An uncertain ontological as well as (in the case of identity) epistemological status characterises the issues of the present chapter. The European Constitution exists as an international treaty, which may or may not come to be ratified. Indeed, considering the time of its writing and the diverse political orientations of its authors, we may even expect that the constitutional process will be disrupted and that the EU will emerge from this crisis in a very different shape than now, perhaps even split into two concentric circles: a narrow polity of a few countries with a Constitution and a larger Common Market without political frills, least of all political identity and legitimacy. The Constitution therefore lingers between the bounds of existence and non-existence – a circumstance of little relevance only to those who fail to see the difference between a legal product of EU-leadership (the European Council of June 2004) and an incomplete political process that lacks rooting in European constituencies. However, European identity is not only a question of existence and non-existence, but also that of changing and confusing features, as it is taken from one research field to another or from one school of thought to another. In order to begin to emerge from this confusion, this chapter defines and discusses the relationship between Constitution and identity. Moreover, this discussion proceeds on the basis of the following condition: Whatever can be said about the complex linkages between the two assumptions regarding constitution and identity can only be proved or disproved once the Constitution is ratified and the EU takes a step forward towards becoming a polity – a matter that extends well beyond constitutional issues, as we shall soon see. On the contrary, my basic contention is that the constitutional process plays a role in identity-formation, but a limited one, as political identity must be conceived of as a broader and
deeper process than only that of drafting and passing a second-grade Constitution, such as that of Europe’s (§3).

To convey this point, I shall first clear the way from some conventional understandings of identity, in particular the belief and fear that identity mows down all diversity (§1) and is at the same time a political, cultural and social entity (§2). It is my argument here that this view is a clear case of conceptual Unterdifferenzierung, if not theoretical naiveté 2.

1. European Identity and the Preamble to the Constitution.

The post-modern and (in Germany) post-Adornian3 fashion of bashing all notions of identity as the namesake of totality and repression has to some extent retreated in the last years. However, it continues to reside in a number of eclectic mindsets, say, for example, in the British Europhobics’ obsession with “Europe” or “Brussels” swallowing all British home-rule and making Europe a bureaucratic and singular entity. Understandings of identity have been further distorted by the fact that, in the political literature, the notion of identity has been best known from its American (but also Australian or South-African) usage in the “politics of identity”, which largely departs from our own usage of the term “European identity”. While the latter concerns the possible political unity of the European peoples, the “politics of identity”, as put by Arthur Schlesinger Jr., may rather result in the disuniting of America4, as it translates to the search for cultural self-awareness on the part of underprivileged groups as they come to define their political agency. In the last years, however, “identity” has increasingly been recognised as a problem of the present stage of the European

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1 Discussion of this relationship can also be found in Habermas 2004..

2 Witness the widespread attitude to talk about political identity as descending from a “prologue in heaven”, in which the general theory of identity, believed to encompass logics, psychology, sociology, must be first outlined. This attitude is indeed based on a scholastic self-delusion: it bows to the presumptive constraint that you have to find for every word an all-encompassing unitary theory. Is it so difficult to accept that knowledge is a regional process, and identity is all but identical with itself across the several semantic fields?

3 I am speaking derogatively of a fashion because this has not much in common with Adornos’s Negative Dialektik itself, which is deemed to be the legitimating source of all identity bashing. The book is on the contrary a differentiated and subtle analysis of the relationship between the ‘identical’ and the ‘non-identical’.

process both in political science, as well as in policy debates, as it is no longer seen as a monolith contrary to all diversity.

Also on the rise is a conception of European identity as something other than national identity simply writ large. While this latter notion is dominated by an acritical bias (national identity as the ultimate form of identity), just how far European identity differs from national identity remains an open question, as little is know about the underlying process of identity formation yet underway in Europe. On the one hand, the world of globalisation and (in the West) post-modern politics creates an anthropological and cultural environment which is unfavourable to the birth of a supernation. On the other hand, there are analytical reasons that prevent Europe from developing into a new nation: on the societal level, there are plenty of transnational segmentary networks, but there is not, nor will there likely be a European society. Above all other considerations, the impossibility of a common language makes social integration as a matter of everyday life equally unfeasible. On the political level, the member states will maintain a crucial role in the Union, as will their political, bureaucratic and cultural elites – another factor impeding the development of the EU into a nation-like federation.

While we should not overstate “the lessons of history”, we must also not forget that all the federations we know of in Europe and North America have come about as a result of militarily supported processes of federation/unification: such was the case of the Soviet Union, of Tito’s Yugoslavia and, as far as it is comparable, the USA during the Civil War. Seeing as the voluntary association of the EU does not emerge from processes such as these, it is unlikely for it to ever attain the degree of cohesion witnessed in classical federations.

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5 In the hyphenated form post-modern is what comes after modernity, the end of which can be reasonably argued, regardless of the postmodernists’ ideological conclusions.
6 Presently the problem seems to be whether they will allow the Union to exist as a polity rather than risk nation states’ power from dwindling.
7 In the case of the USA, the antebellum South rested on an original ethnic and religious unity –namely, Anglo-Saxons interspersed with German and Dutch, and of Protestant denominations.
8 This is not to suggest that such cohesion is in and of itself eternal, as we have seen following the dissolution of the Soviet Union in 1989.
One central aspect of the relationship between national and post-national identity is whether or not political and cultural identity are distinguishable from one another⁹. In the case of national identity, they tend to coincide, as the core of the *Staatsnation* has been rooted in the pyramidal organisation of power and the assimilation of pre-existing cultures under the demanding and encompassing arch of national cultures. Accordingly, a national education system, in many instances a national church, the spreading of a centrally educated and organised bureaucracy are instrumental in implementing the political project to build or reshape the emerging or existing territorial states as unity of state and nation. In the EU, the landscape is completely different. Between political and cultural identity the relationship is one of distinction, not separation nor assimilation. Let us clarify what political identity means in the Union, as in any political group¹⁰: a set of political and partly ethical values and principles¹¹ that are mutually recognised by members of a group who, through their acceptance, come to develop a sense of “we-ness”.

Because it has origins and structures that are not those of a federal state (it is neither federal nor a state), the European Union must not and indeed has not pretended to embody the philosophical, religious, moral and aesthetic values of its citizens or states. In taking this position, we extend to the Union an understanding of political identity that has arisen in post-war European countries, after the demise of nationalism and the loss of credibility in the very idea of nation¹². It is true that in order to define a political identity a certain degree of convergence among the actors in matters of philosophical (primacy of the individual, in the West) and juridical (religious neutrality

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⁹ Cf. Meyer 2004. This question is not clarified in Gutmann 2003, which however provides a useful typology of identity. The same holds for Eder 2001, as well as for the Introduction to the same volume.

¹⁰ My preference goes to the sociological notion of group in its most abstract meaning rather than to the more usual wording “community”, to which a communitarian aftertaste can remain attached, very much against the orientation of this author. For similar reasons, I reject the use of “collective identity”, which may suggest that there exists an identity pertaining (by hypostasis) to the collective identity as such, whereas “group identity” refers to the identities of the individuals constituting the group.

¹¹ This definition should not be misread in an “idealistic” sense: the leading value can be and often is the “sacred egoism” of one’s own community and the first principle the maximisation of one’s own group interest. But to shape an identity they must be formulated as values and principles, universally valid within the group, not as randomly and occasional choice.

¹² This is clearly mirrored in the post-Fascist Constitutions of Germany and Italy. On the link between post-Fascist and European constitutionalism see Fioravanti 2002, 273-298.
of the state or at least tolerance, rule of law) values is required, but this regards the political culture of a group, not its entire cultural world; moreover, convergence is not identity.

This is what the members of the Constitutional Convention have failed to grasp. They wrongly believed their duty was not only to identify constitutional values and principles and the institutional architecture of the Union, but also to determine where those values and principles originate and the extent to which they weigh upon the present European conscience. One repercussion of this pretension was that it incensed the Catholic Church, as the constitutional drafters failed to make any reference to Europe’s Christian roots. This prompted Giscard d’Estaing to write and Convention members to pass a Preamble in which a hotchpotch of politics and culture comes together to form phrases such as, “cultural, religious and humanist inheritance of Europe” – as though religion and humanism were something different from culture. In addition to this, not a single word of the Constitution was dedicated to recalling the tragedies of European history, although it was precisely these tragedies that inspired Europe’s founding fathers. In the end, what resulted was a bombastic low-quality document, signalling the sad fact that the underlying culture of some European leadership is still not very far from that of a wilhelminischer Provinzialschulrat, to put it as Adorno13, or perhaps rather of a sous-prefet de la Troisième Republique.

The Preamble was eventually revised and improved in the version later adopted by the European Council and signed in Rome in October 2004. But this does not conceal the illiberal nature of the act by which a political body (first the Convention, then the Council) legislated over cultural matters that in liberal democracies are supposed to be left to the free play of debate, research and imagination. In fact, there was no technical or historical necessity to do so, as a largely similar and intellectually more serious Preamble was already contained in the Charter of

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13 The suspicion of a resemblance with the prototypical high school teacher, a most loyal subject of Kaiser Wilhelm the Second, was directed by Adorno, against the Marxist philosopher Georg Lukacs and his bureaucratic rhetoric, see Adorno 1981,252.
fundamental rights, now part two of the constitutional Treaty.\textsuperscript{14} Historically speaking, the authors of the European Constitution seem to have taken little notice of the fact that two of the more representative constitutions of post-war Europe, the \textit{Costituzione della Repubblica italiana} and the German \textit{Grundgesetz}, also do not contain comparable preambles\textsuperscript{15}.

In summary, none of the apparent reasons for writing the Preamble is credible when we look at the text that effectively came out. If we do not consider its existence as the mere result of unlucky circumstances (the confusion between politics and culture, the thin philosophical level of its authors and the likes), we could malevolently argue that this unnecessary attempt to define by ways of a poor rhetoric an official EU-philosophy of history is a symptom of two serious problems: first, the impetus to mask a real lack of an European political identity by recourse to ceremonial proclamations such as those seen in the Constitution; and second, the reliance on an antiquated notion of political identity which necessarily assumes culture as its basis. In doing so, this leadership shows once again the narrow limits of its culture as compared to the unprecedented width of the real European process, of which this leadership is itself part, though with insufficient awareness. Here, yet another instance arises in which a quote from Marx aptly applies: “Sie tun es, aber sie wissen es nicht”.

\textbf{2. Interpreting Political Identity.}

In political philosophy, distinctions are drawn not to divide things from each other, but rather as a first step at better understanding their complex inter-relationship. That the EU should be able to develop a political identity while preserving the full range of its cultural diversity is not only a matter of the Union’s origins and structure, but is also a normative position: the Union should refrain from any temptation (like in the Preamble) to achieve a uniform political and cultural

\textsuperscript{14} Art.I-2. The needless redundancy of the Preamble lies also in the circumstance that it can only proclaim the good will of sticking to those values, while only values and principles stated in the articles of the main text are legally binding and for this reason politically effective.

\textsuperscript{15} The Italian Constitution has none, while the Preamble in the \textit{Grundgesetz} stems from the legal necessity to define the relationship between the Constitution and the German people in the time of the nation’s division.
identity, not only because the pressure such an identity would place on our cultural diversity would be unacceptable to most, it would also threaten the very process of European integration. Indeed, were such an identity achieved, the resulting concentration of power and conformity to power would be deadly for a liberal democracy of continental dimension. Furthermore, it can be said that any attempt to unify the two kinds of identity is simply a waste of resources on the part of the Union, as political identity can and ought to be achieved without coupling it with culture. So much for the distinction between political and cultural identity, but the question still remains: do the two poles of group identity ever come together again?

This happens, and does so necessarily, as political identity is not only a list of core values and principles, like those stated in the “fundamental rights” section of recent constitutions. Political identity is first of all an état de conscience of citizens (as individuals as well as, in certain cases, representatives of institutions, such as the EU member states) and lives only in their interaction with one another – a process I have previously referred to as mutually recognising principles as our own. This is something which first takes place during the founding act of underwriting a Constitution or a covenant, but is also reinforced in the every-day interaction in which we enliven our core identity and “apply” it to the problems and decisions we are faced with. To do so, we need to interpret those “articles of faith” on which our political association is based. The interpretation of shared fundamental values and norms is exactly the daily business of parliaments, supreme and lower courts, public administrators, professors of law and social science, columnists, but also of school teachers and parents as they transmit the “articles” to the new generation. And interpretation is where cultural identities, excluded from the definition of the political idem sentire, once again come into play: religious, moral beliefs, assessments of historical events, aesthetic orientations cannot but influence the way in which partners of a political association, especially non-voluntary associations of diverse peoples, try to give concrete shape to their core identity. This opens a process of understanding, bargaining and betting (how far can I risk to break up the polity with my insistence
on my interpretation of its founding covenant?), which constitutes the public sphere of the association, the proper location for its identity to be continuously put to the test of conflict and reshaping. It is in the Öffentlichkeit that political identity and cultural diversity are confronted with one another in a space marked by two extremes: a political identity so inflated as to make the diversity of cultures meaningless for decision-making, and a self-asserting cultural diversity that risks the irreversible break up of that which keeps its partners together. The first extreme is utterly unlikely to ever become a real trend in the EU, whatever monsters Europhobics may imagine. The second extreme is also unlikely to occur in the common form of political secession from an existing Union\textsuperscript{17}, but nevertheless has tremendous potential to hinder the political maturity of the European process or perhaps disrupt it altogether. Not that the diversity of cultural identities can by itself disrupt the process, but it can do so in the middle of an institutional and political integration crisis, in which cultural dislike for one another may fill the vacuum left by political inaction, or even be mobilised by “identity entrepreneurs” in an anti-EU strategy.

I have so far attempted to clarify some basic elements around the notion of political identity in the EU. In this article, I cannot discuss the fundamental question as to what the use of political identity is, nor why it is necessary. The answer to these lies in the link to legitimacy, a key category for the understanding of power, especially in the case of principati novi, to which Machiavelli would ascribe the Union. This holds if we have a full political understanding of legitimacy, an understanding not limited to its legal roots, nor to the technocratic or efficiency (output legitimacy) component of the power that strives for legitimacy. However, to argue in this direction only makes sense if we (normatively) want the Union to become a full political actor and/or read (analytically) its dynamics for the past fifty plus years as oriented towards that end. We shall come back to this meta-condition of inquiry in the conclusion. But now we must turn our attention to the role of the Constitution in the promotion of identity as compared with other sources.

\textsuperscript{16} In the Weberian sense (politische Vergesellschaftung). Others would say “community”.

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3. *Identity-formation in the EU*.

Just what sources are responsible for fostering political identity-formation in a post-national entity such as the EU is difficult to tell. There is little debate and even less empirical research on this matter. However, at least four possible factors can be addressed here:

1. education
2. symbolic effects of European experience in every-day life
3. the Constitution and the constitutional debate
4. shared political decision-making

1. On the issue of education there is little to say, as its influence in promoting identification with and allegiance to the polity is well known from the history of the nation state. In the case of the EU, a uniform European school system does not yet exist, nor will it likely exist in the foreseeable future. Furthermore, it is the opinion of the present author that no such system of education should ever emerge, less it threaten our diversity. This is, however, not to exclude that the teaching of EU history and the illustration of its institutions may (and indeed should) become mandatory; however, teaching should proceed on an intergovernmental basis, that is, left to the jurisdiction of the member states.

2. By European experience, I mean the presence of legal (regulations), economic (euro, regional and structural funds), political (statements released by the president of the Commission or Monsieur PESC) elements generated at the EU level in the world we experience day to day. These elements conspire to create a mental space, “Europe”, which we increasingly feel as a part of our collective life. Mental space means a geo-political (polity) space in which we feel ourselves contained along with others with whose interests and wishes a balance must be struck, as no one

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17 Although this is now a legal possibility in the EU, see art. I-60 of the Constitution.
person has the option of going it alone any longer. It also means a normative space in which we are aware that we share certain obligations with others (do not put anyone to death; do not exceed 3% of GDP in your deficit; do not use OGMs except within limits dictated by the EU). It is finally a symbolical space, in which our partial acceptance of the integration is expressed by referring to certain items endowed with a general significance: the very word “Europe” in a political sense, the starred blue flag, the Constitution or, negatively, “Brussels” as the quintessence of all bureaucratism. Symbols can rarely be artificially created, and identity cannot be fostered by creating ever sophisticated symbols. Even less can they substitute for the lacking political will and ability to make unitary decisions and to stick by them. But EU agencies as well as member states are either too shy or else unwilling to help citizens and institutions utilise symbols in order to mobilise interest and participation (vague and confused though these may be) in European politics for which they are available, as we shall soon see in the case of foreign policy.

By way of example, we may refer to the public use of memory or the so-called ‘politics of memory’, which is known to be a decisive passage in identity-formation. The “national” states of the past century in particular were perfectly adept at this, which in most cases came close to a politics of myth-building. However, even after more than a fifty year history of European institution-building, there is no recognisable monument to remember its turning point. Moreover, it has taken up until now to proclaim in the Constitutional Treaty a “day of Europe”, but this will only take Union-wide effect after the ratification of the Treaty, which may mean in five to ten years or quite possibly never. It is as though European politicians, diplomats and bureaucrats have secretly decided, very much in a British attitude, not to give the EU any chance to outgrow its “single market regulation + some other governance” status. More likely, however, is that EU leadership simply lacks a culture that goes beyond regulations and budget calculations and looks

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18 In philosophical terms, this is the beginning of a non-voluntaristic association, which classical theory tells us to be the only fully political. But the game is far from over, as we shall see in the conclusion. Others would probably say “community of destiny”, but I am not comfortable with this turgid expression, nor with the nationalist or völkisch ascendance of Schicksalsgemeinschaft.

19 I have discussed this aspect in Cerutti 2001, 12.
into the imagery and the meanings that arise in the minds of citizens – the “subjective side” of politics, to put it in classical terms. We may also assume, albeit quite benevolently, that the EU wishes to avoid any of the manipulative techniques or propaganda that might call to mind the totalitarian histories of a number of its member states. To this, I must add however that being bombastic\manipulative or dry and business-like should not be seen as an only option. Rather, politics is about finding a third way.

3. We should not mistake the constitutional debate in the EU for a rerun of historical debates in the revolutionary countries of the 18th century (USA and France), nor in the post-fascist countries of Europe. There is no pre-given territorial entity\(^{21}\) in Europe, nor a single and century-old civil society with a dominant language striving for political empowerment; nor does there exist so much as a significant transnational public sphere: there is no relevant EU-wide newspaper or weekly, and the multilingual Euronews digital channel is little known or viewed across the continent\(^{22}\).

While it is true that the “Convention method”\(^ {23}\) has been a real innovation in the procedure of EU legislation\deliberation, there is little chance for that method to be extended to further proceedings such as the InterGovernmental Conferences (IGC). This aside, and in spite of the consultations between Convention and representatives of national parliaments and civil societies, it cannot be said that the articles of the draft Constitution have been widely discussed in the national public arenas; national parliaments have not been involved in their entirety, thus failing an effective channel in raising the public opinion’s level of attention. The articles of greatest political relevance, such as those regarding finance and foreign and security policy, have been almost exclusively seen as the best available outcome of a bargaining process amongst the current governments of member states, rather than the result of public argumentation within and around the Convention as to how to

\(^{20}\) The ninth of May (1950), the day of the Schumann declaration.

\(^{21}\) The United States were (“was” came into use only after the Civil War) not one such entity either, but under the pressure of the common British enemy the individual States had little choice of staying aside.

\(^{22}\) I have rarely seen reference to or commercials for Euronews on popular national channels. There would be much work to do in order to improve its journalistic quality, as well as its diffusion.
best enhance the effectiveness of European policies in the world arena. Much futile attention, at least in Catholic countries, has been devoted to the question of Christian roots, which without the unsuccessful Preamble would have never been raised.

The question necessarily arises, will the ratification process substantially enhance the identity-building effect of the Constitutional debate, particularly in countries in which a referendum will take place? In principle it will, because there is theoretically no better way to foster the self-identification of the Europeans than letting them discuss and vote on our Grundgesetz; in an ideal picture, it could be the big-bang of European identity. But a thorough answer must also look at the very same moment at both procedure and contents of the process: it makes little sense to discuss the relevance of the Constitution if we do not look into the text and ask which agenda and which decisions are made possible or excluded from the Union’s competence. Furthermore, focusing on procedures alone, institutionally-internal processes, and intentions enshrined in legal texts without a vivid perception of what is going on in the broad and crude world of politics can result in punishing surprises.

At the time of writing, the limited commonality (as I shall soon argue) expressed in the Constitution finds little support in an electorate that may still be open to “Europe”, but does not enthusiastically embrace the present institutions and policies, as shown by the disappointing election for the European Parliament in June 2004. Voters all around the EU perhaps feel that the Union is deeply divided and in fact non-existent on crucial foreign policy choices (Iraq, transatlantic relations), unable to launch economic policies that can promote higher growth rates and reduce unemployment, and unwilling to address immigration policy along common lines. The intended European governance of globalisation remains immature in form. This may explain why the European vote for Parliament has once again been more about national than European issues, why the EU has often been more of a scapegoat than an asset for the future, and why so many

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24 See below with regard to foreign policy.
25 This is the conventional wisdom on the subject, but I will soon advance another hypothesis.
Eurosceptics have entered the Parliament and so many voters, particularly in some new eastern countries, have stayed away from the polls. There is no guarantee that the same factors will not undermine the ratification process, in which EU-bashing may become an option for some governments and not just for extreme anti-European parties. In the present stage of western democracy, parties, government coalitions and politicians are more sensitive to the mood that prevails among voters in the given moment rather than the strategic requirements for the future. Statesmanship is a very scarce resource in Europe. This not only hinders Europe’s future, but also fails to bind the potential European loyalties of citizens to reliable leading figures comparable to the Adenauers, De Gasperis and Schumanns of the founding years.

It is also with regard to the Constitution as a normative text that we should ask about its political substance. However, before we do so, let us first consider its significance in symbolic and institutional terms. To have a Constitution is important because it secures or fastens the otherwise floating values, principles and fundamental policies of Europeans, forcing them to be addressed in an institutionalised, well visible and reproducible form. Unlike the European Treaties, the Constitution is something we can circulate in schools, parliaments, military units, and show to our partners around the world. High, though ambivalent, the symbolic value of having a Constitution, which signals unity in a polity, creates a precondition for the acts of that polity to be seen as legitimate. However, it is ambivalent: The European polity is a mix of individual citizens and states, and the Constitution is not a covenant that directly binds the citizens together, but as a second degree-constitution it does so over the still partly sovereign member states.

Granted the possibility that there will ever be a full European political identity, it will hardly be Ernest Renan’s *plébiscite de tous les jours* that binds all persons together with one another and with the imagined community of the nation. On a shorter range, a fair deal of ambivalence can also lie in the contrast between a unitary act like passing a Constitution and the disunion and inaction

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26 This reflection proves how elitist and non-political was the position of those, like Joseph Weiler, who opposed the drafting of a Constitution with the legal argument that it is already contained in the Treaties of Rome, Maastricht and
presently prevailing among EU members. In this regard, the unifying symbolism of the Constitutional Treaty can result illusory; a mere symbolic policy\textsuperscript{27} adopted to cover-up the real political disunion.

This may be a malevolent suspicion; however, that the Constitution allows for only limited unity amongst Europeans is not. The exclusion of foreign and security policy and the related security and defence policy from majority vote, as well as the simplistic coordinating competence of the Union in financial and economic policy promises to reproduce the present status of paralysis in the future. How to reach an ambitious goal like making the “knowledge society of Europe” a leading competitor in the world markets by 2010 (the Lisbon program) and how to make the euro a second worldwide reserve currency without a strong common economic and financial policy for the whole of EU are questions that need only to be raised in order to evidence the self-illusory character of a status quo policy, as codified in the Constitution. Furthermore, after the break-up of the Union on Iraq, how shall confidence be restored to Europe’s citizens if when confronted with a new challenge such as America’s unreasonable war on Iraq, differences are not discussed with the end of reaching a decisive vote? Nothing like Germany’s electoral campaign for attaining a seat on the Security Council and its row with Italy over the country’s proposal to give the seat to the EU better captures the backward step taken by member states on the road that was once supposed to lead to an “ever closer union”\textsuperscript{28}.

The unanimous and intergovernmental or confederate decision procedure is a particular stumbling block over which both political effectiveness and identity-formation will come to a halt if not to a backward motion, as paralysis means stagnation and in times of stagnation things never remain as they were at the beginning, but rather take some other direction (in the unlikely best case

\textsuperscript{27} A symbolic policy is the instrumental use of a signifier without the real thing, while the symbolic dimension of politics is pervasive and essential, not by itself instrumental.

\textsuperscript{28} A pathetic shadow was cast on this development by the circumstance that the German campaign has being led by Foreign Minister Joschka Fischer, who still in the year 2000 (speech given in May at the Humboldt University in Berlin) was a leading figure in the effort to give a federal direction to the integration process.
scenario, a much smaller but closer Union or Federation of a select number of continental countries). All the provisions regarding the Common Foreign and Security Policy (I-16, III-293–295), the Union Minister for Foreign Affairs (Art.I-28, III-296–308), the Common Security and Defence Politics and the European Defence Agency as well as the “structured cooperation” among members with higher military capabilities (Art.III-309–312) make little sense without a central decision-making mechanism that makes the Union act, and act as an Union. It is not the institutional (the Foreign Affair Minister, or Monsieur PESC before) or military structure that primarily counts, but the political will as expressed in all-binding decision-making. The wording of Art.I-41, 29 highlights (rather incidentally) the inconsistency of the EU as an international actor under the Constitution. As a defence community, which is still a major mark of political agency, the EU may or may not exist, depending on the given circumstances: the EU may act as a defence community only in instances in which every single member state agrees to act uniformly30.

Given these constitutional limits on the development of a single decision-making capacity in high politics, it is not easy to envisage how the “structural foreign policy” of the “civilian power Europe”31 (the external relations of the EU, in Eurospeak) can develop, or even maintain itself, because structural lack of unity in high political decisions (e.g., foreign policy) can reverberate on aid and cooperation policies and in the long run disrupt their base. It is as if the European statesmen have finally decided to fulfill prophesies made by some American EU-scholars who have always seen the Community and subsequent Union as a flourishing condoninio32, by its very nature unable

29 “The common security and defence policy shall include the progressive framing of a common Union defence policy. This will lead to a common defence, when the European Council, acting unanimously, so decides…” (italics added).
30 Should for example Malta or Cyprus disagree on some matter of foreign policy, all other members must count on their defence or else take refuge in the US-led arms of NATO.
31 The best account of this theory including a neo-regional framework can be found in Telò 2004.
32 Philippe Schmitter, who introduced this word to assess the likely development of the Union after Maastricht (see Schmitter 2003), is concerned however with the democratisation of the Union (see Schmitter 2000), while Andrew Moravcsik dismisses the “democratic deficit” problem as generated by the bias of an ideal plebiscitary or parliamentary democracy, see Moravcsik 2002. Political processes, particularly in times of peace and war, are rarely as unproblematic and undramatic as in Moravcsik view on Europe’s “quiet incrementalism” (Moravcsik 2004).
to attain an existence as a full-fledged polity and international actor. In any case, on this basis European citizens can hardly develop any consciousness of a “common fate”\(^{33}\).

This point is particularly telling because of a second circumstance in the EU: it is not that a stable common foreign and security policy would run against the resistance of the national patriotism of the Europeans. Quite to the contrary, this is one issue area on which the citizens, according to opinion surveys, would be largely in favour of a “closer union”: in the year 2003, 65% (70% in the enlargement countries) were in favour of a European security policy and even more (70% and 80% respectively) of a European defence policy. About 71% of the citizens (54% in the UK) believe Europe should become a superpower like the US and around 50% also favour a more independent approach, yet not so much as to counterbalance America (20%), but rather to better cooperate with it (74%)\(^{34}\).

In summary, EU citizens, particularly those of the old Union, seem to be favourable to strengthening the Union’s importance and incisiveness as a new world power, which is exactly what the limits set to its decision-making capability as a single actor that are now codified in the Constitution make difficult or perhaps impossible. Whether it is only difficult or outright impossible will obviously depend not only on the internal procedural rules, but also on the type of challenges the Union will have to face on the worldwide stage in the near future. Under these constraints, it is hard to see how the Union will be able to achieve the goal of developing an European governance of globalisation it once intended. In particular, how can the EU assert a strong and independent role for Europe in the fight against terrorism and the regulation of global issues such as global warming and social imbalance amongst countries? Instead of the hoped for cooperative but autonomous attitude towards the US, Europe’s impotence in foreign policy will possibly reproduce the present mix of dependency in practice and anti-Americanism in thinking of politicised Europeans, a mindset which is sometimes mistaken for the cornerstone of an emerging European

\(^{33}\) On the role of the international standing of the EU for identity-formation among its citizens, see Lucarelli 2005.

\(^{34}\) For these data see www.eosgallupeurope.com/images/transatlantictrends.swf/ 2003 and 2004.
An anthropologically or culturally motivated America-bashing instead of a rigorous assessment of what is right and what is wrong in American policies at a given moment is not only ugly, but is also a striking sign of weakness, as is all identity based resentment and enmity for a stereotyped ‘other’.

At this point the question necessarily arises: if public opinion was sufficiently in favour of reinforcing the power of a single actor Europe, why has this actor not been created and why has the denial to create it been made final\textsuperscript{36} by writing it into the Constitution? The instructions given by the governments, particularly Britain’s, to the Union, that is, “hands off from foreign, defence, finance and economic policy”, is the last episode of the so far victorious resistance of national élites\textsuperscript{37} to the threat of losing further and very substantial bits of their power to a new centre of power which does not have its origins in any single, organic society. The new elite would not come from the same schools and universities, would not read the same newspapers and go to the same holiday resorts, would not have identical patterns of behaviour distilled out of a century-long history like in the nation states. Briefly, it would be out of the usual control exerted by mechanisms of national societies and, what is more, its behaviour would be unforeseeable. The defence of power (in the case of the political leadership), but also of jobs and privileges (in the case of the administrative elites and their \textit{clientes}) obviously plays a major role\textsuperscript{38} in all this. But resistance deriving from the kind of disorientation that often emerges in the face of a radical novelty (the devolution of power over war\-peace and taxation to a higher power of voluntary nature, i.e. not under the constraints of force) should also be considered, however not as an insuperable impediment: The countries of Euroland have already and not too painfully renounced the other \textit{totem} of the modern state, the

\textsuperscript{35} The vocal anti-Americanism prevailing amongst intellectual élites in many European countries seem to dominate the political scene more than the rather relaxed attitude (autonomy and cooperation) emerging amongst average citizens in the surveys quoted above.

\textsuperscript{36} Nothing is ever truly final in politics, but norms of a constitutional Treaty among 25 states are probably much less easy to change than common treaty-based or customary rules.

\textsuperscript{37} For the role national élites play in the identity-shaping decisions concerning the “common man” (health care, pensions, education), thus appearing to the electorate to be the ultimate sources of power, see Cerutti 2003.

\textsuperscript{38} As Max Weber remembers us, the loyalty of the staff to the political leadership is not based on the sole belief in the leadership’s legitimacy, but needs to be fed by tangible awards (\textit{materieller Entgelt}) and recognition of the staff’s
power over currency. But in foreign and military policy there is no equivalent for pressure resulting
from the visible and impersonal functional imperatives of monetary economics. Therefore, the road
is much longer or perhaps leads to a dead-end. This rings particularly true for two reasons: first,
amongst European elites and personalities, there fails to exist a single one who can be trusted with
the task of presenting a grand strategy that can persuade the national elites to redesign their role in
an ever “closer Union”. This is not primarily a problem of persons, but rather of the structural lack
of vision and statesmanship created by the recent development of western democracies. Second,
although there is not a unitary attitude of the American leadership across the political and
intellectual spectrum concerning the EU, the present US administration (and possibly not just the
present one) is likely opposed to the emergence of a European world power that does not assure the
kind of British loyalty witnessed, for example, in the Iraq War. In short, in light of the present
situation in the EU and in particular regard to the Constitution, there is little chance for a strictly
European political identity to emerge. But the Constitution must not be taken as the last word on
this issue.

4. Looking back to how my argument has thus far developed, it will come as no surprise for
the reader if I now maintain that what binds citizens and élite together and fosters their identity is
above all the making and implementing of common decisions of high political questions and
bearing the consequences that derive from them. This position results from the idea of political
identity as something that is not given to us by a common history (historicist fallacy) or common
culture (culturalist fallacy), but rather consists in enlivening and also reshaping shared values and
principles while cooperating and/or struggling in the political arena. This is what I have previously
referred to as “recognising” in the philosophical sense of ‘recognition’ \( \text{Anerkennung} \). It is a praxis-
based notion of identity-formation as a process, not as something we receive from the past or from
some constitutional \( \text{Grundnorm} \) that carry on in a relatively preserved state – as it appears to be in
common language.

social prestige (\text{soziale Ehre}), see Weber 1992, 10. The fear of losses due to the partial replacement of the national by a
On these grounds, we are now in an ambivalent situation. On the one hand, the Constitution - as it currently stands with its reliance on majority vote - prevents most high political decisions from being taken in common by European citizens and states. The Union, as we have seen in the case of common defence, can even decide from case to case not to exist as a Union. On the other hand, constitutions and covenants matter in political life, as do in general institutions. But they are only one instance in the process, not the whole of it. New circumstances, unexpected events (such as the terrorist attacks on American soil, or the American adventure in Iraq) and unforeseen changes of public opinion can blow up predetermined limits, such as the competences of the Union, or altogether rewrite the agenda, thereby allowing fresh approaches to the Union to emerge. At the end of this reshuffling, constitutions can be amended. Not that I see a big chance for this shift to take place: If the failure of the Kyoto Protocol, the dramatic upsurge of worldwide terrorism and the dangerous American unilateralism of recent years have not been enough to convince European leaders to finally empower themselves by strengthening the Union, it is doubtful as to whether new events will be able to do so. Theoretically, however, the door must be kept open: The struggle to overcome the present limits of the Constitution, if taken up by significant parties and leaders, may itself become a major moment of identity-formation for Europe.

supranational leadership may provoke resistance to the change.

39 In the broad sense of this word, not as legal institutions alone.

40 Giving license to political imagination, if the Constitution is ratified we can think of a “coalition of the willing” taking the initiative of a “closer union” as the smallest concentric circle in the EU (a sui generis structured cooperation) or outside of it, as the UK and other countries will hardly consent to the continental members going alone this way; paradoxically, if the Constitution fails ratification, the legal field would be even more free for that coalition (obviously excluding Britain, Denmark and other countries opposing a polity Europe) to move on.
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