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# Market building, polity building, and community in the European Union

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## **Abstract**

The central argument detailed in the paper is that European integration will only become sustainable in the long run when the problem of developing a political community of European citizens is directly addressed. Contrasting the historical development of the West-European nation states with the conditions in the EC/EU the conclusion is drawn that a community of European citizens cannot and need not be based on a programme of state and nation building. Instead, a political community of European citizens could be founded on more recent political achievements and the integrative mechanisms of modern federally organized political systems in general: common citizenship, a democratic and participatory structure of governance, a more balanced distribution of labour between the national and the European level in substantial policy areas, combined with a pro-active strategy of protecting multinational diversity and tolerance.

**Note**

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## 1. Introduction

The search for a European community of citizens can be formulated as the problem of building a novel form of “political community” in the specific context of the European Union. The concept of a “political community” – in contrast to the every-day usage of the word and particularly to the discourse on European integration – refers to the material but also the symbolic bonds that hold an aggregate of people together and that allow them to perceive themselves as equals who share the same rights and obligations, who are willing to act together, to take into account the position of the “other”, and to work toward some sort of a “common good”.

The nation state is the prototypical political community of today’s political world. In the Western hemisphere the modern state became the nucleus and organising centre of the newly established political communities. The concept of “nation” served as the ideological cornerstone for the delineation and homogenisation of the formerly heterogeneous people which entered into close relationship with the emerging modern state. The “nation state” is the result of a historical process in the course of which the two distinct concepts of “state” and “nation” became amalgamated to such an extent that today it is often impossible to distinguish the two. Nevertheless, the concepts of state and nation denominate quite different aspects of social reality and the existing nation states differ widely with respect to the historical sequence in which state and nation became fused, to which of the two concepts is preponderant, and also concerning the concrete content and characteristics of the notion of state and nation (see Woolf 1996; Jenkins/Sofos 1996).

Though, nationalism was only one element of how modern “political communities” came into being and became integrated. State and nation are not self-sufficient means for creating political communities. Their development was from the very beginning intermingled with economic transformation and specific political projects like enhancing power and controlling resources. Later on, to a growing extent the nation state relied on democracy and welfare-protection to respond to the changing standards of legitimacy and to integrate the political community. The meaning and relevance of nationalistic ideology particularly changed in the second half of the 20<sup>th</sup> century making the nation state more open and more inclusive by extending certain categories of rights to foreigners residing within the territory of the country. Furthermore, the experience of “multinational” and “multicultural” states demonstrates that political communities can also be established without relying on unified nations (see Shain/Linz 1995; Linz/Stepan 1996).

The EU is strongly committed to preserve the nation states as well as the distinct national cultural heritage of its Member States. So there are quite a number of lessons the European Union can learn from individual experiences. The question of “statehood” immediately arises as a second obstacle for the European Union to develop into a political community in the above

mentioned sense. Even if one admits that the process of polity integration in the EU has progressed quite far, the EU falls short of representing a (federal) state in many respects (see Bogdandy 1993; Taylor 1996). Therefore the question arises in how far and in what respects European integration has succeeded in the creation of a political community not only of states but also of people(s).

The paper has two main objectives: The first objective is to reconstruct the practices of community building in the EC/EU, to analyse the underlying concepts of community which informed its development, and to point to specific deficiencies, inconsistencies, and conflicts inherent in the adopted strategies. The second objective is to explore the foundations of community the nation state relies on with a view to identifying those elements which could be used and adapted to promote a community of citizens in the framework of the European Union.

In a first step, we will distinguish between different stages of market and polity integration. Market and polity integration are closely related processes but nevertheless have to be separated for analysis. The integration of markets is not a naturally evolving process but had to be initiated and promoted politically. Political institutions were established who supervised, furthered and guided the integration process. Market integration had particular effects on how the European peoples became related to one another through the mechanisms of market exchange. The characteristics of the type of community that was thereby evolving will be explored under the notion of a European “market society”.

Integrating markets by political means did also affect the structures of governance at European as well as on national level. Therefore we will look at the complementary process of polity integration, which follows its own logic. It will be shown how the means and instruments of market integration “spilled over” into the political sphere contributing not only to institutional growth at the European level but also to the “pooling” of sovereignty of the Member States and to a considerable degree of integration of the separate polities of the Member States. It will be demonstrated that the bonds which were thereby created between the European peoples are primarily of a legal nature. The institutions of market society and law will be assessed in regard of their capacity to contribute and stabilise a community of European citizens. The limitations of the given structures and mechanisms will lead us to an examination of additional and/or alternative sources of community in the European Union.

The second part of the paper will investigate the nation state legacy of community building. The nation state represents in its prototypical form a rather “thick” type of community which is founded on the capacities of the state to combine, control, and promote within its territory culture, economics, democracy, and welfare which thereby became “nationalised”. Comparing the conditions which led to the development of nation states with the conditions given in the European Union we come to the conclusion that the prospects of developing a European community of citizens depend on a selective recombination of certain integrative elements

which can also be found at the nation state level. In contrast to the nation state level a European community of citizens will have to rely less on cultural and social homogenisation but on distinctive political means of integration. Such integrative means consist of balancing a “politics of identity” at European level with a “politics of difference” in the cultural sphere, enhancing in-put and out-put legitimacy by democratising the European Union and improving its problem-solving capacity, and they consist of promoting political equality between all European citizens.

Developing a political community of European citizens is a contested project which is neither indispensable nor very likely to occur automatically as integration proceeds. The wish to let the citizens participate more directly and to involve them in the process of European integration grew out of the perception that not only popular acceptance of the planned steps of integration is decreasing. It is also the result of concerns regarding the acceptability of the kind of politics which was propelling European integration in the 1990s. Advancing a political community of European citizens would help to legitimate those political projects of “deepening” and “widening” which are under way in the European Union. Complementing the projects of monetary union and Eastern enlargement with an explicit policy of promoting a political community of European citizens cannot guarantee their success but would help to substantiate the claim that the process of European integration does not only rest on functional imperatives and state interests but is also directed at establishing an ever closer union of the European peoples.

## **2. The discovery of the citizen**

It was not until the signing of the Maastricht Treaty that the citizens became a focus of political attention at European level and in the political discourse on European integration. Two main reasons account for this development.

First, soon after the decision to finalise the common market in 1985 preparations started to develop market integration even further towards a common currency. It has long since been common knowledge among economists and politicians involved in European integration that creating a common market would make the economies of the Member States much more interdependent. Consequently, there will be a growing need for co-ordination of economic and monetary policies of the Member States. In June 1988, the commission was entrusted by the European Council of Hannover to develop a plan for the establishment of an Economic and Monetary Union (EMU). An intergovernmental conference (IGC) was going to be convened at the end of 1990 which aimed at preparing the third stage of EMU and adapting the Rome Treaty.

Only then proposals were put forward by the European Parliament (the so-called Martin Report) to enlarge the agenda beyond EMU and “rapidly to transform the European Community into a European Union of a federal type” (cit. in Laursen/Vanhoonacker/Wester 1992, 5). A proposal to convene a second IGC aiming at institutional reform was tabled by the Belgian Foreign Minister on 20 March 1990 in a Memorandum which was subsequently taken up by the Italian Foreign Minister leading to a joint letter from President Mitterand and Chancellor Kohl to run two parallel conferences. The second one should become the IGC on Political Union which started on 14 December 1990. It was agreed that the IGC on Political Union should pay particular attention to the questions of democratic legitimacy, European citizenship, effectiveness and efficiency of the Union, the common foreign and security policy, and to extending and strengthening community action.

The establishment of a Political Union was not the objective of all the Member States’ representatives from the very beginning. Particularly the UK and Portugal hesitated to support the plan but subsequently also Italy and France, who in the first place were among the pioneers of promoting Political Union, became reluctant to set the necessary steps. It was the particular political situation in the period 1989/90 with the break-down of the communist block and German unification that raised concerns about the future role of Germany in Europe. The project of Political Union was therefore also interpreted as an effort to permanently lock Germany into a common European political framework (see Laursen/Vanhoonacker/Wester 1992, 7–11).

Once the project of Political Union had been put on the agenda one had to face the question of how to relate the institutions of the European Union to the people and how to involve the citizens more directly in its development. First steps in this direction were taken by establishing a parliamentary Committee on Petitions by the Single European Act, by enhancing the role of the European Parliament, introducing the concept of Union citizenship, and establishing a European Ombudsman by the Maastricht Treaty. These developments were interpreted either as a major achievement on the road to a supranational political society (see Marias 1994, 1–24; 1994a, ix–x) or as mere symbolic politics as is suggested for instance by the hesitant and incomplete implementation of many of the provisions relating to Union citizenship (see EC 1997.)

However, the new provisions on the one hand gave rise to heightened expectations by human rights and grass-roots activists to gain more influence in European affairs. On the other hand, the new concern with democratic legitimacy and citizenship opened opportunities for the European Commission and the European Parliament to take initiatives aimed at informing the European citizens about their rights<sup>1</sup> and thereby enhancing its public visibility and improving

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<sup>1</sup> On 26 November 1996 the Commission launched an information campaign called “Citizens first”. It was one of three campaigns undertaken in 1996 by the Commission in partnership with Parliament and in tandem with national information campaigns. The campaign targeted “everyone living in the European Union so that as many

the Commission's often bad public image as a centralised, intrusive and intransparent bureaucracy.

In its first report on Union Citizenship the EC declared that "(f)or the first time, the Treaty has created a direct *political* link between the citizens of the Member States and the European Union such as never existed with the Community, with the aim of fostering a sense of identity with the Union" (EC 1993, 2). The inclusion of the paragraphs on Union Citizenship were interpreted as opening the door for new efforts of building a community of citizens from "above". The Commission is looking for strategic partners in this respect. In a communication on "Promoting the role of voluntary organisations and foundations in Europe" the Commission points out that "the part that voluntary organisations play in strengthening a sense of citizenship and providing a means for its expression is of growing importance at the European level. Indeed, they have an active part to play in creating a sense of European citizenship as mentioned in Article 8 of the Treaty on European Union. Voluntary organisations and foundations have long fostered international contact and understanding between peoples and are now showing a keen interest in the part citizens have to play in the forging of the European Union and in giving substance to the citizen's Europe" (EC 21.11.1997, 5).

A second reason why the question of community became so prominent in the political rhetoric in recent years is the growing public attention paid to questions of European integration. The public debate advancing the ratification of the Maastricht Treaty was one of the most intense compared to previous steps of integration. This is due to the far-reaching implications of pooling sovereignty by introducing a common currency and by transferring the instruments of monetary policy to the European level but also due to a number of events that drew public attention to the problems of European integration. Some governments even held that the move to delegate monetary policy to an independent European central bank should be approved by a referendum. Coincidentally, the decisions of the governments of Denmark, UK and Ireland to hold such a referendum stirred up opposition, and critical assessments of the Treaty spread into the public. The Danish rejection of the Treaty in the first referendum on 2 June 1992 was followed by a series of events that seemed to challenge the project as a whole. The monetary crises of September 1992, the narrow French vote in favour of the Treaty, the controversial parliamentary debate in the UK, the questioning of the compatibility of the Maastricht Treaty with the German constitution, and the collapse of the Exchange Rate Mechanism (ERM) in the

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people as possible become aware of the rights and opportunities they enjoy as a result of the single market and other EU policies and can obtain factual information on how to put them into practice" (Bulletin EU 11–1996, point 1.3.225).

The Commission claims that in the first year the campaign reached some 75 million people and over 1 million people used the free phone numbers and the Internet site to obtain guides and factsheets concerning their rights to work, live, and study in another EU country (DG XV, <http://europa.eu.int/comm/dg15/en/update/citizen/1035.htm>, 25.11.97).

summer of 1993 undermined the confidence in the cohesion of the community (see Vanhoonacker 1994).

The rising public awareness did not even come to a halt after the Maastricht Treaty entered into force on 1 November 1993. The negotiations with Sweden, Finland, Norway, and Austria concerning their accession to the European Union, public concerns about rising unemployment levels, the implementation of convergence programmes throughout Europe in order to qualify for entering the third stage of EMU, and the preparations for a second IGC kept the question of European integration on the agenda. Particularly the post-Maastricht-crisis signified the end of the so-called “permissive consensus” that allowed the governments to complete the common market and to co-ordinate their policies in an arena hardly recognised by the electorate and the broader public (see Reif 1993).

The politicisation of the integration process added a new dimension to the preparatory work for the IGC. The questioning of the legitimacy of the steps taken in Maastricht enhanced the Member States’ governments sense of urgency to tackle the “democratic deficit”. It led to a widespread acknowledgement of the need for greater transparency, the need to differentiate between the Member States willing to integrate more quickly and the others which were not, of the potential importance of the principle of subsidiarity, to find a new institutional balance of a more durable kind expecting more countries to join the EU in the foreseeable future, and last but not least, to prepare and present the agreements to the public with greater attention to the latter’s sensibilities and priorities (see Ludlow/Ersboll 1994, 3-5). So it came as no surprise that “bringing the European Union closer to its citizens” became one of the main objectives of the 1996 IGC (see Melchior 1997).

An overall assessment of the Amsterdam Treaty shows that in the above mentioned respect the governments primarily aimed at improving the effectiveness and efficiency of policies that may have a positive effect on the individual citizens and to open up new areas for the co-ordination of national policies which are of utmost importance for growing portions of the population. The first part concerns what has been labelled as the “progressive establishment of an area of freedom, security, and justice” in the draft treaty of Amsterdam (Conf/4001/97, Section I). It aims primarily at realising the free movement of persons throughout the territory of the Member States within a five-year period and encompasses flanking measures with respect to external border controls, asylum and integration, judicial and administrative co-operation, and measures to combat crime.

Section II of the draft treaty was titled “The Union and the citizen” and gathered the provisions on employment, social policy, environment, public health, consumer protection, other community policies (ranging from the citizenship of the Union, to culture, public service broadcasting, and animal welfare), subsidiarity, transparency, and the quality of community legislation. Bringing together these diverse policy areas under the above mentioned heading



was a move of symbolic policy signalling to the public that the governments and the EU are both concerned with the improvement of policies to the service of the citizens. The direct relationship between the Union and the individual citizen was only marginally addressed in the Amsterdam Treaty which aimed primarily at improving the legal protection of the individual citizen in a limited number of cases (Hilf 1997).

The discourse on building a community of citizens is embedded in the above sketched context and therefore closely connected with diverse political strategies pursued by different political actors. Two views regarding the new emphasis on the inclusion of the citizenry of the European Union can be discerned from what has been said above.

On the one hand, there is the perspective of the community institutions particularly the EP and the EC. By addressing the citizens they want to establish a direct link between the community institutions and the individual citizens. Seen from this perspective it is part of a marketing campaign that seeks to convince the individual citizen that the community institutions are not only part of an anonymous political machinery in Brussels but tangible institutions that offer services the individual citizen can profit from. By approaching the individual citizens providing information and support in the enforcement of their rights as Union citizens the community institutions also court for the loyalty of the citizens trying to convince them that supporting the EU institutions and the idea of European integration is worthwhile. Such a strategy is based on the fact that on the individual level there is a positive relationship between knowledge, level of education, and support for European integration (Anderson 1995; Bosch/Newton 1994). A third aspect of these policies is the inducement of a sense of identity and belonging among the citizens of the Union which is often seen as a prerequisite for further moves of integration, particularly concerning further shifts of competencies towards the Union level, strengthening the community institutions, and democratising the decision making process.

On the other hand, there is the perspective of the governments of the Member States who are primarily concerned with the production of policies that appeal to their publics respectively voters. From the perspective of the national governments it is their space for political manoeuvring, reaching compromises, and policy co-ordination at the European level which is at stake when the public mood is turning against European politics and when the established structures of co-operation are questioned. This is clearly reflected in the new chapter on employment. It is only to a small degree about conferring new competencies to the central level but has a lot to do with the need of national governments to demonstrate to their national audiences that they use the European Union to find solutions to problems they cannot solve at home. Paradoxically enough, the chapter on employment only defines common aims and

objectives while emphasising that the means and instruments to realise them should stay with the Member States.<sup>2</sup>

The political discourse on the Union and the citizen is loaded with claims to legitimacy. It is about legitimising the institutions of the European Union and it is about legitimising national governments and their policies. What is less obvious is that it is also a debate about the proper role of the citizens in the European Union and – by implication – about the kind of community the European Union should represent. It is this question I will *focus* on in the following chapters.

### 3. Concepts and practices of community building in the EC/EU

If one looks at the terminology used one gets the impression that European integration is primarily concerned with community building. From the very beginning all projects of integration referred to the building of a “community”: the European Coal and Steel Community of 1952, the failed plan of creating a defence community in 1954, leading soon after to the creation of the European Atomic Energy Community and the European Economic Community in 1957, which was then renamed by the Maastricht Treaty into the European Community. The inflationary use of the term community smeared its meaning rather than clarifying it.

The question what kind of community the EC/EU represents was and is a contested one. Any discussion about the “nature” of the EC/EU’s status starts with two propositions: first, that it is based on the co-operation of nation states and that the integration of their economies was the starting point and the main focus of their co-operation. What is not so clear is how the existing institutional arrangements should be best and most adequately classified, whether there exists any particular “finalité” or end-state the community aims at, how the relationship between the constituent elements and the community can be grasped, and how the individual citizen is related to these developments. Most accounts of the development of the EC/EU focus on the relationship between the Member States and the community institutions. They are concerned with the balance of power between the two levels, with the locus of sovereignty, and with the structure of the polity or regime that evolves. I do not want to give an account of the vast literature dealing with these questions here. What I want to do instead is to describe the peculiar concepts of community that emerged in the development of the EC/EU with particular

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<sup>2</sup> Article 126 of the consolidated version of the treaty establishing the European Community reads: “Member States, through their employment policies, shall contribute to the achievement of the objectives referred to in Article 125 in a way consistent with the broad guidelines of the economic policies of the Member States and of the Community adopted pursuant to Article 99(2).”

reference to the type of relationship thereby established between the citizens of the EU.<sup>3</sup> The intention is to depict different models of community that informed the development of the EC/EU so far and which define the (re-)sources and conditions any further move towards a “community of citizens” has to take into account.

I will trace the development of community concepts in two different, but closely interconnected dimensions. The first dimension is that of “market integration”, the second that of “state “ or “polity integration”. Market integration refers to the integration of former separated markets into one market where the flow of all factors of production is not hindered by institutional or political obstacles.

“State “ or “polity integration” refers to the integration of former separated nation states into a united political system in which sovereignty is executed jointly and in which policies are formulated and implemented in a co-ordinated fashion. In the context of the European Union “polity integration” refers to the formation of a new set of institutions at the European level and the adaptation of the Member States to this new institutional environment. “Polity integration” refers to institution building, co-operative decision-making, implementation of decisions, and control of the authorities involved in this process. The term polity integration is preferred to the term state building because it is more general and it does not suggest that the development of the EU follows the course of the modern state nor that the EU will become a state in the traditional sense ever soon.

### **3.1 Community building by market integration?**

When the direct approaches to federalise the European state system failed in the early 50ies it became clear that the second best option would be to proceed by extending the model of the European Coal and Steel Community although a different approach was adopted. The Treaty of Rome created the European Economic Community together with the European Atomic Energy Community. The basic idea – and that with the greatest impact – was the idea to create a common market that covers the whole of trade and not just one sector like the ECSC. The aim to create a common market seemed less directly to threaten national sovereignty and appealed to economic liberals, businesspeople, and industry alike. The integration of markets held the promise to improve the welfare level of all and to improve European competitiveness in comparison to the US (see Pinder 1991, 7–11).

The important point was that the envisaged integration of markets could either be interpreted as an aim in itself which appealed to certain sectors of the economy and certain governments who hoped to exploit the benefits of a larger market or it was seen as a first step of integration that would “spill-over” from the economic to the political area at least in the long run (Schneider

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<sup>3</sup> The term “citizen” refers to the individual members or subjects of the Member States abstracting from their legal status. No reference is therefore made to the particular status of “Unioncitizenship” or “nationality”.

1977, 264–267, 361–365). Such was the hope and strategy of Robert Schumann, Jean Monnet and, last but not least, Henry Spaak, one of the architects of the Rome Treaty (see Küsters 1993). Nevertheless, it only was possible to win the approval of all six governments by designing the Rome Treaty in such a way that the envisaged steps of economic integration seemed profitable from the point of view of all participants which was not an easy task to accomplish given the diverging interests (see Milward 1995, 196–223).

### 3.1.1 The logic of market integration

Although the Rome Treaty and all successive steps of integration were the result of complex compromises one can detect a certain logic in the development of the European Community at least in retrospect. It is the “logic of market integration” as I would like to call it. This logic consists of various stages of integration. The merging of markets was approached in a stepwise manner passing various levels of integration whereas one stage of integration presupposes achievements on a previous stage of integration although in reality it is possible to move on to a higher stage of integration even if not all measures belonging to the previous stage have been fully realised. Four logically distinguishable stages have to be passed before the integration of former separated markets can be completed. These stages comprise of a free trade area, a customs union, a common market, and a monetary union (see Moussis 1997). What is interesting from the perspective of community building is what kind of commonalities these different stages of integration bring about. The aim of this chapter is to assess the scope and limits of a community concept which is based on the achievements of market integration.

**The model of a free trade area.** In such an area, member countries abolish import duties and other customs barriers to the free flow of manufactured products. Each country retains its own external tariff and its customs policy vis-à-vis third countries. It also retains entirely its national sovereignty. This is the model chosen by the EFTA-countries who did not want to join the European Community in the first instance but wanted to skim off the advantages of extended markets. In such an area the need for mutual adaptation of national institutions or rules guiding the production, distribution or consumption of goods is minimal. In contrast, all national regulations regarding technical or safety standards have to be met in order for foreign products to be allowed to enter the domestic market. The capacity to create a community of people in a mere free trade area is almost nil.

**The model of a customs union.** In such an area, the free flow of goods is extended to include all products. In addition, a common external tariff to third countries is applied. In order to manage the common customs tariff a common commercial policy is needed which implies already an important surrender of national sovereignty. This is not only true in terms of competencies that have to be delegated but also in organisational terms, because some institutions have to be created that take over the responsibility to co-ordinate the respective commercial policy. The effect of such a move in regard of creating commonalities among the

citizens that participate in such an open market for products is also rather restricted because the main difference in comparison to the free trade area is the scope of the products covered and the harmonisation of commercial policies which effect primarily third parties.

**The model of a common market.** A common market is characterised by the free flow not only of products, but of all factors of production, particularly capital, services, and labour. In order to ensure the free movement of all factors of production a wide range of policies have to be approximated to guarantee the free movement of employed persons, the freedom of establishment of undertakings and self-employed persons, the freedom to provide services, and the free movement of capital. Moreover, to ensure that the common market works efficiently a further move of “pooling” sovereignty at the European level is likely to occur. If one has the feeling that for various reasons particular sectors of the economy should get special treatment one has to develop a common policy like in agriculture or towards fisheries. To ensure equal economic conditions throughout the common market a common competition policy will be needed and one will easily be pressed to harmonise support policies or even tax policies because they influence competition.

These policies will have a major impact on the existing national communities because they affect the individual in its role as producer and consumer and as employer, employee, or entrepreneur. The influx of new products of all different kinds and qualities together with new styles of marketing and advertising will influence mass consumer culture. To the degree that such a wide range of policies will have to be adapted and/or commonly developed the members of the national communities will be confronted with other ways of thinking, with other traditions, other ways of doing and evaluating things. They will recognise the need to adapt and to learn in order to compete in a dynamic market. This is most obviously the case when the mobility of persons increases and people with different cultural and national backgrounds mix.

The mutual adaptation of ways of living and consuming and the interest on sustaining a high level of economic exchange which occurs in a common market is sometimes referred to as the “civilising effect of markets”. It is an incremental and slow process that takes place in society. Society taken in its classical liberal meaning as an aggregate of individualised and atomised economic agents who interact on the basis of voluntary contracts that guarantee the equality and reciprocity of exchanges. In the course of their interaction the participating parties get acquainted to their foreign counterparts, get to know about their traditions and practices, and may even develop friendly sentiments. At a minimum it is said that the civilising effect of markets leads to tolerance and peaceful coexistence.

**The model of economic and monetary union.** As long as currency fluctuations and the exchange risk persist the common market is not a single unified market. Barriers to trade still exist. If the optimal conditions for production are to be created in a common market one will feel inclined to establish a monetary union. The introduction of a common currency implies a

common monetary policy and the close co-ordination of economic policies at least if one is interested in a smooth functioning of the market.

The effect of such a union on the existing communities that enter it will largely depend on their level of economic development. The free flow of the factors of production not being mediated by the exchange rate will increase competitive pressures and asymmetric economic shocks will have a direct effect on wage policy and they will have to be absorbed primarily by the labour market. Rich countries with a high level of social protection fear that they may be compelled to lower their standards in reaction to competitive pressures and that they will have to bear the costs if asymmetric shocks hit (poor) countries (see Scharpf 1997). This is why the question of convergence has become so hotly debated: if convergence is required before monetary union is achieved the costs of adjustment will have to be borne by the respective countries if it is to occur after monetary union there is the risk that the costs will be externalised (see Breuss 1997, 169–174). Establishing monetary union between states with divergent economic cycles and structures is likely to create tensions not because it directly affects the nature of the existing communities but because it impinges on the socio-economic and welfare position of various groups in different countries.

It will have taken the EC/EU nearly 50 years to run through all the stages of market integration. It was not until 1968 that the customs union was established. It took until 1993 that the common market was realised and it will take another 10 years until monetary union will take effect according to the time-table. Although the basic steps have been taken, it is not to say that all the measures have already been implemented (see European Commission 1996). Much remains to be done to put into effect an internal market which comprises “an area without internal frontiers in which the free movement of goods, persons, services and capital is ensured” (new Art. 14 ECT).

Although the merging of markets has a long-term effect on the communities whose markets are integrated these effects were not noticed by the public for a long time. This is due to the fact that the policies that had to be harmonised or adapted in the course of economic integration were rather of a technical nature, limited in scope and “negative” in character. The term “negative integration” was coined to indicate that the integration of markets was done primarily by withdrawing interventions in national markets that were seen as disturbing competition and by removing barriers to the free movement of the factors of production. Compensatory measures or “positive” steps to manage the ever more integrated market did not occur to the same extent (see Kapteyn 1996, 62–66; Streeck 1996, 299–315).

The reason is that the measures of “negative integration” had a sound bases in the Treaty of Rome and one could make use of the supranational institutions and particularly of supranational law to put them into practice. Any positive step of common policy making ranging from harmonising the tax-system to macro-economic policy was and is in many cases

dependent on the consent of all governments which is much harder to achieve. It is this institutional imbalance that can explain why the development of economic policy to manage the common market and of any other common policy on the European level lags behind the development of a larger market that is less regulated than many of the separated markets were before they have been integrated (see Scharpf 1997, 365–368).

As long as freeing the market was closely correlated with high growth rates which allowed the expansion of the welfare state in many countries integration proceeded undisputed. With the Single European Act and the Maastricht Treaty the situation changed. Not only were growth rates low as has been the case since the 70ies but also the “intervening state” and the “welfare state” came under pressure in part also because of the systemic effects of the liberalising policies that sprang from the European level.

“Mutual recognition” is the single most important feature underlying this new dynamics. It simply states that standards and norms considered acceptable in one of the EC countries will have to be accepted in all others. The term “mutual recognition” already appears in the Rome Treaty but gained political influence only after the “Cassis de Dijon” (1978) decision of the European Court of Justice. Although the European Court of Justice did not use the term “mutual recognition”, it was used by the Commission to re-launch the common market project in the early 80ies and thereby going well beyond the meaning of the Court’s judgement. More importantly, the Commission was able to manufacture agreement on the desirability of “mutual recognition” as a principle in a political process of mobilisation and bargaining between states and interest groups (see Wincott 1996). The significance of all this lies in two facts: first, it allowed to shift away from the laborious and time-consuming policy of harmonising national legislation thereby speeding up the process of complementing the common market and secondly, Europeans have accepted direct interaction and competition between national regulations and tax structures without creating the political institutions with which a transfer of sovereignty of that order had always been associated.

European integration proceeded along the lines of market integration creating a liberal market regime in which the national systems of regulation and economic intervention eroded. With growing competition, diminishing growth rates, and huge public deficits the social systems of the nation states came under stress. “The biggest lesson of the past twenty years is that social policy cannot operate independently of the national economy” (Parry 1995, 395). Under conditions of regime competition Member States may feel compelled to enter into a vicious cycle of lowering social standards and welfare provisions which affect the relative cost of the factors of production in order to secure the growth prospects for their national economies (see Scharpf 1994b, 99–103). This applies particularly to charges and taxes on labour and capital. As Giandomenico Majone has put it bluntly: “Globalisation and, more immediately, economic and monetary integration within the European Union, are eroding the very foundation of the positive state: its power to tax (or borrow) and spend” (1997, 142).

Freeing labour and capital of those burdens undermines the financial basis of the system of social security and deprives the state of the means to finance the welfare system out of the budget. It is disputed to what extent this development is the result of “globalisation”, particularly the globalisation of capital markets (see Streißler 1997) and to what extent it is attributable to the design of the common market (see Bieling/Deppe 1996). However, the quest for new solutions at the national as well as on the European level has intensified. Whatever strategy may be adopted in the future the costs of restructuring will be considerable affecting the material position and interests of large portions of the population.

What can be concluded from the above discussion is that European integration followed to a large extent the logic of market integration culminating in a partly deregulated common market with a high degree of capital mobility but a low degree of labour mobility, and increased competition not only in the market but also between national systems of regulation.

### **3.1.2 The community of market society**

Implicit in the logic of market integration is the vision of creating a market society in which the individuals enjoy their economic freedoms. What they should share is primarily the belief in a legal and institutional framework that guarantees the proper functioning of the market. This framework consists in the case of the EU primarily of policies which aim at securing fair and efficient competition throughout the integrated market and a monetary policy determined and executed by an independent European Central Bank, which is exclusively oriented towards (price-) stability. This corresponds to the hard core of Union policies developed so far. The model of market society allows in theory for a large degree of autonomy to be granted to the nation states. Given the level of centralisation and pooling of sovereignty necessary to run a deregulated market the Member States should be free to develop any policy they wish.

In practice, the consequences of being bound together by the above mentioned framework on the one hand limits the capacity of the state to devise policies which place a heavy burden on the national budget. This can easily be illustrated by the austerity policies implemented in most of the Member States after signing the Maastricht Treaty. On the other hand, the growing interdependence of the economies and the ongoing negotiations between Member States on the European level create incentives to harmonise or at least to accommodate ever more areas of public and economic life.

The question where exactly to draw the line between the competencies that are required to guarantee the efficient functioning of the common market is contested. The common view holds that culture and education should fall within the competencies of the Member States. This is also reflected in the provisions of the Treaty of Maastricht, which allotted certain competencies to the Community in the field of culture and education but explicitly added limitations to their execution. In addition, the principle of subsidiarity received a prominent place with a view to



hindering any more centralisation to occur (see Everling 1994; Bitterlich 1994). More important and also more disputed is the question whether the functioning of a European market society requires the development of instruments of macroeconomic stabilisation and redistributive policies on the European level. Macroeconomic stabilisation policies would be concerned with the promotion of satisfactory levels of economic growth, employment, and price stability. Redistributive policies refer to transfers of resources from one social group to another and the provision of “merit goods” like elementary education and health care (Majone 1997, 150–151).

One line of argument is that macroeconomic stabilisation policies and redistributive policies should remain the competence of the Member States because they presuppose huge amounts of money the EU is not able to dispose of and because the development of welfare-state institutions at the EU level would reinforce popular feelings against centralisation, bureaucratisation, and technocratic management, instead of generating a sense of supranational solidarity. “[...] (T)he delicate value judgements about the appropriate balance of efficiency and equity, which national social policies express, can only be made legitimately and efficiently in fairly homogeneous polities. It is difficult to see how socially acceptable levels of income distribution and of provision of merit goods could be determined centrally in a community of nations where stages of economic development as well as political and legal traditions are still so different” (Majone 1997, 160).

The opposing view holds that globalisation deprives the nation state of its capacity to secure the already achieved level of social protection and to tame the capitalist economy. The solution would lie in increasing the capacity of the EU to act politically by transforming it into a fully-fledged federation and to rebuild the welfare state at the European level (see Scharpf 1994b, 104–105). This option is likely to fail under the given circumstances. “The really decisive obstacles, however, are two: first, the legitimacy problem [...]; and, second, the problematic coexistence of an integrated European market and, soon, monetary union with a system of states which still preserve a large measure of their national sovereignty, their different legal orders, their systems of administration and separate citizenships. It is, in my opinion, a serious mistake to assume that the integration of national markets entails a gradual growth of common welfare policies and institutions. On the contrary, close economic and monetary integration among sovereign states is only possible if the political and economic spheres are kept as separate as possible” (Majone 1997, 161). Following this reasoning the European Union has to be founded on a European-wide market society backed by bonds between individuals which will be provided and sustained by the respective national societies. From this perspective any attempt to foster a European community of citizens is either unnecessary or bound to fail.

However, this judgement rests on the assumption that the nation states are unwilling to cede larger parts of their sovereignty to the supranational level. Although this may be true for the time being, it raises the question to what extent the process of political integration itself has

created the conditions for adding the Union to the nation states as a second instance that can lay claim to the support and loyalty of its citizenry.

### **3.2 Community building by polity integration?**

The Treaty of Rome did not only lay the foundations for a range of policies and goals which the contracting parties agreed to promote together but it also gave birth to a set of new institutions and it invented new legal instruments which were designed to assist the member governments in achieving these goals. I do not intend to recapitulate the development of the institutional system and its shifting balance nor do I want to describe the different concepts that were developed to pin down the particular relationship between the community system and the Member States. What I want to do instead is to highlight those aspects and developments that are important in order to understand how the citizens became related to one another through the community system.

In contrast to the notion of market integration it is less clear in what respect the establishment of the community system represents a form of integration of the polities of the Member States. The reason for this is that it is difficult to identify in the political realm an equivalent to the notion of the free movement of the factors of production and to define the borders of the polity that may be blurred in the process of integration. An alternative approach is needed which is primarily concerned with identifying those steps by which a new polity is constructed out of existing polities. This is what might be called the logic of polity integration.

#### **3.2.1 The logic of polity integration**

The integration of former independent and autonomous polities or states is a complex process which is dependent on situational and motivational factors that explain why the wish to integrate occurs at all and which account for its (lack of) dynamism (see Schneider/Hrbek 1980, 218–226). A whole bunch of hypotheses in this regard were formulated by the traditional integration theories (see Welz/Engel 1993). The limited purpose of sketching the logic of polity integration in the European Union in this paper is to indicate those dimensions in which polity integration takes place. The basic idea is that there are two extreme poles: the pole of isolated states which co-operate only on the basis of international law and the pole of a single new state which replaces the former independent states. In between there is a continuum of situations in which the single states have to find their place within a new overarching political structure. If it is possible to find a balance between the constitutive entities and the new unit that combines them, we speak of a federal system.

A federal system is characterised by the existence of at least two political systems which enjoy a great deal of autonomy and a political structure that allows them to govern themselves. The second element is an overarching political structure that may consist of governmental

institutions of the same type as exist in the Member States but which exercises authority over its constitutive units. The units are involved in decision making at the federal level by institutions that represent the Member States as units and the citizens of both units as well. A federal system is distinguished from a unitary state in the last instance by the fact that in a federal state any formal shift of competencies has to be accorded by both levels. The scientific use of the concept of a “federal system” may not be confounded with the term “federalism” that is used in the European context because the meaning changes according to the national background in which it is applied. Most commonly the term “federalism” is used to signify an end-state of the development of the EU when its political structures would resemble those of the US or Germany (see Hesse/Wright 1996).

**Institutional growth.** Institutional growth refers to the creation and development of new institutions to which the autonomous political entities delegate certain tasks and the metamorphosis of existing political structures (from national parliaments to political parties and interest groups) to encompass the newly created polity space. Starting from a core set of institutions they give birth to ever more institutions, organs, and agencies which grow in number, differentiate, diversify and which consume ever more resources including money, facilities, and persons.

The Community has experienced quite an amount of institutional growth since its inception. Nevertheless, in comparison to any of the Member States e.g. the organisational system is still small. The Commission has a total number of about 20.000 permanent officials and the Community budget is less than 1,2% of the combined GDP of the Member States and about 2,4% of their total public expenditure (see Spence 1994, 65; Nugent 1994, 340). This signals that the Community will never replace the administrative structures of the nation states which developed over a period of several hundred years. The same is true for the other institutions. Although there was an impressive growth in the number of transnational interest groups particularly following the Single European Act (see Kohler-Koch 1996) and political parties adapt slowly to the new political environment (see Gaffney 1996) the European institutional system seems to rest solidly on its roots in the nation states.

What is not excluded by these observations is that the Community institutions will sooner or later be able to function as the centre in a federal setting overarching its constitutive units. Taking into account the numerous national bureaucrats and experts who are involved in either preparing or implementing EU policies it becomes clear that the EU is already now an integral part of the day to day experience of major parts of the national administrations. The participation of national civil servants in the administration of EU policies makes it ever more difficult to measure the institutional growth of the EU’s institutional system. The encroachment of EU policies on the national administrative systems leads to an amalgamation of the two levels to the effect that the institutional growth can no longer be measured by the growth of the Union organs alone. One has to take into account the number of civil servants and the number

of administrative units which are involved in the EU business at the national level as well making the growth of the institutional system of the EU even more impressive. Institutional growth is also initiated by the interaction of national courts, individual litigants, and the ECJ (see Hunnings 1996, 121–151).

**Shifting power.** In order to determine the relationship between the Community and its constitutive units one has to look for the distribution of power between the two levels. In order to measure the relative power of the two levels one has to take into account on the one hand the scope of tasks and competencies acquired by the Community institutions and the degree to which the institutions on one level have control over or are able to condition the actions of the institutions on the other level. In a situation in which the institutions are engaged in a zero sum game integration would occur if the Community institutions would be the winners. If both levels would gain in a positive sum game integration would also occur because the complexity and the degree of interdependence of the whole system would increase.

The question how much power has shifted to the Community level is not easy to answer because it depends on a detailed analyses of what has been coined the “institutional balance” (see Wallace 1996). The common view is that the decision-making system has preserved its “intergovernmental” character meaning that the Member State governments are still controlling the policy making process. This may be conceded in the fields of “high politics” like CFSP and in the field of “constitutional” politics like revising the founding treaties (see Moravcsik 1991) but also in some of these fields things are changing (see Melchior 1997). In the fields of “low politics” in which the Community is primarily engaged on a day to day basis governmental actors are confronted with a growing network of transnational actors and expertise which weakens national sovereignty (see Richardson 1996). Growing complexity of the power structure signifies a growing degree of interdependence and hence of integration.

**Shifting competencies.** The growth of Community competencies is a long-term trend that has often been asserted (see Wessels 1992) and which is a clear signal of political integration. Three sources can be identified that contribute to this dynamic: First, the *télos* of market integration can only be achieved by the harmonisation and adaptation of a huge amount of regulations at the European level. Second, the growing interdependence between the Member States and external challenges are strong incentives to intensify co-operation in areas which are only indirectly related to the primary goals of promoting economic growth and rising the standard of living (e.g. the field of Home and Justice, social policy or science, and technology policy). This is a typical example where the neo-functional hypothesis of “spill-over” applies. Paradoxically, such “spill-over” is more likely to occur if a definitive intergovernmental setting of decision making is adopted in the first place as has been the case when the “pillar structure” was designed for the Maastricht Treaty. The explanation is that the Member governments are more inclined to pool their sovereignty when they feel that they stay in control even when the competencies have been shifted to the Community level. Third, the Community institutions

exploit the often vague language and the teleological character of many of the Treaty provisions to invent new competencies in order to expand the scope of the Community system and the legal activism of the ECJ adds momentum to this process.

The long term trend of shifting competencies is composed of the above-mentioned developments which have their own timing and which run across each other. The tides and lows of market integration depend to a large degree on external economic developments like the crash of the Bretton-Woods-System and the oil crises in the 70ies or the globalisation of the economy and increased global competition which contributed to the relaunch of the common market initiative in the 80ies. The second element of spill-over is dependent on the progress of market integration and of events in the international environment alike which culminated in the beginning of the 90ies and led to the introduction of CFSP and the Home and Justice pillar. Only the third aspect of institutional activism has a constant effect on the accretion of Community competencies. That the principle of subsidiarity was emphasised in the Maastricht and also in the Amsterdam Treaty has sometimes been interpreted as reversing the direction of integration (see Zellentin 1993). In fact, it corresponds more to putting on the brakes while racing down the hill. Besides the scope and amount of competencies the Union has acquired, it is important to note that the expansion has been rather selective concentrating on regulatory policies ranging from product standardisation to environmental protection but is less accentuated in areas of social policy, health care, or education (see Majone 1997, 143).

**Shifting legitimacy.** As a consequence of the expanding scope of competencies of the Community the sheer number of decisions increases that originate from the supranational level and deserve legitimisation in addition to the authority structure responsible for those decisions.

The formal legitimacy of the Community system rests basically with the treaties which means that the consent of the Member States' governments and of the national parliaments is required before the Treaty enters into force and in specific cases also referendums are held to approve of a revised Treaty. Once a Treaty becomes effective, decisions are taken at the European level depriving the democratic national political institutions to a large extent of their capacity of controlling them. In most cases the burden of legitimising European decisions before the segregated national publics then rests with the governments' representatives in the Council of Ministers. When decisions are taken by unanimity then they are at least indirectly legitimised via democratically elected national governments who speak for their citizens. When decisions are taken by majority voting then it is possible that the decisions may not be backed by the virtual consent of a group of citizens on which the decisions are imposed because their representative may have opposed it. Such a minority position is only acceptable as part of a democratic game but not of an intergovernmental setting.

Legitimising decisions is as much a matter of the authorities as it is of its subjects. Therefore, it is essential to determine which political entity enjoys the loyalty of its members. One of the

expectations formulated by neo-functional integration theory was that the loyalties of political actors and citizens alike would gradually shift from the Member States to the European level to the extent to which important decisions are transferred to the new centre (see Haas 1958). Only to the degree that this is really the case the European institutions would qualify for contributing to the legitimacy of the Community.

The European Assembly, which adopted for itself the title European Parliament in 1962, was supposed to fill this gap by compensating for possible democratic loopholes that may occur by the use of majority voting in the Council. In addition, several other institutions like the Committee of the Regions and the Economic and Social Committee were assigned the task of representing particular interests at the European level. Their roles are nevertheless quite limited. Only the EP managed to increase its influence on European decisions to a considerable extent making it after Amsterdam a partner of the Council of nearly equal standing. Nevertheless, there are many indicators that the loyalty of the citizens rests until now primarily with the nation state level, which has given rise to a legitimisation gap that will not easily be filled.

The European Union is engaged in a process of polity integration which follows federal lines. What has not yet been answered is the question how the citizens are involved in this process and on what concept of community the process of polity integration in the EU is founded.

### **3.2.2 The community of law**

One of the outstanding features of the EC/EU system is that it created a novel legal system in the realm of international law. In the course of its development an enormous amount of legal norms and decisions have been produced by the Community system which is referred to as the “*acquis communautaire*”. The aim was to create a unified legal space throughout the Community in which the equal application of the norms should be guaranteed. This development was only partially founded in the Rome Treaty. It was the European Court of Justice, which gradually developed certain doctrines in its case law that became universally accepted in the Community. The ECJ also established a number of subjective rights that were guaranteed and protected at Community level.

The supranational character of community law

A cornerstone in the establishment of the supranational character of Community law was the development of the doctrines of “direct effect” and “supremacy” of Community law. The doctrine of “direct effect” was first developed in the famous Van Gend case of 1962 and was subsequently extended to a wide range of Treaty articles and to many categories of Community secondary legislation. It means that Community law does not rely on national implementing legislation but is directly applicable in the Member States constituting subjective rights that can be enforced

through the (national) courts. It does not only oblige the Member States but also the individuals who may rely on Community laws even to redress against national governments which fail to live up to their Community obligations. To many observers it came as a surprise that the doctrine of direct effect of Treaty provisions passed more or less uncontested by the Member States (Wincott 1996, 172).

The doctrine of “supremacy” of Community law appeared soon after in the Costa case (1964). It stated that Community law prevails even when it contradicts provisions of national law and even of national constitutional law. Moreover, Community law does not only derogate existing legislation but also obliges national legislators not to adopt new laws in areas in which the Community has become active. The doctrine of “supremacy” was not readily accepted by the national courts but led to a lengthy process of negotiation between the ECJ and particularly with the courts in Italy, Germany, and France. It was questioned that Community law should be allowed to take precedence even over protection of human rights in national constitutions. To avoid this unpleasant prospect and to protect the doctrine of supremacy the ECJ departed from its previous refusal to read human rights into the Treaty and established human rights protection as a fundamental principle of Community law. “Ironically, the European Court subsequently turned this difficulty to its advantage and developed a body of case law on human rights, which allowed it to add considerable *gravitas* and legitimacy to its claim that the Treaty of Rome should be regarded as a constitution” (Wincott 1996, 174).

Through these doctrines and others which followed the ECJ promoted the “constitutionalisation” of the Treaties (see Mancini 1991). By now the treaties are more or less generally perceived as the constitution of the Community, as the basic legal framework comparable to constitutions at Member State level. By this process the ECJ managed to break up the traditional unity of the sovereign nation states and to merge the national and the Community legal systems into a new entity (see Bogdandy 1993). This development took shape in a co-operative manner involving not only the ECJ, but also national courts, individual litigants, lawyers, and sub-state actors (see Mattli/Slaughter 1996; Pernice 1995), which explains why the supranational character of the Community’s legal system was at least tacitly accepted by the Member States. Nevertheless, the “supranational” character of the Community legal system has also recently been challenged by the German constitutional court in its 1993 ruling preceding the ratification of the Maastricht Treaty (see Weiler 1995).

It is the “supranational” character of the legal system (see Weiler 1981), on which claims to the creation of a new European polity primarily rest. It is argued that the Community system constitutes direct legal relationships between citizens and Community institutions, which until then has been a distinguished feature of states. Though it is admitted that the Community is not a state, it has to be considered at least as a political community or polity in the making. Some infer from this that the constituency of the Community is not only composed of the Member States but also of the “peoples” and in the last instance of the “citizens”. From this

perspective the fact that the Member States are still the “Masters of the Treaty” only reflect a situation in which the citizens’ participation in many respects is mediated by state actors and that this mediation has to be overcome (Pernice 1995, 524–525).

#### The emergence of citizenship

A second element of building a community of and by law which can be detected is the expansion of the scope of rights conferred upon citizens. Following the first necessary step to establish direct effect and supremacy of Community law the Community had developed an instrument to affect the citizens directly – subjective rights.

Initially, the Rome Treaty provided for certain economic rights, such as the free movement of persons, goods, the right of establishment, and some social rights like the right to equal pay for men and women. But the rights it provided for could not be used by the nationals of Member States to assert subjective rights protected by the courts as long as the Member States insisted that they themselves were the sole subjects of Community law. After the ECJ had established their above mentioned doctrines, the situation changed.

In the sixties and mid-seventies the ECJ developed in its case-law a set of subjective rights based on the four fundamental freedoms and backed by the goal of establishing the Common Market. But the ECJ did not stop there. Ironically, it was a decision of the German constitutional court – the so-called Solang I Decision of 1971 – which triggered the ECJ to go beyond the economic and social sphere and to build case-law on fundamental Community rights. The result was that the ECJ granted nationals of Member States the status of “market citizen” (see Marias 1994, 4). This status was derived from the ECJ’s view that fundamental rights were enshrined in the general principles of Community law. The ECJ established some further principles that should help to work out the precise content and scope of fundamental rights granted to the market citizens. The Court held:

- that the protection of fundamental rights should be inspired by the constitutional traditions common to the Member States;
- that international treaties, such as the European Convention for the Protection of Human Rights and Fundamental Freedoms can supply guidelines which should be followed by the Court and which can serve as a source of inspiration for the Community concept of fundamental rights.

The ECJ used its role to interpret these general principles to spell out the particular rights of the market citizen. At the core of these rights were those created by Community legislation like the four economic freedoms, the right of non-discrimination on grounds of nationality, and some social rights like the rights of health and safety at work, rights on transfer of



undertakings, pregnancy and maternity rights. The growth of these rights was to some degree dependent on the expansion of the scope of competencies of the Communities and to some degree on the ECJ's interpretation of which rights have to be protected in order to guarantee the functioning of the Common Market.

But the Court also established "fundamental rights" which he derived from the non-economic principles cited above. The Court gave rulings that limited the Member States rights to expel Community nationals and which asserted the citizens rights to a fair hearing, to privacy, the privilege against self-incrimination, to non-retroactivity of penal provisions, and to legal remedy (see Burca 1996, 32; Marias 1994, 4). By such rulings the ECJ constituted a set of traditional civil rights protected and respected at Community level.

But the development did not stop here. Since the EP is directly elected the Community concept of market citizen was opened up to reach well into the sphere of politics. The development of political rights for Community citizens closely follows the logic of institutional growth and power shifting. An important development in this regard was the introduction of "Union citizenship" introduced by the Maastricht Treaty. "Union citizenship" can be regarded as another step to constitutionalise the rights – based status the market citizens had already achieved. Union citizenship did add some positive political rights like voting rights in European Parliament and local elections, to petition the European Parliament, to apply to the European Ombudsman, and to seek diplomatic and consular protection by any Member State under certain conditions.

Nevertheless, the concept of Union citizenship has been criticised for its lack of substance and for its dependence on the nationality of the Member States (see Closa 1995; Weiler 1997). From the view of community building this is important because Union citizenship acknowledges that the Community is not merely an instrument for market integration but is also part of polity integration, that the exercise of public power by the Community has to be founded on the consent also of the individual citizens and that the citizens of the Union should enjoy an equal status of rights in face of Community institutions.

## 4. The limitations of community in the EC/EU

In a period of nearly 50 years the EC/EU succeeded to make substantial progress in integrating its market and in developing a political structure that underpins that development. This development came about in an incremental and contested way, it was not founded on convergent perceptions but on a dialectic of interest intermediation and inter-institutional dynamics. The state of integration now reached may not conceal that specific inconsistencies exist and the concepts of community underlying the development of the EC/EU have been put into practice rather incompletely.

### 4.1 The limitations of market integration

Market integration rests on an instrumental conception of community which is based on welfare economics. According to this view a larger and freer market helps to exploit the comparative advantages of production of the different regions leading to a more efficient allocation of resources and to a higher level of overall economic growth. This kind of reasoning seemed convincing and led to a higher growth rate inside the Economic Community than in other parts of Europe particularly in the 60ies and early seventies (see Breuss 1992). The prospect of higher growth rates was also an important motive behind the Common Market initiative and played an important role in the discussion in the new Member States about joining the EC/EU (see Schneider 1990, 97–113). It is not by accident that only Norway relying on its huge natural resources rejected to enter the EC/EU in a popular referendum.

Even if the same arguments apply, the positive effects of market integration are not as obvious today than they were in the 60ies. Low growth rates and rising unemployment throughout Europe make the economic rational of market integration appear less convincing because it relies on counter-factual arguments that cannot be tested directly. Some experts even argue that European integration was completely dependent on the good economic climate during its early years. Economic stagnation will therefore probably lead to disintegration. The opposite view holds that only a united European market may create the conditions for competing in a globalised market. Such reasoning is based on the synergy created in the field of research and development and by a common currency which could compete with the currency areas of dollar and yen.

Furthermore, market integration has led to an uneven distribution of economic benefits between capital and labour. This is due to the higher mobility of capital and a general shift in the balance of power between capital and labour to the latter's disadvantage. The likely effect will be that ideological tensions between labour and capital will intensify and that the convergence of economic policy doctrines that helped to realise the Common Market in the early 80ies may be reversed. Such reversal will intensify the conflict over the question how to shape and frame the European market society. Conflicts may arise along various lines: between interventionist and

neo-liberal conceptions of market society, between rich and poor countries, and concerning the social dimension.

The first set of conflicts concerns the proper role of the Community in regulating the market. Although it says in the Treaty that an economic and monetary union is going to be established, the economic instruments available at Community level are hardly developed. Governments are split in regard of the degree taxes, in particular corporate taxes, should be harmonised, regarding infrastructural projects that should be financed at the European level like the transnational networks, and regarding the question of establishing a system of financial transfers between regions, etc. Of particular concern is the role the Community should and could play in fighting unemployment. The inclusion of the employment chapter in the Amsterdam Treaty was initially particularly resisted by the German government. It was criticised on the one hand by those who saw the danger of opening a door which would lead to interventionist policies at Community level and too much political intervention on the Community level and on the other hand by those who questioned the effectiveness of its provisions.

The second set of conflicts concerns the level of social and environmental regulation to be accorded at Community level. This question affects the costs of production in rich and poor regions in the Community. The competitive advantage of poor countries with a low level of economic development rests on cheap labour costs and low environmental standards. A harmonisation of social and environmental standards at a high level would push many of the undertakings in poor countries out of the market therefore increasing the economic discrepancies between the Northern and Southern regions in Europe (see Scharpf 1996).

The social dimension of the European market society poses problems as well. The role the Community should play in protecting the welfare states in Europe is contested. Those supporting a more active role of the Community argue that the Community e.g. should make social concerns an issue in international negotiations on market liberalisation like in the WTO. The Community should only allow those products to enter the Common Market which were produced adhering to some minimal social standards. Concerning the inner dimension of the Common Market, it is contested whether and to what extent the Community should regulate in the areas of working conditions, minimal pay, working hours, workers participation, and the like.

The point is that market integration raises several highly conflictual questions which market society cannot solve by its own. One possible solution could be to confine those conflicts to the national level. Such a solution seems difficult to achieve since it is particularly the competitive dynamics at the European level which undermines the capability of the nation states to act effectively. If those problems should be dealt with at the European level, it is

doubtful whether the bonds of community provided by market society will suffice to find sustainable and acceptable solutions.

## 4.2 The limitations of polity integration

The relation between market integration and political integration has been a source of conflict from the very beginning. One group primarily consisting of the “federalists” conceived of market integration as an instrument to achieve the final goal of overcoming the nation states and to build a “United States of Europe” (see Wistrich 1991). But also from the point of view of those who think that it is the integrated market which needs a political counterweight, the Maastricht and Amsterdam treaties failed to reform the institutions and to proceed with the “deepening” of the Union to the necessary extent.

For others, political integration in the EU has already gone too far. Institutions like the EP and other representative institutions should step back in favour of national parliaments in regard of legitimising the policies on the EU level, and the Commission and the ECJ should be limited and controlled more closely by the governments of the Member States. What they particularly disapprove of is the claim that has been put on the agenda by the Maastricht Treaty that the Community should be complemented by a political union. Reservations in this regard were uttered particularly by the British and Danish governments, but are shared by other member governments as well.

However, it is unclear what political union means in the minds of the different parties. There are those who maintain that building a political union necessarily entails the involvement of the individual citizen. They criticise that the development of the Community has been for too long already an elitist endeavour limited to politicians, business circles, and lobbyists. They demand that, on the one hand, the representative political institutions of the Community should be strengthened and that, on the other hand, political rights have to be further developed. Strengthening the EP would add another cornerstone to the institutional growth and power shifting that is part of the ongoing polity integration on the European level. Looking at the institutional development of the EC/EU a particular pattern can be discerned which sets clear limits for such a development, namely “that there was a symbiotic relationship between the growth of the Community and the nation state. Any assertion of the former was likely, in the pattern of the historical evolution of the latter, to be accompanied by its countervailing development. Thus was the symbiotic relationship between the collectivity and the Member States” (Taylor 1996, 97).

If one examines the role attributed to the EP by the Amsterdam Treaty, one can formulate the rule that the EP was given the right of co-decision in most of those areas where the Council is going to decide by majority (see Petite 1998, 20–21; BKA/BMaA 1997, 21–22). It also became evident that the EP will not become the single legislative organ in the Community. The current

situation resembles a rather federal set-up in which the Council may be seen as the chamber representing the Member States and the EP representing the European people(s) (see Europäische Strukturkommission 1994, 40–41). Such a two-chamber like system would best fit the basic architecture of the EU reflecting the constitutive elements of peoples and states the EU is founded on. Giving the EP predominance over the Council would overstretch its legitimising power because national identities and the nation state are still the main sources of loyalty and legitimacy for the exercise of public power in Europe (see Kourvetaris/Kourvetaris 1996, 158–161).

### 4.3 The limitations of Union citizenship

Concerning Union citizenship the limitations of the current approach are manifold. First, the status of Union citizenship is ambivalent. Citizenship is ordinarily seen as the substrate of the republican principle of the sovereignty of the people who constitute a polity. Although Union citizenship gives the impression that it constitutes such a link among the European citizens and among the citizens and the Union, in fact it does so only to a limited extent.

- Union citizenship is not a constitutive element of the Union, which would imply that the Union were based on a unified body of citizens. Union citizenship appears as something that is granted by the authority of the Union to the citizens, not a substantial and unconditional right in itself. This is reflected in the subordinate role of the EP in processes that led to the amendment of the founding treaties<sup>4</sup> and in the fact that the development of Union citizenship is dependent on an unanimous decision of the Council and ratification by the Member States according to their constitutional provisions (new Art. 22).
- Union citizenship does not constitute a distinct set of rights reserved for Union citizens. On the one hand, it states that every person holding the nationality of a Member State shall also be a citizen of the Union. On the other hand, it states that citizens of the Union shall enjoy the rights conferred by this Treaty and shall be subject to the duties imposed thereby (new Art. 17). Since many of those rights are not confined to Member State nationals, it is not clear what the privileged status of Union citizenship exactly consists in and why, on the other hand, it should be reserved for Member State nationals only (d'Oliveira 1994, 147).
- The fundamental principle of equality of citizens is violated since the acquisition and loss of Union citizenship is regulated differently among the Member States which leads to unequal treatment of the would-be members of the Union (Marias 1994, 15). The lack of a

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<sup>4</sup> In the IGC 1996/97 the EP was involved in the process although not in the negotiations to a considerable extent providing it with the possibility to air its views and to raise the aspirations of the Conference (see Petite 1998, 4).

uniform electoral procedure to the EP could also be interpreted as impinging on the equality of citizens since it results in an unequal weight of individual votes depending on the place of residence and the mode of representation which is used in the various Member States. The latter point could nevertheless be justified on the grounds of diversity and subsidiarity: the national peoples should be allowed to choose the kind of representation they think is appropriate for them.

- Although it appears that the rights of freedom of movement and residence are granted to all Union citizens, it is bound to limitations, thus undermining the universal character of citizenship. In fact, it only partially unties the right of residence from economic activity (see Closa 1992, 1142–1143) and makes it conditional on secondary Community rules and limitations based on considerations of public order, public security, and public health (see Closa 1995, 497). The same is true for the right to vote and to stand for a public office in municipal elections, which is granted by Union citizenship. Directive 94/80/EC for municipal elections for example allows Member States to reserve the posts of mayor and deputy mayor to their own nationals since they often exercise state devolved functions such as, for instance, overseeing the local police forces, which are perceived as belonging to the very core of national sovereignty.
- The protection of the Citizen's rights in the second and third pillar through the ECJ is limited although the Amsterdam Treaty embodies some improvements.<sup>5</sup> “[...] this means that no rights and duties are imposed on individuals outside the Community Pillar or that whatever rights and duties were created would not, in the intention of the States, be enforceable” (Weiler 1997, 279).

Second, the reach and added value of the rights of Union citizenship are limited.

- The rights enshrined in the chapter on Union citizenship do not comprise the Union as such but are sometimes restricted to matters “which come within the Community's field of activity” as in the case of the right to petition the European Parliament (new Art. 194 TEC). In this respect the wording of the Citizenship chapter falls behind the Parliament's rules of procedure, which refer to the Union's sphere of activity (European Commission 1997, par. 3.1).
- The rights conferred upon the citizens only to a certain extent go beyond what had already been granted by the EC Treaty. The symbolic significance of Union citizenship is

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<sup>5</sup> In the third pillar, which is reserved for matters relating to criminal law and the police, the court will be able to review the legality and interpretation of acts although its power to give preliminary rulings must be accepted individually by each Member State. Some uncertainty regarding the Courts jurisdiction comes with the new legal instrument of “framework decisions”, which explicitly “shall not entail direct effect” (new Art. 34 2b TEU). The Court has no jurisdiction to review operations relating to the maintenance of law and order and the safeguarding of internal security (new Art. 35 TEU).

that it assumes a political relationship between the citizens and the Community institutions which implies that the authority of the Community should also be legitimised by the unified body of the citizens. There is only one genuine new political right to be found in the treaties: the right to vote and to candidate at municipal elections (new Art. 19 TEC). The right to vote and to candidate in elections to the European Parliament in the Member State in which one resides does not add to the existing voting rights but rather complicates the adoption of a uniform procedure for the elections to the European Parliament (see d'Oliveira 1994, 137–138). As the situation is now, additional conditions apply which in certain cases infringe on the equality of access to European elections.<sup>6</sup>

- The right of association and freedom of expression could be interpreted as pre-conditions for the participation in EP elections but they are not covered by Union citizenship. In some Member States the political activity of non-nationals is subject to a number of conditions, such as the prohibition of becoming a member of a political party or a general obligation of political neutrality which conflicts for example with the rule that is applied in some Member States where only political parties are entitled to present candidates for European Parliament and local elections (see European Commission 1997, par. 1.4).
- The capacity of the EU to enrich the list of human rights is limited. The level of protection of human rights at national level and by international conventions is already quite high (see Häberle 1997, 82–84). Notwithstanding that it would make sense to enhance the level of protection of human rights in the EU by joining the European Convention on Human Rights there is the danger of inflating the language of rights. Particularly in the field of social rights the Union is dependent on the resources which are at its disposal to guarantee that the expectations which are raised will be fulfilled thus setting limits to founding Union citizenship predominantly on an ever expanding bundle of rights.

Third, Union citizenship in its current form is limited in its capacity to “make the process of European integration more relevant to individual citizens by increasing their participation, strengthening the protection of their rights and promoting the idea of an European identity”, as reads the 2<sup>nd</sup> Report of the European Commission on Citizenship of the Union (European Commission 1997).

- Looking at who really benefits from the bundle of rights guaranteed by being a member of the Union one finds that the promise of protecting human rights “actually delivering little of practical benefit to individuals as opposed to corporations and legal persons” (Búrca 1995, 52). Although there are cases in which the individual person and underprivileged groups benefited from invoking some of the rights enshrined in the treaties, strong

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<sup>6</sup> Member States in which the share of non-national citizens of the Union is larger than 20% may provide for a qualifying period of residence for Union citizens to be eligible to participate (see Closa 1995, 499).

reservations should be invoked in regard of the rhetoric of rights. Also and particularly on the European level the rhetoric of rights tends to conceal differences in power and status and the costs of enforcing subjective rights tend to benefit mainly the powerful (Búrca 1995, 54). Consequently, the prospect of fostering a feeling of belonging and identity between the ordinary citizens of the Union by means of subjective rights is limited.

- Making Union citizenship rights effective is largely dependent on secondary implementing legislation both on the European (directives) and national level. This requirement opens up the possibility of undermining the unitary character citizenship ordinarily implies and makes citizenship dependent on proper implementation. Implementation does not only consist of passing laws but also of administering them to the benefit of the citizens. An implementation deficit that has arisen in this respect (see European Commission 1997, par. 1.3, 1.4, 2., 4.2, 4.3) bears the risk of undermining confidence in the seriousness of the rhetoric of Union citizenship.

## 5. Perspectives of community building in the EC/EU

Community building in the EC/EU has until recently been a side effect and to a large degree unintended consequence of two complementary processes: market and polity integration. These processes are complementary in two different respects: a) market integration was brought about by political means, by the co-ordination of primarily economic policies, by developing a regulatory legal system and by charging certain institutions with the task of watching over the functioning of the market; b) to the extent that market integration progressed ever more fields and subjects came under consideration either in regard of probably distorting competition or of being instrumental to the achievement of economic ends.

The proliferation of policy co-ordination does not automatically lead to polity integration. It was the establishment of a new supranational legal order which opened the lock to polity integration. Each step of policy co-ordination among Member States was transformed on the spot into another move of pooling sovereignty. The nation states as members of the community only hesitantly accepted that logic. Once the supranational legal order was established, institutional dynamics and political demands from outside the Community system added momentum to this development.

In fact, the type of “community” that came into being by market and polity integration in the EC/EU is a community of market society and law, with its individual correlate: the “market citizen”. The common denominator of these concepts is that they all are founded on the pursuit of private interests. Market society signifies what societies which are otherwise separated in nation states have in common: the market and the institutions that watch over its functioning. The intrinsic value of market society is the prospect of increased production. It was this



prospect which made the vision of completing the Common Market attractive even to those who did not believe in neo-liberal and market ideologies. From the perspective of the “market citizen” market society may be attractive either because one expects individual gains or at least to uphold individual economic and social security through the collective gains of the group or nation state of which one is a member.

The EC/EU in its present state of development primarily constitutes such a community of (economic) interest. Economic success was the trade mark of the Community since its inception and greatly contributed to its legitimisation. Individual gains in income and freedom of movement within the Community are at the core of the rational reasons why market citizens confer loyalty to the institutions that uphold the Community. Nevertheless, the basis of the Community’s legitimacy may soon become the basis of its delegitimation. When circumstances change, conflicts arise, and the Community cannot any longer fulfil the expectations of their members, and if it stops to serve the interests it is founded on, a crisis is likely to occur which might question the very *raison d’être* of the “community of interests”.

### **5.1 Beyond instrumental community**

Speaking in terms of social theory the problem of community building in the EC/EU consists in its being founded primarily on mechanisms of “systems integration” and is lacking appropriate means of “social integration” in the Habermasian sense (see Habermas 1985, 229 ff.). Systemic integration refers to a social order which is constituted and supported by exchange mechanisms like “money” and “power” which provide for the co-ordination of the actions of the individuals. No prior agreement on common values or the distribution of resources and no co-ordination of individual plans of action is required in order to guarantee the functioning of the exchange systems. The only agreement to be reached is about the legitimacy and validity of the exchange mechanisms one is going to use.

“Social integration” in contrast refers to norms, rules, values and orientations which must be shared in order to uphold the interaction and to constitute order and to the communicative processes of discussion, deliberation, and negotiation that are involved in their production. It is this dimension where one could look for means of community building that reach beyond the instrumental relationships established by a community of interest and which could help to stabilise and complement the Common Market.

Some commentators have pointed out that the EC/EU already to some extent relies also on shared values, common norms, and processes of communication. This is why it is sometimes referred to as a “negotiated order”. But three reservations have to be made in this respect which are widely acknowledged:

First, negotiating the terms of co-operation in the EC/EP is an elitist undertaking. Access to those negotiations was until recently limited to a small group of political actors and governments who regularly meet behind closed doors and often unnoticed by the public. This holds true for the Council meetings and for the intergovernmental conferences where the fundamental decisions that effect the whole Union are taken.

Second, it was easier to agree on what the Member States did not want than on what they wanted to do together. The incorporation of Germany in a common European order for example was intended to prevent it from dominating Europe and following its “Sonderweg” which has proven so disastrous in the first half of the century. The integration of Germany provided the rationale for many steps of integration ranging from the establishment of the ECSC to Maastricht’s political Union. Another observation that underlines the tendency of “negative” integration reaching beyond the economic sphere is that the European project often was driven by external threats and challenges rather than internal interdependencies spilling over into the political realm. This is exemplified by the initial intention to define a European political space in between the two super powers in the times of the cold war and holds true also for the relaunch of the Common Market project in the face of increased competition inside the triad of Europe, USA, and Japan.

Third, proceeding with European integration was dependent not on developing common visions but on the processing of multiple and multifaceted projects that gave room for compromise. One of the main characteristics of the agreements reached at the European level is their heteronomy and heterogeneity. This proves that the convergence of meanings, understandings, perceptions, and interpretations lack behind the areas in which a co-ordinated policy is required and perceived as necessary. The endemic debate about what should come first, convergence of perceptions and interests or institution-building proves that point. Whenever integration succeeded it was not because of convergence of visions and agreement on where the EC/EU should go but at most convergence of interests, particularly in regard of how the nation state can best survive in a changing environment.

There is one point where the primarily instrumental order the EC/EU was designed to be has broken up: the establishment of a new legal system. The attempt to use law for purely instrumental purposes was bound to fail.

First, the new legal order could not be isolated from the legal orders of the Member States and the common legal traditions. So it was in the legal sphere that part of what can be perceived as the common political tradition in Europe was expressed at the European level for the first time. Since respect for human rights constitutes the core of the modern notion of a “state of law” it was unavoidable that the same standards would have to be applied at the Community level as well. Thus, morally sensitive and politically contested questions concerning the relative weight of certain rights and of ways how to protect them surfaced in the Community. Conflicts of value

cannot be resolved by judicial reasoning alone. They have to be dealt with in relation to a public discourse in which standards of judgement and justification can be processed and which does not exist at Community level.

Second, by acquiring direct effect the citizens of the Member States became subjects to Community law. It became obvious that a double standard is applied in how the citizens are involved in law-making at the national level and at the Union level. As long as law-making at Community level was primarily concerned with technical matters of regulating segments of the common market and as long as unanimity was applied such a double standard seemed acceptable. When the scope of Community legislation expanded in new sensitive areas (ranging from monetary policy to social policy to culture), market integration having a decisive impact on the lives of the citizens, and majority voting in the Council is considered to become the norm, the so-called “democratic deficit” appeared and the legitimacy of Community action was questioned time and again.

The “community of law” which has developed in the Community reaches well beyond the sphere of “systems integration” rising questions concerning the integrity of the community thereby established, the definition of the political community the community of law refers to, and the status and role of the individual citizen. The limitations of community building at the EC/EU level referred to above result from specific ambiguities and contradictions inherent in the given architecture of community and its guiding concepts. They will be stated here only briefly and will be explored further on.

- In the set-up of the EC/EU a particular asymmetry is to be found in the relationship between the Union and its citizens. It materialises in a conception of citizenship that is built upon an instrumental exchange relationship. It is the Union that grants rights to the citizens in exchange for their loyalty. It is not only that such a paternalistic understanding of citizenship conflicts with the modern notion of the autonomy of the person and with the self-perception of empowered citizens, it also makes the Union vulnerable. It risks the loss of the citizen’s loyalty whenever the citizens may not be satisfied with the “goods” the Union is able to deliver. Therefore it seems appropriate to develop a coherent conception of Union citizenship that establishes a reciprocal relationship between the Union and the citizens, that gives substance to the political dimension of this relationship, and that has the potential of involving the citizens in transnational action and in controlling more effectively the political processes at Community level.
- An ambivalence exists in how the concept of market society is related to the existing national societies. It is not yet decided whether the EC/EU will be composed of a number of separated national societies whose boundaries will be open and blurred with a view to making it as easy as possible for individuals to transgress them or if a single European civil society is envisaged. The difference lies in the degree of harmonisation of the

concepts of nationality one is inclined to achieve and in the willingness of the Member States to treat Union citizens not only as “privileged strangers” but as equal citizens. This points to the incongruous relation between national representation and legitimisation of the European peoples and their being treated as subjected to a unified body of law.

- The efforts to construct a community of citizens in the EC/EU address primarily the vertical dimension of citizenship, namely the relationship between Community and Member State institutions and the citizens. It neglects to a large degree the horizontal dimension of relating citizens with citizens. Such questions touch upon national identities and how they may be articulated at the European level giving rise to a new form of European identity, the contours of which are not yet discernible but deserve further consideration.

## 6. Foundations of political community

Until now the argument of the paper held that the EC/EU developed primarily into a community of states and of markets and only to a small degree it has become a “community of citizens”. The commonalities among the individual members of the EU which were created by the EC/EU include a thin bond of mainly economic rights, a common legal order that is hardly recognised by the ordinary citizen and a set of EU-institutions about which the citizens have only little knowledge, which they often face with suspicion (see Anderson 1995; Reif 1993), and over which they have little control.

Looking beyond the changing attitudes and shaky moods regarding the various projects of European integration the more fundamental question arises whether the community of states and markets should and could be complemented by a political community of citizens which would help to outweigh the above mentioned imbalances and shortcomings. Tackling these questions is not only of academic interest but is related to the future development of the European Union and the prospect of legitimising and stabilising a new European political order and system of governance.

To the extent that the EU is engaged in processes of integration, self-regulation, law-making and redistributive policies it acts on the assumption that there exists a political subject on behalf of which the political institutions operate and who is the addressee of the policies they produce. Whom this political subject is composed of, how the boundaries of this subject are drawn and on what grounds any of its components should accept the decisions that are taken collectively were never clearly spelled out. It was just taken for granted that the national communities are the building blocks of the EU and that by granting precedence to the representatives of the nation states in EU affairs the decisions should legitimately be binding for all.

The aim of the following chapters is to examine the notion of a political community of citizens, to clarify its meaning in the framework of the EU, and to discuss ways of how to advance it. The novelty and originality of the EU makes it impossible to directly address the question of what elements a political community on the European level might consist of. For an answer to this question we first have to look at the level of existing states and their experiences.

## 6.1 The nation state legacy of political community

For the purposes of this article political community shall denote a number of people who perceive themselves as belonging to the same group, who conceive the group as the legitimate unit of self-rule and the institutions which are therefore established as legitimate expressions of the collectivity. The individual members of that group perceive of themselves as equal and reciprocally participating in the group's reproduction. What has been stated here in abstract terms in reality corresponds to the ideal-typical form of the nation state. The prototype of the Western nation state is the composite – as the term signifies – of state and nation. It is the result of attempts to make the national and the political unit congruent by various – often forceful and brutal – means (see Gellner 1988, 1–7). This is not to say that state and nation are givens that only have to be brought together. The convergence of state and nation is a historical process, a contingency and not a necessity. More often the nation comes into being as a myth that is invented and believed in. The more it is believed in, the more it becomes a reality in the minds of the true believers and the more it affects their action. But this is only part of the story. In its formative period in the 19<sup>th</sup> century the processes of state and nation building were accompanied by the transformation of agrarian into industrial society establishing a mutually supporting relationship between the nation state and a capitalistically organised and primarily national market (see Habermas 1985, Vol. 2, 466).

What is important to note is the coincidence of the processes of state and nation building on the one hand, the development of industrial society and market economy on the other hand, which resulted in a peculiar self-enforcing dynamic in all those areas of the Western hemisphere where these processes converged. In order to simplify a complicated relationship I give a rude sketch of the kind of relationship that accounts for that dynamic:

Industrial society is characterised by the mobilisation and equalisation of the people (Gellner 1988, 24–38). Society was transformed from a hierarchical stratified system of people with an ascribed and stable status into a class based system which is characterised by occupational change. Upward and downward social mobility of individuals, of workers, and of capital owners was the result of the “precariousness of bourgeois fortunes” (Adam Smith). The modern individual was born which has to take responsibility for its own advancement and whose position in society is attributed primarily to personal achievement – according to the liberal ideology that expressed this new way the person was perceived. In order to sustain the occupational mobility of the workers an educational system was established that provided the

people with basic skills and a common high culture which made them appear more equal than they had been in the first instance.

The people of “nationalised” society were incorporated into the capitalist mode of production by the institution of wage and the labour contract. These institutions were complemented by the capitalist firm, money as the generalised medium of exchange, and a set of rules that – at the minimum – guided the exchange relations between producers, consumers, and workers. In order to guarantee the rules of the game and to secure the distribution of income and goods the modern state enters the picture.

The modern state is endowed with the right to the legitimate use of violence and – as Gellner has pointed out – education in order to guarantee the functioning of the system. A rationally organised bureaucracy, positive law, and the courts are the means developed to define the rules that regulate the economy, that circumscribe the scope of freedom of action of the individual, and that resolve conflicts between private actors. The police and military organs are at its disposal to uphold public order within its territory and vis a vis the outside world, which is also composed of states. The modern state also took over the responsibility to provide and maintain the infrastructure that is required for the persistence and promotion of industrial society, market economy, and itself as a political authority. In order to secure its self-reproduction the modern state developed a symbiotic relationship with the market economy on the one hand, and with the people over whom it exercises authority on the other. The state collects taxes which are partly consumed by the state organs, which are partly used to finance the infrastructure, and which are partly used for the production of goods and services that are redistributed among the population.

The necessity to define the boundaries of the population that belongs to the state is the point where the concept of the nation comes in. The modern state is in close contact with its population and in a symbiotic relationship with it as well. The state taxes the individual in its role as employee or employer, it distributes goods and services, and it aspires the consent of its subjects for the smooth functioning of the whole system and particularly for the legitimisation of its authority. Nationhood became prominent not only because it was a means to delineate the ‘people’ but also because the concept of a nation was a successful means of drawing the boundaries of the political community the state relies on and it became a forceful means of legitimising the centralised, constitutionalised, and rationally organised modern polity. The state, on the other hand, broke up the strong ties that bounded the individual to its local community, the neighbourhood or the village entrenching it in a newly created high culture. And this was done in the name of “nationalism”.

*Generally speaking, nationalist ideology suffers from pervasive false consciousness. Its myths invert reality: it claims to defend folk culture while in fact it is forging a high culture; it claims to protect an old folk society while in fact helping to build up an anonymous mass society. (Pre-*

*nationalist Germany was made up of a multiplicity of genuine communities, many of them rural. Post-nationalist united Germany was mainly industrial and a mass society*) (Gellner 1988, 124).

Only if one keeps in mind the fundamental functions of nationalism and nationhood one can come to terms with the manifold expressions of nationalism and the variety of forms it takes. Nationalism is understood as the ideology that is employed to legitimise the claim to and to mobilise people to support either the creation of a new state, to redraw the territorial boundaries of existing states or to redraw the boundaries of the political community the state relies on. The ultimate aim is to secure political self-determination for the group called “nation”. If this is not possible, some less demanding solutions may also be considered like territorial autonomy or some privileged position as a group within a state.

Nationalism uses cultural signifiers to make plausible and intelligible the “imagined community” (Anderson 1983) the national activists claim to represent. The cultural signifiers used cover a wide range of collective characteristics like language, customs, history, the heritage of art, religion, descent or even race. These cultural signifiers seem to be self-evident as cultural expressions but are rather vague if they are employed to define the boundaries of a group.<sup>7</sup> Nationalism only entered the historical stage when cultural and ethnic markers became politicised. “... it is the articulation of the ‘national’ to political discourses and practices, the elevation of the nation to the status of a *political subject* that characterises nationalism” (Jenkins/Sofos 1996, 11–12). But it would be false to think of nations as pre-existing social entities. “It is nationalism which engenders nations, and not the other way round” (Gellner 1988, 55).

A “nation” can be defined as a cultural/ethnic collectivity which identifies itself with a territory. There are many ethnic groups which share a collective name, a common myth of descent, a shared history, and a distinctive culture, but only when such a collectivity claims a territory as its (ancestral or imagined) homeland it becomes a “nation” (Oommen 1997, 20). This definition avoids the mistake to call “nations” only those collectivities which are either “state-led” or “state-seeking” (Tilly 1994). There are quite a number of nations which do not aspire for sovereign statehood like Wales, Scotland, Catalonia, and most of the constituent nations of Indonesia, India, the Philippines, and many nations in Afrika which are separated by state borders inherited from colonial times. In contrast, “state-led” nationalism refers to a situation in which states had existed before nationalism became a dominant political movement and where the nation was formed around and by the institutions of the state. “State-led” nationalism resulted in the creation of “state nations”, which reflects primarily the experience in Western Europe (e.g. France and England), whereas “state-seeking” nationalism resulted in the creation of “nation states”, which is the dominant experience in Central and Eastern Europe (Armstrong

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<sup>7</sup> The arbitrariness of such interpretations is best exemplified by the Nazi definition of who should be regarded as a Jew.

1982). "State seeking" nationalism occurred primarily within multi-national empires (like the Prussian, Austrian, and the Russian empire), where national identities were forged prior to and as the basis of a political programme to obtain an independent state (Germany, Italy, Hungary, Poland, etc.).

Whatever the historical sequence of state and nation building the important point is that the creation of a political community where state and nation, political and cultural boundaries coincide became a forceful ideal in the second half of the 19<sup>th</sup> century and ever since. The attractiveness of this ideal dates back to the French Revolution, which on the one hand unequivocally equated nation, state, territory, and language, and on the other hand founded the new regime on the notion of popular sovereignty. The idealised model of England added the values of individualism and economic prosperity what made nationalism even more appealing to the emerging class of the "petit bourgeoisie" in various countries.

This peculiar combination contributed to the success of the "liberal" model of nationalism in the first half of the 19<sup>th</sup> century, which gave the impression that nationalism could be equated not only with national self-determination but also with emancipation and progress (Woolf 1996, 8–15). That this was not a necessary coincidence became evident after the defeat of the revolutions of 1848, and it was confirmed by the kind of antagonistic nationalism that developed in Europe after 1880 and finally led to World War I. But even the new states that were created after World War I did not stop the spiral of ethnic hatred. "Nationalism which, before the war, had often extended its social base by its incorporation of social demands (in Poland, Finland, Georgia, the Jewish Bund) became authoritarian and virulently patriotic, easily associated with fascism as, a century before, it had been associated with liberalism" (Woolf 1996, 25).

Since World War I the nation state has become the dominant model of state and nationhood in the Western world. After the consolidation of its external boundaries the nation state was consolidated internally by two developments: the establishment of democratic regimes and the welfare state. Although the connection between the nation state<sup>8</sup> and democracy as an ideal was established already by the American and French Revolution, it was not until after the Second World War that democratic nation states became the norm in Western Europe.<sup>9</sup> In Eastern Europe the nation states either persisted after World War II adopting a communist type of regime or were incorporated into the Soviet Union, which represented a peculiar form of a multi-national state (Brubaker 1996, 23–54). The welfare state was a product of social movements and worker emancipation stemming back into the second half of the 19<sup>th</sup> century but it was not widely institutionalised before 1945.

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<sup>8</sup> For reasons of simplicity I do not distinguish between "nation states" and "state nations" here.

<sup>9</sup> Liah Greenfeld (1992) argues that the interconnectedness of nationality and democracy first became visible in 16<sup>th</sup> century England. But England did not become a model for the nationalist movements on the continent because of the different political circumstances and constellations of that time.



Whether it was the confrontation of the two power blocks the European countries found themselves locked in or the experience of exploding chauvinism that led to World War II, the fact is that conflicts between nation states on the grounds of ethnic or national claims were largely absent from the Western European scene for decades. The political community of the nation state became amalgamated with the democratic regimes and the welfare systems that were established in the respective countries to such an extent that they cannot easily be distinguished. Political equality and social security became features of the nation states of Western Europe and the people began to unequivocally identify the nation state with the bundle of institutions, rights, and services that were (re-)produced and guaranteed within its borders.

To sum up the argument, I give a short account of the ingredients that make the nation state appear as the prototype of political community.

First, the existence of the state either as a longed-for polity or as the promoter of nationalism is essential. What brought “state” and “nation” together was their common reference to a territory. Since the peace of Westphalia (1648) control over a territory became the primary concern within the emerging system of sovereign states.

*Most notably, the states themselves became increasingly significant foci of identity for rulers and subjects alike. Social structures and individual rights became more strongly linked to the state in which they were situated, and the attention of rulers was directed away from their status in relation to quasi-feudal or imperial hierarchies and toward the development of territorial resources and the protection of state boundaries (Murphy 1996, 92).*

In the second half of the 18<sup>th</sup> century “territory was the *leitmotif* of European political affairs” (Murphy 1996, 94). Elaborate arguments were developed to justify claims to one another’s territorial possessions, and great efforts were taken to establish the precise territorial rights of rulers. The principle of territory became also more important within the states. The absolutist monarchs established strong centralised bureaucracies and standing armies and they encouraged the use of standardised languages thereby reducing differences within their territories and widening the differences between peoples living in separate states. The focus on territory and its demarcation thus paved the way for nationalism to take hold.

Second, the idea of the nation as an “imagined community of people” became important because it served diverse interests. It became a forceful ideology to justify either defensive or offensive territorial claims of states during the 19<sup>th</sup> and 20<sup>th</sup> century, it provided the representatives of the ruling elite with an ideology that justified centralised government, and it was used to justify claims of particular groups to participate in the exercise of power.

After the defeat of Napoleon, who had tried to establish a vast empire in Europe, the Congress of Vienna redrew the political map with a view to establishing a balance of power between

sovereign territorial states in Europe that primarily aimed at checking France's power and to reaffirm the historically ordained territorial order. The only major conflicts that emerged in the first half of the 19<sup>th</sup> century were signs of the emergence of national concerns: the independence of Greece in 1820 and the rejection of Dutch domination by Belgium in 1830 (see Murphy 1996, 96–97). The nationalistic movements gained momentum in the second half of the 19<sup>th</sup> century leading to the “unification” of Italy and Germany and reached its heights after World War I, when Woodrow Wilson's doctrine of “national self-determination” gave birth to a number of new nation states. But as further developments showed, the principle of “national self-determination” was not able to produce a stable system of territorially defined nation states.

Internally, nationalism to a growing extent provided a new source of political legitimacy. Particularly the French Revolution challenged the traditional foundations of political authority. Hereditary and God-given authority was replaced by doctrines of popular sovereignty, meaning that the exercise of public power had to be founded at least theoretically on the consent of the “people” (see Jenkins/Sofos 1996, 13–14). Membership in a people became associated and even identical with membership in a national community. Nationalism was used on the one hand by nationalist movements to promote a republican type of government as exemplified by the revolutionary activities of 1830 and 1848, and on the other hand it provided even autocratic political systems with a certain degree of legitimacy as long as it could convincingly present itself as acting on behalf of the will and in the interest of the “nation”.

Third, the nation state could not exclusively rely on nationalism to legitimate its authority and to integrate society. The socio-economic transformation of society gave rise to deep cleavages within each nation. The class dimension that became politically articulated in the second half of the 19<sup>th</sup> century cut across national society competing for the loyalty of the people. To simplify crudely one can say that in order to accommodate class conflict a combination of liberal democracy and welfare institutions provided for the incorporation of capital owners and workers alike into the same political community of the nation state (see Hirsch 1995, 36–44).

The political community of present day nation states in Western Europe is the product of several overlapping but distinct developments. The fusion of “states” and “nations” was the first step in the establishment of territorially defined nation states. The development of homogenised peoples and of a national identity was founded on the educational system but also on the “invention of traditions” which prospered in the second half of the 19<sup>th</sup> century (see Hobsbawm/Ranger 1996). The two world wars of the 20<sup>th</sup> century delegitimised any claims on foreign territory and locked the states into their borders. With a few exceptions and the interlude of World War II the borders in Europe became fixed and were taken as given. Making borders a political taboo the state territory became the unquestioned foundation of collective identification for the citizens who were born into them. But it was not only the territorial state that became the object of identification but also the set of institutions and organisations

ranging from political parties, public or private enterprises, to arts and sports that operated within it and after 1945 represented the political, economic, and cultural achievements of those states with which one could identify.

The political community of present day nation states cannot be deduced from nationalism and the conflicts that led to their establishment. The historical coincidence of the above-mentioned processes should not be taken as a proof of causal necessity. This is not to say that national identity is not important any more or that it does not pose problems for European integration. The point is that collective identity is permanently in flux, that it permanently is renegotiated and that the context in which the question of collective identity arises is extraordinarily important in order to determine how it is constructed and how a national political community could be articulated with a would-be European political community.

## 6.2 The conditions of community building in the EC/EU

If we want to evaluate the prospects of developing a political community of citizens in the EU, we have to ask to what extent the conditions are fulfilled that made the appearance of the nation state as the prototype of modern political community possible. Being clear about the preconditions and functional requirements of community building, it should be possible to assess the prospects for the development and the likely shape of a political community in Europe. Anthony Smith lists four criteria which he considers necessary for “nations” to emerge on the political scene:

1. *they require a unified legal code of common rights and duties, with citizenship rights where the nation is independent*
2. *they are based on a unified economy with a single division of labour, and mobility of goods and persons throughout the national territory*
3. *they need a fairly compact territory, preferably with ‘natural’ defensible frontiers, in a world of similar compact nations*
4. *they require a single ‘political culture’ and public, mass education and media system, to socialise future generations to be ‘citizens’ of the new nation (Smith 1991, 69).*

ad 1) The EU has made important steps to set up a common legal framework which is supranational in character but it is far from being unified. The EU is looking to preserve the peculiar character of national jurisdictions by using directives rather than decisions as legal instruments, by restraining from harmonisation where possible and by promoting the mutual recognition of regulations and standards. Directives are legal instruments that specify common goals and aims but leave broad room for the administrations to adapt the national laws with a

view to achieving the common goals. Mutual recognition of e.g. technical specifications or educational qualifications broadens the scope of their validity without unifying the respective legal provisions. Nevertheless, the legal systems of the Member States have entered into a dynamic development in which growing (economic) exchange processes, conflict resolution by the ECJ and an expanding scope of legal rules reinforce one another. The above mentioned “constitutionalisation” of EU law made the EU responsive to the demands of transnational society which might lead to the emergence of a “transnational rule-of-law polity” (see Sweet/Brunell 1998).

The development of common political and social rights and duties lags somewhat behind in so far as only some specific rights are enumerated in the Treaty. On the other hand the ECJ made extensive reference to the common traditions of the Member States in regard of human rights protection. Thus one can argue that the protection of human rights is widely guaranteed in the legal space covered by the EU (see Häberle 1997, 82–84). Even some sort of “Union citizenship” has been introduced the limitations of which have already been addressed.

The important point is that the EU has created a supranational legal order which has become the most important instrument of integration. It is the peculiar nature of law – namely to take on the form of “binding orders” (laws in the ordinary sense) and to create “rights and obligations” – which makes it particularly fit for such a task: on the one hand, it has the capacity to create new agencies (organisations etc.) and to direct social interaction, and on the other hand, it enables and sets limits for individual action. While the first feature of law is functional in regard of coordinating social interaction, the second feature empowers actors in different ways. Law can create and define the status or position of an actor in a formally designed structure (of an organisation or a market, for instance), it delineates the scope of free and unrestricted action, and it regulates the forms of interaction between the actors. In the case of European integration law has primarily been used to integrate the market and to equalise the legal status of the European “market citizens”.

It is also the legal sphere in which a “political community of citizens” will have to be founded. In contrast to the nation state the development of a European community of citizens cannot rely on equalising methods but on methods that allow for “equality in difference”. This means, that the community will have to be built upon – and will also have to respect – the multiplicity of legal traditions which exist in the nation states and that a large degree of variation even within the legal sphere will have to be accepted. On the individual level, a community of citizens will not consist of citizens who are alike in all respects. The equality in regard of political rights will have to be at the centre of community and will have to be balanced by equality in the right to be different – a principle which will have to be applied particularly in the cultural sphere.

Ad 2) The common market programme aimed at creating a unified economy and at guaranteeing the freedom of movement of all factors of production. Beyond the problem of

implementation of the rules that should establish the common market this is the point where the preconditions of community building will soon be fulfilled to a large extent. Whereas the mobility of capital, goods, and, to a lesser extent, services is realised, the mobility of persons poses particular problems. It is impeded not only by legal obstacles or economic incentives but by the lack of a tradition of mobility and by cultural differences (ranging from language to food and to life-style) between different countries. In addition, growing resistance of national societies against migrants impedes mobility as well – particularly when those migrants are perceived as competing unfairly in the labour market. This severely limits the capacity for the market being converted into a market society.

The important point here is that in the EU – in contrast to the development at state level – the development of a community of citizens is dependent on the establishment of a European society which will provide the opportunities to develop transnational communal ties between people from various national backgrounds. Therefore, it seems essential to promote and support an infrastructure that enables individuals to make use of their right of free movement and residence throughout the Union. In fact, reality lags behind market and polity integration that paved the way for establishing a unified economy.

Ad 3) The third condition is hardly fulfilled in the EU. It has a fairly compact territory, only Greece being separated from the rest. Furthermore, the territorial boundaries of the EU are not fixed since it is open for expansion. The frontiers are not in any way “natural” defensible nor is the EU confronted with similar political entities as itself in its neighbourhood. The EU is mainly a “civilian power” which cannot dispose of any significant and independent military capacity of its own. It is open whether it ever will – the possibility has been opened up by the provisions on a common defense in the Maastricht Treaty. As long as this is not the case, the EU lacks a forceful instrument to promote any strong sense of European patriotism. Some have therefore concluded that a European identity will not develop ever soon (see Zellentin 1993). An alternative reading would rather state that the lack of a “defense identity” will prohibit that a European identity will be founded on an exclusivist and rationalistic ideology, which made nationalism such a threat to peace in the international state system.

Ad 4) In the EU, there is no single “political culture” and public, no single mass education and media system, but there are several of them which are accessible for EU nationals. Although they do not form a unity, they are quite similar to one another, particularly in regard of basic principles and standards.

The political systems of the Member States are based on the same principles which have been incorporated in the Treaty of Amsterdam. They consist of the principles of liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law (new Art. 6 of TEU); and they are organised and operate in a fairly similar fashion (see Gabriel 1992). The

educational and media systems are different but comparable in their mission, structure, and overall disposition.

What is striking in this comparison is that the EU fulfils criteria 1 and 2 to a considerable extent and is striving to achieve them more fully.

Criteria 3 refers primarily to the external dimension of “nation building” which is associated with warfare and militant patriotism. The creation of an external enemy is said to have considerably influenced the formation of “national identities” (see Giddens 1985). It can be taken for granted that the EU in the foreseeable future will remain primarily a “civilian power”, given its low profile in regard of common defence and military structures. Though one has to add that the Maastricht Treaty established the perspective of “a common defence policy [...] which might lead to a common defence, should the European Council so decide” (new Art. 17 TEU). Starting from this premise, it seems unlikely that the EU will soon be able to rely on military sources and military mobilisation for fostering in the people some sort of an “identity” that would underpin sentiments of belonging to Europe and being a “European” in contrast to some non-European enemy.

The fourth criterion points to the very specificity of the EU, namely its being composed of quite similar units which nevertheless display a very strong sense of cultural individuality. The overarching political structure of the EU which has resulted from the process of polity integration sketched above is confronted with segmented but open and interconnected national publics, which are separated not primarily by institutional diversity but by language and cultural difference. Concerning cultural difference, the EU does not fulfil the precondition for the “nation building” exercise to take hold. On the contrary, it is cultural diversity in the form of “national identity” which the EU is obliged to respect. The Amsterdam Treaty made this point explicit by introducing a new Art. 6, which reads: “The Union shall respect the national identities of its Member States” (TEU). The last point makes clear that any attempt to create a political community in Europe will have to come to terms with the fact of national cultural diversity.

The discussion of the conditions that moulded the modern political community into the form of the nation state was not intended either to suggest that the European Union should or cannot undergo a similar development. Instead, it was intended to point to the similarities and differences in the initial situations of community building which should inform any attempt to reflect on the emergence of a political community in Europe.

## 7. Building blocks for a political community of European citizens

The strength of the political community of the nation state lies in its capacity to serve as the roof for a community of culture which consists of a common language, a common history, symbols and meanings that guarantee not only the free flow of communication and association among its people but also a sense of belonging; and for a community of citizens which consists of nationals who enjoy privileged access to a bundle of civil, political, and social rights. The political community is supported by the institutions of democracy and the welfare state, which sustain the claim that the citizens are perceived as equals: democracy sustains the claim of political equality despite the fact of unequal power of individuals and various groups in society, and the welfare state sustains the claim of a minimum standard of economic equality in the face of a very unequal distribution of wealth in a market society. It is the combination of these cultural, political, and social factors that produce the often referred to solidarity and trust that is said to characterise the political community of the nation state.

A community of citizens will only emerge in the framework of the EU when it succeeds in addressing the above mentioned cultural, political, and social concerns connected with community building. The argument I will develop is that the problems the EU faces in regard of community building are the same as they are at nation state level but the solutions have to be different. The difference is that for a European community of citizens to be realised the EU cannot rely exclusively on a “politics of identity” but has to complement it by a “politics of difference”. Or to put it another way: for the aim of making European nationals into members of a group who participate on equal terms in its political self-determination and societal reproduction differentiated methods have to be applied depending on whether more equality or the recognition of difference contributes to equity among the partners. This will require a reconfiguration and redefinition of the elements at the level of the EU which contribute to the integration and coherence of the political communities the nation state represents.

### 7.1 The cultural dimension

Nation states became largely integrated and successfully stabilised by means of cultural homogenisation. This is a path the EU cannot and need not go. There are several reasons for this: First, the development of a common (high) culture was a functional requirement for industrial society to prosper particularly in regard of spreading basic – and nowadays also highly specialised – skills. In the EU, the Member States already provide a broad range of educational opportunities so that there is no need for a European wide and unified educational system to be established. Second, the cultural plurality and variety of Europe is seen as one of its main advantages that should be preserved, and third, the members of the nation states in general are solidly culturally and emotionally embedded in their nation states.

Public opinion polls conducted from 1981 on show widespread support for European integration in general, but a decline in support in the 90ies. In 1997 support levels were back to the levels of the beginning of the 80ies.

*Until 1991 support for the Union had risen steadily – except for a small blip in 1988 – and by then stood at 72%. Then support began to drop. It began in Germany following the reunification of the East and the West. Following the difficult ratification process of the Maastricht Treaty, the downward trend spread to other countries. The expansion in 1995 added more weight to the decline as the public in the three new countries turned out to be relatively sceptical of the European Union. By the time the effects on public opinion of the BSE crisis were measurable in the spring of 1997 support had dropped to a low of 46%. The latest results of 49% show an increase in public support for the European Union for the first time in many years.*

*Country by country analyses show that in the Autumn of 1997 support levels have increased in 12 of the 15 Member States, the most notable rise being in Italy (+7). In Luxembourg, on the other hand, support levels have dropped by 6 percentage points to 71%. (...) As a result of this drop, Luxembourg has fallen from second to third position in the ranking of support levels. The Netherlands (76%) now come second while levels of support continue to be highest in Ireland (83%).*

*Support for EU membership is lowest in Sweden and Austria (both 31%) (see European Commission 1998, 19).*

The variations suggest that the orientations are dependent on the general public mood, the kind of political projects that are on the agenda, and on the degree these projects have become politicised. Public opinion should therefore not be taken as the independent variable in determining what might be a political option in the future but as one factor which is susceptible to change and in close interaction with the general course of politics. This is also exemplified by the decline of support for enlargement of the EU and extended military co-operation which was strong throughout the 80ies but diminished on the eve of the opening of negotiations leading to Eastern enlargement. The last Eurobarometer survey conducted in October/November 1997 showed that on average only 24% of the population agreed that welcoming new member countries should be a priority of the EU whereas 61% said it should not (see Eurobarometer 48 1998, 43).

On the other hand, there is a growing sense of trust among members of the EU. Yet, there is no general trend of a growing sense of European identity while temporary fluctuations prevail (see Niedermayer/Sinnott 1995). This is not to say that there is no room for change and for a new layer of European identity to be added to the existing national identities. Given the fact that a certain number of people already perceive of themselves as being European although



this identification is less strong than identification with the nation state and taking into account the volatility of public opinion there is ample space for speculating about how the basis for a political community in the EU could be broadened.

The alternative is not to refrain from any interference in cultural matters as was the policy of the EU until the mid-80ies. In order to stabilise a multi-national European political community two conditions have to be fulfilled: First, the citizens have to be aware of what they have in common across national borders, and secondly, they have to develop a sense of and an understanding for the cultural variety that exists in Europe and of how to protect it.

The first condition falls under the “politics of identity” and is primarily an educational task. It aims at adding a “European dimension” to the standard syllabi of schools, universities, and other training programmes. The would-be European citizens should have some knowledge about the history and life of one another, they should be informed about the policies of the EU and the working of its institutions, and they should be able to communicate in different languages. This is not only a precondition for political community but also for the less ambitious aims of economic integration as has been demonstrated by the difficulties to enhance the mobility of people in the common market.

The second condition falls under the “politics of difference” and aims not only at the protection of the national cultures as represented by the nation states but of cultural diversity throughout the Community. The nation states and the EU are faced with several potentially destabilising developments. On the one hand, in realising the common market the national societies become part of a European market society in which they themselves form cultural minorities. Although the nation states seem strong enough to preserve their national cultures within their borders, it is less likely that they will be able to do so when economic integration proceeds and mobility of people increases. The influx of foreigners and higher levels of immigration may also have a disruptive potential. Furthermore, there are quite a number of national minorities in the Member States and in the potential new Member States that have applied to join the EU. Tensions between members of majority and minority cultures are already on the rise. This may lead to an increase in xenophobia, aggressive behaviour and the rise of nationalism – even in the existing member countries. On the other hand, the incoming people may be deprived of their capacities to sustain communal ties among the members of the same ethnic or national group and to preserve their cultural identities living in a foreign country.

In becoming a protector of cultural diversity the EU could acquire a new strand of legitimacy. The protection of primarily national and ethnic cultural diversity would have two sides: one side would be directed at taming nationalism and the other side at promoting cultural pluralism. This could be achieved by explicitly acknowledging cultural rights of communities at the EU level and perhaps by developing certain policies that help to sustain the respective cultural identity. “Ethnic citizens can be remarkably loyal to a state that protects and fosters private communal

life, if that is seen to be equitably done" (Walzer 1995, 153). To delegate these competencies to the EU may be hard to achieve because the historical experience of the nation states runs counter to this proposal.

*The national state as such has a bleak history with respect to cultural rights of communities other than the dominating nation, but hopefully it is now so firmly settled that it can approach the issue of cultural rights in a liberal fashion. If it does so constructively it may find that the introduction of such rights at the European level will legitimize the project of European Union in the eyes of the citizens, making it possible for the national state to become less sovereign and for the national economy to become less self-sufficient, as History requires (Holm 1994, 34).*

The recognition of cultural rights at the European level would recognise the transformation of territorially confined nation states into an open space without frontiers. It would be one building block of a plural European political community that complements the European-wide market society that has resulted from the previous steps of market and polity integration.

It is hardly conceivable to found the imagery of a political community on the antagonistic history of warfare among the European nations. Therefore, it might prove better to reveal the collective identities of the many subnational and transnational minorities linking them to a shared European future in which even the nation states will find themselves in a minority position as regards culture. Such a pluralistic conception of a European political community would better fit the political projects of enlargement and economic and monetary union than a conception of Europe which is meant to stay neutral in terms of culture. No state can stay neutral in regard of culture as the experience of the nation states demonstrates. The best any political community in regard of culture can achieve is impartiality. Ignoring this lesson could prove costly and even damaging in the face of the desire of the Member States "to deepen the solidarity between their peoples while respecting their history, their culture and their traditions" (Preamble of the Amsterdam Treaty).

## **7.1 The political dimension**

The EU has to develop functional equivalents in two respects should it acquire legitimacy as a political community in the eyes of the citizens and thus contribute to the development of loyalty and a sense of belonging in the long run: it has to reconstruct democratic politics at the EU level and it has to increase its political performance.

### **7.1.1 Reinventing democracy**

Democracy could play an important role in contributing to the integration of a political community at the EU level. The integration of a plural polity like the European Union cannot

rely on “thick” cultural bonds as has been argued above. Instead, it has to give precedence to particularly designed democratic structures and procedures for holding the polity together. These structures have to be adapted to the reality of a multi-national and multi-cultural polity. Several reasons point to the particular fitness of democracy for such a task.

First, the EU consists of Member States which are themselves democracies. Democracy is part of the common political culture in Europe and may therefore also help to legitimise the European Union when it conforms to democratic standards. This presupposes that the EU engages in an effort to present itself as a polity that takes democracy seriously. Until now, the EU avoids to speak of itself as a community that is committed to democratic principles and which is ready to apply them to its own operation.

Second, the liberal understanding of democracy holds that all those subjected to government should also have a right to participate in its determination and control. Or to put it the other way round, the basic characteristic of democracy is “the responsiveness of the government to the preferences of its citizens, considered as political equals” (Dahl 1971, 1). The main advantage of such an understanding of democracy is that it relates individuals as citizens, not as collectivities to the institutions of government. In this respect it builds upon a fundamental aspect of the common market, which is individual mobility. If a certain number of nationals would as an effect of mobility reside in another Member States they, should have the possibility to participate on equal terms in the political process with their fellow citizens.

Third, the mechanisms of democracy are particularly fit to deal with conflict. Democracy is based on competitive elections of representatives who are engaged in an interplay of public contestation, government, opposition, and deliberation (see Gutmann/Thompson 1996). Consociational forms of democracy have been developed to bridge deep religious, ethnic or cultural cleavages in society. Those democracies are characterised by forms of consensus government meaning that all relevant subgroups are represented in government and unanimity and bargaining is preferred to majority decisions in all those cases in which vital interests of the respective collectivities are at stake (see Lijphart 1984). These mechanisms were developed in order to manage group conflicts and to adapt the principle of political equality to the existential need to preserve one’s collective identity.

Democratising the EU cannot be reduced to enlarging the role of the European Parliament but comprises a whole range of adjustments that have to be built upon the particular set-up of the European Union. I will sketch only some of the questions that have to be answered if the transformation of the European polity into a political community of citizens shall succeed.<sup>10</sup>

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<sup>10</sup> Answering the posed questions would require a lengthy elaboration which is outside the scope of the present paper.

Let's first discuss some basic features which a democratic design will have to take into account.

Any attempt to democratise the EU has to face cultural variety and the multiplicity of identities of its population. This implies that only a multi-national and multi-cultural design of the European polity is conceivable. The possibility of establishing and maintaining a multi-national and multi-cultural democratic polity is premised at least on three conditions (see Dahl 1971, 115–121) which the EU also will have to meet: 1. No ethnic, religious, or regional subculture should generally be blocked from participating in government. 2. A set of understandings and engagements should provide a high degree of security to the various sub-cultures. 3. People of the countries must believe that democracy is effective in responding to demands for coping with the major problems of the country.

In the EU requirement 1 is largely fulfilled by the participation of delegates of the nation states in the Council and in the Commission. A second element is the Committee of the Regions where representatives of various kinds of local, municipal, and regional government or administrations meet. The composition reflects only to a very limited degree ethnic or regional subcultures in Europe. The heterogeneity of its members and the lack of decisive influence at EU level renders them relatively unimportant so that it cannot contribute to fulfilling requirement 1. The main object, requirement 1 refers to, are the existing nation states which may be perceived as permanent cultural minorities seen from a European perspective. In institutional terms this would imply that a democratic European polity would have to adopt a federal framework. The European polity would therefore have to consist of two political bodies: the body politic of all European citizens and the body politic of all European states. Both have to be politically represented at the EU level in a two-chamber-like system. Such a model is compatible with the central democratic principle of autonomy in contrast to heteronomy (see Midgaard 1997, 199–200). This is important because democratic self-determination is justified by the promotion of autonomy, both for individuals as citizens and for the collectivity (see Held 1995, 146).

Requirement 2 is fulfilled in the EU in regard of the national cultures but not for other subnational groups, particularly national minorities. Therefore enhancements of cultural rights at EU level were proposed above. Requirement 3 will be addressed in the chapter on "Enhancing problem-solving capacities" below.

While the reconstruction of the institutional structure and decision-making mechanisms may contribute quite a lot to the democratisation of the EU, they are not the most important issues in developing a democratic political community.<sup>11</sup> A political community comes alive through its

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<sup>11</sup> For a discussion of the many proposals to alter the design of the institutions and to change the governing structures in order to make the EU more democratic see Falkner/Nentwich 1995; Weidenfeld 1995 und 1991.

activities and political communication. A democratic community invokes itself in the processes of public debate and public deliberation. A public debate about which policies should be pursued in the European Union, how the performance of the political representatives and institutions is evaluated and for what problems a common solution should be sought at the European level would involve the minds of the people, would make the common tasks and challenges present and would strengthen the allegiance of the people to the political community of the EU.

Such a development is dependent on improvements in three interrelated dimensions: accountability, transparency, and visibility. Accountability refers to the possibility to question and sanction the behaviour of the rulers and political representatives by the citizens. Potential candidates to fulfil those roles in the realm of the EU are the Members of the Commission, the Council, and the EP. The Members of the EP are directly elected and could therefore in principle be held accountable at the next election. The Members of the Council can only be held accountable indirectly and only in some instances by their respective national parliaments. The Members of the Commission are completely independent and cannot be sanctioned for what they do except for severe misbehaviour but not on political grounds. Institutionalising impeachment procedures for the EP and granting the EP the right to assent to each individual nomination of a Commissioner would establish at least an indirect link between the central authorities and the citizens. But even if it would be difficult to directly sanction the behaviour of the rulers and EU politicians, the citizens should be able to evaluate and influence their decisions via public scrutiny and discussion.

Here the second condition of transparency comes in. Only when it is known what decisions were taken, on what grounds and who took which position it would be possible to criticise or applaud it. The Commission presents its working programme, publishes green and white papers and has made progress in making documents available to the public. The EP is also fairly open in its information policy but the Council and the individual national Ministries whose delegates meet in Brussels are quite intransparent in their workings. Further improvements are required which would make the policy making process that leads to decisions at the European level more accessible for the public.

Only when the institutions and the processes are more transparent they could become more visible. The degree of visibility of Union politics is dependent on “making visible” and on “being noticed”. Making EU policies more visible is a duty assigned to the institutions and the political actors involved whereas noticing what is going on is a duty assigned to the media and the citizens who have to receive and recognise the necessary information. Only if people (including parties, interest groups, social movements) are able and encouraged to engage in discussing EU policies, democracy would come alive in the European Union and would stimulate the sense of loyalty and belonging that characterises a political community.

### 7.2.2 Integrating the citizenry

An integrated citizenry is the very foundation of a democratic political community. An integrated citizenry consists of persons who enjoy the same rights and opportunities for participation in the community and who are treated as equals. Only when they are treated as equals they will recognise and respect each other as equal.

The very first condition is to implement the already given rights of Union citizenship. The freedom of movement for persons figures prominently among them. Only when people from Member countries can freely settle where they want throughout the territory of the Union, when they are free to enter the educational system of their choice, to take up a job and to reside as long as they want they will become aware of the enhanced opportunities Union citizenship delivers.

The same holds true for the political dimension. The political rights granted by Union citizenship fall short of the requirement of equality a political community presupposes. While the right to vote in and stand for local and European elections is granted national elections are exempted. Extending the latter right to all members of the Member States after a certain period of residence in the host-country would make the EU citizens more equal in political terms. Furthermore, the exercise of political freedom is based on additional rights like the freedom of association or the freedom of speech, which is not granted to all Member State residents in some EU-countries. Either the harmonisation of these rights or adding them to the rights of Union citizenship would improve the situation considerably.

The development of a unified legal status of EU citizens will have to encompass primarily the economic and political sphere as indicated. Their implementation would create nearly no costs for the Member States. This is not the case if social rights would be included in the common legal status guaranteed to all EU-citizens. The effectiveness of social rights to a large degree depends on the capability of the state institutions to provide social services or to pay for them. The level of social protection varies from one country to another in accordance with economic performance and wealth – at least in Europe (see Scharpf 1997c, Fig. 2). Granting equal social rights to all European citizens would either be useless since neither the EU nor the poorer countries in Europe could afford their implementation or it would be unacceptable for the poorer countries because the relative competitive position of their economy would deteriorate. The only possible solution in this situation would be the establishment of common standards at a low level given that the richer countries would compensate the poorer ones for the increase of competition they would have to face (see Scharpf 1996, 120–121).

Besides the problems of agreeing on and implementing individual social rights at European level, a cautious approach to social rights protection at the European level would help to integrate the citizenry in Europe. This conviction was the basis for an initiative of the European

Commission to promote a Europe-wide discussion about the introduction of fundamental political and social rights in the EU. In the final report it was stated that the incorporation of a “Bill of Rights” into the founding treaties of the European Union would mobilise the civil societies of the Member countries and it would help the Europeans to recognise their being part of a community of citizens of Europe (see European Commission 1996, 7). However, granting social rights at European level does not preclude the question how the responsibilities and competencies concerning the provision of social security may be divided between the Member States and the European level. This question has to be decided according to the principle of subsidiarity taking account of the level of economic performance of the respective countries and aiming at a European-wide minimal level of social security.

### **7.2.3 Enhancing problem-solving capabilities and political responsiveness**

Every political community legitimates itself by realising common interests. Political institutions are established to channel demands and political inputs into the policy making process. In democratic regimes the political institutions are evaluated against the standard of equal representation and equal responsiveness to political demands. Political decisions that are produced according to the agreed (democratic) procedures are considered to represent some sort of a “common will” and are perceived as legitimate as long as the belief in the fairness of the political process is upheld. At the same time the outcome of the political process – political decisions and policies – is evaluated by the citizens and the public according to their expectations.

The legitimacy of the EU has until recently rested primarily on output-oriented criteria like economic performance. The European institutions used their powers to proceed along the lines of “negative integration”. The Commission and the ECJ used their competencies to abolish any obstacles to free trade and unrestricted competition. As long as those measures contributed to accelerated economic growth and did not affect core infrastructural institutions of the nation states, they were positively assessed by the national audiences. The situation became more difficult when the EC began to apply the same standards of free trade and competition to public monopolies or publicly-financed sectors of the economy like telecommunication, air traffic, transportation or energy supply. Those areas were considered in some states as belonging to the core tasks of the modern state. Conflicts over the competencies of the EU to interfere in those areas could easily lead to a withdrawal of support of the Member States. This potential of conflict has given rise to a reassessment by the EU and the ECJ of the relative importance of liberalisation, deregulation and privatisation on the one hand, and other values like the provision of public services on the other hand. “As a matter of fact, Amsterdam has taken some very explicit steps in that direction, and there have also been Council directives and decisions of the European Court of Justice which have had the effect of limiting the reach of negative integration in order to protect national solutions that could otherwise be challenged as violating the

prohibition of non-tariff barriers to trade, as interfering with the free movement of services, or as competition-distorting state aids or regulations” (Scharpf 1997c).

This shift in policy orientation can be taken as a signal that the EU has reached a point where it can no longer rely only on the doctrine of liberalisation and deregulation because this is going to undermine state functions that are considered essential for the well-being of nation state citizens. The neo-liberal tendency to a growing degree runs counter to what the founding parties had in mind when they laid down the principles of free trade and free movement of the factors of production in the constitutive treaties. That this could happen anyway is due to the legal and institutional dynamics of the EU system which privileges the supranational institutions in the implementation of Treaty provisions but makes it very difficult to reach agreement in all those areas which are directed at the positive co-ordination of policies under the condition of unanimity (see Scharpf 1994,11–44).

There is a growing awareness among politicians and the public alike that unleashing competition cannot be the cure for the problems the European nation states are facing. More positive responses and measures are needed that would help to control the dynamics of regulatory competition among the Member States which may otherwise undermine the welfare state and the social and ecological standards which were established at the national level and which are widely considered as contributing substantially to the quality of live in the European countries. Particularly from the perspective of the individual citizen the EU will only keep its output-legitimacy when it succeeds in contributing to the upholding and improvement of the standard of living in the individual countries to a considerable extent. Unlike in its early years this cannot be done by limiting itself to the task of market integration alone.

The challenge the EU is faced with consists in developing policies that meet at least three requirements: they should have the capacity to satisfy at least some of the aspirations of all member countries in a pareto-superior manner meaning that nobody should be worse off after the introduction of the respective policy, they should be compatible with the existing distribution of preferences particularly between poorer and richer Member States, and they should respect the institutional variety and different traditions of the Member States. Fulfilling these requirements would secure that the policies adopted would not be perceived as harming the level of national welfare and would not shift the relative competitive position of different countries to the disadvantage of any of them.

Such policies could be promoted at the European level by introducing values and principles that would counter-balance the economic bias and the supremacy of the goal of free trade and unrestricted and unconditional competition, which are inherent in the political arrangements of the EC/EU. The Amsterdam Treaty marks a further step in that direction by making explicit references to the goals of promoting “economic and social progress for their peoples, taking into account the principle of sustainable development within the context of the accomplishment



of the internal market and of reinforced cohesion and environmental protection, and to implement policies ensuring that advances in economic integration are accompanied by parallel progress in other fields”; “by establishing an area of freedom, security and justice” (Preamble of the TEU); and by promoting “a high level of employment and to achieve balanced and sustainable development, in particular through the creation of an area without internal frontiers, through the strengthening of economic and social cohesion and through the establishment of economic and monetary union” (new Art. 2 TEU).

It should be clear that both the Member States and the EC/EU are limited in their capacity to act and to protect the interests of their citizens. The development of a community of European citizens is therefore directly related to the ability to establish a mutually supportive relationship between the national and the European level in those areas which are of vital importance for the citizens. The focus of attention would then shift from the question of the distribution of competencies between the national and the European level to the question of how such policies would have to be designed in order to fulfil the tasks of enhancing the degree of freedom for national governments to act and of increasing the capacity of the EC/EU to compensate the negative effects of market integration and to support the adaptation of the national economic, political and social systems to the new global environment.

Policy areas in which European solutions have to be developed because national solutions are blocked or impeded by market integration and the economic pressures of regulatory competition include environmental protection, industrial relations, social policy, taxation of mobile factors of production and internal security. European solutions for the time being will not consist of universal and homogenised but differentiated minimal standards and of various means of policy co-ordination, common frameworks, objectives, and learning mechanisms that should promote a step-by-step convergence of the different national institutional systems that might in the long run pave the way for more integrated European policies to be realised. The contours of such policies are already discernible but cannot be discussed in this paper (see Scharpf 1997; 1997c; 1996).

A political community of European citizens can only be sustained to the extent that the community is perceived as legitimate. The legitimacy of the EC/EU rests to a large degree on output performance, which can be interpreted as “government for the people” in contrast to the notion of “government of and by the people” – according to the classical formulation of Abraham Lincoln. Output legitimacy is produced primarily by the policies and regulations of the EC/EU which have to be designed such as to detect and promote the common interests of the citizens. Besides policy areas like those listed above which are grounded in the functional requirement of counter-acting regulatory competition other, more positive forms of European policy making may develop which address vital concerns of the citizens. Among those policy areas fighting unemployment, poverty and social exclusion, organized crime, drug trafficking, securing peace and security, and protecting the environment rank highest among the European

population (see Eurobarometer 1998). Advances in those policy fields may compensate for the loss of the traditional form of output legitimacy the European integration process has relied on like high economic growth.

Only to the extent that the EC/EU succeeds in identifying and responding to those concerns the European citizens will develop a sense of loyalty and belonging. This sense of loyalty will have to be based more on an informed understanding of mutual dependence and enlightened self-interest than on emotional attachment which seems to characterise the bonds between members of national political communities.

Nevertheless, a rationally motivated sense of loyalty is likely to form the basis for a European political community of citizens to come into being. While at first sight this might prove the weakness of any conception of identity and solidarity among European citizens across national borders, one should not overlook that any sense of belonging to a community of people is not the result of inherent features or “natural” bonds among the members of a group but of the experience of living, working, and acting together to the advantage of all. Political action and political design can only create the conditions under which people can make those kinds of experiences. It is time which then probably transforms those experiences into feelings of allegiance and commitment to the group while the sources of those feelings might easily be forgotten. For the time being such a “thin” collective identity based on rational expectations of mutual benefit, respect, and equality is the only available basis a political community of European citizens could be founded on.

## 8. Conclusion

The modern nation states which developed in the Western hemisphere since the end of the 18<sup>th</sup> century are prototypical examples of what we have called “communities of citizens”. Their historical success in organising large-scale societies is due to their peculiar combination of political, cultural, economic, and social elements: the state, the national culture, the national economy, and the welfare system. The close relationship between state and nation is the result of the struggle for power within and between states. The French Revolution is the best example for how nationalism as a political ideology was applied to transform a feudal society and an absolutist political regime into a modern democratised state. The government of the modern state is based on the principle of popular sovereignty. The “nation” became the symbol for the collectivity which represented the new sovereign and the citizen became its constitutive element. National movements in the revolutionary first half of the 19<sup>th</sup> century aimed at the liberalisation of the “bourgeois” as an economic agent as well as at his empowerment as a political subject. Where they were successful, the state became constitutionalised limiting his power *vis a vis* the individual and elements of republican government were introduced giving rise to claims for more integrative forms of democracy later on.

In a complementary move the state began to identify itself with the “nation”. In order to enhance its power it began to systematically educate its subjects making them fit for the requirements of industrial production, modern warfare, and political mobilisation. Referring to the “nation” as a group of people sharing the same cultural background (however defined) since then became an effective means of justifying territorial claims by existing states and claims to form new states. In fact, the modern nation states are mostly products of warfare, ethnic cleansing, resettlement, and forced migration. The creation of several new states after the First World War and after the collapse of the Soviet Union under the doctrine of “national self-determination” proves that point. Nevertheless, its borders seldom correlate with the borders of the “nation” giving rise to the conflict-prone problem of “national minorities” which are nationals of the respective state but insist on being different and on their right to be supported in their cultural and communal reproduction.

But even the cultural commonalities of the core community of the established nation states did not suffice to integrate the “nationalised” population. Class conflicts and conflicts over the exercise of political power surfaced and led to the democratisation of the political regimes within the states and to the development of welfare systems which were designed to give substance to the claim of equality of the members of the nation. Cultural equality had to be complemented by (relative) political and socio-economic equality. Nowadays it is the specific combination of all these elements that contributes to the identification of the citizens with their nation states. It is the mixture of affective and material factors that account for the loyalty and allegiance of the citizens to their countries and for the trust and solidarity among its citizens. Trust and solidarity are not givens that grow out of the national community but are resultants of the operation and performance of the nation state.

The nation state has undergone profound transformations in the 20<sup>th</sup> century. While the ideal-typical nation state is conceived as the territorial expression of a nationalised culture, a nationalised citizenry, a nationalised polity, and a nationalised economy, real world nation states display a growing mismatch. National cultures have become much more diverse and heterogeneous by the influence of transnational industrialised mass culture (consumer culture; mass media) and processes of cultural differentiation (see Matjan 1998). The national citizenry has become less unified by increasing individualism, differentiated life-styles, increasing socio-economic inequality, and growing numbers of foreigners living on the national territory.

The state is not only an association of people called “nationals” but also an institution which controls a particular territory. Every person who is present on the state-controlled territory is subject to its jurisdiction and administrative orders. In the 90ies between 3,5% (GB) and 18,1% (Swiss) of the people residing in a European country were foreigners (see Cinar et. al. 1996, 262). Those foreigners enjoy differential civil, economic, and social rights which are also protected by the state and can be enforced by the individual. What really distinguishes nationals from foreigners are political rights – the right to vote and stand for elections, the

possibilities for political association and activity. Since the democratisation of the modern state it is the community of citizens who are eligible to participate in the processes of political self-determination which constitutes the core collectivity the nation state refers to. Nation states can therefore be considered primarily as political communities which make use of certain markers to delineate its populace and to address itself as a collectivity. Given the legacy of nation building it may come as a surprise that the requirements for the naturalisation of foreigners vary substantially between so-called nation states. In general they do not rely on ethnic characteristics and only in certain countries on cultural assimilation into the national society (like in Germany, Switzerland and Austria, but also in France). At the centre of immigration regimes are requirements such as the duration of residence or participation in the national educational system for second generation foreigners (see Cinar et. al. 1996, 275–313).

Furthermore, the national polity has become less cohesive by loosened party-identification, political disenchantment, and the reduced capacity of the state to control decisive social and economic parameters. And last but not least, the national economy has become much more open and dependent on developments in globalised markets (see Held 1995, 121–140). Those are the main transformations of the nation state which have also transformed the meaning and conditions for community building on the terrain and in the framework of the EC/EU.

European integration was and still is primarily a process of market and polity integration as was demonstrated above. Unlike the integration of the nation state, European integration is a voluntary process in which developed nation states participate under the premise of democracy, market economy, and developed educational and cultural systems and with the objective of increasing economic growth and overall welfare. The different starting point and the different conditions of European in contrast to nation state integration explain why European integration has taken a different course, relies on different means and instruments, and is confronted with different obstacles although it is faced with homologue problems. While the nation state took the route from local community to national society to national political community, European integration is on a route from national political community to European market society and may become a European political community.

The nation state developed a national political community by making the territorial reach of culture, politics, economics, and society congruent within its borders. Such coincidence was functional in regard of the transformation of agrarian into industrial society, of the feudal into a market economy and of the absolutist into the modern state, which was eager to mobilise its citizenry for the purpose of warfare and the accumulation of power. European integration does not intend and does not need to achieve the same kind of congruence. The functional requirements of market and polity integration do not imply to build up homogenous and unified cultural and educational systems, nor do they imply the replication of centralised state power at the European level, nor the establishment of a unified administrative structure in Europe, and

the national economies have become less controllable even by a would-be European government, and central elements like capital markets have even become global.

Whatever were the motives of the political actors who set in motion and still pursue European integration, market and polity integration itself had one peculiar effect which, on the one hand, broadens the possibility space for integration: borders have become less important within Europe both economically (common market) and politically (war excluded, territorial and societal borders do not coincide any more). Even the capacity of the state to sustain national culture within its border is decreasing by the spread of transnational consumer culture, transnational mass media, post-material values, and internal cultural differentiation. This is not to say that national identity will vanish or that it will be superseded by a European identity. It means that national identity has become less “dense” and “uniform” even within a given nation state, that national identity has become less exclusive and inside-oriented, and that even in the field of culture some form of European co-ordination and action is needed in order to protect the integrity of national identities in Europe against spill-over effects from the common market.

On the other hand, functional requirements have shifted. They consist of how to regain capacities to act both at the nation state and at the European level to protect and perhaps improve the standard of living, the quality of life, and the liberal and democratic standards of legitimacy that provide for the acceptance and acceptability of the structures and measures which will have to be developed for those purposes. Those requirements are less demanding than those which led to the rise of the nation state and their fulfilment is made easier by the given structures of the nation states. This broadens the scope for choice concerning the areas, purposes, means and instruments for integration and co-operation at the European level.

Such a conclusion might seem counter-intuitive since resistance against further moves of integration has increased and public criticism of the workings of the European institutions spread. This apparent paradox can easily be resolved by taking into account that European integration has become politicised in the 90ies particularly because of important transfers of sovereignty to the EC/EU (emu), because contested projects like Eastern enlargement were put on the agenda, and because unfavourable economic developments occurred that were partly related to economic integration (convergence programmes, stability pact, high unemployment etc.). With the realisation of the common market programme the image of the EU deteriorated because it was perceived as a centre from which decisions emerge which do not necessarily please all audiences. It also became obvious that the full potential of the common market would only be realised if not only legal obstacles but also cultural (attitudes, information, languages) and bureaucratic obstacles would be addressed as a matter of common concern.

What the dispute about the Maastricht Treaty and the subsequent transfer of sovereignty to the EC/EU level demonstrated was that governments could not automatically expect their peoples

to follow their lead. It does not mean that European integration as such should not proceed. As a reaction to the public discussions about the project of monetary union and the growing role of the EC/EU in many policy areas some governments and the EC took the position that deepening integration would also imply to involve the citizens more directly. This was the point when discourses on “bringing the EU closer to the citizens”, on tackling the “democratic deficit”, and on taking the concerns of the citizens (like employment, security, etc.) more seriously emerged. The aim of these discourses clearly was to win the approval of the citizens and to legitimise the strengthened authority of the EU.

The main aim of the paper was to substantiate the view that European integration will only become sustainable in the long run, will be backed by the active approval of the citizens, and gain its own strand of legitimacy when the problem of developing a political community of European citizens will be directly addressed. Contrasting the historical development of the West-European nation states with the conditions in the EC/EU, we came to the conclusion that a community of European citizens cannot and need not be based on a programme of “nation building” or cultural homogenisation which was the main strategy to create a community of citizens at the nation state level. Instead, a political community of European citizens has to be based on cultural diversity and the integrative mechanisms of political systems in general. Several strategies were identified that could contribute to such a development and which should be explored in greater detail :

- balancing a “politics of identity” with a “politics of difference” in the cultural sphere,
- reconstructing democracy in the framework of the EU,
- promoting a politics of equality regarding individual rights,
- enhancing the political capacity to act both at the national as well as at the European level, and
- addressing the common concerns of the European citizens within the policies of the EU.

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