

“What has happened to you, Europe?” The future of Europe as peoples’ Union^{*}

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Europe seems to have lost, together with the spirit of the founding fathers, its direction, while proceeding with difficulty, among resistances and compromises, in a step by step way closely linked with a functionalist approach to integration, not so much pragmatic but much more sectorial and random often because of the urgency of emergencies, which appears far removed from the ideals, values and principles of a federation, based on a constitutionally (politically) structured set of powers and competencies at European level.

This structural constitutional (political) fragility threatens the survival of the European Union, in that it undermines its significance on the ground on which it should instead grow and develop stronger. This is the ground represented not from the will of the members states, but from the consent of the people, precisely in terms of the acceptance, paralleled by the implementation, of European ideals, values and principles at the base of the integration process, as stated in the EU Treaty: «The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail».

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Such a discouraging state of things brings about a widespread discontent that attracts the attention also of qualified observers from outside of European institutions and politics. From these qualified testimonies I wish to start here.

One is the speech that President Obama did in Hannover (on April 26, 2016), talking about the *“future we are building together... that starts right here in Europe”*, truly pervaded by inspired sentences where he urges a more courageous awareness of what means a stronger European Union in today’s world (*“... this is a defining moment... what happens on this continent has consequences for people around the globe... the entire world, needs a strong and prosperous and democratic and united Europe”*; *“A strong, united Europe is a necessity for the world because an integrated Europe remains vital to our international order”*; *“The world depends upon a democratic Europe that upholds the principles of pluralism and diversity and freedom that are our common creed”*), pointing to the role of *“vibrant civil societies where citizens can work for change”* as a pillar of democracy, and ending up with the claim that: *“united Europe – once the dream of a few – remains the hope of the many and a necessity for us all”* (a quote from Konrad Adenauer)¹.

Another testimony is that of Pope Francis when, at the occasion of the award of the Charle Magne Prize (on May 6, 2016), he delivered a powerful and very impressive speech, according to the unanimous comment in the media, with strong criticism on Europe, on this Europe, there represented by the three Presidents (among the many, perhaps too many, we have in Europe), Tusk, Junker and Schultz, sitting right in front of the Pope, in a not quite comfortable position of who might have felt some embarrassment, at least, when addressed several times by the Pope’s querying: *“What has happened to you, Europe?”*; *“What has happened to you, the Europe of humanism, the champion of human rights, democracy and freedom?”*².

Well, not only to get inspiration from such testimonies in terms of capacity on the part of political and spiritual leaders to use words and tones up a communication worthy to reach people, but also to try to give

¹ <https://www.whitehouse.gov/the-press-office/2016/04/25/remarks-president-obama-address-people-europe>.

² http://w2.vatican.va/content/francesco/en/speeches/2016/may/documents/papa-francesco_20160506_premio-carlo-magno.html.

a translation, so to speak, of their clear message on the crisis of Europe and the possibility to overcome it through a more united Europe, I would call attention on three core issues that can be also seen as challenges ahead which, in my view, are involved in a "federal core" for Europe.

The *legitimacy issue*. The *identity issue*. The *government issue*.

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All such issues are strictly linked with one basic concept that may keep alive the European project and ideals. I would call it the "federal heart" of the Union: this is, the Union citizenship or European citizenship; and I would like therefore to address you with the idea not only of a "federal core", but rather of a "federal heart" for Europe.

It is worth noticing that the concept of Union citizenship was introduced for the first time in the Spinelli Draft Treaty establishing the European Union (in February 1984), which was the first attempt made, by the first European Parliament elected by direct suffrage, to start the process of constitutionalizing the treaties, in view of the setting up of a political Union.

What does it mean, today, the Union citizenship joined to legitimacy, identity and to the government of the Union?

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Very briefly. The legitimacy issue matches the Union citizenship through the recognition of fundamental rights of the person, either as a single or as a member of a group, whose respect is of the very essence of the Union which "places the individual at the heart of its activities, by establishing the citizenship of the Union and by creating an area of freedom, security and justice"; as stated in the Preamble of the European Charter of Fundamental Rights.

But also important is the socio-political dimension of the legitimacy issue with reference to popular consensus. In times of growing anti-Europeanism and Euroscepticism, a lesson to be learned by anyone who cares about the fate of Europe is that no kind of European polity can survive without people's consent: the consent of all the people living together, in the common area of freedom, security and justice, as European citizens.

This brings us to the second issue: the identity.

If from a nationalistic point of view, identity means essentially closing borders to foreigners, including may be other Europeans, from a Union point of view identity calls into question the qualification of the European Union as a union of peoples and citizens, more than of its member states (as Jean Monnet reminded us in his “Memoires”: «*Nous ne coalisons pas des États, nous unissons des hommes*»).

Indeed, it is at this point that European citizenship reveals its value as the metaphor of a citizen, national and European alike, servant of two masters, emblematic mask of a problematic double loyalty to the nation-state and to Europe, behind which is taking shape the face of a new European civil society. A society which continues yet to wear the multicolored dress of different and separated national affiliations. But which can and should progress towards a more open and inclusive society, as it has always been the identity of Europe, “dynamic and multicultural” (in the words again of Pope Francis). A society in which, just to remind us of what the Union treaty states: “pluralism, non-discrimination, tolerance, justice, and solidarity prevail”.

In order to build such new society or if you prefer this European collective identity, what is needed is the creation of a European public sphere, where European institutions, national and local authorities, political parties, the media, and other actors and factors, in the education field influencing public opinion, can all of them play a decisive role in contributing to form a European political awareness, in order to become well aware of the fact that what happens anywhere in the Union concerns all the Union citizens: think of the results of referendums on European issues, and also of the results in general or presidential elections as regards to the advancement of political parties and movements taking stance against the European integration or pushing forward xenophobic positions; or else national governments and authorities taking decisions with implications for other member states and at European level (such as the case of the closing of internal borders).

So we arrive to the third issue.

Indeed, the question is: how can we tackle with the legitimacy and identity issues without having a European government? In other words, without having a political leadership of Europe, democratically elected and responsive towards a European constituency?

Realistically speaking, one may think that the possibility of arriving at a political union passes through the difficult balance and risks to stop to a standstill somewhere in between a supranational state authority and the claims to sovereignty of nation-states, whereby European institutions, policies, procedures, and de facto situations of a federal type, on one side, and intergovernmental cooperation, on the other, will have to coexist, may be for a long time ahead.

But it is just as realistic to think, instead, that this state of things is putting in danger the expectation of irreversibility of the integration process achievements, as it is the case with the single currency or the Schengen area. An expectation without which any pledge in the direction of an ever closer union would lack credibility, so that any kind of arrangement to get there would fail.

Keeping in mind this concern, some other questions come to the fore.

Can we have a form of European statecraft to which assign transfers of sovereignty, within a framework that respects fundamental principles of any democracy: the principle of separation of powers (who does what) and the principle of political accountability (who is responsible for what)?

Can we give shape to a European political space (or public sphere) where it becomes of crucial importance the direct relationship between sovereignty and citizenship, in terms of transparent and democratic manner of deliberation?

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I personally think that, "Yes we can," but at the condition that we look at a true European government, rather than to a fragmented, politically weak and uncertain, European governance.

I am fully aware that this will need a thoughtful scholarly approach to the multifarious and complex issues involved, as we are used to in the academic community. Yet having in mind that what it is really at stake

is precisely the future of Europe. Not only as a project of peace and prosperity, but practically speaking as a concrete opportunity to give shape to a “union” more like to a “federation” than to an “association” of 28 Member States sovereign enough to be in disagreement between them, but not so much to resist alone the impact of phenomena having consequences for them all, and, needless to say, for their nationals, also as European citizens.

To this regard, I share the view of those who point at the mismatch between the decision-making process and the decision-making power at European level, as a state of things contrary to the letter and spirit of the treaties. In this sense, the trans-party Spinelli Group in a motion for a resolution of the European Parliament insists on “*curbing the interference of the European Council in the legislative process*”³.

What is then necessary or advisable to do? In a very short sentence, one can answer: to take seriously the treaty’s provision stating that “The functioning of the Union shall be founded on representative democracy” (TEU, art. 10,1).

It means that we have to build on a federal core for the future of Europe. To this regard, although in a very sketchy way, the following points can be highlighted.

First. The decision-making power must lie with a government of Europe under parliamentary control.

This means quite simply that a dividing line must be drawn at institutional level between the government and the parliamentary side of the Union’s functioning, respectful of the principle of representative democracy, such as it has been envisaged by the Union treaty provision stating that: «Citizens **are directly represented** at Union level in the European Parliament. Member States **are represented** in the European Council by their Heads of State or Government and in the Council by their governments, themselves democratically accountable either to their national Parliaments, or to their citizens». Whereby a proper reading of this provision in its truly constitutional meaning clearly points to a **bi-cameral system of representativeness**.

³ EP 2014/2249 (INI), Committee on Constitutional Affairs, “Draft Report on improving the functioning of the European Union building on the potential of the Lisbon Treaty,” 20.1.2016, n. 15.

To be sure, even in the event that a core of member states wanted to take a chance of a leap forward to a greater political integration, this dividing line must be there to circumscribe the position and power of the European Council in its capacity to represent only member states' interests, outside any legislative competence, which will remain assigned to the Council, jointly with the European Parliament, on an equal footing.

In other words, it is no longer time for an alleged or pretended "originality" of the institutional setting of the Union as an "unidentified political object" (according to a well-known expression by Jacques Delors), flying in the sky of airy concepts, never landing on the land of democracy so to watch it closely and see who is driving and where is going to.

Second. It is no longer time for an alleged or pretended "neutrality" of the Commission, with regard to the definition, choice and implementation of public policies directly affecting people's living conditions, but also with regard to public discourse, in any case in which the European common interest is at stake.

When there is a common interest of the EU to be pursued, such common interest, in order to be truly such, should be the result of choices proposed by a Union's executive power, acting in the pursuit of political objectives and programs tested and approved by a parliamentary majority vote. These choices will have, of course, to be consented by both Parliament and Council, through co-decision or ordinary legislative procedure, but based on the effective principle that Parliament and Council are acting on equal footing.

Third. Other parliamentary checks at national level should be put in motion, as regards the principle of subsidiarity, according to the formula established by the Lisbon Treaty about the positive role that national parliaments have to play, in order "to contribute actively to the good functioning of the Union".

Fourth (last but not least). Give shape to a European political space of debate and confrontation in terms of interests represented by the Parliament and Commission at European level, and national interests represented directly by the heads of state or government in the European

Council, or via national parliaments. This also implies a more truthful idea of democracy, in terms of participation and involvement by the people and civil society, at local, national and European level, where citizens feel they can actively contribute to a European civic awareness, as reference point absolutely necessary to build on the idea of European union.

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In conclusion. What the many European crises, generally speaking, have shown so far, is precisely the lack and the need of a federal core for Europe, that is the lack and the need of a democratic government of Europe as such, through executive and legislative institutions common to a constitutional order of its own, of which the Union's citizenship is the foundation, or, I prefer to say, the federal heart.

In this sense, the lack and the need of credibility of the European project call into question the core constitutional principles according to and in compliance with which Europe is to be governed in the name and interest of its citizens.

In contrast with the role taken by the European Council, as main governing body of the Union with an almost exclusive decision-making power, although formally kept out from the decision-making process, the resulting contradiction clearly points at the need of a rebalancing of power, in line with the principle of representative democracy at the basis of the Union's functioning.

Moreover, a federal core based on Union's citizenship cannot but be linked to an active and informed consent on the part of the people, the citizens, in terms of readability, accountability and political credibility of EU policies, democratically tested and approved through a decision-making process led at European level by a true responsible and responsive political leadership, legitimated by its being representative of the Union's people, made of its own citizens.

And this means, once again, to build on a federal core for the future of Europe as peoples' Union.