Christian civilization to be the soul of Europe, a soul deeply wounded by the wild triumphs of the anti-European and anti-Christian ideologies of Nazism and Communism, and to be healed through European Unification. Such was the spirit of Schuman, now sadly missing in the European Union of the Treaties of Lisbon. Time has come for Europe to recover her soul and to return to the solid constitutional foundation of the original Schuman Plan. The European Union needs a true and short Constitution, re-affirming the original threefold agreement on purposes, the road to follow and the method of common action. There is no alternative for emerging from the current deep moral crisis of European Unification.

Readers of this volume will recall the importance I attach to the "Spirit of 1989" for the peaceful re-unification of Germany and Europe. Successful civil resistance against communist rule was no less than a "revolution in the realm of the spirit", born from the truly Christian virtue of solidarity.<sup>30</sup> The spirit of Schuman and *Solidarnosc* is still alive in the European Union.

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<sup>28</sup> From the address of Pope Benedict XVI to the German Bundestag. Full text on my website, loc.cit.

<sup>29</sup> As quoted in: Marcello Pera, *Pourquoi nous devons nous dire chrétiens. Le Libéralisme, l'Europe et l'éthique*. Editions Parole et Silence 2011. Traduit de l'italien avec une préface de Benoît XVI

<sup>30</sup> Cf. Józef Tischner, *The Spirit of Solidarity*. Op.cit.

Somewhere in Europe we can still find a re-assuring answer to that great question with which Pope Benedict XVI concluded his address to the German Bundestag:

"As he assumed the mantle of office, the young King Solomon was invited to make a request. How would it be if we, the law-makers of today, were invited to make a request? What would we ask for? I think that, even today, there is ultimately nothing else we could wish for but a listening heart – the capacity to discern between good and evil, and thus to establish true law, to serve justice and peace."

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