1 Introduction: The dynamics of European integration

The 'European question', namely, the question concerning the foundations of the political unification of Europe and its prospects of success, has by now become primarily a question of democracy. It touches, on the one hand, upon the impacts of processes of Europeanization on democratic will-formation in the member states of the European Union (EU) and, on the other, upon the possibilities of a democratization of the Union itself. Both aspects of the question have become objects of heated controversies that have long since spread beyond the boundaries of academic circles and have secured a fixed and prominent place on the political agenda. As the debates on the unfortunate European constitution have revealed, the fronts in these controversies are quite intricate, depending on ideological preference and national background. Nevertheless, one can discern a rough polarization between those who sceptically regard integration as a progressive hollowing out of the sovereignty of the democratic nation-state and those who embrace it instead as an opportunity to disclose new democratic options beyond the nation-state.

However, there appears to be widespread agreement, notwithstanding numerous other conflicts, that the technocratic approach of the initial decades of integration is no longer viable. Since the adoption and ratification of the Treaty on European Union at the beginning of the 1990s, the situation has been marked by continuing – and some would say, increasingly acute – problems of legitimation of policy-making at the European level and by a more and more contentious treatment of European issues in the domestic affairs of the nation-states. The desire to strengthen the basis of legitimation of transnational governance in substantial ways and to circumscribe clearly the competences of the Union in relation to the member states found expression in Europe's constitutional experiment. However, an EU constitution – should it eventually come into force – would not overcome the dilemma which seems to be a necessary concomitant of the construction of a comprehensive transnational institutional framework: The creation of a constitutional system of governance at the European level is subject from the beginning to the

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expectation that political power must derive its justification from a collective context that is, in the final analysis, coextensive with the contours of a political community that cannot be defined exclusively in institutional terms. Yet in contrast with the classical nation-states, the EU cannot be regarded as the political form of organization of an already existing 'European nation' nor is it in a position, let alone authorized, to undertake the project of constituting such a nation 'from above'. In the most general sense, the resulting dilemma is the topic of this study.

On the other hand, the political challenges associated with this dilemma, viewed from the perspective of an up-to-date theory of democracy, are also the source of possibly the principal normative appeal of the EU. For the legitimation of political authority in the Union must of necessity take place simultaneously at the levels of the political institutional order *and* that of the political community. In other words, the agent with the task of founding a community and serving as the symbol of European rule is from the beginning an emperor without clothes and is destined to remain such. A major expression of this 'imperial nakedness' is the requirement that the project of integration must be realized in a way that accords the greatest possible respect to the political–cultural 'distinctiveness' of the member states and the substate constitutional entities of the EU. The aspiration to create 'an ever closer union among the peoples of Europe', as enunciated in the Maastricht Treaty, should on no account – at least according to the official doctrine of integration – entail that specific, for example, linguistically based, cultural identities are impaired.

In this introductory chapter I first want to trace succinctly the main lines of political development in the process of European unification since the foundation of the European Economic Community (EEC) and to outline the changes in the situation after Maastricht. I will then sketch the interrelation between constitutional politics and cultural diversity in the EU, identify the essential features of the problem I want to address and explain the plan of the present study.

1.1   The Transnational Political Space of the European Union

The first phase in the process of European integration reached its conclusion with the coming into force of the Treaty of Rome in January 1958. The EEC created by the Treaty proved to be the interim high point of a development to which the federalist advocates of the idea of Europe after

the Second World War had initially attached far higher expectations.[1] In place of the 'United States of Europe', there arose a community of six composed of Italy, France, Germany and the Benelux countries which implied, in addition to a customs union and the integration of markets in particular sectors, the harmonization of regulations in such policy areas as agriculture, transport and competition. Hence only a fraction of the federalists' hopes was initially realized. On the other hand, the formation of the EEC unleashed a dynamic that would fundamentally alter the overall political countenance of Europe.

This is not the place for a detailed examination of the causes and background conditions which shaped the initial course of European integration.[2] Summarizing in a very rough way a complex mixture of political parameters and impulses, one can highlight three factors in particular in the constellation which decisively shaped the concrete course of the project of unification between 1945 and 1960:

- Important in the first place was the desire for a stable European peace which substantially characterized the first generation of 'architects' of Europe's institutional framework, among whom must be numbered such figures as Jean Monnet, Robert Schuman, Alcide de Gasperi and Walter Hallstein. This desire played a major role in the immediate influence of the consequences of the Second World War; for the construction of the EEC was seen as a major contribution to erecting a European security community. The specific concern was to bind Germany into a system of reciprocal controls and guarantees. In this respect at least, the doctrine of European federalism attained a relatively concrete influence on politics. In the years following 1945, the newly formed European Movement was tireless in its calls to surmount the age-old conflicts between nation-states. Among Christian Democrats and Social Democrats in France, Germany and Italy, there were numerous points of personal contact between the Eurofederalists and the newly emerging political elites.
- The project of integration, however, was soon restricted exclusively to the western half of the continent on account of the Cold War. In fact, the East–West conflict developed into a moment from which the EEC and later also the European Community (EC) derived important impulses. Plans to construct a European Defence Community (EDC) supported primarily by France and Germany were quickly

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[1] On the ideas of the Eurofederalists in the post-war period see Niess (2001).
[2] Of the copious literature devoted to this topic, I would mention here the following selection of studies reflecting in part different and in part complementary perspectives: Dedman (1996), Loth (1996), Milward (1992), O'Neill (1996) and Schneider (1997).

shelved in the 1950s. The security policy concerns of the EDC were subsumed into the North Atlantic Treaty Organization (NATO) under the hegemonic influence of the USA. Nonetheless, the establishment of the state socialist alternative on European territory had consequences beyond the level of military strategy. The competition between the systems remains an important key for understanding the peculiar mixture of market-oriented economics and moderate dirigisme that marked the EEC its constitutive phase.

• Therefore, the final driving force behind European unification was the convergence of national economic priorities in the six member states of the EEC. The decrease in the costs of economic transactions associated with the institutionalization of the Common Market was an option clearly favoured by a large majority of the dominant interest groups in the member states. Market integration corresponded with phases of growth that undoubtedly played a major role in the consolidation of a Western European 'welfare model' between 1950 and 1970. As the successive enlargements of the original circle of EEC members show, participation in the project of integration became for an increasing number of European states a recipe for success that seemed to combine the preservation of a sufficient degree of political autonomy with economic prosperity and access to a transnational level of problem-solving.

The dynamic early years were followed by a period of political stagnation after 1960. France under de Gaulle blocked efforts aimed at reinforcing the organs of the Community. Thus for many years the consolidation of the Common Market had no noteworthy effects in the area of political integration. Only with the accession of Denmark, Ireland and the United Kingdom in 1973 did the European institutional framework slowly begin to get in motion again. After 1980 there were new major breakthroughs. In 1986, the Single European Act brought a revision of the Treaty of Rome and the transition to qualified majority voting for important areas of regulation of the Common Market. With Maastricht a further high point on the road to a political union was reached.[3] The institutional reforms during the one and a half decades between 1981 and 1995 leading up to the Maastricht Treaty were book-ended by the southern and northern enlargements.

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[3] For an assessment of the negotiations that culminated in the Treaty on European Union, see Keohane and Hoffmann (1991), Kreile (1992), Sbragia (1992), Weiler (1991) and Wildenmann (1991).

What were the essential characteristics of the development of the EEC/EC[4] as a political project up to Maastricht? The division of the continent continued to operate as a powerful external incentive for integration in the west even after the period leading to the foundation of the EEC. Political affiliation to the community of Europe was shaped above all by three components: commitment to liberal democracy, to anticommunism and to a model of capitalism cushioned by the welfare state (Wallace 1999: 293–4). Otherwise, the political programme of (Western) European unification remained relatively diffuse. Integration occurred primarily under the banner of shared economic imperatives. Ultimately, the domain of market integration must be regarded to this day as the primary pillar of the EC/EU. It is also certainly important in this context that the unification process can be attributed only to a very limited degree to the successes of a transnational movement that inscribed 'Europeanism' on its banner. After the EEC had been established, the Eurofederalists and their aims rarely occupied a prominent place on the stage of European *realpolitik*. Accordingly, for many years positions on integration did not play a central role in political controversies among the influential political parties in the member states either. 'Europe' was rather the result of an understanding among elites who could count on the 'permissive consensus'[5] of the affected populations of the nation-states. When it came to implementing the integration agenda, the *méthode Monnet* held sway: political-administrative action at a supranational level was often presented as a matter of following supposed factual constraints. Consequently, European will-formation exhibited pronounced technocratic features. Politics in the EC/EU appeared to be merely a matter for expert specialists. It is no accident that law served as the preferred medium of integration. In this context the *acquis communautaire* stood not for decisions of political principle but rather for an 'incrementalistically' expanding catalogue of rules.

The 1990s brought a lasting change in the situation described, as the European question turned into a subject of often heated debates in virtually all of the member states. The unification process became politicized at a completely new level. The epochal watershed of 1989 played a primary role in this regard. The end of the East–West conflict meant that an often implicit yet highly significant external impulse for integration in the west of the European continent was removed. At the same time,

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[4] The EC was formed in 1967 through the fusion of the EEC with the institutions of the European Coal and Steel Community and Euratom.

[5] The application of the concept of *permissive consensus* to the context of European integration goes back to Lindbergh and Scheingold (1970); see also Hix (1999: 134–5).

the collapse of the state socialist system in Eastern Europe produced a close interconnection between the problems of deepening and enlarging the Union. It posed unexpected and extremely difficult problems for the political actors on the European stage. The escalating crisis in the Balkans into the wake of 1989 and the problems of achieving an effective crisis management on the borders of the Union within the framework of the European institutions elevated the Common Foreign and Security Policy to a central topic on the European political agenda. In this way, integration became centred once again on a key political domain which had been neglected since the failure of the EDC or had been entrusted to the US-dominated decision-making framework of NATO.

An additional prominent factor driving change was clearly Maastricht itself. The signal sent out by the Treaty on European Union directed the political spotlight onto the project of integration in all member states. Even though the introduction of citizenship of the Union in the EU Treaty had a largely symbolic character, it had the effect of placing the question of the relation between the European institutions and the European citizenry on the agenda. Finally, over and above Maastricht, the transition to the Economic and Monetary Union meant that the 'European dimension' acquired an enormously increased visibility and concrete practical content for the citizens. The increase in political importance of Europe is also clearly apparent from the dynamic development of the system of transnational institutions. The EC/EU has steadily increased its competences vis-à-vis the nation-states. In a considerable number of areas of political regulation, the member states only implement what has been decided upon in the transnational arena. Thus the institutional activities unfolding at the European level have multiplied steadily over the course of the past decades (Wessels 1997).

Against the background sketched, it is hardly surprising that the need for legitimation of the EU has increased dramatically since Maastricht. Europe has become a highly controversial topic in several member states.[6] The permissive consensus which for many years facilitated the advance of the project of integration seems in the meantime to have given way to much more suspicious attitudes on the issue of European polity-building. The efforts to define a new mode of consensus found expression, on the one hand, in the fact that Europe's 'finality' is again a topic of lively debate. On the other hand, these efforts have led to a series of more or

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[6] The Eurobarometer surveys commissioned at regular intervals by the European Commission are informative in this regard. The findings of the decade following Maastricht can be summarized in the formula 'Europe divides' (on this see also Section 3.3 of Chapter 3).

less controversial proposals for democratizing the EU as well as in the drafting of a European constitution.

1.2   Integration and Legitimation in a Diverse Polity

What are the bases required for building a political community beyond the realm of the nation-states? A question that had been prominent in the initial stage of the integration process has come to the fore again in the debates revolving around the European constitution. Pioneers of unification such as Jean Monnet believed that Europe should be the product of a politics of small steps. The strengthening of the supranational dimension would be a quasi-automatic consequence of the successive agreements adopted to regulate specific policy areas. Thus the progress of integration depended essentially on intensifying the interaction of elites and functional groups rather than on obtaining the strong normative commitment of the 'peoples of Europe'. The purpose of an 'enlightened technocracy' was ultimately to pave the way for a European federation. The advantages of pooling expertise and resources at the European level would soon become unquestionable enough to provide Community institutions with a high level of a legitimacy of their own, which would give them greater political weight vis-à-vis the national governments.

The developments since Maastricht are a striking evidence of how limited the success of the strategy to count on functional imperatives for securing political loyalties has been. After 1990 the former 'permissive consensus' seems to have turned into a 'diffuse scepticism'. Ultimately, the rejection of the Treaty establishing a Constitution for Europe in the referenda held in France and the Netherlands in spring of 2005 and the ensuing political turbulences may well be interpreted as the symptoms of a crisis of legitimation that had been latent for a longer time. When the uniting of Europe was still an incipient phenomenon, Karl Deutsch emphasized that the political dynamics of processes of integration cannot be properly understood without taking into account their social embeddedness.[7] Europe's constitutional impasse has reconfirmed this view quite dramatically. Hence, departing from approaches that have focused primarily on institutional design in a narrow sense and devoted much space to discussing issues such as the appropriate number of Commissioners in an enlarged Union, the technicalities of qualified majority voting or the division of competences between the European Parliament and the

[7] Deutsch et al. (1957); for a more recent assessment of the socio-cultural aspects of integration see Cerutti and Rudolph (2001), Dewandre and Lenoble (1994), García (1993), Howe (1995), Laffan (1996) and Wallace (1997).

European Council, our analysis should be more sensitive of the societal factors involved in legitimizing a European polity. The precarious character of the structures that could sustain a transnational civic space in the EU reflects the shortcomings of a constitutional politics that has neglected the 'Europe of the citizens'. More than ever before, a substantial discussion of the perspectives of European constitution-making seems to require a thorough reflection on how Europe's institutional framework relates to the identity of the political subjects of the Union.

This takes us directly to the topic of the present study. Both for the identity of Europe as a political community and for the identity of a European civil society cultural diversity bears a crucial significance. Europe is a mosaic composed of different ethnic, regional or national patterns of identification, manifold historical traditions and a variegated set of languages and cultural standards. These should not be conceived of as static 'primordial' ties. The mosaic rather gives expression to a plurality of interpretive contexts that form specific political cultures. Such a plurality of cultures stands in no tension with democratic norms; it represents a repertoire of equally legitimate ways of connecting general political principles to particular life-worlds. Accordingly, Europe's constitutional discourse[8] establishes a close link between the affirmation of common civic ties and the protection of diversity. Thus, characteristically, the Treaty establishing a Constitution for Europe defines European identity along two main axes: on the one hand, a set of common political values demarcates the normative framework of unity; on the other hand, the constitution assigns cultural diversity a pivotal role within this framework. As stated in the constitutional text, the EU's motto reads 'united in diversity', and there are several paragraphs in the constitution which stress the high normative status diversity has for the construction of a European polity.

At first sight, such declarations of good intent may sound quite uncontroversial. Nonetheless, things begin to look more complicated as soon as we assess the meaning of diversity against the background experience of political integration in modern times. In the political order that emerged in Europe after the Peace of Westphalia, to strive for making discrete territorial units culturally homogeneous was to become the general rule. All over the continent, the processes of building modern polities – nation-states – and of creating a body of citizens were quite hostile to diversity.

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[8] By constitutional discourse I do not only mean the contents of the European constitution in the strict sense; as I use it here, the term also refers to the main treaties and to other documents which point out the normative guidelines of integration, such as the Treaty of Rome, the Treaty on European Union or the Charter of Rights of the European Union.

To a significant extent, the historical legacy of state-building continues to permeate the mainstream of European constitutionalism up to our times. From the corresponding perspective, the argument is often made that the very lack of strong identity ties, of a feeling of 'peoplehood' at the European level, considerably hampers the chances to provide the EU with a proper constitutional framework. This view has increasingly come under the fire of the advocates of postnational and cosmopolitan approaches to political integration. They would hold that the European project's normative appeal lies precisely in not pretending to push for cultural homogeneity. The cosmopolitans' point that our understanding of integration today must not be governed by a one-sided fixation on previous national models is well taken. However, to accept the point does not relieve us from showing how diversity should be and is dealt with within the new kind of political community the EU is supposed to represent. While nationalists experience diversity as a problem, in the first place, cosmopolitans tend to underestimate the actual political effort involved in finding legitimate and effective ways of institutionalizing diversity.

From the angle adopted in this study, to make for unity in diversity is by no means a trivial endeavour. Rather, the question of how to constitute political unity – be it in terms of an integrated democratic collectivity or in terms of a common public sphere – under conditions of entrenched cultural diversity has to be one of the main challenges involved in the making of a citizens' Europe. The experience since Maastricht indicates that a political community of Europeans who are 'united in diversity' will not come into being as a simple by-product of constitution-making. After the rejection of the constitution in France and the Netherlands, the Union is facing an institutional crisis that has made it impossible to ignore that the bases of a common European identity cannot be established one-sidedly 'from above', in a top-down process. By now, it seems obvious that to be 'united in diversity' requires more than the combination of political good will and skilful constitutional engineering, if the motto is not supposed to be taken as mere rhetorical formula. After a protracted period of nationalist strife, during which the contending parties typically articulated their political goals in the name of mutually excluding cultural identities, the project of European integration was meant to entail an entirely new approach towards achieving political unity, an approach that would refrain from all attempts at creating a culturally homogeneous space, as they were characteristic of the history of state-making and nation-building in Europe. Yet, for reasons which will be put under closer scrutiny in the following chapters, the EU has thus far not been able to live up to its normative potential and to set up a truly innovative frame for responding to the challenges of diversity. Although Europe's constitutional discourse

celebrates diversity in general and abstract terms, the diversity-related elements in the process of European polity-building remain blurred.

How the Union meets the challenge of diversity will have a great significance not only for the overall orientation of Europe's institutional politics in the coming decades. It is hardly an exaggeration to affirm that the question of diversity occupies a central place in all attempts at elaborating a theory of democracy that is up to our times. Few other issues have attracted as much attention in the current normative debates. One strand of these debates, which has been highly influential for my argumentation, regards recognition as a key category for reconciling cultural diversity and democratic citizenship. However, political philosophers and theorists have discussed the politics of recognition at a high level of abstraction. The constellation that we face in the EU at present offers an excellent opportunity to develop the concept in the context of the empirical analysis of an emerging institutional order.

To find a straightforward way to address the dilemmas posed by diversity in the Union, this study places its focus on the area of language policy. In the vast and sometimes diffuse realm of 'identity politics', language occupies a rather concrete and clear-cut territory. Thus the regulation of linguistic pluralism in Europe has evident practical consequences for the citizens of the Union. Europe's multilingualism is a very important factor when it comes to defining the terms of communication in a transnational political space. In the analyses of European language policy, there is often a tendency to concentrate upon 'utilitarian' criteria, which relate to the actual distribution of linguistic communication potentials and to communicative efficiency. I do certainly not pretend to deny that the instrumental aspects of language have to be fully taken into account when we reflect on the rules that should regulate transnational communication in Europe. In multilingual settings, it is typically the function of a lingua franca to facilitate a matter-of-fact and 'neutral' communication across language groups. Still, I think we have to choose a different approach to understand the linkage of diversity and recognition: a *political* theory of language must devote particular attention to the expressive aspects of linguistic identities and linguistic repertoires. From the expressive angle, language has a great bearing on how a community and its members understand 'themselves'. By endorsing in the institutional realm the connections that exist between language as a social bond and language as a source of self-esteem, the recognition of linguistic identities contributes substantially to the protection of individual freedoms. At this point, it should be emphasized that the sharp contrasting of an instrumental and of an expressive dimension of language that underlies the second part of this study is primarily motivated by heuristic intentions. In many situations of real communication,