The Specificity of European Cosmopolitanism in light of European Citizenship

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Abstract:

In terms of cosmopolitan thought, the European integration adventure, and in particular European citizenship should be understood in a context derived from the very *motto* of the Union: that of building a United Europe, all the while safeguarding the specificities of the various European peoples. European cosmopolitanism isn't one in which national identities melt into a broader pan-European identity, but it implies a multiplicity of identities involving citizens, all of them coexisting in a multi-layered and composite political and legal space. The European answer to the cosmopolitan question should not be the creation of a European state but instead it should emphasize preserving and enriching the current federal structure of Europe.

Keywords: European federalism, cosmopolitanism, national identities, European citizenship, cultural identity, democratic societies.

1. Cosmopolitanism within national democratic societies

1.1 The contradictory nature of national citizenship in a democratic society

At the core of a democratic society lies the concept of human dignity. "*The proclamation of human dignity as the basis of the legal system creates the premises for understanding man as a universal being*"[2], human dignity representing the foundation upon which individual liberties can be given a universal validity. Derived from the notion of human dignity, individual freedoms "*acquire a primordial authority in relation to the state*"[3]. The state, a creation of man, discovers the meaning of its existence in serving the interests of its creators: it is an effective way of ensuring and protecting human rights and freedoms. Only that the existence of the state implies the concept of citizenship, and the latter implicitly involves a differentiation. "*The primary line of tension, contradiction, if not outright fracture within the contemporary <<language of citizenship>> will concern whether and how national citizen rights are to be aligned with and made accountable to human rights.*"[4]

But can a society which differentiates between citizens and noncitizens be morally preferable to one that would remove this distinction and recognize even political rights to all its inhabitants? And if so, why? I believe that, in trying to find an answer, the concept of an overlapping consensus, introduced by John Rawls, can be of good use. Also, an insight into the notion of a democratic society and its essential features can help us in this regard. The overlapping consensus theorized by Rawls involves the existence of a certain degree of pluralism within the broader society. It should be understood as involving not only a purely procedural method of solving our differences. It entails finding a common grammar in terms of values and culture, by means of which members of different comprehensive doctrines existing in a democratic society can find not just a *modus vivendi* but a means of building together a common political community. Only by virtue of specific values that we share we come to understand the need for solving our differences peacefully. So, in this regard, there can be no consensus on the democratic procedures unless there is a cultural *substratum* that enables citizens to build among themselves a common public sphere and a civic space, a community oriented towards the future, whose internal cohesion is not broken by the passage of several generations. This could reasonably be equaled with the concept of a national community, a nation.

Considering the normative function carried out by the political body is a way of ensuring the rights and freedom of all individuals that make up the overall society, the proper performance of this function can be said to require, among the citizens, a deeper meaning regarding the concept of an overlapping consensus, or a reasonably increased degree of "*cultural, spiritual and social cohesion*", if we were to employ the formula used by the German Constitutional Court in its decision on the Lisbon Treaty. To paraphrase John Rawls, inequalities can be accepted in the field of citizenship provided they procure equal benefits for non-citizens in regard to all individual freedoms not necessarily attached to citizenship and the status of citizen is reasonably accessible to all members of the broader community in question.

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[2] Dănişor, Dan Claudiu; The Romania Constitution commented, Title 1 - General Principles, Bucharest, Ed. Universul Juridic, 2009, p. 51.
[3] Yeatman, Anna; Globality, State and Society, Citizenship Studies, Vol. 7, Nr. 3, 2003, p. 275 – 290, 279.
[4] Yeatman, Anna; Globality, State and Society, Citizenship Studies, Vol. 7, Nr. 3, 2003, p. 275 – 290, 285.

Conditioning the obtaining or possessing of citizenship upon belonging to a primary identification group, like an ethnic, religious or linguistic community, or on being the advocate of a particular comprehensive doctrine would be incompatible with the requirements of a democratic society and also contrary to the principles of an overlapping consensus. But failing to take into account specific historical and cultural differences, the peculiarities of each national community doesn't seem to be in the spirit of a democratic society either and in any case, I don't believe it brings us any closer to the achievement of an overlapping consensus. Therefore, a kind of middle way is needed. In the context of contemporary democratic societies the transition from the universalism of human dignity to the particularity of citizenship identity should maintain a fair balance between, on the one hand the requirement of building a community in which the sociological domain that does dictate to the juridical and political spheres and secondly, the need to take into account the historic and cultural identities, without whose recognition and respect there can exist no common future based on shared values. The contradictory nature of national democratic citizenship lies not merely in the fact that it is both a principle of inclusion and exclusion, this being to some extent self-evident. It has to do with the principles that regulate the obtainment or possession citizenship. They should be designed in such a way that, as a rule, no person shall be excluded *a priori* from entitlement to membership of a national community, but the conditions for naturalization, or even those relating to the preservation of the statute of citizen, should correspond to a reasonable degree of stringency, requirement needed to maintain the viability and, in a broader sense, the common identity of that particular community. Prior to the inclusion into national community, any foreigner should prove the acceptance of the fundamental values underlying the welcoming society and a minimum commitment for the purposes of the joint future of the nation. For the granting of citizenship requirements should be gradually increased, the claimant could be required to present himself as a true co-participant in this common endeavor. A reasonable endorsement of the cultural and historical heritage of the inclusive society can also be a legitimate requirement, not as a duty to join the dominant moral or comprehensive doctrine but necessarily in the sense of showing a minimum respect towards this heritage, which translates into the usage of fundamentally peaceful ways regarding the implementation of any changes in the *status quo*. In this sense, a pledge of allegiance towards the constitutional values could be a condition for acquiring citizenship, its infringement being a reason for withdrawal of the mentioned statute.

So, in a democratic society national citizenship comes to have an inherent cosmopolitan dimension in the sense that it can no longer be understood as a means of rigidly separating objectively determined communities. In principle it is a status open to members of the broader human community, only that the transition from theoretical possibility to reality implies the fulfillment of certain reasonable conditions of compatibility with the receiving society. This could also be seen as a way of reconciling the exclusionary nature of citizenship to the universality of human dignity.

The assignment of certain rights solely to citizens must not be contrary to universal principles in the field of human rights"[5]. Therefore, "the attachment of certain rights to the concept of citizenship must not be made unless it is deemed necessary in a democratic society, only if it is compatible with a liberal society (...), [and] if it establishes or maintains the fundamental value of justice (understood as a contextual equilibrium between the fundamental principles of the legal system) (...)[6].

Even if human dignity forbids grounding the political community on an ethnic or religious group, the principle of justice allows taking into consideration the dominant historical group, for example in establishing conditions under which foreigners may be granted the status of citizen. So, to put things into context, one could say that the policy implemented by the Romanian government in regard to the acquisition of citizenship, that of favoring certain categories of foreigners (such as the citizens of the Republic of Moldova or those whose ancestors were themselves Romanian citizens), or that of the Spanish state (when it establishes reduced periods of residence for nationals of Latin American countries after which they can successfully claim Spanish citizenship), although discriminatory in a theoretical sense, are nevertheless justified on cultural and historical considerations.

1.2 Open communities, but to what extent? The paradoxical nature of democratic societies

The national tradition regarding citizenship is deeply rooted in the European psyche, fruit of the semi official tendency depicting the national state as the sole interlocutor of the individual in the field of citizenship rights and duties and the only conceivable forum to which individuals can relate in constructing their identities as citizens. But in the last decades the national/republican model of citizenship has been under attack from several directions, both infra national as well as supra or transnational. It is primarily based on a formal concept of equality among citizens, subject to a quasi official civic and political culture. Constructed mostly on the ruins of medieval systems of identification and to the expense of communitarian primary affiliations, to some extent the nation state tries to culturally define and standardize the individual. Concerned about the management of human individuality in the frame of the statist perceived political and cultural universality, the liberal - republican philosophy loses sight to a certain degree of the inherent complexity of the person in regard to the process of collective identity construction.

The challenge takes on both a communitarian and a cosmopolitan dimension and the answer found at the supranational level can also be useful in the internal forum of the national community. In the sphere of internal relations, the centralized structure of the state becomes preoccupied with the possible infringement of the rights and values attached to the liberal republican citizenship through recognition in the public sphere of certain regional cultural identities. In the meantime, the voices of regional nationalism may blame the nation state that, in the name of normative universalism does nothing but promote implicit acceptance of another particular set of cultural or linguistic traits, namely those shared by the members of the dominant community in the political arena[7]. Looked at from such an

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[5] Dăniş or, D.C.; The Romania Constitution commented, Title 1 - General Principles, Bucharest, Ed. Universul Juridic, 2009, p.52.

[6] Dănişor, D.C.; Constitutional Law and Political Institutions, Vol I - General Theory, Craiova, Ed. Sitech, 2006, p. 618.

[7] Requejo, Ferran; Cultural pluralism, nationalism and federalism: A revision of democratic citizenship in

angle, liberalism seems to use a universalist language to describe a particular community, and in the name of this so-called universalism, supposedly based on individualism some would blame it comes to sacrifice the specific values of minority groups for the benefit of equally particular values shared by the majority group[8].

In reality, the state can never be entirely neutral in terms of culture and values. Apart from the recognition of individual freedoms, the institutions of the liberal state introduce a range of linguistic and cultural traits or values into the public sphere, in order to create a somewhat uniform <<national>> cultural identity, with direct consequences for the rights and the status of the individual[9]. So, beyond the complex legal bond that it entails in relation with the state, citizenship also signifies the individual's inclusion in a particular cultural space. Of course, such an approach requires a relatively biased attitude on the part of the state, but kept within reasonable limits it does not affect the fundamental principles of a democratic society. The generic concept of <<culture>> can be said to "*includes the values, beliefs and convictions, language, knowledge and the arts, traditions, institutions and ways of life by means of which a person or a group expresses their humanity and the meanings that can be attached to their existence and development*"[10]. Along the same lines, cultural identity could be defined as "*a set of cultural references by means of which an individual, whether alone or jointly with others, defines and represents himself, communicates* [with others] *and understands to be recognized in his dignity* [as a person]"[11]. We have no reason whatsoever to confine the above mentioned definitions as applying only in the case of sub-national communities, like those encompassing individuals who share a particular comprehensive doctrine or communities based upon ethnic or linguistic groups. On the contrary, a common cultural substrate – especially given the general nature of the definitions provided – can also be said to characterize the shared identity at the national or even supranational levels. Such an understanding equally falls into the logic of conceptualizing the nation as necessarily implying the continuity of generations. The binding element, which holds together the national community through the passing of time can only be expressed in terms of cultural values. The dominant cultural substrate underlying the political and legal superstructure will unavoidably imprint its own defining features on the state policy, even in those constitutional democracies that put a greater emphasis on neutrality. "*A culturally and morally neutral state, one that doesn't makes any moral requirements on the part of its citizens and who shows itself equally welcoming to all cultures and comprehensive doctrines is logically impossible. And, since any law constrains* [rather] *those who do not share the values underlying it, a non-binding morally and culturally state is an illusion*"[12].

Where could we find a place for a cosmopolitan prospect within the national state? What could it involve? I think this cosmopolitan perspective can be found in the very principles and values underlying European nations. In modern democratic societies, these

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plurinational states, European Journal of Political Research, nr. 35, 1999, Kluwer Academic Publishers, p. 255-286, p. 260.

[8] Idem, p. 264.

[9] Requejo, Ferran; Cultural pluralism, nationalism and federalism: A revision of democratic citizenship in plurinational states, European Journal of Political Research, nr. 35, 1999, Kluwer Academic Publishers, p. 255-286, p. 260-261.

[10] The Fribourg Group Declaration on Cultural Rights, art. 2, lit. A., quoted by Dănişor, D.C.; The Romania Constitution commented, Title 1 - General Principles, Ed. Universul Juridic, Bucharest, 2009, p 228.

[11] Idem, art. 2, lit. B

[12] Parekh, Bhikhu; Rethinking multiculturalism, 2nd ed. Cambridge: Harvard University Press, 2000 [2006], p. 201-202.

values emanate from the equal dignity of all human beings, from the acceptance of the other as an *alter ego* or as an *imago Dei*, if we were to approach the problem from the Christian understanding of man. Awareness that the only way to properly settle our conflicts or, more generally speaking, our differences of opinion, beliefs and relevant values, is and remains in a democracy one of peaceful procedures, sheds light upon another belief shared by members of a democratic society: the need to tolerate, in principle, not only the different beliefs of an individual or of a small group (which is easier to do, especially provided that the individual or group remains relatively insignificant), but the prospect of major changes in the collective mentality or the structure of the overall society, with potential to transform the present majority into an hypothetical future minority.

Any political society must tolerate a certain degree of endangerment directed towards its core values, derived from the historical tradition and the current cultural positioning of the majority. The unavoidable tension between the various moral, religious or philosophical doctrines coexisting in a certain political community is a direct consequence of "*the fact of pluralism*". It must not only be tolerated but channeled in a constructive way, as inter-cultural dialogue can be considered a moral imperative, implying "*a commitment to reason –that is to resolve conflicts of interest and [between] values through discussion [and] compromise (…), and for justice– namely the willingness to recognize the legitimate demands of others (…)*"[13]. A democratic society has a contradictory nature in this regard. Well founded on the value of human dignity and committed to guaranteeing individual freedoms, it unavoidably opens outwards in a manner in which non-democratic societies don't feel the need to. This openness towards the outside, be it only in the form of a permissive legislation regarding immigration, all the more when it translates into reasonable conditions for naturalization, implies acceptance of those culturally different, even at the risk of long-term impact upon the cultural identity of the society in question. Every national democratic society has to have, to a certain degree, this cosmopolitan tolerance as inherent to its very existential philosophy. One could say that a truly democratic society can reconcile its own existence with the demands of its consciousness only by putting its very existence at risk. The paradox relates to a continuous balance between the fact of preserving its existence and that of reconciling that existence with the demands of its consciousness.

But it is self evident there must be a limit to the margin of endangerment that a democratic society can accept in relation to its fundamental values or its cultural specificity. A democratic society is essentially an open one but an excessive degree of openness towards the broader human family could affect its capacity to function as a political community. The existence of a public sphere needs a level of civic dialog and understanding among the members of the community (especially those possessing the status of citizens) that can be reasonably found to a greater extent within national societies. Accepting the other doesn't amount to a denial of one's self. This cosmopolitan tolerance entails the integration of newcomers into previously existing nations, whose identity and future they will be able to influence henceforth, but in a spirit of respect towards the national historical and cultural heritage, and exclusively through peaceful and democratic means.

In the context of a United Europe, and looked at from a federalist perspective, the notion of cosmopolitanism can take some slightly new, but nonetheless interesting dimensions.

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[13] Parekh, Bhikhu; A new politics of identity, Basingstoke: Palgrave Macmillan Press, 2008, p. 178.

2. European citizenship and a federalist perspective on cosmopolitanism

2.1 *European federal cosmopolitanism in the service of individual freedom*

2.1.1 *A common space of liberty and justice*

The transition from the so-called Common Market citizenship towards the current European citizenship has entailed a gradual increase in the rights recognized to nationals of member states, both numerical and in terms of the social relations regulated by them. Gradually, the predominance of economic rights gave up ground to liberties pertaining to social security and welfare, prerogatives with respect to consular and diplomatic protection, and even political rights. The ECJ has brought its contribution to the progressive shift from the economic sphere towards the social and political ones. For example, it has interpreted the freedom of movement granted to workers as an intrinsic aspect of their human dignity[14]. The inclusion of more complex and interdependent segments of the everyday life of European nationals under the scope of EU law corresponds to the emergence of a genuine sphere of individual rights and freedoms at the European level. Although still poor by comparison with national counterparts, European citizenship today tends to become what T.H. Marshall called the quality of ”*full membership of a community*”[15]. Perhaps the statement of the ECJ that European citizenship ”*is destined to become the fundamental status of nationals of Member States*”[16] should also be interpreted in this respect. From the perspective of building a cosmopolitan public sphere what's relevant is the fact that a European national, exercising his newly recognized freedoms ”*will be treated in accordance with a common code of fundamental values (...). In other words, he is entitled to state <<civis europeus sum>> and to invoke this status in opposition to any violations of his fundamental rights*”[17].

From a federalist outlook, the cosmopolitan nature of the European public space can serve the goal of guaranteeing human rights also by means of the vertical division and balance of power. In a unitary state the exercise of power is differentiated solely horizontally, among the three classical functions. The originality of federalism resides in the introduction of a second criterion of differentiation, this time operating vertically and targeting regulatory areas rather than state functions. Thus, the vertical division of competences between the Union and Member States, the composite and multi-layered European public space prevents the reemergence of a unique governmental level, encompassing all power and authority generally monopolized by the state. In this way, the checks and balances functioning between the national and European levels can serve as a defense against eventual authoritarian or even totalitarian tendencies.

[14] Cf. Kostakopoulou, Dora; Ideas, Norms and European Citizenship: Explaining Institutional Change, The Modern Law Review, 2005, 68(2), p. 233-267, p. 238-239; in accordance with the opinion of Advocate General Trabucchi in Case C 7/75 F v. Belgia [1975] ECR 679 and that of Advocate General Jacob in Case C-168/91 Konstantinidis [1993] ECR I-1191.

[15] Marshall, T.H.; Citizenship and Social Class, Cambridge University Press, 1950, quoted in Shaw, Jo; The Interpretation of European Union Citizenship, The Modern Law Review, Vol. 61, 1998, nr. 3, p. 293-317, p. 297.

[16] Case C-184/99 Grzelczyk vs. Centre public d'aide sociale d'Ottignies-Louvain-La-Neuve [2001] ECR-I 6193 [31].

[17] The opinion of Advocate General Jacobs in the Case C-168/91 Konstantinides vs. Stadt Altensteig [1993] ECR I-1191, 1211.

"This freedom should not be, however, seen as reserved exclusively for EU citizens, It's very existence acts as a magnet for many others who cannot benefit from the freedom that European citizens take for granted. Refusal to grant such freedom to those whom certain circumstances have forced to rightly try to enter our territory would be in contradiction with Europe's traditions"[18]. In the same line of thought, *"in order to be able to enjoy freedom, it is necessary to create a genuine area of justice, in which people can address the courts and authorities of any Member State as easily as those of their one State"*[19]. This area of freedom and justice is therefore established not solely to the benefice of European citizens, but in the service of anyone who enters under the authority of the Union and its Member States. All the more reason to envisage this common space of liberty and justice as having a clear cosmopolitan outlook, being open potentially to any member of the human family.

2.1.2   The multiplicity of individual identities

A federal approach to European cosmopolitanism can be said to favor the manifestation of multiple identities within the public sphere. Diversity in the sphere of individual identities is a marker of the inherent complexity of human personality. Most individuals share multiple identities and feelings of belonging, although not all get to be visible in the public sphere.

European citizenship can recover, to some extent, the individual's freedom to develop multiple identities, inclusively within the public sphere. On the one hand it creates a dual relationship of belonging - with regard to the old national states and towards the Union as a whole. On the other hand, European citizenship, mainly through political rights recognized at the infra-national level to citizens of other Member States, contributes towards the creation of relatively autonomous regional political communities, implicitly to further development of regional identities, which national states could otherwise try to blur. Therefore, the plurality of identities in the public sphere is asserted both in its supra-national and infra-national layers.

The consequences of European citizenship regarding the notion of cosmopolitanism can be better understood *"by deploying a composite and multi-facetted concept of citizenship which links together the different levels and different spheres in which individuals claim citizenship rights, carry out citizenship duties and act out citizenship practices. In other words, we should focus on citizenship in the EU context, not specifically and solely on citizenship of the Union"*[20]. Therefore, a cosmopolitan European space stands out for its relative diversity in regard to the forums in which individuals can engage in citizenship practices, acquire rights and duties as members of the political community, and construct common identities within the public realm. In this perspective, what we usually understand by EU citizenship is nothing else but the federal level of a multi-layered concept of citizenship, typical of a Federation.

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[18] European Council Tampere, Towards a Union of Freedom, Security and Justice: the milestones of Tampere, 15 – 16 October 1999, p. 2- 3, quoted by Craig, Paul & de Burca, Grainne; European Union Law, Bucharest, Ed. Hamangiu, 2009, p. 293 – 294.

[19] Idem.

[20] Shaw, Jo; Citizenship: Contrasting Dynamics at the Interface of Integration and Constitutionalism, EUI Working Paper RSCAS 2010/60; also, Besson, Samantha & Utzinger, Andre; Toward European Citizenship, Journal of Social Philosophy, vol. 39, nr. 2, 2008, p. 185 – 208.

2.2 *The transnational dimension and supranational layer of European cosmopolitanism*

Placing the European cosmopolitan public space in a federalist perspective, one could think of European citizenship as being inherent in the very conceptual structure of the Federation[21], one implication of the duality regarding the constitutive political entities[22]. The originality of the individual's legal status within a Federation involves both a horizontal and a vertical relationship, a transnational and a supranational dimension. Horizontally, we find the notion of federal "inter-nationality[23]", which entails "*the overall individual rights and duties arising from the law of a particular* [federate] *state whose nationality he* [the citizen] *doesn't poses.*"[24] Vertically, the federal citizenship is superimposed upon the national ones, with rights and duties derived from a direct relationship with the federal governmental layer. In the context of the European Union, the notion of "inter-citizenship" involves the fact of traveling or residing within the borders of the Union, in another Member State than that to whom the European citizen is a national. The general principle is that of equality of treatment concerning European citizens in all the areas covered by the scope of European law. The notion of *"<<inter-citizenship>> postulates the rule of equal treatment between the federal citizens, or, in other words, a general principle of nondiscrimination between the nationals of Member States in the same Federation. (…) This principle requires from the Member State to treat any citizen of another Member State under the same conditions as his nationals"*[25]. The scope of the principle must, however, be restricted to areas of regulation reserved for federal law, or, as required by art. 18 of the Treaty on the Functioning of the Union, in areas that "*fall within the scope of the Treaties*". Thus, the classical bilateral differentiation between citizens and foreigners becomes a triangular one, involving nationals, European citizens and foreigners. The originality of a Federation resides in the distinction it operates within its one citizens, which it perceives either as federal nationals (in the EU context, as European citizens), or as nationals of the member states[26].

The rights recognized to European citizens in another member state are, however, more than a mere reciprocity between the constituent countries of the Union, as the very process of federalization has much deeper implications compared to a classical international treaty. They are the reflection of a new way of conceiving the citizens of a Federation, and also those of the European Union if we are to equate it to such a political and legal structure: as co-participants in a process of building a common social and political community. The statute of countrymen and foreigner are somewhat reunited, where before they stood as mutually exclusive. If, in case of a unitary state citizenship remains a principle of inclusion for some, and exclusion for others, within a federal system it contains features of simultaneous inclusion and exclusion in regard to each federal citizen.

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[21] Cf. Beaud, Olivier; Theorie de la Federation, Paris, Presses Universitaires de France, 2007, p. 221.
[22] Idem, p. 220.
[23] Idem, p. 222.
[24] Brunet, Rene; La nationalite dans l' Empire allemand, Lille, Paris, Giard et Briere, 1912, p. 215.
[25] Beaud, Olivier; Theorie de la Federation, Paris, Presses Universitaires de France, 2007, p. 224.
[26] Cf. Beaud, Olivier; Theorie de la Federation, Paris, Presses Universitaires de France, 2007, p. 221.

2.3 The originality of European cosmopolitanism, derived from the national structure underlying it

European citizenship can play a role in the recovery of a collective meaning of the concept of human dignity and can add its contribution to building a substantive form of federalism, somewhat different from the now classical federal state. In this sense, it can also help to describe a new way of understanding the concept of cosmopolitanism.

In a political and legal environment increasingly permeated with individualism it is perhaps inappropriate to speak about a collective dimension of human dignity, its content or its possible implications. Can there be an eminently collective dimension of human dignity? If such a collective dimension were to exist, it could hardly be dissociated from the individual in a radical way. Attempts of this kind in Europe's not too distant past had catastrophic consequences. The excessive valorization of the collective tends too much towards an organic conception of nations and it goes hand in hand with the exacerbation of the state's role, carried towards his deification. Caught in such a logic the person is primarily a component, individuality becomes similar to that of a number out of a multitude, and the singular character of every human existence is no longer relevant.

So if we are to recover a collective meaning of human dignity, it necessarily has to be done through the mediation of the individual. Federalism can prove itself useful in this regard. It is suitable to a rational and reasonable revalorization of collective identities and a possible pan-European federalism in which European citizenship should play a role can add a touch of substance in the sphere of identity and values, in the otherwise predominantly functional structure existing in a classical federal state. Federalism can recognize and preserve in an integrated structure the diversity of constituent communities with their specific rights, that are competing and complementary to those of individuals [27]. A Federation cannot be dissociated from the idea of coexisting constituent communities within the broader federal community. And if the particular finality of a Federation lies in preserving the political existence of the Member States and their constitutional specificity[28], this *telos* cannot be separated from maintaining the identities of the federated political communities, in the European context the nations that form the Union. Federalism protects these common structures and identities by virtue of the relevance they have for the identity and dignity of the individual.

Contemporary federal systems show an evolution towards what we might designate a functional federalism. The nation is increasingly associated with the federal political community, while federated counterparts are designed more as purely procedural *demos*, though it would be an exaggeration to assert their emptying of any cultural or identity content. This fact corresponds to a process of nationalizing the Federation, which becomes what could be designated as a federal state. What could be the specificity of a United Europe and what role could European citizenship play in preserving this originality? The project of European integration can try to build a new political and legal structure derived from the federalist philosophy, or perhaps one closer to the essence of this philosophy. In this sense, it could endeavor to preserve the existence of European nations, while at the same time achieving a pan-European community equivalent to a nation, thus adding above the duality existing at the institutional and political level, specific to a federal state, a new one, relating to the underlying societies. In this way, the European project can fulfill its

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[27] Cf. Theret, Bruno; Du principe federal a une typologie des federations, în Le federalisme dans tous ses Etats, p. 111 – 112., quoted in Olivier Beaud, Theorie..., op. cit., p. 198.
[28] Cf. Beaud, O., op. cit., p. 321 – 328.

guiding principle, that of unity in diversity. Diversity in a United Europe must be understood not only in an individualist sense or there would be no difference in relation to a unitary state overlapping one nation. In a European cosmopolitan space, of a federal nature, diversity has also a collective dimension. Dual citizenship implies a substantive duality of peoples, and not merely a procedural splitting into a federal, together with a number of federated political communities. This duality keeps its functionalist character but adds a substantive dimension, thus establishing the premises for creating a truly pan-European national community. Europe's challenge is to become and remain "*a Federation of nation-states*"[29]. From a cosmopolitan perspective, such a finality can better emphasize the person's identity, both in its individualist sense and in a new - found collective dimension.

Within the European Union, as well as inside any federal system, there is a tension between the so called centrifugal and centripetal tendencies[30]. The preservation of the Federation depends on keeping these trends in a balance; we can say that the Federation itself finds the very substance of its existence in this kind of equilibrium. Diversity and pluralism are inherent in the federalist philosophy, as in any political and institutional structures derived from such a political philosophy. Diversity has in a Federation both an individual sense (common also to nation states), but also a collective one, aimed towards the federated nations. Federalism is an original way of reconciling individualist and communitarian tendencies. Hence this second tension, this time between the need to respect both dimensions of diversity.

On the one hand, the Union must respect the national identities of Member States, inherent to their constitutional and legal structure (art. 4 TEU), which by definition have a strong collective character. However, with the establishment of European citizenship, the tendency is to create, at the European level, a community of citizens, equivalent to national ones. Also, the transnational dimension of citizenship identity tends to grow in importance, and the latter cannot be dissociated from an individualist dimension, directly opposite to the collective character of national communities. Both tendencies, supranationalism and transnationalism, are implicitly affecting the identity of national communities, their internal cohesiveness in terms of underlying values and culture. The recognized freedoms of European citizens could lead in the long term to a relative homogenization of European nations, whose possible finality may be that of melting them into a European nation-state, be it a federal one. In such circumstances, the transnational dimension of European citizenship would end up turning the present supranational dimension into a national one in the classical sense. Such a finality would not be entirely in accordance with the specified *telos* of a Federation, that of preserving the identity of the constituent communities. More so, the outcome would not correspond to the originality of the federal system of the European Union, in which the federated communities are nations with identities strongly valued by their members. One could say that the Treaties, although asserting the need to respect national identities, by the very rights they establish for European citizens, create the premises for the dilution or even dismantling of the constituent nations of the Union.

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[29] Constantinesco, Vlad; Europe Federale ou Federation d'Etats – Nations, in Une Constitution pour l'Europe, Renaud Dehousse (dir.), Paris, Presses de Sciences Politiques, 2002, p. 137.

[30] In regard to this topic see O. Beaud, op. cit., p. 279.

Understanding this apparent paradox can shed light on a more distant finality of a United Europe, beyond the need to respect existing national identities. As we have said, the collective dimension of human dignity and identity should be reassessed through the mediation of individuality and placed at its service. Otherwise, the Union's constituent communities would cease to be open ones, regressing to an organicist conception of the nation. To prevent a return to such negative consequences derived from past mistakes, European nations must necessarily be understood as open societies, tolerant regarding change even when it may entail structural changes in the very substance of their cultural identity. To really ensure individual rights and freedoms, including the individual's freedom to build its one identity, communitarian tendencies have to be relativized. The provisions of art. 4 TEU should therefore not be understood as to allow the closure of European national communities in respect to the broader human family, in an attempt to safeguard their identity, possibly threatened by the consequences of the integration process, at least not as long as they choose to remain members of the Union.

At the same time, the provision in art. 1 TUE cannot be interpreted in a sense which could help transform the European Union into a national state, even of a classical federal nature. The "*ever more perfect Union*" must remain one "*among the peoples of Europe*", or rather between the nations of Europe, unless the Treaties would undergo some essential change. The Union is therefore bound to respect the identity of nation states, but not necessarily to conserve it. The European Union has an obligation to preserve something else, namely the principle of unity in diversity, in other words the very essence of the federal system it represents. Therefore, beyond the purpose of compliance with current national identities, one could foresee another long term finality, a truly *telos* beyond *telos*, namely maintaining the federal structure of a United Europe. Although within the borders of the Union current European nations could undergo territorial or cultural changes, transformations resulting from the rights brought by European citizenship, these changes would be required to enroll in the same logic of unity in diversity, specific to federalism. This obligation towards respecting diversity may be interpreted as establishing a principle which prohibits altering the specific nature of European federalism, and implicitly European cosmopolitanism[31], that of representing not only a political and institutional federal system, but a original endeavor to create multiple public spheres of allegiance for the individual, to preserve a multi layered public space in which national communities could overlap, at the same time preserving their identities. This pluralist vision of cosmopolitanism could be Europe's project for the more distant future. It could also be understood as Europe's existentialist bet.

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[31] For the concept of the inalterability of the federal structure see O. Beaud, Theorie..., op. cit., p. 328.

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