

Christian E. Rieck: Quid est Europa? Myth, Finality, Utopia, and the European Dream

Shortly after its creation in 1949, the European Council, welcomed with great euphoria at first, proved a disappointment: The permanent 'no' of Great Britain and Scandinavia caused the development of supra-national institutions to fail, and the plan to create a European Army could not be put into practice. In an environment still marked by nationalist thinking, the time was not yet ripe for cooperation. European integration was denied success, and people spoke of a 'crisis of Europe' – not for the last time.

The project of Europe is an open one. Today, the Union is a union of states and citizens, and it is this finality concept which, open but not free of value, renders the dispute about the project's direction and speed possible. Europe is an everlasting building site, with every single step towards integration being the result of both internal and external factors, dependent not only on the designers' political will but also on external conditions that influence the system of the Union.

At the beginning of the century, things were apparently looking good for the European project. The Maastricht Treaty of 1991 then seemed to prove a pacemaker, giving a considerable impetus to the Union's integration dynamic. Through the Bologna Declaration of 1999, 45 states intended to create a European Higher Education Area by the end of 2010. The plan of the Lisbon Strategy of 2000 was to turn the EU into the world's most competitive region within one century. The Treaty of Nice, which came into force in the same year, brought new constitutional structures. And the Euro was introduced as the EU's currency in 2001. Up to its recent crisis, so it seemed, things were going smoothly for a long time – with and within Europe.

However, although the European elites were harshly criticised for the recent crisis, they were by no means insensitive to the fears of the citizens. The debate about the Union's 'democratic deficit' resulted in direct elections for the European Parliament as early as 1979, and doubtlessly created a considerable degree of transparency over the years.

The power of the state that is established in a constitutional state recurs to the citizen who is also its source, thus forming a bridge to democracy. Liberal democracy is inherent in the human- and civil-rights concept; it is the organisational consequence of human dignity. But the fact that the political decision-making process and the hierarchy of competences do not coincide gives rise to that conflict potential that is bewailed as the EU's 'democratic deficit'.

The democratic principle of the EU is concretely expressed in the 'dual legitimation' which may also be found in its constitution, with the indirect legitimation process preponderating markedly. The draft developed by the Convent does nothing to change this since it is not 'radical' enough when judged by the ideal of democracy. In national constitutional law, the organisational constitution is still dominated by the principle of democracy, i.e. the political equality of all citizens. In the constitutional law of the Union, on the other hand, managing diversity must be accorded equal importance. While the Union's principle of democracy does explain the protection of the participation rights of the European Parliament, it does not explain the expansion of its competences.

Through the current constitutional debate, the Union intends to open a 'window to the world' and move closer to its citizens. For this purpose, constitutional policy-making takes place not only between supra-nationalists and intergovernmentalists; rather, to put it simply, there are two schools of thought that confront each other: The 'rationalists', who feel that decision-making is controlled by the interests of strategic actors, and the 'constructivists', who consider the influence of norms, ideas, and values more significant. Much as the different analysis matrices may have a value of their own

– Europe manifests itself only in a synopsis of several integration theories.

When, in 2003, the 'post-Nice process' ended in the Convent's presentation of a draft for the constitutional treaty, differences in personal attitudes towards Europe became clearly apparent. Some expressed their fear of a superstate, while others courageously professed allegiance to the European federal state: It apparently was a proper meeting in the sense of a *conventus*. The Convent's active players included not only the heads of state and government of the member states, the accession candidates, and the Commission but also a three-member steering committee, observers from the industry, the labour organisations, and the economic and/or social commission, representatives of the regions, and the European Ombudsman, with the Court of Justice, whose judicature was to be codified in the treaty, and church and civil-society representatives working in the background. In October 2004, cooperation between all these players ended in the adoption of the document, which by now has been signed by 14 of the 25 states.

The fact that the draft treaty failed in the referendums in France and the Netherlands certainly was a heavy setback for the Union; however, despite all the criticism that has been voiced since then, one thing should not be overlooked: The identity-forming effect of a European everyday life and the people's awareness of the Union's high renown throughout the world are real.

That the European treaties were updated by the Convent also shows that constitutional policy is finality- and thus identity-related, determining the goal of the European way. Europeanisation implies dissolving the boundaries between nation states and including them and their societies in the European process of integration, which means that control of the further development of statehood is not passed on entirely to the European level but remains partially at the nation-state level: National decisions do have an effect on European decisions. The resultant pressure to initiate changes acts both ways, inevitably causing member states to expand their horizon in the direction of Europe.

The nation states will certainly not disappear. While it is true that different actors all play their specific and defined legal roles within the European hierarchy of competences, it is also true that their policies are closely interwoven. In democracy theory, this might seem a problem, but it is valuable in game theory. This also accounts for the identity-forming value of European everyday life.

The EU still is more of a union of states rather than citizens. Being close to the citizen is an act of faith, but the civic society's participation in constitutional politics is still low. Nevertheless, the Convent has set a stage which might turn out to be the first move towards establishing an 'open society of constitutional interpreters in Europe'.

Europe is a building that lacks a defined territory; its boundaries are flexible. Traditional borders have developed into bridges, citizens of different constitutional states no longer regard each other as foreigners: Europe represents the delocalised territory of a common cultural heritage.

Twenty years ago, some of the things Europe has now achieved were nothing more than fantasies. In this context, the fact speaks for itself that the members of the Union and their Western allies so naturally assigned the task of rebuilding Eastern Europe to themselves. Europe needs the positive utopias that lead to such a natural manner; what it does not need is ballads of failure.

Finality must not mean relapsing into nation-state thinking. This is why Europe should never see itself as 'closed'. What is needed is a 'constitution of pluralism'. Independent of their mono- or multicultural composition, the states must understand themselves as pluralist: Protecting ethnic,

cultural, religious, and linguistic minorities is indispensable.

Without a doubt, the nation still plays a fundamental role: Europe's diversity of nations that form a community is part of both its cultural heritage and its cultural future. As the cultural fundamental freedoms of faith, science, and art represent innovation potentials of the constitutional state, thus the nation itself is both the pillar and the guarantor of the European constitutional community.

Now, what are the aims of the Union? Its finality may only be the common and shared finality of its member states. To be sure, European integration is a contractual project of enlightenment based on reason, but this does not end the discursive search for what the different visions of the acting players have in common. The way to utopia is marked by curves and compromises; it can be mastered only slowly and in small steps. However, the project of a 'European dream' might form an identity – one of the prerequisites for peace, values, and prosperity on the continent of wars. In this case, Agenor's daughter could be certain of her place in the sunshine of Crete.