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EUROPE: SPACE — SOVEREIGNTY — IDENTITY

IMPULSES OF THE HAMBURG VIGONI FORUM
FOR A EUROPEAN FUTURE AGENDA

NOTES FROM THE HAMBURG VIGONI FORUM VOL. 2



**HAMBURG
VIGONI FORUM**

The Hamburg-Vigoni Forum is organized as one of the University of Hamburg's international strategy conferences and is financed by the University with funds from the Excellence Strategy of the German federal and state governments.

<https://www.hamburg-vigoni.de>



GREETING

DEAR READERS!



Univ.-Prof. Dr. Dr. h.c. Dieter Lenzen

“What holds Europe together?” Reflecting on this question is more relevant and worthwhile than ever in view of current major global changes and substantial upheavals (in particular facing the Russian Federation’s war of aggression against Ukraine and all the consequences it creates for the European integration project). The University of Hamburg, in cooperation with Europa-Kolleg Hamburg, the Institute for Peace Research and Security Policy, and the German-Italian Center for European Dialogue Villa Vigoni, has therefore launched a conference series under this guiding theme—the Hamburg-Vigoni Forum.

The idea of the Hamburg-Vigoni Forum is to bring the spheres of academic research, politics and civil society together to discuss the future of Europe. We are less concerned with detailed questions of day-to-day politics than with an overall concept of integration policy and the three major narratives of “space—sovereignty—identity” that are relevant to it. With the participation of internationally renowned scholars and, in particular, young academics, the interdisciplinary forum aims to develop practice-oriented proposals for the future design of the European integration process and to present them to politics and society. At the same time, the reflections are to be further considered together and fed into public discourse.

The “University of Excellence” Hamburg is financing the Hamburg-Vigoni Forum as one of its international strategy conferences with funds from the Excellence Strategy of the German federal and state governments. By organizing this format, it is fulfilling its responsibility as a “Flagship University” to European society. Our conviction is that we need these forums for dialog in order to make science tangible for citizens, to receive impulses from society and to offer support for the translation of scientific knowledge into political practice.

With this in mind, this publication brings together the Forum’s findings to date as the Hamburg-Vigoni Forum’s impetus for a future European policy agenda.

I would like to thank all participants of the Forum for their commitment and wish you an insightful reading!

Prof. Dr. Dr. h.c. Dieter Lenzen
President, University of Hamburg

THE HAMBURG-VIGONI FORUM

The Hamburg-Vigoni Forum aims to bring research and politics together in an innovative way. The focus is less on detailed questions of day-to-day politics than on an overall concept of integration policy: “space—sovereignty—identity”, the narratives of integration and disintegration that are familiar but not yet sufficiently questioned in terms of their relevance for concrete concepts for the future of European politics. Scientifically reflected and theoretically informed, the aim is to offer politicians interpretations to explain Europe in its whence and whither, to make it more tangible for citizens and to enable them to experience it in their everyday reality.

The conference series addresses the central question “What holds Europe together?” This question is to be placed in a global context, which is characterized by great changes and substantial upheavals (most alarming is, of course, is the Russian Federation’s war of aggression since February 24, 2022). In its search for identity, Europe must at the same time react to these (threatening) global challenges and, in the struggle for a multilateral world order, remain or become an

actor with the power to shape and act. Thus, European answers are also sought to global questions.

To this end, University of Hamburg, as part of its European strategy as a “University of Excellence”, the Europa-Kolleg Hamburg, the Institute for Peace Research and Security Policy and the Villa Vigoni have joined forces to stimulate a constructive discourse on European policy with the participation of leading academics. In the period from 2021 to 2026, a total of seven academic conferences will be held, alternating between Villa Vigoni and Hamburg. In this way, a forum can be created, supported by experienced partners, to provide sustainable impetus for the overarching discourse on the future of Europe initiated by the EU Commission.

The Hamburg-Vigoni Forum is organized as one of the international strategy conferences of the University of Hamburg and is funded by the Excellence Strategy of the German federal and state governments.



FOREWORD

The “Hamburg-Vigoni Forum” seeks—oriented to the major integration policy guiding questions of space, sovereignty and identity—to bring science and politics into conversation with each other. From October 16 to 18, 2021, the first international workshop took place at Villa Vigoni in Menaggio on Lake Como. This paper primarily documents its proceedings, partially supplemented by further outcomes of a Hamburg based follow-up meeting on February 24 and 25, 2022 (the very day when the Russian Federation’s war of aggression against Ukraine started)

In the face of current crises, such as, and most importantly so, the aforementioned war, furthermore the renewed takeover of the Taliban in Afghanistan, Belarusian attempts to blackmail the EU in migration policy, or new challenges presented by China under Xi Jinping’s leadership, political calls for “strategic sovereignty” of the European Union are becoming louder and louder. How this assertion of sovereignty changes the internal structure of the Union and its member states remains a still open question, as does the role of European identity in this context.

The Forum does not intend to provide answers, but rather—in the spirit of a cross-generational dialogue on European policy—to formulate suggestions and provide impulses. We are therefore particularly grateful to the University of Hamburg for its long-term financial support of the Forum as one of its international strategy conferences from funds of the Excellence Strategy of the German federal and state governments. We wish all readers an inspiring read.



Prof. Dr. Markus Kotzur



Dr. Christiane Liermann



Prof. Dr. Ursula Schröder

EUROPE: SPACE — SOVEREIGNTY — IDENTITY

The more the European integration project is challenged by multiple external as well as internal crises—such as Ukraine war, the financial or sovereign debt crisis, the refugee protection crisis, the rule of law crisis in some member states, the climate crisis or the COVID 19 crisis—the more urgent is the question of what holds Europe together at its core. Anyone who narrows this question down to the geographical Europe or even the Europe of the European Union does justice neither to the complexity of the question nor to the complexity of its subject. Europe is not limited to the Union of 27 and is certainly more than a territorial entity. Against this background, the Hamburg-Vigoni Forum seeks to measure Europe on the basis of three interdependent, politico-culturally as well as legally determined categories: Space, Sovereignty and Identity. The orientation on these three already intensively researched, by no means uncontroversial major concepts of political thought may *prima facie* appear too abstract in its approach, too conventional in its claim.

As is so often the case, however, the first glance is deceptive. With increasing intensity, European policy is explicitly adopting the three concepts in its agendas: Thus, in the 2021 German Bundestag election campaign, there was frequent talk of Europe's "strategic sovereignty", the concept of "constitutional identity" coined by the German Federal Constitutional Court has long since found its way into political discourse, the "area without internal borders" very well reached its limits in the COVID 19 pandemic, the refugee drama on the border between Poland and Belarus and finally, since February 24, 2022, Ukraine citizens fleeing their country under illegal Russian attack and even young Russians trying to escape potential draft in their home country are becoming an ever greater challenge to the "area of freedom, security and justice." Questions of space and related questions of (political) belonging gain more and more weight when free trade regimes want globally unbounded markets, migration movements challenge political communities, member states like the United Kingdom turn their backs on the EU, while others seek full membership (most recently Ukraine), sometimes against considerable opposition. Europe resorts to the identity topos for (delimiting) self-description vis-à-vis actors such as China, Russia or the USA. Conversely, the member states are increasingly positioning their national identities against a European identity. The question "Who decides on what basis of competence?", which is crucial for the ability to react to crises—and thus also for trust in politics—has always been a classic question of sovereignty.

Whoever asks it also points to an ambiguity peculiar to Europe. Especially after the Second World War, the states of this continent have developed numerous forms of cooperation which, on a sliding scale of institutional consolidation, strive for certain common economic, political and (human) legal goals. These include the Council of Europe and, above all, what

were initially called the European Communities, today's European Union. While the Council of Europe, with its current 47 member states, could claim to represent the whole of "Europe," in the media at any rate "Europe" is equated primarily with the European Union in the sense of a subject capable of will-formation and (joint) action. This union represents a completely new type of supranational cooperation. The special modalities of its will-formation and its far-reaching powers, including the penetration of its law into the formerly protected sovereignty areas of the member states, are unparalleled in recent history. The novelty of the union of sovereignty gives rise to ambiguities in the organization of sovereignty. They rub against the congenial idea underlying the nation-state concept of coupling identity, sovereignty and territory and defining them as mutually constituting and thus indispensable core elements for legitimate state rule. Breaking through this equally familiar and successful model of the modern nation-state, grasping the terms as concepts in their own right and, above all, conceptualizing a model of governance in which the three elements no longer "necessarily condition" each other, is the central task for the scholarly description and analysis of the EU, and to some extent of Europe more broadly (the Council of Europe). Whether and to what extent territorially conceived identity and sovereignty are still constitutive for a legitimate order of rule remains one of Europe's great questions for the future.





To ask—and to make an attempt at answers—to this question, is what the Hamburg-Vigoni Forum wants to do: interdisciplinary in its analytical approach, practice-oriented through its constant exchange with politics. It is politics, after all, that seeks to operationalize the three concepts for its shaping of European realities. What is at stake is nothing less than the possibility and feasibility of legitimate rule beyond the nation-state. The conceptual triad of space, sovereignty and identity is of utmost (practical) relevance, because the reasons for the lack of legitimacy of common EU policy-making are more and more frequently and vehemently the territorial permeability, the lack of identity typical for the nation-state, as well as the lack of a state-like power center of the EU. How space, identity and sovereignty with their (de-) constitutionalization potential relate to each other and whether they can be decoupled from each other is the guiding idea for the following considerations. A definitional approach to the three terms is followed by their contextualization—and this in the sense of a science that quite consciously takes a public stand on current political issues and wants to give impetus to political agendas.

SPACE

MORE THAN A TERRITORIAL CONCEPT

The present attempt at a definition is not concerned with axiomatic deductions from an (ideologically) exaggerated concept of space. That would be a highly precarious undertaking for European studies and more than counterproductive for European policy-making. Rather, Europe should be contoured inductively from the multiplicity of its spaces, e.g. in the political, economic or legal sense. Six types, which are not meant to be exhaustive, are suggested here:

- a. The core area of EU-Europe with its various facets, in particular the internal market, which functions despite all crises;
- b. the area of 26 Schengen member states, at least ideally free of internal border controls;
- c. the area of responsibility of the candidate countries of the “Western Balkans”, which is in need of expansion in order to extend the law of the Union;
- d. the fragile neighborhood area in the south and east, which requires wise and pragmatic neighborhood arrangements;
- e. the human rights area of the European Convention on Human Rights with the 47 members of the Council of Europe, which extends far beyond EU Europe;
- f. finally, those global spaces of interest (formulation) transcending geographical Europe (partly determined by international organizations such as NATO, the OSCE or the WTO).

This typology of spaces already includes other differentiations, such as those between territorial spaces, cultural spaces and legal spaces. The spaces designated in this way were and are never something static but have always changed through the course of history. Therefore, a continuous remeasurement of Europe is necessary, within which, as the typology has also underlined, a consistent distinction must be made between the territorially rather amorphous spatial structure associated with the idea of Europe and the territorially clearly delimitable space of the EU. The latter may be associated in particular with sovereignty, even in its classical form as territorially bound sovereignty, while the former may be associated in particular with the much-invoked European identity.

This also refers to space in the legal sense or as a legal concept. It does not necessarily have to be physical, but it generally requires localizability: the territorial space of the EU member states and their regions in the nation-state sense; the supra-territorial space of the European



The concept of Europe describes more than a geographical space. It stands for social structures that are space-related on the one hand, and space-creating on the other, and that emerge from interactions and cooperation, through homogenization processes on the one hand, and differentiation processes on the other, and can thereby extend into the transnational.

Union, which transcends the classical nation-state and is made up of the sum of the territories and regions of the member states; the EU legal space, which does not have to be identical with the supranational or territorial space (e.g., the Schengen area already mentioned), also because EU law can have an extraterritorial effect at the global level; digital space (cyber-space) without reference to place, but which can be localized for law by data carriers and data users and requires legal regulation; spaces beyond state jurisdiction such as the high seas and outer space, which are relevant for the European Union as a multilateral actor; and finally the geopolitical space of influence and strategic power, which is central to the idea of European sovereignty.

From this differentiated typology of space, the quintessence can be stated: the concept of Europe describes more than a geographical space. It stands for social structures that are space-related on the one hand, and space-creating on the other, and that emerge from interactions and cooperation, through homogenization processes on the one hand, and differentiation processes on the other, and can thereby extend into the transnational.



THE FRAGMENTED SPACES OF THE EU

In the triad of space, sovereignty and identity, all three categories are conceived relationally from the outset. They contextualize each other and at the same time stand in (global) contexts that transcend them. (Political) identity and sovereignty are usually, though not exclusively, linked to territorial space. Identity, the much invoked “we-feeling,” is in turn created to a not inconsiderable extent by the sovereignty of the political entity, but it is also formed through identification with territorial spaces (a community, a region, a state, the homeland, etc.). The talk of the “common house of Europe” or of the “Europe of fatherlands” wants to illustrate this in a positive connotation and to address not only the *ratio* but also the *emotio* of the citizens of the Union (P. Häberle).

However, the identification with territorial spaces outlined in this way also gives rise to a central dilemma of the European Union. Its territoriality, unlike that of its member states, is not original. Even if territorially defined, the Union, according to its self-understanding, wants to be an original legal space in the sense of a community of law (cf. W. Hallstein). However, such a “mere legal area” is less suitable for asserting sovereignty and creating identity than a territorial entity shaped by long experienced and suffered history. The Union therefore seeks to counter the (supposed) technicality of its law and its lack of territorial self-evidence with a value narrative. Shared values are supposed to create that unity and unity of will for which normative directives are not sufficient. Historically, however, Europe has never been a homogeneous community of values. It was only after the end of the Second World War that basic European values were gradually spelled out, albeit with recourse to national constitutional traditions, by the Council of Europe, the original European Communities and the later European Union. However, as the current (rule of law) disputes with Poland and Hungary demonstrate, this does not yet open a naturally experienced space of shared values.

The Union is experienced far more as a market. This corresponds to its (functional) internal market rationality. Market areas with the strong labor migration that is typical of them develop a power that also creates a political community if they lead to a reduction in economic disparities. Mobility in the Union, however, appears limited, still intensively tied to cultural and linguistic spaces and, most seriously, more or less exclusively reserved for elites as part of their positive way of life. In the eyes of some, this makes the internal market less an instrument of inclusion than one of exclusion, which cannot fully live up to the self-imposed ideal of the social market economy.



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SOVEREIGNTY

BEYOND STATEHOOD — THE EU'S CAPACITY FOR SOVEREIGNTY

The concept of sovereignty—not in a merely descriptive but analytical sense—can be more clearly contoured than the concept of space, especially in a historical perspective. This unambiguity, however, is also a burden in terms of developmental history. Legally and politically, sovereignty was long associated with the concept of the modern territorial state. This model of the state, often referred to as “Westphalian” in reference to the peace treaties of Münster and Osnabrück, has since become the decisive form of organization of territorially bound political communities worldwide. In this sense, sovereignty denotes a constituent quality of the state. Whereas initially the concept of sovereignty meant the ultimate decision-making power within the state and its independence from the outside world (J. Bodin) or the ability to be bound by consensus only by virtue of its own will (G. Jellinek), today the focus is on comprehensive self-determined sovereignty within the state and the exclusion of foreign public and private powers from the outside world (M. Herdegen). The legal discourse emphasizes above all the so-called competence-competence, i.e., the ability to shape the competences of public authority on one's own (so, for example, the Federal Constitutional Court).

On the basis of this understanding of sovereignty, which is classic in all its nuances, the verdict on the European Union's ability to be a sovereign state is quickly reached: In the absence of its own state quality, it has no sovereignty. Put the other way around: In the absence of sovereignty, the Union is not a state in the sense of public and international law. If the concept of sovereignty is nevertheless applied to the EU by scholars and politicians, and with increasing intensity, this is associated either with a fundamental change in the understanding of the term or with an attribution that seeks to terminologically sharpen expectations of the Union's ability to act and shape, or to euphemistically cover up deficits in the Union's ability to act and shape.

First, there is the attribution aspect: Whenever sovereignty is mentioned in current political discourse in connection with the EU, this is not least of an appellative character. The goal



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of attribution is to work toward greater efficiency in Union action (deemed all the more necessary facing the Ukraine war and the energy supply crisis it brings about). Furthermore, the goal is to solidify the position of the European Union or the collective of European states in the geopolitical competition of powers (China, Russia, the United States) with the attributes of strength and agency (keyword “strategic sovereignty”). The associations aroused by the concept of sovereignty are to be deliberately made (politically) fruitful. Translated into legal categories, it is about a new distribution of competences between the Union and the member states in certain areas, such as foreign policy. In political science, however, doubts are being expressed as to whether the concept of sovereignty, which has already become questionable in view of the global interdependence of states, is not all the more unsuitable for the European Union. Furthermore, in connection with the Union, the old problem arises of who can be considered as the bearer of sovereignty in a federal organization. Nevertheless, equivalent alternatives have not become visible. The concept of sovereignty remains attractive, because this very concept is associated, especially in the historical perspective, with a special expectation of the performance of a community, which becomes effective in particular in the protection of the individual against threats from within and from without. With its concept of the autonomy of Union law, the Court of Justice of the European Union has created a (partial) functional equivalent, which is intended to make the EU as a community of law independent of its member states on the one hand and the traditional (state-shaped) principles of international law on the other.

These developments, in turn, promote fundamental transformations of the concept of sovereignty that go far beyond mere attributions. Quite different from the conception of the classics like Bodin or Hobbes, shared or “pooled” sovereignties and an evolutionary understanding of sovereignty appear conceivable. In the context of this evolution, the connection between legitimacy and sovereignty becomes more and more apparent. Often sovereignty is thought more instrumentally towards human beings. A political community is supposed to be sovereign in order to guarantee the freedom, fundamental and human rights as well as the (social) security of its citizens. From an internal perspective, we may speak of instrumental or functional sovereignty of the European Union where the legitimacy of the European institutions for





lawmaking and the implementation of public interests is recognized. In the external perspective, on the other hand, the idea of a sovereign European Union is much more strongly—and in this respect quite classically—associated with its ability to exercise (not only “soft”) power, even to be a hegemon. However, this ability can only exist if the Union is recognized both by its member states and by the international community as an international actor with the power to act and the corresponding competences and infrastructures (up to and including the military—an aspect that again becomes very urgent facing Russia’s war of aggression against the Ukraine). Sovereignty, at the end of the day, might be a concept that refers to distinctions and limitations, rather emphasizing differences than endorsing shared values. The still inter-governmental Common Foreign and Defense Policy (see Art. 21 I TEU) shows that the member states are anything but ready to give up their distinct “sovereign” foreign policies.



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THE CAPACITY TO ACT: SOVEREIGNTY AS AN ANCHORING CONCEPT

In the triad of space, sovereignty and identity, the concept of sovereignty serves as an anchoring concept. The central question connected with the three categories, and concurrently the decisive question for the success of the integration project—dramatized as its “question of survival”—remains the question of legitimate effective rule. Legitimacy (being allowed to act) and effectiveness (being able to act) find a common basis in the concept of sovereignty. Therefore, the concepts of space and identity are ultimately to be inferred from the perspective of sovereignty.

Thus, concepts of space that transcend the nation-state (inclusion and exclusion, mobility in space) challenge an outdated assumption: The state can only exist through processes of inclusion and exclusion that lie in its exclusive sovereign ability or permission. Therefore, the European Union is understood as a distinct political system. Questions about the functioning of this system, the networked policy-making in supranational spaces, and the compliance of the member states are sought in particular by the political sciences to be captured by the concept of *governance*. Accordingly, a definition of the EU as a *system of multilevel governance* has become established, which does without the central elements of the modern state (monopoly of power, hierarchical order, core policy areas, clearly defined constituency) and just as independently of the question of *finalité politique* as it does without clear attributions of sovereignty, or even the category of sovereignty as such. Despite all these ambivalences and relativizations, sovereignty still fulfills an important, if not the central, ordering function in the European and global world of states. It demarcates the state as a “born” subject of international law from all other manifestations of political cooperation, thus providing it with special powers in international legal relations and at the same time making it the subject of fundamental obligations. For this reason, sovereignty remains a contested but indispensable category in the structure of the Union and the Member States, i.e. in the European constitutional area.

Identity, too, can be inferred from the perspective of sovereignty. In this context, identity and sovereignty initially stand for two very different concepts or phenomena. Whereas identity is first and foremost an empirically investigable psychological variable that can be expressed in many forms in the language, art and culture of a society and is therefore accessible to “objective” proof, sovereignty is a normative construct that is constitutive for the modern state (in the sense of G. Jellinek’s three-element doctrine of state people, state territory and state power). Although it may be possible to conceive of a state without a national identity (for example, in Belgium, Catalonia and Scotland, regional identities release centrifugal forces), it cannot dispense with sovereignty without losing its state quality. Identity thus remains ambivalent. It can play a central role in the cohesion of a political community and thus provide sovereignty with additional legitimacy, but it can also—where identity conflicts arise—destabilize cohesion and thus delegitimize sovereignty to some extent. In political practice, (European) identity is more suited to characterizing the internal state of the European Union (and providing it with additional legitimacy), whereas national identity is likely to be used primarily to limit the formation of unity at the European level (and to delegitimize union action beyond these boundaries).

IDENTITY

AN OSCILLATING CONTINUUM

In the triad of space, sovereignty, and identity, the latter remains the most problematic, because most ambivalent, category. The concept of identity is used in quite different contexts and underpinned by quite different subtexts. In particular, historical studies, political science, and, more recently, legal studies have turned to the problem of what role collective identity plays in the genesis and persistence of political communities. Regarding the European multi-level system, the main question is whether and in what form there can be an (original) European identity, what differences there are to national, regional and local identities, and what contribution identity is capable of making to the integration of the member states (or their citizens) within the framework of the European Union. Therefore, it is also necessary to speak of identity(ies) in the plural—there is no “identity monism”—and to think of them in a graded way: multiple, gradually graded identifications with communal, regional, national, European, transnational, even international spaces.

All these debates, however, are not based on a general, let alone universally valid definition of the concept of identity. Often identity is simply (conceptually) assumed. In everyday language, the concept of identity stands for complete congruence (two things are identical), but it is also used when it is a matter of identifying a person or his or her defining characteristics (identity determination, identity characteristics). In psychology it is about the inner unity of a person, his so-called self. In all these uses of the term, identity thus has an inclusive and at the same time exclusive effect. Identity, or better, identities—individual as well as collective—are a search for self-assurance based on demarcation, conditioned and driven by constant change of



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circumstances. In addition to its fuzziness, it is precisely this dynamic of inclusion and exclusion that makes the concept of identity and plural identities so attractive for political discourse. They use the invocation of collective identity(ies), supported by historical symbols, as narratives to underpin political legitimacy or as counter-narratives to shake claims of legitimacy.

From this follows, in the sense of an approximation *ex negativo*, in any case, what collective identities do not mean. They are not essentially developed or naturally given entities (in the sense of an essentialist concept of identity, which assumes that there are objectively existing commonalities on which a common identity is necessarily based), but rather social constructs formed and changeable from many factors and layers, which are formed in confrontation between the own and the other or foreign. In this sense, collective identities are “created” or “constructed.” This does not mean (not to misunderstand the notion of constructing) that these self-attributions are freely invented; rather, they are based on shared historical and cultural experiences that act as “identity catalysts.” Against this historical-sociological horizon of experience, different layers or, in other words, reference points of identity can be identified in Europe: *thick identities* related to the state or the nation, to the region and the local environment, *thin identities* related to the EU. These tend to be selective identifications with individual projects or legal positions (such as citizenship of the Union or the community of fundamental rights), but they are hardly capable of generating a state-like identity. However, there is no genuine EU identity that reproduces the explicitly national (ethnic or negatively connoted identitarian) identity concept of the modern nation-state.





Notwithstanding all this, EU law uses the concept of identity in very different contexts. In this respect, it is a legal concept, whereby it remains disputed whether and to what extent identity can be concretized by the Court of Justice of the European Union or whether it can be judged at all on questions of identity. On the one hand, the preamble to the EU Treaty justifies the development of a common foreign and security policy, as well as a defense policy to be progressively defined, with the aim of “strengthening Europe’s identity and independence in order to promote peace, security and progress in Europe and in the world.” At this point, the concept of identity, albeit only as a criterion of interpretation, has a competence-establishing function. This European identity is contrasted in Article 4 (2) of the EU Treaty with the “national identity,” which must be respected by the European Union regardless of attempts to build its own identity. In this context, the concept of identity has a competence-limiting function. Originally introduced by the Treaty of Maastricht and not further defined there, the Treaty of Lisbon has concretized the reference points of a national identity. According to it, it is expressed in the “fundamental political and constitutional structures, including regional and local self-government...”. Further concretizations can be found in the preamble (“...solidarity between peoples, respecting their history, their culture and their traditions...”) and the provisions on culture (respect for the “national and regional diversity” of cultures).

In particular, the question arises whether the concept of “national identity” is to be interpreted by the European Union in an ultimately binding manner or whether it confers a definitional prerogative on the Member States, similar to the concept of public policy, over which the Court of Justice exercises only a framework control. Finally, the Union also respects



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the “identity” of churches and religious associations as well as philosophical and non-confessional communities in the Member States. In this context, too, the concept of identity has a competence-limiting character. This also applies to the “constitutional identity” of the Basic Law developed by the Federal Constitutional Court. It marks the legal limits of Germany’s integration into a European association of states and, according to the Federal Constitutional Court at any rate, stands in the way of the establishment of a European federal state with Germany’s participation.

THE CONSTITUTIVE POTENTIAL OF “EUROPEAN VALUES” AND ITS LIMITS

If sovereignty functions as an anchoring concept in the conceptual triad, identity is both the starting point and the (open) target point of integration considerations. Without a reflection on identity, it seems neither possible to determine the values that underlie “being European” nor to grasp the space that these values (should) shape, or to legitimately tie back the sovereignty(ies) that give this space its political ordering structure. Reflection on identity always leads back to values. For the Union, which wants to be a *normative power* (I. Manners), the concept of values has at the same time an immanent geopolitical reference: a value-oriented foreign policy, communication of values within the framework of the European Neighborhood Policy or development aid policy, dialogues on the rule of law, etc. For this reason, the legal concept of European identity is always associated with assertions of authority and claims to power (both vis-à-vis the member states and vis-à-vis third countries). In the self-attribution of the Union, there are unmistakable values (Art. 2 TEU) which shape its sphere of rule and which are supposed to legitimize the sovereignty to which the European institutions are entitled in this sphere.

This suggests that identity is constitutive of legitimate rule. This assumption, however, remains highly controversial in the social and political sciences. To discuss the concept of identity in isolation leads to a dilemma. The abstract question of whether a genuine sovereign is conceivable without identity, *in concreto* whether and to what extent a genuine EU identity is necessary for legitimate rule by the EU, cannot ultimately be resolved empirically and therefore leads to fundamental assertions of an ideological, doctrinaire or even ontological nature. This dilemma can be avoided if identity is not understood as a premise of sovereignty, but rather if thinking about identity is understood as part of the debate on sovereignty, critically relating the concepts to one another.

Identity, after all, is closely related to the public sphere. In political science terms, this refers to mutual perception, communication and reception (*in rebus politicis*) or to the treatment of the same topics in the same form at the same time. Evidence for the emergence of such a broadly defined European public sphere is provided above all by the crises of recent years: the sovereign debt crisis, often apostrophized as the euro crisis, the refugee protection crisis, Brexit or, most recently, the COVID-19 or energy crisis driven by the Ukraine war. Furthermore, cooperative networks and shared habits of life can be identified, especially between (political, economic, cultural) elites, but also activists (Fridays for Future). However, such epistemic communities do not necessarily give rise to communities that define themselves primarily in European terms.





DARING MORE DISCOURSE — AN INVITATION TO POLITICAL LEADERS

So what about the possibility and feasibility of legitimate rule beyond the nation state? What holds Europe together at its core in the face of the crises mentioned at the beginning?

The quality of the conceptual triad of space, sovereignty and identity also proves its worth in the analytic comprehension of the European Union—or rather, the comprehension of Europe’s scope, capacity to act and its values. It is precisely their relationality that makes these categories so suitable for the ongoing description of the constitutive further development of the EU. European identity embodies both a condition for grasping the spaces that underlie being a European and the substrate of the legitimacy reconnection of a European sovereignty. As an anchoring concept, this in turn forms a foundation for the discourse on European spaces and identities. Finally, the fragmented spaces of Europe reflect the differentiated sovereignty capacity of the European Union (and its member states), are the basis for both possibilities and limits of European agency, and at the same time an important reference point for identity formation.

The continuous re-exploration of sovereignty and identity and their interdependence in Europe offers not only analytical insight but also a future-oriented potential for development and legitimation. Realizing these potentials is (also) the task of European politics, which increasingly uses this terminology, but sometimes lacks a discursive discussion of their deeper meaning. Some impulses on this subject follow as an invitation for a more profound discussion to those politically responsible and to the European demos as a whole—in other words, to all of us!

IMPULSES FOR A EUROPEAN POLICY AGENDA OF THE FUTURE

Asserting a **European identity** without empirical evidence of it in the lives of European citizens would be detrimental to the integration project. Reflections on the possibility of European identity must take place within the framework of the sovereignty debate and be related to the question of sovereignty.

The **legitimacy of the European Union** must be renegotiated. Questions of space, sovereignty and identity should provide central points of orientation for political and social discourse. The retreat to a functional logic of integration (market integration), which supposedly facilitates acceptance, may seem attractive in the face of growing Euroscepticism, but it ultimately alienates the citizens of the Union from the integration project. Instead of keeping the question of legitimacy in a supposedly apolitical limbo, there is a need for contentious and at the same time committed debates about Europe's spheres of validity (space), capacity to act (sovereignty) and values (identity).

The discourse on European policy must address in particular the **question of sovereignty**, which is the linchpin or anchor point of the integration process. European sovereignty alludes primarily to an external, realpolitik independence vis-à-vis other geopolitical actors, but not to an inward-looking competence of the European Union in relation to its member states. Instead of merely asserting the EU's sovereignty, scholars and politicians must therefore work out much more precisely what is meant by the European Union's "strategic sovereignty," how this differs from mere strategic autonomy, what competences the Union needs to achieve strategic sovereignty, and whether this must not ultimately also involve a change in the structure of sovereignty in the internal relationship.

Europe is currently experiencing an identity crisis because traditional narratives that bind it together are obviously not (or no longer) sustainable. However, these narratives are of utmost importance for the everyday life of European citizens. In order to stop the progressive erosion of the European integration project, **new common narratives** are needed that, despite diversity and plurality, offer the potential for a convinced identification with Europe and its values. This enables new integration dynamics and, ultimately, new debates on the question of sovereignty.

Questions of space are constitutive for the genesis of a European political public sphere. However, they should not refer to a geographical demarcation from non-Europe, but should be used for the positive determination of an "imagined space" of Europe's common values and norms. Such attempts of determination will without question provoke (fruitful) processes of contestation (contestations in the sense of A. Wiener). These may seem risky at first glance, but they are just as indispensable for the genesis of a **European political public** as they are for the spillover from economic to political integration, which has often been claimed but is far from being realized.

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