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**TRANSNATIONAL PARTICIPATION**

**AND CITIZENSHIP**

**Immigrants in the European Union**

**Riva Kastoryano**

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# TRANSNATIONAL PARTICIPATION AND CITIZENSHIP

## Immigrants in the European Union

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Definitions of the European Union in terms of « shared destiny » or as an expression of the « will to live together »<sup>2</sup> recall the inspirations that led to the formation of nation-states in eighteenth century Europe. Can one think of the European Union in the same terms as nation-states? Can nation-state building be a « model » for the construction of a political Europe? Can the fact that European institutions are concerned to harmonize political, legal and cultural differences impelling the states to attempt to set a common « political agenda »<sup>3</sup> be enough to conceive of the Union as a political community?<sup>4</sup>

Such thoughts raise two major questions in social sciences: the modes of political participation in a united Europe and that of citizenship. According to article 8 of the Maastricht Treaty, any individual who holds the nationality of a member state is a « citizen of the Union ». This definition is merely the projection of citizenship in relation to nationality worked out within the framework of nation-states. There is however a clash in practice. According once again to the Maastricht Treaty, « citizens of the Union » are granted local voting rights on the basis of residence. The separation between citizenship (legal rights in practice) and nationality (belonging) has been introduced right from the start and leads to a redefinition of the concept of *citizenship as extraterritorial*. Seen from this perspective, the practice of citizenship places the individual, the citizen of the Union, before multiple

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<sup>1</sup> Chargée de recherche de CERI/ CNRS, Paris, France. Translated by Dominique Lussier (ISCA) and revised by the author, from an original paper in *Cultures et Conflits*, no.28, Winter 1997, pp. 59-73

<sup>2</sup> Quotations from Ernest Renan's lecture at the Sorbonne in 1882, in E. Renan, *Qu'est-ce qu'une nation?*

<sup>3</sup> I borrow the sentence from Pierre Muller in 'Les mutations des politiques publiques européennes', *Pouvoirs*, 69-1994, p. 64.

belongings and allegiances that indeed represent a challenge to the unitarian and territorial nation-state.

Similarly, the territorial limits imposed on political action and citizenship confront political participation at a transnational level. There are an important number of transnational networks, formal and informal, some based on identity, others on interests, or often both as in the case of « immigrants »<sup>5</sup>, i.e. residents or legally citizens of one member state according to the legislation on citizenship but claiming the recognition of a different collective identity. Despite the fact that immigration and integration policies come within the power of the States, immigrants foster primordial solidarity networks which cross national borders on the grounds of one or several identities, a so-called an « identity of origin » linking the home country to the country of residence and to the broader European space. Such networks, like networks in professional corporations, form the threads of a spider's web covering European space, that « space without internal frontiers » in which - according to the Single European Act of 1986 - the free movement of goods, property and capital is safeguarded.

A transnational organization could allow the immigrant populations to bypass national policies. Such an organization would be the expression of a quest for representation at the European level and lead to recognition beyond nation-states. Its evolution underlines the multiple interactions between national societies and the wider European space, between national institutions and supranational institutions and among nation-state members of the union together creating a common political involvement. These complex interactions lead to a new concept of citizenship shared by the countries of origin, the country of residence and

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<sup>4</sup> R.Kastoryano, *Quelle identité pour l'Europe? Le Multiculturalisme à l'épreuve* ; Paris Presses de Sciences-Po. 1998 ; Cf also *Esprit*, Special issue on Europe : A political community ? March 1992.

<sup>5</sup> The use of the word immigrant needs an explanatory note. By immigrant in this context is meant a population who came and settled in different European countries in the 1960s mainly for economic reasons, even though in many cases they came from former colonies. Juridically, the term refers to a temporary status, which is not

Europe. The emergence of a transnational solidarity network among immigrants raises the question of the link between participation and citizenship, nationality and identity, politics and culture within both the nation-state and in the European Union.

Transnational networks, like the process of globalization in general, are an obvious challenge to the nation state, but they do not lead necessarily to its erosion. They raise instead the question of a redefinition of its political structure and of the balance between nation and state, where the state is considered as the driving force behind the construction of global structures and the nation as a resource for political action<sup>6</sup>. In fact transnational networks increasingly appear as a crucial means of negotiating the claimed and represented identity and interest ultimately with the state, while keeping the « idea of a nation » for mobilization<sup>7</sup>. By the same logic, supranational institutions, by encouraging such structures, promote a *transnational public space*, and paradoxically reinforce the role of the state in the political construction of Europe, and of the nation as a unit of identification.

### **Transnational solidarity and identities**

All European countries have become de facto immigration countries, even if official discourse in Germany rejects this reality. This has long been the case in France, since the 1960s for Germany and Great Britain, and more recently in the case of Spain and Italy. A priori relations of a historical and political kind between the countries of departure and the countries of arrival

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valid today. The use of the term reflects rather a social reality showing the difficulty of admitting these populations to the social, cultural and political system.

<sup>6</sup> My analysis will be based on the results of research that I conducted on *Transnational Solidarities in Europe* at the Centre d'Etudes et de Recherches Internationales (CERI) in Paris (1992-1994). Financed by the French Ministry of Research, the research consisted in finding voluntary associations involved in building a transnational network at European level and interviewing their leaders. The results have been published in *Revue Européenne des Migrations Internationales*, (special issue on « Mobilisations ethniques : Du national au transnational », vol.10, no.1, 1994. I thank C. Neveu and M. Diop for having participated actively in the field work as well as in the final analysis.

<sup>7</sup> D.Lapeyronnie, « Nation, démocratie et identités en Europe » in R.Kastoryano (ed.), *Quelle identité pour l'Europe ? Le multiculturalisme à l'épreuve* ; Paris, Presses de Sciences Po, 1998.

have determined patterns of destination and settlement inside different member states of the Union for the various populations from the southern or eastern Mediterranean, Africa, or the Indian subcontinent<sup>8</sup>.

Each country is trying to advance the specificity of its own position, drawn from the founding principles of the nation state, in order to emphasize its distinctive attitude towards immigration and the presence of immigrant populations<sup>9</sup>. In this perspective, the French model is the exemplar of the nation state based on the premises of republican individualism, implying the assimilation of individuals who have become citizens by choice. The French model is usually contrasted with the German one: the former operates on the basis of an elective and political concept of the nation while the latter derives from cultural and ethnic criteria which favor common ancestry. As for the so-called Anglo-Saxon model, it is distinguished from the French model by granting recognition to the cultural, national and religious communities in public life.

These particularities of national rhetorics are echoed in the manifestations of the collective identities on which immigrant populations base their political claims. Indeed, the fact that their requests are in most cases shaped by reaction to national representation as well as to public policies on behalf of immigration or integration, leads immigrants to define a core identity around which a community can be constructed in order to negotiate its recognition with the state<sup>10</sup>. In France for example, the republican rhetoric on citizenship and a defensive discourse of secularism « laïcité » have led immigrants to claim recognition as a religious

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<sup>8</sup> France receives the majority of North Africans (820 000 Algerians; 516 000 Moroccans; 200 000 Tunisians), and Germany receives the greater number of Turks (1 700 000). Turks (160 000) and Moroccans (123 000) form the major part of the extra-European communities present in the Netherlands, while Great Britain stands out with its large number of populations of Indian origin (689 000), West Indian (547 000) and Pakistani (406 000); Sources SOPEMI-OCDE, Eurostat, INED.

<sup>9</sup> Cf. W.R. Brubaker, *Citizenship and Nationhood in France and Germany*, Cambridge MASS., Harvard University Press. 1992; L. Dumont, *L'idéologie allemande. France-Allemagne et retour*, Paris, Gallimard, 1991.

community within state legitimacy. In Germany by contrast, the ethnic understanding of the nation impels foreigners towards an ethnic community, or even an ethnic minority based on a common « foreign » nationality. This process is very evident among Turks who claim dual citizenship status, where citizenship is expressed in terms of rights and nationality in terms of an ethnic identity<sup>11</sup>. Where ethnicity becomes synonymous with nationality, as in Great Britain, ethnic communities may find common ground in fostering a « Black » identity as part of the struggle against racism, while also recalling the racial character of the cleavage in Great Britain.

But on the European level, discourses try to demarcate national particularities in reaction to each other. In France, for instance, the so-called immigrants' associations are opposed to all forms of intervention in the name of « ethnicity », a term used in the British context. The discourses of militants or activists refer to the state's concerns with social exclusion. There is, however, a simultaneous convergence of various European countries' strategies and modes of political participation regarding the political action of the political actors born of immigration. Whether states proclaim themselves to be republican and « assimilationist » as in France, or else favour the formation of ethnic communities as in Great Britain or is perceived as « exclusionary » in matters of citizenship as in Germany, in all these countries strategies of immigrants for integration are becoming increasingly collective, giving priority to cultural belonging, in interaction with the respective national and/or local institutions.

For the most part, this results from a convergence among European countries with regard to policies on immigration and integration, even though the understanding of « integration » varies from one country to another. Policies converged also for the

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<sup>10</sup> cf. R.Kastoryano, *La France, l'Allemagne et leurs immigrants. Négocier l'identité* ; Paris, A.Colin 1997

« management » of collective identities emerging in the public arena. Inspired by a certain brand of liberalism in matters of identity, European states are relying on democracy as a method, so as to define specific political measures in order to integrate « differences » in the national community.

These parallel convergences meet in a European space that constitutes a new political arena. In effect, the European Union brings together the actions both of the nation states and of the political actors of immigration which strive to remain independent from the national « models ». « Immigrant or young generation born of immigration » in France, « foreigners » in Germany, or else « ethnic communities » in Great Britain - depending on the terminology prevailing in each country - find refuge in transnational solidarity networks based on nationality, religion or both, and always in terms of interests. Even though immigration and integration policies always fall within the province of the nation states, they seek an anchor point in the new political space called Europe, with its undetermined identity, in opposition to nation-states' identities anchored in history. This became especially clear at the time the Maastricht Treaty was signed, when some spoke of a « thirteenth population » or « thirteenth State », or even a « thirteenth nation », thus making obvious the will to overcome European national frameworks in order to draw attention to a *transnational community* as a new structure.

Transnational communities are one of the consequences of the increasing mobility of immigrants between their home and host countries. They have become a way of expressing political and economic participation in both spaces. Studies of the emergence of such communities emphasize the post-colonial immigration and the individual, commercial, institutional (political, cultural and social) relations that immigrants entertain in the two

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<sup>11</sup> R.Kastoryano, *op.cit.* 1997

countries. Operating in two countries gives rise to new practices and symbols<sup>12</sup>. In most cases transnational communities are built on common geographical, cultural and political references, hence their relative homogeneity as well as the intensity of intra-communal relations and the efficiency in their action.

In the context of the European Union, a *transnational community* transcends member states' boundaries. Some of the networks which foster such a cross border view are born of local initiatives, while some are set in place by European Union institutions, the European Parliament in particular; others are promoted by the countries of origin. However, all assist the activists in working out strategies that reach beyond state systems. As a leader of such an association in Marseilles puts it: « One must make habits, one must address supranational organizations, reach one organization in Strasbourg, in Brussels, a European organization which will have to set down the law. »

### **Migrants' Forum and Citizenship Identity**

The purpose of European institutions is to find a common denominator to deal with claims at a level beyond relations with the nation states. Thus, since 1986, the European Parliament has given subsidies to « immigrants' associations » to help them coordinate their actions, to extract them from both their home and host country's politics and integrate them into the European Union. A new transnational structure called the *Migrants' Forum* has arisen from such

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<sup>12</sup>cf. Basch L., Schiller N.G., Blanc C.S., *Nations Unbound. Transnational Projects, Postcolonial Predicaments and Deterritorialized Nation-States.* ; Gordon Breach Publishers 1997 (4<sup>th</sup>)  
Cohen R., *Global Diasporas. An Introduction*, University of Washington Press, Seattle 1997 ; Gupta A., Ferguson J., (eds.) *Culture, Power, Place*. Durham, Duke University Press, 1997 ; Hannerz U., *Transnational Connections. Culture, People, Places*. London, Routledge 1996 ; A. Portes, « Transnational Communities : Their Emergence and Significance in the Contemporary World System », in R.P.Korzeniewicz and W.C.Smith (eds.) *Latin America in the World Economy*; Greenwood Press ; P. Levitt, « Local-level Global religion : The Case of U.S.-Dominican Migration », in *Journal for the Scientific Study of Religion*, 1998, (37)1, pp. 74-89 ; « Transnationalizing Community Development : The Case of Migration Between Boston and the Dominican Republic » in *Nonprofit and Voluntary sector Quarterly*, vol.26, no.4, December 1997, pp. 509-526.

undertakings. Even though, according to the person in charge of immigration-related issues in the Commission, the *Forum* owes its creation to the Union's budgetary policy, it nevertheless aims to be « a place where the populations settled in Europe who do not form communities can express their concerns and voice their requests, and also diffuse the information arising from European proceedings »<sup>13</sup>. The goal would be to obtain for the nationals of third countries « the same opportunities and the same rights as those of citizens, so as to compensate for the democratic deficit ». Explicitly, therefore, the aim is to legally counter the rise of racism across the different European countries. Consequently, these are essentially associations whose activities are backed up by the member states, and whose leaders work out a discourse on the equality of rights, on the universality of human rights, and who see in transnational mobilization one effective means of fighting against racism and xenophobia<sup>14</sup>.

In principle, the *Migrants' Forum* gathers together the immigrants' associations formed according to the nationality criterion. But other selective criteria can determine which associations may join the Forum: qualifications for organization, gauged in terms of the number of nationalities being represented, the number of branches, the scale of the networks, the plurality of sectors they combine (economic, social, cultural) and of course their representation in the country where they are based.

In reality, the main criterion for network structuring relates to identity. Presumed identities of origin, or « circumstantial » identities, to quote Jean Leca's term, construed in relation with the host States and institutionalized by the associations, form links in the transborder chain. This is confirmed by the local actions of some associations, since they will in

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<sup>13</sup> C. Neveu, 'Citoyenneté ou racisme en Europe: exception et complémentarité britanniques', *Revue Européenne des Migrations Internationales*, vol. 10, no 1, 1994, pp. 95-109.

<sup>14</sup> In 1990, 29% of the individuals who were consulted wanted to see some restrictions on the rights of immigrants. In 1992, this reached 34%. Similarly in 1991, 60% would have agreed to the arrival of immigrants from the Mediterranean provided restrictions were imposed on them, and in 1993, only 46% of public opinion showed approval. *Eurobaromètre*, December 1992.

the future include programs for cultural exchanges, concerts and debates across Europe, so as to define their social and legal position within the Union. The avowed aim of European institutions compel them, as a matter of fact, to conceal their concerns with identity when they strive towards recognition in their capacity as « non-European Europeans ».

This is precisely the paradox of supranationality. In effect, European institutions, by definition, form a challenge to the nation states. With the creation of the *Migrants' Forum*, the European Parliament signals its autonomy with regard to national institutions and induces political actors derived from immigration to situate themselves beyond the nation states. But simultaneously, by defining the criteria for admission into the *Migrants' Forum* in the very terms applying to the welfare states of the member countries, the European Parliament casts the images of collective identities at the European level. Behind the criteria of nationality which is considered to be a juridical one, and therefore objective, voluntary associations who are part of the Forum express a « nationality of origin », or a religion (mainly Islam) related to it, or colour. Therefore it is not a matter of nationality: it is a matter of ethnicity defined as a subjective feeling of belonging and to some extent, of membership<sup>15</sup>.

From this perspective, the European space appears as the projection of the nation-state at the transnational level. But already at the national level the fight against racism is becoming increasingly linked with the assertion of a collective identity confronting social problems, perceived and lived at the same time on the basis of a community of origins and the rise of an « ethnicity » resting on the foundations of identity.

In this light, a united Europe and an emerging *transnational community* form a second stage for political socialization for political actors, immigrants and nationals, the first being that which operates within national social frameworks. In effect, since the 1980s, with the

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<sup>15</sup> cf. M.Weber in *Economy and Society*, vol.1, University of California Press, p.395

proliferation of the so-called immigrants' associations created and sustained by the public authorities, religious, national, and ethnic identities have come to the fore to confront the state with a view towards recognition.

At the same time, participation built up within the voluntary associations and the national institutions whereby « civic virtue » is acquired, signals the dawning of the very exercise of citizenship, and more importantly the creation of a « citizen identity ». Such participation finds expression in both so-called community and national institutions, and above all, it displays the level of involvement of the individual<sup>16</sup>. After all, this is the result of a « political acculturation » process, to quote Habermas, i.e. the internalization of the national values of the host countries and of the rules of the political game.

The very concepts of citizenship and nationality are defined above all as the individual's belonging to a political community. A « citizen identity » mainly derives from participation, be it direct or indirect, in the public life of immigrants and of the bulk of the population. Of course, the laws on nationality and citizenship affect modes of participation and actors' strategies. For example, legally-defined citizenship leads immigrant youths in France to direct involvement in the political community through voting. In Germany, where the laws on nationality and citizenship give precedence to affiliation over birth on national soil, « foreigners » develop compensating strategies through indirect means of participation, driving them to find means by which to influence public opinion. Through the associations, they are integrated into German corporatism and therefore into civil society. This kind of citizenship could well be labeled a *civil citizenship* in contrast to a civic one. Thus immigrants, citizens or foreigners from a legal viewpoint, are driven to action in the public sphere, defined as a

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<sup>16</sup> For citizenship as feeling of belonging and citizenship as involvement, see Jean Leca « Individualisme et citoyenneté » in Pierre Birnbaum, Jean Leca (dir.), *Sur l'individualisme*, Paris, Presses de la FNSP, 1986, pp. 159-213.

common arena for socialization and the exercise of power. In this way they are in a position to display their involvement in and their belonging to (at least de facto) the national community.

Such a definition of citizenship goes against the grain of classical analyses of citizenship linked in systematic fashion to the framework of the nation state, where identity and politics are confounded. The various levels of belonging and political involvement show that, in practice, citizenship is severed from a conception exclusively linked to national identity. No matter whether citizenship is political, legal, social or economic, its content based on identity, culture or legal notions, this arrangement boils down to a feeling of loyalty aimed simultaneously towards the group, the community, the civil society and the state.

Thus social reality tends to upset the convergence of the national community and the political community, the connection between identity and law, as well as the connection between culture and politics. Therefore, citizenship is increasingly restricted to a right to civic participation and no longer excludes, albeit in theory, the manifestation of collective identities, even though this questions French republican ideology. However, in spite of the different political traditions which favor participation within the republican political community in France, while in Germany aims at participation in civil society, we are dealing in both cases with the cooptation of a concept of citizenship which has been strictly restricted to the nation state. Therefore, there is a dissociation between citizenship and nationality which reduces the former to political rights and grants the latter its own dimension with respect to identity. The multiple identifications and cultural, ethnic, or religious allegiances that derive from it lead to new definitions of belonging which are now labeled « postnational », in reference to a political Europe.

## **An extraterritorial citizenship and identity**

With the transnational solidarity networks, a new practice of political participation enters in a united Europe as in the nation states. Through it, the non-national actors, nevertheless European residents, assert their autonomy with respect to the state systems defined on a territorial basis. By claiming equality of rights and of treatment, they are striving to promote their status as « European citizens » in the newly shaped political arena.

Many debates on citizenship, nationality and European identity have taken place alongside the progressive transformation of a large single market into a political arena. Jean-Marc Ferry suggests a « postnational » model in order to underline the taking over of the « nationalist principle » fostered by the building of a political Europe<sup>17</sup>. Habermas, for his part, develops the concept of « constitutional patriotism » in order to emphasize the separation between the feeling of belonging that national citizenship involves and its legal practice beyond the framework of the nation state<sup>18</sup>. Taking into account the non-European populations deriving from immigration in the 1960s, Yasemin Soysal defines as « postnational » the fostering of international norms referring to the person or residence instead of legal citizenship<sup>19</sup>.

The postnational approach to belonging feeds the normative discourses that deal with the required definition for a new citizenship model. However, European projects do not always follow the same direction as these discourses. From a legal viewpoint, the Maastricht Treaty maintains the link between national citizenship and « citizenship of the Union ». The citizen of the Union has the right to move and remain freely inside the territory of the member countries;

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<sup>17</sup> Jean-Marc Ferry, « Pertinence du postnational », *Esprit*, November 1991, pp. 80-94. Cf. also J-M. Ferry, « L'Etat européen » in R.Kastoryano (ed.) *Quelle identité pour l'Europe ? Le multiculturalisme à l'épreuve*. Paris, Presses de Sciences Po, 1998, pp.169-230.

<sup>18</sup> J.Habermas, « Citoyenneté et identité nationale » in Jacques Lenoble et Nicole Dewandre (eds.), *L'Europe au soir des siècles*, Paris, Seuil, coll. Esprit, 1992, pp. 17-39.

<sup>19</sup> Yasemin N.Soyas, *Limits of Citizenship* ; Chicago, University of Chicago Press 1994.

furthermore s/he has the right to vote in municipal and European elections in a member state where s/he is not a national but a mere resident. This practice introduces in reality a notion of *extraterritoriality of citizenship*, and questions the adaptability of national citizenship to European legal frameworks.

As to the political involvement of the activists among immigrants towards equality of rights at both the national and European levels, it is accompanied by a new language they have introduced concerning citizenship. « We are European citizens; we are part of the European landscape », says one association spokesman. As far as they are concerned, the European landscape is no more than this spider's web, made of solidarity and interest networks, and spreading throughout a territory now including fifteen countries that constitutes a space of political participation beyond nation-state, but at the same time paradoxically a political space in interaction with nation states. As they see it, their presence in that web as a transnational community defined by a common fight against racism confers on them a « right » to participate in the building of Europe on the basis of their commitment towards a new political space that would give everyone the status of citizen of the Union, and based on their status of a European resident settled in a member country for almost thirty years in many cases.

The structuring of transnational networks suggests an identification with European society. For non-nationals resident in any of the member countries, citizenship then involves taking responsibility for the formation of the new « shared destiny » and the construction of a new « community of faith ».

A transnational participation and a European political identification leads to a confusion in the definition of legal status with regard to the couple citizenship / nationality. The associations' members who say they are European residents nevertheless experience difficulties in defining what would be the right kind of status for them. « We are somehow Europeans, citizens of Europe. If we are not European citizens we nonetheless see ourselves as citizens of

Europe », says an association leader, adding: « As to acquiring nationality, as far as we are concerned, we would have preferred a European nationality with regard to free movement ». While nationality conceived of in the nation state framework is an identity and a bearer of *de jure* citizenship, in the words of this activist nationality assumes a legal significance inasmuch as access to Union citizenship should also imply the right of free movement. Such confusion is significant; infused with the nation-state model of citizenship and nationality it addresses a distinction between rights and identity. But it also underlines the complexity of the reality and creates a paradox in the analysis. By stimulating their involvement in the « common good » that represents the European Union for them, supranational institutions extract immigrants from their « primordial ties », take them away from any direct political action towards their home country and bring them into a common identification defined by a common European interest. But paradoxically enough, European citizenship as a more global concept of membership than nation-states introduces the allegiance of immigrants to their home country into the bargaining process in the same way they express their allegiance to their state of residence and to the transnational community in which they are involved.

Thus the discourses on political Europe and its consequences keep piling up, either resembling or contradicting each other. Their polysemous character brings to the fore the disruption of the nation state « model » as well as the difficulty of parting with it. On the other hand, a « postnational » citizenship is far from appearing on the horizon, suggesting its incompatibility with European realities. Europe is being built with supranational institutions instead, the idea and functioning of which are opposed to the « postnational » concept. While the latter would lead to a recognition of cultural diversity and acceptance of pluralism as the basis for European belonging, the supranational approach in the construction of a unified European space appears like a projection of the nation state and is being imposed upon the

states. Furthermore, while questioning the nation state, it reinforces the role of the state in the building of a political Europe.

### **« Bringing the State Back in »<sup>20</sup>**

The consolidation of transnational solidarities generally aims to influence the state from the outside. Even though transnational networks contribute in some respects to the formation of « exclusive communities » out of their relations with the state, the latter from now on appear as indispensable structures for negotiating with public authorities the recognition of collective identities constructed and shaped within frameworks that remain national. In effect, the objective of such a transborder structure for voluntary associations is to reinforce their representation at the European level, but its practical goal is ultimately to gain « recognition » at the national level. Shall we add that the activists, even those most active at the European level, ultimately see the states as their only « adversary »? Besides, the states' predominance can be felt in the problems the associations have in coordinating their actions and their claims when they spring from their own initiative.

In other words, the aim is to reach a political representation that can only be defined at the national level, in order to protect rights of residence, to housing and employment, linked with the reckoning of this identity. Thus all claims at a national level from now on imply parallel pressure at the European level. But conversely, all claims at the European level aim to have an impact on decisions taken at the national level within each of the member countries: « For us, immigrants from third countries, we must act in such a way as to be in an effective position to get organized and protect ourselves, to carry our claims high; since the bulk of our recommendations which are backed up by the EEC and often favorable to us are not always

seen in the best of light by the member countries ... Let us act in such a way that what is positive at the European level be echoed in the country » (quoting from a leader of the Union of African Workers in France).

Thus a united Europe introduces a « normative supranationalism »<sup>21</sup> outdoing the nation states' framework, and even imposed upon the states. In cases of expulsion, for example, the foreigner can oppose national decisions by invoking the right to respect for family life (article. 8 ¶ 1), once the internal modes of appeal have been exhausted. Even though human rights remain the exclusive province of the States, the latter are forced to accept the new legal norms produced by the European institutions, inasmuch as the European Convention for Human Rights authorizes the European citizen (in this case one having the nationality of a member State that recognizes individual appeal) to address the Council of Europe directly, and a foreigner (who does not hold the nationality of a member country of the Union) to appeal to the European Court for Human Rights.

Another example is given by « solidarity rights »<sup>22</sup>, referring to the freedom of collective action in the community framework and asserting that « it is only within the community that the full blossoming of the individual personality becomes possible »<sup>23</sup>, that could lead back to « minority » rights in the case of immigrant populations. According to the European Convention for Human Rights, « the word minority refers to a group inferior in number to the rest of the population and whose members share in their will to hold on to their culture, traditions, religion or language »<sup>24</sup>.

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<sup>20</sup> In English in the original (translator's note). From P.B.Evans, D.Rueschemeyer & T.Skocpol (eds.), *Bringing the State Back In*; Cambridge University Press, 1985;

<sup>21</sup> B. de Witte, « The European Community and its Minorities » in Breman *et al.*(eds.) *Peoples and Minorities in International Law*, Kluwer Academic Publishers, Netherlands 1993, pp.167-185

<sup>22</sup> F.Sudre, *Droit international et européen des droits de l'homme*, Paris, PUF, 1997, pp.153-158

<sup>23</sup> Article 29, ¶ 1 of the Declaration quoted by F.Sudre, *op.cit.*, p.154.

<sup>24</sup> Article 2 of the proposition for the convention of 1991, quoted by F.Sudre, *op.cit.* 1997, p.154.

This concept, laden with ideology, provokes varying reactions from one country to the next. In France, where regional or religious identities are concerned, or else collective identities evident with populations born of immigration, the term is being rejected. In Germany, it refers to German minorities only, settled outside German territory. In any case, Turkish nationals in particular draw inspiration from the official usage of the term when they demonstrate the desire to structure a Turkish or Kurdish national community in Germany. The rearranging of their associations along these lines drives the Federal Republic to react in similar terms.

Thus supranationality which increases interaction between countries gives rise to a resistance to European unification underlying the predominance of national particularities in its construction, all the more so when dealing with policies regarding immigration, integration and access to citizenship. The remarks of Charles Pasqua, the then French Minister of the Interior, during the debates on new measures concerning the nationality law, identity checks and immigration, are quite revealing in this light: « In order to keep its identity under control, France intends to define her position herself, the quality and origins of those who are or will be associated with the national community in the spirit of the values of her Republic, in the framework of its Constitution and in the respect of international law to which she freely gave her consent »<sup>25</sup>.

On the other side of the Rhine, in Germany, article 16 of the Fundamental Law concerning asylum seekers similarly became a hot topic in the early 1990s. The debates on the abolition of this article yielded remarks akin to those of the former French Minister of the Interior: « It concerns the right of peoples to self-determination, a right which has precedence over the right to remain. This right to self-determination derives from the sovereignty of the

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<sup>25</sup> *Le Monde*, 17 June 1993, p. 7. Debates about and changes of immigration policies and citizenship laws since 1993 have all emphasized French Republican particularities for either a more restrictive or more generous approaches. See debates in 1995 with M. Debré, and more recently the report by P. Weil on Immigration and citizenship laws published by La Documentation Française, Paris, 1997.

State; it means independence from all form of foreign authority, the power to decide on the course of the political, economic, social and cultural evolution of one's own country »<sup>26</sup>.

Finally, the two countries develop arguments that are dictated by their own conception of « evil », born of the presence of foreigners: France fears the non-identification of the French of foreign origins with the national community; Germany suspects abuses of the right to remain on the part of asylum seekers, to which must be added xenophobic sentiments which seek justification in the economic crisis affecting all European countries. In all, this « evil » that came from elsewhere leads to assertions of « a right to self-determination » which paraphrases in one way, inside Europe, the same right as applied to minorities or oppressed peoples. Such evolution increases the already existing tensions between immigrant populations, majority populations and the states.

The European Union stands for the ideal of open-minded conciliation, for an alternative conception of universality than that of the nation states, and it is perceived as peculiar. According to those who fight on behalf of immigration, the idea of universality suitable for Europe would be to conceive of an arena in which foreigners resident in Europe, and even citizens who are perceived to be foreigners (by virtue of the nationality of origins seen as an ethnic marker, or by virtue of color or religion) would be inscribed within a plurality of cultures for the same reason as those referring to traditional national identities. To imagine a « transnational community » born of immigration would give support to nationalist sentiments voiced by the member states facing immigration on the one hand and the building of Europe on the other hand. But at the same time, the irrationality of national sentiments amounting to no more than ethnic belonging stands opposed to the rationality of the European institutions

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<sup>26</sup> Extract from the Bulletin d'Information sur le droit d'asile, du Centre d'Information et de Documentation de

which, anxious to harmonize political norms, define legal norms in such areas, Human Rights and the right of minorities in particular, areas that concern the « internal foreigners ».

To structure a transnational network represents a Europeanizing of the political action of immigrant populations sustained by supranational institutions, but it does not bring about the Europeanization of claims. These remain attached to the states as the only practical frame for mobilization and negotiation, as well as a legal and institutional frame for recognition. Obviously a transnational community which crosses national borders highlights the principle of multiple identifications deriving from the very logic of a political Europe. This principle is precisely what provokes the passionate debates accompanying its construction, for it disrupts the concept of citizenship linked to nationality and political identity, and to the territorial nature of participation as well. It signals therefore the weakening of the nation states facing identity claims being expressed within national borders.

But the non-relevance of the nation state in a political Europe does not necessarily imply its erosion. The construction of a political Europe following the model of nation-state building raises the question of the gap between « a model » and its application in another political and cultural context. Empirical evidence shows that states remain the « driving force » of the European Union. Even though they are submitted to supranational norms, states keep their autonomy in internal decisions, and in international relations they are the main actors. As far as the nation is concerned its relevance stems from the fact that it remains the emotional unit for identification, mobilization and resistance. The nation is at the basis of any transnational enterprise. Therefore the permanence of the nation-state as a model for a political

unit in the construction of Europe relies very much on its capacity « to negotiate » within and without, that is its capacity to adopt structural and institutional changes to the new reality<sup>27</sup>.

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<sup>27</sup> Cf.R.Kastoryano, *op.cit.* 1997