

CARLOS JIMÉNEZ PIERNAS

FOREWORD

The European integration process has been rapidly evolving during the last decades in light of the successive reforms of the founding treaties of the European Union (EU). As a result of the above, the EU internal market has become more sophisticated and the EU external action has advanced significantly as well, both in response to the irreversible phenomenon of globalization. The EU has undoubtedly become a regulatory force in many sectors of international law. This scenario requires higher legislative specialization, and new instruments, essential to resolve increasingly complex and global problems, such as those of the recent great economic recession, the fight against international terrorism, the consequences of Brexit, and the humanitarian crisis posed by waves of refugees crossing the Mediterranean; these to name only four of the aspects currently affecting Europe and its legislative agenda.

In a context replete with global challenges, the EU and its Member States face the dilemma of either reinforcing the basic pillars of the European integration process, such as the principle of solidarity, or of weakening them. The principle of solidarity was mentioned in the Schuman Declaration as one of the cornerstones on which the European Community was to be founded: “The solidarity in production thus established will make it plain that any war between France and Germany becomes not merely unthinkable, but materially impossible”.

Today, the principle of solidarity is not at its finest hour. Social movements in some Member States, each with varying degrees of popular acceptance, question how the EU and its Member States have applied the principle of solidarity.

The *Jean Monnet* Centre of Excellence on Regional Integration of the University of Alcalá, created within the University’s Latin American Studies Research Institute (IELAT), has been conducting interdisciplinary research on the European integration process, under my direction, since 2009. While its research, teaching and dissemination activities initially focused on Central America, since 2014, these activities were expanded to include other

Latin American States, and some EU Member States.

This collective book is the result of precisely one of those activities, organized by the Centre of Excellence on Regional Integration in close collaboration with the University of Pisa. On June 18 and 19, 2015, a seminar was held at the University of Pisa, entitled “European Integration and Neighborhood Relations in the Mediterranean”, in which professors and researchers from different European universities as well as members of civil society reflected upon some of the main challenges of the European integration process. Many of the contributions made in that seminar are included here, addressed from an eminently practical standpoint, organized in three basic thematic areas: the solidarity mechanisms put in place among EU Member States; the response of the EU and its Member States to the grave migration and refugee crisis; and the reinforcement of EU external action.

The first thematic section of this collective book (Parts I and II) addresses some legal mechanisms that may trigger activation of the principle of solidarity among the EU Member States. Part I examines how the founding treaties propitiate solidarity in cases of natural or man-made disaster (Russo) and/or terrorist attacks on a Member State (Del Chicca). Within this thematic section, Part II examines the coordination and cooperation measures established by the EU to reinforce consular assistance to European citizens (Crespo Navarro). This Part also studies the problems faced for application of the principle of solidarity in the exercise of rights arising from the European citizenship status, particularly those regarding the recognition of social welfare benefits (Pasquali) and health care (Bertolini and Milazzo).

The second thematic section (Part III) examines the potential responses that the EU and its Member States can provide to the migration and refugee crisis, via application of the legal instruments foreseen in primary and secondary law. The contribution offers general reflections on the migration challenge now faced by the EU (Jiménez Piernas) and examines how the European Border Control and Asylum policy is being applied (Jones). In this sense, the relationship between development and migrations is a fundamental element for the correct implementation of EU external action. For this reason, controls of migratory flows cannot be reactive, but must be based on a proactive approach, taken and deployed, among other means, via consistent cooperation and development policy (Martines).

The third thematic area (Parts IV and V) considers the various facets of European Union external action in which the principle of solidarity can play a relevant role, and how this principle is seen in Latin America. First is an examination of the three areas of the EU external action, that, when correctly and harmoniously implemented, serve to reinforce application of the principle of solidarity. These are: security and defense, foreign invest-

ment protection, and cooperation for development. Further development of the European security and defense policy, while a recognized need in a context plagued by global threats, should seek inspiration in the basic principles of European integration (Morviducci). The establishment of a EU policy that protects the rights of foreign investors, while striking an acceptable balance between foreign investor protection and the regulatory laws of the host State, is another essential element for reinforcing the institutional structure of the EU with neighboring States (Pascual-Vives). The final part of this section provides insight on how EU cooperation for development has traditionally been linked to the democratic principles of respect for human rights and the rule of law (Martines). The last contribution further examines cases where the principle of solidarity has been successfully incorporated in the various sub-systems of cooperation and integration established in Latin America (Ferreira and Nascimento).

Thanks are due the University of Pisa for its hospitality during that June 2015 seminar, and to Prof. Leonardo Pasquali (University of Pisa) and Prof. Francisco Pascual-Vives (University of Alcala), whose wise editing and enthusiastic collaboration made this publication possible. I trust that the relationship between the Universities of Pisa and Alcala will continue, and with it, the fruit of their joint research efforts.

MONICA FRASSONI

ADDRESSING THE NEW CHALLENGES OF THE EUROPEAN UNION: SOLIDARITY AND THE PROTECTION OF INDIVIDUALS

The best way to start answering the question why the European Union (EU) is suffering from such a lack of “love” and legitimacy from the part of so many of its citizens, is to have a look at article 3 of the Treaty of Lisbon, (the one which describes the goals of the EU) and to refresh our memory on how many of its objectives have to do with the protection and well-being of its citizens and solidarity: freedom, security, social justice, full employment, solidarity among generations, territorial cohesion, etc.

The reality today is that the EU is far from achieving those goals and is perceived as an “entity” to be protected from, unable to address worries and a growing feeling of insecurity of individuals; but why did this all happen? And is it justified? How should this falling out of “love” be addressed? In times of “fake news” and of a constant, long-standing tendency to use the EU as a scapegoat for bad governance and ill guided choices at national and local level, it is important making the point over the legal, political, financial instruments existing at EU level, also to be better equipped in the ongoing dispute over the future of the EU, which for the first time since its creation is in an existential crisis, that could end up making it stronger or disaggregating it.

Freedom of circulation and establishment, health, disasters, human rights, terrorism, development policies, but also migration, consular protection, investments... the areas of “protection” and solidarity are many and quite diverse in terms of instruments, impact and financial resources available. It is in my opinion key to detail the challenges the EU faces, but also the tools it has to protect its citizens, in coherence with its own values and objectives, as it is done in this book.

But we also want to go beyond proposals and facts: we need to build unconventional alliances and real mobilization among academic, political, social, economic, media actors to stop the current vicious circle of sense of defeat and insecurity, which are feeding the tendency of an increasing

number of governments to go their own way, thus making any common result impossible, no matter what Treaties and laws say.

Today, 60 years after the signature of the Treaties of Rome, the EU must regain the hearts and the minds of its people and be an efficient actor of change: in the last few years, the combination of wrong policies, increasing divisions among Member States and their unwillingness to allocate sufficient resources and instruments to implement positive measures, the resulting lack of internal cohesion and solidarity, deepened the feeling of distance of public opinion towards the EU. Moreover, despite the relative increase of the role of the European Parliament as a co-legislator and the transparency of the EU decision-making process with the implementation of the Lisbon Treaty, there is a wide feeling among citizens that they have little role in the decisions taken: the transfer of powers from the national level to the European one is resulting in a transfer of power to a few representatives of some national governments acting behind closed doors in Brussels, assisted by the Commission's officials and marginalizing both national and European parliaments. The recent discussion around a "multi-speed Europe" risks to make this process even stronger, by favoring "ad-hoc" cooperation on this or that issue at the expenses of common rules and procedures; what we need instead is a clear choice between those who want an "ever closer Union" and those who don't. But before even starting to talk about the speeds of integration, we have to go back to basic and win back consensus to the idea that common solutions and solidarity are the right bases to answer the current confusion and disarray on issues of common interest, like the management of the refugee influx, the sluggish economic and social situation, the challenges of climate change, the conflicts on our doorstep.

This is not an impossible task. Contrary to what is becoming mainstream narrative, our cultures and societies are stronger than those who claim that it is put in great danger by other countries, grey bureaucrats, people escaping from war and poverty, want us to believe; the current tendencies to disaggregation of the EU project are not unstoppable. A discourse of confidence and trust based on a combination of a revived "desire of Europe" and a visible change of policies in some key areas has to replace that of fear.

The most urgent change must come from economic and social policies; and change must be visible and effective. Years of austerity measures, where necessary public expenditure and investments are treated as deficit to be cut, contributed to bring many EU economies at a stand-still; and those who are doing better are doing so also at the expenses of the others, but are led to think that they pay all the burden of the weakest ones for nothing, thus increasing reciprocal anger and distrust. EU must accept it got it wrong and change in a much more convincing way its approach; it is urgent to reform its economic governance, by limiting and framing the powers of

the Euro-group and strengthening the powers of the EP in all economic and financial matters. We have to go back to the very wise words of Tommaso Padoa-Schioppa, one of the fathers of the Euro, who once said that if States must rehabilitate finances, EU must accompany growth (*“Agli Stati il rigore, all’Europa la crescita”*). And not any growth. In times of climate change and mass unemployment, we must identify and focus explicitly on the most intense areas of quality work; a few years ago the United Nations indicated that these are mainly three: education; the health of communities and individuals; the “green economy”, understood in its broadest sense of economic activities (be it in industry, industry, agriculture, crafts, tourism, mobility) which are organized around the ambition to deal with climate change and the scarcity of resources, the fight against pollution and quality of life. The proposed policy on these issues needs to become more European, but also aggressive and visible in the public debate, showing all the benefits and integrating large and complex policies of economic and social mobility as well as migration.

But “it’s not only the economy, stupid”! It is a fact that also when the economic situation is good, fear and insecurity are not necessarily overcome; in Europe, the issue of the loss of identity facing perceived hostile newcomers is by now well established and made stronger by the fact that very often those exposed to often badly managed side-effects of an open but unequal society are the least well off categories of citizens.

So, a real challenge for the EU is to be able to deliver on inner and external security and notably on what became the center of the discussion in the Brexit referendum: what does it take “to bring back control” to citizens? I think that here we cannot only bring facts and figures, even if they are strong and coherent. The new “narrative” we need is not a PR operation to repeat how great is Europe; it’s a very concrete shared project and horizon, which in these uncertain times has to become more attractive than that of homogeneous and closed societies, which will anyway never come back: we need to win the cultural battle over those who claim that the return to our well-chartered and bordered nation-states will save us. The EU and many Member States governments have not taken up this fight with sufficient energy and conviction, thus greatly contributing making the nice words in article 3 just... nice words.

The reality is that going back to borders, building real and imaginary fences among EU countries and violate our principles with dubious alliances with old and new despots is not only morally wrong, but politically ineffective and economically disastrous: and it is not even profitable under an electoral point of view, since as old Jean Marie Le Pen said “don’t trust imitations, go for the original”. The human cost of refugees stranded and the walls built go together with the absurd economic costs of fences and security

measures, wasted on defenseless women, men and children instead than on terrorists and intelligence. Solidarity, respect of human rights and rule of law are not “pure souls” ambitions: they are the most effective approach to find working solutions to today’s global challenges. How many shelters in decent conditions or integration measures could have been organized with the over 150 million euros spent in Hungary to build its fence? Or the 200 million pounds spent by the UK to stop migrants and asylum seekers in Calais? Or the 6 billion euros to be spent to keep refugees in Turkey or at the Turkish border with Syria? Or the millions spent to send back individual migrants and “help” migration countries to stop their citizens wanting to reach Europe, instead than helping their economic development? How much more effective would be to take up again and again the issue of the reallocation of migrants and to give more resources and power of to all those communities and local authorities who are on a daily basis showing that Europeans are much more welcoming and *solidaire* than their governments? Our main message should be one of an emotional and at the same time pragmatic “common sense”, which is visibly and radically alternative than the one of populist movements, but also very different of what is becoming a hysterical acceptance of their wrong recipes by mainstream parties, in the illusion to keep the consensus of the “people”, no matter if long standing values and legal obligations are put at risk.

If the current situation does not change and the EU does not get its house in order, finding a renewed sense of its existence, it will be very difficult for it to fully play its role as a global player, as a defendant of peace and rule of law in this increasingly unstable world.

It is thus important to give value to what the EU does already in terms of development, defense of the rule of law and human rights in the world and figure out what more can be done, not to lose that patrimony of credibility and positive work, that made and still makes the experiment of the EU so attractive. It is important not to forget that the EU spent over one billion euros in the last 10 years on electoral assistance and it remains the first donor on development aid. Young and not so young Europeans are all over the world giving a positive image of the old continent. But by direct experience, I also know that this image is getting blurred and that sadly, many human rights defenders and fighters all over the world are no more expecting much from us, if not some generic support press release. This is really very sad, because if Europe disregards standing up for human rights values, not many will do it on the global scene.

To sum up, the EU needs to move, and move quickly. It is urgent to change the policies and the way of functioning of the EU; and we have to strengthen the joint government responsibility between the European institutions and the Member States, not to increase the power struggle among