



Europe of the Regions and Cities

Practical experiences, historical aspects, theoretical models

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Edited by Claudio Cressati and Giangiacomo Vale

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Coppieters Foundation promotes policy research at the European and international level, focusing primarily on management of cultural and linguistic diversity, multi-level governance, political and economic governance of sub-central governments, decentralization, state and constitutional reform, self-determination, conflict resolution, human rights and peace promotion. Coppieters Foundation is a European Political Foundation, founded and recognized by the European Parliament since 2007.



The European Academy was founded in 1989 with the aim of promoting European information and education for citizens, with a particular focus on the young. In 1993, it was also recognized by the Autonomous Region of Friuli Venezia Giulia as a "European promotion service body". As such, the Academy organizes courses, seminars, conferences, exhibitions, and even informal meetings on European topics. In addition to editing a range of publications – including the journal *Rassegna Europea* – it also maintains its own specialized library. Most of the Academy's activities are promoted in collaboration with similar associations and Houses of Europe across the continent.



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Preface

Civic education and multi-level governance for Europe

Claudio Cressati

President of the European Academy of Friuli Venezia Giulia

Together with the Coppieters Foundation in Brussels, the European Academy of Friuli Venezia Giulia in Gorizia launched a research project in 2022 on the topic of a Europe of regions and cities.

As is well known, the Coppieters Foundation is a European political foundation, recognised and supported by the European Parliament since 2007. Its aim is to develop new ideas and proposals on the management of cultural and linguistic diversity, collective and minority rights, multi-level governance, decentralisation, state and constitutional reform, statehood processes, self-determination, migration, peace studies and the protection of human rights in Europe¹.

¹ <https://ideasforeurope.eu>

For its part, the European Academy² is an association of people who, in the now mythical year 1989, decided to commit themselves to promoting the ideals of European integration in Friuli Venezia Giulia. Across the continent there was an air of genuine euphoria for what was happening in those months. The demands for freedom and democracy were pressing and multifaceted, not only in Berlin, where the wall fell, but also throughout Central and Eastern Europe. It is necessary to remember that moment to understand the initial impetus of the association, which was taking its first steps and deciding its own path, sustained by sincere enthusiasm and the great hopes that the process of European integration was arousing. It should also not be forgotten that in May of that year, a referendum was held in Italy, which followed a specific constitutional law: 88% of voters supported the creation of a true European political Union with a Constitution and an effective common government³.

Although the promoters of the Academy came from all over Friuli Venezia Giulia, the fact that they decided to root it in Gorizia – a city that symbolised so many of the fractures that they wanted to definitively overcome – represented a very clear choice. The intention was to follow the example of other organizations that had already been operating for years, especially along the Franco-German border, by activating first of all with the neighbours (which in this case were neutral Austria and then socialist Yugoslavia), a constant dialogue and attention which would favour mutual understanding and joint action to overcome the divisions of the past. It can well be said that the overall design and vision have remained the same, while thanks to the enlargement of the European Union and projects such as the *EGTC GO*⁴ and the *EGTC Euregio Senza Confini*⁵ the potential for collaboration and shared planning on a cross-border level has greatly increased.

In these thirty-five years, the Academy has thrived: it has promoted large and small meetings in the various centres of Friuli Venezia Giulia, conferences, exhibitions, informative events in schools and public events on 'Europe Day'. It has organised seminars and study visits to the most important European institutions in Brussels, Strasbourg, Luxembourg and in the capitals of the countries, which in turn held the presidency of the 'European Semester'. It has retraced, in their place of origin, the

² <http://www.accademia-europeista.eu>

³ The question put to the voters was as follows: «Do you believe that the European Communities should be transformed into a real Union, with a government accountable to Parliament, and that the European Parliament itself should be given the mandate to draw up a draft European Constitution to be submitted directly for ratification by the competent bodies of the Community Member States?» On the subject see: *Il primo referendum per la Costituente europea*, in *'Il Federalista'*, 1989 (31), no. 1, p. 3; P. Costanzo, *La Costituzione italiana di fronte al processo costituzionale europeo* (www.giurcost.org), in F. Modugno (ed.), *Attuazione e integrazione della Costituzione*, Napoli, Jovene, 2008, pp. 85 ff.

⁴ <https://euro-go.eu/en/>

⁵ <https://euregio-senzaconfini.eu/en/>

legacy of great European writers, such as Ivo Andrić⁶ and Robert Musil. Many events were organised together with other associations, mainly European Academies and European Houses, operating with similar aims across the continent: from Madeira to Oslo, from London to Nicosia. These institutions are linked in a network called EUNET (European Network for Education and Training, headquartered in Bonn), one of the most widespread transnational organisations for the European education of citizens, with over 70 members⁷.

An important achievement has also been the resumption of the publication of *Rassegna Europea*, the main federalist journal in Trieste and Friuli in the second half of the 20th century. This journal is now also available on the web⁸ and offers not only news, updates and reviews, but also scientific articles signed by Italian and foreign experts and scholars. In addition, over the years, a substantial specialised library on European issues has been set up on the Academy's premises and it now comprises almost 5,000 titles, made available to all interested parties.

Although aware of the efforts made so far, it must be acknowledged that there is still a long way to go: the common sense of belonging and identity without which there cannot be a truly united Europe is still too weak. In any case, while the current reality of the integration process may lead to less optimistic reflections than those so widespread in 1989, it is certain that what has been done, is being done and will be done, should not be lost. For the simple reason that a viable alternative to the project of European unity – also and above all the political aspect – does not exist.

By being conscious of this and by adopting the warning expressed many years ago by Altiero Spinelli (a pioneer of European federalism) who famously said that «Europe does not fall from the sky», the Academy has proposed and implemented programmes of European activities and training aimed not only at adults, but also – and above all – at young people and schools.

The intention has always been clear: to make the new generations aware of the issue of European identity and the decisive role of the citizen, with whom we must be able to discuss the future and the quality of the 'European project' in depth and without prejudice. Indeed, Europe and its integration are often perceived as complex and dis-

⁶ See T. Koričanac, et al., *Ivo Andrić. Scrittore e diplomatico europeo - Evropski Pisac i Diplomata*, Trieste, Comunicarte, 2010.

⁷ <http://www.european-net.org>

⁸ On the early period of the journal see C. Cressati, A. Viola, 'Rassegna Europea', in D. Preda, D. Pasquinucci, L. Tosi (eds.), *Le riviste e l'integrazione europea*, Padova, Cedam, 2016, pp. 607-626. The new series of the journal can be consulted here: <http://www.accademia-europeista.eu/rassegna-europea/>

tant constructs, difficult to understand for those who are not insiders. It is towards this goal that the Academy has dedicated itself: to the goal of making the European idea and collaboration across borders an objective that everyone can share and contribute to regardless of age, income, education or occupation.

On this path, the appointment of Nova Gorica and Gorizia as European Capital of Culture for 2025 is a fundamental goal for those who, like the Academy, have always seen European integration as an opportunity to unite regions and cities that, in their diversity and plurality, share a common future and a common project. This is why we wanted to set up a scientific and cultural initiative such as the one the results of which we are presenting today. This enterprise aims to better define and make concrete that concept of *multi-level governance*⁹, which represents both in theoretical and practical terms, the possibility of truly realising a Europe 'united in diversity'¹⁰. Here, too, we need to be spurred on by what Altiero Spinelli and Ernesto Rossi wrote at the conclusion of the *Ventotene Manifesto*: «The road to pursue is neither easy nor certain, but it must be followed and it will be!»¹¹.

⁹ On this issue, the bibliography is very extensive. See, among others, L. Hooge, G. Marks, *Multi-Level Governance and European Integration*, Lanham, Rowman & Littlefield, 2001; S. Plattoni, *The Theory of Multi-Level Governance. Conceptual, Empirical, and Normative Challenges*, Oxford, OUP, 2010; I. Bache, M. Flinders (edited by), *Multi-level Governance: Essential Readings*, Cheltenham, Edward Elgar, 2015. The Committee of the Regions has, understandably, devoted much attention to the topic. See, in particular, the *White Paper on Multilevel Governance*, published in 2009 (<https://op.europa.eu/en/publication-detail/-/publication/3cba79fd-2fcd-4fc4-94b9-677bbc53916b/language-en>) and the *Charter for Multilevel Governance in Europe*, which the CoR adopted in 2014 (<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52014XR1728&from=SK>).

¹⁰ Since 2000, this has been the official motto of the European Union. In Declaration no. 52 annexed to the Lisbon Treaty, 16 Member States (including Italy) declared that «for them, the flag representing a circle of twelve golden stars on a blue background, the hymn taken from the 'Ode to Joy' from Ludwig van Beethoven's Ninth Symphony, the Union motto 'United in diversity', the euro as the currency of the European Union and Europe Day on 9 May will continue to be symbols of their citizens' common membership of and attachment to the European Union» (OJ C 326, 26.10.2012, p. 357).

¹¹ A. Spinelli, E. Rossi, *The Ventotene Manifesto*, trans. Anthony Baldry, *Ventotene, The Altiero Spinelli Institute for Federalist Studies*, 1988, p. 41.

Introduction Understanding European democracy from the regional and the local perspective

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In recent decades, European Studies have focused on new concepts, such as 'Regionalism', 'Europe of the Regions', 'Subsidiarity', 'Network or Multilevel Governance' etc., thus predicting a turning point with respect to the intergovernmental approach, which was dominant in previous decades, and attesting the growing scientific and political interest for the issue of local autonomies in the European integration process. This volume fits in this field of research and aims to contribute to the analysis of the historical evolution and the current ways of involvement of Regions and Cities in the EU's institutional framework and governance. The Authors of the volume come from the cultural and academic world and belong to different research fields such as law studies, political philosophy, anthropology, history and political science. Thus, from different points of view they deal with different issues such as the impact of the Regions on European integration, the aspects and dynamics of regionalism in

Europe, the evolution of the relations between Regions, Cities and the European institutions, the cultural and historical relevance of Regions and Cities as well as of local and regional self-governance, the strategic scenarios of intercommunal, inter-regional and cross-border cooperation, the Euro-Regions as cultural spaces and as a new institutional dimension of the European integration, and the relevance of the Committee of the Regions for the European democracy.

The purpose of this book is then to explore a theoretical and conceptual framework with the aim of better understanding the opportunities, the critical points and the challenges of strengthening the political role of Regions and Cities within the EU. This goal clashes with the difficulties and the limitations arising both at a heuristic level – as the hypothesis of strengthening the role and influence of the Regions and Cities within the EU collides with the complexity and fluidity of this concept – and on an empirical level – as the concept is at odds with the dominant trends of European integration, which are still marked by the prevalence of the intergovernmental approach. These limits do not undermine the relevance of this research topic. On the contrary, they encourage the authors to explore new theoretical and political perspectives, given the contradictory trends that have emerged throughout Europe in recent years, including the rise of regionalist, autonomist or separatist instances, the rise of populism, neo-nationalism and euro-skepticism within European countries.

Regions and Cities are not only the cornerstones of civil life and democratic participation, but also a reference point for the defense of cultural and linguistic identity vis-à-vis the challenges of growing globalization. Could a greater involvement in the EU allow them to bring citizens closer to European institutions, strengthen their sense of European belonging and help to face the crisis of legitimacy affecting the EU? Is it possible to imagine new channels of expression for Regions and Cities within the EU institutions and to overcome the model of a supranational entity and of an intergovernmental organization? Could the European institutions be well supported by a polycentric mode of governance based on Regions and Cities, that is, with many self-governing and independent centres of decision-making, working jointly for problem-solving and policy effectiveness, in a bottom-up approach? And could a reinforcement of the role of the Regions and Cities in the European policy-making process improve European democracy? These are some of the questions that the contributors to this volume will attempt to answer.

Local autonomies have played a fundamental role in European history, politics and culture, and they still nowadays play an important role in the EU's political life, especially within the Committee of the Regions, which is composed of representatives of

European regional and local communities. Moreover, Regions, Comunidades Autónomas, Länder, Counties, etc., are very relevant in the context of EU policies, especially in the adaptation to EU law by those national systems (such as Italy, Germany, Spain, etc.) which have a federal or regional articulation of powers. Nevertheless, the European institutions have for decades remained rather indifferent towards them.

The founding treaties of the European Communities made no mention of regions or other local authorities, such as cities or provinces, nor did they take into account the different ways in which the signatory states were internally structured. Far from containing any reference to sub-state entities, administrative regions, cities, ethnic or national communities within the states, the Treaties of Paris and the Treaties of Rome only accounted for 'economic regions', relating to development policies for economically disadvantaged areas. From the very first steps of the integration process, the European institutions established a dialogue with the states only, while there was a substantial indifference towards any other type of political, territorial or cultural entity and, in particular, towards the regions that at that time existed within some states. This can be explained by the fact that, among the six founding states, only West Germany and Italy had an internal territorial partition (Länder and autonomous regions respectively), while afterwards, for a long time, member states with a federal or regional structure remained a minority. In this sense, local autonomies and sub-state entities were the first victims of the European integration process. In fact, wherever they existed, they suffered a gradual erosion of the powers they had within their respective states. This has happened basically for two reasons: because some of their competences have been transferred to the European level, and because European affairs themselves have for a long time been the sole responsibility of the foreign policy of individual states.

After a lively theoretical and cultural debate on regionalism, which took place in the 1960s and 1970s, the regional issue emerged as a topic of discussion within the process of European integration in the second half of the 1980s (as early as 1975, with the creation of the European Fund for Regional Development, the foundations were laid for what was to become one of the cornerstones of EEC policies). A more favourable consideration of regional and local instances has also emerged as a consequence of a trend towards federalisation or regionalisation in some states (including Belgium and Italy) and of the accession to the EEC of new states with a strong regional or autonomous structure (United Kingdom, Spain). These events pushed for greater involvement of sub-state autonomies in the formation and implementation of European policies and laid the foundations for an acceptance of regional demands in the Treaty revision processes. This took place, in particular, thanks to a number of

initiatives, among which the *Joint Declaration of 1984*, in which the Parliament, the Council and the Commission declared themselves in favour of greater involvement of the territorial authorities in the elaboration of regional development programmes; the establishment, in 1988, of the *Consultative Council of Regional and Local Authorities* and the issuing of the *Community Charter of Regionalisation*, which was intended to promote the regions of the European states. Lastly, even *The Single European Act (1986)*, which reformed the structural funds, was a milestone in the development of the new regionalist course.

However, the first official recognition of a European role for regions and local autonomies came with the Maastricht Treaty, which, in an attempt to bridge the democratic deficit and bring Community institutions and policies closer to the territories and citizens, for the first time involved sub-state authorities in a logic of multilevel governance. This took concrete form in three areas: the provision of open representation also to regional executives in the Council; the introduction of the principle of subsidiarity, which enshrines the need for decisions to be taken as close as possible to the citizens; the establishment of the Committee of the Regions, a body made up of representatives of regional and local communities, which now has the power to express opinions, even mandatory ones (particularly when compliance with the principle of subsidiarity is called into question). The strategic importance of the Committee of the Regions has progressively increased. The Treaty of Amsterdam (1997) strengthened its competences, allowing the adoption of an autonomous regulation without the approval of the Council and its consultation also by the Parliament (in addition to the Commission and the Council), and widening the cases of compulsory consultation. The Treaty of Nice (2001) reformulated the procedure for appointing the members, taking it away from the Council and entrusting it to the individual governments, whose proposal is essentially ratified by the Council. With the Lisbon Treaty (2007), the Committee was granted the right to appeal to the Court of Justice for violation of its prerogatives.

Following these innovations, today the Committee of the Regions is the fundamental forum for the representation and participation of regional, municipal and local realities, i.e. the place where territorial bodies can enter the European decision-making process. However, it remains a consultative body, and its influence on EU policy-making is rather weak, both because most of its members only have administrative and not legislative powers and because the representatives of the autonomies are not appointed by regional parliaments but by national governments.

The enhancement of territorial autonomy that began with Maastricht has thus seen a decisive increase in the Lisbon Treaty. In fact, the latter sanctioned respect for the system of local and regional self-government as an integral part of the political and constitutional structure of the Member States¹. For the first time in European primary sources, it also mentioned sub-national parliaments. In particular, with the Lisbon Treaty, autonomy has become an integral part of the Union's order and functioning and the principle of subsidiarity has been broadened and strengthened: it is applied not only to relations between the Union and the states, but also taking into account regional and local levels of intervention. According to Art. 5.3 TEU, in fact, «in areas which do not fall within its exclusive competence, the Union shall take action only if and insofar as the objectives of the proposed action cannot be sufficiently achieved by the Member States, either at central level or at regional and local level, but can rather, by reason of the scale or effects of the proposed action, be better achieved at Union level».

Furthermore, Protocol No. 2 on subsidiarity and proportionality annexed to the Lisbon Treaty has established mechanisms for regional control over central institutions both at the stage of proposing legislation (the so-called «early warning system», whereby national parliaments, consulting *where necessary* regional parliaments with legislative powers, may send the Presidents of the Parliament, the Council and the Commission an opinion setting out the reasons why the draft legislation is deemed not to comply with the principle of subsidiarity), and concerning the possibility for the Committee of the Regions to bring an action before the Court of Justice for infringement of the principle of subsidiarity against legislative acts for the adoption of which it is required to be consulted.

Ultimately, the regions, the cities and the territorial autonomies have gradually received greater consideration within the European integration process, which, however, has never abandoned the state-centric structure that has characterised it from the very beginning. Not only have the states, even today, not renounced their monopoly and remain the 'Masters of the Treaties', but the politicisation process of the EU has been conducted without departing from the state-centric logic and mentality, since it has taken the form of institutional reforms inspired by the nation-state model (progressive strengthening of those institutions that make the EU similar to a state: the Parliament, the Court of Justice, the Commission). This has prevented, and is still preventing, the idea of a 'Europe of the Regions and Cities' from becoming

¹ Art. 4.2 TEU: «The Union shall respect the equality of Member States before the Treaties as well as their national identities, inherent in their fundamental structures, political and constitutional, inclusive of regional and local self-government».

ing a reality, in which the complex set of identities, values, customs, languages and different traditions that make up Europe's cultural heritage – which at the same time precedes, transcends and encompasses the Nations and the national cultures and identities – is placed at the basis of a political and institutional formula that is more evolved and realistic: a polycentric union in which, alongside the Nations, there is also a place for Regions, Cities, territorial and cultural Communities. This volume aims at strengthen this idea as well as at highlighting the strategic role of inter-communal, inter-regional and cross-border cooperation to find common solutions to increasingly interconnected problems, which impact on territories and peoples crossing borders and sharing a common heritage of values, trade and cultural exchanges, traditions, customs and historical experiences.

1 Strategic scenarios for cross-border cooperation

Piero Mauro Zanin

Former President of the Regional Council of Friuli Venezia Giulia

1.1. Introduction and contextualisation

First of all, I would like to thank you very much for your invitation to participate in this conference, which is being held during the European Week of Regions and Cities, to which the European Committee of the Regions (CoR) devotes a great deal of space both in Brussels and locally, all around the territories of the European Union.

I've mentioned the CoR not by chance: I believe that the best way to contextualise my presence here today is to share my experience over the years in the double role of President of the Friuli Venezia Giulia Regional Council, on the one hand, and CoR member on the other. My activity in the European context is very enriching for me on a personal level, and it is also gives me great satisfaction: a couple of weeks ago I was actually elected First Vice-President of the CIVEX Commission, which deals with citizenship, governance, institutional and external affairs.

The CoR, which is the highest expression of local and regional institutions in UE, as it represents more than one million people directly elected by the citizens, counts among its networks of activities one that is directly linked to cross-border cooperation, that of the European Groupings of Territorial Cooperation (EGTC). These are themes on which I will not go into detail, given the presence of highly qualified speakers such as Sandra Sodini and Paolo Petiziol, who can talk about them with great knowledge. I will simply mention that the European Committee of the Regions carries out a constant coordination and monitoring exercise with regard to the progress and development of the various EGTCs, thus analysing the contribution that these structures are able to make with regard to the projects implemented and to the exchange of experiences and good practices in the field, always with a view to strengthening economic and social cohesion within the EU.

Clearly, when we think of the fields of application of cross-border cooperation, we naturally think, for example, of workers' mobility and the matching of labour supply and demand, and thus of the Euradria partnership; or of health care, the protection of the environment and natural resources; or, again, of education, training and culture (and here we are on our home turf, since we know what this means and what a positive impact the nomination as European Capital of Culture for 2025 may have on Gorizia and Nova Gorica). Or let's think about sustainable development, perhaps with special attention, given the characteristics of our land, to slow tourism and the enhancement of cycling and wine and food routes.

But I believe that we must strive to have a broader vision, and have the ability to think 'outside the box', to use a somewhat overused expression. The last two, three years have taught us, that when faced with tragic and unpredictable events, being able to collaborate and pool experience and skills, even across national borders, can really be a lifeline.

The outbreak of the Covid-19 pandemic; the war in Ukraine; the tragic fire outbreaks in the Karst region on both sides of the border this summer; the asymmetric impact of the energy crisis on EU cities and regions, given their differing capacities to respond to energy supply disruptions and rising energy prices. Faced with situations such as these, there is a clear and strong need to continue the process of cross-border integration and cooperation, to further develop our ability to team up and work together.

1.2. The strategic role of legislative assemblies in cross-border cooperation

And here I turn to the role of politics; or rather, to the role and tasks of that core group of institutions responsible for 'making laws'. As President of a legislative assembly, the importance of the quality of regulation is very clear to me. Regional and local authorities are well aware of the critical issues arising from the excessive and unnecessary burdens of legislation, and for this reason they must be given a central role in improving the quality of regulation and in the construction of the European legal system: a real democratic transition is needed to accompany the digital and green transition, which are already Europe's declared objectives.

Personally, I am working to make a common heritage of an idea, a postulate that the European Commission has sanctioned for some time now: that of 'Better Regulation', i.e. 'Better Lawmaking', a principle on which I had the privilege of being rapporteur of an opinion approved by the plenary assembly of the Committee of the Regions in December last year.

I really find that, when talking about cooperation at the international level, an aspect that is too little highlighted or even not mentioned at all, is precisely that of sharing and exchanging good practices at the institutional level. I remember that I had recently become President of the Regional Council when we started a series of dialogues with representatives of the State Chamber of the Republic of Slovenia. The idea of cooperation with the legislative assembly in Ljubljana was based above all on the idea of setting up round tables between the FVG Council's parliamentary committees and the corresponding Slovenian parliamentary committees, on the main topics of interest for cross-border cooperation.

Then, the arrival of Covid-19 and all its implications, including restrictions on the mobility of people and the need to reorganise the assembly work in a completely new way, effectively blocked this initiative. Well, I find that this forum and this occasion are perfect for urging, and it is an urging that I am making first of all to myself and to the institution that I represent, the resumption of this institutional dialogue with our Slovenian colleagues, to which we must naturally also add the Landtag of Carinthia, which must be pursued with impetus and vigour, also based on what has been done in the meantime at the European level.

I would like to emphasise here that, while it is true that the institutional task of parliaments is that of legislating, it is equally true that a change of gear is strategically necessary, and must be shared across borders. This, which in turn implies a change

of mentality, consists in conceiving laws not only as instruments of mere regulation (though obviously necessary), but as accelerators of development and engines of recovery and new economic and social growth. Remove lengthy procedures, unnecessary administrative burdens, bureaucratic obstacles of various kinds: in a word, simplify. Understandable and streamlined rules, designed by listening both to those who have to implement them (public administrations) and to those on whom they impact (stakeholders and citizens) will be essential to enable our companies to continue to be competitive in a globalised market in the grip of shocks unimaginable just a few years ago.

Yet, 'simplifying' does not banally mean 'cutting' in order to have fewer laws. Instead, in order to unleash the best local creative energies and facilitate entrepreneurial and cultural dynamism, thereby fostering the economic and social development of our territories, we need the transposition into national and regional legislation of the same tools and assessment methods (the 'toolbox') that the Commission uses. This is the only way to enable our legislative assemblies to determine the quality of their own internal rules and regulations, in implementation of the common one, and to consistently achieve the political objectives identified at European level. Otherwise, we will have many separate entities that do not talk to each other, even though they are involved in the same challenges.

This is what cross-border cooperation must strive for; this is what we must aim for, in a forward-looking vision that, thanks also to the contribution of the world of universities and scientific research, will enable us to prepare ourselves to meet the challenges of the future, to solve not only current problems, but also those arising from phenomena that we glimpse but do not yet know well, and which already foreshadow the changes that are taking place.

I am opening a small parenthesis here in relation to the main theme of our meeting, but I find it important to emphasise that this approach based on a future-oriented strategic vision is very much in evidence in the EU at the moment. Indeed, in just under a month's time, on 11 November in Valencia, the inaugural meeting of BRASS, the Committee of the Regions' steering group on Better Regulation and Active Subsidiarity, will take place.

BRASS is the evolution of the Subsidiarity Network: as vice-president of CIVEX, rapporteur of the opinion on Better Regulation and coordinator of the CALRE (Conference of Legislative Assemblies of European Regions) working group on the subject, I am a member of BRASS together with other members, appointed within the CoR

taking into account the balance between national delegations and political groups. The fundamental aim of BRASS will be to facilitate the contribution of regional and local authorities at all stages of EU policy-making, creating the conditions and prerequisites, including through the involvement of stakeholders, for the principles of subsidiarity and proportionality to be applied in practice and for the regions to be able to have a real influence in shaping EU law and in assessing the impact of EU policies on the territories.

I now come back to our topic. As I was saying, I am convinced that cross-border cooperation in the field of legislative production between FVG, Slovenia and Carinthia is to be considered strategic: the exchange of good practices becomes a fundamental moment of common growth for all, to the benefit of our communities.

The integrated approach and the cross-border harmonisation of administrative procedures and legal provisions, based on Better Regulation, will enable us to have «future proof» rules, suitable for the future. In this way, we will have a fertile environment for the development of our territories, and with them the entire economic, social and cultural fabric in which we live.

1.3. What kind of Europe do we want?

To conclude: our task, as politicians, public administrators, consultants, and also as simple citizens, is to make our contribution to finding common solutions to complex, increasingly interconnected problems that afflict and impact our territories, our economies, our families.

Cross-border cooperation allows us to bring our communities closer: they may be divided by state borders, but they share a fundamental common heritage of values, trade and cultural exchanges, traditions, customs, and historical experiences.

The EU must be Europe of regions and cities not only on paper or with big slogans, or with events of great media appeal (think of the many thematic meetings, for example, organised during this European Week of Regions and Cities). Although fundamental from the communication point of view and necessary to make citizens more aware of the relevance of the regional and territorial dimension of the institutions, however, I have a feeling that sometimes these events can risk turning into a 'hit and run' that runs out of steam as the weeks go by.

What we need instead is a coherent and structured path, set over the long term: the invitation is to think of our 'three-border' area, even 'geopolitically', as a 'vast area' that transcends administrative and political borders, characterised by common needs and interests. And for this area, we must develop forms of cross-border and interregional cooperation that aim to find win-win solutions, yet are not aimed at an uncritical homologation that distorts our respective cultures. In this sense, I launch a final solicitation, dedicated to the mutual protection and safeguard, within our territories, of minority languages. I hope that it will be possible to set out on a common path aimed at the defence and ever greater appreciation of our languages, extraordinary vehicles of values, identity and traditions. Because, after all, cross-border cooperation is also the most important tool we have at our disposal to enhance the specificities of our regions.

In short, united in diversity, starting from the bottom, from the territories: this must be the spirit that animates us in building the new Europe.

2

With AICCRE the municipalities of Friuli Venezia Giulia protagonists in Europe

Franco Brussa

Italian Association for the Council of European Municipalities and Regions

In light of the proposed title, I will start by emphasizing what AICCRE is before focusing, in particular, on the action that the Federation of Friuli Venezia Giulia (FVG) has been carrying out in recent years.

AICCRE, the Italian Association for the Council of European Municipalities and Regions, headquartered in Rome, is the only national association that unitarily gathers all levels of local authorities. Founded in 1952 by local administrators and representatives of civil society during the post-World War II period, in which the idea of a united Europe took on strong meanings of peace, democracy, freedom, and movement.

Inspired by the principles of the Ventotene Manifesto, our founders' original insight was that a united Europe could only be built with strong popular support, with the full political involvement of regional and local autonomies. In a perspective of decentralization and democracy, local autonomies should have the maximum possible autonomy within their countries.

If we can democratically elect the European Parliament; if the Committee of the Regions was established; if the Council of Europe has a Congress of local powers; if there are thousands of twinning between municipalities that have concretely contributed to the European integration process; if today European institutions take into account the will of local authorities: the credit also goes to the thousands of local administrators who have joined and continue to work for AICCIRE.

Our voluntary commitment constitutes the strength of the Association, which moves in a united manner. AICCIRE's activities take place at three levels: supranational, national, and regional, and for obvious reasons, as mentioned earlier, I will limit myself to the role that the FVG Federation, which I have the honor to preside, is playing and intends to play.

The slowdown of democracy in Europe: Europe has been facing what we could call a «deficit of political culture» affecting the electoral process, pluralism, government functioning, political participation, and civil liberties. This long-term trend has been accelerated by the Covid-19 pandemic and the Russian aggression in Ukraine.

As both have a high human cost, democracy is also suffering, with the high risk of not being able to fully recover in terms of democratic culture. Beyond its direct effects on human health, the Covid-19 pandemic has brought with it indirect effects on individual freedoms, social rights, and the economic sphere.

On the other hand, the aggression of Ukraine by the Russian Federation has caused many deep sufferings: thousands of deaths, injuries, and millions of refugees, along with heavy impacts on the socio-economic fabric.

As explained in the Annual Report 2022 of the Secretary-General of the Council of Europe on the Democracy Perception Index of 2022, war and violent conflicts are currently seen as the most important global challenge to democracy.

Both the outbreak of war in Ukraine and the negative consequences of the pandemic have fueled a perception of inefficiency in democratic political systems. The

erosion of trust in democracy, it must be said, already existed before these two tragic events, but they have further exacerbated it.

How to respond to this new discontent is one of the challenges that AICCRE, in its small way, proposes to address.

2.1. The role of municipalities in addressing these challenges and building the Europe of tomorrow:

- (a) In AICCRE's view, the role of the Municipality remains central to overcoming this challenge because:
- (b) Municipalities represent the institutions closest to citizens.
- (c) Municipalities address issues that are most relevant to citizens' daily lives.
- (d) Municipalities must know how to take care of local interests but make the effort to represent the broader community of intentions and policies (i.e., Europe).
- (e) Municipalities have the responsibility to show the true work and role of institutions and encourage citizens to «take care» through participation. This means that municipalities must promote European values and engage in all tools of participatory and deliberative democracy.
- (f) Municipalities are not alone in this effort. Firstly, beyond the reference government levels (Provinces, Regions, etc.), they have associations of municipalities (such as AICCRE) to which they can refer. Secondly, European and regional institutions provide support.
- (g) AICCRE FVG, particularly in collaboration with ISIG, as well as with INFORMEST and ANCI, and other associations looking towards Europe in their actions, aims to support municipalities in this task.

2.2. An integrated solution: good governance supporting democracy

Assuming that democracy remains the «regime» in the best position to ensure success in economic, social, environmental, and general well-being, we must also be aware that democracy alone is not enough to guarantee everyone's well-being and counteract growing inequalities.

Hence, the importance of linking it to a high degree of compliance with human rights requirements and the rule of law within the framework of good democratic

governance. The application of good governance at all levels constitutes a concrete and effective path to reverse the trend of democracy's decline.

A stronger and more genuine implementation of democratic principles, on the contrary, will make it easier to channel popular participation in good governance processes. In this perspective, good governance and democracy appear closely intertwined in a virtuous circle, capable of effectively countering the vicious circle of declining democracy quality and increasing frustration with it.

Good democratic governance requires structures and policies that promote the implementation of its principles in the field. The former are mainly the responsibility of national authorities, while the latter depend on local authorities.

2.3. What AICCRE FVG does: good governance in municipalities of Friuli Venezia Giulia: the ELoGE label

Active participation, political representation, sustainable development, defense of human rights, and cultural diversity are some of the principles that the Council of Europe, with the ELoGE Program, aims to promote to strengthen a shared and participatory culture of good governance at the local level.

Good governance is a requirement at all levels of public administration. At the local level, it is crucial because the municipal administration is the level of government closest to citizens. For this reason, the idea and practice of good governance trace a clear and precise path, focusing on aspects and objectives to be achieved, such as strengthening participation, effectiveness and timeliness of local policies, their coherence, and understanding by the population.

ELoGE – European Label of Governance Excellence is a Council of Europe program designed to engage local administrations in a self-assessment exercise based on the standard of the 12 European Principles of Good Democratic Governance. This self-assessment is also supported by data collected among citizens, administrative staff, and elected representatives of participating municipalities through specific questionnaires.

The ELoGE program is not a competition among municipalities because each local entity «competes» only against itself to better understand its strengths and weaknesses, further strengthening the trust relationship with its community. In the last

10 years, the ELoGE Program has been promoted and implemented by the Council of Europe in numerous European countries. In October 2020, the Council of Europe - Centre of Expertise for Good Governance granted AICCRE FVG the accreditation for the ELoGE Program – European Label of Governance Excellence in Italy. ELoGE FVG has thus become a valuable tool to improve and enhance the good governance of local administrations in the region and promote citizens' democratic participation in the public life of their municipality through an understanding of the 12 Principles. This activity was completed on July 27, 2021, at the headquarters of the Regional Council of FVG, where the award ceremony took place for the 10 municipalities that completed the path to obtaining the European Label of Governance Excellence in Italy. The ELoGE Program has been a fundamental step in bringing administrators closer to self-assessment and evaluation tools by citizens, which can be used in a logic of measurement and awareness of the results achieved.

For some time now, AICCRE FVG has been committed to spreading European themes through moments of meeting and shared activities between local administrators, school institutions, young people, and the general public.

2.4. CERV - Opportunities for municipalities in the European programming period 2021-2027

The development of active citizenship and democratic participation practices is an essential element for strengthening and safeguarding the process of European integration. For this reason, through its institutions, the EU encourages the involvement of European citizens in all aspects of their community life, promoting their participation in shaping and building the future of a more open, democratic, and inclusive Europe.

In this perspective, as is known, the CERV program (Citizens, Equality, Rights, and Values) has recently been launched for the period 2021-2027. It provides funding for projects that promote citizen engagement, equality for all, and the implementation of EU rights and values as enshrined in the Treaties and the Charter of Fundamental Rights of the European Union.

CERV consolidates all the activities that, in the past seven-year programming period, were managed within the framework of the «Rights, Equality, and Citizenship» and «Europe for Citizens» programs. This program has received a financial allocation of 1.55 billion euros, double the initially planned amount.

Town Twinning and Cross-Border Cooperation – CERV Program

The CERV Program 2021-2027 aims to protect and promote the rights and values enshrined in the EU treaties and the Charter of Fundamental Rights of the EU. Its goal is to safeguard and promote open, democratic, and inclusive societies and make citizens more autonomous, further developing the European area of justice. Specifically, this program aims to promote exchanges between citizens of different countries, especially through town twinning and city networks, allowing them to concretely grasp the richness and diversity of their common heritage.

In this context, the Municipality of San Pietro al Natisone (UD) in 2021 obtained funding – with the support of AICCRE FVG and ISIG – for a twinning project with the Municipality of Sambreville in Belgium. The project involved high school students and representatives of local authorities from both municipalities who discussed issues/topics related to the future of Europe (e.g., Economy, Environment, Education, etc.) before and after the Covid-19 health emergency.

In this regard, AICCRE FVG intends to support regional municipalities in strengthening ties with Italian and international local entities. This support aims not only to promote stable forms of collaboration in terms of sharing best intervention practices but also to facilitate the implementation of joint projects/proposals for accessing European funds.

Last but not least, with the support of AICCRE FVG and ISIG, the Municipality of Casarsa della Delizia (PN) is implementing a project titled «Keep It Real & Viral – KIRV,» an exchange project where high school students, teachers, representatives of local authorities (LAs), and experts from two EU countries will participate in three days of presentations, debates, and workshops on fake news. The event will explore how fake news influences three fundamental issues for the future of Europe: human rights (discrimination based on culture, race, and gender); science (COVID-19, vaccines); EU integration (euroscepticism).

2.5. The leadership academy of the Council of Europe lands in FVG

AICCRE FVG, in collaboration with the Council of Europe, is ready to embark on a new adventure in this final stretch of 2022 to further enhance the offering of training courses aimed at elected representatives and officials of the Municipalities of Friuli Venezia Giulia. The Leadership Academy Program (LAP) is officially underway.

Effective democracy and good governance at all levels are essential to prevent social conflicts, promote stability, facilitate economic and social progress, and thus create sustainable communities where people want to live and work, now and in the future.

Cities have undergone radical changes in recent decades, both as a place to live and as the center of administrative life. It is necessary to contemplate their future role. For this reason, a new idea and culture of governance are needed, placing Municipalities at the center, as interpreters closer and more sensitive to the needs of citizens and communities.

This is where organizational leadership assumes an even more fundamental relevance, as an essential characteristic for good local governance. Being able to organize, involve, delegate, listen, analyze, innovate, improve, and self-improve are indispensable skills for elected representatives and officials who want to serve and contribute to the development of their communities.

The Leadership Academy Program was developed by the Council of Europe over 10 years ago and has been implemented in numerous Member States. The training course is structured as an interactive program that, through collaborative methodologies used in the learning process, supports participants by providing practical tools to increase their effectiveness both individually and within the municipal administration.

Targeted at mayors, senior officials, and elected representatives of local government, the program consists of three phases:

1. Leadership for Organizations: The LAP learning process begins with consolidating the leadership skills of participants to contribute to building organizational leadership within their respective organizations. Organizational leadership is understood as the ability of an organization to act efficiently within a management framework that provides inspiration, goals, and operational supervision to achieve a shared organizational vision.
2. Leadership for Strategy: Once the foundations of leadership are established within an organization, LAP focuses on providing the skills and tools to build the organization's capacity to promote internal collaboration effectively to adapt to local challenges/needs, implementing strategies to support the well-being of a community.

3. Leadership for Capacity Development: In its third phase, the program builds on the organization's ability to share a clear vision, understand key challenges, and influence system changes. The program is adapted to local training needs by Council of Europe experts in collaboration with partner institutions, aiming to focus on relevant learning areas for local contexts while ensuring widespread achievement of training objectives and Council of Europe standards.

For this reason, a questionnaire has been launched for all Municipalities in Friuli Venezia Giulia to calibrate the Program based on the needs of the Municipalities and capture the situation of local authorities in Friuli Venezia Giulia regarding challenges and priorities at the local level and in reference to the implementation of the PNRR.

The training, curated by ISIG researchers, will begin at the end of this October, and will involve a maximum of 30 participants in 3 sessions of 2 and a half days over approximately 2 months.

Between sessions, participants will be required to carry out «leadership» exercises within their own organizations, and then share successes and challenges with trainers and other participants.

The ultimate goal of the program is to provide participants with the knowledge and tools to implement the principles of good governance, creating modern, participatory, and innovative local authorities. At the end of the course, participants will have acquired a new way of thinking about organizational and institutional leadership, having the opportunity to put the principles of good governance into practice at the local level.

Finally, joining the Leadership Academy Programme allows participants to enter an international, lasting, and cohesive network of colleagues working in local government throughout Europe. The Leadership Academy represents a powerful force for change in Europe, starting from the development and collaboration among local authorities.

2.6. Call for school «the Europe I would like»

I want to conclude my intervention by recalling an initiative that began in the 2021/2022 school year, which, in fact, anticipated what the European Commission proclaimed as the European Year of Youth in 2022.

As you may have gathered, AICCRES directs its activities almost exclusively towards municipalities, having no specific role in relation to schools. However, starting from the simple question: how can Europe be truly realized if the protagonists are not the youth? We thought, in collaboration with the Regional Council, the highest institution of Friuli Venezia Giulia, to launch the Call to High Schools of FVG titled: «The Europe I Would Like - 80 Years After the Ventotene Manifesto.»

The goal of that call was twofold: on the one hand, involve young people in understanding European institutions, encouraging students to reflect on their future and the future of Europe; on the other hand, aim to bring young people closer to regional administration and local authorities.

In the call, the opportunity for institutes to activate training paths was specifically provided, with the support of both their local authorities and AICCRES FVG.

One of the limitations repeatedly reported by local administrators during the development of twinning calls is the lack of stable connections and activities to share with educational institutions, especially those of high schools.

This Call represented a tool to give institutes the opportunity to activate training paths in which they can bring local entities, especially municipalities and the region, closer on European topics.

The first edition saw the active participation of twelve High Schools representing the entire regional territory, with multiple study programs, including those of the linguistic expression of the Slovenian minority.

Just two days ago, the Call for School 2022/2023 was published, maintaining the main title «THE EUROPE I WOULD LIKE» but featuring as a subtitle three significant anniversaries for the European Union: 70 years since the entry into force of the Treaty establishing the ECSC; 30 years since the signing of the Maastricht Treaty; 20 years since the introduction of the Euro.

I will stop here regarding highlighting the many other activities that AICCRES focuses on, also because I would really risk boring you, unless I have already done so...

3

The origins of modern federalism

A few notes on the Dutch Republic case

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3.1. Introduction

From a historical point of view, there is still the idea that federalism, as a 'political practice', if not also as a theory, was 'born' with the constitutional experience of the American Revolution, the milestones of which can be traced back to the Articles on Confederation (approved in 1777 and entered into force in 1781), the Constitution of 1787, and of course the theses contained in what was the main forge of the debate on American federalism, namely the *Federalist* (1787-1788).

Scholars are in the habit of calling all elaborations preceding the American constitutional charter of 1787 as 'proto-federalism' experiments. This periodization, which is not without foundation, finds its *raison d'être* in the current meaning attributed to the word 'federalism', especially within constitutional theory.

However, the investigation of experiences and models preceding the American one does not seem to us to be without interest either, since it was precisely from the

debate around such models that the authors of The Federalist themselves took their cue: numbers 18 to 21 of the famous journal are in fact dedicated to the - very critical - examination of the main historical precedents of federal or confederal governments (at the time, the distinction was not only not yet precise, but was not even perceived as necessary).

In this regard, Daniel Elazar's studies have brought out the importance, not only symbolic, of the Jewish political tradition - the organisation of the twelve tribes of Israel - as the first experiment in 'federalism'. This model will in fact be one of the main historical references in the debate on the institutional set-up of the United Provinces of the Netherlands, which are the focus of this paper. The Middle Ages also saw forms of federalism, such as the structure of the Helvetic Confederation starting with the league of the first three cantons (1291).

Among the historical examples analysed by the Federalist, next to the leagues of ancient Greece, the Holy Roman Empire and the Helvetic Confederation, we find, last and most recent, the experience of the Republic of the United Provinces of the Netherlands, born at the end of the 16th century from the victorious outcome of the revolt against Spain, and which died, swept away by the French revolutionary wind, about ten years after the writing of the Federalist, in 1798.

The 'case' of the United Provinces is undoubtedly interesting: great republican power in the age of monarchical absolutism, crossroads of heterodox sects and freethinkers, storehouse of the treasures of the five continents and the wealth of half the globe's bankers, home of the freedom of the press and, finally, a veritable 'gymnasium of federalism'.

The study of the government of the United Provinces allows yet another verification of the intimate connection between the history of political thought and the history of institutions. Suffice it to say that the Dutch constitutional 'model' was finely interpreted and endowed with full legal and philosophical legitimacy in Johannes Althusius' *Politica methodice digesta* (1603 first edition, 1614 third, considerably enlarged edition), a work that definitively consecrates the Netherlands as a nation structured on several levels of *consociationes* that are increasingly extended demographically and territorially, from city governments to provincial governments to the entire *Belgium Foederatum*.

It also emerges from Althusius' *Politica* that the doctrine of contractualism exerted a profound influence in the justification of the deposition of Philip II, while another

fundamental work in this context, Hugo Grotius' *De antiquitate Reipublicae Batavae* (1610), composed a year after the signing of the Twelve Years' Truce with Madrid (1609), developed the humanist tradition of studying the history of the revolt of the ancient Germanic people of the 'Batavians' against Rome, forging the so-called 'Batavian myth', destined for wide fortune.

This myth led towards an aristocratic and particularistic conception of the administration of the United Provinces, and would often be the reference horizon of the partisans of the theory of the supremacy of the individual provinces - with particular reference to Holland - over the government of the Union. In another, perhaps earlier work, the *De republica emendanda*, Grotius had instead proposed a reform of the constitution of the Republic based on the comparison with the government of the ancient tribes of Israel, suggesting to grant more functions to the Council of State (Raad van State).

The constitutional structure of the Republic of the United Provinces was very unclear to contemporaries, who struggled to define it and gave birth to diverging interpretations. The reason for this lies in the fact that the Union of Utrecht (1579), the legal document that identified this 'confederation of provinces', or rather, this 'federal confederation', was the not particularly well thought-out fruit of contingent necessities, and left (deliberately?) unresolved the question, which at that time appeared central to the institutional classification of every state, of the ownership of sovereign power.

In what follows I will attempt to briefly highlight the relationship between center and periphery in this exemplary 'composite state', focusing on the historical-institutional description and the constitutional changes that occurred at certain particular moments in its history (the crisis of 1618-1619 and that of 1648-1654), in which the conflict between central and provincial governments exploded in all its complexity.

The description of the institutions of the United Provinces will be conducted on the basis of the examination of a few particular types of sources: first of all the ambassadors' reports, which are useful for understanding how 'the foreigner' viewed the Netherlands in the 17th century; then also the works of some eminent historians and jurists who were born and lived in those very territories. Finally, we will make use of some of the boundless literature of books to reconstruct the 'political climate' at the moments of greatest social and institutional tension in Dutch history in the first half of the 17th century, until the Act of Exclusion (Akte van Seclu-

sie) of 1654 abolished the office of stadhouder in the Netherlands and the other provinces, causing a substantial change in the constitutional configuration of the *Belgium Foederatum*.

3.2. The Union of Utrecht (1579) and the problem of the sovereignty in the United Provinces

The Union of Utrecht, which consecrated the final separation between the north and south of the Netherlands, was first and foremost a treaty of military alliance, and can be said to have had the general outlines of an agreement of international law rather than of civil law. This is confirmed by the expression 'union and confederation' that is used, in contemporary French translation, to define the structure of this new political entity. It must be remembered that in the 16th century, 'federation' and 'confederation' were often synonymous, as the distinction between the two terms had not yet been elaborated by legal doctrine. It is therefore not surprising that political commentators used to define the Republic of the United Provinces sometimes as *foederatio* and sometimes as *confoederatio*. One of the first people to use the term 'federal system' (*système fédératif*) after the American Revolution to refer to the government of the United Provinces was Mirabeau, in the beautiful oration *Aux Bataves, sur le stathouderat*, composed in April 1788.

It is appropriate to briefly describe the main points of this Union of Utrecht. The obligation of mutual assistance was triggered in the event of aggression or violence against one or more provinces or the Union as a whole, by the King of Spain (Art. 2) or any other sovereign, state or city (Art. 3). A system of fortifications within the territory of the Union was established, the costs of which would be paid for by the Union itself, or, as it was called at the time, by the 'generality' (art. 4). Article 5 is the first of a series of articles that were intended to give a 'federal' character to the Union, in an attempt to increase the powers of the generality vis-à-vis the provincial governments. By virtue of this article, a common taxation system was outlined, but it was never fully implemented. As early as 1583, it was decided to return to the old quota system. A census of the male population of conscription age was also planned, which was never realized (Art. 8). Articles 9 and 10 provided for the prohibition of individual provinces to declare war or enter into peace treaties, armistices, confederations or alliances without the unanimous consent of the Union. It was these articles that advocates of war against England invoked to declare illegitimate the diplomatic rapprochement between De Witt's Holland and Cromwell in the early 1750s.

Article 11 could be an argument in support of the thesis that the signatories of the Utrecht Union had no intention of creating a new state, nor of giving themselves a 'constitution'. In fact, this article provides for the possibility for foreign sovereigns and republics to join the Union, with the unanimous consent of its members, showing that the 'internationalist' perspective was perhaps the one most present in the minds of the charter's authors. After establishing a common financial and customs policy (Arts. 12 and 18), the thorny issue of the relationship between the state and religious denominations was addressed. Each province could regulate ecclesiastical policy internally as it saw fit, but always in accordance with the Pacification of Ghent (1576), i.e. in such a way that «every individual is guaranteed freedom of religion, and no one is persecuted or questioned because of his faith» (Art. 13).

Although it may seem on the surface to be a document classifiable under *ius gentium*, the Union was however immediately regarded as the 'fundamental law' of the new republican state, its 'constitution', but certainly an unclear constitution. The heart of the problem of sovereignty was already apparent in the first point of the Union, which reads:

En premier lieu que lesdites Provinces font alliance, union & confederation par ensemble: c omme par ces presentes elles se sont alliées, unies, & confederées à jamais, de demeurer ainsi en toutes sortes & manieres, comme si toutes ne fussent qu'une Province seule, sans qu'elles se puissent en nul temps à l'advenir, desunir ni separer, ni par Testament, Codicille, Donation, Cession, Eschange, Vendition, Traitez de Paix ou de Mariage, ni pour nulle autre occasion que ce soit, ou puisse estre. Demeurant neantmoins sains & entiers, sans aucune diminution ni alteration, les Privileges especiaux & particuliers, Droit, Franchises, Exemptions, Statuts, Coustumes, Usances, & toutes autres Droitures & preminences que chacune desdites Provinces, Villes, Membres & Habitans d'icelles peuvent avoir. En quoy ils ne veulent non seulement point prejudicer ni donner empeschement aucun: mais assisteront les uns les autres par tous moyens, voire de Corps & de Biens, si besoin est, à les deffendre, les confermer & maintenir contre & envers tous, qui en iceux les voudroient troubler ou inquieter. Bien entendu que des differens qu'aucune desdites Provinces, Membres, & Villes de cette union peuvent avoir entre-elles, ou par après se pourroient susciter, touchant leurs Privileges & Franchises, Exemptions, Droits, Statuts & anciennes Coustumes, Usances, ou autres Droitures, il en sera voidé, par voye de Justice ordinaire, ou par Arbitres & appointemens amiables: sans que les autres Pays ou Provinces, Membres, ou Villes, à qui tels differens ne touchent (si avant que Parties se submettent en droit) s'en puissent aucunement mesler, sinon d'intercession tendante à Accord.

So: while on the one hand it is intended to constitute almost 'one province', preventing division in any way, on the other hand it is emphasised that this will be done without violation of the legal system of each region. Nowhere is the term 'sovereignty' (in Dutch *heerschappije* or *souveraniteit*) used, all but unknown to the Dutch, but too closely linked to the 'puissance absolute' of which Bodin had spoken only three years earlier (1576), a political form that in the Netherlands was inextricably associated with the odious Spanish rule. But how to regulate the relationship between the whole and the parts, in the event of disagreement? In other words: are we in the presence of a confederation of sovereign states, in which each member can legitimately use its right of veto, or of a federation with a central government capable of making decisions that are binding on all and enforcing them?

Very hastily, the text refers to the method of arbitration, i.e. the intervention of a 'third' institution, a concept that will be further developed in Articles 9 and 16. The crucial institution is the *stadhouder*, the provincial governor, who would be responsible for the final decision in the case of disputes between several provinces or between the Union and the provinces themselves. As Hugh Grotius already pointed out, however, there is no formal legitimization of the possibility of armed intervention in the event of an irremediable conflict or social unrest: in practice, there is no specific provision for any means of punishing possible breaches of the covenant.

The political struggle within the Republic then saw two protagonists in the seventeenth century: on the one hand, the Orange, the charismatic descendants of William the Taciturn, holders of the office of *stadhouder* in various provinces, self-styled defenders of the 'General Union' and guarantors of law and order, but not exempt from dynastic lusts; on the other hand, the province of Holland, by far the richest and most powerful, which expressed its 'state interest', mainly aimed at protecting maritime traffic, through the 'Grand Pensionary' (*raadpensionaris*), a kind of prime minister and spokesman for the States General.

3.3. The problem of the form of government

The absence of a clear distribution of political power between the Union and its parts also gave rise to a 'conundrum' over the form of government to be attributed to the Republic. The most commonly used categories in this regard were those elaborated by Aristotle (the distinction between monarchy, aristocracy, democracy and polity) and Machiavelli (the separation between republic and principality, and the possibility of mixed forms of government such as that of republican Rome), with the

important addition of the location of 'sovereignty' understood in the Bodine sense. How, in short, is the case of the Netherlands to be framed? Was it an aristocracy, a democracy or rather an experiment in mixed government?

The problem did not appear to be easy to solve: The Federalist defined the Netherlands as a confederation of republics 'of a very peculiar kind', while Cardinal Guido Bentivoglio, papal nuncio in Brussels, who was an excellent politician and had also been taught by Traiano Boccalini, was forced to admit that the United Provinces were 'a republic [...] founded in a form of government so different from all others'. In his *Relazione delle Provincie Unite di Fiandra* (published in 1629, but drafted in 1611), he first analysed the form of government that the Netherlands had assumed prior to the uprising against the Spaniards, and then that which had arisen from the uprising itself, following the deposition of the king (1581) and the 'Twelve Year Truce' (1609).

The prelate's conclusion was that the Netherlands, despite everything, had retained the traditional form of mixed government, i.e. in which we find a monarchical element (the prince-stadhouder), an aristocratic element (the provincial and general states) and a popular element (the city governments), although the institutions holding the 'supreme authority' had changed. According to Bentivoglio, the latter appears to be divided between the provincial states, sovereign over the individual provinces, and the general states, to which the sovereignty of the entire Union belongs. He therefore admits the existence of a Union endowed with some authority, and of what, with today's legal-institutional categories, we would call a «federal government».

The hypothesis that the Republic belonged to the family of 'mixed governments' was not supported by Bentivoglio alone. An important precedent was the short oration *De statu reipublicae Batavae* by Paulus Merula (1588-1607), professor and later rector of the University of Leiden. Right at the beginning of the text, that had two Latin editions and two Dutch translations, the author asks to which of the three classical (Aristotelian) forms of government the new republic should be traced, and states that it participates in all three, and is therefore a mixed form of government, in which the *summa potestas* is distributed between the stadhouder, the states and the city administrations.

Other authors, on the other hand, were of the opinion that we were facing a decidedly aristocratic type of government, since political power was, at every level and everywhere (with the partial exception of Friesland), in the hands of a few families

who managed it by co-optation. This was well perceived by William Temple, the English ambassador to The Hague, who maintained in his *Observations* (1673) that the United Provinces were to be considered an oligarchy, and could only appear as a democracy in the eyes «of those who are content with superficial observations», and the anonymous author of the volume dedicated to the United Provinces in the widely circulated work *Lo stato presente di tutti i paesi, e popoli del mondo, naturale, politico e morale*. Even Mirabeau, in his oration *Aux bataves, sur le stathouderat* (1788), lamented the lack of popular intervention in the choice of magistracies, while accepting that 'c'est au gouvernement aristocratique que les Provinces-Unies durent cet esprit de fuite, cet ordre intérieur, cette force permanente qui, depuis la révolution, assura leur tranquillité au milieu des plus violens orages'.

In the same year the authors of the *Federalist* made a further specification, stating in the already mentioned issue that the United Provinces were not a simple aristocracy, but rather a 'confederation of aristocracies', thus emphasising the independence of each member rather than the strength of the central government. Already in the aftermath of the Twelve Year Truce (1609), the confederal aspect was emphasised in the report of the Venetian ambassador Tomaso Contarini (the Serenissima was the first state to officially recognise the United Provinces), written in 1610:

'Such is the generality of the government of the Lords of the States composed of seven provinces, to which we can give the name not of a single republic, but rather of seven congregated republics united in the uniformity of government for their security. For each province is not only made up of each city, each of which governs itself, but each of these provinces retains the superiority of itself, which truly belongs to the nobility and to the councils of all the villas of the province together'.

Finally, there were those who claimed that the United Provinces' form of government was democratic. This was the case, for example, with the English diplomat Thomas Overbury, who had arrived at the aforementioned conclusion on the basis of an interesting social analysis. It is the absence of the 'Gentry', the nobility by birth, and the fact that all power is entrusted to 'the merchants and traders', that leads Overbury to define the Republic as a democracy. He concludes by noting that 'the people always have greater advantages in a republic (Free State), and the gentry in a monarchy'. But why did commentators find themselves in such difficulty in classifying constitutional classification of this unique nation? To answer the question, we must proceed to an exploration of the functions and mutual relations between the various federal and provincial institutions of the Republic.

3.4. The institutions of the Republic in constitutional theory: the government of the Union

The main organ of the Union's government was the assembly of the States General, which, according to Merula, was responsible for 'steering the ship of state'. There were those who compared it to the English Parliament, attributing too much power to it, and those who compared it to the Imperial Diet, attributing too little power to it.

The States General met in The Hague and were composed of the delegates chosen by the 'orders' of the seven provinces from the urban patriciate - the so-called 're-gents' - and from the nobility, and remained in office for different periods depending on where they were elected. William Temple states that no man of arms, including the stadhouder, could attend the meetings of the States General. In fact, he could be present - William the Taciturn often attended the States - but he had no voting rights.

Each province could send any number of deputies to the States General, depending on the importance of the session, but in each case had only one vote in the assembly.

Thus nominally Holland, which alone bore more than half of the Union's expenses, counted in the States General in the same way as the modest province of Overijssel. In reality, however, this was not the case, as the opinion of the Dutch deputies was held in the highest esteem by the other provinces during the voting phase, as very few things could have been materially realised without Holland's assent. To this it must be added that the main representative of the Dutch provincial states, the Raad-pensionaris, usually also had a central coordinating role within the States General.

Although the insight of the Venetian ambassador Contarini, according to whom 'almost all deliberations depend on the valour and advice of the province of Hollanda', is essentially correct, in some cases the Dutch veto did not prevent the execution of certain even sensational measures, such as the armed intervention in the most important cities of that province by stadhouder Maurits d'Orange in 1618, which resulted in the trial and sentencing of Grotius to prison and Johan van Oldenbarnevelt to death.

The main functions of the States General, as listed by Bentivoglio, concerned defence (war and peace), foreign policy (relations with ambassadors, military alliances, trade treaties), and the Union's tax revenues; In addition, they were responsible for the administration of the «lands of the Generality», and were in any case convened whenever it was necessary to adopt a measure that, according to the text of the

Utrecht Union or even following a «common perception», would require the assent of all the provinces. In his *Commentariolus de statu confoederatarum provinciarum Belgii* (1649), written with clear propagandistic intentions a year after the conclusion of the peace of Münster with Spain, Marcus Zuerius Boxhornius (Boxhorn), professor at the University of Leiden and eminent Dutch historian and politician, emphasised forcefully that the states were only entitled to deliberate where expressly requested by the Union of Utrecht, while in all other respects the individual provinces - and he was referring especially to Holland - remained entirely sovereign and independent⁶³. Boxhorn is therefore one of the protagonists of the vehement debate around the question of federal or provincial sovereignty that animated the Netherlands in the period 1648-1654.

A controversial subject was the management of tax revenues. According to the fifth article of the Union of Utrecht, common and general taxes were to be created for the central government. This was never realised, however, and the old system of proportional shares for each province was retained. The reason, as noted in *The Federalist*, was the clear disproportion of wealth between the coastal provinces, which could rely on sea trade, and those inland, who had no great resources on which to rely. Moreover, the very idea of 'permanent' and 'general' taxes evoked in the minds of the Republic's governing men the ancient specter of the 'tenth penny' tax instituted by the Duke of Alba. Undoubtedly, the fact that there was no monetary union contributed to weakening the 'federalist spirit' of the Union, as is clear from Grotius's *De republica emendanda*, where we read a harsh complaint about the lack of institutional mechanisms capable of nourishing the concord and unity of the seven provinces, and a series of reforms were proposed in this sense.

The deputies to the States General represented the interests of the provincial bodies from which they were elected, concretely expressed in their instructions, and acted within the assembly with a strict mandate. In fact, every decision taken in the states had to be confirmed by the provincial governments, so it was necessary for the delegates to return to their homelands to report the results of the meetings and obtain confirmation of the decisions taken. This practice was known as *ruggespraak* (reporting back), and gave rise to the widespread reputation of slow and confusing decision-making in the Republic. Yet when it came to being quick, the facts show that the assembly of the States General knew how to act. In this regard, Temple recounts with a touch of pride that in January 1668, at the time when he was British ambassador in The Hague, he succeeded in getting the States General to quickly conclude a defensive alliance with London by bypassing traditional bureaucratic forms.

According to the letter of the Union, decisions in the states were to be taken by the unanimity of the provinces, but this principle was violated to such an extent that one can indeed agree with J. Israel in saying that it was soon the rule of majority voting that became customary, and unanimity exceptional (among the few deliberations that obtained unanimous consent of the States General was the approval of William III of Orange's military expedition to England in 1688). It was precisely the complete lack of clearly defined rules, the continuous possibility of redefinition of the decision-making process and, ultimately, the split between theory and practice that permeated every aspect of the institutional life of the United Provinces that triggered the harshest criticism of the Federalist editors.

Certainly, the willingness - almost the necessity - to criticise every federal experiment preceding the one outlined in the Federalist, in order to make their proposal appear 'unique' and 'better', on the one hand weighs on the judgement of these authors, and on the other, the actual political and social reality of the United Provinces at the end of the 18th century, which was manifesting itself in all its decadence, plays a role. But in the early years of the Republic, what the Federalist calls a 'weak constitution' was not visible to all. On the contrary, much more often emphasised was the harmony between the institutions, and the certainty and regularity in the decision-making phase of the assembly system, due to that element so present in the political body of the Netherlands, which Temple calls the 'power of reason'. Bentivoglio then proposes an organicistic vision of the government of the Union, whereby «The Cities, & Nobles are in the guise of muscles, which form the member of each Province; and the Provinces in the guise of members, which form the body of the whole Union», and all together «conspire the United Provinces in the common interests, which pass between them». Overbury affirmed instead that the ultimate reason for the rational order of Dutch government must be sought in the intimate connection between common and private interests, and in the fact that each faction or particularistic instance has its own concrete interest in the state.

The Council of State (Raad van State), partly heir to the former royal council, was the central government institution holding the executive function. It had assumed an important position after the conclusion of the Treaty of Nonsuch with England (1585), and retained it during the Earl of Leicester's short tenure as governor (1585-1587). In 1588, following the break with Queen Elizabeth's favourite, the States General - under the influence of Oladenbarnevelt and the Dutch oligarchy - considerably reduced the power of the Council, which became a mere administrative body under the strict control of the States General.

Its prerogatives were in fact of no small importance. Consisting of a fixed number of provincial delegates, the Raad van State was in permanent session, voting by head and not by order or province. In contrast to the States General, the stadhouder was an integral part of it, as was one or two English citizens, usually the commander of His Majesty's garrison in the Netherlands and the London ambassador in The Hague. The English presence always remained suspicious and lasted until 1627; as J.L. Price rightly points out, it was one of the reasons why the Council of State never achieved the strategic role it could have achieved in other circumstances. The Council of State had discrete responsibilities for military and financial administration. For instance, it calculated the annual budget for the militia (*staat van oorlog*), and governed on behalf of the States General the so-called 'lands of the Generality', those southern possessions snatched at the last moment from the Spaniards that did not form an integral part of any province. In addition to that, it constituted a continuous source of men ready to be used in the various extraordinary commissions that were necessary from time to time, and was listened to 'like a Senate', Bentivoglio wrote, in the most serious matters concerning the Union.

It seems clear, however, that the Raad van State, also in relation to its functions of 'ordinary administration', was a body that made decisions much more quickly than those of the states, and, at least in theory, following as closely as possible the common utility; indeed, it was in this very institution that Grotius placed all his hopes of reforming the constitutional order of the Republic. In *De republica emendanda* he had set out the problem of the disunity of the state, and its corruption, that is, of putting the interest of a category or province before that of the whole community. It was therefore a question of making the organs of the 'federal' government stronger at the expense of the local ones. The humanist saw the Council of State as the most suitable assembly to restore concord and the common good, provided, however, that it was endowed with the powers necessary for this purpose. The reform proposed by Grotius envisaged a Council of State on the model of the ancient Jewish Sanhedrin, presided over by the stadhouder and composed of men with high moral and religious qualities (*viros religiosissimos et in ecclesia quoque regenda exercitatos*), which would decide on matters traditionally entrusted to the States General (wars, peace, alliances), without having to obtain the assent of the provincial governments, but having the foresight to consult the States themselves in the most serious cases. The Council is also asked to act as a court of arbitration on disputes between provinces, and to take over from the stadhouder in the prerogative of granting pardons to convicts. What Grotius suggests is therefore a profound reform that, by endowing the Raad van State with broad powers, makes it the true centre of federal government. But very few - or perhaps

none - heard this message: *De republica emendanda* was never printed, and lay in the National Library in Wien until 1964.

3.5. The House of Orange and the office of Stadhouder

In terms of conventional constitutional theory, the greatest anomaly of the Republic was, in the eyes of contemporaries as well as the curious of today, the figure of the lieutenant-general, the stadhouder. Created in the time of the Habsburgs as the sovereign's representative in the individual provinces, starting with William I of Orange, the 'father of the fatherland', this office was inextricably linked with the struggle for liberation from the Spanish yoke. Although the stadhouder was a dependent of the individual provinces (there could theoretically be one for each of them), in reality members of the Orange family were simultaneously governors of most of the seven regions of the Union, and became the main antagonists of Holland in the struggle for political supremacy of the Republic. The clash between the 'party of the Prince' (*prinsgezinden*) and the 'party of the States' (*staatsgezinden*) has long been the keystone of the social-political historiography of the seventeenth-century Netherlands, although it is now clear that the two factions should not be regarded as monolithic blocs, but were on the contrary traversed by transversal fractures and reunions.

Although they possessed specific and important functions, in order to understand exactly the power of the princes of Orange one must bear in mind that this was essentially based on irrational factors, popular favour, personal charisma, military victories, the quasi-royal lifestyle and the important dynastic ties of the family. It was in the stadhouder, and not in the States General, that the 'common man' of the Netherlands recognised the unity and prestige of the state. As Price states, an assembly cannot harangue the crowd by mounting a warhorse while brandishing a jeweled weapon.

It was precisely this direct connection with the people, who saw in the Orange the defenders of the fatherland and the reformed religion, that made William I, Maurice, Frederick Henry, William II and William III so famous, and allowed them to clothe with legitimacy even acts that more or less secretly concealed interests that were anything but aimed at the 'common good'.

Yes, because the 'almost monarchical' lifestyle assumed by some of these characters⁹³ was also reflected in their relations with the other institutions of the Republic, and especially with the Dutch provincial states represented by their natural

leader, the 'Grand Pensioner'. The clash between *prinsgezinden* and *staatsgezinden* was thus a clash of opposing interests, essentially concerning military and foreign policy issues.

The stadhouder was in fact the supreme commander of the land and sea forces, although the functions of lieutenant-general, captain-general and admiral-general were theoretically distinct; he was responsible for defence and public order in the territories under his jurisdiction, could move garrisons from town to town, and controlled a good deal of appointments to the highest ranks of the bureaucracy - which meant partly controlling the 'political direction' of local governments. He was, however, the highest noble of the Republic, and the fact that the Orange were princes of royal blood was not without importance in Old Regime Europe. Indeed, all the 'powerful' who visited the United Provinces took care to be hosted by the famous house or at least to meet William the Silent and his descendants. Likewise, the Orange maintained relations with the major European nations, and could be said to have had their own foreign policy, which might have been at odds with that of the States General. Culture also fell within the stadhouder's remit. William the Silent was responsible for the foundation of the University of Leiden, and from then on the stadhouder remained the patron of the academies of learning, overseeing the choice of rectors and changes to university statutes. Finally, there was the highly contested right of arbitration in disputes between provinces. The stadhouderate was not originally a hereditary office, but gradually became one mainly thanks to the political maneuvers of Frederick Henry, who also managed to isolate the interests of the Netherlands through the *secrete besognes*, executive committees of the States General composed of pro-Orangist or anti-Dutch exponents (the two factions were often, but not always, animated by the same aims). The power enjoyed by the stadhouder within the Council of State has already been mentioned.

3.6. The States of the Province of Holland

Let us begin by saying that Holland was in a sense the Republic; if only in a financial sense, since throughout the seventeenth century it paid more on its own than all the other six together (between 56% and 64% of the total revenue of the Union). It was by far the most densely populated province, and had within it the driving city of state trade, Amsterdam. For all these reasons it is understandable why most historians and chroniclers of the time considered it sufficient to describe the Dutch institutions without delving too deeply into those of the other provinces: it was Holland, and Holland alone, that was the real antagonist of the Orange. No institution more than the Dutch provincial states had been perceived as 'sovereign', as 'free', since ancient times. Indeed, the 'Batavian myth' had revealed that from the revolt of Claudius Civil to the Middle Ages and the uprising against Spain, Holland had never known 'absolute' rulers. Neither the Romans, nor the mediaeval counts, nor the House of Burgundy, nor the Habsburgs ever succeeded in bending the indomitable and free people of that region, who were represented in every respect in the assembly of the States of Holland, with which the various lords, kings and emperors always had to enter into very precise pacts, the so-called 'contracts of domination'.

Equally strong was the alleged link that united the Jewish people's struggle for liberation against the enslavement of the Pharaohs with the revolt of the Netherlands. From this 'Israelite myth' derived the comparison between the federal constitutional arrangement of the twelve tribes of Moses' people and that of the Republic of the United Provinces. The reference work of this 'Israelite myth', Petrus Cuneus's *De Republica Hebraeorum* (1617), is dedicated precisely to the States of Holland, the 'fathers of the fatherland', a limpid example of concord between men inspired by God.

This was certainly a 'myth' with an ideological flavour, but which, like all myths, was intended to reflect a situation of actual Dutch supremacy. The sovereignty of the states of Holland was first clearly defended in 1587, when François Vranck, pensioner of Gouda, was commissioned to write the «Brief Exposition» of the Rights of Holland (*Corte Verthoninge*), a reply to the accusation made by Thomas Wilkes, councillor of the Earl of Leicester, who had blamed the states for not having wanted to grant the English the power they had been promised, betraying the popular desire that they claimed, lying, to represent. But it is with Grotius' *De antiquitate* (1610) that the theory of the sovereignty of Dutch states will take its clearest and most influential form.

The States of Holland ordinarily met four times a year and were composed of nineteen members: the nobles (*ridderschap*), who only had one vote, and the representatives of the eighteen - originally six - 'voting towns'. The decision to increase the number of voting towns obviously contributed to weakening the position of the nobles and, according to Bentivoglio, was taken by William of Orange for this very purpose, as well as to extend support for his anti-Spanish military policy. To the letter, therefore, a small town counted in the same way as Amsterdam (i.e. with only one vote), which had provoked William Temple's moderate criticism. Also in this provincial assembly, as in the General Assembly, the clergy were not represented. The decision-making mechanism, including the practice of 'reporting back', functioned in the manner already described for the States General, perhaps a little more expeditiously, given the shorter distances to be travelled from town to town. Even in the case of the Dutch provincial assembly we find ample praise for the calm and reasonable discussions that took place there, and the unity of purpose.

Needless to say, the picture was often darker than the cardinal wanted it to appear. There was in fact a considerable contrast between the older cities and the 'new-comers', and between the Calvinist cities in the orthodox sense and those in which the ruling oligarchy favoured a more moderate religious policy, and then again, of course, between orangist and anti-Orangist cities.

The most influential position within the states of Holland was that of the *raadpensionaris*. In theory nothing more than a servant of the states, the pensionaris was actually its most influential member. It was almost always an office for life, although, again in theory, it was to be renewed every three years. The boarder was responsible for the composition of the agenda (and thus the delicate function of deciding what was more or less important at a given moment in history), and the 'conclusion', a kind of preparatory speech for the drafting of the final resolutions. He was also in charge of carrying out the instructions of the states, and was among the members of all committees created by the provincial government. What has already been said about the stadhouder also applies in part to the *raadpensionaris*, namely that much of his power is incomprehensible in the light of the formally established institutional offices alone. For instance, while officially the correspondence of the ambassadors of the Republic had to be handled by the *griffier* of the States General, during the time of Oldenbarnevelt (1585-1619) and De Witt (1653-1672) it was placed in the hands of the *raadpensionaris*, who was seen by foreign powers more or less as the 'foreign minister' of the United Provinces.

3.7. Federalism in political thought and practice: the debate on sovereignty and the crises of 1618-1619 and 1648-1654

The clash between the central government of the United Provinces (the States General and the stadhouder), and the most important provincial government, that of Holland, had various phases throughout the 17th century, but twice it reached such a point that the institutional collapse of the new republic was feared.

The first time the clash pitted the stadhouder Maurice of Orange against the raadspensionaris Johan van Oldenbarnevelt, over questions of religion and public order.

In the second case the antagonists were on the one hand William II, Maurice's son, and on the other the States of Holland, at first in their entirety, and later personified in the figure of the great statesman Johan de Witt, raadspensionaris from 1653 to 1672. The issue was now mainly related to military and foreign policy, which was intimately connected to it.

The first crisis was resolved with a defeat of the Dutch province and a victory, so to speak, of the interests of the Union and the stadhouder: Oldenbarnevelt was executed and Grotius was imprisoned in the castle-prison of Loevestein (1619). In the second case, on the other hand, the clash was won by the interests of the province of Holland, which, after the failed coup d'état of William II in Amsterdam (1650), and his sudden death, succeeded in having a 'Grand Assembly' convened, which decreed, after long and animated discussions, the abolition of the office of stadhouder and the assumption of full powers to the States General (Act of Exclusion, 1654), in reality manipulated in every way by de Witt and his followers.

During both the first and the second crisis, there was an explosion of political propaganda literature, the main purpose of which was to defend or deny the idea of provincial sovereignty, i.e. the idea that the Union was just a collection of completely sovereign provinces, in which each one - read Holland - could unilaterally take decisions even on military and foreign policy without obtaining the assent of the others and the stadhouder.

A famous defence of provincial sovereignty was composed by Hugh Grotius in 1622 in the form of a justification of his own behaviour and that of the 'Arminian' faction during the events of 1618-1619. It is the *Apologeticus*, which immediately had a Latin and a Dutch edition. The writing is dedicated precisely to the States of Holland, which had to endure an unjust 'mutation of government', a blatant violation of

their status as a sovereign assembly. The true sovereign institution in the republic, argues Grotius comparing the Netherlands to ancient Rome, is not the States General, but the provincial ones, just as Polybius had stated that in Rome the sovereign was the people and not the Senate. This principle would be reflected, according to the humanist, in the text of the Union of Utrecht of 1579, which, however, as we have seen, never uses the term «sovereign» or «sovereignty» in the sense intended by Grotius. He goes so far as to criticise the figure of William the Silent, the 'father of the fatherland', who would have coveted and finally obtained a 'ius quasi dictatorium', this time breaking the sacred foedus of 1579. Defending the sovereignty of the individual provinces, so concludes the *Apologeticon*, does not mean destroying the Union of Utrecht, but rather protecting it in its truest meaning.

We find the same tenor in the pro-Dutch writings of the period 1650-1654. Clearest of all is the *Deductie* drafted by Johan de Witt in 1654¹²⁹, immediately translated into Latin, in which he responded to the accusations made by Zeeland, who condemned among other things the diplomatic rapprochement between Holland and England as a violation of the prohibition to establish foreign policy agreements without the consent of the States General, and above all the Act of Exclusion of the House of Orange from the office of stadhouder, another blatant infringement, in the eyes of the Zeeland delegates, of the Union of Utrecht, in the text of which explicit reference was made to the stadhouder, which was thus an institution provided for by the treaty and not extinguishable without a unanimous decision.

But de Witt was inflexible, and stated once again that *summa potestas*, to which this time was added the - loaded with meaning - adjective *absoluta*, belonged in the Netherlands only and exclusively to the individual provinces, and this precisely on the basis of the Union of Utrecht. But he also added an important corollary: that a hereditary military office such as that of stadhouder was incompatible with a republican state founded on 'true freedom'.

With the time of Johan de Witt, a first phase of the clash between provincial interests and central government came to an end. Holland would be the driving force behind the politics of the United Provinces, and social tensions would remain dormant without ever dying, only to reawaken in 1672, when the sudden Anglo-French invasion would bring the Republic to its knees. The people would interpret the event as the failure of de Witt's foreign policy, who was caught and lynched by the mob while the name of William III, Prince of Orange, was being hailed in the streets of The Hague.

4

The city and the siege

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1. The European landscape has a very recognizable feature, which can be found almost everywhere in the different countries, especially in the peripheral areas far from the capitals and metropolises: villages, little towns, sometimes even towns of at least medium size, still enclosed by walls. It has been like this for millennia, it is not just a legacy of the Middle Ages. From classical antiquity to advanced modern times, from the era of the catapult to that of heavy artillery with explosive shells, the face that the city turns towards the exterior has the grim features of the circle of walls.

It follows, inevitably, that for millennia there has been war, violence, massacres and fear everywhere. And we know all too well that all of this was actually not lacking. However, apart from the walls, we do not read it in the landscape. In Italy as in France as in the Rhine valley and in short everywhere, we see well cultivated fields, pleasant hills, in the same wealth of monuments that wherever we find we can perceive prosperity, a taste for beauty, reasonable security of the future. But above all we find roads, bridges, ports. It seems that there is a contradiction. The walls bar the way to an invader, roads, bridges, ports open their arms to a welcome visitor. So, in short, were they afraid or not? And of whom were they afraid, perhaps of the same ones to whom roads and ports were opened? Isn't that a bit strange, if you think about it?

Yes, there was war, there was violence. But it was apparently not the rule. In some cases, imposing walls have been built, strengthened, restored, without undergoing even a siege. In less fortunate cases, they were built, strengthened, restored, perhaps to undergo a siege every century. The feeling that there is disproportion and waste is quite strong. Or we should make another hypothesis, apparently unlikely: that the walls do not serve to stop an attacker and have a different purpose.

2. There is certainly an analogy with phenomena much closer to us. Why are nuclear weapons manufactured? Not to use them (so far...), but so that others do not have the temptation to use them against us. Why are armies maintained, when in international law it is now recognized (at least in words ...) that the war of aggression is a crime? Not because we want to attack, of course, but because others don't attack us. It is not really a question of defence, but of deterrence. Defence implies an attack, or at least the high and imminent probability of it: in the absence of a real or probable attacker, it would be nonsense. Deterrence is somewhat one-sided: there is no need for an aggressor; rather its existence itself is prevented. If we defend ourselves, it is because the aggressor is there, if we practice deterrence, it is to prevent the aggressor from being there. The absence of a threat is not a condition for peace, but the state in which it is normal to prepare for war, because if one does not prepare for war, the threat could possibly occur. War is evoked as if to exorcise it. When it's not there, you need to prepare as if it were, because otherwise it could be ...

Therefore the walls must be built not to withstand sieges, but so that there are no sieges. And therefore, if there are no sieges, this does not prove that the walls are useless and should not have been built, but that they have been extremely useful and must be strengthened more and more. It is a «logic» that makes you dizzy a little, yet this is how the world has worked, evidently for millennia. But wouldn't it be simpler not to build walls at all, not to produce atomic bombs, not to maintain armies? If we stop, maybe the others will stop too. Whereas if we don't stop, for sure the others will build and maintain and strengthen walls and armies and atomic bombs. If no one practiced deterrence there would be no need to practice it, while if only one practices it, all the others are forced to do so. Again, it's a really weird logic. Or, the matter must be very different from what it seems.

3. Let's try to look at things from another point of view. The city walls have two faces: they also face inward. On the one hand, they prevent the entry of an enemy that perhaps is not there. On the other hand, they prevent us citizens, who certainly

are there, from going out freely and with impunity. If we think about it for a moment, the true functioning of the mechanism is not too difficult to understand. The walls are not used to defend us from an attacker, but to keep us inside. The first thing could possibly happen once in a century, or even never, the second happens every day, every minute. The disproportion is such, it seems to me, that it leaves no doubt: the walls keep us inside. Maybe they protect us once in a while, but they sure lock us up all the time. But why, then, do we want to be locked up?

This is a point to understand well, because it risks escaping us immediately. An apparent explanation comes to mind too easily, which instead does nothing but definitively confuse us. The apparent explanation, in fact, is that a bad Power wants to keep us inside to control us. Sometimes it is also true, of course. But it brings us back to the same strange logic we saw earlier. If there is an evil Power that wants to keep us locked up, it means that there is an Aggressor, an Enemy. It's like it comes from outside (and sometimes it actually comes from outside). We have been conquered, imprisoned: it doesn't matter if someone who belonged to our city did it. He is our oppressor, so he is not one of us: he is a stranger, a foreigner, it is as if he were an external aggressor. We must throw it down from the walls, conquer them, go and defend them to prevent the thrown out oppressor from attacking us, returning to us as a foreign enemy ...

We are at the point before. And, even more so, if the walls were not there, no oppressor could use them to imprison us. If we really wanted not to be imprisoned, we could tear them down, or, better yet, never build them. So there is no bad Power that wants to control us: or rather, we are that Power ourselves. We want to be controlled, we want to have in front of us not free spaces but thick walls; even if the Enemy is not there, even if the Oppressor is not there. And if there is, it may very well be that we called him, in order to have beautiful walls and feel safe inside.

But if this is the case, then the real danger from which we defend ourselves is not that an enemy attacks us or that an oppressor dominates us: the danger is precisely the free space we would have in front of us without the walls. The danger we defend ourselves against is not that someone comes from outside to harm us, but that we ourselves can go outside. But why, what is out there? What are we really afraid of?

Let me be clear, the closure within the walls is never total, we would not accept it. We could not live completely closed. In the walls there are gates, well defended but also very beautiful and well decorated: they are the true face of the city. And through the gates you can enter and exit. There will certainly be guards, but they

are not really an obstacle when the gates are open. They are not there to hinder us, but they seem to reassure us: if necessary, the gates can be locked, there is someone who would take care of them. For the rest, just pay a duty, usually small, or show a document, usually easy to obtain, and we can go wherever we want. It is important to be able to go where we want: this is why we not only build walls, but also beautiful roads, solid bridges, magnificent ports. And to the foreigner who enters the walls with our permission, we feel obliged to offer generous hospitality: certainly not for free, but we will house him well, we will feed him well, we will proudly show him the beautiful things of our city, we will be intrigued and amused by his reactions, we will be proud if we hear him speak well of us.

In fact, we know very well that there is no danger outside, and those who come from outside in the right ways are not at all unwelcome. When things go well, the gates are open for a long time, sometimes all the time, and it's not really a problem to get in and out. But then, why are the walls still there?

Perhaps there is no need to look for difficult solutions, there are no well-hidden mysteries to investigate. Just look carefully and describe what happens. Let's try.

4. What we see is that normally there is no enemy outside that is besieging us. It can happen every now and then, but that's not normal. Normally, the gates are open, people come and go as they please, a lot of people roam the streets, the ports are full of foreigners and foreign goods. But the walls are there. There are armies. There are atomic bombs. There are army staffs who prepare battle plans, using a lot of imagination to figure out against whom. Normally (of course, today's normality is definitely another, but let's allow ourselves, for a while, the luxury of thinking as we could have thought a year ago, even better three years ago, before the war and before Covid) - normally, I said, there are no aggressions, there are no dangers, there are no threats (if not those produced by those who defend themselves against aggressions and dangers that are not there, but there could be, and since they there could be they there are). Therefore the walls do not defend, they do not serve that. And they don't even completely lock us up inside, they don't serve that purpose. They *could* defend, they *could* lock up, and that's enough for us. So what do they really do?

Let's look at it, what they do. It all happens before our eyes. There are no mysteries. There are no deceptions either. We know what happens, we see it and we want it. We want to be *delimited, separated, identified*.

The walls tell us who we are. Or better, they don't tell us exactly that. They don't give us a real content. They tell us we are *different*. Different indefinitely, not specifically. Different from all the rest, different from the outside. From whoever and whatever is out there. It is the Outside as such that threatens us. It is the indefinite freedom, the absence of fixed directions, the lack of order and orders. It is not so much being able to go anywhere, but being able to be anything, not having to be anything: this is the real danger, the real threat.

The walls, and everything that works in the same way as the walls, tell us that we are Us, we must be Us and we must be among Us. And if we go away we have to go back, and if we don't come back we have to transplant this Us to another place and rebuild, on another hill, the same city with the same walls. We will continue to not know who we really are, because everyone is really different from everyone and there are no shared identities. And the problem is exactly this: since they don't exist we have to invent them. In the usual way, which has worked since the Palaeolithic. We are the Good, We are the Righteous, We are as we should be, We exist and live according to Values. We Are Real Men: basically, there are no Real Men but Us.

And here is the threat of the Others. The Others are not a danger because they are enemies: they are this rarely and for a short time. The Others are a danger because they are something else: therefore they cannot stop being a danger, it does not depend on them. The others are a danger because with their very presence they tell us, in fact, that one can be other, that it is not essential to be like us, that things can work very well in another way, and that therefore we ourselves could very well change, and we don't have to be as we are. And therefore, to be free, we should choose ourselves. Deciding every time we want to be who we are, but we don't have to be. There can be another good and another evil, another god and another devil, other values and other negative values, other loves and other hates. Other men, different from us, but equally men compared to us. But this is tiring and it is dangerous. It is objectively, it is not a question of whether we are stupid or that we are evil. It is a question that we are fragile, life is short and difficult, we must be able to do things together in order to be able to bear it better and longer, and therefore we must force ourselves to reduce the possibilities, to simplify the world.

But in this way we oblige ourselves to build walls, and the walls invite to siege. By building walls we are telling the Others that are outside that they are enemies. And so we are telling them that we are their enemies. So they will build their walls too. Because we could attack them. And with that they will tell us they could attack us. And since they could attack us, sooner or later we will attack them. And since we

could attack them, sooner or later they will attack us. This damn, stupid thing is called geopolitics: basically that's all.

5. Sure, wider walls can be built, and that's already progress. There are more things and different people in it, the possibilities widen, there are more choices, therefore more freedom. The chances of conflict are reduced, many who once would have considered enemies can live with us in our city. Such a reality would once have been called Empire. Today it could be called Europe. But the walls are still there, and they get higher and higher and more and more closed. It is the condition for expanding them, probably. And to make such large walls sustainable, it is necessary that the others who have remained outside are particularly Others (non UE citizens, illegal migrants, worthless lives, lives to lose), even better if particularly Enemies (barbarians, uncivilized, savages, terrorists, unjust aggressors, international criminals).

The expansion of the walls is as cancelled by their raising in highness. Such a Europe is too small. And its smallness calls even more, demands the siege to come.

We should tear down the walls and get out. The outside is so wide and so free. We could go anywhere and be anyone. And decide, free, every step and every moment. But we will never do it, we are too afraid of this freedom. We will die of our limits. We will die for having made a limit of life, a wall of life.

5

Europe between institutional monism and cultural pluralism

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But the age of chivalry is gone. That of sophisters, economists, and calculators has succeeded; and the glory of Europe is extinguished forever.

— Edmund Burke

We were the leopards, the lions; those who'll take our place will be little jackals, hyenas; and the whole lot of us, leopards, jackals, and sheep, we'll all go on thinking ourselves the salt of the earth.

— Giuseppe Tomasi di Lampedusa

5.1. Cultural resistances

Europe has a fairly compact common linguistic matrix. But European languages are also national languages of countries that have nothing to do with Europe. English is the official language of many African countries; a Germanic language derived from the Dutch is the official language of the Republic of South Africa; in Oceania, English has supplanted the official languages of the native inhabitants; likewise in North America, English and French; the Spanish and Portuguese have destroyed the languages of the natives of South America, a land that from Mexico downwards is not called 'Latin America' for nothing. It seems a trivial fact, but it is one of many linguistic contradictions: what does Latin have to do with the Inca or the Maya? And why should the Iroquois, Chippewa and Uroni be called 'Indians'? One should ask the Europeans. The answer to all these questions is however inscribed in a social fact as old as human history: massive migratory movements, legitimate or illegitimate, always find a cold or hostile reception. Multiculturalism is born of migrations: of social facts that are not painless, often violent and bloody.

History teaches that a people settling in the territory of another generates, in Jared Diamond's illuminating expression, a collapse between cultures, which in the best case scenario results in the affirmation of one and the marginalization (if not destruction) of the other. Studies by anthropologists such as Diamond confirm that, since the dawn of human civilization, a culture can collapse for various causes. On its own: as a result of environmental, climatic, demographic catastrophes. In such cases, it often attempts to survive, by migrating; and often, by thus encountering another cause of disintegration, which not infrequently leads to collapse: war, the multicultural conflict par excellence.

Towards the end of the eighth century, a population from one of the remotest parts of Europe, never touched by the Roman Empire, for demographic reasons caused by the extreme unusability of the territory for agricultural purposes, decided to head for the sea. Having refined their naval technique to such an extent, the Vikings were able to reach the British Isles and northern France from Denmark, the Baltic countries, and across the Volga to the Black Sea and Caspian Sea in a short time and from various starting points in Scandinavia; from mountainous and impassable Norway, they reached and settled in the Shetland and Faroe Islands, Iceland, and even Greenland, where from the end of the tenth century they settled, collapsing after nearly five centuries, in contact with an extremely harsh climate and in contact with the hostile Inuit culture, not indigenous but predating the Vikings. Without settling there, the Norwegians also set their sights on the North Ameri-

can coast of Labrador, which, however, they failed to colonize. The Vikings did not settle in other people's lands because they managed to convince the natives with diplomatic ways; for a long time they mostly clashed with all the other cultures they visited, invading their lands, plundering and colonising them. Only after a few centuries was the explosive Viking force contained, appeased and finally converted by the strengthening of the English, French and German rulers within a peaceful network of trade relations. I believe that the case of the Vikings in Greenland, documented by Diamond, is really a paradigmatic example of how a people, in an alien, hostile and distant environment, could maintain their cultural (in this case, European) roots for some 450 years, within a communal, conservative, hierarchical, feudal and Christian social structure: of the Greenland bishopric, traces and ruins of churches, modeled on European ones, such as the one in Hvalsey, still remain. To maintain the churches, Norwegians settled in Greenland paid annual tithes to the church in Rome and tithes for the Crusades, imposed on all Christians in the two settlements, in East Greenland (about 4,000 inhabitants) and West Greenland (about 1,000 inhabitants). In almost five centuries, there was no contact, no integration in Greenland between Norwegians and Inuit, only a hostile distrust for which neither culture was willing to learn from the other. Consider funeral traditions: the Inuit, like the Norwegians, continued to bury stillborn children by the eastern gable of churches. The Greenlanders thus collapsed due to a mixture of causes: (a) economic: waste of resources, preference for hunting game and no practice of fishing (perhaps a cultural taboo introduced by Erik the Red); preference for trade in valuable goods, such as ivory extracted from walrus tusks, over trade in primary goods such as iron or wood; (b) environmental: deforestation, soil damage caused by peat extraction and turf erosion due to the disproportion between grazing land and grazing animals; (c) social: progressive closure of trade relations with Scandinavia, inability to produce metal weapons due to iron shortage, hostile indigenous presence of the Inuit. (And it is equally significant that, due to a similar mixture of socio-environmental causes aggravated by climate change, the survival of Inuit culture is threatened today.)

Although it perhaps constitutes an example of how the failure to integrate culturally with the Inuit was a missed opportunity for the Norwegians to last longer (had they learned the survival techniques of the natives or had they interacted commercially with them), the survival in Greenland of a European culture, in the Middle Ages and for five centuries, is undoubtedly prodigious and a fact that deserves reflection. I therefore believe that the history of human civilization should more than ever today serve as an example to avoid talking about multiculturalism as if this were a natural, taken for granted and peaceful fact. Rather, we should reflect

on the fact that multiculturalism, per se, does not imply integration: on the contrary, it often denies it, or avoids it. Integration is the survival of a migrant culture in the territory of another culture, in which that culture settles or is hosted. The conditions of survival of a migrant culture can be acceptably just or violently unjust. The acceptable ones are usually the result of agreements.

I believe that the just and acceptable conditions for survival of the migrant culture should be (a) respect for the host culture; (b) willingness to accept that moral codes and legal norms preexisting to the migrant culture already exist in the host culture. There is, in short, a normative identity paradigm that should not be disrupted.

Man has evolved rapidly. Culture can be understood as a very efficient mechanism of adaptation to the environment. The social distribution of the advantages acquired through cultural innovations remains very unequal. Culture is therefore a biological device because it depends on organs, the larynx to speak, the hands to build tools, the brain to understand, etc. But it is a flexible device because it allows us to apply whatever ideas come to mind, and develop solutions for problems that arise from time to time. Thus, language differentiations tend to reduce cultural exchanges and increase cultural differences between groups. Therefore, a 'multiculturalism' understood as a 'fusion' of cultures seems difficult to understand: this is simply a concept devoid of logic. It always involves cultures that may give rise to other cultures, but one culture always remains different from another. I mean to say that a 'multicultural society' cannot be understood as a *Mischung*, a cultural cocktail, but must be considered for what it actually is: a human society in which there is a dominant local culture, made up of deep-rooted traditions, and into which other foreign cultures are grafted, mostly due to migratory phenomena, which in relation to it remain quite distinct and in relation to which they show no sign of coming closer if not of integration, as much at the level of cultural transmission as at the level of genetic transmission.

5.2. Philosophical paradigms

European cultures, although united by the common geopolitical heritage of peoples belonging to a certain territorial space on the planet, and by cultural facts such as the widespread Indo-European linguistic designation, are often in conflict. Indifference and cynicism, racism and xenophobia, violence and disregard for life can arise from a sense of superiority on the part of those who are economically stronger, but also from a sense of revenge on the part of those who never were, as is the

case in the former East Germany or in the Slavic and Balkan countries. This is also why a framework decision of the Council of the European Union has unanimously agreed, after years of debate, on the punishability of the crimes of racism, xenophobia and denialism, identifying the punishability of two offenses: (a) public incitement to violence or hatred, including through the dissemination or distribution of writings, illustrations or other material; (b) public acceptance, denial or offense of crimes of genocide, against humanity, war and defined by the Nuremberg Tribunal; in both cases, the targeting of such actions must be directed at persons identified by reference to race, color, religion, ancestry or ethnic or national origin. Despite the unanimity and the implicit appeal to the common moral values of the Union, the decision has not been easy, because it has revealed attitudes – precisely of a cultural nature – that are different in nature and often difficult to reconcile; probably also due to the different attitudes of the ministers of justice of the different member states, wide discretionary powers are assured to the judicial and executive powers of the member countries. Certainly, there is a philosophical tension, as is also evident from the proceedings of the document, between two fundamental motivations being weighed: that of social security, enforceable through the prevention and repression of socially dangerous behavior, and that relating to the protection of the fundamental rights and freedoms of EU citizens. It is important that the decision aims to stigmatise only behavior that has a public and not a private dimension, so that the political relevance of the crime is also clear: these are actions that can be punished only if they result in a disturbance of public order or constitute threats, abuse or offenses. It is for this reason that in no way, according to the decision, should measures of domestic law have the effect of altering the fundamental rights and basic legal principles of member states, 'including' (thus: not only) freedom of association, press and expression.

Thus, I believe that the decision's reference to the non-violation of constitutional rights authorizes consideration of that wide range of fundamental freedoms, which include first and foremost the freedoms of thought, speech, press, political and artistic expression, assembly, participation, association and even movement. It is no coincidence that the first instance, which has undoubtedly but laboriously been given priority, has been advocated more by civil law countries, traditionally more attentive to the paradigms of legal certainty and positive freedom (the Kantian paradigm of *Freiheit unter Gesetzen*), while the second instance, which, however, has not been sacrificed, has been kept in mind by common law countries, such as the United Kingdom and the Nordic countries, consistent with a long liberal tradition, respectful of the concept of negative liberty (the Lockean paradigm of natural rights). In essence, the problem of the difficult sharing of two cultural concep-

tions of law played a role in the negotiation, the first being more willing, in certain cases, to grant the state a certain (sometimes even strong) power to interfere in the individual space of citizens, the second considering the principle of separation between the individual dimension of freedoms and the institutional dimension of power as always a priority and never derogable.

Having reached this point, I can make three assumptions.

European identity is a tricky concept. European identity may never have existed. A European consciousness perhaps, yes, but certainly not what one might understand as 'citizenship', a mere formal requirement and certainly not a substantial characteristic of being European. But the age of chivalry is gone, as Edmund Burke in 1790 wrote in his *Reflections on the Revolution in France*.

European institutional identity needs ethical-normative glue. A good example of glue is the rhetoric of human rights. Conservative human rights rhetoric evoked a romantic Christian vision of Europe. Rather than following the model of the Universal Declaration of Human Rights, conservatives like Winston Churchill grounded their calls for new human rights protections in the values of a bygone European civilisation.

The idea of the justicialist defence of rights. This idea collapses in the face of the failure of the politics of human rights as 'universal'.

The crisis of rights in Europe is mainly about the conflict between the sense of belonging to an identity and the sense of belonging to an institution. The conflict has probably been generated, and reinforced, by an insufficient or short-sighted attitude on the part of the Union towards the objective of creating symmetry, or equivalence, between the sense of identity and the sense of institutional belonging. What has occurred is the spread of a crisis in European public opinion, which arises and manifests itself in distinct communitarian forms, but which converge in expressing a decisive rejection of a system that does not work. It is a communitarianism that can be silent, abstentionist, even indifferent, or that leads to the expression of a consensus aimed at security strategies for the members of the public, that is, European citizens, rather than at protecting the rights of all residents. It is surely the outcome of a historical process produced by choices that were too demanding, or too far above the instruments and resources to be allocated. And it is perhaps the beginning of a new era of crisis, which however wants to avoid the loss of the sense of having a culture, since it is only through culture that meaning-

ful realities can be truly felt. The demand that emerges brutally, clearly perceptible even without being said, is the not wanting to lose my culture: a set of skills and scientific knowledge that characterise the semantic grammar of individuals linked to their traditions and ways of life. Paradoxically but understandably, the rights being claimed today in the European institutional crisis are not universal rights. They are *not* human rights, but something like the fundamental rights of Europeans. Voters have realised that the Union's policy has failed by focusing on citizenship as the requirement to safeguard European identity. Formal citizenship does not solve the problem of cultural conflicts.

5.3. Why pluralism?

What is the point of talking about pluralism in this case? Pluralism is only possible as the coexistence of mutually viable values in a given context. The inescapable problem is that culturally related societies tend to coexist, culturally unrelated societies tend to avoid each other. This explains, for example, the cultural survival of irreducibly fundamentalist customs by members of Islamic communities in the United Kingdom. British citizens to all intents and purposes, with respectable jobs (there is a well-known case involving some doctors, for example), perfectly integrated into society, speaking the local language, born where they live: and yet so firmly attached to non-European ideologies and values that they cultivate anti-European values, to want, in the name of those values, to fight (to destroy) the cornerstones of the culture of the area where they were born, but of which they are not the children. This kind of anti-culture is the opposite of the sense of liberal tolerance and respect for cultural pluralism, and it certainly creates a sense of paralysis in British society, whose governance has repeatedly preferred to hush up the problem and not criticise the doctrines of so-called minority rights for fear of being seen as hypocritical: with the consequence of fuelling on the one hand a grievance culture, a culture of resentment, and on the other a need for security that explains the rampant support for extreme right-wing political alignments. Undoubtedly, liberal societies are paying the price for having granted a kind of acquiescence, disguised as tolerance, to hypothetical minority rights. This has produced a distorted doctrine capable of generating a moral inversion in which those who have generated and fomented unjust hatred have essentially been excused only on the basis of belonging to a self-styled victim group, as opposed to a majority who have instead been warned against reacting because they are considered to be oppressing the aggressive part of society.

This is part of the threats that have led to the social insecurity that has shaken the foundations of Europeans' sense of tradition and authenticity. One thinks of the internal intolerance on the part of those not a few non-Europeans living in Europe who do not want to change the physiognomy of European society by transforming it, but by destroying it. It is also a reaction against the neglect of those public institutions that have allowed many neighbourhoods in European cities to become 'parabolic ghettos' connected with the Middle East, Pakistan or Morocco. The crisis of the present attests perhaps to the crisis of the very possibility of politics. The move towards exaggerated forms of populism in reaction to the violent sense of insecurity threatening Europeans also attests to the fact that the multicultural dream is over. It has generated an illusion, and has turned into a nightmare. Cultural pluralism is the only chance Europeans have left to cling to the liberal culture of rights, but it is probably the child of another illusion: as a product of the Enlightenment, it is part of the Western liberal tradition, part of European legal morality. It shares the venerable Kantian intuition that ideas knowable through reason are universal: from this we have come to derive our idea that rights, being products of human reason, are at bottom something universal, and therefore extensible. And hence we have derived from this the idea that Western values are universalisable.

That this assumption is supremely objectionable should be clearer today than ever before, if we are to accept the idea that the culture of rights, as part of the European genetic heritage, is not something that others are willing to share, and that others are willing to extrude from the cities of the old continent. Cultures are physiologically self-resisting, and in competition with others they try to preserve themselves, to survive; to preserve themselves and to survive they try to impose themselves; only if forced are they willing to give in or negotiate. Biologists and geneticists know that in higher primates, including human beings, culturally transmission, not assimilation, prevails; the problem is therefore that it is not always the case that the mere fact of the promiscuity of several cultures (e.g. local cultures and immigrant cultures) in a certain territory is in itself a guarantee of the maintenance of cultural identities. The pluralism that underpins tolerance, even this idea, is a non-universal idea; there are other – many other – worldviews that do not even accept the idea of simple coexistence, because they do not think it is right to share the philosophical framework of symmetry on which the concept of tolerance is based. Inevitably contingent on this concept is an element instrumental to the very possibility of this civilised practice: reciprocity as a negotiating tool of the principle of tolerance.

Under certain circumstances, therefore, even the principle of tolerance no longer appears to be successfully applicable and enters a severe crisis, especially when public institutions fail to find a viable alternative. The problem is not the intransigence of an Enlightenment instrument, since on the one hand liberal democracy says that one must be critically disposable, on the other hand it argues that the only non-negotiable thing is the use of violence. It is clear that the crisis spreads when the non-negotiability of non-violent values conflicts with the non-negotiability of values enforced by violence. Liberal-democratic enlightenment enters into complete crisis in the face of this; and this dilemma in itself causes institutional collapse. The anti-Europeanism of many Europeans is not against European identity, nor is it against the rights of many individuals, citizens and residents, living in Europe. If anything, it aims to protect the cultural and regional roots of Europeans, which are often challenged by aggressive instances of institutional monism, empty nationalism, or even more arbitrary inclusive drives.

What is the origin of European identity, if there is one?

Questions of emergency and security, fear of terror, civil instability and a sense of injustice: in other words, everything that threatens the balance of rights, already made precarious by the puzzle of an identity paradigm that one would like to understand but is proving increasingly divisive. Even in the light of the erosive action constituted by the difficult but unavoidable relationship between 'Europeans' and 'internal foreigners', the question that always remains is: what is an identity? The origin is not the genesis, however.

Think of the problem of religious identity. We talk about the Christian roots of Europe. There is hardly any talk, however, of Europe's pre-Christian roots to define the context of religious pluralism that, before the Christian monotheistic expansion, reigned in the European regions, both in the provinces of the vast Roman empire and outside it. Today there is an organisation called the European Congress of Ethnic Religions (ECER), which basically promotes a reconstructionist polytheism, an ancestral neo-paganism as the basis of European religious pluralism on a cultural or regional, but not national or institutional, basis.

5.4. Goodbye, Europe?

It is not far from the truth to say that today one can observe the greatest scepticism towards the current policy of the Union. All too evident is the evidence for this

fact. The exit of Great Britain, the air of flight in Ireland, the heavy air in Hungary or Slovakia. What is happening? Europeans have built the Union in the image and likeness of an ideal theory that has not, however, been assisted by a specular, complementary real theory. Simply put, the rights of the formal European constitution have not become the rights of a material constitution of Europeans.

Nevertheless, Europeans are still quite proud of their rights and – I would add – of their culture. What is a culture? And what are rights? It must be admitted, like it or not, that rights and culture are Western concepts. To make even historians happy, we should say that they are indeed European concepts. Sublime, much sought-after inventions – typical of a way of doing, or interpreting the world, born in Europe and cultivated on the basis of established traditions.

Unfortunately, in the new century, the advancement of technology has gone hand in hand with the destruction of memory. I am not talking about historical memory or memory in the celebratory sense – there is far too much of that – but memory in the neurophysiological sense.

I believe that human beings have become functionally dependent on machines and have almost irreversibly lost the ability to remember. This has happened mainly in the West, and especially in Europe. Europeans have definitively ceased to exercise a dominant position and have increasingly given up the prospect of being producers and turned into consumers. This effect has produced a destruction of the ability to imagine, construct, creatively interpret the world in the way that European man has done for centuries, I would say from at least the pre-Socratics to the 1970s.

Since the Second World War, the world has been less and less a matter for Europeans, and it seems that – unless it becomes something else – Europe agonises before disappearing forever. It has become a metaphor of itself: a museum object in which art becomes the bait for new conquests by exotic adventurers thirsty for power, for fun, for crumbs. It is just a pretext with no market value that provides a licence for ennobling anyone from outside who interprets and creates today's world – the planet's new rich – born anywhere but in Europe – Russians or Chinese, Indonesians or Indians, or whatever – Europe is at best a flagship for new predators with no tradition, in search of a pedigree for new human predators.

6

Unity and Plurality

The polycentric perspective in the European Space

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6.1. The concept of self-determination in Hegel's thought

The perfect conjunction of the concepts of self-determination and sovereignty, as fundamental elements of the Form-State, we find in § 275 of the *Grundlinien des Philosophie des Rechts*, which reads as follows:

«Sovereign power itself contains within itself the three moments of totality: 1) the universality of constitution and laws; 2) deliberation, as the relation of the particular to the universal; 3) the moment of ultimate decision as self-determination within which everything else returns, and from which it draws the beginning of its reality. This absolute self-determination constitutes the distinctive principle of sovereign power...».

Self-determination, the giving oneself one's own order and one's own institutions independent of others, is the element that marks true statehood, that which truly founds the state. Perfect symmetry between self-determination, sovereignty, statehood. Achieving the highest level of political selfawareness.

A state that lacks these attributes is not a state is not an entity with full sovereignty. Anything that goes beyond the definition of full sovereignty is relegated to a derivative and secondary position.

Take the case of the so-called regions - one often hears that regional institutions exercise a form of self-government - whereas they are nothing more than entities with granted and limited sovereignty, which do not have full sovereignty. However much more room for action the regions may demand, they can never have more than what the state can grant and have a subordinate position that never comes into conflict with the central power. As far as the 'stateless nations' claim full sovereignty, Hegel's recommendation applies to them: the attainment of full sovereignty is an achievement that passes through the condition of subalternity, the experience of negativity, and for an affirmation of political self-consciousness to be achieved there must be a will capable of leading to the attainment of full sovereignty.

A people may well claim a series of objective natural data that determine it (blood, soil, language), but only a political will can elevate this 'natural' matter to a state organism, only thus can a people truly call itself a people and act in History, make History.

And the state is always the affirmation of a unity, of an identity, in difference from the other-thanself.

In the classic pages of *Phänomenologie des Geistes*, the moment when a people aspires to become a state is also part of the process of recognition. The conquest of independence is, after all, a vital question that passes, ineluctably, through struggle.

The question is whether a serious investigation of the modern state can dismiss the enormous contribution made by Hegel in overcoming the Hobbesian conception and his profound detachment from natural law proposals, his rejection of those philosophies that place the 'contract' as the foundation of the state. We owe to Hegel the introduction into the philosophical-political lexicon of the notion of 'ethicality', *Sittlichkeit*, the communitarian aura that animates and transcends the actions of individuals by ordering them into a social whole that preserves the state from being the object of interests and ambitions from civil society.

At the same time, it is useful to point out the fundamental aporia of the Hegelian state in relation to the European configuration and the historical destiny of Europe.

For Hegel, the state is concrete individuality in the midst of other individualities, and this inevitably brings it into confrontation. This is war. For the German philosopher, war is salutary, it is - in some ways - hygienic, because it safeguards the state from paralysis.

There is in the state an irrepressible will to power, a relentless pursuit of living space, which in the 20th century resulted in the outbreak of two civil wars on European soil.

This is the inescapable point from which the whole discussion on the future of Europe following the end of the Second World War started.

The discussion had identified the state as the critical element to be reformed. The overcoming of the nation-state, in the name of supranational political institutions, would have ensured peace and concord in Europe and would have deactivated that will to power which, as we have seen, is connected with the concept of the state.

6.2. Europe born from the treaties

European thinkers were unable, in the immediate post-World War II period, to imagine a political form in keeping with the times. Let us treasure Hegel's lesson.

In contemporary Europe, the need to avoid inter-state conflict has given birth to a hybrid form in which the central element is the 'treaty'. The 'treaty' is an instrument in view of an end, a form of contract. This presupposes that the contracting parties are accomplished individualities, pre-existing the establishment of a new community; the contracting parties lay down a share of sovereignty in view of a common interest, which is alive as long as it succeeds in satisfying legitimate individual ambitions and needs. While treaties restrain the boundless freedom of the individual, as instruments of interest they are always justifiably contestable when the conditions set undermine the survival of the individual. They, the treaties, become nothing more than 'chiffons de papier'!

While regulating, to a certain extent, the anarchic and natural freedom of the contracting parties, the treaty does not, however, open up any instance in favour of the community. Indeed, in the treaty, no radical break with the past occurs, no constituent energy is activated with a view to a future, everything that arises from the treaty is the result of negotiation.

Rising on the signatures of the 'treaties', the current Europe has the appearance of a *monstrum*, in which the existence of states is exclusively ensured by the ability of the ruling classes to hegemonise the summits of the European Hyper-State, whose main function is that of the incessant production of norms, laws whose purpose is to standardise the lives of the inhabitants of the territories that compose it. There is in this mechanism a profoundly ideological implication: the unity achieved by the treaties, while ensuring the individuality of the states, seeks in the production of laws to standardise customs, to level out the ethical attitudes of every corner in which it 'claims to have' legal competence. I say 'claims to have' because this continuous siege on the lives of Europeans, this stubborn will of the European legislator to eliminate every customary residue, is not the whim of an individual but is a precise ideological direction, as we shall see.

Today's Europe finds itself squeezed by a combination of cultures headed in an American direction. What do I mean by 'American direction'? To be more explicit, a passage from Tocqueville's *De la démocratie en Amérique*:

«After the idea of a single and central power the one which presents itself most spontaneously to the minds of men in democratic epochs is the idea of uniform legislation. Since each man sees himself as little different from those around him, he cannot understand why a norm valid for one man should not be equally valid for all. [...] Even the slightest differences in the political institutions of the same people hurt him and legislative uniformity appears to him as the first condition of good government. [...] Thus, in the Middle Ages, in spite of the immense variety that reigned there, one sometimes encountered perfectly similar individuals: which did not prevent the legislator from assigning different duties and rights to each of them. Nowadays, on the contrary, some governments are exhausted in trying to impose the same customs and laws on populations that are still not at all alike. As conditions level off in a people, individuals seem to become smaller and society larger, or rather each citizen, having become similar to all others, is lost in the crowd [...]. The Americans believe that, in every state, social power must emanate directly from the people; but, once this power is established, they place, so to speak, no limit upon it in thought; they willingly recognise that it has the right to do everything».

Before developing this discourse we must recognise in the Americans a sincere feeling towards us, which goes beyond the instrumental interest of their hegemonic projection on the globe. After all, they have never disowned their roots, which have never been completely severed. Their boundless love for all our cultural expressions,

however, clashes with a considerable distrust of our exercise of politics. Americans consider our policy-making old and dangerous. This is why they impose a kind of mentorship to avoid deviations that, according to their mentality, are inherent in our nature.

A large part of European intellectuality, after the Second World War, became convinced that the only direction to preserve Europe from the evils of the century was the American one. The uncritical rhetoric that accompanied the formulation of the so-called United States of Europe is the emblem of an intellectuality that had completely lost the sense of its roots and that rather than looking at itself and learning from the dark errors of the 20th century launched itself into imagining incompatible forms that were difficult to replicate on European soil.

Let us return to the previous discourse and the continuous vibrations emanating from Tocqueville's writing. The universality of constitutions and laws is a modern conquest, we saw it earlier in Hegel; but Hegel himself tells us just before, § 274, that each people has its own adequate constitution:

«To want to give a priori to a people a constitution - even if it were a constitution, according to its content, more or less rational -, would be to neglect the moment that makes a constitution something more than a mere ens rationis. Consequently, each people has its own constitution that is appropriate and convenient to it».

Vincenzo Cuoco wrote the famous *Saggio storico sulla rivoluzione napoletana del 1799*, saying that the ruin of the Neapolitan nation was caused by the absurdity of allowing a revolution to take root in a territory, in a community that did not know what to do with it. While Tocqueville tells us that there are governments that are exhausted in extending the same laws to dissimilar peoples. et us attempt to read Tocqueville through today's eyes.

The levelling out of individuals and their reduction to a crowd, is the result of the affirmation of an impersonal order of norms that shapes the social body according to a movement of indifferentiation from which a civil society in the guise of general public opinion, the only political interlocutor of the constituted power, emerges.

This disquieting indiscreet power feeds on the disappearance of every intermediate body and proceeds according to those automatisms that scan the impersonal order of norms like the chimes of a clock.

European legal unification, towards which it is intended to proceed in forced stages, is the obligatory response against the possible emergence of polemical force, of *polemos*, of political energy, since it is understood and feared as a disruptive factor of the climate of depoliticisation that is the perfect humus for an impersonal order of norms to germinate and flourish, assuming the 'sacred' framework of incontestability.

I want to quote a passage from Carl Schmitt, taken from *Der Begriff des Politischen*:

«The state becomes society, and precisely, on the ethical-spiritual level, it transforms itself into an ideological-humanitarian conception of humanity, and on the other level, into the technical-economic unity of a unitary system of production and exchange».

The state sinks into civil society - which for Hegel is the world of need, of lost ethics, which also offers a spectacle of physical and ethical corruption -, a civil society that spiritually can only promote the 'humanitarian' ideology of rights and economically a type of capitalist regime in which the proliferation of rights can become an article of commodity, in the same way in today's Europe, to suture, the partial sovereign amputation of the the ruling classes and the bureaucratic apparatuses - the latter lacking the legitimacy that only a constituent instance can give, and lacking the moral sense deriving from a communitarian aura -, in order to ward off the looming threat of constituent power, have espoused the installation of a system of laws, which, in the absence of a fundamental norm (*Grundnorm*), has as its source of inspiration a sort of theological summation of individual rights.

If the global dimension in which today's capitalism operates in fact renders the structures of the modern state fragile, and legal orders based on an impersonal system of norms perfectly interpret the demands of the global movements of a capital that desires a global law that must banish all constituent instances, the answer to what seems to be a new Panopticon can certainly not be the 'sovereignist' logic of a return to the state.

6.3. The polycentric perspective

So what is this polycentric perspective of which the title speaks? It is a paradox, because the perspective - says Erwin Panofsky - was introduced in the Renaissance, thus at the dawn of Modernity, and presupposes an unmoving eye, a point of view, which connects every single point in order to achieve the homogeneity of visible space. In political terms: sovereign power of an ordering centre that subjects a given territory to its legislation. This is the modern state.

How can there be a polycentric perspective, then, and how can it be translated into political terms?

The reference obviously goes to the work of the great Russian philosopher Pavel Florensky, who in the 1920s spoke of an inverted perspective with regard to the icon.

The political starting point is of course the decline of the modern state as an unequivocal fact. But where to find the possibility of a community that escapes the globalisation that opens the door to a one-dimensional 'legal world state'?

In Santi Romano's *Frammenti di un dizionario giuridico*:

«...it is inaccurate to limit the definition of autonomy by considering it as a power and only as a power to give itself a legal order. A power presupposes a subject to whom it belongs. Instead, the figure of autonomy also looms large for orders to the formation of which every subject as such and, therefore, every power is extraneous. (...) The appropriate consequences have not been drawn even by those who have pointed to the possibility of autonomy also being exercised in a completely involuntary and anonymous manner, i.e. through customs and, more precisely, through the kind of custom that Germanic doctrine refers to as 'Observanz'».

In these lines, Santi Romano speaks to us of an autonomy removed from the process of selfdetermination, of a community that has developed a legal order but has not elevated itself to a state structure. Not yet a state, but undoubtedly a legal order.

And so: aware that the state is in an irreversible coma, that we consider Europe as a plurality of particular communities; that we aspire, however, to the formation of a European Unity, considered as a destinal event; how can we think of this Unity, as an alternative to the structure of the current Europe? What kind of relationship

between the various communities claiming non-state autonomy and between the communities and the Unity, so that we can speak of a 'polycentric perspective'? How is a Unity possible that does without an ordering centre, that does without a point of view that subordinates all points in a homogeneous space?

Panofsky and Florensky tell us that Byzantine work, that which precedes the advent of modern perspective is all «an alternation of colour and gold», of «a world now unified but luministically fluctuating», in which «configurations never become mere delimiting contours».

Translating this into political hypotheses would mean investigating the relationship between communities and between communities and Unity. A unique yet non-homogeneous space.

An investigation that would have to move away from certain Aristotelian architectures – the relationship as an accident of substance - and investigate whether an identity can exist that is indifferent to the modern dialectic of identity and difference.

How is it possible for a European unity in which the plurality that inhabits it - and which feels itself part of this unity - may not be constrained by the imperative of unity (and thus to the reduction of being part in view of unity) and may give nothing back to the interest of unity, despite being unity?

A unity that would be seen to be transcendent of particularities: extremities not entangled in a dialectical relationship. We are on a ridge that is difficult for modern sensibility to digest – difficulty in imagining how something can 'be' and 'have' relation, substance and relation as convertible – and towards which the modern logos seems unable to metabolise. Vertigo that requires a certain confidence with a theological intelligence. I reiterate *theological intelligence*, because we must agree with Schmitt when he states that the expulsion of the *theological*, let us even say of the sacred, of the divine, has provoked the emergence of an unprecedented concept of the *enemy*, as an ethical difference towards which existential totality can be denied.

Elements, therefore, that we can find in a European history that is perhaps not too close but to which we must look with extreme interest as men of this time. A history that declines when the notion of a border loses its value as an index of the proximity of a community living and operating in a given place in favour of the image of a moat set up to stem the fears of a community that has now slipped into paranoia. A

debacle in which the definitive subjugation to the black shadows of suspicion and the lust for power finds fertile ground in the waning of common responsibility and in the flourishing of profit mechanisms that prelude a logic of domination that has been offering us nothing but destructive outcomes for a few centuries now.

7

The impact of the Regions on European integration

Some reflections

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When considering the future of Europe and the relationship between European institutions and their Member States, it is important to also contemplate the role of Regions in the process of European integration. Regions are becoming more involved in the European context, both in terms of influence and participation in the activities and decisions of European institutions. Furthermore, since the 1950, the Member States have played a central role in promoting cohesion policies aimed at correcting regional imbalances within the EU and supporting less developed territories or declining. This has been achieved through the positioning of the local component, facilitating the harmonious development of European territories (C. Blumann, 2003).

Today, it is necessary to evaluate the extent to which regional activism has genuinely increased their involvement in European policies and contributed to shaping a new Europe. It is important to consider the extent to which Denis de Rougemont's model of a federal system (D. de Rougemont, 1970), not state-centric but based on

the progressive integration of Regions and on the richness of cultural diversity derived from the participation of local realities, has been implemented (G. Vale, 2021).

The concept of a Europe of the Regions was initially developed to overcome the territorial, economic, and cultural differences between Member States. The aim was to achieve a more homogeneous representation that could reduce the development gap between regions (J. Bachtler, C. Mendez, F. Wislade, 2013; S. Piattoni, L. Polverari, 2016).

The initial model has undergone numerous reinterpretations over time, which have been influenced by the evolutions and political changes in Europe. These reinterpretations have modified the theoretical substance of the model: it is no longer just an instrument of «differentiated participation» but has become a potential engine of European integration. This integration is based on the strengthening of the principle of subsidiarity, as well as on cohesion and development policies aimed at states and their local self-government. The evolution of the European Union presents various perspectives, each with distinct consequences. It is important, in fact, to differentiate between the Europe of the Regions as an institutional architecture, which refers to the Regions or infra-state territorial dimensions at the heart of the EU's decision-making mechanisms, and the Regions as instruments through which the European institutions and States achieve their objectives (A. Poggi, 2018).

The potential role of European protagonist reserved for the Regions in this model, outlined at the beginning of the 90s, takes on greater strength through the establishment of some bodies, including the European Committee of the Regions (CoR) which traces its normative roots to the Treaty on European Union and the Treaty on the Functioning of the European Union in which the appointment of the members and alternates of the CoR was introduced, which met for the first time in 1994.

This consultative body was established with the aim of fostering closer ties between EU citizens and the European institutions, by engaging local and regional representatives from all 27 Member States. The underlying assumption is that coordinated action across different levels - European, national, regional, and local - can help to promote a European Union that is responsive to its citizens' needs and enjoys their support. To achieve this goal, the Committee of the Regions (CoR) works in collaboration also with the European Economic and Social Committee, as well as other EU institutions and bodies, to ensure the Union operates efficiently and achieves its objectives.

Examining the functions entrusted to it in the context of the European legislative process, the Committee can exercise (at least potentially) a significant power of influence (R. McCarthy, 1997).

In fact, the European Committee of the Regions convenes in plenary sessions and thematic committees to discuss and adopt opinions on EU legislative proposals. Its role is to express the position and needs of local and regional authorities in the EU legislative process, particularly in areas that directly affect them, such as health, education, employment, social policy, economic and social cohesion, transport, energy, and climate change. The aim of this initiative is to enhance democracy and encourage the involvement of European citizens by establishing closer links between EU institutions and regional and local contexts. This will allow to deal with the challenges and opportunities of everyday life, promote inclusion and transparency, and facilitate dialogue with stakeholders, civil society organisations, regional networks, and young leaders (L. Domenichelli, 2003).

The European Committee of the Regions (CoR) is involved in the legislative process in a mandatory consultative capacity. As per the legal obligation, the European Parliament, the Commission, and the Council are required to consult the CoR before enacting legislation that has a regional impact.

According to Articles 5(3) and 12(b) Treaty on European Union, a process can be implemented to monitor national Parliaments. If a draft legislative act is received, any Parliament or National Chamber can submit a reasoned opinion to the Presidents of the European Parliament, the Council, and the Commission within eight weeks. This opinion should explain why the draft does not comply with the principle of subsidiarity. If reasoned opinions representing at least one third of all the votes allocated to national Parliaments are received, the draft must be reconsidered. The institution proposing the project may decide to maintain, modify, or withdraw it, giving reasons for its decision.

Under the ordinary legislative procedure, if most national Parliaments vote against the compatibility of a legislative proposal with the principle of subsidiarity and the Commission decides to maintain the proposal, it is referred to the legislator for a first reading. If the legislator determines that the proposal may not be in line with the principle of subsidiarity, it can be rejected by a majority of 55% in the Council or by a majority of votes in the European Parliament (a kind of «orange card») (P. Bilancia, 2016).

In addition to this consultation obligation, the CoR also has the right to bring an action before the Court of Justice of the European Union to protect its prerogatives if it considers that they are not respected by another European institution, or to request the annulment of an EU legislative act that violates the principle of subsidiarity due to the failure to respect regional and local competences.

The set of these procedures highlights the significant role assigned to the Committee in shaping European regulations (W.E. Carrol, 2011). The Committee serves as the primary forum for representing and involving regional and local authorities in the supranational decision-making process.

However, there is part of the doctrine that expresses skepticism about the institutional and political impact of the CoR, for this reason, it seems appropriate to start a reflection on the first thirty years of the organ (R. Louvin, 2022).

The point on which some reflection needs to be made is not so much the ability to generate networks of interaction and cooperation, on which the Committee - also through RegHub 2.0 and the European Commission's Fit For Future (F4F) platform - seems to be able to constitute a place of involvement and sharing of documentation, opinions and good practices. The most controversial aspect is the real ability to steer European legislative bodies in favour of respect for the principle of subsidiarity, proportionality, and the more general improvement of EU regulation (C. Hönnige, D. Panke, 2016).

In this regard, on 12 October 2023, the European Commission presented its 2022 *Annual Report on the application of the principles of subsidiarity and proportionality*, as well as its relations with national Parliaments. A numerical reconstruction of the work carried out by the Committee of the Regions, which must certainly be acknowledged to have been very active - considering 23 opinions on legislative proposals, 31 opinions on other documents or subjects and 8 resolutions on subsidiarity, proportionality and better regulation - attention is drawn to proposal No 40 of the *Report on the Conference on the Future of Europe*, which highlights the need to reform the Committee of the Regions to include appropriate channels of dialogue for Regions, cities and municipalities, giving them a «stronger role in the institutional architecture with regard to issues with territorial implications» (*Council of the European Union, General Secretariat of the Council, Conference on the Future of Europe - Report on the final outcome - May 2022*)

To ensure the functioning and democratic accountability of the EU, it is important to promote a culture of multi-level governance. This can be achieved by implementing the principle of «active subsidiarity», which requires a common understanding of the principles of subsidiarity and proportionality, and greater participation from all stakeholders, including national, local, and regional authorities.

By doing so, we can foster a cooperative atmosphere and work towards shared goals. The *Conclusions of the 10th edition of the Subsidiarity Conference* organized by the Committee of the Regions in November 2022 have reiterated the importance of adhering to the principle of active subsidiarity and strengthening the role of local and regional authorities in the EU's institutional framework. This aligns with the impetus given by the Conference on the Future of Europe and responds to citizens' expectations.

In short, the path of the European Committee of the Regions seems paved with excellent intentions, and although it represents an important sounding board in the European participatory scenario, it is an instrument (at least from the point of view of its power of influence) insufficient to generate a concrete impact in the consolidation of the idea of a Europe «united in diversity», cohesive and harmonious, in which it is possible to grasp «the very most of its territorial, cultural and linguistic diversity, as this is the source of its strength and guarantee of its people's identity» (*Mission Statement of the European Committee of the Regions*, Brussels, 21 April 2009).

The European Committee of the Regions' contribution, regardless of its size, is part of a broader framework of actions aimed at upholding the principle of subsidiarity, as outlined in Article 5 of the Treaty on European Union.

The EU intervenes only if the proposed action's objectives cannot be achieved sufficiently by the Member States, either at central, regional, or local level, but may be better achieved at Union level due to the scale or effects of the action in question. The interpretative perspective is that of «greater effectiveness». When read in conjunction with the principle of proportionality, referred to in that article, it follows that the Union shall act only in areas within its exclusive jurisdiction. The Union's action should be considered legitimate only if it is more effective than that undertaken at the national, regional, or local level, and in any event, it should not go beyond what is necessary to attain the objectives of the Treaties.

The reference to the regional and local dimension, as well as the state dimension, in the context of subsidiarity highlights a European sensitivity to the interests of sub-state bodies. This ensures primacy of action while also respecting the national iden-

tity inherent in the fundamental, political, and constitutional structure of the Member States and their local and regional self-government.

Striking a balance between the clause on respect for national identities and the provisions on European homogeneity is undoubtedly challenging. Especially because the process of European integration cannot simply be a combination of dissimilar entities lacking a shared dimension to achieve the 'ever closer union among the peoples of Europe' mentioned in the Treaty on European Union preamble. Nor can it result in complete destruction of the identity, cultural characteristics, and territorial, economic, and social aspects of the member states. Furthermore, the varying territorial structures of each Member State and their respective political factors (consider Spain as an example) allow for a form of «attenuated» homogeneity. This is mediated by the reference to national identity, which in part recalls the theory of counter-limits.

The enhancement of the identity clause in the Treaty on European Union implies the recognition of the possibility for Member States to suspend the primacy of European law and limit the application of European Union law in the face of the violation of their constitutional core, to safeguard the identifying and inalienable elements of the legal system (M. Cartabia, 2014; A. Saiz Arnaiz, C. Alcoberro Llivina, 2013). As has been said, this is a «Europeanization» of the theory of counter-limits (A. Ruggeri, 2006), in which, however, the concept of national identity represents the result - uneven - of the different jurisprudential perspectives proposed by the Court of Justice of the European Union, and of the individual national courts of the Member States (G. Di Federico, 2019). Sometimes considered «intrusive» the first - for so-called acts *ultra vires* adopted with an undue overstepping of its competences - sometimes excessively nationalistic the latter, it seems appropriate to reiterate the invitation to a form of dialogic collaboration between Courts (P. Craig, 2011).

It is precisely in the dialogue - not only between the Courts, but also between Member States and its Regions and local authorities - that the only suitable way to guarantee respect for the very constitutional foundation from which the Treaties originate, and for the diversity of which the Regions are the bearers, is outlined. In this way, it will be possible to achieve the (more balanced) scenario outlined by the Italian Constitutional Court in the Taricco case, according to which the legitimacy and strength of unity within a system characterized by pluralism - under Article 2 of the Treaty on European Union - derive from its ability to include the minimum level of diversity, but necessary to preserve the national identity inherent in the fundamental structure of the Member State (Article 4, paragraph 2 of the Treaty on European Union) (M. Luciani, 2018).

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8

The importance of local and regional self-governance to protect national identity

Article 4(2) TEU

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8.1. The evolution of the national identity clause

This paper aims to link the notion of national identity with the role of regional, and more in general local, self-governance entities focusing on the Treaty evolution, the doctrine of 'counter limits', the leading interpretative role of the Court of Justice of the European Union (CJEU) and the latest developments based on Conference on the Future of the EU.

First of all we need to remember that the concept of national identity is a relatively new principle that was not included in the original founding treaties: in fact it ap-

peared for the first time as a general provision in the text approved at Maastricht and precisely in the newly introduced article F of the Treaty of the European Union that set an obligation for the EU to respects national identities of Member States.

This general provision had no specific nor direct effect but it can be considered the first step towards the need to protect national identities with their specificities. It is not accidental that at the same time the Committee of the Regions, an EU advisory body that has been later recognized more relevant roles as we will see, was also set up and that the principle of subsidiarity was introduced¹. It is relevant to note that the inclusion of the principle of subsidiarity is largely explained by the previous debate and preparatory work and precisely by a request from the German Länder, which had particularly insisted on this need to introduce in European Union law a specific provision in order to prevent EU law being used to remove competences not only from Member States but more specifically from local bodies.

Moreover, from the entry into force of the Treaty of Maastricht the EU decision-making process started to take into account regional interests also by giving the possibility for the national representatives in the Council to stem from a regional government as it may be appropriate for a representative in the Council to be able to have a specific knowledge and competence regarding local or regional interests².

We can therefore declare that the introduction of the concept of national identity goes in parallel with an opening by the European Union to involvement of Regions in its architectural framework.

In the successive developments of the structure of the European Union, made through the Treaty of Amsterdam and the Treaty of Nice, however, this new trend was somewhat lost and no significant changes were introduced to preserve or reinforce this aims.

* Paragraphs 1 and 3 are attributed to Elisabetta Bergamini, paragraphs 2 and 4 are attributed to Marta Ferrari, the final remarks are to be considered as a joined work.

1 On the principle of subsidiarity for an overview of the literature see F. Fabbrini, 'The Principle of Subsidiarity', in R. Schütze, T. Tridimas (ed. by), *Oxford Principles Of European Union Law: The European Union Legal Order: Volume I*, Oxford University Press, United Kingdom, 2018 and on its introduction see A. Estella De Noriega, *The EU principle of subsidiarity and its critique*, Oxford University Press, Oxford, 2002. On its evolution see also R. Schütze, *Subsidiarity after Lisbon: Reinforcing the Safeguards of Federalism?*, in «The Cambridge Law Journal», LXVIII, n° 3, 2009, pp. 525-536.

2 On the principle of national identity see A. von Bogdandy, S. Schill, *Overcoming absolute primacy: respect for national identity under the Lisbon Treaty*, in «Common Market Law Review», XLVIII, n° 1, 2011. See also B. Guastafarro, *Il rispetto delle identità nazionali nel Trattato di Lisbona: tra riserva di competenze statali e «controlimiti europeizzati»*, in «Quaderni Costituzionali», I, 2012, pp. 152-154.

It was only thanks to the work of the European Convention, which went on to draw up the proposal for a Treaty establishing a Constitution for Europe, and in particular thanks to its Working group V, that the idea to propose a new modified and extended clause on national identity was considered in order to clarify that the of protection national identity shall involve multiple factors. The new draft clause provided that «National identity [was to] include, among others, fundamental structures and essential functions of the Member States notably their political and constitutional structure, including regional and local self-government; their choices regarding language; national citizenship; territory; legal status of churches and religious societies; national defence and the organisation of armed forces».

Unfortunately not all the detailed suggestions of the working group were introduced in the draft Constitutional Treaty (that, as we know, was never to enter into force) and only the part relating to the regional and local authorities was actually included in the final text, a choice that was later respected and confirmed by the Lisbon Treaty, (the one currently in force), born from the ashes of the abandoned «European Constitution».

In fact, in the Treaty of Lisbon, the current wording of article 4(2) TEU³, states precisely that the European Union shall respect the equality of Member States before the Treaties «as well as their national identities, inherent in their fundamental structures, political and constitutional, inclusive of regional and local self-government», managing to maintain the reference to local situations that was proposed in the draft «Constitution for Europe».

Furthermore, since the entry into force of the Treaty of Lisbon, the reference to regions is no longer limited to cohesion policy (article 3(3) TEU) as it previously happened: the need for them and for other local authorities to be involved in the EU integration process (and not only in the national legal framework) is now taken into account in various parts of the Treaties.

However there are still some open questions: does this reference to the regional

³ For comments on this article see B. Guastaferro, 'Sincere Cooperation and Respect for National Identities', in R. Schütze, T. Tridimas (ed. by), cit., pp. 350-382. A. Schnettger, Article 4(2) TEU as a Vehicle for National Constitutional Identity in the Shared European Legal System, in C. Calliess, G. van der Schyff (ed. by), *Constitutional Identity in a Europe of Multilevel Constitutionalism*, Cambridge University Press, Cambridge, 2019, pp. 9-38, and, in the same volume, the contribution of G. van der Schyff, *Member States of the European Union, Constitutions, and Identity, A Comparative Perspective*, pp. 305-347; A. Kaczorowska-Ireland, *What Is the European Union required to Respect under Article 4(2) TEU? The Uniqueness Approach*, in «European Public Law», XXV, n° 1, 2019, pp. 57-82. More recently see also the contributions in J. de Poorter, G. van der Schyff, M. Stremier, M. De Visser, I. Leijten, C. van Oirsouw (ed. by), *European Yearbook of Constitutional Law 2022, A Constitutional Identity for the EU?*, Springer Link, The Hague, 2023.

and local dimension mean that regions and local entities can be recognised a role independently from the one of the States or is it a mere acknowledgement of the existence of sub-national entities as part of the constitutional structures of the Member States themselves?

Even though the EU cannot interfere with Member States' «fundamental structures, political and constitutional, inclusive of regional and local self-government», according to article 4(2) TEU, the EU cannot be indifferent to the request made by regions and local entities to play a relevant role in the application and implementation of EU law. In fact correct implementation of EU law is often a responsibility of local entities.

The Lisbon Treaty had a relevant impact in recognizing a new more relevant role to regional and local entities not only regarding the new wording of the subsidiarity principle but also in many different parts.

First of all the territorial cohesion principle, that is one of the objectives of the EU, is an indirect way to recognize relevance to regions and local bodies, but also article 10(3) TEU is relevant in the part in which it says that decisions «shall be taken as openly and as closely as possible to citizens'»: in order for this principle to be respected we need to enhance the activities of local authorities.

A new role is also recognized in the pre-legislative consultation phase, as the Commission is now expected to take into account in that phase the regional and local dimension as well: this means that there will be an involvement not only in the implementation phase, but also in the ascending phase of creation of EU law.

Furthermore, regional parliaments with legislative powers must be consulted by national parliaments, therefore, an «Early Warning System» was introduced to ensure the involvement of national parliaments in the drafting of acts attributing them also the role of consulting local legislative assemblies.

Last but not least the Committee of the Regions was also recognized a new relevant attribution hitherto denied: being given the possibility to bring actions for annulment against acts of European Union law when the Committee of the Regions considers that the said acts undermine their prerogatives.

8.2. The European Union with regions and local authorities in the Treaties: the doctrine of 'counter-limits'

As outlined above, the national identity clause was first recognised in the European legal system when the Maastricht Treaty came into force. The final version, however, was drawn up with the Treaty of Lisbon, and was definitively included under article 4(2) TEU. The current provision is expressed in the following terms: «*The Union shall respect the equality of Member States before the Treaties as well as their national identities, inherent in their fundamental structures, political and constitutional, inclusive of regional and local self-government.*»

Looking at the history of this provision, its inclusion was initially intended to make up for the fact that an ad hoc provision regarding Member States' exclusive competences had not been included in the Treaties. It therefore did not originate as a qualitative parameter of the European Union's law-making power in order to limit the primacy of EU law. It should be noted, however, that the originally intended outcome has in any case been achieved with the current wording: the reference to respecting national identities is intended to exclude what are considered Member States' essential functions from the EU action⁴.

The national identity clause constitutes the means by which individual Member States can maintain their own distinguishing characteristics and features within the European Union. In this respect, ever since this provision was first included, Member States' Constitutional Courts have been active in implementing it in order to defend the supreme values and principles of their legal systems, thereby initiating a dialogue between national courts and the Court of Justice that is still ongoing⁵.

By virtue of article 4(2) TEU, the Union is obliged to respect Member States' national identities. In this way, the counter-limits no longer constitute an external limit to the EU's regulatory action, but rather an internal as well as a relative one. A relative limit in the sense that a Member State's legitimate interest in having its

4 C. Matesescu, *Exercise of Competences in The European Union - Between the Loyalty Clause and The Clause on Respecting The National Identity Of The Member States. Some Reflections*, in *Supplement of Valahia University Law Study*, Editura Bibliotheca, Târgoviște, 2017, p. 32 ff.; B. Guastaferrò, *Il rispetto delle identità nazionali nel Trattato di Lisbona: tra riserva di competenze statali e «controlimiti europeizzati»*, cit., p. 153 ff.

5 Despite an initial reluctance, the highest national Courts have progressively accepted dialogue with the Court of Justice as guarantors of national identity of their States of origin. In particular, Italian Constitutional Courts and Federal Constitutional Court of Germany were the main actors involved supporting a conflicting opinion. The new trend in the use of article 4(2) TEU was launched with cases *Gauweiler* (CJEU, 16 June 2015, case C 62/14, ECLI:EU:C:2015:400) and *M.A.S. and M.B.* (CJEU, 5 December 2017, case C 42/17, ECLI:EU:C:2017:936); for more details see G. Di Federico, *The Potential of Article 4(2) TEU in the Solution of Constitutional Clashed Based on Alleged Violations of National Identity and the Quest for Adequate (Judicial) Standards*, in «*European Public Law*», XXV, n° 3, 2019, p. 349 ff.

identity protected is likely to be balanced within the European legal system with other equally worthy interests⁶.

National identity thus becomes a concept of European Union law on which the Court of Justice is called upon to give an autonomous interpretation. In this regard, it should be noted that the Court has not yet provided a comprehensive doctrine on this point.

Several authors have devoted their efforts to addressing this gap and the most widely accepted theory among legal scholars links the notion of 'national identity' to each State's 'constitutional identity'. In the light of this interpretation, article 4(2) TEU therefore requires the European Union to respect Member States' 'fundamental constitutional structures'⁷.

Within the concept of 'fundamental constitutional structures', the European legislator has also included regions and local authorities as components of national identity that the EU is obliged to respect⁸. The inclusion of regional and local self-government in Article 4(2) TEU therefore leads to the assertion that not only does the EU legal order recognise this within Member States' legal systems but even deems it to be part of the EU's own multi-level system⁹.

6 D. Kabt-Rudnicka, *National Identity as a Useful Tool for Setting Limits to European Integration*, in *«International Relations and Diplomacy»*, VI, n° 3, 2018, p. 144 ff.

7 See, D. Kabt-Rudnicka, *National Identity as a Useful*, cit., p. 145 ff.; L. S. Rossi, *The Principle of Equality Among Member States of the European Union*, in L. S. Rossi, F. Casolari (ed. by), *The Principle of Equality in EU Law*, Springer, 2017, *Cham*, p. 29; M. Kos, *The Relevance of National Identity in European Union Law and Its Potential for Instrumentalisation*, in *«Zbornik Znanstvenih Razprav»*, LXXIX, 2019, p. 42 ff.. With regard to this point, some authors push for a broader understanding of the 'national identity' clause, see also O. Chessa, *Meglio tardi che mai, La dogmatica dei controllimiti e il caso Taricco*, in *«Forum di Quaderni Costituzionali»*, 2016, p. 21 ff. In the author's view, pursuant to the provision under examination, the Union is called upon to respect not only the key aspects of a Member State's political and organisational structure, but also those that are not fundamental in nature, thus limiting the Union's power of manoeuvre. Other authors have instead questioned the relationship between article 6(3) TEU and article 4(2) TEU, see also L. S. Rossi, *Come Risolvere La «Questione Taricco» ... Senza Far Leva Sull'art. 4, Par. 2, TUE*, in *«SIDBlog»*, 2017, *Member States' fundamental structures, inherent in their fundamental organisation, must not be understood to also be inclusive of the States' fundamental rights, which instead fall under the scope of article 6(3) TEU. These are therefore complementary regulations applicable to distinct situations. Article 6(3) TEU refers to Member States' fundamental rights and freedoms as they result «from the constitutional traditions common to the Member States» and that form part of the Union's law as general principles. Article 4(2) TEU, on the other hand, is aimed at respecting Member States' national identities, inherent «in their fundamental structures, political and constitutional», including also regional and local self-government.*

8 L. Corrias, *National Identity and European Integration: The Unbearable Light-ness of Legal Tradition*, in *«European Papers»*, I, n° 2, 2016, pp. 386-387; C. Panara, *The Contribution of Local and Regional Authorities to a «Goods System of Governance within the EU*, in *«Maastricht Journal of European and Comparative Law»*, XXIII, n° 4, 2016, p. 616 ff.; *Opinion of Advocate General Trstenjak, delivered on 4 June 2008, Coditel Brabant, case C 324/07, ECLI:EU:C:2008:317, para. 85: «The right to municipal self-government is not reflected only in the legal provisions of the Member States but, as the German Government correctly pointed out, also in the European Charter on Local Self-Government drawn up within the framework of the Council of Europe signed by all EU Member States and also ratified by most of them.»*

9 I. Pernice, *The Treaty of Lisbon: Multilevel Constitutionalism in Action*, in *«The Columbia Journal of European Law»*, XV, n° 3, 2009, p. 394.

Recognition that regional and local self-government in Member States is a key element of their national identity is not new. This position is perfectly in line with most Member States' national fundamental charters, which state that regional and local authorities form an integral part of their 'constitutional identity'.

Acknowledging this, it follows that any potential legislative action that affects, or even removes, the functions attributed to regional and local authorities by Member States' fundamental charters necessarily requires a process to revise said States' constitutional provisions and their very 'constitutional identity'¹⁰.

It is therefore legitimate for Member States to confer competences upon the EU as long as this respects the provision of article 4(2) TEU also with regard to the areas falling under the responsibility of regional and local authorities. However, should EU legislation have the effect of limiting regional and local authorities' fundamental tasks and values, or even lead to them being removed, then the clause could be triggered in order to protect the State's fundamental structure, thereby preventing the primacy of EU law over national law being asserted.

The 'counter-limits' doctrine is therefore a strategy to ensure peaceful coexistence between regional and local authorities' key roles and characteristics on the one hand and the steady expansion of the European Union's competences on the other.

Although, to date, the Court of Justice has ruled exclusively in favour of preserving Member States' national identities, with the intention of safeguarding their specific national features and characteristics, it is possible that, in the future, it may act to protect the values of local and regional authorities, again by using the provision of article 4(2) TEU. The 'counter-limits' provision could therefore go from being a concept limited to the defence of national identity in the overall sense, to a local-regional concept.

The tendency to move in this direction pushes more and more towards a 'Europe with regions and local entities' instead of a mere union of individual States¹¹.

¹⁰ E.g., article 44(3) of the Austria's Federal Constitution; article 79(3) and article 23(1) of the German 'Grundgesetz' (Basic Law).

¹¹ C. Panara, *The Contribution of Local and Regional Authorities*, cit., p. 619 ff.

8.3. The notion of 'national identity' including regional and local self-governments in CJEU's judgements

The judicial bodies of the European Union have been able to focus on elements of national identity in their case-law considering for instance regional languages as part of the national identity¹², demonstrating therefore a willingness to at least consider multifaceted national identities.

One clear example of this approach can be found in case T 529/13 *Balázs-Árpád Izsák and Attila Dabis v. Commission* decided by the General Court of the EU on 10 May 2016¹³, dealing with a proposal for a European Citizens' Initiative calling for the creation of the category of 'national minority regions' for the purpose of implementing the EU's cohesion policy.

The General Court confirmed the EU's neutrality and indeed respect towards Member States' own institutional arrangements, pursuant to article 4(2) TEU: in fact the EU legislature cannot, without infringing that principle, adopt an act which «would define national minority regions, capable of benefiting from special attention within the framework of EU cohesion policy, on the basis of autonomous criteria and, therefore, without regard to the political, administrative and institutional status quo existing in the Member States in question»¹⁴.

On the other side Member States have also tried to rely on their territorial organization as recognized in the 'identity clause' to be exempted from their obligations under EU law. Such an attitude can be seen, for instance, in two infringements procedures opened by the European Commission versus Spain. In the first one (C-151/12¹⁵) the argument put forward by the Kingdom of Spain «that the Commission attempted to impose, in breach of article 4(2) TEU and the third paragraph of Article 288 TFEU, the manner in which the transposition of the provisions at issue was to be achieved» was not accepted by the Court of Justice. As stated by Advocate general Kokott in her opinion too, the subsidiary application of national law (provid-

¹² For more details on this approach in the Court of justice case-law see H. Van Eijken, E. Spelmans Meyermans, *Words Travel Worlds: Language in the EU Internal Market, Linguistic Diversity and the National Identity of the Member States*, in «Comparative Law and Language», I, n° 1.2, 2022, pp. 87-100.

¹³ General Court, 10 May 2016, *Balázs-Árpád Izsák and Attila Dabis v. Commission*, case T 529/13, ECLI:EU:T:2016:282. For a comment see B. Tárnok, *The Szekler National Council's European Citizens' Initiative*, in M. Szabó, L. Gyeney, P. L. Lános (ed. by), *Hungarian Yearbook of International Law and European Law*, n° 1, 2016, Eleven International Publishing, The Hague, 2017, pp. 489-505.

¹⁴ Para 76.

¹⁵ B. Fernández Pérez, *El Tribunal de Justicia ante la cláusula de supletoriedad del derecho estatal en los incumplimientos autonómicos del derecho de la Unión Europea*, in «Revista española de Derecho Europeo», LII, 2014, pp. 117-139.

ed under Spanish Constitutional Court case-law when Autonomous Communities have not adopted rules of their own) cannot be considered as an adequate substitute for implementation of a directive (such as direct applicability of the directive itself would not suffice) and this choice cannot be considered as breaching article 4(2) TEU as Spain tried to imply¹⁶.

There is, however, a clear difficulty in striking a balance between the obligation incumbent on EU Member States to comply with EU law, and their right to institutional autonomy, included the possibility for them to delegate normative activities to regional and local bodies, and the limits that may allow them not to be considered responsible of infringement of EU law if the local bodies do not implement or correctly apply the EU legal framework.

On the other side we also have cases in which sub-national entities brought action for annulment of Commission's decisions on State aid and EU financing of expenditure. Until now local bodies have (unsuccessfully) sought to rely on their national identity to be granted the same procedural rights as national authorities: this happened for example in joined cases T-267/08 and T-279/08, *Région Nord-Pas-de-Calais and Communauté d'agglomération du Douaisis v. European Commission*¹⁷ in which «the local authority which granted the aid referred to in the complaint was viewed only as an interested third party, not eligible to take part in the procedure» not being an interested party under article 108(2) TFEU. The General Court declared that there was no violation of the need to respect the constitutional identity of the Member States: in fact, even if it is possible that «an infra-State body enjoys a legal and factual status which makes it sufficiently autonomous in relation to the central government of a Member State», playing therefore «a fundamental role in the definition of the political and economic environment in which undertakings operate»¹⁸), the role of interested parties in the procedure related to State aid, other than the

¹⁶ See para 28-30 of the Advocate general's Opinion delivered on 30 May 2013, *European Commission v. Kingdom of Spain*, case C 151/12, ECLI:EU:C:2013:354. Spain submitted that «the transposition into national law of the obligations which follow from the provisions in question of Directive 2000/60 for intracommunal river basins outside Catalonia is ensured by the supplementing clause in Article 149(3) of the Constitution. It follows from that supplementing clause in particular that, where the Autonomous Community, having legislative power in a certain field, does not make use of that power or exercises it only in part, the State rules remain in force, either in full or in part, as regards those points which are not regulated by the Autonomous Community» and that the European Commission «sought to stipulate the manner in which the transposition was to be achieved in that Member State» (para. 23 of the judgement).

¹⁷ General Court, 12 May 2011, *Région Nord-Pas-de-Calais and Communauté d'agglomération du Douaisis v. European Commission*, T-267/08 and T-279/08, ECLI:EU:T:2011:209. For a comment see U. O'Dwyer, *Procedural Economy, but what Price Procedural Rights?*, in «European State Aid Law Quarterly», XI, n° 1, 2012, pp. 263-270.

¹⁸ See para 88 and the relevant case law mentioned (in particular CJEU, 6 September 2006, *Portugal v. Commission*, case C 88/03, ECR I-7115, para. 58, and Joined Cases CJEU, 11 September 2008, *Unión General de Trabajadores de la Rioja and Others v Juntas Generales del Territorio Histórico de Vizcaya*, cases C 428/06 to C 434/06, ECR I-6747, para. 48).

Member State concerned, is limited and local entities therefore cannot «lay claim to an exchange of arguments with the Commission such as that initiated in regard to that Member State».

8.4. The contribution of local and regional authorities to the system of governance within the EU

Taking into account the recognition of regional and local self-government in the Treaties, it may now be appropriate to address the concrete role of sub-state bodies in the EU's multi-level system of governance.

Local and regional institutions first became involved in the Union's decision-making and policy-making process when the Maastricht Treaty established the Committee of the Regions. Regions and local authorities were initially confined to the margins of EU law-making, being merely responsible for the correct and effective application of EU law¹⁹. The establishment of the Committee of the Regions expanded their level of involvement, from a descendant to an ascendant role.

With the Treaty of Lisbon, focus on the local and regional dimension resulted in two mechanisms for participation in the legislative process.

The Committee of the Regions is the first body intended to allow regional and local authorities to express their requests and interests within the European decision-making process. It is a political assembly made up of a maximum of 350 representatives, who are local office holders – elective and non-elective – and are appointed for five-year terms by the Council based on proposals put forward by each Member State. This body is entrusted to provide both mandatory²⁰ and voluntary consultations pursuant to article 307 TFEU, the intention of which is to encourage the involvement of regional and local authorities in European decision-making processes²¹.

In addition to its advisory functions, the Committee also has the power to bring proceedings before the Court of Justice in order to safeguard its prerogatives (ar-

19 G. Rivosecchi, *Le autonomie territoriali nell'architettura istituzionale dell'Unione europea*, in «Rivista di diritto delle autonomie territoriali», I, 2018, p. 309 ff.; A. Kokaj, *The Multi-Level Governance of the European Union: the Role of the Local Government*, in «Jurnalul de Studii Juridice», XVII, nn° 3-4, 2022, p. 19.

20 The Treaty of Lisbon broadened the range of matters requiring mandatory Committee consultation.

21 Articles 300(3), 305(1-3) and 307. M. Tomasi, *Autonomie regionali e identità costituzionale degli Stati membri nell'orizzonte sovranazionale europeo*, in «Federalismi», V, 2020, p. 254 ff..

ticle 263(3) TFEU) or to complain about infringement of the subsidiarity principle for legislative acts requiring its consultation (article 8(2) of Protocol no. 2)²².

In recent years, with the introduction of ex-post review powers, the Committee, whose role was already to uphold the principle of subsidiarity, has increased its focus on defending said principle, although there have rarely been concrete opportunities to activate these powers²³. The attribution of these ex-post review powers helps to strengthen the assertion of the Committee's political role already at the ex-ante consultation stage²⁴.

The Committee's composition, functions and modi operandi are not always suitable to ensure that regional and local authorities are truly represented and able to participate at EU level. Its dual nature as an advisory and representative body does not facilitate the Committee's work, which combines lobbying and democratic representation activities. Secondly, the fact that Committee members vary - with some representing local authorities and others representing regional authorities depending on what has been decided by the individual Member States - does not always guarantee convergence towards common goals. Thirdly, the Committee has the function of providing the European institutions with a regional point of view on certain issues in just a short amount of time²⁵.

Despite its weaknesses, the Committee in any case encourages horizontal coordination among regional and local authorities in the EU decision-making process, connecting said authorities from different Member States and allowing them to contribute to the monitoring of compliance with the subsidiarity principle.

The second mechanism for the involvement of regions and local authorities is the Subsidiarity Protocol.

Article 2 requires the Commission, before proposing a legislative act, to carry out extensive consultations which, «where appropriate», must also take into account «the regional and local dimension of the action envisaged»²⁶. Article 5 also gives

22 G. A. Moens, J. Trone, *The Principle Of Subsidiarity In Eu Judicial And Legislative Practice: Panacea Or Placebo?*, in «Journal of Legislation», XLI, n° 1, 2014, pp. 70-71.

23 M. Tomasi, *Autonomie regionali e identità costituzionale*, cit., p. 255 ff.

24 B. Guastaferrò, *Rappresentanza regionale e controllo di sussidiarietà*, in «Diritto pubblico europeo», II, n° 2, 2015, p. 3.

25 M. Tomasi, *Autonomie regionali e identità costituzionale*, cit., p. 256 ff.; A. Kokaj, *The Multi-Level Governance of the European Union: the Role of the Local Government*, cit., pp. 21-23.

26 Consultations can come in two forms: mandatory consultations that are expressly provided for by the Treaties or through institutional dialogue with associations representing local and regional authorities.

due importance to the subsidiarity principle, focusing on the economic-social impact of draft legislation on regional legislation and the relative financial or administrative burden (Impact Assessment).

Furthermore, regions and local authorities also have a role to play in the Early Warning System, through vertical coordination between national Parliaments and Regions.

Within eight weeks from the date of transmission of a draft legislative act, national parliaments or any chamber of a national Parliament have the right to express a reasoned prior opinion on non-compliance with the principle of subsidiarity. This is where the European legislator has provided the possibility for national parliaments and the relative chambers to be able to consult regional parliaments with legislative powers «where appropriate» (article 6 (1) of the Protocol).

While it should be noted that this mechanism does not guarantee the constant involvement of regions in checking subsidiarity, as it still requires the discretionary intermediation of national Parliaments, it is clear that Member States must involve them when their specific assessment is necessary. It is up to individual national legislation to state when their involvement is mandatory and the relative procedures²⁷.

Lastly, the role of regions and local authorities as supervisory bodies for the subsidiarity principle is facilitated by two monitoring mechanisms. The 'Subsidiarity Monitoring Network' aims to facilitate the exchange of information between regional and local authorities and European Union institutions, whereas its subnetwork 'REGPEX' is meant for regions with legislative powers and supports regions' participation in the initial phase of the early warning mechanism, providing a platform to share information and examples of best practices in the analysis of subsidiarity.

8.5. Final remarks

In the debate on the future of European Union that was held in the 2021-2022 Conference, one of the points that were discussed is the one related to new role for the subsidiarity principle, a debate that remarked how the EU should not only «review the mechanism allowing national Parliaments to assess whether new legis-

²⁷ For more details, see European Committee of the Regions, G. Vara Arribas, D. Bourdin, *The role of regional parliaments in the process of subsidiarity analysis within the early warning system of the Lisbon Treaty*, European Commission, 2011, p. 7 ff.

lative proposals at the European level do not intrude on their legal competences» but should also extend such mechanisms «to all regional parliaments within the EU that have legislative power».

A new role for local entities is also being considered, *inter alia*, in the Final report of the Conference on the future of Europe's proposals on «Equal access to health for all», on «Climate change, energy, transport» (recognizing also the role of local and regional authorities in the green transition) and in the one on «Sustainable growth and innovation (recognizing also the role of local and regional authorities in the green transition). Even in the internal market rules the need to recognise local and regional cultural and production peculiarities is one of the measures suggested in order to enhance EU's competitiveness and deepen the Single Market.

The results of the Conference on the Future of Europe show and confirm therefore the EU's current awareness of the importance of sub-state authorities not only with regard to the application of European Union law (descending phase) but also with regard to its creation (ascending phase).

Local authorities represent a further building block to strengthen the EU's democratic foundations, ensuring European Union adopts policies and regulations that are ever closer to citizens, moving towards the creation of a «legitimacy based on proximity» model²⁸. This is confirmed in the final Report of the Conference, which sets out a new role for these entities specifically in key areas that are closest to communities, in light of a reinterpretation of the subsidiarity principle.

The reference in article 4(2) TEU to «regional and local self-government» as a component of national identity that the EU is obliged to respect confirms the attention paid by the European Union to all levels of governance. The Treaty of Lisbon and the Conference on the Future of Europe both therefore highlight an EU trend towards not only a recognition of regional and local self-government but also an intention to enhance its role.

28 L. Frosina, *Regioni e Unione europea dopo il Trattato di Lisbona. Il Comitato delle Regioni, i Parlamenti regionali e le sfide della multilevel governance*, in «Nomos - Le attualità del diritto», 2015, p. 2 ff.; A. Kokaj, *The Multi-Level Governance of the European Union: the Role of the Local Government*, *cit.*, p 17 ff.

9

Europe of Municipalities or Europe of States?

Local Authorities and European institutions from the early Communities to the Conference on the future of Europe

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History is marked by balances and ruptures, Peace Treaties that should put an end to wars, atrocities, genocides, such as in 1945 at the end of the European civil war -1914-1945¹-, always followed by new periods of war initiated either to disrupt hard-won balances or under the pretext of founding a new definitive peace. The invasion

¹ On the concept of European civil war, see, among others E. Traverso, *A ferro e fuoco. La guerra civile europea 1914-1945*, Bologna, Il Mulino, 2007.

of Ukraine by Russia and the new war involving the people of Israel and the Palestinians, seriously endangering world peace, once again demonstrate the fragility of political and strategic balances based on Treaties, ineffective bodies like the UN, or on simple but always unstable power dynamics among national States. In this international context, European local authorities can try to play a role both by using twinnings to provide concrete aid to municipalities subjected to the atrocities of wars², and by seeking to assist and stimulate the European integration process by anticipating and accompanying the opening to the accession of new countries like Ukraine through relationships between municipalities.

On October 11, 2022, Vasco Alves Cordeiro, President of the European Committee of the Regions (CoR) of the European Union (EU), presented the Annual Report on the state of the regions and cities of the EU. The text offered a snapshot of the current challenges facing regions and local communities in all EU member countries. The aim was and still is to guide the Union's strategic decisions to provide concrete answers to the needs of European citizens. In particular, the Regional and Local Barometer, from which the president drew his considerations, highlighted the problems that local authorities had and still have to face due to the economic and social consequences of the war waged by Russia against Ukraine, the lasting effects of the COVID-19 pandemic, the necessary recovery from these crises, the climate emergency and energy transition, the fight against inequalities, and the future of democracy. The Barometer and, therefore, Vasco Alves Cordeiro's report also take into account the opinions and viewpoints of local administrators throughout Europe who responded to a survey conducted in partnership by the CoR with IPSOS.

However, the considerations of the President of the CoR are the result of a long process that led to the inclusion of local authorities in European institutions. This action finds its roots in a political path that saw European local administrators and the international organizations they created among the protagonists, particularly the *Conseil des communes et régions d'Europe* (CCRE³), named *Conseil des communes d'Europe* (CCE) at the time of its foundation, with its national sections now distributed in all European countries, which have managed to create a network of relationships to protect their institutional interests and in favour of a Europe of citizens.

² On the role of twinning in international politics, refer to F. Zucca, *The International Relations of Local Authorities. From Institutional Twinning to the Committees of the Regions: Fifty Years of European Integration History*, Bruxelles-Bern-Berlin-Frankfurt am Main-New York-Oxford-Wien, P.I.E Peter Lang, 2012.

³ F. Zucca, *Autonomie locali e federazione sovranazionale. La battaglia del Conseil des Communes et Régions d'Europe per l'unità europea*. Bologna, Il Mulino, 2012 ("New edition in the process of printing" 2024).

9.1. The Long March: From Centralism to the Rebirth of Local Autonomies.

Historical reconstruction has highlighted how, between the end of the 19th century and the early years of the 20th century, direct relationships were established among local administrations in Europe. These interactions were facilitated by socialist and Catholic internationalism, leading to the formation of a network that evolved from an administrative exchange to a political discourse. These contacts took on an embryonic institutional form with the establishment of the first international organization of municipalities, the International Union of Local Authorities (IULA), founded in Ghent in 1913. Initially better known by its French name, Union internationale des villes (UIV)⁴, the association primarily emerged from socialist and Catholic experiences, although it also encompassed other components, including municipal technicians eager to engage in finding solutions to commonly perceived problems, notably in the creation of urban services.

Within this context, the socialist scholar and activist Edgard Milhaud⁵ played a significant role. Having collaborated with various French governmental cabinets, Milhaud founded and directed the magazine *Annales de la régie directe*, published in several European languages. Through this publication, together with numerous collaborators from various national backgrounds, he developed the concept of "inter-municipality." This concept advocated for municipalities to collaborate in disseminating knowledge and experiences regarding technical and social progress in local administration. It also aimed to advance the study of issues related to public works and urban organization within cities⁶. Alongside Milhaud, the inaugural assembly of the IULA also saw the participation of Alessandro Schiavi, a socialist and staunch supporter of municipal autonomy⁷. While the former would play a fundamental role in the establishment of the European movement for local autonomies

4 R. Payre, P. Y. Saunier, *l'Union Internationale des villes o l'Internazionale municipale (1913-1940)*, in "Amministrare. Rivista quadrimestrale dell'Istituto per la Scienza dell'Amministrazione pubblica", 2000, n. 1-2, pp. 217-242; P. Dogliani O. Gaspari, *Origini e sviluppo del movimento comunale europeo nel Novecento*, in P. Dogliani, O. Gaspari (ed. by), *Origini e sviluppo del movimento comunale europeo dalla fine dell'Ottocento al secondo dopo guerra*, Roma, 2003, pp. 12-21.

5 E. Milhaud, *Au seuil de la 50e Année des Annales. Un regard en arrière*. In "Annales de l'Économie collective", 1958, n. 46, pp. 1-6.

6 *Premier Congrès international et exposition comparée des Villes, organisé sous le Haut Patronage et avec le concours de la Ville de Gand, à l'occasion de l'Exposition Universelle, en cette ville, 1913, et sous les auspices de l'Union des villes et communes belges. II. Organisation de la vie communale, Bruxelles, Union internationale des villes, 1913*, p. 343.

7 P. Dogliani, *La sinistra europea alle origini del movimento comunale internazionale*, in Id., O. Gaspari (ed. by), *Origini e sviluppo del movimento comunale europeo dalla fine dell'Ottocento al secondo dopo guerra*, cit., p. 182.

after World War II, the latter would contribute significantly to the Italian section of the movement, eventually becoming its first president⁸.

Schiavi's studies on phenomena associated with social issues, municipal machinery or organization, and urban planning—particularly those related to the creation of working-class neighborhoods—led him to collaborate with the publications directed by Milhaud.

The congress in Ghent elected the reformist and Freemason Émile Vinck⁹ to the secretaryship of the IULA. He held the presidency of the IULA from 1913 to 1948, one of the most tumultuous periods in the organization's history¹⁰. The IULA facilitated the establishment of national organizations, which, in turn, contributed to strengthening the awareness of possible infra- and supranational relations among municipalities and the direct exchange of experiences in the field of urban planning. In the early 1900s, in Europe, an international association of municipalities¹¹ was thus being created, following the model of large mass political movements.

Despite favourable conditions, the action of the IULA could not fully develop due to the war that upheaved Europe. In the aftermath of the First World War, some French, German, English, Belgian, and Luxembourgish municipalities, encouraged by the same leadership that had directed the IULA, resumed direct relations. However, the first inter-municipal congress was held only in 1924 in Amsterdam, marking the resumption of institutional contacts among municipalities. This eventually culminated in the reestablishment of the IULA in Paris in 1925¹². From then until the late 1930s, the IULA devoted itself to exploring themes such as the financial organization of local authorities, municipal enterprises, the study of economic phenomena, and aspects of urban management.

8 Alessandro Schiavi (1872-1965) came into contact with international and national socialism as early as 1896 when he participated in the Congress of the Second International. He was a member of the socialist party until the advent of fascism. After the liberation, he was elected to the Senate for the Social Democratic Party and then appointed as a member of the Assembly of the European Coal and Steel Community. He got in touch with the promoting committee of the Council of European Municipalities through the mediation of Renato Brügner, a party comrade and collaborator of Umberto Serafini in founding the Italian Association for the Council of European Municipalities. Following his appointment as president of the Italian section of the local autonomy movement, he began an intense national and international activity to promote the ideas and organization of the new movement. About Alessandro Schiavi see F. Zucca, Amedeo Peyron. *Un sindaco federalista*, in S. Pistone, C. Malandrino (ed. by) *Europeismo e federalismo in Piemonte tra le due guerre mondiali. La Resistenza e i Trattati di Roma (1957)*, Firenze, Olschki, pp. 265-284; A. Schiavi, *Nel socialismo italiano ed europeo, Manduria-Bari-Roma, Lacaita, 2005*.

9 Émile Vinck (1870-1950) was a socialist who practiced law and served as a legal advisor at the Belgian Court of Appeal. He was elected as a municipal councillor in Ixelles from 1904 to 1941 and subsequently as a senator from 1912 to 1946.

10 O. Gaspari, *L'Italia dei municipi. Il movimento comunale in età liberale (1879-1908)*, Roma, Donzelli, 1998, pp. 78-81

11 R. Payre, P.-Y. Saunier, *L'Union internationale des villes o l'Internazionale municipale (1913-1940)*, cit.

12 For the topics covered during the two congresses see *Ile Congrès international des Villes, Amsterdam 30 juin et 1 juillet 1924, Bruxelles, Union internationale des villes, 1924*; *Ille Congrès international des villes, Paris 28 septembre - 4 octobre 1925, Parigi, Union internationale des villes, [1925 ?], 3 v.*

During this period, reflection on the role of local authorities in Europe and the necessity for municipalities to regain concrete autonomy was not abandoned. An example that significantly contributed to the post-war revival of the autonomy movement was set by the Swiss historian and political activist Adolf Gasser¹³, who in June 1934 initiated a federalist movement named *Europa-Union: Schweizerische Bewegung für die Einigung Europas*. The organization aimed to mobilize public opinion in favour of a European federation based on municipalities, seen as the true bastions of freedom. Gasser's ideas led him to work, between 1944 and 1951, in order to spread his communitarian thought throughout Europe, advocating for an internal administrative reform of the post-war states that placed the municipality at the center of national and international action.

However, the turning point in intra-municipal relations became evident in the aftermath of the Second World War, thanks to the acquired awareness of some French integral federalist activists¹⁴ who, influenced by Adolf Gasser's ideas, perceived that in order to initiate the reconstruction of Europe and hence achieve peace, it was necessary to realize a Europe of citizens that had the municipality as its basic organizational cell.

Among the main actors of this development, one must mention the French federalist movement La Fédération. Centre d'études institutionnelles pour l'organisation de la société française, founded in July 1944, whose primary objectives included providing the political-theoretical means for the reorganization not only of the State but also of French society¹⁵, finding its strength in administrative decentralization. Soon, its members realized that to achieve their reform objectives, they could not disregard the international situation, particularly a new European structure. The federation should thus spread "from the neighborhood or village" to Europe, as Jean Bareth¹⁶, one of La Fédération's founders, wrote, directly influenced by Adolf Gasser's¹⁷ ideas.

13 F. Zucca, *Émile Chanoux e Adolf Gasser: ipotesi di organizzazione statale dagli anni Trenta alla Carta europea delle libertà locali*, in P. Momigliano Levi (ed. by) *Émile Chanoux et le débat sur le fédéralisme*, Nizza, Presses d'Europe, 1997, pp. 87-102; *Von der freien Gemeinde zum föderalistischen Europa*, *Festschrift für Adolf Gasser zum 80. Geburtstag*, Esterbauer Fried (ed. by), Berlino, Duncker & Humblot, 1983, pp. 9-42.

14 A. Greilsammer, *Les mouvements fédéralistes en France de 1945 à 1974*, Nizza, Presses d'Europe, 1975 ; B. Yoyenne Bernard, *Histoire de l'idée fédéraliste*, 3 vol., Nizza, Presses d'Europe, 1973-1981.

15 A. Greilsammer, *Les mouvements fédéralistes en France de 1945 à 1974*, cit.; J. P. Gouzy, *I movimenti per l'unità europea in Francia*, in S. Pistone (ed. by) *I movimenti per l'Unità europea dal 1945 al 1954*, Milano, Jaca Book, 1992, pp. 61-89.

16 Jean Bareth (1912-1969) along with Umberto Serafini, was the driving force behind the European local authorities' movement, handling both the organizational and political aspects of the movement. To this day, a biography on him is missing. J. Bareth, *Le fédéralisme c'est d'abord la commune*, in *Circulaire intérieure de La Fédération*, Parigi, 1946 ; U. Serafini, Jean Bareth, in "Comuni d'Europa", n. 12, pp. 2 e 7-10.

17 J. Bareth, *Le fédéralisme par la commune*, Parigi, La Fédération, 1946 ; J.-M Martin, *Bilan de dix ans d'efforts 1944-1954*, in "Le XX Siècle fédéraliste", n. 120, 1954, pp. 1-13 e 17.

These forces founded the mentioned Council of European Municipalities and Regions (CEMR) in Geneva between January 28 and 30, 1951. The inaugural assembly saw the participation of mayors and local administrators from nine Western European countries linked to federalist, communitarian, socialist, and Catholic movements. By analyzing the composition of the various delegations attending the founding meeting, it becomes evident that the French delegation held both numerical and qualitative prevalence.

The prominence of the French presence is only understandable by retracing the events leading up to the Geneva meeting. Otherwise, it would be challenging to comprehend why other realities, such as the Italian, did not express delegations with equivalent political weight. The starting point for this consideration is the lingering crisis that characterized French society already in the aftermath of the foundation of the Fourth Republic. In this context, it was to defend local autonomies, the bedrock of liberties, that La Fédération set the objective of a federal reform of the French state structure, or alternatively, to promote a strong policy of administrative decentralization. To achieve this goal, La Fédération organized extensive political action from 1949 to 1950, involving thousands of local administrators, culminating in the organization of the "États généraux des communes de France" in Versailles between June 24 and 25, 1950 - a name strongly evocative of historical connotations.

However, the initiative to establish the movement of European municipalities was not French, although it found necessary political and organizational support in France. It originated from Alida de Jager¹⁸, a German trade unionist exiled in Switzerland, who believed that the unity of Europe and world peace would only be achieved through an initiative originating from the basic cell of the state structure: the municipality. Between 1949 and 1950, De Jager went to Paris to initiate direct contact with La Fédération with the precise aim of creating an international organization that would advocate for the international collaboration of local authorities and the reconstruction of Europe on federal basis. Her idea found receptivity among La Fédération members, who guaranteed their political support¹⁹.

¹⁸ Alida De Jager (1890-1976), after participating in the establishment of the Council of European Municipalities, became its Secretary-General until December 1953. The reported information has been inferred from Fondation Archives Européennes, Ginevra (d'ora in poi FAE, Ginevra), AA6, c. Alida de Jager and from various scattered documents found in the archives of the Council of European Municipalities. The only biography of Alida de Jager is the one written in 1988 by her daughter, Alida Ewald de Jager (typewritten text deposited at FAE, Ginevra, AA7, Conseil des communes et des régions d'Europe).

¹⁹ J. Bareth, *J'étais à Seelisberg*, in "Communes d'Europe", n. 15, 1961, p. 11.

Another element that facilitated the birth of the local authorities' movement was the spread of Adolf Gasser's ideas, which connected him with Alida De Jager. Between 1949 and 1950, Gasser and De Jager began to work in unison to raise awareness of their ideas among the political forces and movements reconstituting at European level. These encounters led to the idea of establishing a movement of municipalities that would advocate for both administrative decentralization and European unity²⁰. Alida De Jager, with the collaboration of Edgard Milhaud, organized an initial meeting in Seelisberg, Switzerland, in the fall of 1950. Preceded by preliminary studies, the meeting identified the association's name, decided to preclude local institutions from Eastern European countries, and outlined the CEMR's role aimed at fostering the birth of the United States of Europe, administrative decentralization, and organizing exchanges of expertise in administrative, urbanistic, and territorial management. At the end of the meeting, it was decided to establish a European Initiative Committee tasked with organizing the movement's²¹ founding conference, which took place in Geneva in January 1951.

During the founding assembly, the association set precise objectives. The municipalities and peoples of democratic Europe were to come together not only to defend themselves from state centralism but primarily from communist totalitarianism. Europe, its role, and its structures were still to be defined, but undoubtedly, municipalities were to be among the main actors in Europe's reconstruction. Therefore, the CEMR had to act to facilitate dialogue among municipalities on concrete problems, inserting itself in the tradition of associations like the IULA of the post-war era, as well as promoting the European construction.

²⁰ University of Pavia Historical Archives (hereinafter ASUPv), *Aggregated Funds, Umberto Rossi Fund*, c. *Executive Meetings of the CCE*, letter from Comité d'initiative pour le Conseil des communes d'Europe, datata 15 dicembre 1950.

²¹ Archives d'État de la République et Canton de Genève (AEG), *Papiers Edgard Milhaud*, c. XV 1948-1961, *Déclaration de principes. Réunion de maires de l'Europe occidentale, Seelisberg 1er octobre 1950*.

9.2. From the early communities to the Conference on the Future of Europe

Once acknowledged the above outlined context, it is nevertheless necessary to underline how local authorities, despite the establishment of the CEMR in 1951 and the formation of national sections in many European countries, were not among the primary protagonists in the initiation of the European integration process. However, they eventually played a significant role in shaping Europe's political and administrative structures²². The initial Communities were formed in the early 1950s based on treaties among six sovereign national states: the Federal Republic of Germany (FRG), France, Italy, Belgium, the Netherlands, and Luxembourg. Of these, five were centralized states, while only the FRG had a federal structure with the Länder possessing really political and administrative competencies. The 1951 Treaty of Paris establishing the European Coal and Steel Community (ECSC) and the 1957 Treaties of Rome establishing the European Common Market (ECM) and the Atomic Energy Community made no reference to local authorities except for marginal citations of no political significance²³. The preamble of the ECM Treaty envisioned only harmonious economic development across countries with the goal of reducing differences between various European regions, interpreted more as geographical rather than political-territorial entities.

Between the 1970s and 1980s, European regions and territorial entities began to play a role, partly because some centralized states underwent increasingly pronounced administrative decentralization - first Italy and France, followed by Spain - and also because others, such as Belgium, applied a gradual federal reform of their state structure²⁴. In 1975, the European Regional Development Fund was established, marking the inception of an incipient European regional policy. Its activation was also fuelled by the entry of new countries, such as the United Kingdom, recognizing a role at the local government level. It was then that the first Committee for Regional Policy was established within the Community. This trend gradually gained strength and was further embraced when the European Parliament, elected by direct universal suffrage on June 7-10, 1979²⁵, convened the first Conference of the Regions in Strasbourg on January 25-27, 1984.

22 F. Zucca, *Autonomie locali e federazione sovranazionale*, cit.

23 F. Zucca, *Europa al bivio. Il ruolo degli enti locali europei*, in "Comuni d'Europa" n. 32, 2016, pp. 14-21;

24 F. Ferlaino, P. Molinari Paolo, *Neofederalismo, neoregionalismo e intercomunalità. Geografia amministrativa dell'Italia e dell'Europa*, Bologna, Il Mulino, 2009. Pp. 33-256.

25 L. V. Majocchi, F. Rossolillo, *Il Parlamento europeo significato storico di un'elezione*, Napoli, Guida, 1979; F. Zucca, *Il Conseil des communes d'Europe e il rilancio europeo di Messina*, in L. Vittorio Majocchi (ed. by) *Messina quarant'anni dopo. L'attualità del metodo in vista della conferenza intergovernativa del 1996*, Bari, Cacucci, 1996, pp. 243-260.

Simultaneously, the proposal for the Treaty establishing the European Union, promoted and developed by Altiero Spinelli, voted in plenary session by the European Parliament on September 14, 1983, and approved by an absolute majority on February 14, 1984, officially recognized the need for the participation of local and regional authorities in the construction of the EU. The preamble of the draft of the new Treaty affirmed:

"The High Contracting Parties of this new Treaty... are convinced of the necessity to allow the participation of local and regional authorities in European construction according to adequate forms."

As I have historically reconstructed during my research, this was the culmination of a long and arduous action led by Umberto Serafini²⁶, then Secretary-General of the Associazione Italiana per il Consiglio dei Comuni e delle Regioni d'Europa (AICCCE), and Gabriele Panizzi, a federalist and former President of the Lazio Region, who convinced Spinelli of the need to include and acknowledge the role of European local powers as actors within European institutions and therefore within the integration process.

However, the first appearance of local authorities within the Community's institutional structure only occurred in 1988 when the Commission, upon the Parliament's proposal, established the Advisory Council of Regional and Local Authorities. The Council was configured as a community's subsidiary body consisting of forty-two members appointed by the Commission through joint designation by the Assembly of European Regions, IULA, and CCCE, which was then politically guided by the aforementioned Umberto Serafini. The new institution was to be consulted on common policy measures affecting the regions²⁷.

²⁶ Umberto Serafini (1916-2005) was one of the main protagonists of Italian and European federalism. He founded in 1952 the Italian Association for the Council of European Municipalities, and in the same year, he established 'Comuni d'Europa,' the longest-running and most authoritative magazine on European local autonomy. Throughout his life, he fought to achieve the goal of a United States of Europe based on local autonomies. He actively worked to persuade Gaetano Martino, then Italian Minister of Foreign Affairs, to include in the future texts of the Treaties of Rome articles foreseeing the direct universal suffrage election of the European Parliament. Together with Gabriele Panizzi, former President of the Lazio Region, he convinced Altiero Spinelli to introduce in his project approved by the European Parliament on February 14, 1984, an article providing for the representation of local authorities within European institutions. Additionally, he co-founded, alongside Altiero Spinelli and others, the Institute for International Affairs. Alongside Adriano Olivetti, he played a leadership role in the Community Movement, and after 1962, he became the president of the foundation dedicated to the work of the entrepreneur and politician from Ivrea. (U. Serafini, *Adriano Olivetti e il Movimento Comunità: una anticipazione scomoda, un discorso aperto*, Roma, Officina, 1982; U. Serafini, *La mia guerra contro la guerra*, Roma, Europea editrice, 2002; F. Zucca, *Umberto Serafini e Altiero Spinelli fra federalismo infranazionale e sopranazionale*, in "Comuni d'Europa", LV, n. 20, 2008, pp. 20-36.).

²⁷ M. Mascia, *Il Comitato delle Regioni nel sistema dell'Unione europea*, Padova, CEDAM, 1996.

Only the implementation of the Maastricht Treaty, signed on February 17, 1992, finally carried out, in 1994, what the European Parliament had resolved ten years earlier, by establishing the CoR, whose goal was to encourage cooperation among the regions of the Union member states. The Committee thus became a representative body of the EU alongside the Council of Ministers, the Parliament, and the Economic and Social Committee. The significance attributed by the relevant entities upon its establishment was confirmed by the involvement of prominent regional government figures and mayors of major cities.

From 1994 to date, the CoR has worked to strengthen its role, a task not easy and often dependent on the personalities who have assumed political roles over time, both within the Committee and within the international organizations of the territorial entities affiliated with it. An emblematic example is the role of the CCRE, currently chaired by Stefano Bonaccini, governor of Emilia Romagna, and, until September 2023, the AICCRE, previously led by Carla Rey, former councillor of the city of Venice, who essentially ceased the battle for a European federation — consciously pursued by their predecessors, such as Valéry Giscard d'Estaing, president of the CCCRE from 1997 to 2004 — in favour of a bureaucratic role of sad representation that nobody felt the need for. Now, after the election of the new AICCRE president, Milena Bertani, held in Milan on September 29, 2023, a possible new season has opened, allowing Europeanist municipalities to re-appropriate an organization that has been kept out of the federalist battle for too long.

Among the most significant actions of the CoR, mention should be made of the consultation opened in 2009 to gather the perspectives of associations, local authorities, and stakeholders, inviting them to provide their observations on the best way to implement Multi-level Governance. The action followed the publication of the White Paper on Governance, presented in Bruges in September 2009²⁸. The document responded to the desire to build the EU in partnership, setting two strategic objectives: to promote participation in the European process and to strengthen the effectiveness of the Community's action through the involvement of local entities. The new White Paper was complemented by the one published in 2001²⁹ by the European Commission, explicitly stipulating that local authorities should be entrusted with both the task of applying Community regulations and participating in their definition. The Commission's publication also redefined the Open Method

²⁸ *Comitato delle Regioni, Libro bianco del Comitato delle Regioni sulla governance multilivello, Bruxelles, Unione Europea-Comitato delle Regioni, 2009. The two authors of the text are Luc Van Den Brande, President of the Committee of the Regions, and Michel Delebarre, First Vice-President of the Committee of the Regions.*

²⁹ *Commissione europea, La Governance europea. Libro Bianco, Bruxelles, European Committee, 2001.*

of Coordination (OMC), decided upon during the Lisbon European Council in 2000, involving greater engagement of territorial entities in various critical intervention sectors. In this direction, both the Commission and the CoR have continued their actions until the involvement of territorial entities in the Conference on the Future of Europe.

In this context took also place the action of the European Parliament, which in January 2020 was called upon to express its view on the Conference on the Future of the EU proposed by French President Emmanuel Macron.

On September 26, 2017, Macron delivered a speech at the Sorbonne titled "For a Sovereign, United, and Democratic Europe," highlighting the need to rethink the EU in democratic and solidarity terms. His political action was brought to the attention of all European citizens both through social media and by being published in major newspapers of the 27 EU countries plus the British ones on March 4, 2019, on the eve of the direct elections of the European Parliament. The publication proposed strategic lines for the revival of Europe by reflecting on various issues open to discussion between governments and European institutions³⁰. The premise behind the proposal of the French President can be summarized in the idea that never, since the Second World War, has a united Europe been so necessary, yet never has Europe been so much in danger.

The clearest example regarding the possibility that various populisms, statisms, national or local selfishness could lead to the disintegration of the EU was Brexit³¹. The President of the French Republic considered it the emblem of the crisis of Europe, unable to respond to the need of protecting citizens in the face of recurrent crises, a situation that is re-emerging today concerning the economic consequences not only due to the war in Ukraine. For Macron, the danger for European people, however, is not the membership in the Union, but rather deceit and irresponsibility. He was indeed wondering who had told the British the truth about their future after Brexit? Who had informed them about losing access to the European market? Who had evoked the risks for peace in Ireland by reinstating the border of the past? For Macron, the nationalist retrenchement proposes nothing; it is a refusal without a project, the illusion that substanceless small states could still play a role in the globalized world. According to Macron, this is the danger that threatens all of

30 E. Macron, *Initiative for Europe, Speech by M. Emmanuel Macron, Paris, 26 September 2017. Présidence de la République, Service de presse, 2017.* https://www.diplomatie.gouv.fr/IMG/pdf/english_version_transcript_initiative_for_europe_-_speech_by_the_president_of_the_french_republic_cle8de628.pdf.

31 F. Fabbrini, *Brexit. Fra diritto e politica*, Bologna. Il Mulino, 2021.

Europe: the nationalists, exploiting anger, supported by false information, promise everything and the opposite of everything.

The response to this position was the document entitled: *Global Britain in a Competitive Age*. The integrated Review of Security, Development and Foreign Policy, published by the British government on March 16, 2021³², which aims to outline the post-Brexit priorities of the United Kingdom. After turning its back on Europe, London is seeking a new role on the international stage. An effort is made to delineate the tools to face the challenges of the 21st century through an agenda that opens up new prospects for foreign and defense policy up to 2030. The document, drawn up by a group led by historian John Bew, director of the Centre for Grand Strategy at King's College London, despite being rich in interesting insights, with annexes that also quantify the necessary expenses to achieve the set goals, reveals that Brexit was not a random event, but the first step of a nationalist inclination that ended up aligning the United Kingdom with the revisionist powers of the international order³³, a phase that continues today with Rishi Sunak's assumption of government, as in his government directives to Conservative Party members, he foresaw complete economic growth for Britain, detached from the EU, even if he couldn't avoid addressing the Ukraine issue.

The text of *Global Britain in a Competitive Age* expresses an approach, if not hostile, certainly indifferent to Europe, which receives little attention, just as there is

³² *The approximately 100-page document titled 'Global Britain in a Competitive Age: The Integrated Review of Security, Development, and Foreign Policy,' published by the British government on March 16, 2021, aims ambitiously to outline the post-Brexit priorities of the United Kingdom. Having turned away from Europe, London is seeking a new role on the international stage. Thus, there is justification for the effort to delineate the tools to address the challenges of the 21st century, with an agenda that opens new perspectives for foreign and defense policies until 2030. The document aims to give concrete substance to the Global Britain slogan, demonstrating that it is not merely a nostalgic imperial fantasy. It was developed in Whitehall by a group led by a historian, Professor John Bew, the Director of the Centre for Grand Strategy at King's College London. The revision of foreign and defense policies reverses the decision made in 1968 by the then-Labour government to withdraw East of Suez, acknowledging the need to dismantle Britain's imperial role. Today, London points its primary focus towards the Indo-Pacific region, which has become the new geopolitical and economic center. Many issues, however, remain unresolved, although there is an underlying continuity: the reassertion of leadership in NATO, alliance with the United States, commitment to multilateralism, support for human rights, and open societies. The ambition, however, is 'to shape the international order of the future,' aspiring to be open and resilient. It is not the only ambition of the United Kingdom; in reality, there is also the aim to become a 'scientific and technological superpower' by 2030, based on vaccine successes and the belief in possessing significant advantages over other actors through the English language, soft power, and the ratings of its universities. Recognizing the growing importance of the region, there is a planned increase in military commitment and presence in the Indo-Pacific, posing a challenge to China, termed the 'biggest state-based threat' to the UK's economic security, although Beijing remains an important partner for trade and investments. Economically, significant importance is given to the intention to join the Trans-Pacific Partnership free trade agreement, which includes eleven predominantly anti-Chinese countries, as a potential compensation for reduced exchanges with the EU.*

³³ GOV.UK, *Global Britain in a Competitive Age. The integrated Review of Security, Development and Foreign Policy*, 16/03/2021. <https://www.gov.uk/government/publications/global-britain-in-a-competitive-age-the-integrated-review-of-security-defence-development-and-foreign-policy>.

no reference to developing a security relationship with the EU. Commitment to security in the Euro-Atlantic area is reaffirmed, although through NATO.

To external observers, it seems evident that the United Kingdom has probably an excessive confidence in its global potential, returning to a pre-Suez Crisis model of 1956. Nevertheless, England reveals itself as a country that legitimately, based on its history and some strengths, aspires to a leading role in the new international balances. The bet of Global Britain is to build the country's future prosperity away from Europe, particularly by resuming a strategic role in the Pacific and Asian area. However, its heavy involvement in the Ukraine war as a strategic supplier of military equipment to the Ukrainian army already seems to contradict this political direction.

To these positions, Emmanuel Macron had responded by indicating in his document three political pillars for Europe: freedom, protection, progress. Based on these principles, he had proposed building the Renaissance européenne. The objective was and still is to leave any room for nationalists to exploit the discontent and difficulties of European citizens or to fantasize about new grandeur, almost prefiguring future British positions. He thus invited European countries not to remain in the routine and the spell of uncertain prosperity, but through a new European humanism, to build renewed political action. Macron then asked to initiate a Conference for Europe in order to propose all the necessary changes to the European political project, without taboos, not even that of revising or rewriting the Treaties. In his vision, the Conference should involve citizen groups, hear from academics, social stakeholders, religious and spiritual representatives, defining a road map for the EU, turning proposals into concrete actions.

If there is an evident historical-political flaw in this proposal, as recalled also in the Treaties of Rome in 1957, it is that of having completely forgotten the intermediate bodies: Regions, Départements, Länder, municipalities as active entities both within the States and towards European institutions, thus not considering intermediate territorial entities as necessary and useful interlocutors, as bearers of territorial interests and therefore of citizens. In this, Macron has shown the limitations of a political proposal that, however, was the only one present in the European political landscape.

The European Parliament has accepted the challenge of the French President by approving, on January 15, 2020, the resolution for the establishment of the Conference on the Future of Europe with 528 votes in favour, 124 against, and 45 abstentions. The resolution called for an inclusive, participatory, and balanced approach

towards citizens and stakeholders. On January 22, 2020, the European Commission, in turn, presented its ideas to shape the future *conference of Europe*³⁴.

The Commission proposed to structure the debate with citizens using, without explicitly mentioning it, the model of the European Convention guided by Valéry Giscard d'Estaing, introducing, however, a series of new elements to strengthen its scope and the ways in which people could contribute to shaping the future of Europe. The Commission committed to follow up on the results of the Conference by structuring the discussions into two parallel strands. The first focused on the EU's priorities and the objectives to pursue, including managing climate change and an economy in the service of people. The second strand was to address issues related to the democratic process and institutional matters within the EU. As a result of these stances, the then President of the European Parliament, David Sassoli, the Prime Minister of Portugal, António Costa, on behalf of the European Council, and the President of the European Commission, Ursula von Der Leyen, signed, on March 10, 2021, the joint declaration on the Conference on the Future of Europe³⁵. Through this declaration, the European institutions organized European citizen panels, representative in terms of geographic origin, gender, age, socio-economic context, and participants' educational levels. The panels were supposed to take into account the contributions collected within the framework of the Conference and feed the plenary's work by formulating a series of recommendations that the Union should follow up on. The Conference was placed under the auspices of the three institutions: the presidency of the European Parliament, the presidency of the European Council, and the presidency of the European Commission, functioning jointly³⁶. This result was achieved after difficult negotiations on a crucial point: to whom would the presidency be assigned? The adopted solution turned out to be the balancing point. However, Covid-19 caused delays in the implementation of the Conference on the Future of Europe, highlighting how necessary this initiative was. On the one hand, the initial difficulties of the EU and its member states in adopting a coherent response to the pandemic revealed shortcomings in the allocation of powers. On the other hand, the ambitious yet necessary measures put in place by the Union in the subsequent phase of responding to the pandemic once again showed the fragility of the EU's governance structure, increasingly bound by an intergovernmental

34 European Commission, *Dare forma alla conferenza sul futuro dell'Europa*, 2020 https://ec.europa.eu/commission/presscorner/detail/it/ip_20_89

35 N. Pirozzi, *Per un impegno dell'Italia nella Conferenza sul futuro dell'Europa*, 7/05/2021. <https://www.affarinternazionali.it/2021/05/per-un-impegno-dell'italia-nella-conferenza-sul-futuro-dell'europa/?>

36 Representation of the EU in Italy, *Conferenza sul futuro dell'Europa: coinvolgere i cittadini per costruire un'Europa più resiliente*. 10/03/2021. https://ec.europa.eu/italy/news20210310_conferenza_sul_futuro_dell_Europa-coinvolgere_i_cittadini_per_un_Europa_più_resiliente_it (ultima consultazione il 3/5/2021).

logic requiring unanimity for every strategic intervention and giving little consideration to the perspective of multilevel governance. It is then necessary to note how the crisis of the Europeanist sentiment, now evident in the Union's Member States, emerged due to an inefficient and insufficiently democratic institutional system incapable of responding to the needs of European citizens. From this point of view, the European Parliament was absolutely right when, in June 2020, it argued that the Conference on the Future of Europe should be launched without further delay to address the needs of citizens.

The proposal put forward was that the Conference should commence on May 9, 2021, while its conclusion was expected in the spring of 2022 when France would have been holding the rotating presidency of the European Council and on the eve of the new French presidential elections³⁷. To fully understand the potential of this procedure, it is then necessary to acknowledge how the Lisbon Treaty, despite containing the idea of a common European state, was a necessary fallback compared to the work and proposals of the European Convention led by Valéry Giscard d'Estaing³⁸. Through this analysis, it becomes evident how the federal political union cannot be achieved with the initial participation of all EU Member States, as some countries, where populist and nationalist parties are in power or where public opinion is either predominantly anti-European or cautiously European, reject the very idea of ceding sovereignty³⁹. It will therefore be necessary, if there is the will and capacity to address the real problems, to adopt procedures that foresee differentiated integration⁴⁰. The mechanism of differentiated integration has already been adopted by the Union, for example, at the time of the conclusion of the Schengen Treaty, when some Member States decided to conclude an agreement on

37 *European Movement Italian Council*, 2021. *Movimento Europeo* www.movimentoeuropeo.it

38 On these topics, see the direct testimony of the president: V.G. D'Estaing, *La Constitution pour l'Europe*, Parigi, Albin Michel, 2003; *Id.*, *Europa. La dernière chance de l'Europe*. Parigi, XO Editions, 2014.

39 G. Gerbasi, *Processo di integrazione europea e pluralismo delle giurisdizioni*, in M. Mascia F. (ed. by), *L'Unione economica europea: aspetti economici, sociali e istituzionali*, Bari, Cacucci, 2016, pp. 173-184.

40 The concept of differentiated integration holds various technical implications. It can be categorized into temporal differentiation, termed as a "Europe of different speeds" when countries set the same goals but adopt different speeds to achieve them; differentiation in modes, which involves participation in policies of common interest without aiming for the exact same final goal for everyone; and spatial differentiation, a geographical variable that may endure over time. Although seen as a hint toward political convergence, several studies show that differentiation has progressed in tandem with a deepening and broadening of EU integration. Indeed, differentiated integration has strengthened and solidified as the powers, scope of policies, and composition of the EU expanded. Additionally, the Union's actions are determined by three principles: attribution, proportionality, and subsidiarity. According to the principle of attribution, within member states, the EU holds only the authority conferred by the Treaties ratified by the States. The principle of proportionality sets a limit on the Union's actions: the necessary action cannot go beyond what is stipulated in the objectives defined by the Treaties. Regarding the subsidiarity principle, in areas where both the EU and national governments have legislative powers, the EU can and should intervene only to act more effectively if the national competencies are inadequate to achieve the specific goal. The Maastricht Treaty, signed in 1992, has identified subsidiarity as a fundamental principle of the EU. This principle is referenced in the Treaty's preamble, which clearly states that decisions must be made as close as possible to the citizens, in line with the subsidiarity principle.

the free movement of people outside the European institutional framework, leaving other Member States the possibility to join the Treaty later. The same happened when all Member States decided, at the time of the Maastricht Treaty, to grant derogations, known as opting-out clauses, to the United Kingdom and Denmark regarding the single currency and to the United Kingdom concerning European social policy. Countries not ready for the federal step and increased integration would retain acquired rights of participation in the single market, ensuring their possibility to join the federal core later⁴¹.

If this institutional path is desirable, however, numerous difficulties remain related to the political reshaping in the Federal Republic of Germany after Olaf Scholz (SPD), in office since 2021, succeeded Angela Merkel, as well as Macron's difficulties in France where the president no longer has a stable majority in parliament, which would serve Macron in supporting his ambition to lead the EU. To these considerations must be added the Italian situation: the stability ensured by Mario Draghi for about two years has been replaced by the uncertainty of a new executive whose leader has always expressed nationalist and anti-European ideas and is now trying to navigate between these positions and the need for a European consensus.

The Conference still represented an opportunity to advance the reform proposals long promoted by Italy and endorsed by Draghi. Among the most significant points were the transformation of the debt-sharing mechanism introduced in Next Generation EU into a permanent tool, the creation of European taxation with the introduction of own resources, as well as the strengthening of the supranational dimension through expanding the scope of qualified majority voting with the allocation of new competencies in healthcare, social, and defense matters⁴².

In this context, European local authorities, after the initial oversight by Macron, partially regained recognition of their role through the mentioned declarations of the European Commission in January 2020, where "other EU institutions, national parliaments, social partners, regional and local authorities, and civil society" are "invited to participate in the discussion on the future of Europe."

41 States favouring greater integration should initiate the process by opting for the drafting of a new treaty, thereby bypassing the challenge of revising the Lisbon Treaty, which would require unanimity among the 27 member countries. If this vision were to prevail, a constitutional treaty could be devised by representatives from the European Parliament and national parliaments. Decisions would be made by majority vote, thus negating the possibility of a veto right. The new treaty would not need to undergo an intergovernmental conference but would be sent for national ratification through a simultaneous European referendum within the participating countries involved in drafting the project. This procedure would pave the way for the establishment of a more federal EU that could address the citizens' needs.

42 N. Pirozzi, Per un impegno dell'Italia nella Conferenza sul futuro dell'Europa, cit.

Seizing the Commission's openness, the CoR had established, on December 10, 2020, the high-level group on European democracy, led by Herman Van Rompuy, former Prime Minister of Belgium and the first President of the European Council, composed of seven experts to contribute to political discussions related to the Conference. The CoR also believed that the Conference on the Future of Europe should aim to make the EU more democratic, transparent, and efficient. The goal was for local authorities to actively participate in the process of reshaping the Union, contributing to strengthening the bond between citizens and the approximately one million locally and regionally elected political representatives throughout Europe.

For his part, Van Rompuy hoped that within this process, local and regional authorities could contribute to restoring citizens' confidence in democracy. Upon his appointment, he stated that in a world marked by globalization, proximity becomes an important element to strengthen cohesion and build broader consensus; therefore, the Conference on the Future of Europe should involve as many regions and cities as possible in the process. The goal was to involve citizens who must believe in the inherent value of the system; according to him, for a democracy to produce results, citizens must trust the system⁴³.

At the same time, the assembly of regional and local representatives of the EU put forward a series of proposals to implement the European Green Deal at the local level. In an opinion drafted by Flemish parliament member Andries Gryffroy, cities and regions requested to be at the forefront of environmental initiatives, anticipating the current global awareness of the environmental emergency. Local authorities urged direct access to EU funds and the need to build a European regional assessment framework to make actions operational in combating climate change. In the opinion, Gryffroy highlighted how several territorial entities had already adopted local energy transition or Green Deal plans, which, however, were rarely reflected in national plans and strategies. Today, up to seventy percent of measures to mitigate the effects of climate change and up to ninety percent of adaptation measures to the phenomenon are adopted by local and regional authorities, which are also responsible for over sixty percent of public investments related to climate and environment in the EU's 27 countries. In summary, the CoR positioned itself as a privileged partner to European bodies in defining a European regional assessment framework designed to monitor and follow progress in implementing legislation,

43 Regional Committee, Herman Van Rompuy presiederà il gruppo di alto livello del CdR sulla democrazia per rafforzare la dimensione regionale e locale della Conferenza sul futuro dell'Europa. Regional Committee - Michele.Cercone@cor.europa.eu, 10.12.2020.

policies, and funding regarding climate at the regional and local levels, issues that, however, should not be ignored by the Conference on the Future of Europe⁴⁴.

The CoR also sought to maintain a dialogue with English territorial authorities by establishing a contact group with representatives of local authorities and devolved administrations in the United Kingdom, aiming to ensure the continuation of political dialogue with these representatives even after the UK's withdrawal from the EU⁴⁵. In this regard, territorial entities followed the thread of history because at the founding of the CCE (1951), English municipalities did not send any delegates, but the door remained open through the allocation of reserved seats for them as board members of the newborn association⁴⁶. These positions were then filled when the United Kingdom resumed an active European policy. In summary, the CoR, on behalf of the European local authorities, presented proposals to the Conference on the Future of Europe, which concluded its work on May 9, 2022, delivering the final outcome report to the European institutions during the concluding ceremony of the Conference on the mentioned date in Strasbourg, on the occasion of Europe Day.

During the concluding ceremony of the Conference, the President of the EP Metsola, who succeeded Sassoli, emphasized how the outcome of its work highlighted the disconnect between citizens' desires and the Union's concrete ability to act in various areas: energy, defense, health, to name a few. The President's words are also a consequence of the EP Resolution, adopted on May 2, 2022, on the follow-up to be given to the Conference's conclusions. The document recognized how the indications emerged during the Conference 'require a modification of the Treaties [...] therefore asks for the convening of a Convention, activating the treaty revision procedure under Article 48 TEU.'

The President of the Commission's statement was more nuanced, noting that many of the citizens' demands could be met within the scope of competencies already provided for by the Treaties, without prejudice to the possibility of activating the revision procedure if necessary. This possibility was also considered by President Macron, representing the Council of the EU, who called for the matter to be put on the agenda of the European Council, where, however, it was impossible to reach unanimous consensus among states.

44 Regional Committee, *Obiettivi più ambiziosi in materia di azione per il clima e accesso diretto ai fondi UE: i leader locali vogliono un Green Deal attuato a livello locale*. Regional Committee - David.Crous@cor.europa.eu, 10/12/2020.

45 Regional Committee, *Le regioni e le città chiedono di rafforzare il sostegno finanziario europeo per i territori maggiormente colpiti dalla Brexit*. Regional Committee - atteo.miglietta@cor.europa.eu, 19/03/2021.

46 F. Zucca, *Autonomie locali e federazione sovranazionale cit. pp. 166-178*.

The path to transforming an extraordinary institution, albeit with very limited powers like the EU, into the United States of Europe, is still fraught with difficulties, and the goal must be achieved to avoid the possible dissolution of the EU. The European Parliament, at least part of it, demonstrated awareness of this scenario by approving, on November 22, 2023, in a plenary session, the project to revise the Treaties of Lisbon⁴⁷.

On the agenda of the political debate are strategic issues of common interest for the European continent, such as Russia's war in Ukraine, the Middle East crisis, the energy situation, and the economic situation, the same themes highlighted by the CoR in the report presented to the European institutions from a territorial perspective. The challenge is common; the responses must be adequate if European countries and political forces want to build a future that takes into account the needs of local authorities, which are the closest to citizens' concerns.

47 P.V. Dastoli, Per la riforma europea chiediamo un ampio consenso e un metodo democratico, Bruxelles, 4 december 2023.

10

Reconsidering the role of the Committee of the Regions after the Conference on the future of Europe

The missing piece for more
European democracy?

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10.1. Introduction

Liberal representative democracy is rooted in the modern nation-state. At the heart of modern democracy are the notions of a *demos* or *nation* composed of citizens who choose through elections representatives who will deliberate on their behalf in a national assembly on the affairs of the nation. Liberal representative democracy is

a set of practical procedures that legitimize political decision-making in the nation-state and a value system based on values such as equality, participation, transparency, and accountability. In contrast, the European Union (EU) is a *sui generis* polity composed of several nation-states. It has transnational governance features and elements of transnational democracy. Against this backdrop, there has been an extensive debate about whether it is itself sufficiently democratic, and many have claimed that there is a 'democratic deficit'. It is claimed, however, that it also suffers a 'demos' deficit, sometimes seen as behind the rise of Euroscepticism and populism in Europe. The deliberative character of EU democracy is weak.

According to recent polls (OECD 2021) more than 70% of Europeans expect more regular and meaningful involvement in its affairs, and refer to the lack of such involvement as the primary reason for their weak interest in European elections. It seems that casting a ballot for members of the EP every five years no longer lives up to citizens' expectations of contributing to EU policy-making. This sentiment on the part of individual citizens is also held by regional and local authority actors. Most notably, the traumatic impact of COVID-19 is very telling as 67% of regions and cities think that they did not have enough influence on the decisions made at the European level (CoR, 2020). These numbers are interesting given that regional or local authorities are more trusted (48%) than the EU (45%) and national governments (44%). Furthermore, existing additional opportunities for participation - be it adding a signature to a European Citizens' Initiative (Bouza García & Greenwood 2012; Longo 2019) or submitting observations in public consultations on important EU policy issues - are not sufficient to fill this gap in citizens' expectations of better involvement. In this vein, recent studies show that these instruments are largely unknown, can be difficult to use, and produce hardly any influence over policy outcomes. That said, if the legitimacy of the European project can be assessed by the level of acceptance of its authority by European citizens, deliberative democracy is indispensable to reinforce trust in European governance (Bohman 1996; Checkel 2001). Within this context, the Conference on the Future of Europe (CoFoE) has opened a window of opportunity to proceed with the improvement of European democracy, especially on the deliberative side. Given older and more recent threats posed by Euroscepticism (Brack & Costa 2012; Rooduijn & Van Kessel 2019; Hutter, & Kriesi 2019) and rising populism (Forlenza 2019; Rooduijn, *at al.* 2019), being a 'democratic innovator' is a necessity rather than a 'choice' for the EU.

Given that the CoR shapes the European Union's (EU) policy-making by forging links to other EU institutions and transregional networks (Piattoni and Schonlau, 2015), this paper shows that strengthening further the deliberative character of the CoR

could lead to a bottom-up transnational democracy where democratic representation and deliberation could meet. This paper takes as its starting point the Report of the European Committee of the Regions (CoR) to the Conference on the Future of Europe (CoFoE) (CoR, 2021) and supports this argumentation by drawing on John Dryzek's framework of 'transnational deliberative democracy'. It claims that, by adopting the deliberative approach, the CoR will not only contribute to the enhancement of European democracy but also reinforce its own standing as 'policy shaper', rather than striving for the unattainable legislative status. In doing so, this paper makes a contribution to the literature on democratic studies and European governance in two complementary ways: first, by acknowledging the contribution of the CoR to deliberative democracy in the EU; second, by identifying how the CoR could re-emerge as a prominent element of European multilevel governance (Hooghe & Marks, 1996 and 2001). The remainder of the article is divided into three sections. In the first section, we suggest a deliberative turn for the CoR to meet these goals. In the second section, we outline John Dryzek's framework before we conclude with a brief summary of our argument.

10.2. The CoR taking the deliberative turn: a new mindset for more European democracy?

Established by the 1993 Maastricht Treaty, it was intended to be used as a tool by these regions to allow them stronger involvement in the European decision-making processes to which they had previously not had access and also to circumvent their national governments (Boras-Alomar 1994; Bullman 1996; Christiansen 1996; Loughlin 1996a and 1996b; Jeffery 1997; Weatherill & Bernitz 2005). In line with the principle 'voice, but no vote', the CoR has access to decision-making arenas, but lacks formal voting power. Thus, their recommendations or opinions to the European Commission (EC), the European Council of Ministers (EUC) and the European Parliament (EP) on how to adapt legislative proposals are not binding in character. At the same time, the CoR differs from the European Economic and Social Committee which has the same status as a mere consultative body (rather than a fully-fledged EU 'institution' like the Commission or the Parliament), in that it is composed almost entirely of elected politicians albeit from the regional and local levels. Without exaggerating its importance, it has gradually over the years managed to increase its position *vis-à-vis* the other institutions and, in the Lisbon Treaty is officially recognized as one of the 'guardians of the principle of subsidiarity alongside national parliaments. In practice, this has not very much altered the weakness of its role in the institutional architecture but at least the principle is established constitutionally.

At the institutional level, the CoR is divided into four political groups according to party lines: the European Peoples Party (EPP), the Party of European Socialists (PES), the Group of the Alliance of Liberals and Democrats for Europe (ALDE) and the European Alliance (EA). It is also divided into 27 national delegations crossing party lines, and the division between regions and local authorities. At the moment, it also has six permanent commissions with a policy area. The CoR has a president responsible for the representation of the committees and also for chairing their plenary sessions and bureau meetings. The agenda is set by the presidents and the bureaus, which consist of members from all countries and groups. Both bodies have an administrative structure supporting the members in the performance of their mandate, but these are rather small, particularly compared to the administration of the EP. As in the EP, the rapporteur plays an important role in drafting opinions which are first voted upon in the sections/commissions before they go to the plenary session.

The CoR has an internal division of labor in order to develop preferences and formulate opinions regarding policies at stake in the EU day-to-day decision-making procedure (Hönnige and Kaiser 2003). It can access the legislative/policy process in three ways: it is consulted on a mandatory basis in certain policy areas; the EC, the Council, and the EP can request opinions by the CoR in all cases where they consider it appropriate (so-called 'optional' or 'facultative' opinions); and it can issue opinions on their own initiative. The CoR is regularly consulted about legislative proposals that will be adopted under the ordinary legislative procedure. Here the competence to submit new policy proposals lies with the EC. Subsequently, the EP and the EUC decide together on the final legal act. In this process the CoR, as a consultative committee, can submit non-binding opinions vis-à-vis the other institutions, but again they have no formal voting powers. The opinions of the CoR are not binding on the legislative authority (the EP and the EUC) regardless of whether the committee was consulted on a mandatory or an optional basis or gave an opinion on its initiative. In short, the EU decision-making procedure yields an access point through which the CoR may exert influence, but no more.

Besides its 'participation' in the EU policy-making process, it is also important to notice the significant changes which have taken place at the level of the institutional standing in the EU Treaties since the Committee started its activities in 1994. Most obviously, the areas of 'mandatory consultation' of the CoR have increased from the original five, under the Treaty of Maastricht (social and economic cohesion, public health, trans-European networks, education, and youth, culture), to ten, under the Treaty of Amsterdam (which added environment, social policy, vocational training, transport, employment), to which the Lisbon Treaty then added further areas (civil

protection, climate, energy, services of general interest). Thus, at successive rounds of Treaty revision, the institutional rules have been changed in favor of the CoR, not least due to active lobbying by the Committee and its members both with the EC and with the member states (Piattoni and Schönlau 2015). Possibly even more importantly, with the Convention drafting the European Constitution (2002-2003) and the subsequent Lisbon Treaty, the CoR did achieve further progress at the level of its 'formal' role in interacting with the EU institutions. Six members of the CoR participated as observers in the Convention and put forward a number of proposals to promote the role of the CoR, but also a number of its central political ideas. Some of these demands were then indeed included in the Draft Constitution and 'survived' into the Lisbon Treaty – notably the recognition of social, economic, and territorial cohesion as a goal of the EU (Art. 3.3 TEU), and the inclusion of the CoR's right to take action to defend its prerogatives, and the principle of subsidiarity, before the European Court of Justice (Art. 263 and Art. 8 of Protocol No. 2, respectively).

More recently, launched in 2021, the Conference on the Future of Europe¹ invited 800 randomly selected Europeans to discuss where the EU is heading. Besides Conference discussions in Member States and other events, citizens were invited to take part in four transnational topic-related European Citizens' Panels to deliberate on the most pressing policy issues related to the future of Europe, and to draft policy recommendations for European decision-makers. In this regard, the CoR established a High-Level Group on European Democracy (HLG) to support its political and institutional mission in the Conference on the Future of Europe. As the outcome of this reflection, the HLG developed several innovative ideas for improving European democracy and reinforcing the impact and influence of local and regional authorities in the European policy-making process. This paper builds on these propositions, yet it will offer a more systematic account and will provide a scientific template to support them. CoFoE is over yet future steps need to be taken, bearing in mind the lessons learned from this collective brainstorming.

That said, recent studies have shown that although CoR's recommendations are not binding (Hönnige and Panke 2013; Piattoni and Schönlau 2015; Schönlau 2017), the CoR does have an 'influence' on EU policy-making through 'policy shaping', both on the position of the decision-making institutions EC, EP and EUC and the final policy outcome. Indeed, according to Hönnige and Panke (2013), the CoR can exert influence under certain scope conditions: (i) the speed with which they produce recom-

¹ The speech by President Ursula von der Leyen at the inaugural event of the Conference on the Future of Europe can be found here: https://ec.europa.eu/commission/presscorner/detail/en/speech_21_2381. Access in July 2022.

recommendations, the quality of the recommendations, and *(ii)* the resonance with the addressees' prior beliefs. In other words, despite its limited constitutional status, the influence of the CoR increases if: *(i)* it delivers its recommendations early in the formal decision-making process; *(ii)* if the addressee believes that the committee has a high level of expertise relative to their knowledge on the subject matter and *(iii)* are taken into account more often if they are closer to the addressee position as this allows them to adapt their position more easily along the lines of the committee's recommendations. Given that the CoR needs to establish itself as a new player in the inter-institutional EU arena and the relatively weak consultative mandate as set out above, the CoR from early on has sought to devise additional strategies and activities to maximize its influence (Schönlau 2010; Piattoni and Schönlau 2015). Far from being content with just responding to the EC, and occasional EP requests to deliver opinions in the areas of consultation defined as mandatory in the Treaties, the CoR has produced policy input on many subjects beyond. Despite this, as noted elsewhere (Warleigh 1997; Hönnige & Panke 2013 and 2016), the CoR lacks influence and its visibility is questionable as more than 50% of the committee's advice is completely ignored.

Having these precedents in mind, this paper suggests that the CoR needs to adopt a new mindset to overcome the disillusion left behind by the old slogans of 'the Europe of the Regions' - or even 'with the Regions' - and the possibilities of a 'federalization of Europe' (Loughlin 1996a, Hooghe & Marks 1996; Jeffery 2002; Elias 2008a and 2008b; Loughlin & Antunes 2019). Therefore, contrary to a strategy that has been focused on gains of 'pollical power' within the European institutional structure through the reinforcement of democratic representation and institutional change, we will suggest a deliberative turn targeted towards gains of 'policy influence' through 'policy shaping', rather than through 'policy-making'. Since the CoR represents the level of democracy that is closest to European citizens, and it is obvious that there is little appetite on the part of key political and administrative players to engage in new Treaty reform, we believe that there is still room for enhancing its role within the current legal framework.

10.3. Democratization as deliberative 'capacity building': the contribution of John Dryzek

The concept of deliberative systems is an important new development in the theory of deliberative democracy within what has been known as the 'deliberative turn'. Deliberative democracy is a critique of the aggregative view of democracy that

dominated postwar democratic theory. Instead of aggregation through elections, deliberative democracy proposes different ways of improving the quality of democracy through public reasoning and argumentation (Rawls 1993: 72). Deliberative systems theory shows that democratic theory currently faces a challenge that goes far beyond the institutional building of deliberation, that is, how to integrate new deliberative practices into the current political system (Parkinson and Mansbridge 2012). Indeed, most democratization scholars define democracy in terms of electoral competition and effective constitutional respect for basic civil liberties and human rights.

Elections are instruments - or mechanisms – of democracy to the degree that they give the people influence over policy-making. However, advocates of public participation argue that electoral institutions are insufficient instruments of democracy, as they do not succeed in providing real opportunities for citizens to effectively influence policy-making. Indeed, it is often argued that voting is ambiguous because electoral outcomes do not necessarily reflect 'the popular will', as they are merely artifacts of the procedures by which votes are counted. It is therefore proposed that deliberative democracy gives directions for democratic reform in which deliberation is the central mechanism to link political decisions with citizens' preferences.

Drawing on Dryzek's concept of transnational deliberative democracy (2000; 2002 and 2009), this article does not argue that liberal electoral definitions of democracy are wrong, but simply that they miss a key aspect of democracy: deliberation. This does not mean that democracy is about deliberation only; it is also about decision-making, voting, the rule of law, and uncorrupt administration, among other things. But democracy cannot do without deliberation. Furthermore, by Dryzek, we posit that deliberative capacity does not have to be sought in any particular set of institutions (such as elections), but it can be manifested in different ways, in different systems. For Dryzek, political systems are deliberatively undemocratic to the extent that they minimize opportunities for individuals to reflect freely on their political preferences. In contrast, deliberation invokes a "talk-centric" aspect of democracy: it resides in the right, ability, and opportunity of those subject to a collective decision to participate in deliberation about the content of that decision. In consequence, 'deliberative capacity' may be defined as the extent to which a political system possesses 'structures' and 'mechanisms' to host deliberation that is authentic, inclusive, and consequential (Dryzek 2009: 1383).

Simply put, *authenticity* can be understood as the ability of a citizen to participate in policy-making. In this view, deliberation must induce reflection non-coercively,

and exhibit reciprocity. Hence, communications are deliberative to the degree that they are noncoercive, are capable of inducing reflection about the preferences that individuals hold, and can relate the particular interests of individuals and groups to more universal principles (Dryzek 2000: 68). On the other hand, *inclusiveness* applies to the range of interests and discourses present in a political setting. Finally, *consequential* means that deliberative processes must have an impact on collective decisions or social outcomes. In other words, this impact need not be direct - deliberation need not involve the actual making of policy decisions, but those taking part in the deliberation should be able to understand the impact of their deliberation on policy outcomes. In sum, a polity with a high degree of *authentic*, *inclusive*, and *consequential* deliberation will deploy an effective deliberative system.

Another interesting contribution of Dryzek's framework is that deliberative capacity building can be found in different sites, in different proportions, in different societies and systems which makes his proportion suitable for multi-scalar political systems, and allows flexible solutions: particular deliberative systems may have peculiar or unique features. In this respect, deliberative democratization needs not to be top-down nor imply a reform of central state institutions. Similarly, deliberative capacity can also be sought in non-traditional institutional forms, some can be informal, others formal.

In his writings, Dryzek provides some examples of 'structures' or 'mechanisms' of deliberative capacity building that can be used to improve *authenticity*, *inclusiveness*, and *consequentiality* of deliberation: mini-publics (Goodin & Dryzek 2006), on the one hand, and governance networks (Sørensen & Torfing, 2006), on the other. Whereas mini-publics can be used as an optimal solution to establish a public sphere in situations or systems where a 'public sphere' is absent- such as the EU where *demos* cannot be found -, governance network displays an interesting 'mode of governance' to promote deliberation in transnational spaces whereby policy actors participate in deliberative processes through a diversity of policy networks, be they formal (i.e., via consultation procedures with the EC, EP and EUC) - or informal (i.e., via transnational regional networks such as the CPRM², ARE³ and CARLE⁴). In accordance with the wider body of literature on network governance, Dryzek defines governance network as: 1. a relatively stable horizontal and vertical

2 CPRM stands of Conference of Peripheral Maritime Regions. More details can be found here: <https://cpmr.org> access on January 2024.

3 ARE stands of European Regions. More details can be found here: <https://aer.eu> access on January 2024.

4 CARLE stands for The Conference of European Regional Legislative Assemblies. More details can be found here: <https://www.calre.net.eu/> access on January 2024.

articulation of interdependent but operationally autonomous actors; 2. who interact through negotiations; 3. which take place within a normative, cognitive and imaginary framework; 4. that is self-regulating within limits set by external agencies; and 5. which contributes to the production of public purpose. Furthermore, governance network can be multi-level (local, provincial, regional, national, and European); multi-sectoral (public, private, voluntary, hybrid), and multi-function (their pro-activeness may vary in accordance with the different stages of the EU policy-making process and policy areas).

The implication is that governance networks may have some potential for promoting dialogue compared to their more hierarchical alternatives because to exert influence, an actor must persuade others in the network (Dryzek and Niemeyer 2010). Additionally, and more interestingly, networks are non-hierarchical, in the sense that they work in coordination through 'dialogue' and 'communication'. So compared to a hierarchy, communication and the distribution of communicative capacity can be relatively egalitarian. In a nutshell, Dryzek suggests the need for some post-Westphalian, post-liberal, and post-electoral thinking about democracy without denying the specificities of each political system so that deliberation can become *authentic, inclusive, and consequential*. By Dryzek's predictions, the CoR reinforcing its deliberative features would allow for *authentic, more inclusive, and consequential* deliberation, in so far as citizens would be able to participate in EU policy-making, on the one hand, and would be to understand the outcome of citizens' deliberations in the implementation of policy decisions at the European and national levels, on the other. Overall, it would represent the possibility to reconnect with European Citizens and civil society, to improve the quality of CoR's opinions and, simultaneously, enhance CoR's policy influence as 'policy shaper'.

However, within the current EU institutional context and EU policy procedure, deliberation is not *authentic* as it does not provide deliberative spaces for citizens to participate in EU policy-making process in a regular basis, nor *inclusive* as it does not offer accessible and permanent communicative channels for all voices to be heard. Similarly, it is not *consequential* either as the CoR is not informed of the decisions made by the EC, thus, is unable to inform citizens why some CoR recommendations have been accepted and others have been discarded. Despite the limits identified in the literature, the possibility of reinforcing authentic deliberation - via mini-publics or the normalization of the use of Citizens' Panels - would certainly contribute to enhancing the deliberative character of the EU policy-making process. Furthermore, this would represent a unique opportunity to bring Europe closer to people's lives. Moreover, the ability to engage more directly with European citi-

zens, beyond state boundaries, irrespective of their nationality, religion, language, or interests, and beyond election periods, that is, through non-coercive means, would contribute to a more inclusive deliberation. Besides the scope of the actors taking part in the debate, deliberation's contribution to conflict resolution comes with mutual recognition of the legitimacy of disputed values and interests that do not have to be resolved through majority consensus. In other words, deliberative democracies feature a normative meta-consensus on the legitimacy of disputed values. Hence, meta-consensus has a force in structuring interdivisional political interaction to the degree that it is reflectively accepted by political actors; for that, deliberation is needed. In sum, inclusiveness is characterized by the diversity of actors and the plurality of arguments, but also by the meta-consensus formula used in deliberation (Dryzek 2009: 1393).

10.4. Conclusion

The purpose of this paper was to demonstrate how the CoR could contribute to the enhancement of European democracy whilst reinforcing its influence. Taking as a starting point the Report of the European Committee of the Regions (CoR) to the Conference on the Future of Europe (CoFoE) and drawing on the contribution of John Dryzek, we have posited that the CoR could contribute to the deepening of European democracy by reinforcing its deliberative character, namely by introducing new deliberative mechanisms, such as mini-publics, and amplifying the 'network governance' logic of EU mode of governance. In summation, moving away from the long-lasting (and futile) debate over the CoR's legislative upgrading, this paper concludes that it would be more sensible to enhance its current pivotal role as 'policy shaper'.

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11

Towards a virtual Senate of the European Regions

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This short contribution will start from the ideas initiated in Geneva by Denis de Rougemont on a possible European Senate of Regions. I will then present the concept that we have recently developed of a *virtual Senate of the Regions* which would be composed of the regions having legislative powers in Europe. In a third and final part I will present a brief summary of the results of a survey conducted among these regions about such an idea.

11.1. The concept of «Senate of the Regions» at European level

«The more national borders are devalued [...] the better the regional realities will manifest themselves.»

This is what the Swiss writer Denis de Rougemont wrote in 1963, in an article for a prospective magazine asking him how he would see Europe in 1980¹. In an explicitly federalist – and absolutely non-centralising – perspective, he even proposed, within a bicameral European Parliament, a Senate representing «the States and communities with recognised autonomy». And then, a few years later, he went even further, advocating a Senate in which it would essentially be the regions that would be represented, and no longer the States.

It was he who in the 1960s coined and popularised the concept of a *Europe of the Regions* and of *Senate of the Regions*. For him, the European Federation could only be based on regions, absolutely not on Nation-States, because the Nation-State is a unitary model totally opposed to any federalist approach.

The regionalist theses, linked for Denis de Rougemont to those of the environment, were flourishing in the 1970s and 1980s. They then stalled. The EU Committee of the Regions, created by the Maastricht Treaty in 1992, is far from being a Senate of the Regions. Half of its members are municipalities and the other half are regional entities whose degree of autonomy is considerably different from one country to another.

Moreover, the Committee of the Regions has no decision-making power. It is only a consultative body, which was built on the model of the EU Economic and Social Committee. It is obvious that in the EU, it is not the regions that have the power, but the States, and to some extent the supranational bodies such as the Parliament or the Commission. I will not go into further detail because this is not my subject, but it is important to point it out.

Of course, a Senate of European Regions is primarily of interest to those regions that have autonomous legislative power in certain areas. In these areas they are the ones that are competent to discuss European legislation, not their central State.

There are 72 regions with legislative power in the European Union. The parliaments of these regions have been grouped together for 25 years in an association called the *Conference of European Regional Legislative Assemblies* (CALRE).

This is why we thought that we should work with this Conference as a basis for our search for a virtual Senate of the European regions.

¹ «Orientations vers une Europe fédérale», *Futuribles*, Paris, n° 853, 10 mai 1963, suppl. II, p. 24.

11.2. How to design a virtual Senate of Europe's regions?

The idea came from the habit developed during COVID of using online meeting formats. The purpose is *transforming the CALRE website from a window to an interface*.

Currently, the CALRE website merely exposes information about the *Conference of European Regional Legislative Assemblies* to Internet users. It acts as an exhibition window. However, information technologies could be useful in the transformation of this window into a real interface between the Regional Assemblies and the European institutions. The following innovations can be envisaged:

A - Platform for Legislative Co-drafting

Regional Assemblies that wish to do so, should be able to develop online legislative proposals or proposals for legal amendments. In this regard, the CALRE website could integrate a co-writing platform so that the Assemblies could participate in real time in the writing, editing and correction of legislative proposals. Several open-source project management softwares could easily fulfil this role². Not all Assemblies need to participate in the writing of proposals.

B - Translation

We suggest that the language of the legal texts should correspond to the language chosen by the initiators of the text. This makes it possible, on the one hand, not to favour one language over another and, on the other hand, to act as an incentive to undertake the drafting of a legal document.

Emerging technologies can be useful in enabling a better collaboration between European regions. The use of artificial intelligence would allow the instantaneous translation of legal texts³ as long as it can draw on a wide enough database to be effective. As such, it could be interesting for such a translation to obtain authorization from European institutions to use their databases. Such cooperation between the CALRE and the European institutions could take place within the framework of the European *free flow of data*.

² «Framapad» (<https://framapad.org/fr/>) is an excellent free collaborative text editor. There are also proprietary softwares such as «Microsoft Teams».

³ Software such as WIPO Translate (<https://www.wipo.int/wipo-translate/fr/>), customized, seems to be able to perform such a translation task.

C - The voting mechanism

In order for the proposals issued from the platform to have a certain strength, they should be produced on behalf of *all* the Regional Assemblies. Therefore, it is necessary to achieve this difficult balance where the initiatives that come from an alliance between several regions are not blocked by a rigid system of unanimity, but at the same time avoiding that too much fragmentation in the proposals diminishes their weight and strength. To solve this problem, we propose the concept of Qualified-Modulated Majority Voting (Q-MMV).

Initially, all participants have one vote. However, following the active involvement of a Regional Assembly in the legislative co-drafting process, tokens, each one representing one additional vote, are distributed to the most active participants in the drafting of legislative proposals.

Then, qualified majority voting must be determined in such a way that a small group of participants cannot unilaterally block the process if they did not participate in the co-drafting process but can still do so if they have a large number of participation tokens.

This tokens distribution mechanism should be done transparently according to rules decided in advance, accepted by all the CALRE's participants (this time by strict unanimity) and implemented in a smart contract on a public blockchain. We believe that this system has many benefits:

1. It gives *weight and strength to regional initiatives* since Qualified Majority Voting can be quite demanding while avoiding blocking minorities.
2. It makes it *difficult to block the initiatives of small alliance groups* because by participating, their vote gains weight.
3. It makes it possible to *privilege on the one hand the small regions* since they obtain the same number of initial votes as the large ones, *but also the most active and motivated regions* by valuing their commitment to the European process.
4. It *creates incentives to participate in co-writing* since the surest way to be defeated is to oppose alone, without having participated. The large regions, with a lot of means, are therefore obligated to take seriously the proposals of small regions.

D - A privileged proposals channel

Once the legislative proposal is validated through the voting procedure, it is then sent to the European Commission. Of course, the Commission retains its monopoly of initiative. However, the initiatives issued by a virtual Senate of the Regions must not be drowned out in the set of initiatives proposals sent to the Commission. It would then be a good idea to set up an in-between which consists in reserving for the Senate of Regions a privileged channel for legislative proposals. In short, it would be a technical device allowing these proposals to stand out and be processed rapidly by the European Commission, the terms and conditions of which are yet to be determined.

E - A privileged channel for legal amendment

When the Commission issues a legislative proposal, it essentially communicates it to the European Parliament and the Council of Ministers, which exchange amendments as part of the ordinary legislative process. An in-between could be to reserve a privileged channel for the Regional Assemblies to make suggestions for modification to the Parliament and Council of Ministers.

For instance, the website eur-lex.europa.eu could add, alongside the legal proposals of the European Commission, a version of these same proposals but annotated by the Senate of Regions of Europe, when they exist. There would therefore be suggestion for modification sent in the name of the Senate of Regions, highlighted in the user interface of the website and easily downloadable by European deputies and ministers.

11.3. Results of a survey on the idea of a virtual Senate of European Regions

On the basis of a short standard questionnaire, we asked the 72 CALRE member regions about the potential usefulness of such a virtual Senate and how it could be organised, how it could take decisions and what kind of relationship it would have with the decision-making bodies within the EU, in particular the Commission and the Parliament. All the technical details of procedure briefly presented above were not subject to our inquiry at this preliminary stage.

The survey started at the end of the summer 2022 for a duration of one year. The full results of the research are published in Chapter VII of the book *Vers un Sénat*

européen des Régions?, which the Dusan Sidjanski Centre of Excellence of the University of Geneva has just released in October 2023⁴.

Out of the 72 regions to which the questionnaire was sent, 31 (43%) did not respond, despite our repeated reminders (as many as seven or eight!). It is possible that in some cases the request was not processed due to a lack of internal organisation, but the most likely explanation, given the lack of response after several attempts, all of which unsuccessful, is that the subject of the questionnaire was considered embarrassing and that silence was required. This was the case in most of the German and Austrian *Länder*.

15 regions (21%) replied that they did not wish to take part in the survey, some finding it too «political», which in itself is information, others pointing to the institutional impossibility of considering being part of an embryonic Senate of Regions, even a virtual one.

In the end, the assemblies of 26 European regions with legislative powers responded favourably to our survey (36%). They come from all seven countries where such regions exist – Austria, Belgium, Finland, Germany, Italy, Portugal and Spain – giving a good geographical spread.

Together, these 26 regions represent a population of around 76 million, almost the size of Germany, the EU's most populous country. The sum of their opinions, distributed over the seven countries concerned, therefore represents a fairly valid indication.

Of the 26 regions that replied, 21 are firmly considering the possibility of participating in a future virtual Senate of the Regions as described in the questionnaire, 3 are considering it as a possibility – 2 are waiting for things to be clarified, 1 thinks it could exceed its limited staff resources (eight employees) – and finally 2 regions replied «no»: Flanders because it believes it already has sufficient instruments to influence the Federal Government and participate in European decisions when its competences are at stake, Mecklenburg because it focuses its activities on the Committee of the Regions and the Council of European Municipalities and Regions (CEMR), not on the CALRE.

⁴ François Saint-Ouen, *Vers un Sénat européen des Régions?*, Geneva, Centre de compétences Dusan Sidjanski en études européennes, 2023, 132 p. (see pp. 105-118.)

If we add these 2 «no» votes to the 15 regions that expressed a negative opinion by saying they did not wish to reply to the questionnaire, we have, out of a total of 41 reactions, 17 regions refusing to take part in such an experiment, as opposed to 21 that would be prepared to do so, i.e. a slight majority, to which we can add 3 regions that are waiting to see.

Most of these 26 regions responded favourably to the questions asked about the organisation of the Senate of the Regions. 21 out of 26 would like the CALRE to act as an incubator for a future Senate of Regions by organising virtual meetings. Alternatively, which is not incompatible, the regions with legislative powers and/or the CALRE could be given a status within the Committee of the Regions that would enable this minority to take certain decisions and to refer matters to the Court of Justice of the European Union when their interests are at stake.

It is also widely hoped that this embryonic European Senate of the Regions will develop relations with the European Parliament, so that MEPs can get into the habit of working in coordination, not only with national parliaments, but also with regional assemblies with legislative powers, in order to create the best possible synergies.

A similar relationship is desired with the Commission, but some regions find it problematic for two main reasons: the Commission's monopoly of the right of legislative initiative, and the Commission's lack of interest in the regions and its tendency towards centralisation.

12 regions would like it to be all the regional deputies who would vote within the «virtual» Senate of the Regions; 7 would prefer it to be the President who would vote on behalf of his or her regional assembly; 3 would like it to be some regional deputies appointed by their assembly, respecting the proportion between the majority and the opposition; 4 have no opinion.

The respective strengths and weaknesses of the Committee of the Regions and the CALRE were also explored in detail, the Committee's strength being its integration into the official structures of the EU, and its weakness being the heterogeneity of its members; the CALRE's strength being its concentration around the regions with the most competences, and its weakness being its lack of status within the EU.

We have had confirmation that one of the major difficulties posed by the regions, when we want to give them a European status, is precisely a problem of a federalist nature, that of their extreme diversity. We initially thought we would reduce this

obstacle by concentrating on the apparently fairly homogeneous group of regions that the national Constitutions endow with recognised legislative autonomy; all of which sit within the CALRE, which we imagined as a sort of antechamber to a future Senate of the Regions. An active minority of around 36% of these regions came forward through our survey, enabling us to better identify the potential *dynamic core* that could drive forward this idea of a Senate of Regions.

36% is both small and significant. Many regions with legislative powers are *grosso modo* satisfied with their current position vis-à-vis the European institutions. The regions of the German, Austrian and Belgian federations go through their governments to make their voices heard directly in the Council. Why would they support the transformation of the current Committee of the Regions into a future Senate of the Regions? And at the CALRE, the regions are fighting more to make marginal improvements to the existing mechanisms for respecting the principle of subsidiarity and the need to involve in the procedure (Protocol 2 of the Lisbon Treaty) the regional legislative assemblies, than to campaign in favour of a Senate of the Regions.

Through our study, we have tried to awaken this idea in the regions most directly concerned, but the awakening is slow.

12

Building the Europe of citizens, rights and self-government

Regionalist movements and parties and European integration

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12.1. Introduction

It is a rather widespread belief that the claims of territorial self-government and identity affirmation, which are interpreted by many «regionalist» groups, movements and parties, are the expression of a regressive, traditionalist, self-referential, «selfish», «hostile», «localist» «particularism» and «closed» in the defense of rites, myths and privileges. An effective comparison between ideas and facts, history and current events, shows that it isn't true.

Since the 1960s, but even earlier too, the various claims of self-government are often linked to theoretical elaborations and programmatic guidelines that refer, often explicitly, to the creation of a federal Europe «of peoples», «of ethnic communities», «of nationalities», «of regions». Claims for «regions» are (and they were and will be too...) also claims for Europe – for a more democratic Europe, under several points of view – and there are many relationships and connections between the claims expressed by the European «regionalist» parties and movements and the process of continental integration.

My aim is to describe the evolution of the approach maintained by these political forces towards the construction of the European unity, among ideas, programs and concret political actions. The first part of the chapter focuses on the definition of the general theoretical framework, with the keywords «regions» and «regionalists». The second part concerns the evolution of the approach of «regionalist» parties and movements to European integration and European institutions and the creation and the development of specific «collective» Europeanwide initiatives and organisations.

12.2. «Regions» and «regionalists»

The notion of «regionalist» could be really broad because the meanings of «region» are different and multiple. In fact, it is possible to distinguish, for example, between geographical, historical and administrative «regions». Under a geographical point of view Europe can also be considered as a «region» of the world overall, while, for example in Piedmont, a small portion of territory is a «region», as in the case of «Regione Mezzi», a little place of the municipality of Moncalieri (Turin).

With reference to regionalist parties and movements the notion of «region» is more restricted: it corresponds to a series of sub-state territorial communities. Those regions usually have a defined historical profile and this is the reason why they are sometimes called «historical regions»¹. This historical profile is perhaps reinforced by cultural and linguistic specificities. Considering the historical, linguistic and cultural elements for the corresponding populations, next to the generic «regional communities», expressions such as «ethnic groups» or «ethnic communities»²,

¹ See, for example, M. Caciagli, *Regioni d'Europa. Devoluzioni, regionalismi, integrazione europea*, Bologna, Il Mulino, 2003, pp. 15-16, and F. Tronconi, *I partiti etnoregionalisti. La politica dell'identità territoriale in Europa occidentale*, Bologna, Il Mulino, 2009, p. 21.

² With reference to this kind of definitions, see G. Héraud, *L'Europe des ethnies*, Paris, Presse d'Europe, 1963; J. G. Kellas, *The Politics of Nationalism and Ethnicity*, Bologna, Il Mulino, 1993; M.J. Esman (edited by), *Ethnic Conflicts in Western World*, Ithaca (N.Y.), Cornell University Press, 1977; D. Petrosino, *Stati Nazioni Etnie*, Milano, Franco Angeli, 2002.

«nationalities» or «historical nationalities»³ and «stateless nations» are often used⁴. Sometimes the expression «national regions» is also used to define them: it happened for example in the European Citizens' Initiative *Cohesion Policy for the equality of regions and sustainability of regional cultures*⁵.

These regions have obviously lower demographic and geographical dimensions than those of the national states to which they belong, but in many cases more consistent than those of other European states. Often these regions within the same states have a peripheral and border geographical location and this marginality also reverberates from a social and economic point of view.

Very often the linguistic and cultural specificities of these communities have been addressed (and often still are) of actions of assimilation and of implicit or explicit discrimination. Using a single word: these are communities that have been (and are) «minoritized». For this very reason, these communities are sometimes referred to as linguistic, ethnic and national minorities or minoritized nationalities⁶.

Specific territorial administrative institutions can often correspond to these regions, but it isn't «automatic». It depends on the existence or not of a territorial administrative organization as well as on the fact that the same is defined considering the historical and cultural peculiarities of the different communities, as occurs with different degrees of correspondance in the cases of the Provinces of the Kingdom of the Netherlands, of the Länder of the Republic of Austria, of the Autonomous Communities of the Kingdom of Spain and of the Regions of the Italian Republic⁷.

Sometimes there is not even an institutional and administrative entity that corresponds to these particular historical, geographical, ethnic or national «regions». These are the cases where the creation of specific autonomous institutional and administrative entities corresponding to these regions are the most important claim of «regionalist» parties and movements.

3 See for example A. Van Gennep, *Traité comparatif des nationalités*, Paris, Cths-Comité des Travaux, 1995. The notions of «nationalities» and «historical nationalities» are also used in the article 2 of the Constitution of the Kingdom of Spain and in general by the Spanish constitutional language: see *Constitución Española*, www.lamoncloa.gob.es/documentos/constitucion_es1.pdf.

4 This definition has been used in particular during the last decades of the Twentieth Century: see, for example, C.R. Foster (edited by), *Nations without State. Ethnic Minorities in Western Europe*, New York, Praeger, 1980 or S. Salvi, *Le nazioni proibite. Guida a dieci colonie «interne» dell'Europa occidentale*, Firenze, Valecchi, 1973.

5 See Support EU National Regions, <https://nepesedes.hu/nr/en/>.

6 See M. Stolfo – C. Cressati, *Lingua e diritti tra tutela e autonomia. Concessions jenfri Frñl e Europe*, Udine, Forum, 2019, pp. 19-40.

7 The level of this correspondance was (and is) even lower in the case of France, even if the situation has improved under this point of view during the last decades..

The case of Friuli is exemplary from this point of view. At the end of the Second World War a key theme was precisely the constitution of Friuli as an administrative region in itself and that claim was put forward in that period in particular by new «regionalist» movements and organizations such as the *Associazione per l'autonomia friulana*, (Association for Friulian Autonomy), the group of the magazine *Patrie dal Friül* (Friuli Homeland) and the *Movimento Popolare Friulano* (Friulian Popular Movement)⁸. Instead, the Autonomous Region Friuli-Venezia Giulia was created, envisaged by the Constitution of 1948 and implemented concretely in 1964. It did not correspond only to Friuli and it was indeed characterized by being centered on the city of Trieste, external to Friuli and whose peculiarities and interests were different and conflicting with it. This situation led to the birth in 1966 of a new political force, the *Moviment Friül - Movimento Friuli* (MF, Friuli Movement), and to other initiatives focusing on the creation of an Autonomous Region Friuli⁹.

It follows that it is possible to identify «regionalist» parties and movements (also called «ethnoregionalist», «ethnonationalist», «minority nationalist», «peripheral nationalist»)¹⁰. They are groups, movements and political parties that propose themselves as the most authentic and original expression of the particular needs and special claims of those communities, which are such precisely because of the peculiarities of the communities themselves. Therefore, they require a specific representation, which is not adequately guaranteed by the traditional political parties of a state-national (and state-nationalist) dimension and orientation¹¹.

These groups, movements and parties emerge in the second half of the Twentieth century and in particular since the 1960s and since then, especially in some cases, they have assumed a particular relevance. It is also found in more recent decades, between collected and maintained consents and political action at territorial level, first of all, as well as in relation to state authorities and in the European context. Among these, some of the most organized, most active and most relevant move-

⁸ See D. Toffoli, «Lotta di liberazione e questione friulana», in *Storia contemporanea in Friuli*, XXXVII, n. 38, 2007, pp. 61-71 and G. Ellero, *L'autonomia culturale di Giuseppe Marchetti (1946-1949)*. La «Patrie dal Friül» di pre Bepo Marchet, Istitüt Ladin-Furlan «Pre Checo Placerean», Udine, 2005.

⁹ See G. D'Aronco, *Friuli regione mai nata*, Vol. I, *Clape Culturäl Furlane Hermes di Colorêd*, Reana-Udine, 1983, G. Ellero, *I 1700 giorni di Fausto Schiavi*, Istitüt ladin furlan Pre Checo Placerean, Udine, 2002 and M. Stolfo, «Onde Furlane. Dal 1980 la «radio libere dai furlans» (e non solo)», in *Zapruder. Storie in movimento*, n. 34, 2014, pp. 120-125.

¹⁰ See in general W. Connor, *Ethnonationalism: The Quest for Understanding*, Princeton, Princeton University Press, 1994, F. Tronconi, *I partiti etnoregionalisti. La politica dell'identità territoriale in Europa occidentale*, Bologna, Il Mulino, 2009 and A. Melucci – M. Diani, *Nazioni senza stato. I movimenti etno-nazionali in Occidente*, Torino, Loescher, 1983.

¹¹ See E. Allardt, «I mutamenti nella natura dei movimenti etnici: dalla tradizione all'organizzazione», in Il Mulino, XXXVIII, 1979, pp. 323-348, A. Melucci, *L'invenzione del presente. Movimenti, identità, bisogni individuali*, Bologna, Il Mulino, 1982 and A. Elias – F. Tronconi (eds.), *From Protest to Power. Autonomist Parties and the Challenges of Political Representation*, Wien, Braumüller, 2011.

ments and parties have more ancient roots, which date back to the early twentieth century or even to the nineteenth century, but there are others that have existed for a much shorter period, sometimes collecting more or less direct inheritance of previously active forces¹².

The reference to a territorial (and maybe also ethnic and national) dimension is the common feature of all the different «regionalist» groups, movements and parties, despite their complex variety. They intend to give voice and representation to this feature, which is different from that of reference for each of the national states (and therefore of the political forces prevailing at the state level) and as such, more or less explicitly, is antagonistic to it.

Between history and geography, identity and economy, language and rights, territory and culture, although with differentiated approaches, energies and objectives, they represent the alternative pole to the «organized nationality», that is that of the national state¹³. They also reveal the ideological character of state (or dominant) nationalism, undermine the postulates of one-to-one correspondence and the overlap between state and nation and also elaborate, in most cases, an alternative nationalism, that is the nationalism of «other» nations and with «other» approach.

As regards method, objectives and purposes, as shown in particular from the 1960s onwards, the distinctive feature of this alternative nationalism is the articulation of the corresponding political objectives «on a range of alternatives that include various forms of autonomy and decentralization and which do not necessarily imply the construction of a new independent state»¹⁴. Even when the independence perspective is considered – such an option is foreseen, for example, in article 1 of the statute of the *Partito Sardo d'Azione* (PSdAz, the Sardinian Party), that «is the free association of those who propose themselves, through political action, to affirm the sovereignty of the Sardinian people on their own territory, and to lead the Sardinian Nation to independence»¹⁵ – it is not the only one, neither in theory nor in practice. Furthermore, as it can be observed in the more recent cases of Scotland and Catalonia, the independence or sovereignty theory and practice are distinct and distant from those of certain groups, movements and parties (extremist or not, «niche» or «mainstream» ones) expressing dominant nationalisms, as underlined by

12 See A. Cirulli, *Etnoregionalismi. Teorie e problemi*, Milano, Mondadori, 2019 and M. Stolfo, «I "regionalisti" e l'integrazione europea. Idee, documenti e iniziative», in *Europa*, n. 1/2020, Aracne, Roma, pp. 26-46.

13 See M. Albertini, *Lo stato nazionale*, Milano, Giuffrè, 1960.

14 A. Melucci – M. Diani, *Nazioni senza stato. I movimenti etno-nazionali in Occidente*, cit., pp. 18-19.

15 PSdAz, *Lo Statuto*, <http://www.psdaz.net/index.php/lo-statuto>.

the Catalan jurist Mercè Barceló, arguing that «independentism is a demand for more democracy and not for more nation»¹⁶.

This general attitude, connected with several claims of recognition and self-government, is expressed with reference to specific issues. One of these concerns immigration and inclusion: the Friulian anti-racist slogan «Nô o sin blancs, ma la nestre lenghe e je nere» («We are white, but our language is black») is exemplary in this sense, linking the positive affirmation of language, cultural identity and linguistic rights with solidarity and acceptance, and it's the same for the idea of «Nació inclusiva» («Inclusive nation»), which is quite widespread in Catalonia especially among those who are more committed to language, identity and self-government¹⁷.

Taking also these aspects into account, scholars and observers (but also many of the interested parties themselves) tend to replace or «refine» the notion of «regionalists» with expressions such as ethno-regionalists, ethnonationalists or nationalitarians (the latter, used in particular in order to distinguish this nationalism, «different» and «liberating», from the majority or dominant one) or autonomists, federalists and independentists, based on the characteristics of the various political and political-institutional options proposed and pursued¹⁸.

12.3. Claims for «regions», claims for Europe

Generic references to the European dimension and integration and specific ones to a federal Europe «of peoples», «of ethnic communities», «of nationalities», «of regions» appear in numerous programmatic documents and sometimes also in the statutes and founding acts of various «regionalist» political forces. This is the case, for example, of the *Union Valdôtaine Progressiste* (UVP: Aosta Valley Progressive Union), a formation originated in 2012 from a split from the historical *Union Val-*

¹⁶ «Mercè Barceló: «L'independentisme és una reivindicació de més democràcia, no de més nació» Una conversa amb Ester Capella», in *Eines* 30, 2018, pp. 54-64, https://irla.cat/wp-content/uploads/2018/01/eines30_web.pdf.

¹⁷ See J. L. Carod i Rovira, «Identitats i nació en construcció: el cas català», *DivÈrsia* 2, desembre 2012, Barcelona, UPF, pp. 98-122, <https://www.raco.cat/index.php/diversia/article/view/262461>, C. Magnabosco, *Indipendentismo sostenibile, nazione inclusiva, moltiplicatore. Tre teorie tra storia del federalismo e attualità del dibattito sul micronazionalismo*, gennaio 2001; <http://www.gfbv.it/3dossier/vda/identi-pro.html>, M. Mauro, *Un Friùl difarent. I 90 Mhz di Radio Onde Furlane, Montereale Valcellina, Il Menocchio*, 2004 and M. A. Viladot, «Catalunya, nació inclusiva», *El Punt Avui*, 02-05-2016. <http://www.elpuntavui.cat/opinio/article/8-articles/963382-catalunya-nacio-inclusiva.html>. See also S. Jeram, *Immigrants and the Basque nation: diversity as a new marker of identity*, in *Ethnic and Racial Studies*, 36, 11, 2013, pp. 1770-1788 and R. Zapata-Barrero (eds.), *Immigration and Self-government of Minority Nations*, New York, Peter Lang, 2009.

¹⁸ See again F. Tronconi, *I partiti etnoregionalisti. La politica dell'identità territoriale in Europa occidentale*, cit., and A. Melucci – M. Diani, *Nazioni senza stato. I movimenti etno-nazionali in Occidente*, cit. See also E. Hepburn (ed), *New Challenges for Stateless Nationalist and Regionalist Parties*, London, Routledge, 2011.

dotaine (UV, Aosta Valley Union). In the article 3 of its statute it defines itself as «a political movement founded on the principles of democracy and freedom by the Resistance and the anti-fascist liberation struggle and on the values of autonomy and global federalism in a Europe of peoples»¹⁹.

In addition, the already mentioned PSdAz, according to article 2 of its statute, claims «political subjectivity for the Sardinian people» and at the same time supports «the free federal or confederal union in the European and Mediterranean context of nations and peoples on the basis of sovereignty, solidarity and mutual interest»²⁰.

The Flemish progressive party *Spirit* is another emblematic case. It is one of the political forces formed after the dissolution, in 2001, of the historical *Volksunie* (VU, the Flemish People's Union, active from 1954 to 2001), whose original name is the acronym of *Sociaal* (Social), *Progressief* (Progressive), *Internationaal* (International), *Regionalistisch* (Regionalist) *Integraal-democratisch* (Integrally democratic or «in favor of integral democracy») *Toekomstgericht* (Oriented to the future). In its fundamental charter it defined itself as the «Flemish, European, worldwide party of free democrats»²¹.

It also looks interesting what we read in the electoral program for the political elections in 2018, elaborated by the *Patto per l'Autonomia* (PpA, Pact for Autonomy), an autonomist group of Friuli and Trieste, established in that year and currently present in the Regional Parliament of Friuli-Venezia Giulia with five elected members, after the new regional election in 2023. This is particularly true in that part of the document where it is possible to grasp the reference to the perspective of «Overcoming the conception of the European Union as a place of confrontation between national state sovereignties unable to address the basic issues that today afflict the various realities, in order to take definitely the path of a European republic that responds directly to communities and citizens according to a model of democracy that enhances regions, municipalities and cities»²².

European dimension and continental integration are essential points of reference in the cases of Catalonia and Scotland too. The Scottish National Party (SNP) and Catalan parties have in common the idea of «independence in Europe» and there-

19 UVP, Statuto, <https://www.unionvaldotaineprogessiste.org/statuto>.

20 PsdAz, Lo Statuto, <http://www.psdaz.net/index.php/lo-statuto>.

21 E. Van Haute, *Volksunie, N-VA, Spirit - Vlaams Progressieven - Sociaal-Liberale Partij*, in P. Delwit – J.B. Pilet – E. Van Haute (eds), *Les partis politiques en Belgique*, Bruxelles, Editions de l'Université de Bruxelles, 2011, pp.201-218.

22 PpA, *Elezioni della Camera dei Deputati e del Senato della Repubblica del 2018. Programma elettorale e indicazione del capo della forza politica*, p. 3.

fore they assert an independence without secession (in Europe and with Europe) and an «internal enlargement» of the Union²³. The anti-Brexit positions supported in Scotland, Wales and Northern Ireland respectively by SNP, *Plaid Cymru* (PC, the Party of Wales) and Sinn Fein (SF) have the same approach, as well as the victory of «remain» in Scotland and Northern Ireland in the referendum of 23th June 2016, the subsequent growth of support for «remain» also among the Welsh public opinion and the common stance of the three «regional» parliaments, in January 2020, with the vote against the government bill in order to ensure the United Kingdom's exit from the EU²⁴. Specific attention to the European dimension and to the process of continental integration, combined with the demand for self-government in a «different» and «alternative» European and democratic context, was already well present among the «regionalists» in past decades. A significant testimony, with reference to the Friulian case, is the short typed essay, entitled *Friuli regione d'Europa* (Friuli region of Europe), published in 1968 by the president of the MF, Fausto Schiavi. Starting from the analysis of what he defined «ethnic alienation» of Friuli, between economics, politics, language and culture, he gave to the linguistic and identity issues greater centrality in the political action of the Movement, relaunching the need for collaboration and cooperation, both in Italy and even more in a continental context, with others «regionalists»: for him the Friulian issue was a European issue, like the Catalan, the Basque, the Welsh, the Occitan and the Scottish ones²⁵.

Alongside elaborations of groups, movements and parties there are also similar theoretical and programmatic ones, which are made and followed by «regionalist» trade unions, such as the Aosta Valley SAVT. Among its objectives, together with the «defense and promotion of economic, professional, moral and cultural interests of workers in Aosta Valley and the improvement of living and working conditions», there is the perspective of «the realization of integral federalism» and the participation in the process of European integration «alongside the trade unions of nationalities (...), united in the hope that Europe can be the Europe of peoples and workers»²⁶.

23 K.J. Nagel, *Nazionalismo e independentismo in Catalogna. Concetti e pratiche*, in J. Cagiao y Conde – G. Ferraiuolo – P. Rigobon (eds.), *La nazione catalana. Storia, lingua, politica, costituzione nella prospettiva plurinazionale*, Napoli, Editoriale Scientifica, 2018, pp.193-227, A. Ichijo, *Scottish Nationalism and the Idea of Europe*, London/New York, Routledge, 2004.

24 See also *Scottish Government, Scotland's Place in Europe*, Edinburgh, Scottish Government, 2016. *The relevance of the European dimension in the Irish peace process certainly influenced the Northern Irish positions in favor of «remain»*: J. Ruane – J. Todd (eds.), *After the Good Friday Agreement. Analysing Political Change in Northern Ireland*, Dublin, University College Dublin Press, 1999.

25 See F. Schiavi, *Friuli regione d'Europa*, Udine, MF, 1968, and F. Schiavi, «Movimenti regionali in Gran Bretagna», in *Friuli d'Oggi*, a. 1, n. 3, 1968, p. 1.

26 SAVT, *Chi siamo*, www.savt.org/Chi%20siamo.htm.

12.4. «Regionalists» and European integration. A four-step path

The relationship between the «regionalist» claims and organizations and Europe and continental integration is a broader historical and political perspective that dates back at least to the 1940s. We can identify four different phases.

The first one concerns the «European hope» of nationalities, minorities and regions. It develops already during the Second World War and the liberation struggle, taking into account the tragic experiences lived throughout the first half of the twentieth century, and it fits into a wider awareness of the need to put in the middle of the reconstruction of Europe everything state nationalisms and dictatorships had threatened or canceled.

The *Declaration of the representatives of the Alpine populations* explains all this. It was signed in Chivasso (near Turin) on 19th December 1943 by a group of antifascists coming from Aosta Valley and from the Waldensian, Francophone and Occitan valleys of Piedmont. In this document we can identify more than one ideal connection with the Ventotene Manifesto «For a free and united Europe» by Altiero Spinelli and Ernesto Rossi of 1941: the European federalist perspective is considered the only one able to offer solutions to the «problems of small nationalities», to dismiss «irredentisms» and therefore to ensure «a stable and lasting peace»²⁷.

The meetings promoted by the Union of Federalists of Brittany and by the representatives of associations, movements and parties from Friesland, Scotland, Friuli, Cornwall, Grisons, Basque Country, Catalan Countries, Aosta Valley and South Tyrol should belong to the same phase too. They were held on 10 April 1949 in Paris and the following 19 and 20 November in Versailles. This is the founding moment of FUEN-FUEV (Federalist Union of European Nationalities), advocate for the recognition of the rights of ethnic and linguistic minority communities and for the need to create a European federation of regions and territories, «a federal organization in which each component will renounce a part of its sovereignty for the benefit of the federal power, but also, in each state, for the benefit of the natural communities»²⁸.

27 See M. Stolfo, «Diritti linguistici, autonomie territoriali, Europa. L'eredità della «Carta di Chivasso», in *Storia contemporanea in Friuli*, Anno XXXVII, n. 38, pp. 87-100, 2009 and G. Perona (ed.), *Popolazioni alpine e diritti fondamentali. 60° anniversario della Dichiarazione di Chivasso. Torino, atti del convegno del 12 e 13 dicembre 2003*, Le Châteaue, Aosta, 2006.

28 See J. Kuhl, *50 Years of Work with European Minorities: FUEN 1949-1999*, in *FUEN*, www.fuen.org.

The second phase could be defined the «Eurodelusion» one. The European integration started on economic and intergovernmental basis thanks to the European Community of Steel and Coal (ECSC) Treaty, signed in Paris on 18th April 1951: that one is a «Europe of states and capitals» without attention to the protection of minorities or to territorial autonomies. In this kind of Europe citizens and local sub-state authorities have no say at all. ECSC – and European Economic Community (EEC) and EURATOM too – are considered simple international organizations of purely economic nature. They try to harmonize the political and economic interests of the national states, which do not coincide with those of the territorial communities supported and represented by «regionalists» but indeed they are opposed to them. Regions, already marginal and marginalized compared to the centers of state power, see their condition of peripherality or even exclusion more accentuated in relation to the European Communities institutions, which are thus «centers» even more distant than the state ones and «hostile».

The third phase is characterized by the resumption of «dialogue» with Europe and with continental institutions. It benefits from the growing attention towards the «peripheries». It emerges above all within the activities of the Council of Europe, with the Permanent Conference of Local Authorities then extended to the Regions or with some positions taken by the Consultative Assembly in favor of the rights of minorities and the role of local autonomies. On the contrary, nothing or almost nothing is moving within the European Communities.

Around the mid-1970s, two significant initiatives underline the importance of the European dimension, at least as an alternative to the state one. The first one is the so called *Charter of Brest*, originally published on 3rd February 1974 and then revised and republished two years after by the representatives of various Marxist-inspired political forces of Ireland, Wales, Brittany, Galicia, Basque Country, Catalan Countries and Sardinia. It denounces the cultural, economic and political «colonization» of each community, indicates the perspective of the struggle for «national liberation» and the construction of a «socialist Europe founded on the equality of the peoples that compose it»²⁹. The second initiative is the opening in Brussels of a «Permanent Office of European Stateless Nations» made by a group of parties, including Basque Nationalist Party (EAJ-PNV) and PC: the project is presented in a statement released on 25th June 1975. It affirms the awareness that Europe «must not be founded only on the European states of today, which in the course of the

29 S. Salvi, *Patria e patria. Dalla Catalogna al Friuli, dal Paese Basco alla Sardegna: il principio di nazionalità nell'Europa occidentale contemporanea*, Firenze, Valecchi, 1978, pp. 164-171.

history of the last few centuries have conquered, annexed or divided, respectively, our nations» and the belief that «a Europe that respects the diversity and the rights of all citizens and all its peoples, small and large can be built firmly on our nations», because «Europe must not perpetuate injustices, disparities or oppression that the centralized states today participating or intending to participate in its constitution commit against us to varying degrees»³⁰.

The beginning of the fourth phase, which is still in progress and can be defined as «institutional», coincides with the first European elections in 1979, in which various «regionalist» forces compete³¹. Two years later, on 9th July 1981 in Brussels, it was marked by the signing of the *Declaration of the Convention of Brussels*. It was regarded as the birth certificate of the European Free Alliance (EFA), founded as a «Cooperation association that brings together political parties that differ from the schemes of the traditional political thought because they put in the foreground an integral regionalism. It is a conception based on the positive interaction between individual identity and people's identity, which finds its own structural expression in democratic decisions harmonized according to the federal model, and which recognizes the value of diversity and social justice»³².

In 1994 EFA officially constituted itself as a federation of political parties, in accordance with the provisions of Article 138A of the Treaty of Maastricht. It took the name of Democratic Party of Peoples of Europe (EFA-DPPE). Ten years later, it established a profile of its own as a real party at European level under Regulation no. 2004/2003 of 4th November 2003. It was officially recognized on 13th October 2004³³.

30 M.M. Costa, «Le minoranze etniche e l'Europa federale», in *Sardegna Europa*, anno I, n. 3-4, agosto-settembre 1977, p. 4. See also S. Salvi, *Patria e patria*, cit., 1978, pp. 161-162.

31 See L. De Winter, *The Impact of European Integration on Ethnoregionalist Parties*, Working paper 193, Institut de Ciències Polítiques i Socials, Universitat Autònoma de Barcelona, Barcelona, 2001 and P. Lynch, *Minority Nationalism and European Integration*, Cardiff, University of Wales Press, 1996.

32 See *Declaration of the Convention of Brussels* in M. Vanaelewyn, *European Free Alliance: Voice of the Peoples of Europe. The First 25 Years (1981-2006)*, EFA-ALE, 2011, pp. 115-123.

33 See E. Defoort, *30 Years EFA, in 30 years EFA. The European Free Alliance: The Voice of Nations and Peoples of Europe*, Bruxelles, EFA-ALE, 2011, pp. 5-7, and P. Lynch, *Organising for a Europe of the Regions: the European Free Alliance-DPPE and political representation in the European Union*, Montreal, 2007, <https://aei.pitt.edu/7954/>.

12.5. For a different Europe, for a Europe «more Europe», for a Europe «of all». The regionalists' «Eurocritical» approach and their pro-Europe attitudes and actions

The presence of «regionalists» within the European Parliament, albeit with limited numbers, has been a constant since 1979. It expresses itself above all in the context of the EFA, but it also includes other political parties at European level and the corresponding parliamentary groups, from the Left (GUE/NGL), to which the *Ezker Abertzalea* (Basque nationalist left) and the Irish SF adhere, to the EPP, which includes the *Südtiroler Volkspartei* (SVP, SouthTyrolean People's Party) and *Româniai Magyar Demokrata Szövetség - Uniunea Democrată Maghiară din România* (DAHR, the Democratic Alliance of Hungarians in Romania), up to the Renew Europe/EDP group, to which EAJ-PNV adheres. There is also the particular case of the *Nieuw-Vlaamse Alliantie* (N-VA, New Flemish Alliance), the center-right-wing heir of the VU, which is a member of the EFA but adheres to the Conservative parliamentary group.

Since 1979 until today, the «regionalists» have maintained pro-European attitudes and positions, with different nuances in substantial continuity and coherence with the previous, albeit different, phases. The prevailing approach of these groups, movements and parties can be defined as «Eurocritical» towards European integration. Certainly pro-European and at least partly federalist positions converge in it, but precisely for this reason they are very critical of the status quo of the European Union, in particular by referring to the excessive importance of the national and economical dimension³⁴. The political forces aligned more clearly on the left and center-left, adhering to EFA or European Left, also contest EU's liberal and market-oriented economic approach. This «Eurocritical» attitude stands out both from the Euroscepticism of those who are formally and substantially opposed to the integration process in general and to the institutions of the Union itself, and from a certain «mainstream» Europeanism, which can be defined as «Euroconformist» because it seems in fact more linked to the economist and intergovernmental approach and therefore to the importance of national states and nationalist culture³⁵. This attitude is well represented in particular by EFA, both at a territorial level and within the European Parliament.

34 See M. Gómez-Reino Cachafeiro, *Nationalisms in the European Arena: trajectories of transnational party coordination*, Basingstoke, Palgrave Macmillan, 2018, pp. 181-182.

35 See M. Stolfo, *Dallo stop alla 'Costituzione europea' al Trattato di Lisbona (e oltre): i gruppi parlamentari europei tra il 2004 e il 2009*, in M. Belluati, P. Caraffini, G. Finizio (eds.), *Il Parlamento europeo e le sue sfide*, Franco Angeli, Milano, 2020, pp. 118-130.

EFA expressed its pro-European and left-wing criticism to the Single European Act and to the Maastricht Treaty, promoted initiatives in favor of strengthening the role of sub-state institutions in the context of the Union and was directly committed on several EP resolutions on the protection of national minorities and minority languages, for example in 1987 (MEP Willy Kujipers, VU) and in 2013 (MEP François Alfonsi, PNC)³⁶. Its activity within the European Parliament also includes initiatives concerning European foreign policy and in favor of the prohibition of chemical weapons in Europe in 1986³⁷. In 1999 the Flemish MEP Nelly Maes (VU) played a key-role in bringing out the so called «Cresson affaire», which led to the resignation of the Santer Commission³⁸.

With reference to the institutional reforms of the EU it is important to remember the positions taken by EFA after the Laeken Declaration, the documents produced by Neil MacCormick (SNP), during his participation in the Convention concerning the «Constitutional Treaty», and his pro-European reflections after the bad result of the referendum on the «Constitution» in 2005. In his pamphlet on the Constitutional Treaty, *A Union of its Own Kind*, MacCormick draws a contrast between the present functional constitution of the Union and the formal constitution to be established pursuant to the Treaty³⁹.

EFA in particular can be considered a progressive European party because it focuses on issues such as democratic participation, the guarantee of human rights, the promotion of linguistic and cultural diversity, the fight against racism and xenophobia, the protection of minorities, the defense of the environment, sustainable development and social justice. It is also openly sided in favor of the consolidation of European integration in a perspective coherently inspired by the motto of the European Union, «united in diversity»: an alternative to intergovernmental and neoliberal tendencies and in favor of a «different» Europe and a Europe which is

36 See M. Vanaelewyn, *European Free Alliance: Voice of the Peoples of Europe. The First 25 Years (1981-2006)*, EFA-ALE, 2006, pp. 31-99, E. Defoort, *30 Years EFA*, in *30 years EFA. The European Free Alliance: The Voice of Nations and Peoples of Europe*, Bruxelles, EFA-ALE, 2011, M. Stolfo, *Unity in Diversity. The Role of the EP in Promoting Minority Languages in Europe*, in S. Pertot, T. Priestly, C. Williams (eds.), *Rights, Promotion and Integration Issues in Minority Languages in Europe*, Palgrave Macmillan, London, 2008, pp. 32-43 and M. Stolfo – C. Cressati, *Lingua e diritti tra tutela e autonomia. Concessions jenfri Friül e Europe*, cit., pp. 77-81.

37 See T. Kernalegenn, *The Internationalism of EFA*, EFA-ALE, 2011 and M. Vanaelewyn, *European Free Alliance: Voice of the Peoples of Europe. The First 25 Years (1981-2006)*, cit., p. 36.

38 See M. Vanaelewyn, *European Free Alliance: Voice of the Peoples of Europe. The First 25 Years (1981-2006)*, cit., pp. 64-65.

39 N. MacCormick, *A Union of its Own Kind? Reflections on the European Convention and the Proposed Constitution of the European Union*, s.l., European Parliament, 2004 and EFA-ALE, *More respect for regions, more Europe: Answer of the European Free Alliance on the double no*, Press release, June 3, 2005, <http://www.e-f-a.org/>.

«more Europe», devoting specific attention to the key points of fundamental rights (human, social, cultural, linguistic rights), political participation, territory (selfgovernement, environment, economical and social sustainability), and European dimension and integration⁴⁰. So, EFA could be considered a progressive European party under this specific point of view, using the category of «progressive» like «pro-European», according to Altiero Spinelli⁴¹.

For example, we can see this approach to various issues in the information and promotional materials produced by EFA for the 2019 European elections. The general purpose is «Building a Europe for all the Peoples», according to the title of the 2019 Political-Electoral Manifesto. The main programmatic points include the principle of self-determination and the pluralistic and equality principles, for «a different Europe, which recognizes the universality of all the peoples as well as their distinct identities», «without creating categories or second-class citizens»⁴².

Other key points are represented by «peace» and «freedom», which are declined both in the internal dimension, with reference to the prevention of new conflicts and the resolution of existing ones and the respect and exercise of fundamental human rights, as well as in external projection of the EU. From this point of view, the EFA takes a position in favor of the creation of a world of solidarity and sustainable and therefore peaceful.

According its 2019 Manifesto «EFA wants European and international organisations to demand the respect of human rights by every state concerned according to international law and to apply sanctions if needed», «the European Union must anticipate by creating an ambitious energy policy that supports the development of sustainable alternatives to transition away from fossil fuels», «every member state must be involved in inclusive policies for migrants»⁴³. In its 2019 Manifesto, EFA focuses its attention and its commitment also in the direction of «gender equality», «social justice», «dignity and equality», «democratic processes and participatory

40 See M. Vanaelewyn, *European Free Alliance: Voice of the Peoples of Europe. The First 25 Years (1981-2006)*, cit., pp. 31-99 and 111-134 and *Entrevista con Nelly Maes, Presidente del partido politico EFA in «Alkartasuna»*, n. 35, 2005, pp. 7-9: http://www.euskoalkartasuna.org/upload/revista_alkartasuna/alkartasuna35.pdf. See also K. Gallogly-Swan, *Citizens' Assemblies. Strengthening self-determination for all Europe's people*, Bruxelles, EFA/ALE, 2022.

41 See P. Graglia, Altiero Spinelli, *Bologna, Il Mulino*, 2008, pp. 126-128.

42 EFA-ALE, *Building a Europe of All Peoples – 2019 Manifesto. European Elections*, <https://www.youdecidenow.eu/2019-manifesto-european-elections/>, pp. 6-10.

43 EFA-ALE, *Building a Europe of All Peoples – 2019 Manifesto. European Elections*, <https://www.youdecidenow.eu/2019-manifesto-european-elections/>, pp. 12, 13 and 24.

democracy» and the implementation of policies for «empowering young people» and for passing «from linguistic diversity to linguistic justice»⁴⁴.

EFA had shown the same approach to addressing these issues in previous electoral manifestos and other official documents. For example, on the occasion of the 2004 European elections, the slogan chosen was «Towards a Europe of diversity», the key words were «sovereignty», «social justice», «subsidiarity» and one of the indicated aims was the simplification and democratization of the EU's Institutions⁴⁵.

In 2009, the EFA Manifesto presented its «Vision for a People's Europe», specifying that it was «not a populist Europe», which included the «radical reform and democratization of EU institutions», «EU minority language rights legislation» and «EU legislation to promote local food procurement». Among the other priorities indicated there were also the «multiplication of EU university exchanges by a factor of 10 (from 2% to 20% of Erasmus students)», «higher investments in innovation and research and development in order to meet the Lisbon strategic goals», «EU legislation to protect workers from exploitation», «EU funding to tackle poverty and homelessness», the «establishment of an EU peace-keeping force» and the «quick integration of migrants through the use of the regional language and by enhancement of their work status to avoid exploitation and discrimination»⁴⁶.

In 2014 the focus was on, among other things, «internal enlargement», «the democratic quality of the European institutions», «social cohesion», «European energy policy», «agriculture and CAP reform», «fisheries and aquaculture» and «respect for cultural and linguistic diversity»⁴⁷.

In the Brussels Declaration of 9 November 2000 on «Nations and Regions in the Governance of Europe», EFA-DPPE emphasized its democratic and progressive nationalist character by calling for the recognition of the value of «stateless nations», i.e. «all those components of nations, nationalities, federal states, autonomous communities and regions that had their own specific identity»⁴⁸. A key point was the as-

44 EFA-ALE, *Building a Europe of All Peoples – 2019 Manifesto. European Elections*, <https://www.youdecidenow.eu/2019-manifesto-european-elections/>, pp. 18-24.

45 EFA-ALE, *Manifesto for the June 2004 European elections: Sovereignty, Social Justice, Subsidiarity Towards a Europe of diversity*, 2004.

46 EFA-ALE, *Manifesto for the June 2009 European elections: Vision for a People's Europe (not a populist Europe)*, 2009.

47 EFA-ALE, *2014 Manifesto - European Parliament Elections – 22/25 May 2014*, 2014.

48 *The European Free Alliance – Democratic Party of the Peoples of Europe, Declaration of Brussels of 9 November 2000 on Nations and Regions in the Governance of Europe*, 2000.

serted compatibility of «civic nationalism» with the process of European integration based on shared sovereignty⁴⁹.

On these several issues and with this approach EFA usually converges with the Greens: their collaboration within the EP started in 1979 and they have been working in the joint group (Greens/EFA) since 1999.

In the run-up to the Nice Summit, the Green/EFA presented a common position, while the EFA-DPPE issued a declaration expressing support for a European Constitution and the elimination of the EU's democratic deficit⁵⁰. The Greens/EFA supported the Treaty of Lisbon, signed in 2007, considering it «indispensable» and «a step forward» but underlining that it was not enough in the perspective of the European integration⁵¹.

On 14th December 2000, the EP voted by a large majority on a resolution tabled by EPP, PES, ELDR and Green/EFA, which, noting the inability of the Intergovernmental Conferences to produce substantial reforms of the European institutional set-up, called for the convening of a Convention similar to the one that had drafted the Charter of Fundamental Rights in the course of that year, i.e. «a body in which government representatives would be joined by those of the national parliaments and the EP, without any of them having the right of veto»⁵².

The institutional issue was therefore taken as central by the Greens/EFA Group and a priority to enable policies and solutions better suited to economic, social and ecological problems and to the demands for democracy, autonomy and security.

At the end of the Seventies the VU leader Maurits Coppieters defined regionalists, federalists and ecologists «the emerging political family of the Europe of the future» and the Swiss writer and philosopher Denis De Rougemont wrote «Ecologie,

49 See M. Vanaelewyn, *European Free Alliance: Voice of the Peoples of Europe. The First 25 Years (1981-2006)*, cit., pp. 131-137.

50 See M. Vanaelewyn, *European Free Alliance: Voice of the Peoples of Europe. The First 25 Years (1981-2006)*, cit., pp. 65-9, G. Grimaldi, *Federalismo, ecologia politica e partiti verdi*, Milano, Giuffrè, 2005, pp. 135-170 and M. Stolfo, *Territory, Rights and Europe: Shared Issues of the «Environmentalists» and the «Regionalists»* in G. Grimaldi (ed.), *Political Ecology and Federalism. Theories, Studies, Institutions, Centre for Studies on Federalism, Research Paper – Special Issue/Volume, July 2012*, pp. 349-368, http://www.csfederalismo.it/images/pdf/2412_Download_PDF_Grimaldi.pdf.

51 <https://www.greens-efa.eu/en/article/document/lisbon-treaty-1394>.

52 European Parliament resolution on the outcome of the European Council on 7-11 December 2000 in Nice, https://www.europarl.europa.eu/doceo/document/TA-5-2000-0579_EN.html

Regions, Federate Europe: the same future» and that «Ecologists, regionalists and federalists are united in a common struggle against economic, social and environmental imbalances and in favor of a society in harmony with nature»⁵³. The contents of these similar statements find confirmation in particular in the programmatic and operational convergence between EFA and the Greens in Europe and in the European Parliament.

53 P. H. Clayes, E. De Graeve-Lismont, N. Loeb-Mayer, Belgium, in K. Reif (edited by), *Ten European Elections. Campaigns and Results of the 1979/81 First Direct Elections to the European Parliament*, Aldershot, Gower, 1986, p. 49, D. De Rougemont, «Ecologie, régions, Europe fédérée: même avenir», in *Cadmos*, II, printemps 1979, pp. 5-12, D. De Rougemont, *L'avenir est notre affaire*, Paris, Stock, 1977, B. Boissière, *Le fédéralisme de Denis de Rougemont: toujours d'actualité, en regard de la crise européenne d'aujourd'hui?*, <https://www.taurillon.org/Le-federalisme-de-Denis-de-Rougemont,01572> and M. Dubrulle, *Régionalisme, fédéralisme, Écologisme. L'Union de l'Europe sur des bases culturelles et économiques nouvelles. Un hommage à Denis de Rougemont*, Bruxelles, Presses Interuniversitaires Européennes, 1997.

13

A past that will not go away?

An unreconciled past in Istria's present and future

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13.1. Introduction: a methodological framework for exploring the future through the present¹

Let us begin with the title. Why such an unusual title for a region which, at the time of writing, is at the height of the tourist season and where seemingly nothing, apart from the current water shortage due to a prolonged drought, appears to be wrong? The title borrows the words of Stefano Lusa, historian, journalist and news editor at Radio Capodistria – the Italian minority radio in Slovenia. Lusa is one of the most astute observers not only of politics in general, but especially of Istria, his birthplace. At the international Forum Tomizza in 2022, he concluded his paper on

¹ This article was written as part of the project entitled *Urban Futures: Imagining and Promoting Possibilities in Turbulent Times (J6-2578)* and *Migration and Social Change in Comparative Perspective: The Case of Western Slovenia after World War II (J5-2571)*, which is co-financed by the Slovenian Research and Innovation Agency from the state budget. The article is the translation of the article published in Slovenian: "Preteklost, ki ne mine? Nepredelana preteklost v sedanjosti in prihodnosti Istre." *Traditiones* 51/3, 2022, pp. 121-139. The article on silence and traumas corresponds and was finalized in the time of the ongoing ARIS project *Etnography of silence(s)* (ARIS J6-50198)

coping with trauma after the 'Istrian exodus'² entitled '... e dopo xe rivadi i druxi!' ('... and then the druži came³) with the thought: 'The only way to face life calmly will be to look to tomorrow and to transcend a past that seems to have no intention of going away.'⁴

In the research being carried out as part of the Slovenian-Croatian project *Urban Futures*, ethnologists and cultural anthropologists are faced with the unusual challenge of exploring the future as something that 'does not (yet) exist'.⁵ However, Hannah Arendt's words are reassuring: the past, the present and the future are intrinsically linked, in fact dependent on each other. That is why she quotes William Faulkner: 'The past is never dead, it's not even past.' And as he goes on to reflect, 'what's more, this past which goes back to its beginning does not pull back, but presses forward. Contrary to our expectations, it's the future that draws us back to the past'.⁶

I will base my reflection on methodological approaches that draw the future from the present. According to Valentina Gulin Zrnič and Saša Poljak Istenič, Rebecca Bryant and Daniel M. Knight⁷ have come closest to classical ethnological and anthropological research with the methodological question of how we live the future in the present. Every decision made now is a decision *for the future*. The authors focus on the role of the future in negotiations and in directing everyday activities or navigating through everyday life towards different goals.⁸ The future is always in one way or another embedded in the present,⁹ "in which the future(s) is (are)

2 I put the word *exodus* in quotation marks because it is not yet a common term in Slovenia. Its use reflects conflicting national memories. Most Slovenian and Croatian historians have so far perceived the migration of (mostly) Italians from Istria as post-war mass migration or 'opting', emphasising the voluntary nature of the migrations, while in Italian and English literature the word *exodus* is used to refer to forced mass migration. As I have argued in the book that migration was not as voluntary as Slovenians like to imagine, I deliberately use the word *exodus*, but in quotation marks, as it is not an established term in Slovenia (see K. Hrobat Virloget, *V tišini spomina. «Eksodus» in Istra, Koper, Trieste, Založba UP, Založništvo Tržaškega tiska*, 2021a, pp. 7, 151-155).

3 This was a scornful, ironic expression used by the Italian natives of Istria to mark the arrival of the new Yugoslav socialist rulers (K. Hrobat Virloget, *V tišini spomina. «Eksodus» in Istra*, cit., p. 64).

4 'Solo così si potrà affrontare serenamente la vita, guardando al domani e superando un passato che qui non sembra voler passare mai.' Everything said in Italian that appears in the article has been translated into English except for this sentence. I never quote the original Italian. S. Lusa, «Forum Tomizza», 16.–21. 5. 2022, '... e dopo xe rivadi i druxi!' https://www.forumtomizza.com/hr/lusa-stefano-e-dopo-xe-rivadi-i-druxi-2022/391/?fbclid=IwAR38kmrQSk6FOLNWWYKjcJnhvFwedeXv3S253T-cJIEemCx_emNjRtVOTYHg.

5 V. Gulin Zrnič, S. Poljak Istenič, *Etnologija i kulturna antropologija budućnosti: koncepti za istraživanje nečega što (još) ne postoji*, in «Narodna umjetnost», 59/1, 2022, pp. 137-162.

6 H. Arendt, *Med preteklostjo in prihodnostjo: Šest vaj v političnem mišljenju*, Ljubljana, Krtina, 2006 (1961), p. 20.

7 R. Bryant, D. M. Knight, *The Anthropology of the Future*, Cambridge, Cambridge University Press, 2019, p. 17.

8 V. Gulin Zrnič, S. Poljak Istenič, «Etnologija i kulturna antropologija budućnosti: koncepti za istraživanje nečega što (još) ne postoji», cit., pp. 147-148.

9 M. D. Frederiksen, *Young Men, Time, and Boredom in the Republic of Georgia*, Philadelphia, Temple University Press, 2013, p. 17.

presented and negotiated.¹⁰ People and their lives are not only determined by the past but also by their future.¹¹

The case study for this article is the part of Istria that is now in Slovenia and I will discuss the problem of finding a name for this region. This area seems to be an excellent laboratory for thinking about how the past haunts the present and thus the future, as Martin Demant Frederiksen¹² discusses in the case of post-socialist youth in Georgia. I want to show how the unresolved, silenced, unprocessed past influences decisions in the present in the search for a future. We may agree with the late Italian politician Silvano Sau who described Istria's unquiet memory as an unpacified past.¹³ At the end of the article, I will touch upon an issue related to the future, or to the breaking point that influences the perception of the past and the future when it becomes an anthropological monograph. I will try to argue why, like Stefano Lusa, I see Istria trapped in the past.

The ethnographic material is mainly based on the both public and personal reactions that followed the publication of the book *V tišini spomina. «Exodus» in Istria*¹⁴, in which I address the consequences and social wounds caused by the 'Istrian exodus'. The book received much publicity, especially in the Primorska region, as it was the first time this long-silenced topic was discussed. From June 2021 to spring 2022, I presented it at several public events in Slovenian Istria, at the Srečko Vilhar Library in Koper/Capodistria, to the¹⁵ Italian communities in Izola/Isola and Piran/Pirano, as well as in various media. Long excerpts were published in the most widely read local newspaper *Primorske novice* (July-August 2021). I also wrote down the reactions to the book made in conversations with the interlocutors from the book, and others who reacted by writing, calling or talking to me. Although the article is based on the book's basic hypotheses, especially in light of new developments related to Istria's naming, some of the hypotheses are theoretically expanded by considering the relationship between the rural and the urban, and the socialist at-

10 F. Ringel, *Back to the Postindustrial Future. An Ethnography of Germany's Fastest-Shrinking City*, New York, Oxford, Berghahn, 2018, p. 10; From V. Gulin Zrnčič, S. Poljak Istenič, *Etnologija i kulturna antropologija budućnosti: koncepti za istraživanje nečega što (još) ne postoji*, cit., p. 154.

11 H. Arendt, *Med preteklostjo in prihodnostjo*, cit.

12 M. D. Frederiksen, *Young Men, Time, and Boredom in the Republic of Georgia*, cit., p. 20.

13 K. Hrobat Virloget, *V tišini spomina*, cit. p. 244.

14 K. Hrobat Virloget, *V tišini spomina*, cit.; Recently published in English as K. Hrobat Virloget, *Silences and Divided Memories: The Exodus and its Legacy in Post-War Istrian Society*, Oxford, New York, Berghahn Books (the commentary added later).

15 As this is an officially bilingual area, the first time a place is mentioned its name is given in both Slovene and Italian, but later only in Slovene.

titude towards the past and the future, as well as by a reflection on the importance of anthropological research in treating collective traumas.

13.2. Creating Istria's past and future: the included and the excluded

Departing from the theoretical position that 'the present creates the future',¹⁶ the question is how different visions of the future create a relationship with the past, how they activate the present and, above all, who has a voice and who is silenced in the process of creating different futures. In other words, whose futures are activated and whose are rejected?¹⁷

In the case of Istria, the story of the orthographic codification of geographical names provides the answers. The question of the name of the region I call the Slovenian part of Istria was raised in public just as I was writing this article. Researchers have been working on this for decades and two round tables have been organised on the subject in the past five years. Should the part of Istria that lies inside the Slovenian borders be called *Istra*, *Slovenska* or *slovenska Istra*, *Istrska Slovenija*, *Obala*, *Obalna regija*, *Obmorska Slovenija*, *Primorje*, *Šavrinško Primorje*, *Šavrinška brda*, *Šavrinško gričevje*, *Koprsko*, *Koprsko primorje* etc.?¹⁸ Different perceptions and ideologies lie behind each name.¹⁹

The fact that there is still no general consensus about the official name for the part of Istria on Slovenian national territory is in my opinion a consequence of the silence surrounding the mass population movements after World War II, which fundamentally changed Istria's social, cultural and ethnic makeup, and especially that of its towns. It is a well-known fact that before World War II, the towns were inhabited mainly by an Italian-speaking population. However, 90% of this people left Istria during the so-called Istrian exodus when the Slovenian and Croatian parts of Istria were annexed to Yugoslavia in 1954. According to official data, approximately 70% of the Istrian emigrants were Italian speakers while 30% spoke Slovene or Croat,

16 V. Gulin Zrnčič, S. Poljak Istenič, *Etnologija i kulturna antropologija budućnosti*, cit., p. 155.

17 V. Gulin Zrnčič, S. Poljak Istenič, *Etnologija i kulturna antropologija budućnosti*, cit., p. 155.

18 I. Gams, *Analiza imen za obalno regijo*, «*Annales*», 1 (1), 1991, pp. 7-11.

19 An oral discussion with Marco Stolfo of the University of Udine on 13 October 2022 clearly shows that the neighbouring province of Friuli-Venezia Giulia in Italy also has a complex history of naming, creating and identification. V. Tucovič, *Istra v sodobni slovenski književnosti*, PhD Dissertation, Ljubljana, University of Ljubljana, 2013, pp. 52-57; N. Čebren Lipovec, *Izgradnja slovenskih obalnih mest v času po drugi svetovni vojni*, PhD Dissertation, Koper, University of Primorska, 2018, pp. 47-50; K. Hrobat Virloget, *V tišini spomina*, cit., p. 27-31.

although calculating on the basis of ethnicity is particularly difficult in this officially bilingual environment with hybrid, flexible ethnic identities.²⁰

The void left by the departed inhabitants of the three Istrian coastal towns in Slovenia was filled by new inhabitants who migrated from southern Istria, the broader Primorska region and Trieste and its surroundings, as well as from other Slovene provinces and other republics of the former Yugoslavia. This is how the historically multicultural territory became ethnically homogenised: the Slovenian part of Istria became 'Yugoslavised' or 'Sloveneised', while on the Italian side the predominantly Slovene territory around Trieste was Italianised. After this part of Istria was annexed to Yugoslavia, the Slovene identity of this multicultural area continued to be strengthened not only through mass immigration, but also through various accompanying actions including the establishment of Slovene toponyms and names, the introduction of literary Slovene and new architecture.²¹

The re-emergence of the issue of Istria's name in 2022 indicates that the recent past is still alive. Following a proposal from the Linguistic Institute of the Slovenian Academy of Sciences in Koper/Capodistria, the Koper Municipal Council ratified a decision by the mayors of Slovenia's four Istrian municipalities to make Slovenska Istra (Slovenian Istria) the official name. The initiative sparked an intense debate among experts and the general public, and I was the first signatory of a public letter declaring that the submitted name was inappropriate. The letter was signed by around 30 researchers from the Faculty of Humanities of the University of Primorska (UP FH). The main argument expressed in the letter is that an ethnic adjective capitalized as part of a proper name in a multi-ethnic area like Istria can be read mono-ethnically, thus blurring Istria's complex multi-ethnic identity. The adjective *slovenski* could at best be written with a lowercase initial, not as part of the proper name, thus avoiding any political connotation and indicating only that the area belongs geographically to Slovenia. Can an Italian from Istria identify themselves as a Slovene Istrian? And could a Slovene inhabitant of the Trieste Karst consider themselves an Italian 'Karstian' if the Karst were named according to a similar rule?

20 S. Volk, *Istria v Trstu: Naselitev istrskih in dalmatinskih ezulov in nacionalna bonifikacija na Tržaškem 1954–1966*, Koper, Univerza na Primorskem, Znanstveno-raziskovalno središče, Zgodovinsko društvo za južno Primorsko, 2003, pp. 32–35; R. Pupo, A. Panjek, «Oltre l'Italia e l'Europa / Beyond Italy and Europe: Ricerche sui movimenti migratori e sullo spazio multicultural-turale», Trieste, Edizioni Università di Trieste, p. 352; P. Ballinger, *Opting for Identity: The Politics of International Refugee Relief in Venezia-Giulia, 1948–1952*, «Acta Histriae», 14 (1), 2006, pp. 115–140; V. D'Alessio, *Dall'Impero d'Austria al Regno d'Italia: Lingua, stato e nazionalizzazione in Istria*, in L. Bertucelli, M. Orlić (ed. by), *Una storia balcanica: Fascismo, comunismo e nazionalismo nella Jugoslavia del Novecento*, Verona, Ombre corte, 2008; M. Orlić, *Né italiani né slavi: State- e Nation-building jugoslavo nel secondo dopoguerra in Istria*, «Contemporanea», 22 (4), 2019, pp. 565–569, 571–572, 575–583; K. Hrobat Virloget, *V tišini spomina*, cit. p. 244, pp. 79–88.

21 K. Hrobat Virloget, *V tišini spomina*, cit.

The main argument expressed in the letter was that in territories inhabited by different ethnic and national minorities, the name should be prudently chosen, inclusive and sensitive to all the territory's inhabitants, not just the majority nation.²² A similar reservation about the word *Slovenska* in the officially bilingual area was expressed a few years ago by the Fran Ramovš Institute for the Slovene Language of the Slovenian Academy of Sciences and Arts.²³ The call to abolish the adjective *Slovenska* preceding the name Istria was greeted enthusiastically by the Italian minority communities on the coast who felt the proposed name ignored them, and they subsequently rebelled against it, even though their political representatives approved the new name.

The name was proposed on a top-down basis in the same way as the term *Obala* (Coast) was introduced after World War II under socialism, along with other names that were used (mainly by geographers) to avoid the name Istria. We know that any naming is always a political-ideological act, regardless of (different) expert opinions. In addition to interventions in space through heritage, its destruction, new architecture, etc., toponyms are changed by the new owners of a space to symbolically mark the new political power and to appropriate the space.²⁴ The new socialist authorities tried to distance themselves from the Venetian, i.e. Italian identity of the whole region by using the term *Obala*, which stems from the perception of the inhabitants of mainland Slovenia who have a 'holiday attitude' towards this space.²⁵ Using this new non-historical name, the Yugoslav or Slovenian authorities tried to 'symbolically domesticate and secure the newly acquired territory with a name that would not be claimed by anyone else'.²⁶ Following Slovenia's independence, Istria was again given a new identity through the so-called process of 'Šavrinisation', which was a consequence of the 'Slovenisation' or nationalisation of Istria by it being divided into Croat and Slovene parts. Later, everything became associated with the Šavriini. This was also to affirm a rural identity in contrast to the coastal towns.²⁷

22 S. Lusa, *Istria e non Istria slovena*. Radio Capodistria, 12. 4. 2022. <https://www.rtvsl.si/capodistria/radio-capodistria/notizie/istria/istria-e-non-istria-slovena/619584?fbclid=IwAR0OGJfvXwR3iEPC8d2g5TexHWuCZc0bDgJcz9Y7PwGF3gqd9gayzg-FsF0>.

23 H. Dobrovoljic, *Ponovno o «slovenski» oz. «Slovenski Istri»*. Jezikovna svetovalnica. <https://svetovalnica.zrc-sazu.si/topic/5670/ponovno-o-slovenski-oz-slovenski-istri> (7. 9. 2022).

24 V. Veschambre, *Traces et mémoires urbaines: Enjeux sociaux de la patrimonisation et de la Démolition*, Rennes, PUR, 2008, p. 10.

25 B. Baskar, *Dvoumni Mediteran, Koper*: ZRS Koper, Zgodovinsko društvo za južno Primorsko, 2002, p. 183; V. Tucović, *Istria v sodobni slovenski književnosti*, cit., p. 26; N. Čebren Lipovec, *Izgradnja slovenskih obalnih mest v času po drugi svetovni vojni*, cit.; K. Hrobat Virloget, *V tišini spomina*, cit., p. 28.

26 B. Baskar, *Med regionalizacijo in nacionalizacijo: Iznajdba šavrinške identitete*, «*Annales: Ser. Hist. Sociol.*», 12 (1), 2002, pp. 115-132.

27 B. Brumen, *Sv. Peter in njegovi časi: Socialni spomini, časi in identitete v istrski vasi Sv. Peter, Ljubljana, Cf.*, 2000, pp. 389-405; B. Baskar, *Dvoumni Mediteran*, cit., p. 123.

The search for a name for this border region, which belonged to five countries in the 20th century alone, also hides the unprocessed, silenced past of post-war mass migrations²⁸, which continues to co-determine the future today. Not only have the mass migrations and the almost complete change in the population's ethnic structure – especially in the Istrian towns – been silenced in the Slovenian collective memory, but the collective memory of the Italian community, which has gone from being a majority to a minority in the towns, has also been silenced. Their collective identity is based not only on collective memories, as Maurice Halbwachs²⁹ says of communities, but on collective silence.³⁰

Just as the present creates the past,³¹ it also creates the future and the two are inevitably linked. The intertwining of temporalities is also reflected in the reflections of some Italian political representatives from Istria. For example, at the presentation of my book³² in Izola/Isola on 28 March 2022, Maurizio Tremul, President of the Italian Union of Slovenian and Croatian Istria, spoke about the powerlessness of Italians to create not only the past, but also the future: *«there is so much silence in a whole range of things, the inability to tell our history, the inability to tell the present, the inability to tell the future we want.»* This impotence is evident despite all the rights guaranteed to the national minority because, as Stefano Lusa commented, 'the rights exist but they must not be abused. What we have to be careful about here is above all not to irritate the majority'.³³ I have heard this from Italians many times myself: everything's all right as long as we don't upset the majority, we'd better keep quiet because Slovenians can quickly lash out about the rights of the Slovenian minority in Italy, let alone about their eternal role as the victim of Italians who are stigmatised in the Slovenian collective memory as fascists.³⁴ The powerlessness to create a future for the Italian minority is once again illustrated by the story of the name, as the Italian communities were offered only two names to choose from, Slovenska Istra / Istria slovena and Slovenska obala / Litorale sloveno.³⁵ Both are bad. In this way, the majority does not give the minority a voice but rather confronts it with a predetermined and impossible choice.

28 K. Hrobat Virloget, *V tišini spomina*, cit.

29 M. Halbwachs, *Kolektivni spomin*, Ljubljana, *Studia Humanitatis*, 2001 (1925).

30 K. Hrobat Virloget, *V tišini spomina*, cit.

31 D. Lowenthal, *The Past is a Foreign Country*, Cambridge, Cambridge University Press, 1995 (1985).

32 K. Hrobat Virloget, *V tišini spomina*, cit.

33 S. Lusa, *Forum Tomizza*, cit.

34 K. Hrobat Virloget, *V tišini spomina*, cit.

35 Fact provided by Alberto Scheriani, President of CAN (*Comunità autogestita costiera della nazionalità italiana / Self-governing communities of Italian nationality on the coast*), at the round table on the name of Istria in Piran/Pirano, 21 March 2021.

However, thanks to a letter from UP FHŠ, the Italian voice has been heard – but too late, as the term Slovenska Istra is being used with increasing frequency in public.³⁶ Meanwhile, another voice remains completely unheard in Istria – that of the immigrants from the former Yugoslav republics. As Marko Gregorič, President of the self-governing community of Italians in Izola/Isola pointed out at the book launch and as I have heard many times from many Istrians 'these lands are continuing to change, and in some respects Slovenians are becoming a minority.' Not only have these immigrants not been given rights as a national minority community,³⁷ their voices are never heard in public, even though they dominate the old towns together with the Slovenian immigrants. If discourse on multicultural Istrian society exists it refers to 'indigeneity', to Slovenians or Croats and Italians, while in orientalist discourse these 'Balkan others' are excluded from Istrian society both in Croatia³⁸ and in Slovenia.³⁹

At the end of this chapter, let us try to think about the future. For Istria, it could be said that the intense population changes in the post-war past have resulted in a 'schizophrenic' identity in the present and the future. This is how Stefano Lusa commented on my reflections from the book on the search for a name for Istria.⁴⁰ Like heritage, naming a region seems to depend on current identifications. We know that heritage will be recreated and selectively chosen by future generations according to the changed circumstances and values that will be attached to it.⁴¹ Probably in a similar way to the name of the region, especially if it is so 'labile' because of all the changes in recent history. It is interesting to hear the thoughts of the Vice-Mayor of Izola/Isola, Agnese Babič,⁴² who commented that not only do we not know what to call Istria today, but we do not even know what our heritage is. There is no more fishing, no more farming, the people have left and none of this has been passed on to the new generations. Most of the Italians have left and the Slovenians are now also in the minority. She also reflects on the successful past integration of immigrants from the former republics of Yugoslavia, while asking why modern immi-

36 P. Žigo, *Slovenska Istra z malo ali veliko začetnico?* «Obala Plus», 1. 9. 2022. <https://obalaplus.si/slovenska-istra-z-malo-ali-veliko-zacetnico/>.

37 M. Buič, *Krepitev aktivne participacije narodnih skupnosti narodov nekdanje SFRJ v slovenski stri*. in S. Poljak Istenič, M. Habinc, K. Hrobat Virloget (ed. by), *Nemi spomini: Manjšine med obrobjem in ospredjem*, Ljubljana, Slovensko etnološko društvo, 2017.

38 P. Ballinger, *History in Exile: Memory and Identity at the Borders of the Balkans*, Princeton, Princeton University Press, 2003, pp. 245-273; O. Orlić, *Mnogoznačje istarskog multikulturalizma*, «Etnološka tribina», 31 (38), 2008, pp. 39-59.

39 K. Hrobat Virloget, *V tišini spomina*, cit.

40 S. Lusa, *Istria slovena: Dopo l'esodo, in cerca di una propria identità*, «Osservatorio Balcani», 10. 2. 2022. https://www.balcanicaucasos.org/aree/Slovenia/Istria-slovena-dopo-l-esodo-in-cerca-di-una-propria-identita-215722?fbclid=IwAR2TzuWHWwMdSvzL30PRMCuzhXJlcHRW2naB3j4rrOWUJoiNh0TFFiID_Q.

41 M., van den Dries, J. Schreus, *A Glimpse into the Crystal Ball: How do we select the Memory of the Future?* in Apavdin (ed. by), *Critical Perspectives on Cultural Memory and Heritage: Construction, Transformation and Destruction*, London, UCL Press, pp. 291, 303.

42 *Conversation*. Izola/Isola, 14 February 2022.

grants from Albania, Kosovo, etc. do not integrate, mothers stay at home, and they do not know the language and the local culture.⁴³ There are also increasing numbers of Russians and Ukrainians⁴⁴ who, unlike the above, belong to the wealthier class and take an interest in the culture of their new home, and attend Italian classes. However, this only applies to the mothers as the fathers have stayed on to work in the homeland. I have heard similar stories from other Istrians, especially in Italian circles, from town management employees or school staff who have most contact with the new immigrants, as most of them are enrolled in Italian minority schools. They also wonder what the future holds for the integration and new identity of the Istrian towns, which are becoming increasingly ethnically/nationally mixed, beyond the former Yugoslav framework.

13.3. Who is an Istrian? Urban vs. Rural

As illustrated by the story of the search for the region's name, the identity of the Istrians remains complex due to the radical population changes after World War II, especially in the towns. The geographers Simon Kerma and Tomaž Plesec confirm how censuses and surveys show that the majority of people in the Istrian towns and suburbs of the nearby hinterland have migrated there and are therefore not 'indigenous'. Geographic research carried out several years ago showed that alongside ethnicity and social origin 'indigeneity' is the factor that most influences one's belonging to this region.⁴⁵

But who feels Istrian nowadays? It seems that most town dwellers do not, as most of them migrated here and do not dare self-identify as Istrians even after many decades living in Istrian towns. Those who moved to the towns from the hinterland are probably an exception.⁴⁶ This discomfort was shown by the Mayor of Koper/Capodistria Aleš Bržan at one of the round tables on the naming of Istria, when he said that even rootless Istrians should be considered Istrians.⁴⁷ This feeling of not being accepted suffered by those who 'do not have roots' in this region is also influenced by the strongly rooted phenomenon of 'othering' in Istria, especially in the coun-

43 See also S. Simonovič, *Nacionalno neopredeljena identiteta kot subverzivna identiteta na primeru Istre in Francija Blaškoviča*, Master thesis, Koper/Capodistria, Faculty of Humanities, University of Primorska, 2022, pp. 79-80.

44 The interview was held before the war broke out in Ukraine.

45 S. Kerma, T. Plesec, *Slovenska Istra – Laboratorij za preučevanje regionalne identitete*, «Annales: Ser. Hist. Soc.», 11 (2), 2001, p. 315.

46 K. Hrobat Virloget, *V tišini spomina*, cit., p. 191.

47 K. Hrobat Virloget, *V tišini spomina*, cit., p. 29.

tryside where locals persistently referred to all immigrants as *forešti* (foreigners).⁴⁸ The younger generations born here cannot identify with Istria, especially not in the urban environment. All of them consider themselves residents of the Coast, a label with which they have grown up since the 1960s, used by the mass media and the broader social environment.⁴⁹ Geographers also observe in surveys that the inhabitants of Istrian towns express strong localisms because they find the Istrian identity too vague, and at most they identify themselves as *Primorci* (natives of Primorska), which is especially true for immigrants.⁵⁰ It is also unclear if survey respondents could select the name *Obala*. It should also be borne in mind that under socialism the word Istrian acquired a pejorative connotation, something like 'peasant farmer', given the contrast between the urban and the rural. On the contrary, most of the inhabitants from the Istrian hinterland identify as Istrians and so-called indigeneity plays an important role in this. The Coast/Istria conflict seems to express not only the contrast between town and country,⁵¹ but also the differences between the identity of the immigrants who constitute the majority in the Istrian towns, and that of the 'indigenous' inhabitants of Istria. Geographical research has also shown that rural people identify more with the region. This could also be evidence of the indigenous nature of most of the population in the region.⁵²

So what should we call a region in which we have to be sensitive to multi-ethnicity, knowing that Istria is one of Slovenia's most multicultural and multi-ethnic regions?⁵³ And what should we call a region if its inhabitants identify themselves differently, not only because of different social identities (town/village), but also because of radical changes in the demographic structure? If in the past, especially in historiography and fiction, the conflict between the towns and the countryside was seen in the simplified light of a national conflict between the Italian, civilised, urban world and the rural, Slavic, barbarian world,⁵⁴ we might now be inclined to distinguish between the urban – dominated by post-war immigrants⁵⁵, i.e. the Coast – and Istria as a rural area dominated by the 'indigenous' population. Of course, the situation

48 B. Brumen, *Sv. Peter in njegovi časi*, cit., 379-384.

49 This is confirmed in everyday conversations. An example is the response given by Vesna Pajič, responsible for culture at the Municipality of Koper/Capodistria, on her Facebook page, to the article by Stefano Lusa about the public letter of UP FHŠ in favour of the name Istria, saying they are not Istrians but 'Obalčani' ('Coastals').

50 S. Kerma, T. Plesec, *Slovenska Istra*, cit., p. 317.

51 B. Baskar, *Dvourni Mediteran*, cit.

52 S. Kerma, T. Plesec, *Slovenska Istra*, cit., p. 316.

53 S. Kerma, T. Plesec, *Slovenska Istra*, cit., p. 318.

54 B. Baskar, *Dvourni Mediteran*, cit., pp. 98-120; F. Dota, *Zaračeno poračje: Konfliktni i konkurentski narativi o stradanju i iseljavanju Talijana iz Istre, Zagreb, Srednja Evropa, 2010*; M. Verginella, *O zgodovinenju dihotomije mesta in podeželja*, «Acta Histriae», 25 (3), 2017, pp. 457-472; K. Hrobat Virloget, *V tišini spomina*, cit., pp. 64-68.

55 According to Ingrid Slavec Gradišnik's personal experience, local identification is at the forefront in both the urban and rural populations (see comments on the article).

is more heterogeneous and complex. The same differences are also evident among Italians – some identify with the Coast others not, rejecting as totally unacceptable the proposed name of Slovenian Coast / Costa slovena⁵⁶. The name Istria shows us how the future is forcing us back into the past, as Hannah Arendt⁵⁷ would say. Due to its 'undigested',⁵⁸ silenced past⁵⁹ the region will remain on shaky, 'schizophrenic'⁶⁰ identity foundations, searching for its lost identity.⁶¹

The search for a collective identity is not only evident at the regional level but also in Istrian towns, which are increasingly looking for rural symbols to define themselves. The process of 'Istrianisation' was pointed out by Stefano Lusa in a radio interview on the issue of the naming of Istria. He mentioned the introduction of modern rural terms with which people in the towns do not identify, for example, the name *kurjerca* used for electric buses is a dialectal term for a bus that comes from Istria's hinterland. Neža Čebren Lipovec gave the example of the introduction of the Šavrin identity in Koper/Capodistria where a statue of a bare-breasted Šavrin woman was erected⁶² a few years ago, and an academic monograph entitled *Šavrinka*⁶³ was published. Both allude to the so-called Šavrinija, the rural hinterland, and the nostalgic and idealising practices associated with it.⁶⁴ Some urban citizens are expressing discomfort and criticising the inappropriate search for an urban identity in a rural one.⁶⁵

Researchers generally call for a more complex understanding, pointing to the changing relationship between urban and rural areas. As Fernand Braudel has already noted, the division of labour between urban and rural areas has never been definitive in history. Periods when cities urbanised the countryside were followed by

56 Explanation by the President of CAN at the round table on the name of Istria, 21 March 2021.

57 H. Arendt, *Med preteklostjo in prihodnostjo*, cit., p. 20.

58 B. Baskar, *Dvoumni Mediteran*, cit.

59 K. Hrobat Virloget, *V tišini spomina*, cit.

60 S. Lusa, *Istria e non Istria slovena*. *Radio Capodistria*, cit.

61 K. Hrobat Virloget, *V tišini spomina*, cit.

62 S. Lusa, *Istria o Istria slovena, Francia e Ucraina*, *Radio Capodistria*, radio broadcast *Il vaso di Pandora*, 15. 4.2022. <https://365.rtvsl.si/arhiv/il-vaso-di-pandora/174865159>.

63 I. Celestina, S. Todorovič, *Šavrinka*, *Koper, Libris*, 2017.

64 Š. Ledinek Lozej, N. Rogelja, *Šavrinka, Šavrinija in Šavrinija v etnografiji in literature*, «*Slavistična revija*», 60 (3), 2012, pp. 537-547.

65 In addition to searching for identity foundations in the rural environment, Koper/Capodistria is also looking for these in the distant past, as can be interpreted from the recent unsuccessful public competition by the Municipality of Koper/Capodistria for a new development of the beach in Žusterna. The competition called for a depiction of the 'memory of the «Goat» island of Capris' in which the sculpture(s) should take the form of a goat or goats to reflect the story of the founding of Koper/Capodistria in Roman times (*Koper.si*, 2022). This is something art historians have been critical of but illustrates what David Lowenthal has pointed out, namely that people change the past according to their needs in the present, looking for a long, honourable and glorious past that provides support in an uncertain present. D. Lowenthal, *The Past is a Foreign Country*, cit., pp. 332-335.

periods when the countryside ruralised the city,⁶⁶ and it is no different nowadays, especially when it comes to finding a new identity and giving it a solid foundation.

We can now see that some urban citizens are critical of the municipal authorities in Koper/Capodistria seeking an identity in rural elements from Istria's hinterland, and they are also critical of the rural taking over the urban as a result of mass immigration from the southern republics of the former Yugoslavia into the Istrian towns. Although mass industrialisation in the 1960s and 1970s meant people came from all over Yugoslavia and from different social backgrounds, in the Istrian towns they were mainly perceived as being rural.⁶⁷ They were seen as the 'ultimate other' not only in the orientalist discourse of the 'Balkan other',⁶⁸ but also in light of the contrast between the urban and civilised, and the rural and barbaric. Both cases are the simplistic equating of the social conflict between town and country with ethnic identities. Before the war these were the Italians and the 'Slavs',⁶⁹ while after the war and up to the present day, the discourse on the intrusion of the rural into the urban reveals the contrast between Slovenians and the 'non-Slovenians' from the former Yugoslavia. Alenka Bartulović notices that the discourse on the intrusion of the backward rural into the urban can be seen throughout the former Yugoslavia. The socialist era was characterised by accelerated urbanisation, deagrarianisation and the building of an industrial society. New cities were created to leave behind the rural as well as everything that was considered backward. This process also encouraged people to move from the countryside to the city by stigmatising the 'backward peasant society'. The 'urban villagers' were said to be liminal and inflexible, and they were also supposed to inhibit urbanisation and 'progressive thought' due to their lack of education and absence of motivation for cultural life.⁷⁰ An urban tale that has existed in Koper/Capodistria for some time says that immigrants from the southern republics of the former Yugoslavia raised pigs or grew potatoes in degraded Venetian palaces, illustrating the perception of 'maladjusted peasants' in

66 F. Braudel, *Materialna civilizacija, ekonomija in kapitalizem*, XV. XVIII. stoletje: Strukture vsakdanjega življenja: Mogoče in nemogoče, II. Del, Ljubljana: ŠKUC, Znanstveni inštitut Filozofske fakultete, *Studia Humanitatis*, 1988, p. 286; C. Barberis, *Le campagne italiane: Da Roma antica al Settecento*, Roma, Bari, Laterza, 1998; M. Verginella, *O zgodovinenju dihotomije mesta in podeželja*, cit, p. 458.

67 K. Hrobat Virloget, *V tišini spomina*, cit., pp. 200, 213.

68 As indicated earlier, however, other contemporary immigrants both from the former republics of Yugoslavia and elsewhere are now considered to be more 'ultimate', while the immigrants from the 1960s and 1970s are considered to be better integrated. P. Ballinger, *History in Exile*, cit., pp. 245-273; O. Orlič, *Mnogoznačje istarskog multikulturalizma*, cit.; K. Hrobat Virloget, *V tišini spomina*, cit., p. 201.

69 The simplistic and dominant Italian discourse does not distinguish between Slovenian and Croatian, but bunches all Slavic ethnic identities in Istria together under the term Slavic. B. Brumen, *Sv. Peter in njegovi časi* cit.; B. Baskar, *Dvourni Mediteran*, cit., pp. 98-120; M. Verginella, *O zgodovinenju dihotomije mesta in podeželja*, cit.

70 A. Bartulović, «Nismo vaši!»: Antinacionalizem v povojnem Sarajevu, Ljubljana, Znanstvena založba Filozofske fakultete, 2013; I. Duda, *Uvod: Od nazadnosti do svemira, od projekta do zbornika*. in I. Duda (ed. by), *Stvarjanje socialističkoga čovjeka: Hrvatsko društvo i ideologija jugoslavenskoga socializma*, Zagreb, Pula, Srednja Evropa, 2017, p. 12.

the city. However, unlike other similar studies the legends of the 'urban others' from Slovenia's Istrian towns never speak about immigrants of the dominant nationality – many Slovenians also came from rural backgrounds – but exclusively about the 'Balkan others'.⁷¹

This reflection shows how these discourses are durable and always adapt to the new social conditions, changing in form but not in content. If I have shown in the book how the symbolic boundaries between Italians and Slovenians before the 'exodus' turned into symbolic boundaries after it, based on the duration or primacy of residence when the 'native' Italians and the first immigrant Slovenians created a social boundary with all the later immigrants,⁷² then the discourse on the opposition between the civilised and urban, and the rural and barbaric, adapted accordingly. The original conflict between the civilised, Italian versus the barbaric, Slavic, was transformed into a discourse in which the civilised and urban, i.e. Slovenian (and Italian) stands opposite the barbaric and rural, i.e. the 'Balkan other'.

13.4. The Yugoslav future that erases the past: traumas that continue to simmer in the future

It is well known that disdain for the countryside as an element of the past or of conservatism goes back as far as the 19th century, and that later on only its 'members' changed in response to changing social circumstances. Such a mindset was also characteristic of the Yugoslav socialist modernist paradigm, which like all communist thought was based on uncompromising faith in a bright future and a belief in progress. As Valentina Gulin Zrnić and I found out at one of the project meetings, in its belligerent focus on a bright future where the past was only a symbol of backwardness, the Yugoslav ideology erased all of the past, everything it did not like in it including all inter-ethnic traumas.

Andrea Matošević discussed the expression of this ideology using the example of the Yugoslav avant-garde labour actions, which were not only about a radical belief in the future, but also about a sense that the future is already here, a kind of 'future in the present', or inscription of the future in the present.⁷³ The ideology

71 K. Hrobat Virloget, *V tišini spomina*, cit., p. 202.

72 K. Hrobat Virloget, *V tišini spomina*, cit.; N. Elias, J. L. Scotson, *The Established and the Outsiders: A Sociological Enquiry into Community Problems*, London, Sage, 1994.

73 A. Matošević, *Posrednici u stvaranju socijalističkih ljudi na omladinskim radnim akcijama: Utopija, dijalektika i vrijeme*, in I. Doda (ed. by), *Stvaranje socijalističkoga čovjeka: Hrvatsko društvo i ideologija jugoslavenskoga socializma*, Zagreb, Pula, Srednja Evropa, Sveučilište Jurja Dobrile, 2017.

broke the link with the past, or at least its use in visions of future national progress and industrial development.⁷⁴ In the Soviet Union, it violently and cruelly suppressed the old world in order to replace it with the idealistic illusion of a new, better world for everyone, where social justice, equality and fraternity would reign, following the model of the French Revolution.⁷⁵ In Yugoslavia, 1945 represented the beginning of a new era, when the concept of a new society and new man, looking towards a bright future and based on brotherhood and unity, was being created.⁷⁶ In the name of this ideology, attempts were made to control nature and fight the past; those who looked to the past were considered backward.⁷⁷ The words of the French internationalist anthem reflect a complete break with the past and the belief in a new society of the future – *Du passé faisons table rase*⁷⁸ – no trace of the old world should remain.⁷⁹ The break with the past is visible, for example, in the neglect and erasure of tradition and traditional architecture⁸⁰ or in folk music where the heritage of the past was seen as primitivism,⁸¹ although individual elements of tradition were picked out and came to life as new Yugoslav identity symbols.⁸² In general, however, practices from the past were not tolerated in this process of creating the future. This is also reflected in socialist cities by the absence of urban gardening. Like work on the land and agriculture in general, this was linked to the old, agrarian, conservative society and therefore did not fit the model of the new modernised city.⁸³

Socialist modernisation was etched on the architecture of the Istrian towns in Slovenia by architect Edo Mihevc's new urban plans, especially in Koper/Capodistria. They showed a lack of respect for the old town centre and deliberately erased the symbolic markers of the town's Venetian and Romanesque past. The new functionalist modernist architecture, which promoted the removal of 'unhealthy' old buildings, created a new Slovenian and Yugoslav socialist reality in the coastal towns. The demolition of Koper's/Capodistria's old town centre reflects the erasure and negation

74 J. Fakin Bajec, *Procesi ustvarjanja kulturne dediščine: Kraševci med tradicijo in izzivi sodobne Družbe*, Ljubljana, Založba ZRC, ZRC SAZU, 2011, p. 40.

75 T. Pushkarova, *Ruined Lives: Repression in the Soviet Union*, in «*Rom J Psychoanal*» 13 (2), 2020, p. 133.

76 I. Duda, *Uvod*: cit.

77 A. Matošević, *Posrednici u stvaranju socijalističkih ljudi na omladinskim radnim akcijama*, cit., pp. 81, 92.

78 Veschambre, *Traces et mémoires urbaines*, cit.

79 I. Duda, *Uvod*: cit., 12.

80 J. Fakin Bajec, *Procesi ustvarjanja kulturne dediščine*, cit., pp. 198-210.

81 A. Buhin, *Jugoslovenska popularna kultura između zabave i ideologije*. In I. Duda (ed. by), *Stvaranje socijalističkoga čovjeka: Hrvatsko društvo i ideologija jugoslavenskoga socializma*, Zagreb, Pula, Srednja Evropa, Sveučilište Jurja Dobrile, 2017, p. 229.

82 J. Fakin Bajec, *Procesi ustvarjanja kulturne dediščine*, cit.; S. Poljak Istenič, *Tradicija v sodobnosti: Janče – zeleni prag* Ljubljane, Ljubljana, Založba ZRC, 2013.

83 V. Gulin Zrnić, *Kvartovska spika: Značenja grada i urbani lokalizmi u Novom Zagrebu*, Zagreb, Institut za etnologiju i folkloristiku, Jesenski i Turk, 2009; V. Gulin Zrnić, T. Rubić, *City-Making through Urban Gardening: Public Space and Civic Engagement in Zagreb*, in «*Narodna umjetnost*», 55 (1), 2018, p. 172.

of the collective memory and identity of the pre-war town and the departed pre-war inhabitants, resulting in the Slovenisation and Yugoslavisation of a multicultural area. It is also worth noting that it was Edo Mihevc who coined the new term 'coast' (with a small initial) when he called the coastal belt and its hinterland the 'coastal zone'. The term was important at least in the field of architecture.⁸⁴

Socialism accentuated the Western attitude of relegating the past to the background and putting the future in the foreground, but the non-Western world provides examples of different perceptions that are interesting. For example, for the Himba people of Namibia, the Western view of temporality makes no sense at all. In their vision of time, the past unfolds before us as we move towards the future. Time is seen as a flowing river; the future is behind and invisible, while the past we have experienced is in front of us and visible – quite the opposite of the Western mindset.⁸⁵ If the future is blocking the view of the past, then the warning given by the German Chancellor in 1985 is relevant: 'Anyone who turns a blind eye to the past is blind to the present'⁸⁶ and thus to the future. A society must first (come to) know its past before it can look to the future. From my observations of Istrian society, I would say that it must first come to terms with its past so it can move calmly into the future without the unresolved past repeatedly returning to haunt it with its unprocessed traumas.

Psychotherapists observe that traumatised societies, such as South Africa in the aftermath of apartheid, must come to terms with their past and that parts of the past that have been invisible must be made visible.⁸⁷ All history is a product of power and the ultimate mark of power may be its invisibility.⁸⁸ My research on the memories of the 'Istrian exodus' has revealed invisible collective traumas. The 10%

84 N. Čebtron Lipovec, *Izgradnja slovenskih obalnih mest v času po drugi svetovni vojni*, cit.; N. Čebtron Lipovec, *Post-War Urbanism along the Contested Border: Some Observations on Koper/Capodistria and Trieste/Trst*, «Dve domovini», 49, 2019, pp. 211-212. Although Neža Čebtron Lipovec only mentions this briefly in her doctoral dissertation, she has pointed out the discovery that Mihevc introduced the term 'coast' on several occasions in conversations and in public, including at the round table on the name of Istria in Koper/Capodistria at the FHŠ UP, 18 November 2018. She notes that the past was not only erased through socialist architecture, but also in Trieste on the other side of the border. On both sides of the border, demolitions, new buildings and the renaming of streets have caused collective amnesia and the creation of new memories. New national and political ideologies have thus been inscribed on the disputed territory of Istria. N. Čebtron Lipovec, *Post-War Urbanism along the Contested Border*, cit.

85 M. Friedman, *The Truth and Reconciliation Commission in South Africa as an Attempt to Heal a Traumatized Society*, in A. Y. Shalev, R. Yehuda, A. C. McFarlane (ed by.), *International Handbook of Human Response to Trauma*, New York, Springer Science+Business Media, 2000, p. 399.

86 A. McFarlane, *On the Social Denial of Trauma and the Problem of Knowing the Past*, in A. Y. Shalev, R. Yehuda, A. C. McFarlane (ed by.), *International Handbook of Human Response to Trauma*, New York, Springer Science+Business Media, 2000, p. 25.

87 M. Friedman, *The Truth and Reconciliation Commission in South Africa as an Attempt to Heal a Traumatized Society*, cit., p. 399.

88 M.-R., Trouillot, *Silencing the Past: Power and Production of History*, Boston, Beacon Press, 2015, p. xxiii.

of Italians who remained in Istria after the 'exodus' felt like 'strangers in their own home' under the new social circumstances, stigmatised by the collective guilt attributed to them for fascism and war crimes. Their memories were silenced because they did not fit the collective view of the past in the new dominant Yugoslav and later Slovenian national memory, which did not recognise the extent of change after the 'exodus'. Its causes were attributed to voluntary migration. Not only did the Italians in Istria remain silenced, their identity rested on a collective silence.⁸⁹ But they also remained invisible in Italian public discourse. As Daniela Paliaga Janković commented: 'Because we chose Tito Italy turned its back on us and we were left in silence.'⁹⁰ In reality, invisibility or silence is one of the most visible consequences of trauma if trauma is also understood as the inability to narrate.⁹¹ Psychoanalysts note that if traumas are not processed through memories, there is the risk of a kind of 'conspiracy of silence'.⁹² For example, a 'silent community' was already observed in the 1970s among the parents and children of the Holocaust.⁹³ Silence helps people avoid the imagination that would repeat the humiliation and emotional pain.⁹⁴ The silence of the Italians was evident as most of them did not even accept to talk to me when they found out that the subject of the conversation would be 'the exodus'. Most of the small number who welcomed me could not avoid shedding tears. Tears that are the result of incompatible collective and individual memories as well as unprocessed traumas.⁹⁵ When thinking about Istria's future, as the author of a book that has spoken about its silenced past, I wonder what role anthropological research into its unprocessed past can play in articulating and contextualising a long-simmering collective silence?

89 K. Hrobat Virloget, *V tišini spomina*, cit.

90 *The fact they chose Tito meant that the Italians who opted for Tito's Yugoslavia stayed there and did not emigrate with the other 90% of Italians. Conversation. Koper/Capodistria, 23 September 2021.*

91 A. Assman, *The Construction of Memory and Historical Consciousness*, in J. Straub, J. Rüsen (ed. by), *Dark Traces of the Past: Psychoanalysis and Historical Thinking*, Oxford, New York, Berghahn Books, 2010, p. 20.

92 H. M. Emrich, *Identity, Overvaluation and Representing Forgetting*, in J. Straub, J. Rüsen (ed. by), *Dark Traces of the Past: Psychoanalysis and Historical Thinking*, Oxford, New York, Berghahn Books, 2010, p.63.

93 J. Straub, *Understanding Transgenerational Transmission: The Burden of History in Families of Jewish Victims and their National Socialist Perpetrators*, in J. Straub, J. Rüsen (ed. by), *Dark Traces of the Past: Psychoanalysis and Historical Thinking*, Oxford, New York, Berghahn Books, 2010, p. 106.

94 M. Jurić Pahor, *Neizgubljeni čas: Travma fašizma in nacionalsocializma v luči nuje po «obdobju latence» in transgeneracijske transmisije*, in «Razprave in gradivo», 44, 2004, p. 40; H. M. Emrich, *Identity, Overvaluation and Representing Forgetting*, cit., p. 63.

95 K. Hrobat Virloget, *V tišini spomina*, cit., pp. 31-46.

Manuela Rojec, the Italian Vice-Mayor of Piran/Pirano, tearfully told the Italian community in Izola at the book launch (11 February 2022) that she only became aware of her silence when she read the book:

The book really made me think about silence. About my mother's silence and how she brought us up... [crying] I wonder how much being brought up in silence affects our everyday silences, that's what the book made me think about. After all, we're still afraid to speak out, not just about the past but also the present. I think I was taught in school to remain silent on certain topics.

These words clearly show that silence can be intergenerational, the unspeakable being unconsciously passed on to children and grandchildren, both on the sides of the victims and the executioners who thus become victims of a past they themselves never experienced.⁹⁶ This is what we call a psychological 'present past', which inscribes itself in the individual's body and behaviour.⁹⁷ Psychoanalysts⁹⁸ and anthropologists⁹⁹ speak of the heirs of silence. In the case of my Italian interlocutors, it could be said that silence is an expression of the circumstances they themselves experienced, especially as children; but it also reflects their parents' pain, especially those who experienced terrible things during the 'exodus' and the arrival of the new Yugoslav authorities.¹⁰⁰ In addition to raising awareness of silence and its traumas, the book also had a therapeutic effect on some Italians, as two of my interlocutors – one of them was Manuela Rojec – told me publicly at the book's presentation in Piran/Pirano (28 March 2022):

For me, the book was therapeutic when it talks about silence and the reasons for it, and it makes you understand that this is a burden you carry with you and that I will carry it for the rest of my life. [...] I'm convinced it was our upbringing... The fact that the Italian community seems to others to be closed in on itself because it's part of a collective silence and they don't dare talk about it with others.

The anthropologist Kathleen Stewart described the time of trauma as a cyclical sense of persecution and desire in the present. It is as if something that has hap-

96 W. Bohleber, *Transgenerational Trauma, Identification, and Historical Consciousness*, in J. Straub, J. Rüsen (ed. by), *Dark Traces of the Past: Psychoanalysis and Historical Thinking*, Oxford, New York, Berghahn Books, 201.

97 J. Straub, *Understanding Transgenerational Transmission*, cit., p. 102.

98 J. Straub, *Understanding Transgenerational Transmission*, cit., p. 104.

99 F. Dosse, *Les héritiers de silence: Enfants d'appelés en Algérie*, Paris, Stock, 1993.

100 K. Hrobat *Virloget*, *V tišini spomina*, cit., pp. 41-46.

pened is lingering like some half-familiar force that echoes here and there, while something else is desperately trying to move on towards an inexorable future.¹⁰¹ People who have experienced a loss or traumatic experiences need discursive space to articulate their feelings; otherwise socially unauthorised mourning occurs, as was the case with factory workers following the collapse of industry.¹⁰² For society to function healthily in the future, it is necessary to heal the unspoken and painful past, as was attempted in South Africa with the Truth and Reconciliation Commission after the end of apartheid. For treatment to be successful the truth must be told and, above all, it must be heard. Public acknowledgement, an apology that 'rehumanises' the victims and reparations are central to this. If prior to the Truth and Reconciliation process in South Africa it was implicitly thought that the victim's testimony already brought healing, the opposite has often proved to be the case. Testimony is only the first step in a therapeutic process that can further destabilise the witness psychologically and they must therefore receive psychotherapeutic support.¹⁰³

If in the anthropology of the future some people consider events to be turning points that have been discussed mainly in the context of violence and trauma,¹⁰⁴ can such an event be an anthropological book? Following the enthusiastic reactions to the book in (Slovenian part of) Istria and the large media coverage and numerous public presentations, it seems that a book can be a turning point for some, even though it was not written as engaged anthropology. The book¹⁰⁵ formulated and contextualised silence, which in psychotherapy is not understood to be the absence of something or non-communication but a powerful form of communication.¹⁰⁶ However, this is only the first step. It appears that the prospects for tolerant inter-ethnic coexistence in Istria are constantly overshadowed by the fact that Italian public discourse – unlike the German one – has never apologised for fascist violence and war crimes. While Italy continues to publicly deny fascism's violent legacy in Istria and elsewhere by manipulating history, despite the fact that important concil-

101 K. Stewart, *Trauma Time: A Still Life*, in D. Rosenberg, S. Harding (ed. by), *Histories of the Future*, Durham, Duke University Press, 2005, p. 328.

102 H. Stein, *Insight and Imagination: A Study of Knowing and Not Knowing in Organizational Life*, Lanham, University Press of America, 2007; N. Vodopivec, *Tu se ne bo nikoli več šivalo: Doživljanje izgube dela in propada tovarne*, Ljubljana, Institute for contemporary history, 2021, p. 77.

103 M. Friedman, *The Truth and Reconciliation Commission in South Africa as an Attempt to Heal a Traumatized Society*, cit., pp. 400-409.

104 J. Guyer, *Jane, Prophecy and the Near Future: Thoughts on Macroeconomic, Evangelical, and Punctuated Time*, «*American Ethnologist*», 34 (3), 2007, p. 417.

105 K. Hrobat Virloget, *V tišini spomina*, cit.

106 M. Jurič Pahor, *Neizgubljivi čas: Travma fašizma in nacionalsocializma v luči nuje po »obdobju latence«* in *transgeneracijske transmisije*, cit., p. 53; J. Straub, *Understanding Transgenerational Transmission*, cit., p. 17.

iatory inter-state acts have been made and responsibilities have been assumed,¹⁰⁷ the burden of the unrecognised collective guilt for border area fascism falls on the Italian minority in Slovenia. Unlike Italian public discourse, the latter is well aware of the cause-and-effect link between the 'exodus' and fascism.¹⁰⁸ A month ago, a Slovenian inhabitant of Piran/Pirano remarked that it is impossible to apologise to someone (referring to the collective responsibility for the post-war emigration of Italians) if that person does not acknowledge their own culpability for the previous violence. This is how a vicious circle of violence and revenge continues to exist in the future – a 'toxic' society that has failed to heal individuals and society. Punishing executioners and bystanders does not yet heal society, as it can lead to the victimisation of the executioners. Society can only be healed if those who have confessed their crimes are forgiven.¹⁰⁹

It seems that people who do not identify with the dominant public history – which ignores marginalised border territories – can identify with the book. They include Slovenians, Italians and other people who have migrated to Istria. Paolo Fonda, a Slovenian psychoanalyst from Trieste, said the book was the first expression he had ever seen of empathy and sensitivity for the suffering of the Italian minority in Yugoslavia, which brought Italians to tears.¹¹⁰ This show of emotion can also be understood because their pain is being revealed by someone from the majority nation. At the same time the book shows how the roles of victim and executioner circulate throughout the course of history – we are all victims and all executioners. This is a new perspective, especially for Slovenians who are perpetually trapped in a state of victimhood when it comes to their relationship with the Italians.

When psychoanalysis claims that something can be erased – in this case the pain that produces silence – it must first be 'activated' and 'recognised'; it must first become real in the present when it is transferred from the unconscious to the conscious.¹¹¹ When an ethnologist articulates what was previously unrecognised and places it in a wider social context, can this have the function of healing unhealed traumas for individuals and for society? This may seem to be a significant step when it comes to healing collective social wounds but as psychotherapists say, the

107 F. Focardi, *Nel cantiere della memoria: Fascismo, Resistenza, Shoah, Foibe, Rome, Viella, 2020*; K. Hrobat Virloget, *V tišini spomina*, cit., pp. 59-56.

108 K. Hrobat Virloget, *V tišini spomina*, cit.

109 M. Friedman, *The Truth and Reconciliation Commission in South Africa as an Attempt to Heal a Traumatized Society*, cit.; A. Y. Shalev Arie, R. Yehuda, A. C. McFarlane, *Healing Traumatized Societies and Preventing the Cycle of Violence*, in J. Straub, J. Rüssen (ed. by), *Dark Traces of the Past: Psychoanalysis and Historical Thinking*, Oxford, New York, Berghahn Books, p. 397.

110 P. Fonda, *Guerra: Immagini del grande fiume della vita*, in «Psiche» 1, 2022, p. 334.

111 H. M. Emrich, *Identity, Overvaluation and Representing Forgetting*, cit., p. 64.

testimony is only the beginning and it must be followed up individually in the form of psychotherapeutic support to individuals.¹¹² One small step towards a 'pacified future' in Istria may be in the offing with a call for proposals made by the NGO Pina in Koper/Capodistria entitled 'Incentives for solutions: a long-lived society'. The project selected for funding is entitled 'My story from silence'. The accounts from *Silences and Divided Memories* encouraged psychotherapists, in collaboration with myself as an anthropologist, to make people on both sides of the Italian-Slovenian border aware of the traumas that are the consequence of difficult, unprocessed socio-historical circumstances, and then to make sense of them and heal them in the psychotherapeutic process.¹¹³

It is difficult to foresee how many people will respond and how much they will be able to say about their silence, either through letters or in workshops. The most they have said so far has been individually in conversations with the anthropologist, where the aim was different.

13.5. Conclusion: into the future with an unprocessed past

In this article I have shown how the idea that erasing the past makes us free to build a bright future is illusory. This was above all the ideology of socialist Yugoslavia. In Istria it has been confirmed that the silenced, unprocessed past returns again and again to the present and the future. The past weighs on the future, even if unconsciously, however much we try to run away from it. It returns in every attempt to build the future including in the search for a lost collective identity, the search for a name for Istria where such radical population changes have taken place in the recent past, in the complex identifications between urban and rural, which fluctuate depending on the question of indigeneity and the conflict between the urban and the rural. One of Slovenia's most multi-ethnic regions is becoming even more ethnically mixed. This is a matter of concern for its inhabitants who are tackling the issue of coexistence and integration, and are already struggling with a silenced ethnic past. Problems from the past that have been swept under the carpet are coming back to haunt the future. The article also showed the importance of anthropological research, which can become a turning point in the continuous passage of time when

112 M. Friedman, *The Truth and Reconciliation Commission in South Africa as an Attempt to Heal a Traumatized Society*, cit., p. 409.

113 Pina, 2022. Izbrali smo projekte v okviru razpisa «spodbude za rešitve: dolgoživa družba» za leto 2022. <https://www.pina.si/izbrali-smo-projekte-v-okviru-razpisa-spodbude-za-resitve-dolgoziva-druzba--za-let-2022/> (1. 7. 2022); *Moja zgodba iz tišine*, 2022. www.mojazgodbaiztisine.si (21. 10. 2022).

it exposes social wounds from the past that smoulder on in the present, making a peaceful future impossible. The future will show to what extent anthropology – in collaboration with psychotherapy – can contribute to societal healing. The Istrian case study has confirmed that 'futures are crowded with fantasies, paranoia, traumas, hopes and fears from the past and the present',¹¹⁴ and the more we run away from the unprocessed past, the more the future turns back to it.¹¹⁵

114 S. Pink, J. F. Salazar, *Anthropologies and Futures: Setting the Agenda*, in S. Pink etc. (ed by.), *Anthropologies and Futures: Researching Emerging and Uncertain Worlds*, London, Blomsboory Academy, 2017, p. 18.

115 H. Arendt, *Med preteklostjo in prihodnostjo*, cit., p. 20.

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Since its creation in 2007, the Coppieters Foundation has been developing new ideas and producing knowledge on recurring subjects in the European public debate. Those include self-determination, multilevel governance, geography, diversity, gender equality, migrations, economic development, peacebuilding and the protection of human and minority rights.

As a research centre, we have always strived for high quality books and policy papers which contribute new reflections and visions for an inclusive and sustainable Europe. Our publications benefit from the knowledge and experience of a wide range of contributors with diverse backgrounds and fields of expertise.

With this in mind, we released this publication, of which I am particularly proud because it represents a new and important contribution to European public policy debates. I am certain that it will have a significant impact on European policymakers, academics, activists and citizens.

I would like to thank and acknowledge the authors, editors and coordinators of this study for their excellent contribution to the Foundation's work. And I also thank you, the reader, for your interest in our projects.

Antonia Luciani
Secretary-General of the Coppieters Foundation
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The aims of the Coppieters Foundation

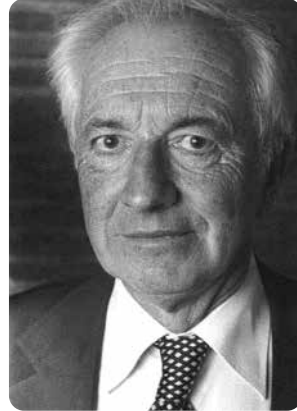
- To develop new ideas and produce knowledge on the management of cultural and linguistic diversity, collective rights, multilevel governance, decentralization, state and constitutional reform, statehood processes, self-determination, migration, conflict resolution, peace studies, and the protection of human rights in Europe;
- To raise awareness on issues of special interest for the foundation and its members;
- To influence decision-making process at the European level and create a legal framework that allows for an enhanced implementation of the principle of subsidiarity, the right to self-determination, better protection of diversity and minority rights, and a stronger respect for human rights in Europe;
- To drive the EU towards an alternative institutional structure that is more democratic, more respectful of collective rights and more aware of complex (multi-national and multi-cultural) realities of EU Member States;
- To play a role as a platform for dialogue between academia, European institutions (the European Parliament, the European Commission and the Committee of the Regions) and other political actors;
- To transform scientific knowledge in the fields of political science, economy, sociology, philosophy and history into usable concepts for political action;
- To feed the European Free Alliance with politically relevant concepts, ideas, data, and knowledge, both in the institutional sphere and in EFA's action sphere outside European institutions.

Coppieters Foundation takes all necessary actions to promote and achieve the above stated goals by observing the principles on which the European Union is founded, namely the principles of democracy, respect for human rights, fundamental freedoms and the rule of law.

The geographical scope of the Coppieters Foundation is the European Union together with EU candidate and potential candidate countries. The partners of the organisation are based in 8 member states of the EU and active in 14 regions or stateless nations.

Maurits Coppieters (Sint-Niklaas, 1920 – Deinze, 2005)

The Fleming Maurits Coppieters studied history and later became a Doctor of Laws and obtained a Master's degree in East European studies. During the Second World War, he refused to work for the German occupier. After many years as a teacher, he worked as a lawyer for a while. He was one of the people who re-established the Vlaamse Volksbeweging (Flemish People's Movement), of which he was the President from 1957-1963.



Coppieters' political career began when he became a member of the Flemish nationalist party Volksunie (VU), which was formed in 1954. With the exception of two years, Coppieters was a town councillor between 1964 and 1983. He was also elected as a member of the Belgian Chamber (1965-1971) and Senate (1971-1979). At the same time, Coppieters became President of the newly formed '*Cultuurraad voor de Nederlandstalige Cultuurgemeenschap*' (Cultural Council for the Dutch-speaking Community), from which the Flemish Parliament emerged, when the VU formed part of the government. In 1979, Coppieters was elected during the first direct elections for the European Parliament.

As a regionalist, he became a member of the Group for Technical Coordination and Defence of Independent Groupings and Members in the European Parliament (TCDI). Among other things, he made a name for himself when he championed the cause of the Corsicans. In the meantime, Coppieters also played a pioneering role in the formation of the European Free Alliance, of which he became the Honorary President and continued to play a role in its expansion, even after he said farewell to active politics in 1981. In 1996, Coppieters joined forces with the President of the Flemish Parliament, Norbert De Batselier, to promote 'Het Sienjaal', a project with a view to achieve political revival beyond the party boundaries. Coppieters died on November 11, 2005.

Among other things, Coppieters was the author of: '*Het jaar van de Klaproos*'; '*Ik was een Europees Parlements lid*'; '*De Schone en het Beest*'. He was an honorary member of the EFA.

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The European Academy was founded in 1989 with the aim of promoting European information and education for citizens, with a particular focus on the young. In 1993, it was also recognized by the Autonomous Region of Friuli Venezia Giulia as a "European promotion service body". As such, the Academy organizes courses, seminars, conferences, exhibitions, and even informal meetings on European topics. In addition to editing a range of publications – including the journal *Rassegna Europea* – it also maintains its own specialized library. Most of the Academy's activities are promoted in collaboration with similar associations and Houses of Europe across the continent.