

European issues

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What kind of European Integration in the 21st century?

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Abstract :

To a certain extent Europe is a victim of its own success. It has forgotten that it was established to defend peace, the rule of law and democracy. We absolutely have to return to basics if we want citizens to support European integration again. The Council of Europe is particularly skilled in defending this Europe of values even if it needs to reform as it has started to do. In brief and to be more precise, the message is clear. Europe has to be more political and, as far as possible, speak with one voice, focusing on what is vital.

INTRODUCTION

Originally after 1945 and the two world wars the goals behind European integration were quite clear: peace and democracy. Never again should we suffer the horrors that had occurred on our continent. Our eminent elders, Robert Schuman, Winston Churchill, Konrad Adenauer and many others shared this goal.

From the start an "economic" chapter was part of the plan, in the sense that ruined Europe needed to recover the path of prosperity. This was notably the work of Jean Monnet. However in the beginning even this chapter pursued political goals. The European Community of Steel and Coal (ECSC) aimed to forge indissoluble links between France and Germany. The joint management of coal and steel made another war highly unlikely. The euro is also, and above all, a political creation. The technicality of the issues being addressed and their highly complex nature distances ordinary citizens from them. This has not been simplified in any way by the extraordinarily profuse institutional structure and the Lisbon Treaty.

I – LET'S GET BACK TO A EUROPE OF VALUES!

To a degree, the very success of the European Union and the extension of its competences in particular, have meant that Europeans have lost sight of the meaning behind European integration, which is deemed to be technocratic. This perception has worsened with the ever increasing transfer of competences over to supra-national levels without adequate democratic measures

being taken at the same time, as highlighted by Jürgen Habermas.

"With the deregulation of the markets and the disappearance of the borders in the areas of transport and information a need for regulation has emerged which has to be addressed and managed by transnational organisations and networks. Even though the civil services of each government have taken part in their drafting the decisions taken by these political networks have had major effect on the public life of Nation-States without being integrated into the circuits of legitimation." [1]

What is true of the World Trade Organisation (WTO) and the International Monetary Fund (IMF) is also true of the European Union and this in spite of the role played by the European Parliament to make good this democratic deficit. In this regard turnout figures in European elections speak for themselves.

Let's get back to basics. It goes without saying that the economy is vital but it is not everything. A vision of Europe which is limited to these issues leaves it exposed to consumerist criticism. As soon as problems arise the "citizen-consumer" no longer supports a vision whose results are disappointing. Surveys clearly indicate this danger and the elections confirm it, with the rise, of right and leftwing extremism everywhere across the continent, which often converge on one point: the rejection of democracy.

We have to defend the will to live together based on the unshakeable belief that we have a joint destiny and shared values. It is on this basis we shall be able to

1. Jürgen HABERMAS. *Entre naturalisme et religion. Les défis de la démocratie*. Gallimard 2008, page 296.

reconcile Europe and its citizens. I firmly believe that the Council of Europe can help in this. Isn't it a Europe of values that we need above all else?

I would like to point out that the European Council was established in 1949 on the basis that "it (the horrors of the war) would never happen again." In this period of crisis we should not believe that we are safe from aggressive nationalism, racism and intolerance. Quite the opposite!

Even States, often quoted as models, are experiencing problems linked to the rise of extremism. I am thinking here for example of the recent riots in Sweden. Today Europe is struggling to accept what it has become: a multicultural, heterogeneous, open society.

Without having to even go beyond our own continent we can gauge the problems experienced in promoting the enlargement of the European Union. No one more than me has called for and supported enlargement, which is considered badly by many Europeans. The resulting heterogeneity of the Union could be a problem, but let's be honest and set two questions: Are we perfect? Is it abnormal that States which have not always experienced democracy and which in any case have suffered decades of totalitarianism need time to achieve a level of democracy which we took nearly two centuries to achieve? Democracy cannot be reduced to formal rules. It is a state of mind which I would summarise as follows: winning elections does not grant the power to do anything you like. You have to respect your rivals! We should recall the III Republic in France. It is not just the law of 1901 on the freedom of association – it is also for example the "affaire des fiches" (denunciation card affair) and the 16th May 1877 with the ensuing clashes, the conflict between the President and parliament, purges in the civil service and the judiciary etc... Democracy is not built from one day to the next.

At the same time the attractiveness of the European Union beyond its borders is waning as its economic problems grow. Then it is the European Union's ability to foster its values which is then weakened.

Given the serious crisis facing European integration

and more generally the identity crisis our continent is experiencing, we have to respond if we want to prevent everything that has been achieved from progressively disintegrating. And in the same way we should return to the essence of European integration, which is political in nature in the non-partisan sense of the term. By limiting myself to one example, that of the European Union's foreign and security policy, it is now clear that we created the means before we defined any political goals. And if there is no agreement on these end goals, on Syria, Israel etc.. we might wonder about its pertinence as it stands and ask whether it might not have been better to achieve a consensus over a certain number of goals before creating new jobs and a new administration, the European External Action Service (EEAS). A study [2] concluded that we were witnessing rather more a "diplomatisation" of the Union than a "Europeanisation" of Member States' policies. Appointing Ambassadors of the European Union almost everywhere in the world is only a good thing if there is a message to convey on its behalf! The Union probably did not address this issue in a sufficiently political manner believing that the Service would compensate for the weakness of the political dimension. In his history of Europe Emmanuel Berl has already pointed out that *"Europe seems to feel a kind of aversion to unity, and yet it cannot afford the monstrously expensive luxury of national antagonism. It has to be aware and will be increasingly aware of its deeply established sense of solidarity."*

I shall leave it to the authorities of the European Union to put forward proposals about matters for which they are responsible. As President of the Parliamentary Assembly of the Council of Europe I should like to insist on an avenue that is too often neglected: that of the Council of Europe.

II – AN AVENUE THAT IS TOO OFTEN NEGLECTED, THE COUNCIL OF EUROPE

This organisation's main mission is Human Rights, the rule of law and democracy – i.e. our continent's core values. We have to assume our values and be proud of them. Xenophobia, racism, nationalism are only rising

2. See the BQ Europe of 21st
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in fact out of fear for the future, because of confusion in the face of an ever changing world. The disarray felt by governments and the lack of credible response on their part are providing fertile ground for extremists. I shall therefore try to present briefly what the Council of Europe might offer working together with the European Union of course. This also supposes that the Council of Europe, from all points of view, will continue its work to adapt to the 21st century.

If the Council of Europe were put to better use it could help take forward the rule of law and democracy in Europe. What are the tools it has at its disposal?

Indeed the Council of Europe has a range of tools to gauge the respect of its values on our continent and to help Member States to respond to the requirements to which they have freely subscribed.

The first of these tools and the one which is best known is undeniably the European Court of Human Rights [3]. Responsible for supervising the implementation of the corresponding convention it has succeeded in creating a wide ranging pan-European area of fundamental freedom. The agreement of principle concluded with the European Union in view of the latter's accession to the said convention should complete the standard nature of its implementation. Even States which are legitimately proud of the progress they have made in this area – France prides itself on being the country of Human Rights; the UK etc. have been reminded by the court that they can do better. If I just speak of my own country I should recall the effect of the Strasbourg Court's jurisprudence regarding the custody system or the state of French prisons. When national supreme jurisdictions fully accept this Court's goals its efficacy finds leverage. To take another example in France it is interesting to see how the State Council's jurisprudence has led to a real system to protect prisoners' rights. The Court's efficacy is not boundless however. It cannot change everything in a country. A limited number of States turn to the Court to such an extent that it may very well be overwhelmed.

This is also why the toolbox which I am speaking of is not just limited to one instrument. Regarding legal

systems I would quote the European Commission for the Efficiency of Justice (CEPEJ) [4] which publishes a report every two years offering interesting comparative factors between Member States' legal system, providing food for thought for those who want to improve their own system. The Venice Commission, whose 59 members, – including the USA and various States which take part in some way or another via various statutes, outnumber those of Member States of the Council of Europe and give useful opinions to Member States who want constitutional advice. It works closely with the various Constitutional Courts in Europe. The European Committee for the Prevention of Torture (CPT) [5] helped greatly in introducing an objective external view to areas where people are deprived of liberty and thanks to its recommendations it has helped to establish Human Rights in places where it has been difficult to implement them.

Rule of law is not truly implemented if a State is riddled with corruption or with dirty money. I can but laud the exemplary role played by the Group of States against Corruption (GRECO) [6] and the Committee of Experts to Evaluate Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL) [7] which works to counter the laundering of dirty money. Hence I would like to note that both the Holy See and Israel have both voluntarily called on these services although they only have observer status within the organization.

This provides me with the opportunity to highlight the "weakness" of the Council of Europe which is also one of its real strengths. Some of its conventions, can only be subscribed to by the States which so wish it. Another possibility: a certain number of its conventions are open to ratification by States which are not members. This is the case with the Istanbul Convention on Preventing and Combating Violence against Women and Domestic Violence and the Venice Convention. The European Directorate for the quality of medicines which is notably responsible for supervising the content of these medicines is based on a convention whose members easily extend beyond the geographic limits of our continent. I might also speak of the fight to counter violence to women and children, doping, cultural routes, the fight to combat racism (ECRI) [8]

3. <http://www.echr.coe.int/Pages/home.aspx?p=home&c=>

4. http://www.coe.int/t/dghl/cooperation/cepej/default_EN.asp

5. <http://www.cpt.coe.int/en/default.htm>

6. http://www.coe.int/t/dghl/monitoring/greco/default_EN.asp

7. http://www.coe.int/t/dghl/monitoring/moneyval/default_EN.asp

8. http://www.coe.int/t/dghl/monitoring/ecri/default_en.asp

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labour rights, etc. I do not aim to make a catalogue here but to give readers an idea of the wealth of our toolbox.

On the initiative of Finland the Parliamentary Assembly of the Council of Europe, has established a better known follow-up procedure. New member States voluntarily submit to integrating a certain number of obligations and every two years the Monitoring Committee presents a report on the progress achieved and on what still needs to be done. The aim is then to move on to the post-monitoring phase which should end when the commitments made have been fully respected.

If we consider all of the tools and mechanisms available to the Council of Europe we have an extremely precise overview of the situation in the Member States in terms of the respect of Human Rights, the rule of law and democracy. I firmly believe that it is of vital importance for these mechanisms to be pooled with the European Union, that the latter does not create – at great cost – competing instruments but that it uses those that exist already. I am glad that the European Union used the work by the European Commission for Democracy through Law via the so-called Venice Commission [9] to assess Romania's situation in 2012 and Hungary in 2013.

The difficulty incidentally does not really lie in analysing the situation. From this point of view I really believe that the pooling of the instruments available

to the Council of Europe meets this requirement and I would challenge the idea of duplicating them. However I acknowledge that there is a challenge that both pan-European organisations have to face. How do we help the States which wander too far from our values to develop?

Recently we have spoken a great deal about sanctions. Is this realistic? Is it the right solution? I believe that exclusion is the ultimate arm, only to be used if there are no other means, as we did with the colonels in Greece at the end of the 1960's, because, *in fine*, it is an admission of failure. We have to privilege dialogue in all events, as we did, - successfully I believe- with Romania during the crisis in the summer of 2012.

The Council of Europe must continue to reform of course and continue the reform started by its Secretary General, Thorbjørn Jagland, and myself, as far as the Parliamentary Assembly of the Council of Europe is concerned. Again the message is clear: to be more pertinent our organization must be more political. Europe must also speak with one voice as far as possible and re-focus on what is vital by accepting the differences between its members. "All different, all equal" if we are to emulate the Council of Europe's motto.

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9. <http://www.venice.coe.int/webforms/events/default.aspx?lang=en>

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