

“BABEȘ-BOLYAI” UNIVERSITY CLUJ-NAPOCA

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*Dimensions of the European Identity*

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## RESUME

KEY-WORDS: *European identity, culture, policy, European politics, European law, institutions, European Union etc.*

### 1. Theoretical framework. European identity in academic writings

Although the scientific use of the term “European identity” has made progress starting with the years 2000, the expression continues to pose interrogations. Part of the literature concerning the subject approaches in general, in historical or philosophical terms, the values and the way of life shared by Europeans, *either as a continent bringing together a group of States or a civilization that distinguish it from the rest of the world, legitimizing to some extent the economic and political integration process*<sup>1</sup>. Another important part of the academic writings considers European identity as a psycho-sociological or socio-political process of citizens’ attachment to the European space and the political community, achieved through integration.

European identity will gradually raise several debates bearing on the sociological validity of the concept of identity. Rogers Brubaker and Frederick Cooper point out *the inconvenient of a concept that frequent reformulations made less operational*<sup>2</sup>; in this sense, as Sophie Duchesne claims, identity is caught in a series of tensions: between *similarity and difference, objectivity and subjectivity, individual and collective, permanence, contextuality and transformation*<sup>3</sup>.

In a sociological viewpoint, Charles Tilly treats identities (always plural) through responses that individuals / groups give to the question: *who are we?*<sup>4</sup>, claiming that these responses exert an undeniable influence on the ability and inclination of social actors to negotiate and act as one so it remains only to apply the notion to Europe.

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<sup>1</sup> Sophie Duchesne (ed.), “L’identité européenne, entre science politique et science fiction”, in *Politique européenne*, Paris: L’Harmattan, n. 30/2010, p. 7.

<sup>2</sup> Rogers Brubaker and Frederic Cooper, “Beyond Identity”, in *Theory and Society*, vol. 29/2000, pp. 1-47.

<sup>3</sup> Sophie Duchesne, *op.cit.*, p. 8.

<sup>4</sup> Charles Tilly, “Political Identities in Changing Polities”, in *Social Research*, vol. 70, n. 2/2003, p. 608.

Identity assumes the existence of a form of history, negotiated by groups, transmitted through institutions so that concerned individuals are able to recognize themselves in it. This history is always less consensual or unequivocal than the political use of identity permits: “national imaginary” is, as any collective representation, always multiple and conflicting, object of constant negotiation and confrontation. Is Europe at the moment the bearer of such histories? We might consider that there exists now a “European imaginary”, even controversial, varying from state to state, sufficiently built and present enough as to influence the way in which Europeans negotiate, act in relation to others and the rest of the world? The answer to this question was sought, demonstrated and dismantled by many authors.

Introducing the concept of “identity” within European studies area was the result of surveys, and more specifically, as highlighted by Celine Bellot<sup>5</sup>, of the Eurobarometer analysts who have used the term in order to explain *the multidimensional character of indicators showing support for integration; it served to the qualification of the non-evaluative dimension of citizens` responses, bearing on subjective appreciation of European construction, that the Eurobarometer`s designers considered to be the most affective, emotional*<sup>6</sup>.

Meanwhile, European studies experienced an important methodological turn: the years 2000 were characterized by an increasing number of qualitative researches on attitudes towards European integration<sup>7</sup>. Beyond the different methods, such research, often comparative, tried to deeply observe the nature of relations and connections that European citizens established with the evolving European project<sup>8</sup>. Most of these studies questioned - directly or indirectly- the existence of an identification process of

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<sup>5</sup> Céline Belot, “Le tournant identitaire des études consacrées aux attitudes à l’égard de l’Europe. Genèse, apports, limites”, in *Politique européenne*, Paris: L’Harmattan, n. 30/2010, pp. 17-43.

<sup>6</sup> Sophie Duchesne (ed.), “L’identité européenne, entre science politique et science fiction”, *op.cit.*, p. 10

<sup>7</sup> See for example: Juan Diez Medrano, *Framing Europe. Attitudes to European Integration in Germany, Spain and the United Kingdom*, Princeton/Oxford: Princeton University Press, 2003; Michael Bruter, *Citizens of Europe? The Emergence of a Mass European Identity*, London: Palgrave-McMillan, 2005; Richard Robyn, *The Changing Face of European Identity: A Seven-Nation Study of (Supra-)National Attachments*, New York: Routledge, 2005; Jonna Johansson, *Learning To Be (come) A Good European: A Critical Analysis of the Official European Union Discourse on European Identity and Higher Education*, Linköping: Linköping Studies in Arts and Science, Dissertation No. 417, 2007; J. White, “Europe and the Common”, in *Political Studies*, vol. 58, 2010, pp. 104-122.

<sup>8</sup> Several authors, such as Michael Bruter, Richard Robyn or Lynn Jamieson tried to directly demonstrate the development of a European identity.

respondents with the European Union, noting in other words, the growing influence of history, of European histories on the opinions and behaviors of its citizens. Each of these works focuses on different aspects of relationships established or not between the Union and Europeans, the convergences remain numerous and all highlight the problematic nature of “European identity”.

On the other hand, numerous studies have shown that self-identification as a European comes directly from the sense of national belonging; in this regard we support the thesis that drew converging viewpoints: national identity is not contradictory or inconsistent with the sense of belonging to the European Union but rather, all that can be observed by analyzing the relationship with the European project, is built in connection to the nation, either by “extension” - I am European because I am French, Belgian, German, etc., or by “compensation” - I feel European because I do not feel Spanish or British, and almost never on the grounds: I do not feel European because I am very nationalistic.

The hypothesis of the absence of antagonism between European and national belonging that we adopt in our work was developed starting with the 1970s, representing for a long time an *a priori* in European studies and research surveys. However, this does not mean that what we qualify as a “European identity” develops in the same manner and on the same pattern as national identity but rather that the model we are presently heading to is more complex since it articulates the persistence of national identities and the development of another form of attachment, more individualistic towards the European Union.

Adrian Favell is one of the authors who adopt a more radical position concerning the difficulties encountered when trying to approach the concept of European identity with qualitative methods<sup>9</sup>. Favell suggests renouncing to understand the development of European identity as legitimating the European project: *only their behavior and the manner in which Europeans will assume their own rights and obligations conferred by integration, will strengthen the European Union*<sup>10</sup>.

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<sup>9</sup> See Adrian Favell, *Eurostars and Eurocities: Free Movement and Mobility in an Integrating Europe*, Oxford: Blackwell, 2008.

<sup>10</sup> Adrian Favell, “European identity and European citizenship in three “Eurocities”: A sociological approach to the European Union” in *Politique européenne*, Paris: L’Harmattan, n. 30/2010, pp. 187-224.

Despite the age of political declarations referring to European identity, sociological analysis of the identification process of European citizens with the European political entity will not be truly realized as beginning with the 2000s. Quantitative analyzes produced then numerous writings discussing the affective dimension – as opposed to the one based on utilitarian consideration – of the attitudes regarding integration. For example, an article by author Céline Bellot, reflects the manner how works converge both in terms of results (multidimensionality of these attitudes, social variables persistence and the importance of national context, identification with Europe maintaining strong ties and complex national identification) and on their limits. Moreover, in the last decade, the all European Commission reports devoted to citizens' views on Europe (Eurobarometer) include a part entitled *European Identity*, taking evidence of the percentage of Union's citizens qualifying themselves as Europeans.

## **2. Topic choice motivation**

At the beginning of the XXI century, at a time when the European Union is going through a controversial financial crisis, fighting for an intensified political integration, we face the question of whether Europe is becoming more united in cultural, social or legal terms and European identity more obvious. It is precisely the current economic climate, difficult and marked by misunderstandings, which urges researchers, national officials and leaders in Brussels to seek different solutions to exit the crisis, directed us to take into consider the possible projects and prospects regarding the evolution of European Unions' identity, seeking at the same time, answers to a series of questions such as: *How is the EU currently perceived by its own citizens? What allows identification?* etc.

Past experiences show that *that identification with the nation-state emerged only after a considerably long period involving the linguistic and cultural homogenization of citizens, the fighting of wars, taxation, the establishment of citizenship rights and duties, the construction of a certain image of the nation endowed with its own symbols and rituals (instilled by the state), the existence of common enemies, and the progressive*



*merging of national education and media systems*<sup>11</sup>. As Montserrat Guibernau argues, the consolidation of national identity associated with European nation-states has been accompanied by the strengthening of regional identities in nations without states such as Catalonia and Scotland, *where a distinct sense of identity based upon a common culture, history and attachment to a clearly demarcated territory and the will to decide upon its political future has endures for centuries*.<sup>12</sup>; even more, the policies implemented by Spain and the United Kingdom have resulted in the emergence of decentralized political institutions, which in turn have contributed to strengthening the sense of belonging and even spread of shared identity. In the case of Western European societies also, compatibility between national and regional identity progressed simultaneously, which may entitle us to believe that another level of identity, this time of a supranational nature, emerged among European citizens once they realized the implications of EU policy upon their own lives. In this respect, Montserrat Guibernau suggests that *European identity cannot be expected to follow the pattern of national identity, simply because the EU is a new genre of political institution born out of a new socio-political and economic environment shaped by globalization*<sup>13</sup>.

As we will show in the first two parts of the thesis (subchapters “The role of Community institutions: European identity in official discourses” or “European political identity from the perspective of texts and policies”), European identity is top-down, institutionally generated identity, destined to deepen the solidarity between its diverse citizens and enhance the feeling of loyalty towards the EU.

European identity (as citizenship for that matter) cannot be established by a homogenization that annihilates diversity, be it linguistic, cultural or legal, as it cannot claim the foundations of a common past or clearly delimited geographic boundaries.

Instead, an emerging European identity is based on shared consciousness of belonging to an economic and political space defined by capitalism, social welfare, democracy, the rule of law and human rights. As we want to emphasize throughout this approach, we believe that these elements represent the pillars of the European identity

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<sup>11</sup> Montserrat Guibernau, “Anthony D. Smith on nations and national identity: a critical assessment”, in *Nations and Nationalism*, 10(1/2), 2004, p. 140.

<sup>12</sup> *Idem*.

<sup>13</sup> Montserrat Guibernau, “Prospects for a European Identity”, in *Int J Polit Cult Soc*, (2011) 24, p. 35.

build by cultural policies, by applying Community law, the jurisprudence and activity of the European Court of Justice as well as by political culture broadly shared by all EU member states. The question that arises in this context of financial crisis that we will try to answer, is whether these elements are sufficient to generate loyalty towards the EU.

So far, it is certain that economic progress has been the motor of European integration so that a major failure in this area would undermine the Union's progress, slowing down or even stopping its political integration. As demonstrated by the latest Eurobarometer on the subject, there is even a decline in the perception of the advantages of being an EU member. The trend characterizes among others, Greece, Portugal, Italy, countries facing sovereign debt crisis and severely resenting austerity measures. In these circumstances, some authors consider that *a still nascent and fragile identity is in danger of receiving a blow resulting in the resurgence of national identity and nationalism*<sup>14</sup>, opinion situated in obvious contradiction with an essential thesis that we seek to demonstrate, stating that European identity can coexist with national identity, interacting in a complementary manner; this thesis we will deploy over several chapters ("Nationalism: primordial, ephemeral?", "National identity versus European identity", "Europeanism model: civic, ethnic or multicultural?" etc.) also promotes the important role played by multiple identities - traditionally divided into three categories: regional, national and European, in building the *Euro-polis*.

Even if in its current form, the European identity does not evoke feelings similar to those raised by national identity, with a more pronounced emotional charge, we argue that it is not difficult to find common causes and interests that unite Europeans and leads them towards being aware of a shared belonging to the European Union..

### **3. Objectives**

From several points of view, the EU is *both a supranational system of governance, a novel form of political community and an evolving fragile construction with an ambiguous sense of identity*<sup>15</sup>. Our approach aims to analyze various dimensions of European identity (from the cultural, political to the legally constructed one), and

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<sup>14</sup> Montserrat Guibernau, "Prospects for a European Identity", in *Int J Polit Cult Soc* (2011) 24, p. 40.

<sup>15</sup> *Ibidem*, p. 31.

finally to offer a series of prospects related to the development of this type of collective identity; at the same time, we observe the evolution in the Europeans' perceptions towards EU, exploring the challenges that the incipient European identity still has to face.

As we demonstrate in the second part of the paper ("The cultural dimension of European identity"), Europe is a cultural reality that transcends EU's boundaries although recently the practice of identifying Europe with the European Union was established. At the moment, "Europeanism" is a general term used in relation to the European integration and citizenship, Community law or generating the European identity.

Our argument is based on the consideration that Europe's history and geography are not sufficient criteria to establish membership in Europe; the idea of Europe was not launched by reference to the geographical space or historical divisions but as a concept in connection with cultural political and legal heritage while geographical boundaries of Europe experienced dramatic changes over time and even during the last decades (from the unification of Germany, Czechoslovakia's separation or the break-up of Yugoslavia), with new waves of accession in 2004 and 2007 strengthening this conviction.

Thereby, as numerous researchers and politicians, we share the more and more widespread thesis that elements such as a shared culture, the system of social (progress and welfare), political (democracy and freedom) or legal (respect for human rights) values unite Europeans, being key elements in the construction of European identity.

#### **4. Thesis structure**

Europe is a *forest of ideas, symbols and myths; it is also a mirror reflecting a variety of concepts and meanings, rather than a prism that focuses the minds and hearts of its peoples around one central theme*<sup>16</sup>.

The debate on European integration reflects this ambivalence since it refers both to a process of lasting *socio-economic convergence* among European societies, to a *cooperation process* between European nation-states and regions in various fields but

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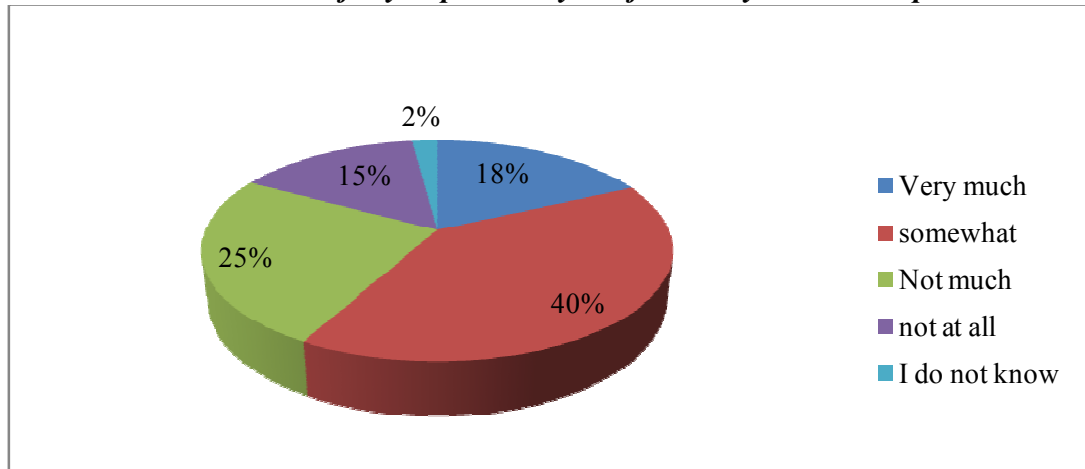
<sup>16</sup> Peter van Ham, *European Integration and the Postmodern Condition. Governance, Democracy, Identity*, London: Routledge, 2001, p. 58

also to the *process of building a European identity*. This latter process will be discussed in our four parts structured paper.

Although the thesis will commence with a first chapter on “The concept of European identity”, discussing the aspects related to the “European identity beyond the state”, “national identity versus European identity” and so on, we do not want to launch in a futile and self-contradictory attempt to find a conclusive definition of what European identity is; on the contrary, throughout the three main chapters “The cultural dimension of European identity”, “European political identity” and “The judicial construction of European Identity” we aim to present the components of identity and to achieve an investigation regarding the interrelationship between different types of European identity and the most significant political, institutional and legal manifestations of the European Union.

We will also discuss several scenarios of European identity, adhering to the one implying that the construction of European identity is just beginning and that as time passes a collective European identity will increasingly articulate. Our idea is based on a series of arguments extracted from data provided by the most recent Eurobarometers: first of all, the European project is evolving only since the mid 1960s and the biggest expansion of opportunities for interaction with other persons in Europe occurred with the single market in the mid 1980s; so it may be too early to outline a majority that creates a European nation. Furthermore, national identities have taken hundreds of years to evolve and Europeans started to interact more commonly only for the past twenty five years. Secondly, demography works favorable for EU and gradually new generations of young people will come to consider themselves as Europeans. Thirdly, with increasing levels of skills and education in general, people will be more interested in other European aspects, cultural and not only (education, travel, services, etc.), leading to a spread of European identity, as adequately demonstrated by two recent Euro-polls.

If in 2004 there was little evidence of an outpouring of enthusiasm among the citizens of Europe regarding the shaping of a European Nation, the 2011 Special Eurobarometer brings further clarification. As shown in the chart below, the fact of being European matters more than ever.

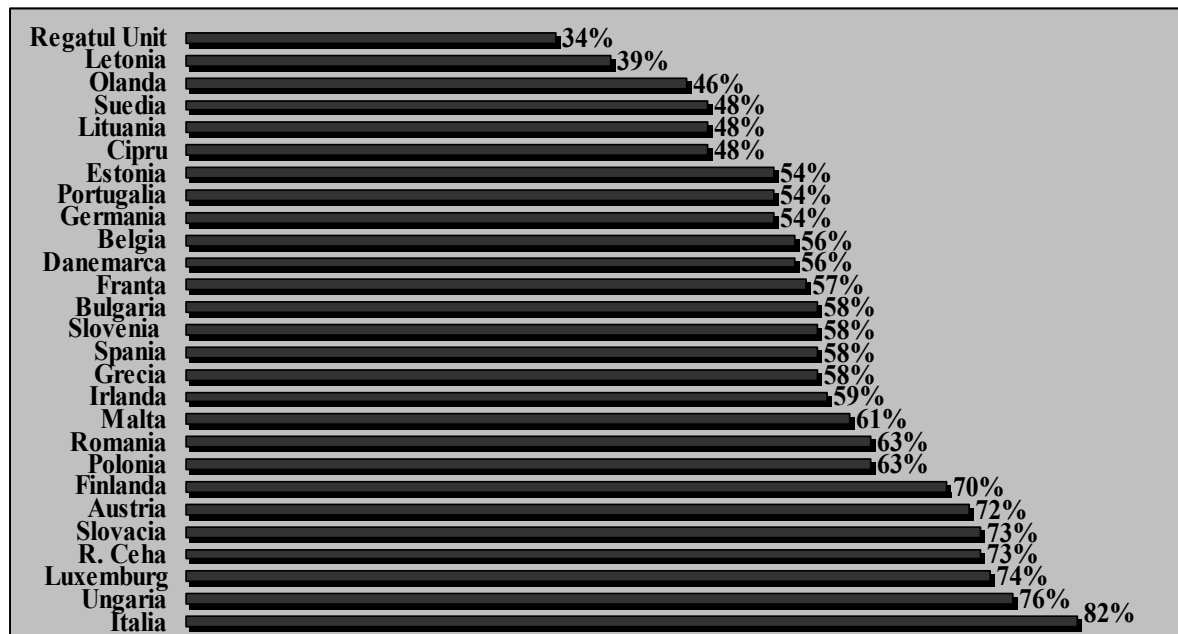
***How much does it matter for you personally the fact that you are European ?***

\* Source: *Special Eurobarometer 346* April 2011

Thus, compared to the last time this question was asked (Standard Eurobarometer 71 in Spring 2009), the number of those for whom it matters a lot to be European increased by 3 percentage points (from 15% to 18%). Generally speaking, we will show that attitudes towards European identity vary from one socio-demographical group to another and from one state to another.

Analyzing data at national level, the highest percentage of respondents for whom “being European” personally matter is found in Italy (82%), Hungary (76%), Luxembourg (74%), Czech Republic (73%), Slovakia (73%), Austria (72%) and Finland (70%). In contrast, the lowest rates are recorded in the UK (34%) and Latvia (39%).

***How much does it matter for you as citizen of state (X) the fact that you are European?***



\*Source : *Special Eurobarometer 346* April 2011

Analysis of each state, also shows that the euro is the most important element in the 17 Member States: Slovenia (61%), France (59%), Slovakia (57%), Belgium and Finland (55%), Greece (53%), Ireland (52%), the Netherlands (49%), Luxembourg (48%), Spain (48%), Malta (45%), Italy (39%), Portugal (39%), Germany (38%), Estonia (34%), Latvia (31%) and Romania (29%).

The euro is the least important in the UK (12%), Sweden (17%), Hungary and Denmark (each 18%), all non-Euro Zone countries.

Another essential element of European identity is represented by democratic values, the most important in six Member States: Sweden (71%), Denmark (65%), Cyprus (51%), Austria (40%), Lithuania (34%) and Czech Republic (31%).

Geography is instead considered the most important in Bulgaria (35%) while common culture is essential in the UK (26%) and Poland (25%). Finally, common history is the most important for Hungary (33%).

We will then turn our attention to an interesting aspect revealed by socio-demographic analysis: almost all categories chose the Euro as the most important element for European identity. Only those with long-term studies are an exception, placing first democratic values (43%) before the Euro (35%).

Moreover, the importance of democratic values as an element of European identity is influenced by education and age. Thus, those who interrupted school at 20 years old or more mention democratic values more often than those who left school at 15 years old or earlier (43% vs. 23%). In terms of age, persons aging between 40-54 years, state democratic values more frequently (35%) than younger respondents (27%).

***In your opinion, which of the elements have the most important role in forging a European identity ?***







	<b>Euro</b>	<b>Democratic Values</b>	<b>Geography</b>	<b>Common Culture</b>	<b>Common History</b>
U 27	36%	32%	22%	22%	17%
Accession date					
EU 15	39%	34%	22%	22%	16%
Non-member states 12	25%	24%	23%	22%	22%
Users of the Euro					
Euro Zone	46%	34%	22%	22%	16%
Non-Euro Zone	18%	28%	24%	23%	19%

\* Source: *Special Eurobarometer 346* April 2011

Dar chiar mai important pentru soarta finală a UE este modalitatea în care cetățenii obișnuiți percep rolul UE în viața lor mai ales că în ultimă instanță, politicienii din societățile democratice urmează în general preferințele alegătorilor. Aceste preferințe vor determina într-o mare măsură voința elitelor politice care conduc guvernele de a dezvolta capacitățile de stat la nivel european. Deci, gradul în care oameni din Europa, fie refuză, fie acceptă identitatea europeană va avea cel mai profund efect asupra viitorului Europei.

*In your opinion, which of the following elements play the most important role in shaping European identity?*



High level of social protection		13%
Symbols: flag, anthem, motto		11%
Common religious inheritance		5%
Others		1%
None (a European common identity does not exist)		3%
I do not know		6%

\* Source: *Special Eurobarometer 346* April 2011

The second part of the paper approaches the cultural dimension of European identity, especially that the European Union has increased considerably, both in demographical terms and geographical ones, reaching 27 Member States with more than 500 million people, making questions about collective cultural identity pertinent. Starting with the definition of cultural identity as a *sense of belonging resulting from joining a group that shares the same values, traditions, practices, orientations, symbols and stories*<sup>17</sup>, we will then review several approaches to identity.

Understanding the identity formation process relying primarily on the cultural environment variables is at the heart of the so-called essentialist approach; according to the essentialist logic Cederman claims that *ethnic elements or cultural raw material produce directly identities*<sup>18</sup>. Being of supreme interest to contemporary constructivist approach, identity includes *involvement and participation of citizens to the functioning of a polis*<sup>19</sup>. Citizens' sense of belonging is rooted in a set of shared political and social values that are recognized as essential for that the group so that a concept of political identity this time, is, in the opinion of Cederman, independent of essentialist characteristics, ethnic, pre-state such as culture and descent, emphasizing instead policies and an active process of constructing an identity<sup>20</sup>. Political identity can refer to different

<sup>17</sup> Thomas Meyer, *Die Identität Europas. Der EU eine Seele ?*, Frankfurt am Main : Suhrkamp, 2004, p. 20.

<sup>18</sup> Lars-Erik Cederman, "Political Boundaries and Identity-Trade-Offs", in Lars-Erik Cederman (ed.), *Constructing Europe's Identity. The External Dimension*, Boulder, Lynne Rienner Publishers, 2001, p. 10.

<sup>19</sup> Joseph H.H. Weiler, Ulrich Haltern and Franz Mayer, "European Democracy and its Critique", in *West European Politics*, Special issue on : *The crisis of Representation in Europe*, vol. 18, no. 3, 1995, p. 21.

<sup>20</sup> L.-E. Cederman, "Political Boundaries and Identity-Trade-Offs", *op.cit.*, p. 10.



objects as for example actors and structures of the political system including political values codified as law and even institutions and policies.

Next, we will try to capture the way how cultural aspects have been addressed over time at the European level, analyzing what symbols and myths are present in the European discourse and if it is tried a similar evocation of “memories” of a common past, the present or the future, as in the case of national identity discourse? Thus, despite or perhaps due to diversity, leaders and policy makers have tried to instill citizens with a sense of “Europeanness” introducing the single currency, the flag and anthem of the EU<sup>21</sup>. As far as we are concerned, we generally agree that, as a result of EU’s representatives official discourse analysis, it appears that the EU has managed to build its own mobilizing myths<sup>22</sup>.

Europe as a political project undoubtedly challenges history, political traditions and sovereignty of nation-states, prompting debates on the formation of a new entity. Member States engaged in this project make varied efforts to prove “the will to live together”.

Many researchers, be they anthropologists, sociologists, lawyers, philosophers, scientists and politicians debated over time topics such as the permanence of nations, the forming of a political Europe as a result of cultural and legal norms produced by supranational European institutions, but also the new plan of a civilization that could be located in the center of European political culture<sup>23</sup>.

A similar series of questions guide the third chapter of our thesis “The European political identity” that examines the way how supranational institutions involved in

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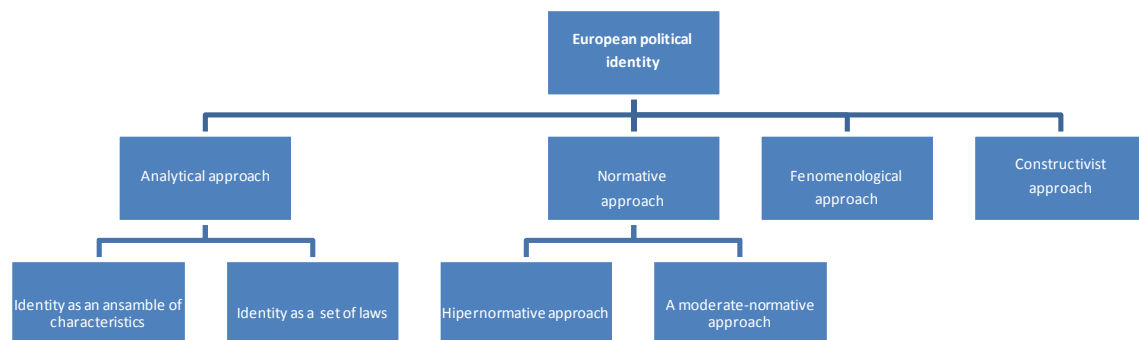
<sup>21</sup> See John Borneman, & Nick Fowler, “Europeanization”, in *Annual Review of Anthropology*, Vol. 26, 1997, pp. 487-488. T. Theiler, “Political Symbolism and European Integration”, Manchester: Manchester University Press, 2005, p. 2; Juan Naranjo Escobar, (MEP), “Written question to the Commission on the subject: Airplanes displaying the EU logo”, presented 24 October 2001, Brussels, 29 August 2002, *Official Journal C 205 E*, p. 14. For the answer see CEC, “Answer given by Mrs. de Palacio on behalf of the Commission”, Brussels, 29 August 2002, *Official Journal C 205 E*, p. 15).

<sup>22</sup> Anthony D. Smith, *Nations and Nationalism in a Global Era*, Cambridge: Polity Press, 1995, p. 1390; David Green, “Who Are ‘The Europeans’? : European Political Identity in the Context of the Post-War Integration Project”, paper delivered at the ECSA’s Sixth Biennial International Conference, Pittsburgh, Pennsylvania, 2-5 June 1999, [<http://www.eucenters.org/DavidGreenPaper.html>]; Leslie Holmes, & Philomena Murray, “Introduction: Citizenship and Identity in Europe” in Leslie Holmes, & Philomena Murray, (eds.), *Citizenship and Identity in Europe*, Aldershot : Ashgate Publishing Ltd., 1999, p. 2.

<sup>23</sup> See Riva Kastoryano (ed.), *An Identity for Europe. The Relevance of Multiculturalism in EU Construction*, New-York: Palgrave Macmillan, 2009; Michael Bruter, *Citizens of Europe? The Emergence of a Mass European Identity*, New York: Palgrave Macmillan, 2005. Nick Stevenson, *Cultural Citizenship. Cosmopolitan Questions*, Open University, Galsgow: Bell & Bain Ltd, 2003.

defining and developing the concept of political identity, observing at the same time the process through which the “European citizen’s culture” could be transformed in order to attain, beyond any legal definition, an actual shaping of the European political culture.

We aim among others to make a brief review of the various and often confusing meanings of the concept of identity that can be found in political theory or political speeches. Beginning with Furio Cerrtti’s theory, dividing these definitions into three approaches: analytical (based on a reified notion of identity), normative and phenomenological<sup>24</sup>, we will add a fourth: the constructivist one that in our opinion is the single that pays due attention to political identity.



\* The scheme is based on a personal interpretation of several identity approaches contained by two academic studies: Furio Cerutti and Sonia Lucarelli (eds.), *The Search for a European Identity. Values, policies and legitimacy of the European Union*, London/New York: Routledge, 2008, pp. 3-22 and Lars-Erik Cederman, “Nationalism and Bounded Integration : What it Would Take to Construct a European Demos”, in *European Journal of International Relations*, vol. 7, no. 2, 2001, pp. 139-174.

Given the dual nature of the European Union (highly regulated and integrated single market but also a *polis* to become), as we treat the sources, forms and strategies of this identity, we plan to gradually argue that the EU has a political identity, although still quite fragile, that does not try neither to remove national identities nor to replace the cultural diversity of Europe.

If the analysis of the main Community texts highlights appeals made, more and more frequent in the European vocabulary, to identity, from a political viewpoint, the

<sup>24</sup> Furio Cerutti, “Why political identity and legitimacy matter in the European Union”, Furio Cerutti and Sonia Lucarelli (eds.), *The Search for a European Identity. Values, policies and legitimacy of the European Union*, London/New York: Routledge, 2008, pp. 3-22.

concept covers three forms to the extent that its use varied significantly over the past 50 years:

- the first form has an essentially external objective;
- the second form corresponds to the expression of the common project and more exactly to Community interest;
- the third form attempts to highlight the existence of a civic community based on citizenship<sup>25</sup>.

În timp ce primele două tipuri de identitate sunt prezente adeseori în cadrul textelor oficiale chiar de la crearea CECA, al treilea nu se manifestă decât mai târziu, cu precădere în sfera discursurilor, precum cel din 1985, cu ocazia investiturii președintelui Jacques Delors, și mai apoi în Tratatul de la Maastricht din 1992 pentru ca mai apoi utilizarea sa să se dezvolscru te progresiv pe parcursul deceniului următor.

While the first two types of identity are often presented in official documents even since the creation of the ECSC, the third does not manifest itself until later, especially in the area of discourses, such as the 1985 one, from the investiture of President Jacques Delors, and then in the Treaty of Maastricht in 1992 for then its use to develop progressively over the next decade.

After the previous chapters have problematized the concept of identity, in order to distinguish between different types of identities (cultural, political, etc.), while addressing a crucial issue underlying enlargement and constitutional reform: how the EU came to refer to a common European identity, the main argument that we want to debate in the final part of the paper “The judicial construction of European identity” can be formulated as follows: while a significant common European historical identification is barely existing, European identities have come to be expressed primarily through national and Community’s judicial institutions and European legislation.

We will start from the argument advanced by many authors that, from the perspective of EU institutions and the Treaty establishing a Constitution for Europe, the

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<sup>25</sup> Marjorie JOUEN, Nadège CHAMBON, *L’identité européenne dans les textes et les politiques communautaires*, Notre Europe, Etudes et Recherches, [[www.notre-europe.eu](http://www.notre-europe.eu)].

best way to meet and promote such common identification is to strengthen human rights, citizenship and supranational institutions of Europe<sup>26</sup>.

In fact, European integration seems to occur through its legal construction, establishing “an area without internal frontiers in which the free movement of goods, persons and capital is ensured” introduces a legislative *de facto* procedure that affects decision making procedure resulting of cooperation between states. Based on Napoleon’s speculation<sup>27</sup>, an important thesis referring to the European Union has been formulated: *unified law, especially the branch regarding social and economic interactions between people represents an important contribution for the evolution of the EU*<sup>28</sup>.

Thus, after a series of “Theoretical considerations on the legal nature of the European Union” and an overview of key positions regarding European integration taken by writers such as Ulrich Everling, Jürgen Habermas, Alec Stone Sweet, Neil Fligstein<sup>29</sup> or Martin Shapiro<sup>30</sup>, we will gradually develop Weiler’s hypothesis that European legal integration, initiated by the European Court of Justice (ECJ) and supported by private litigants and national judges, transformed slowly, but inexorably, the European Community<sup>31</sup>. If these authors analyze in quantitative and qualitative manners, the processes associated with integration: from the regulation of various fields, dispute resolution up to law implementation, testing the development of new legal systems hypotheses and analyzing how the judiciary is strengthened as a stable set of practices, our work leads further this discussion, addressing the influence of this new legal system on the strengthening of European identity.

Furthermore, considering that the next natural and obvious step in this European process of deepening European transnational civil society and thus European identity, is the adoption of common legal principles and the legal harmonization of basic norms, in the

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<sup>26</sup> See for example Franz C. Mayer and Jan Palmowski, “European Identities and the EU – The Ties that Bind the Peoples of Europe” in *JCMS* 2004 Volume 42. Number 3. pp. 573–598; Alec Stone Sweet, *The Judicial Construction of Europe*, New York: Oxford University Press, 2004.

<sup>27</sup> *Compte de la Cases, Mémorial de Sainte-Hélène: Journal de la vie privée et des conversations de l'empereur Napoléon à Sainte-Hélène*, London: Colburn and Bossange, 1823, *apud* T. Judt, *Postwar: A History of Europe Since 1945*, London: Heinemann, 2005, p. 715.

<sup>28</sup> See Hugh Collins, *The European Civil Code*, Cambridge: Cambridge University Press, 2008, p. 2.

<sup>29</sup> Neil Fligstein, “The Institutionalization of European Space”, in A. Stone Sweet, W. Sandholtz, and N. Fligstein (eds.), *The Institutionalization of Europe*, Oxford: Oxford University Press, 2001.

<sup>30</sup> Martin Shapiro and Alec Stone Sweet, *On Law, Politics, and Judicialization*, Oxford: Oxford University Press, 2002.

<sup>31</sup> Joseph H.H. Weiler, “The Transformation of Europe”, in *Yale Law Journal*, 1991, 100: 2403.

form of what Napoleon foresees as an integrated body of legal principles governing various relationships established by citizens in a civil society; we will advance the thesis of a future European Civil Code as one legal instrument of building judicial European identity.

Regarding the relationship between European integration and constitutionalization it should be noted first that the creation of a formal constitution cannot be dissociated from the overall integration process because it increased democratic legitimacy of the Union by European Court's commitment to human rights jurisprudence, whether by codified what was institutionalized over time (of which the most important may be considered encoding human rights charter and establishing the principle of proportionality as a general rule of government).

Constitutional process and the resulting Convention is clearly more than a response to the practical difficulties of an expanding European Union. As Weiler stated, *constitutions are also expressions of moral and political identity of that demo they are trying to define*<sup>32</sup>. In this context, it is questionable whether the final document of the Constitutional Treaty is or it is not a constitution in terms of constitutional theory. In any case, the idea that we support is that constitutional process and constitutional rhetoric inherent in the Convention are closely related in the attempt to express a European identity.

*Constitutional patriotism* with the most important contemporary proponent Jürgen Habermas, is the well known answer to the question: *What could represent a European identity?* Thus the final section of the paper, exposes the basic principles of liberal democratic constitutional tradition as a central point in the development of a common European identity, arguing that the constitutional commitment to respect for human rights, democracy and the rule of law as fundamental values of the Union European mentioned in Article I-2 of the Constitutional Treaty, represents the relationship designed to ensure cohesion among European citizens.

Concluding the most appropriate and meaningful ending for our debate concerning the existence of EU democratic identity may be the one formulated by Jürgen

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<sup>32</sup> Joseph H.H. Weiler, "A Constitution for Europe? Some Hard Choices", in *Journal of Common Market Studies*, Vol. 40, No. 4, 2002, pp. 563–580.

Habermas, in *The Divided West: European identity will become reality*, a reality constructed on the pillars of *solidarity based on a widespread sense of belonging and involvement, forged on an explicitly built collective identity*<sup>33</sup>.

## 5. Conclusions

Formation of a European identity will not be achieved at the expense of existing national identities and will not cause their replacement. Supporting the possibility of coexistence of the two forms of identities, we can notice that European cultural identity is forged using the same rhetoric as in the case of nation-state, in other words, has its own myths, memories and symbols and thereby tries to create a sense of continuity through the claims of a common past, a shared present and future, similarly to national identity discourses.

The European Union is confronted nowadays with a multitude of new tasks such as: remedying the consequences of an aging European population; managing both politically and legally the external migration flows; combating growing inequality as a direct result of migration and the economic crisis; maintaining peace in a globalized world.

Given all these challenges, common interests generated by economic integration and the reasons that previously stimulated European unification (eg maintaining peace, external threats or economic growth) are no longer sufficient to raise a genuine political cohesion; as a consequence new forces of cohesion and European political unity should be sought precisely within common European culture. As these old factors of integration lose power, the role of European cultural identity (the spiritual factor of European integration) gains importance as a source of unity and cohesion but also as a vital element in strengthening democracy and legitimacy of the EU as a democratic *polis*<sup>34</sup>.

Cultural identity represents the version that confers substantial support and emotional attachment, especially true in comparison to neo-liberal European identity, to which we might suggestively apply the rhetorical question formulated by Jean Monnet:

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<sup>33</sup> Jürgen Habermas, *The Divided West*, ed. cit., p. 80.

<sup>34</sup> See Ryoko Yoshino, *European Identity and Democracy of the EU*, paper presented at the International Studies Association 50<sup>th</sup> Annual Convention, New-York, 15-18 February 2009.

*who would fall in love with a single European market?*<sup>35</sup> Moreover, we believe that a common European cultural identity is a necessity, acting as a foundation and a justification for neo-liberal and civic versions of European identity.

European culture, this open space to be constantly redefined does not create European unity; this unit equally requires a political dimension. Common European culture is actually what allows policy to make the EU a unified political entity. Thus, union unity is not only a political mission. Policy can only create the basic condition of European unification but Europe itself is more than a political construction, is an ensemble, a culture of institutions, ideas and expectations, habits and feelings, memories and projects forming a “cement” that binds Europeans and the foundation on which political construction is elevated. And this ensemble often called *European civil society* is at the heart of political identity, defining the condition of European politics’ success as well as the limits of state’s political intervention.

Understanding European construction from a legal point of view, continues to remain the subject of intense discussions<sup>36</sup>. While some authors conceive the Union as a legal unit, placing both European countries and the economic and political spheres under the regulation of Community law, other authors extract from Treaties texts the idea of complete separation between the Union and the Communities; according to this opposite pole view, the Union and substantial areas incumbent should be seen as a framework of international law. However, as Ulrich Everling suggests, *practice has went far beyond these theoretical debates and treats European Union and the Communities as an uniform association in the scope of integration*<sup>37</sup>. One fact is certain: the signatory parties have

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<sup>35</sup> See Charlie McCreedy, “The Development of the European Capital Market”, Rapid Press Release, SPEECH/06/160, London School of Economics, London, 9 March 2006, p. 2 [http://europa.eu/rapid/pressReleasesAction.do?Reference=SPEECH/06/160&format=HTML&aged=1&language=EN&guiLanguage=en, accesat 2010-11-09].

<sup>36</sup> See Armin von Bogdandy and Jürgen Bast (eds.), *Principles of European Constitutional Law*, Max Planck Institute for Comparative Public Law and International Law, OXFORD AND PORTLAND, OREGON: Hart Publishing, 2006. Alec Stone Sweet, *The Judicial Construction of Europe*, New-York: Oxford University Press, 2004. WOJCIECH SADURSKI, ADAM CZARNOTA, MARTIN KRYGIER (eds.), *Spreading Democracy and the Rule of Law? The Impact of EU Enlargement on the Rule of Law, Democracy and Constitutionalism in Post-Communist Legal Orders*, Dordrecht: Springer, 2006, etc.

<sup>37</sup> Ulrich Everling, *op.cit.*, p. 706

not considered the merger of the Union and Communities in a legal unit, but considered the organization as a whole, as a political and economic unit but not a legal one<sup>38</sup>.

In this context, the establishment of a Constitution offers the opportunity to create clearer structures that allow institutions to carry out their functions effectively, presenting a more comprehensible organization to the citizens, while also defining EU as the political and legal unit with a more inclusive and transparent structure. Moreover, European law provides essential cohesion; the European Community is a community of law with the rule of law expressly mentioned in Article 6 EU as being one of the cornerstones of the Union, and with other principles (freedom, democracy, respect for human rights), an element of European constitutional order. Special significance derives equally from the consideration that law acts as a factor of integration, harmonizing national legal systems and rules of conduct enhancing the framework of a common policy<sup>39</sup>. Even more, the law governs the composition, powers and functioning of institutions, the relations between them, Member States and citizens, the rights and legal protection of individual's rights and a key role in the legal system of the EU is played by the European Court of Justice that oversees law enforcement.

Civil law help create a transnational civil society, promote greater cooperation and coordination at the supranational level of governance, while legal discourses make their own interpretations of the standards that should govern relations in civil society and how these standards are connected with the general political principles (such as for example the protection of individual rights and obligations of belonging to a community). The appeal to rules assumes a common identity and community membership. Without such a common identity we find it impossible to imagine a single polis, an association of all European citizens.

EU institutions have managed to create a distinctive profile and although it manifests differently according to each Member State, they serve as a reference point for European citizens. European institutions' ability to express a common identity is also rooted in the nature of the EU. Since there is no European historical narrative as

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<sup>38</sup> See Ulrich Everling, "From European Communities to European Union" in A. von Bogdandy, PC Mavroidis and Y Mény, *European Integration and International Co-ordination, Studies in Honour of CD Ehlermann*, 2002, p. 139.

<sup>39</sup> See M. Cappelletti, M Secombe and JHH Weiler (eds), *Integration through Law* (1986); Ulrich Everling, *op.cit.*, p. 711.



foundation for a common identity, European institutions could become “carriers” of a European historical myth; though in the past extreme political differences were challenged by armed conflict, presently they are expressed throughout long periods of negotiation at the supranational institutions level, based on the rule of law. In this respect, the European institutions can be regarded as a decisive expression of “new”, post-1945 European identity, as guarantors of Article 6 of the EU Treaty<sup>40</sup>, integrating part of the Constitutional Treaty as well as of European tradition of rationality and democratic legitimacy of each Member State.

Due to the constitutional implications of primacy and direct effect and immediate application European law has become intrinsic to national constitutional debates and political discourses. As at the national level, *law can be considered a cultural and political artifact that for an increased efficiency should represent the majority consensus, similarly to be effective, European law must reflect popular consensus beyond the political domain*<sup>41</sup>. In other words, beyond common reference points offered by other European institutions, the European Court of Justice, through its decisions reflected on social, cultural and economic rights, established inalienable foundations for an identity common to all Europeans living in the EU Zone.

European law helped European institutions to mediate individual and collective composite identities, performing as an instrument of majority consent in the sphere of common values and norms expressed through attentive mediation from the ECJ. In this way, European identity has become more and more identifiable and significant as European institutions, law and cultural policies articulated values held in common.

## **6. Research methodology**

Our demarche is included among the dominant approaches characterizing research on European identity, being of a theoretical nature, offering at the same time a

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<sup>40</sup> Paragraph 1: “The Union is founded on the principles of liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law, principles which are common to the Member States”.

<sup>41</sup> Ulrich Haltern, “Europe Goes Camper. The EU Charter of Fundamental Rights From a Consumerist Perspective”, in *ConWEB 3/2001*, [<http://www.qub.ac.uk/ies/onlinepapers/const.html>].

*top-down* as well as a *bottom-up* perspective; in this sense, our study pays special attention to measures that promote European unity, maintaining diversity, a common culture, a shared political sense and legal harmonization through various mechanisms: the public discourses of national or European officials that promote a positive sense of European identity (see Chris Shore, *Building Europe. The Cultural Politics of European Integration* (2000); Jonna Johansson, *Learning To Be (come) A Good European: A Critical Analysis of the Official European Union Discourse on European Identity and Higher Education*, (2007); Riva Kastoryano, *An Identity for Europe. The Relevance of Multiculturalism in EU Construction* (2009); and so on), programs initiated by the EU institutions, in particular on the cultural level (*Kaleidoscope 1996-1999, Ariane, Raphael, Culture 2000* followed by *Culture 2007*, detailed in the section “The Role of Community Institutions: European cultural identity in official discourses”) up to the activity of the European Court of Justice that results in a jurisprudence significantly contributing to the judicial construction of European identity. Moreover, our work deals with historical images of Europe, key documents of the European integration (EC/EU Treaties, the European Constitution and Bill of Rights), which provide in our view, proof for a stronger orientation towards the EU.

Similarly, our work will also adopt the bottom-up approach, considering that we should not be underestimating the influence that citizens can exert, both socially, culturally and legally on the process of enhancing European citizenship but also the feeling of European identity. From this perspective, Eurobarometers, constantly evolving during the last years of inquiries focused on qualitative research interviews and analytical techniques applied to issues of identity<sup>42</sup>, proved to be very useful tools in gaining a clearer view of the evolution of multiple identities and the the process of shaping an European identity among citizens, based on the sum of cultural past cultural, social, legal experiences and on the subjective perception of the EU and the values it promotes. Meanwhile, the current perspective is formed by foreseeing the future, of what the individual, the ordinary citizen deems to be the likely medium or long term outcome of the present, current identity being a lens that reflects both the past and the future.

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<sup>42</sup> Our study processes data offered by a series of Eurobarometers as for example Special Eurobarometer 73, *L'Opinion publique dans L'Union Européenne* (2010); Special Eurobarometer 346, *New Europeans*, (2011) etc.

Our approach gives due importance not only to the role of citizens, that throughout daily interactions contribute to shaping the relations between communities and thus to an increased awareness of the common European identity, but also to institutions, both national and supranational and their activity. Of paramount importance for our study are the writings of authors such as Alec Stone Sweet, W. Sandholtz and Neil Fligstein (eds.), *The Institutionalization of Europe* (2001), Martin Shapiro and Alec Stone Sweet, *On Law, Politics, and Judicialization*, (2002), Alec Stone Sweet, *The Judicial Construction of Europe*, (2004), Peter Kraus, *A Union of Diversity Language, Identity and Polity-Building in Europe* (2008); Monica Sassatelli, *Becoming Europeans. Cultural Identity and Cultural Policies*, (2009), Jonna Johansson, *Learning To Be (come) A Good European: A Critical Analysis of the Official European Union Discourse on European Identity and Higher Education* (2007), Neil Fligstein, *Euroclash. The EU, European Identity and the Future of Europe*, (2008) and so on, whose researches have shown how myths, symbols, cultural policies and legal norms are adopted, developed in everyday life in European societies, or used by European citizens in the construction or enhancement of European identity.

## **7. Practical relevance of the research**

The necessity to understand the way European identity develops or fails to progress, characterizes not only the major themes concerning the European Union, but also the intensely globalized society of the twenty first century that has resulted in larger communities than the nation. Collective identities and their forms are crucial to maintaining a political entity, even the *Euro-polis*. In the specific European context of the public sphere and institutions of the state, the need for a framework of conventions and behaviors (trust, reciprocity and fairness) as a basis for market rules, legal norms and safeguard of European citizens' rights, is more strongly manifested. An essential basis formed out of cultural, political or legal assumptions shared at the individual level is absolutely necessary to transform the EU into a functional economic, social and political entity; these shared assumptions are also vital to the development of a sense of identity at the intersection of the individual self and social structure.

From this perspective, the research on the dimensions of European identity we propose is not intended to demonstrate that a dominant European identity is gradually replacing the national or regional identity, but on the opposite, that the European identity evolves via these other types of identity. Moreover, through the transdisciplinary inquiry on cultural, political and legal European identity, we dare to hope that the work in question will contribute to a more nuanced understanding of the evolution of this type of collective identity on the one hand and to a concrete, systematic analysis of the contemporary processes of European identity formation. Aceste aspirații privesc atât temeliile identificării aflate într-o constantă evoluție odată cu progresul politicilor instituționale, sociale, culturale, legislative ale Uniunii Europene dar și modalitatea în care cetățenii conștientizează și își asumă calitatea de cetățeni europeni cu o identitate comună. These aspirations concern both the identification foundations in constant evolution with the progress of institutional, social, cultural, legislative policies of the EU and the manner in which citizens become aware and assume their quality of European citizens with a common identity.

In conclusion, one of the main goals of the paper is represented by the attempt to provide a description of the common foundations of domains that lead us to focus on European identity, so that research findings enables us to prove the inevitable intensification of European identity. Moreover, we believe that our work represents a significant contribution to the literature on European identity, proposing a number of suggestions that highlight the practical relevance of our scientific approach::

- First, starting from the consideration that different types of identities (cultural, legal, constitutional or political), were affected by the European integration process in various ways, our approach pays great attention to the distinction between varied dimensions and categories of European identity;
- Secondly, the main thesis of the paper argues that the most pregnant dimensions of identity existing at the European level are the cultural and the political one, whilst the legal European identity is barely noticeable; from this angle, we open the academic path, unexplored until now in Romanian writings, for a new research addressing possible effects of the Convention and constitutional proposals on the development of new European legal identifications;

- Thirdly, we highlight three areas in which European legal and institutional identity already possesses an undeniable significance: the mediation of complex identities; the construction of shared values throughout jurisprudence and the practical impact of European citizenship.

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