

A History of the States' Europeanness from the EEC/EU Institutions' Perspective: (Re)considering the Current Relevance of the Institutional Interpretations in Light of the Recent Crises

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Abstract

According to Article 49(1) of the Treaty on the European Union, any State wishing to apply for EU membership must be “European”, a preliminary eligibility condition which has been enshrined in EU law since the Treaty of Rome. Yet, the qualifier “European” has never been explicitly or institutionally defined, despite the fact that it may take on various meanings, going broadly from geographical to cultural ones, including political ones. Failing a clear-cut definition, the EEC/EU institutions have been brought to provide their own interpretations of the requesting States’ European identity – or Europeanness – especially in the course of membership applications, treaty-making processes and enlargement prospects. Focusing on these specific phases, and especially on the membership requests that raised eligibility issues, this paper investigates the various interpretations of the States’ Europeanness that have been provided by the EEC/EU institutions over the last sixty years. The methodological approach relies on a textual and discursive analysis of both recent documents and older records. It then considers, or reconsiders, the current relevance of these interpretations in light of the recent crises that the EU has to handle, such as the United Kingdom’s withdrawal from the EU or the democratic issues in some eastern Member States, and questions the prospective EU (dis)integration based on these institutional interpretations of European identity.

Keywords: Europe – Europeanness – Discourse – Enlargements – Eligibility

Introduction

Article 49(1) of the Treaty on the European Union enshrines that any State which is “European” can be eligible for membership, a requirement which has existed in EU law since the Treaty of Rome and its Article 237(1). Yet, the notion of “Europe” may encompass various meanings, broadly ranging from historical to political meanings, including cultural ones. These meanings have been discursively constructed by various social and political actors throughout centuries, which then enabled the different disciplines, study fields and actors to rely on these meanings to build their own definition. Failing a clear-cut, official, definition, the EEC/EU institutions were even so brought to provide interpretations of the States’ Europeanness, and consequently

of the notion of Europe, in order to determine which countries are eligible to membership, especially in the course of enlargement prospects and membership requests.

This paper first discusses the construction of the discourse on the representations of Europe. Then, it presents the various institutional interpretations of the States' Europeanness provided by the EEC/EU institutions over the last sixty years by focusing on specific requests that raised eligibility issues. It then explores the current legitimacy of these institutional interpretations that may be jeopardized by the recent internal crises that the EU has to handle.

The representations of Europe: discourse and constructions

The notion of Europe has been interpreted and defined by different actors at different times and the representations are thus manifold. These representations are mainly based on geographical, cultural, political and colonial arguments.

First, the notion of "Europe" was often defined with regard to the other or, in other words, in the negative. As Chabod argued, 'the concept of Europe must be built by opposition, insofar as there exists something that is not Europe; it acquires its characteristics and takes shape in its elements, at least at the outset, by this precise confrontation with that non-Europe'.¹ A statement which in line with E. W. Said's works on the construction of the Occident ('the self') by opposition to the Orient ('the other').² Paradoxically, this idea of distinctiveness was essentially directed against Asia which forms one and only land conglomerate, a geographical unity with the European part. The etymology of the term "Europe" reflects the distinction between Europe and Asia in its Greek origins. The term 'Ευρωπη' *Europe* would stem from 'ereb' *Occident* that would designate the part of the world where the sun goes down – in position to the part of the world where the sun rises, the Orient.

On the contrary, some authors prefer highlighting the production of Europe in relation with Asia, as being a spatial and historical whole, rather than in opposition. According to Vandermotten and Dézert, contemporary geographical Europe can only be comprehended as the continuation of Eurasia and in light of a 'historical production of the European space'.³ The interactions between the geographical areas and between geography and history should not be underestimated when trying to understand what is Europe and its geography. In the same vein, Lévy, asserts, in an epistemological perspective that rejects the study of the geography of Europe as a simple geographical fact, that is it simply impossible to know the limits of Europe without looking at the bigger picture by examining non-geographical elements that have shaped its contemporary geography.⁴

History has indeed played a role in the definition of the borders of geographical Europe. As the political landscape changed over centuries, a good many – mostly European – geographers,

¹ F. CHABOD, *Histoire de l'idée d'Europe*, Bruxelles, 2014, Editions de l'Université de Bruxelles. Free translation from French: "le concept d'Europe doit se construire par opposition, dans la mesure où il y a quelque chose qui n'est pas l'Europe ; il acquiert ses caractéristiques et se précise dans ses éléments, au moins au départ, précisément par la confrontation avec cette non-Europe."

² See Edward W. SAID, *Orientalism* (1973).

³ C. VANDERMOTTEN and B. DÉZERT, L'identité de l'Europe: Histoire et géographie d'une quête d'unité, *Revue Géographique de l'Est* 47/3, 2007, p. 5.

⁴ J. LÉVY, *Europe, une géographie. La fabrique d'un continent*, Hachette, Paris, 2011, p. 13.

cartographers and explorers tried to outline the geography of Europe. In this enterprise, they have relied on various indications, going from lithospheric to religious ones, including social and economic ones. The ancient representations of Europe mostly focused on religious features, such as the T-O map, while the more recent ones have relied on geophysical and socio-economic features.

In the 20th century, the plate tectonics was discovered and the world was divided into various major plates such as the Eurasian plate, the African Plate and the South-American Plate. If the division between Europe and Africa by the Mediterranean Sea also appears in the tectonic understanding of geography, there is no border between Europe and Asia on the Eurasian plate⁵. The plate tectonics corroborates the conception of Europe and Asia as being an indivisible whole, as well as supports the idea that it is necessary to consider historical mutual influences to understand geographical Europe.

Geographical Europe has also been referred to as a continent. Yet, the notion of continent is problematical since the choice of its borders remains arbitrary. If water areas are chosen to define the borders of a continent, islands are excluded. The British islands are often considered to be part of Europe but the British tend to refer to the rest of Europe as “the continent”. Europe and Asia are sometimes considered as one continent, sometimes referred to as the European continent and the Asian continent. Nonetheless, the notion of “continental Europe” remains in use in the discourse on Europe.

Yet, there exists a conventional definition of geographical Europe which takes oceans and seas as natural, physical borders. According to this conventional definition, Europe ends at the Arctic, the Atlantic, the Mediterranean Sea, the Bosphorus, and the Black Sea. The choice of these borders has remained relatively stable, except for the eastern border which changed. In the past, Herodote set the limit at the Tanais river (now the Don) before Pierre le Grand’s geographer pushed it back to the west at the Ural Mountains to make the part in ‘Europe’ bigger for geopolitical reasons.⁶ The geographical limits between Europe and Asia are thus also the result of historical, interest-driven and arbitrary choices. The water borders are also the result of arbitrary choices, some arguing that water can also be seen not as borders but as trade routes, and question the belonging of islands, such as the British Islands, to geographical Europe.

In fact, the geography of Europe can be considered both “a reality and a representation”⁷. This vision of Europe as being both an abstract ideological construct and an objective reality can be put down to the moving borders due to historical events such as conquests or territorial disputes, the impossibility to rely on objective criteria to define the borders, as well as the various social, political, economic and spiritual representations that have undeniably impacted the way in which the geography of Europe is understood and studied. The mixture of these elements has contributed to make geographical Europe both a spatial entity that can still be pointed to on a world map and an arbitrary social, cultural and political construction of the space.

Europe has also been understood as a cultural space which developed similar features, ways of life and organization systems because of shared history. The elements that are associated

⁵ J. LÉVY, *Europe, une géographie. La fabrique d'un contient*, p. 13.

⁶ J. LÉVY, *Europe, une géographie. La fabrique d'un contient*, pp. 25-26.

⁷ O. DESCAMPS, « La formation historique des frontières européennes », *Les frontières de l'Union Européenne*, Collection Droit de l'Union européenne - Série Colloques, Bruxelles, Bruylant, 2013, p. 199.

with this European culture often refer to the Greek-Roman times and their Renaissance revival. What have been considered to be the Greek heritage in the last centuries is the development of the philosophical thinking, the wit and the reason⁸, as well as the first democratic political regime in which the power is conferred to the citizens and that sets the path for modern democracies. Rome is often remembered as “the model of the organized power” which created a “system of law”⁹. These two ancient systems are often considered the first contributions to the “European heritage” and as having deeply influenced the cultural, social and political life in Europe.¹⁰

In the aftermath of the Roman Empire, Christianity, which was built on Judaism, advocated values based on ethics and morals, dignity and equality¹¹; this is why the Judeo-Christian religion was considered as another pillar of the European culture that led to the importance of such values for the current European societies. The opposition between Christianity and Islam intensified this idea of Christianity as a vehicle for these values. After the barbarian invasions and as Rome and Byzantium fought to keep power, the schism between the Occident – considered Christian – and the Orient – reduced to the Islamic countries¹² – was proclaimed by the Church as a result of the threat of the expansion of Islam.¹³ Islam was thought to be anti-democratic, in opposition to the Greek and Roman thinking, as well as to the moral, ethical and humanist values advocated in the Church’s discourse.¹⁴

The Renaissance and the Enlightenment were considered to be the pursuit of the Greek and Roman thinking.¹⁵ The term ‘humanism’ first referred to the cultural and philosophical movement, born in Italy during the Renaissance and quickly spread in Europe, which placed the human being at the centre of the reflection. During this period, the philosophers of the Enlightenment tended to confine religion to the more private spheres. Tolerance and laicity were in this context considered as values peculiar to the Enlightenment¹⁶, which was in turn associated with a European state-of-mind and identity. During the colonial era, humanism was linked with the civilizing mission that went through the teaching of classical works by Christian actors.¹⁷ The European colonies were expected to give up on their own cultures and adopt the European culture considered superior because of the noble values that it promoted. In the post-war era, humanism was increasingly linked to values such as democracy, human rights, freedom, ...¹⁸ in order to emphasise the importance of these values to avoid new bloodbaths.

Political values were thus successively associated with Athenian democracy, Roman law, Christianity, enlightened laicity, the imperialism-driven “civilizing mission” and the post-war “lessons-learned” renewal. These elements taken together – with the relative exception of the

⁸ C. BROSSAT, *La culture européenne: définitions et enjeux*, Bruylant, Bruxelles, 1999, p. 55

⁹ C. BROSSAT, *La culture européenne: définitions et enjeux*, p. 55

¹⁰ C. BROSSAT, *La culture européenne: définitions et enjeux*, p. 56

¹¹ C. BROSSAT, *La culture européenne: définitions et enjeux*, p. 56-7

¹² This is why Said explains that the perception of the Orient by the Occident is not only connected to Asia but is also frequently linked, and even limited, to the Middle East and Islam. See Said, *Orientalism*

¹³ J. GOODY, *Le vol de l’histoire. Comment l’Europe a imposé le récit de son passé au reste du monde (The Theft of History)*, Paris, Gallimard, collection « NRF Essais », 2010, p. 220; C. BROSSAT, *La culture européenne: définitions et enjeux*, p. 56.

¹⁴ J. GOODY, *Le vol de l’histoire*, p. 219-220.

¹⁵ C. BROSSAT, *La culture européenne: définitions et enjeux*, p. 57.

¹⁶ J. GOODY, *Le vol de l’histoire*, p. 350.

¹⁷ J. GOODY, *Le vol de l’histoire*, p. 356.

¹⁸ J. GOODY, *Le vol de l’histoire*, p. 357-8.

colonies-oriented humanistic purposes which became infamous in the post-colonial narrative, and Christianity which has declined – forged the European culture which has developed into a culture advocating some political values and preferring democracy-oriented systems.

Yet, these values were neither created by Europe, nor advocated exclusively by Europe. These values can be found back in some cultures and most religions. They may be part of the so-called European culture but they are not its exclusivity. Moreover, the elements are arbitrarily chosen in certain sections of history only and which especially focuses on western historical events, excluding the eastern part of Europe. Just like the notion of geographical Europe, the European culture is a constructed notion which relies on arbitrary choices.

The institutional interpretations of the States' Europeanness

By stating that “any European State” may apply for membership, the EEC/EU enshrined its openness to welcoming other countries meeting the requirement of Europeanness without specifying what can hide behind this formulation. When some countries asked to join, the EEC/EU institutions – especially, but not only, the Commission and the Council which are the institutions directly involved in the process of accession – have had to assess the States' Europeanness. In this assessment process, they have relied on four interpretations of Europe. These are presented below through the example of a membership case.

In order to find out these institutional interpretations, the methodology relied on a textual and discourse analysis of a corpus of institutional documents, i.e. documents produced by the four political institutions (European Council – Council – Commission – Parliament), by bodies related to these institutions (secretariats, committees, preparatory bodies, ...) and by political actors (speeches by state heads, ministers, commissioners, ...). Of particular interest were the documents dealing with the preparation and the redaction of the treaties and the membership requests from States of which the “European” character has been debated, postponed or denied. A search by key words was conducted on the EU institutions' websites and on archival repositories, such as the University of Pittsburgh's electronic repository “Archives of European Integration”. In order to access some older, non-digitalized, documents, as well as to undisclosed documents, research was also carried out in the Historical Archives of the European Union in Florence, Italy.

The first interpretation relied on the notion of geographical Europe. The conventional continental conception of Europe is indeed the starting point of the interpretation of geographical Europe by the EEC/EU. In the explanation of the membership clause provided on EUR-Lex, it is interesting to notice that the term “European” is only and strictly interpreted from a geographical point of view: “The applicant country must: be a state within geographical Europe [...]”¹⁹. However, the EEC/EU institutions have provided neither further details about this notion which is far from a well-defined and largely accepted fact as seen above, nor the precise borders of Europe, nor even a list of the countries that lie in what they call “geographical

¹⁹ PUBLICATIONS OFFICE, “Joining the EU - the Accession Process”, EUR-Lex, 2016. Available on <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=LEGISSUM%3A114536&from=FR&fromTab=ALL&lang3=choose&lang2=choose&lang1=EN>

Europe”. Two cases are especially illustrative of this geographical interpretation of Europe: the case of Morocco and the case of Turkey.

The southern border of geographical Europe was debated by the EEC institutions when Morocco asked for EEC membership. Indeed, Morocco, which is traditionally considered lying on the African continent, officially asked to join the Community in July 1987. In the application letter to the President of the Council, Hassan II stated that

[g]eographically close, Europe and Morocco have been so intimately united by History throughout the centuries that our civilizations deeply interpenetrated and that our common destiny was emphasized many times.²⁰

The geographical proximity, the civilizational similarity and the common destiny were not sufficient to convince of Morocco’s European character. On 1 October 1987, the Council would have refused the membership request on grounds that Morocco was not a “European State”.²¹ Even if Morocco is commonly considered to be a North-African State, the inclusion of Algeria in the Community before its independence (see below), as well as the tunnel project under the Strait of Gibraltar which would have linked Morocco and Spain, suggested the possibility of interpretation beyond continental geography. The refusal of the Moroccan application on grounds of a geographical non-Europeanness thus conveys the EEC institutions’ willingness to establish, at least in case law, the southern border of Europe to its conventional continental limit, without necessarily stating it in primary law.

This conventional geographical approach also served to validate Europeanness. The Turkish territory is generally considered to be lying both in Europe and in Asia: a small, European part situated at the west of the Bosphorus and a larger, Asian part at the east of the Bosphorus. In terms of geography, Turkey’s Europeanness was questionable; yet, the small part lying in Europe was sufficient to validate Turkey’s eligibility in terms of belonging to Europe. On 12 September 1963, Turkey signed the Ankara agreement with the EEC, which defined the steps to follow within the framework of a future Turkish membership. In his address on the occasion of the signature of the Agreement, Walter Hallstein, the then President of the European Commission, declared that

Turkey is part of Europe. That is the most inner sense of this operation: it brings, in the most appropriate and conceivable way in our days, the confirmation of a truth which is more than the abbreviated expression of a geographical reality or a historical observation spreading on a few centuries. Turkey is part of Europe: above all, it is rather the memory of Atatürk’s powerful personality, whose action is reminded to us at every step done in this country and the memory of the radically European renewal that he imposed on the Turkish State in all its manifestations. The event is second to none in the history of the radiance of the European culture and policy, and we even feel here a natural connection with the most modern European achievement,

²⁰ HASSAN II, « Lettre au Président du Conseil des Communautés européennes », 8 July 1987, Archives of the Council of the European Union, p. 1. Free translation from French: « [p]roches géographiquement, l’Europe et le Maroc ont été si intimement unis par l’Histoire au cours des siècles que nos civilisations se sont fortement interpénétrées et que notre communauté de destin a été maintes fois mise en évidence. »

²¹ COUNCIL OF THE EUROPEAN ECONOMIC COMMUNITY, *Décision sur la demande d’adhésion du Maroc à la Communauté économique européenne*, 1 October 1987, quoted on www.europarl.europa.eu/enlargement/briefings/23a2_fr.htm

the European unification. [...] And one day the last plunge will be taken: Turkey will be a full member of the Community.²²

Three elements are here adduced to validate Turkey's Europeanness: the geographical position understood as a fact, a "reality"; the historical and cultural influences between Turkey and Europe; and Atatürk's "Europeanization" of his country through public policies.

The fact that Turkey's partial position in geographical Europe did not prevent the country to be considered "European" provided for a new interpretation of "Europe" by pushing back its south-eastern border further than the conventional limit – since the whole Turkish territory is considered eligible in terms of Europeanness – while still relying on the conventional interpretation of geographical Europe which includes a part of Turkey.

A second interpretation that was provided by the EEC/EU institutions has to do with the aforementioned shared "European culture". Even though the treaties remain vague about what the European culture consists in, references to a shared culture, or civilization, in the institutional discourse. In the unratified Treaty establishing a Constitution for Europe, a reference to the "European civilization" was included in the first paragraph of the Preamble: "Drawing inspiration from the cultural, religious and humanist inheritance of Europe, from which have developed the universal values of the inviolable and inalienable rights of the human person, freedom, democracy, equality and the rule of law". Article 167 §1 TFEU also refers to this shared heritage: "The Union shall contribute to the flowering of the cultures of the Member States, while respecting their national and regional diversity and at the same time bringing the common cultural heritage to the fore." In 1970, Pierre Harmel, the then incumbent President of the Council, already mentioned "geography, tradition, history and the same civilization"²³ that united the inhabitants of the EEC Member States.

Shared culture/civilization was nonetheless adduced as the main eligibility feature when Cyprus applied for membership in 1990. Lying south to Turkey, lower than the Strait of Gibraltar and closer to the Middle East than the EU Member States, Cyprus did not fit perfectly into the conventional geographical interpretation of Europe. It was thus unclear whether the island would meet the condition of "European State" if conventional geography was taken as reference point because Cyprus was, upon acceptance, going to become the furthest and most eastern and southern Member State.

²² W. HALLSTEIN, « Allocution à l'occasion de la signature de la convention d'association avec la Turquie », 1963, Historical Archives of the European Union in Florence, EN-1617, pp. 1-3. Free translation from French: « [L]a Turquie fait partie de l'Europe. C'est là le sens le plus profond de cette opération : elle apporte, dans la forme la plus appropriée à notre époque qui soit concevable, la confirmation d'une vérité, qui est plus que l'expression abrégée d'une réalité géographique ou d'une constatation historique qui vaut pour quelques siècles. La Turquie fait partie de l'Europe : c'est plutôt avant tout le souvenir de la puissante personnalité d'Ataturk, dont l'action nous est remémorée à chaque pas dans ce pays et le souvenir de la rénovation radicalement européenne qu'il a imprimé à l'Etat turc dans toutes ses manifestations. L'événement n'a pas son pareil dans l'histoire des irradiations de la culture et de la politique européennes, et même nous sentons ici une parenté de nature avec la réalisation européenne la plus moderne, l'unification européenne. [...] Et un jour le dernier pas sera franchi : la Turquie sera membre de plein exercice de la Communauté. »

²³ COMMISSION OF THE EUROPEAN COMMUNITIES, « Intervention du Porte-Parole des Communautés, Monsieur le Ministre P. Harmel, Président en exercice du Conseil, lors de la conférence entre les Communautés européennes et les Etats ayant demandé l'adhésion à ces Communautés », Luxembourg, 1970, Historical Archives of the European Union in Florence, EN-114, p. 4. Free translation from French: « la géographie, la tradition, l'histoire, la culture et une même civilisation ».

In 1993, the Commission handed in its opinion on the Cypriot membership in which it concluded that

Cyprus's geographical position²⁴, the deep-lying bonds which, for two thousand years, have located the island at the very fount of European culture and civilization, the intensity of the European influence apparent in the values shared by the people of Cyprus and in the conduct of the cultural, political, economic and social life of its citizens, the wealth of its contacts of every kind with the Community, all these confer on Cyprus, beyond all doubt, its European identity and character and confirm its vocation to belong to the Community.²⁵

Of particular interest is the reference to the “European culture and civilization” that has been existing “for two thousand years”: the Commission underlines a shared heritage, resulting from a long past of mutual influences which dates back to the late Greek period and the start of Roman authority. The Greek-Roman influence on the island is here seen as having created deep, long-standing ties with “Europe”, in its continental interpretation, which eventually made Cyprus “European” despite its remote geographical position.

The third interpretation is based on the idea of a community of (political) values inherited from the shared past and characteristics of the European culture. In the unratified Treaty establishing a Constitution for Europe, culture and civilization had been intrinsically linked with the so-called universal values which seems to be understood as resulting from this shared culture/civilization inherited from a common past: “Drawing inspiration from the cultural, religious and humanist inheritance of Europe, from which have developed the universal values of the inviolable and inalienable rights of the human person, freedom, democracy, equality and the rule of law”. In the aforementioned Commission opinion on Cyprus’ application, there is also a reference to the “values shared by the people of Cyprus” which results from the strong “European influence” on the island. The link between political values and European culture is thus used in the institutional discourse.

The membership clause in the first European treaties did not refer to the respect of some “values”. It is in the Treaty of Amsterdam that Article 49 directly referred to the “principles set out in Article 6 §1” as an additional condition for each State wishing to join the EU. These “principles” became “values” in the now Article 2 TEU and encompass “respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities”. The reference to these values in the membership clause makes them a core element of European integration since they become a second primary eligibility condition, next to Europeaness.

²⁴ The reference to Cyprus’ geographical position must be here understood in geopolitical terms rather than in terms of geographical proximity. As Mavroyiannis pointed out, “[the] accession of Cyprus brought the EU closer to the Middle East and laid the groundwork for the creation of a new southern corridor.”²⁴ In geopolitical terms, the Cypriot membership was thus interesting for the EEC’s influence on the Mediterranean zone and relationships with the Middle East (Mavroyiannis A. D., “The Geopolitical Role of Cyprus in the Wider Context of the European Union”, *Mediterranean Quarterly* 25(1), 2014, pp. 54-64).

²⁵ COMMISSION OF THE EUROPEAN COMMUNITIES, *The Challenge of Enlargement - Commission Opinion on the Application by the Republic of Cyprus for Membership (Document Drawn up on the Basis of COM(93) 313 Final)*, Bulletin of the European Communities, suppl. 5/93, Luxembourg, Office for Official Publications of the European Communities, 1993, pp. 16-17.

Before their appearance in the membership clause, the respect of some similar values/principles was already of importance and turned out to be conditioning in terms of eligibility from the very beginnings of European construction. In 1952, Robert Schuman already stated that the ECSC would be open to the European States that are “free to make their own choices”²⁶. During the negotiations for the Treaty of Rome, the question of which countries should be invited to take part to the negotiations was risen and the following answer was given:

The answer to the first question is quite difficult to give: on the one hand, all the free States of Europe could expect to receive an invitation; on the other hand, we know that none of them is probably ready to subscribe to commitments like those considered by the Six.²⁷

This statement mainly refers to the countries of the eastern bloc which were not considered “free” by the western side to engage in this cooperation given the political control exerted by the Soviet authorities. From the very beginning, the leaders spread the idea that the European integration was a matter between “free”, democratic states which were ready to commit to the universal values stepping out of the willingness to avoid other devastating wars, as well as from “European” movements heritage such as the Enlightenment.²⁸ These values were thus seen as inherent to the “European” countries and implicitly became a feature of Europeanness in the institutional enlargement discourse.

It is the Spanish request for association with a view to membership in the early 1960s which gave the impetus for a reflection on and identification of political criteria to be respected by the requesting State.²⁹ Indeed, Franco’s regime was considered undemocratic on many levels and, in that sense, in contradiction with the preambular objectives of the Community. In the absence of political requirements, it was nonetheless complicated to provide justification for the refusal of Spain’s application given its geographical position. A few days before the Spanish request, the Birkelbach Report³⁰ was adopted and Spain’s application was denied. This Report required a ‘democratic form of State, meaning a liberal political organisation’³¹ to be in place in the requesting States. It further suggested the recognition of the principles of the Council of Europe,

²⁶ D. KOCHENOV, *EU Enlargement and the Failure of Conditionality: Pre-Accession Conditionality in the Fields of Democracy and the Rule of Law*, Alphen aan den Rijn, Kluwer Law International, 2008, p. 30. Free translation from French : “libres de faire leurs propres choix”.

²⁷ SECRETARIAT OF THE CONFERENCE OF FOREIGN AFFAIRS MINISTERS, « Note sur la préparation de la Conférence de Venise (confidentiel) », Luxembourg, 1956, Historical Archives of the European Union in Florence, CM3/NEGO-92, p. 9. Free translation from French: « La réponse à la première question est assez difficile à donner : d’une part, tous les Etats libres d’Europe pourraient s’attendre à recevoir une invitation; on sait, d’autre part, que probablement aucun d’entre eux n’est disposé à souscrire des engagements comme ceux qui sont envisagés par les Six. »

²⁸ S. MANGIAMELI, “Article 2 [The Homogeneity Clause]”, *The treaty on European Union (TEU): a commentary*, H.-J. BLANKE AND S. MANGIAMELI (eds.), Heidelberg, Springer, 2013, pp. 110 and 114.

²⁹ E. DE ANGELIS, “The European Parliament’s identity discourse and Eastern Europe, 1974-2004”, *Journal of European Integration History* 17/1, 2011, p. 105; R. JANSE, “The evolution of the political criteria for accession to the European Community, 1957-1973”, *European Law Journal* 24/1, 2018, p. 68.

³⁰ W. BIRKELBACH, Rapport de Willi Birkelbach sur les aspects politiques et institutionnels de l’adhésion ou de l’association à la Communauté (19 décembre 1961) - “Conditions politiques”, pp. 7-8.
www.cvce.eu/obj/rapport_de_willi_birkelbach_sur_les_aspects_politiques_et_institutionnels_de_l_adhesion_ou_u_de_l_association_a_la_communaute_19_decembre_1961-fr-2d53201e-09db-43ee-9f80-552812d39c03.html.

³¹ *Ibid.* Free translation from French.

a democratic Constitution and homogeneity with the political objectives adopted by the Member States.

From the 1970s, values such as democracy, the rule of law and human rights were increasingly associated with the idea of European identity. The 1973 Declaration on European identity linked “the principles of representative democracy, of the rule of law, of social justice ... and of the human rights” to essential features of European identity.³² The institutional discourse embedded these specific political values in the cultural heritage of Europe, based on the Greek-Roman traditions and on Enlightenment.³³

This political, value-based, interpretation of Europeanness came into the picture for the eligibility assessment of southern and eastern countries. Beside Spain, Greece and Portugal also encountered issues at EEC level due to their political regimes, despite the fact that they were commonly identified as part of geographical Europe. Greece saw its association agreement reduced during the Greek military *junta*. In the late 1970s, the Commission’s opinion on the Spanish membership application started as follows:

The Preamble to the Treaty establishing the European Economic Community provides that other European States who share the ideal of strengthening peace and liberty may join in the efforts of the Member States. [...] It was to respect that ideal that the Community did not respond to the Spanish approach of 1962 [...].³⁴

The potential Spanish membership was only considered when Franco’s regime collapsed and when “pluralist democracy”³⁵ was reestablished and delivered “guarantees for individual liberties”³⁶.

This interpretation of Europeanness was also used within the framework of the eastern enlargement. The countries at the east of the Iron Curtain were considered as part of geographical Europe. Although these countries were considered to be part of geographical Europe, they were not considered “truly European”³⁷ to be considered eligible in terms of Europeanness due their political regime induced by the Soviet control, mostly perceived by the western side as undemocratic. In this respect, the Commission noted in 1992 that

³² EUROPEAN COMMISSION, « Declaration on European Identity », Bulletin of the European Communities. Bruxelles, 1973, Archive of European integration (University of Pittsburgh), 57092, <http://aei.pitt.edu/57092/1/BUL104.pdf>.

³³ E. DE ANGELIS, “The European Parliament’s identity discourse and Eastern Europe, 1974-2004”, *Journal of European Integration History* 17/1, 2011, p. 106.

³⁴ COMMISSION OF THE EUROPEAN ECONOMIC COMMUNITY, “Commission’s Opinion to the Council Concerning Spain’s Application for Accession”, COM(78) 630 final., Brussels, 1978, Historical Archives of the European Union in Florence, CM5/ADH3 2.2., p. 2

³⁵ *Ibid.*

³⁶ *Ibid.*

³⁷ E. DE ANGELIS, “The European Parliament’s identity discourse and Eastern Europe, 1974-2004”, *Journal of European Integration History* 17/1, 2011, p. 111.

[t]he division which resulted from the cold war has come to an end, and the countries concerned have embarked on the path of democratic and economic reform. The integration of these new democracies into the European family presents a historic opportunity.³⁸

The fact that countries which are geographically situated on the European continent became independent countries with stable and democratic institutions enables them to embrace the condition of “European values” set by the EEC/EU institutions and to match the (political) definition of Europeanness as understood by the institutions – definition which mostly based on a western conception of political values dating back to the Cold War period.

A fourth and last institutional interpretation of the States’ Europeanness relied on the institutional ties that have been forged by the Member States with regions or countries that are geographically remote from the European continent but which were at some point colonially linked with an EU Member State.

When the negotiations for the Treaty of Rome started, the question regarding the status of the Member States’ overseas territories was quickly risen. Indeed, four of the six founding Member States – i.e. France, Italy, Belgium and the Netherlands – had retained strong ties with former colonies or protectorates situated closer to other continents. At the Venice Conference in May 1956, the French delegation asked for the inclusion of the States’ overseas territories to be discussed, considering that “it is impossible not to foresee the inclusion of the overseas territories in the common market towards which the participating countries take responsibilities.”³⁹ This request did not meet with resistance from the other Member States which saw in this inclusion a mainly economic interest for the Community in its whole. In January 1957, it was decided to include the overseas territories in the Community.⁴⁰

The general provisions of the treaty, subject to some adaptations, applied to Algeria and the French overseas departments (Article 227 §2 of the Treaty of Rome), which made these territories integrated into the EEC but without the status of Member States. In 1962, Algeria took its independence from France and was thus no longer part of the EEC. When Denmark joined in 1973, Greenland was also integrated within the Community before withdrawing in 1985 after acquiring more independence from Denmark. Following the Spanish and Portuguese memberships, the Canary Islands, the Azores and Madeira were added in the Treaty of Amsterdam and the expression “outermost regions” (ORs) was created to refer to these integrated French, Spanish and Portuguese overseas regions.⁴¹

³⁸ COMMISSION OF THE EUROPEAN COMMUNITIES, *Europe and the challenge of enlargement (document prepared for the European Council, Lisbon, 26-27 June 1992)*, Bulletin of the European Communities, suppl. 3/92, Luxembourg, Office for Official Publications of the European Communities, 1992, p. 9-10.

³⁹ SECRETARIAT OF THE CONFERENCE OF FOREIGN AFFAIRS MINISTERS, « *Projet de procès-verbal de la Conférence des Ministres des Affaires étrangères des Etats membres de la C.E.C.A., Venise, les 29 et 30 mai 1956* », MAE 126 f/56 ag, Luxembourg, 1956, Historical Archives of the European Union in Florence, CM3/NEGO-93. Free translation from French: “il est impossible de ne pas prévoir l’inclusion dans le marché commun des territoires d’outre-mer à l’égard desquels les pays participants assument des responsabilités.”

⁴⁰ SECRETARIAT OF THE INTERGOVERNMENTAL CONFERENCE FOR THE COMMON MARKET AND THE EURATOM, « *Association des Pays et Territoires d’outre-mer au Marché commun* », MAE 274 f/57 vr., Luxembourg, 1957, Historical Archives of the European Union in Florence, CM3/NEGO-253.

⁴¹ F. MURRAY, *The European Union and Member State Territories: A New Legal Framework under the EU Treaties*, The Hague, T.M.C. Asser Press, 2012.

The deciding factor which induced the integration of some of the overseas territories does not rely on geographical considerations but on the strength of the institutional link which unites these territories with their respective Member State. The territories situated outside of the conventional borders of Europe but which were under European influence for a period of time and retained strong bonds with a European country were considered “European” *de facto*. Here, history enabled the EEC institutions to push back the borders of Europe to the boundaries of the world and, in a sense, to deterritorialize Europe. This interpretation illustrates the willingness of the EU institutions to make the term “European” encompass a broader meaning than the geographical, cultural and political ones, introducing the idea of Europeanness based on institutional bonds due to (colonial) history.

Relevance of the institutional interpretations in light of the recent crises

The institutional discourse on Europeanness mostly relies on a normative, top-down approach to identity. Besides the geographical factor, which, as seen above, has been interpreted with a certain amount of latitude, the interested States have to make adaptations to their internal policies in order to match the requirements or emphasize some parts of their cultural heritage to be related to the European culture. In the meantime, some Member States underline their lack of European identity or their non-identification with the institutional conception of Europe. Therefore, is Europeanness as conceived by the EU institutions still relevant in the actual context?

A first, striking, example of non-identification with institutional Europeanness is the Brexit. Already before the UK joined the EEC, the question of membership divided the British public opinion, the media and the political circles. One of the arguments against membership was the geographical distance with the European continent and cultural discrepancies. The insularity of Britain, physically separated from the continent by the Channel, would have prevented a strong sense of belonging to Europe from developing in the island.⁴² This physical separation would have shaped a sort of psychological separation and Britain would have become an apart nation with a different destiny from continental Europe⁴³, where the inhabitants have developed a sense of Britishness and a sense of belonging to the Commonwealth rather than a sense of Europeanness. Even though the cultural discrepancies were not extensively used during the campaign which preceded the Brexit vote in 2016, except in the discourse of the then leader of the United Kingdom Independence Party (UKIP), Nigel Farage, where a few references to the “us”/”them”⁴⁴ dichotomy can be found, it remains an element that illustrates the different degrees of identification with a given culture and the limits of a top-down approach to identity.

Greenland also adduced the difference of cultural identity with Europe in its claims for withdrawal from the EEC back in the 1980s. Indeed, Greenland, as a dependent constituent of

⁴² P. SCHNAPPER, *La Grande-Bretagne et l'Europe : le grand malentendu*, Paris, Presses de Science Po, 2000, p. 35.

⁴³ *Ibid.*, p. 34.

⁴⁴ N. FARAGE, ‘Let’s make May 22nd as our referendum on EU membership’, UKIP annual conference, London, 20 September 2013 ; N. FARAGE, ‘If you vote UKIP, you will get UKIP’, UKIP Annual Conference, Doncaster, 26 September 2014.

the Kingdom of Denmark, had been integrated into the EEC from 1973 onwards. Greenland already had to deal with Copenhagen for most of its internal affairs. With the entry into the EEC, other decisions that affected the country were taken even further away, in Brussels.⁴⁵ The Greenlanders felt like they were governed by “two foreign bureaucracies”.⁴⁶ When Greenland acquired ‘home rule’ in 1979 and that a referendum on withdrawal from the EEC was considered⁴⁷, cultural identity became an additional argument for withdrawal. Indeed, only about 14 percent of the Greenlanders are from European (Danish) origin and the rest of the population descends from Inuit of Canadian origin.⁴⁸ Their cultural identity and ways of life were perceived as strongly different from those of the EEC Member States.⁴⁹ The geographical distance between Greenland and Europe - Greenland being geographically part of the American continent - also reinforced these cultural perceptions.⁵⁰

It is difficult to determine the veracity of such cultural arguments. Relying on this type of argument and on Europeanness is especially efficient in politics since there is no definition of what is a European country in cultural terms. The physical separation from the continent - seen as the cradle of European identity - is an easy argument to justify these cultural discrepancies. Moreover, this strategy associates a sense of otherness with the rejected geographical area, which may favour negative feelings towards this area and is thus perfectly suitable during campaigns in favor of withdrawal.

The dis-identification with institutional Europeanness also appear at the level of the so-called European pillar values, i.e. democracy, the rule of law and human rights. Although the European States are supposed to be democratic and respect the rule of law – a common heritage as seen above, some EU Member States seem to move away from the respect of some of their engagements regarding the values quoted in Article 2 TEU. Indeed, Hungary and Poland did receive a few warnings from the EU institutions for infringements to the values quoted in Article 2 TEU in the last few years.

In June 2015, the European Parliament returned a resolution about the possibility of triggering the procedure provided for in Article 7 because Viktor Orbán, the Hungarian Prime Minister, mentioned the reintroduction of death penalty during some of his speeches, as well as launched a public consultation on migration. The Parliament indicated that death penalty was “incompatible with the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights on which the Union is founded”. In May and July 2017, the European Parliament issued two new resolutions regarding the “serious deterioration of the rule of law, democracy and fundamental rights over the past few years” and stated that “the

⁴⁵ A. F. TATHAM, “‘Don’t Mention Divorce at the Wedding, Darling!’: EU Accession and Withdrawal after Lisbon”, in *EU Law After Lisbon*, A. Biondi, P. Eeckhout and S. Ripley (Ed.), Oxford, Oxford University Press, 2012, p. 146.

⁴⁶ *Ibid.*

⁴⁷ The referendum was held in February 1982 and 53 % of the population (on a turnout of 75 %) voted against the fact that Greenland should keep its status in the EEC. In February 1985 Greenland withdrew and acquired the OCT-status.

⁴⁸ R. J. FRIEL, ‘Providing a Constitutional Framework for Withdrawal from the EU: article 59 of the Draft European Constitution.’, *The International and Comparative Law Quarterly*, 2004, 53.3, p. 409.

⁴⁹ S. BERGLUND, ‘Prison or Voluntary Cooperation? The possibility of Withdrawal from the European Union’, *Scandinavian Political Studies*, 2006, 29.2, p. 158.

⁵⁰ R.J. FRIEL, ‘Providing a Constitutional Framework for Withdrawal from the EU: article 59 of the Draft European Constitution.’, *The International and Comparative Law Quarterly*, 2004, 53.3, p. 411.

current situation in Hungary represents a clear risk of a serious breach of the values referred to in Article 2 of the TEU and warrants the launch of the Article 7(1) TEU procedure”.

In Poland, the infringements led to the triggering of Article 7(1). In April 2016, the Parliament issued a resolution regarding the internal debate on the composition of the Polish Constitutional Tribunal (a.o. nomination of judges, attendance quorum, ...) that may threaten the judicial independence and thus the safeguard of the rule of law, in which it supports the Commission’s choice to estimate whether there is a systemic threat to the values in Poland, using the Rule of Law Framework. On 20 December 2017, the Commission advised the Council to trigger the first phase of Article 7 since the Commission assessed “a clear risk of serious breach of the rule of law” due to the lack of the judicial independence following the bunch of reforms in Poland despite the warnings and the attempts to engage into a dialogue with the Polish authorities.

The infringement of the values quoted in Article 2 TEU perfectly illustrates the top-down approach of Europeanness by the EU institutions: the respect of these values necessitates a certain amount of willingness from the Member States and is not necessarily inherent to their identity. Moreover, as seen above, the political values emphasized by the institutions are mostly based on a western conception of these values, dating back to the Cold War period when Europe was in fact western Europe. Perhaps the recent history that these central eastern Member States went through shaped another conception of political values and thus a different European identity. This does not mean that they are not European, it simply means that the institutional interpretations of Europe are only some interpretations among a plethora of meanings that European identity can encompass.

These various events jeopardize the relevance of the institutional conception of Europeanness because they emphasize the limitations of a normative and constructed approach of identity. It also highlights the difficulty to define Europe and build Europeanness on the basis of such a layered and changing notion, even when the institutional interpretations are based on pre-existing definitions as is the case of the EEC/EU institutions’ interpretations.

Conclusion

Article 49 of the Treaty on the European Union enshrines that any State which is “European” can be eligible for membership, a requirement which has existed since the Treaty of Rome. However, there is no clear-cut, official, definition of the notion of Europe. The paper first discussed the construction of the discourse on the representations of Europe. These representations have in common that they have been constructed. They are based on geographical, cultural, political and colonial constructs which all rely on arbitrary choices operated by various social and political actors throughout centuries.

Focusing on specific requests that raised eligibility issues, this paper presented the various institutional interpretations of the States’ Europeanness that have been provided by the EEC/EU institutions over the last sixty years by relying on a textual and discursive analysis of recent documents and older records. Four interpretations of the States’ Europeanness were found out in these institutional documents. First, the institutions provided a geographical interpretation of the States’ Europeanness which mainly relies on the conventional definition of geographical

Europe. The Moroccan and Turkish cases illustrate this continental interpretation, although Turkey's eligibility provides for a broader interpretation of Europe since the large part outside of geographical Europe did not prevent Turkey from being considered "European". Secondly, the EEC/EU institutions relied on a "European culture" that would have emerged due to a common past. This argument was used for the eligibility assessment of Cyprus which was able to become a Member State despite its geographical remote position. Thirdly, the EEC/EU institutions used the political argument of the respect of values, such as democracy and the rule of law, that would have become part of the countries sharing the "European" past and civilization. The non-respect of the "European values" has prevented several present-day Member States to be eligible until they abide by these political requirements. Lastly, the EEC/EU institutions considered (colonial) history as a defining element of Europeanness by integrating the overseas territories outside of geographical Europe that have retained institutional ties with a Member State.

The relevance of these interpretations was then explored in light of the recent internal events. Two cases of non-identification, or even dis-identification, with institutional Europeanness were discussed: firstly, the discrepancies with Europe in cultural identity which are illustrated by the British and Greenlandic cases and, secondly, the infringement of values quoted in Article 2 TEU by Hungary and Poland. These events, which highlight the constructed and normative side of this institutional conception of Europeanness, jeopardize the relevance of this conception because of the sense of non-Europeanness expressed in the discourse and actions of some EU Member States.

It can be concluded that the EEC/EU institutions relied on previous, already constructed, definitions of Europe in order to interpret the States' Europeanness. These institutional interpretations are in turn constructions since they were adduced according to interests and based on arbitrary choices which do not necessarily characterize and define a common identity that would be shared by all the European countries whose history followed different paths numerous times. In this sense, these interpretations are also normative because the requesting States must change some of their features in order to match the institutional Europeanness. The EEC/EU institutions face the necessity to define and reinforce a common identity, especially in times of Brexit and political issues. The very first opportunity to do so is in the field of membership applications since European identity is a precondition for any prospective membership. This unity in terms of identity provides legitimacy for European integration, at least at the discursive level. At the same time, this necessity is thwarted by the difficulty to impose and shape identity in a normative way.

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