The Concept of European Values

Sanja IVIC
Institute for European Studies
11000 Belgrade, Serbia
sanja_ivic1@yahoo.com

Abstract: This inquiry investigates the concept of European values and cultural, philosophical, legal and political presuppositions on which the idea of European values is based. There are two approaches to the idea of European values. The first one is substantive approach (and includes philosophical, ethical, religious and ideological understanding of values). The substantive approach defines European values as based on the European heritage (ancient Greece and Rome, Christianity, Renaissance and humanism, Enlightenment and liberal traditions). This conception of European values is fixed. Another understanding of European values is represented by legal/political approach (that includes the definition of European values within European treatises, declarations, charters and other documents). Legal and political definition of European values includes: human dignity, freedom, democracy, equality, the rule of law and respect for human rights. Most authors consider that only from this second level, from legal and political definition, general features of European values can be achieved, that is, universal rules of the game. This paper shows how these two different approaches can be integrated, relying on John Rawls's idea of overlapping consensus. It should be emphasized that the question of European values and European identity is still a topic of debate. There are different definitions and interpretations of these concepts, regardless of the legal definitions within the framework of European declarations and treaties. European identity (based on European values) is a polyphonic category, which cannot be founded on monolithic definitions. Otherwise, the entire continent would fall under the rule of one homogeneous culture.
Keywords: Europe, values, identity, discourse, cultural, legal

INTRODUCTION

The European Union has been faced with a large number of problems and challenges (economic crisis, migration crisis, Brexit, the rise of populism and so forth) that have brought into question the effectiveness of the idea of European values. The European Union is founded on shared narratives which represent the main European values which enabled creating European identity whose main function is to unify the peoples of Europe. Different European narratives have been promoted in the past,

however, they all promoted postnational values which aim at transcending nationalist paradigms and fixed notions of borders and identity. Therefore, Europe resists essentialization and representations that define it as a homogenous region founded on metaphysical assumptions. According to Derrida, terrifying violence has been committed in Europe exactly in the name of a single essentialized identity, resulting from religious fundamentalism, nationalist fanaticism, racism, anti-Semitism and xenophobia (Derrida, 1992: 10). European integration represents multifaceted and complex process, which unites many contradictory concepts, such as law and force, democracy and oppression, reason and myth (Jacobs and Maier, 1998: 13).

In light of these facts, it is important to re-examine the very concept of European values and the philosophical and political assumptions on which they are based. Today we witness a collision between national and postnational values in the European Union. For instance, although the EU described helping the refugees as "a legal and moral obligation" (European Union, 2017a) that is in accordance with European values, migration crisis produced a moral panic in some member states and hosting immigrants was described by domestic politicians as a threat to national identity and sovereingty (Mendelsohn, 2017). In this way, "a moral imperative to help others in need has been replaced by a patriotic duty to defend the nation-state" (Mendelsohn, 2017: 151). This represents a step back from postnational values (promoted by the European Union as a supranational political community) to nationalist paradigms. This collision between postnational and national values is also reflected in Brexit which shows various divisions in the contemporary British society, and binary oppositions such as: remainers/leavers, multicultural/national, European/British, postnational, fluid identities/national, fixed identity and so forth.

This ineffectiveness is, to a certain extent, a consequence of the fact that European values have never experienced its phenomenological and anthropological promotion, that is, observation from a point of view of a single thought method (Gavric, 1994: 5). However, this is in accordance with the idea of the European Union as a supranational political community and postnational nature of the European values. Europe can be perceived as a system of historically and socially conditioned representations. Nevertheless, the question of European values and European identity is still a topic of debate.

There are two main approaches to European values – one refers to the level of substantive content and the other to formalistic-legal definition (Divjak, 2006). A substantive content includes a set of philosophical, religious, ideological and ethical beliefs that determine Europe. The fundamental problem of the substantive determination of European values is reflected in the fact that different sets of substantive values exist in different EU member states (Divjak, 2006). EU member states differ in cultural, religious and ideological terms, and these differences are further deepened by the accession of new member states to the European Union in the period after May 2004. The second approach to European values points to legal and political definitions of European values, which are stated in the Article 2 TEU:

> The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail.

This paper investigates metaphysical presuppositions on which the idea of European values is based within the framework of European political discourse. This paper shows how these two different approaches (substantive and legal) can be integrated, relying on Rawls's idea of "overlapping consensus" (Rawls, 1993).

SUBSTANTIVE DEFINITIONS OF EUROPEAN VALUES

The substantive definition of European values is often identified with cultural heritage. Such a concept of European values is very much represented in philosophy and literature, and its representatives are: Husserl, Heidegger, Karl Jaspers, T. S. Eliot, Paul Valerie and others (Gavric, 1994). By linking the European cultural heritage with ancient Greece and Rome, Christianity (primarily Catholicism and Protestantism), Renaissance and humanism, Enlightenment and liberal traditions, an exclusivist and monolithic Europe is created, where little space is left to Orthodox and Islamic traditions, which also contributed to the building of European culture (Delanty, 2002: 349).

European culture is a hybrid as there are various influences from African and Asian cultures. Phonecian influence on Greek myth and alphabet also cannot be denied. The European culture origins from Asia

Minor, where Thales of Miletus, Heraclitus of Ephesus and Herodotus lived (Meyer, 2004). As Thomas Mayer points out, European culture has developed under the influence of Byzantium and Islam. Europe from Byzantium took over the most rituals and forms, symbolically constituted its statehood, and from the middle-aged Islamic scholars, it took the separation of faith and reason, which will later transfer to Enlightenment and lead to the emergence of a modern political culture in Europe (Meyer, 2004: 23) That is why European values should not be perceived as essentialist, and they should be opened for otherness, diversity. They are polyphonic, not fixed.

In the *Charter on European identity*, the European identity is portrayed as inseparable from the European values, whose historical roots include Antiquity, Christianity, the Renaissance and humanism, the Enlightenment, as well as the development of democracy, rule of law and human rights (A Charter of European Identity, 1994). Thus, the concept of European values is interpreted as a historical and cultural totality. This understanding of European values makes a distinction between the "European" and "non-European" values, between the Europeans and others. Moreover, understanding European identity as a homogenous category does not recognize the importance of individuals of non-European descent, who have contributed to the economic, cultural and social development of Europe (Kofman and Sales, 1992: 24). Selective approach to European values and European identity ignores the dark side of European history – imperialism, wars, violence and lack of tolerance, which also can be considered the basis of European heritage and values. As pointed out by Mestrovic, barbarism and culture are neighbors in Europe (Mestrovic, 1993).

Olli Rehn, former member of the European Commission responsible for the EU enlargement argues that "values define Europe, not borders" (Rehn, 2005: 1). He argues that "the map of Europe is defined in the mind, not just on the ground" (Rehn, 2005: 2). According to Rehn, "enlargement is a matter of extending the zone of European values, the most fundamental of which are liberty and solidarity, tolerance and human rights, democracy and the rule of law" (Rehn, 2005: 3). However, the definition of these terms is not clear. Olli Rehn also argues that "a country must have a European vocation", which is "measured by the will of its own people to join" the Union (Rehn, 2005: 2). However, the problem of the definition of a "European vocation" remains. If it is

perceived as an instrumental concept which is defined by exact rules and values than it cannot be perceived as a mental construct defined in the minds of Europeans (as previously argued), but as a fixed term which implies borders. Contradictory to the introducing assertions of his speech, Rehn concludes that although the borders of Europe are more mental than physical, geography still matters when it comes to spreading European values (Rehn, 2005). Consequently, values are tied to borders and, thus, fixed.

This is evident in the example of the question of accession of the Western Balkan countries as well as Turkey to the EU. Although there are several candidates to join the EU (mostly in the Balkans), their accession to the EU is a long term process. As it is stated in the *Strategy for the Western Balkans*: "The EU itself needs to ensure that it will be ready institutionally to welcome new Member States once they have met the conditions set. The Union must be stronger and more solid, before it can be bigger" (European Commission, 2018b: 15).

The *Treaty of Lisbon*, highlights the importance of the "cultural, religious and humanistic heritage of Europe" from which the universal European values are being developed (European Union, 2007b). In the preamble to the *Charter of Fundamental Rights of the European Union*, the importance of the "moral and spiritual heritage" of Europe is emphasized. Such definitions imply universalist and essentialist assumptions behind apparent equality rights granted to each individual.

The fundamental problem of the substantive approach to European values is reflected in the fact that different sets of substantive values exist in different EU member states. EU Member States differ in cultural, religious and ideological terms, and these differences are further deepened by the accession of new European Union member states in the period after May 2004. These new member states include "six former Soviet-bloc countries (Bulgaria, the Czech Republic, Hungary, Poland, Romania and Slovakia), the three Baltic states that had been part of the Soviet Union (Estonia, Latvia and Lithuania)" (Fontaine, 2010: 13) two republics of former Yugoslavia (Slovenia and Croatia) "and two Mediterranean countries (Cyprus and Malta)" (Fontaine, 2010: 13). So here we see those differences. And that is why the substantive definition of European values is problematic.

Polemics about the nature of the European Union were the most intense in 2002, when the issue of passing the Constitution for Europe

was considered, and one of the key topics concerned including emphasis on the Christian roots of the community. In the preamble of the *Treaty of Lisbon* (as well as within the *Treaty on the Constitution for Europe*), religious heritage is highlighted, in addition to the cultural and humanistic heritage of Europe. However, the question is what the term "religious heritage" means. The debate on European values was intensified in 2003, when Pope John Paul II pointed out that European values rest on Christianity. Accordingly, the Catholic Church demanded that the text of the Constitution of Europe recognizes the Christian heritage of Europe (Pavicevic, 2005). On the other hand, the Greek Orthodox Church also demanded that the the Constitution of Europe emphasizes the influence that Christianity had on the development of the European continent and highlighted the common awareness of the European peoples about their Christian roots (Pavicevic, 2005). Contrary to these requests, which were supported by many right-center leaders, the following arguments emerged within the European public discourse: the European Union is not a religious project; in a large number of European countries, there are minority groups "who have developed through an extra-Christian cultural pattern"; the Muslim state of Turkey is in the lobby of EU membership, and it is expected that in the future it will be Bosnia and Herzegovina and Albania; The Constitution of Europe should offer a wider definition of political subjectivity that will not be determined by identification with religious content (Pavicevic, 2005: 5.).

For these reasons, the belief that Christian definitions of European values and roots should be included has been overcome. However, (...) the preamble of the rejected Constitution of Europe, refers to the inspiration of the religious heritage of Europe, and Article I-8 refers to an earlier adopted blue flag with a circle of twelve blue stars, which for many represents the Christian symbol – The Virgin Mary (Schmale, 2001). From these two examples, Christian heritage, although not explicitly outlined, is, however, sufficiently implicitly embedded in the foundation.The Article I-8 states that one of the symbols of the EU is a flag with 12 golden stars on a blue background. This flag may be perceived as a Christian symbol. *The Book of Revelation* (12:1) states: "A great sign appeared in the sky, a woman clothed with the sun, with the moon under her feet, and on her head a crown of twelve stars." This woman is often associated with Mother Mary in Christian interpretations of Revelation. Number 12 is biblical symbol and refers to 12 apostles, 12 tribes of

Isreal, and so forth. In this way Christian heritage is implicitly drafted as the foundation of European values and European identity. According to Wolfgang Schmale, blue color prevails as a symbol of Europe from XII/XII century (Schmale, 2001). Blue color became the color of Christians in the eyes of Muslims or the color of European people in the eyes of non-European peoples (Schmale, 2001).

In the preamble of the *Treaty of Lisbon*, religious inheritance of Europe is mentioned (as well as cultural and humanist inheritance). Weigel argues that Christianity is the basis of both the cultural and the legal dimension of European identity:

> The democratic project did not emerge, in a kind of political virgin birth, with either the Glorius Revolution of 1688 in England or the Declaration of the Rights of Man and Citizen of 1789 in France. Those were indeed turning points in the history of democratic institutions and modern political thought, but the cultural foundations had been laid centuries before. In that sense, Peter Brown and Christopher Dawson, for all that they would have disagreed on precisely how it happened, are agreed on the more fundamental point: there is no apprehending Europe without taking full account of what Christianity taught European man about himself, his dignity, his communities – including his political communities – and his destiny. (Weigel, 2004: 35)

The cultural dimension of the European identity is based on the primacy of cultural heritage. European identity is presented as being shaped by European historical roots that can be traced back to the classical Antiquity, Christianity and the Enlightenment. In this way, Europe is described as an exclusive entity. It is perceived as Christian (Catholic and Protestant). The Orthodox and Islamic traditions are either excluded or marginalised (Delanty, 2002: 349). Nevertheless, the proposed *European Constitution* did not include any references to Christianity. The text of proposed Constitution was criticized by those who define European identity as Christian. Those critics emphasized that Christian values had to be included in the *European Constitution* and other EU documents. German chancelor Angela Merkel supported the campaign of Pope Benedict XVI to include reference to Christian origins of European identity and values. In his speech in Regensburg in 2006, Pope Benedict XVI emphasized both the European nature of Christianity and the Christian nature of Europe (Pope Benedict XVI, 2007). Pope Benedict XVI argued that Christianity was foundation of identity of European peoples:

> This is, in fact, an historical, cultural, and moral identity before being geographical, economic, or political; an identity constituted by a collection of universal values that Christianity has contributed to forging, thereby acquiring a role that is not only historical, but also foundational in relation to Europe. (Pope Benedict XVI, 2007)

However, the European Union is not a religious project. Islamic countries Turkey and Albania are candidate countries for EU membership, and Bosnia and Herzegovina is identified as a potential candidate for EU membership during the Thessaloniki European Council Summit in June 2003. For this reason EU legal documents should broaden the definition of European identity which will not be inspired by religious heritage of Europe.

The substantive idea of European values is based on shared narratives which enabled creating European identity whose main function is to unify the peoples of Europe. Europe has undergone many changes since the *Treaty establishing the European Coal and Steel Community* (*Treaty of Paris*), which established the European Community in 1951, to the *Treaty of Maastricht*, which established the European Union in 1992, up to the *Treaty of Lisbon* in 2007. Different European narratives have been promoted in the past, however, they all promoted common European identity and values.

In some of these narratives, metaphysical concepts such as "common destiny" and "the soul for Europe" have been employed. Former president of the European Commission José Manuel Barroso argues: "Europe I believe has a soul. This soul can give us the strength and determination to do what we must do" (Barroso, 2012). The Conference "A Soul for Europe." took place in Berlin on 3 March 2014. The President of the European Commission Jean-Claude Juncker, former president of the European Commission, José Manuel Barroso, Martin Schulz and Guy Verhofstadt debated with writers, movie directors and art festival organizers on how to find "a soul for Europe". However, the idea of Europe should be political, and metaphysical assumptions should be avoided. The European Union is dynamic and polyphonic political community and should not be based on "totalizing metaphysical theories about the nature of things" (Bridges, 1994: 3). The concept of European Union within European political discourse should be revised in order to move towards the postmodernist political standpoint which does not base its concepts on metaphysical and religious assumptions, but on political and constructivist approach which emphasizes heterogeneity and multiple identities.

Cultural point of view produces various binary oppositions such as: Christian/non-Christian, European/non-European, citizen/stranger, self/other, and so forth. Those binary distinctions can be ascribed to both the cultural and legal aspects of European identity, as defined by the European legal framework and various theoreticians.

LEGAL AND POLITICAL DEFINITONS OF EUROPEAN VALUES

On the other hand, the legal and political approach to the idea of European values is not based on a set of values that determine the conception of a good life. This approach does not offer a substantive set of values, but principles and norms of universal character.

Legal and political definition of European values includes "human dignity, freedom, democracy, equality, the rule of law and respect for human rights" (Article 2 TEU). Most authors consider that only from this second level, from legal and political definition, general features of European values can be achieved, that is, universal rules of the game. Nevertheless, one can ask why values such as democracy, the rule of law and equality are specifically "European" and not global (Delanty, 2002). Such a definitions express general political values, not only *European* (Delanty, 2002).

The official debate on European values was held when the *Charter of Fundamental Rights of the European Union* was adopted in 2000. Earlier, the *Treaty of Rome*, which promotes an ever-closer unity among the citizens of Europe, indirectly refers to European values such as solidarity, social progress, and the preservation of peace and freedom. The *Treaty of Maastricht* also affirms European values such as freedom, democracy, respect for human rights, the rule of law, solidarity, social progress, peace and security.

The idea of "common values" on which the European Union is founded is not clearly defined in the European legal documents, and in particular the distinction between values and principles. In the *Treaty of Lisbon*, as well as in the preamble to the *Treaty Establishing a Constitution for Europe*, the universal values on which the European Union rests refer to the rights of all human beings, such as freedom, democracy, equality and the rule of law.

In the preamble of the *Charter of Fundamental Rights of the EU*, a distinction is made between "values", on the one hand, and "principles"

on the other hand. In addition to freedom and equality, human dignity and solidarity are defined as "values", while, unlike in the provisions of the *Treaty of Lisbon* and the preamble to the *Treaty Establishing a Constitution for Europe*, democracy and the rule of law are presented as "principles". In this way, conceptual confusion is made. In the European legal discourse the distinction between principles and values is not clearly defined.

Principles represent a wider concept than values, whose nature is more universal. Unclearly defined distinction between "principles" and "values" and contradictory determinations that exist primarily within the framework of the *Charter of Fundamental Rights of the European Union* and the *Treaty of Lisbon* do not contribute to their basic purpose – the improvement of the citizenship of the Union.

Andrew Williams makes a distinction "between value, principle and virtue" and argues about "the loose way in which all three terms have been handled within the EU" (Williams, 2009: 558). Following Armin von Bogdandy, Andrew Williams defines principles as "legal norms laying down essential elements of legal order" (Williams, 2009: 559). Following Habermas, Williams makes a sharp distinction between values and principles, arguing that values posses a teleological character, while principles are deontological (Williams, 2009: 559). Values describe "those qualities and states condition that are considered desirable as shaping action or political programs (…) Principles *command* particular action and enable the application of judgement, albeit within interpretative parameters. Values *recommend*" (Williams, 2009: 559). In Williams's view, virtue has a mediating role between value and principle as it describes "the way in which values can be enacted through the application of principles" (2009: 559). Williams defines virtue as "a disposition or sentiment which will produce in us obedience to certain roles" (2009: 559).

EUROPEAN VALUES: POLITICAL, NOT METAPHYSICAL

Thomas Bridges emphasizes the distinction between the modernist metaphysical liberalism which results from the Enlightenment philosophy, on the one hand, and the political or rhetorical liberalism which is represented by Rawls's political theory, on the other hand (Bridges, 1994). He argues that political liberalism rejects the universalist and essentialist assumptions and emphasizes cultural particularism.

The need to justify European values on a political rather than metaphysical basis is reflected in the impossibility of harmonizing political and philosophical justification. Charles Taylor and John Rawls make a distinction between norms and values, on the one hand, and interpretation of these norms and values on the other. Rawls's idea of "overlapping consensus" refers to the possibility of representatives of different social groups/policies of achieving an agreement on basic norms/principles of justice, although they would not agree on interpretation of these norms (Rawls, 1999). Rawls's move from "moral and comprehensive pluralism" based on reason to the "freestanding pluralism" based on reasonability (Rawls, 1985) represents his attempt to take into account the other, the difference, not in instrumental, but in a substantive way. He argues that: "If all societies were required to be liberal than the idea of political liberalism would fail to express due toleration for other acceptable ways (…) of ordering society" (Rawls, 1999: 59). This means that Rawls's liberalism presented in his *Political Liberalism* and the *Law of Peoples* represents a shift from the conception of liberalism as a universalist doctrine to a conception of liberalism as a particularistic doctrine (Bridges, 1994). Rawls's denial of a foundational role for any comprehensive liberalism (based on comprehensive doctrines which represent different religious, moral, and theological beliefs – different conceptions of what a good life is) and his shift to the "freestanding liberalism" represents the denial of a "political master narrative" (Bridges, 1994). Rawls's liberalism presented in the *Law of Peoples* is not totalizing. His idea is that liberalism should not be applied to whole life, but only to the part of life (Bridges, 1994). Rawls argues that peoples can agree upon the basic principles of justice (while there is a variety of conceptions of good, or comprehensive doctrines). Still, there is a possibility of different justifications of those rights.

Rawls argues that human rights as he described them in his *Law of Peoples* can be interpreted in two ways. First, they can be seen as the part of the liberal political conception of justice as "liberties secured to free to all free and equal citizens in a constitutional liberal democratic regime" (Rawls, 1999: 68). On the other hand, another way to perceive those rights is from the associanist perspective "which sees persons first as members of groups, associations, corporations, and estates" (Rawls, 1999: 68) and this is a conception of justice held by a decent system of social cooperation. Thus, the same norms have different argumentation,

they can be justified and interpreted differently in different societies, and thus they can be in accordance with tradition of different societies. Therefore, Rawls's conception of liberalism accepts the possibility of different conceptions of justice that are equally consistent with a political interpretation of liberal doctrine, because it is founded on reasonable conception of justice which cannot be valued by cognitive standards of truth and falsity (Bridges, 1994). Rawls's main idea presented in the *Law of Peoples* is, that because the reasonable pluralism is the characteristic of every democratic society, it must be based on the overlapping consensus. Rawls's overlapping consensus represents his idea that proponents of different comprehensive doctrines (which, thus, have different conceptions of good) can agree to same basic principles of justice in the name of political stability.

John Rawls makes a distinction between the norms of rights and justification of these norms (Rawls 1999). According to Bridges, modernist metaphysical liberalism as a whole can be described as a "comprehensive doctrine", defined by Rawls (Bridges, 1994). Rawls's conception of political liberalism (after 1985) is neutral and does not include terms such as "common values", "moral heritage", "inherent", and so forth. According to the ideas presented within the preambles of the *Charter of Fundamental Rights of the EU* and the *Treaty of Lisbon*, it can be argued that they reflect modernist metaphysical assumptions. They emphasize European "spiritual and moral heritage". Indeed, the proponents of modernist metaphysical liberalism argue that this form of liberalism reflects the political morality, which is universal and essential.

In order to capture the fact of cultural pluralism, the "European values" should be based on some sort of Rawls's overlapping consensus, according to which the leaders of various religious, philosophical and moral convictions are able to agree on the common set of values. These principles allow each individual the freedom of interpretatio of certain political values in accordance with his/her concept of good or comprehensive doctrine. Therefore, the values and principles on which the European Union is based should provide the wider framework for identification. European identity (based on "European values") is a polyphonic category, which cannot be founded on monolithic definitions. Otherwise, the entire continent would fall under the rule of one homogeneous culture.

According to Habermas (1996), in the "future federal republic of European states" the same legal principles should be interpreted from

the point of view of different national traditions and history. On the other hand, these legal principles should be based on the overlapping consensus of the European community's transnational political culture. Habermas believes that this type of particularism will not pose a danger to the universalist meaning of human rights and national sovereignty (Habermas, 1996).

CONCLUSION

Insisting on the moral, spiritual and religious heritage of Europe and its universal meaning produces metaphysical metatheoretic assumptions that contradict the concept of EU citizenship and identity based on political values. As John Rawls and Charles Taylor (1994) (everyone from the corner of their own theory) point out, there must be a possibility of a different interpretation and understanding of the law, which does not contradict the very right if its basis is respected. European values can not be based solely on legal definition, since in the long run there is a danger of challenges and tensions that would call these values into question.

In other words, the legal definition does not provide the ground for the social cohesion created by historical memory and tradition. On the other hand, defining European values on cultural heritage and tradition implies mataphysical assumptions whose nature is essentialist. In conclusion, the definition of European values requires the complementarity of the cultural, that is, both the substantive and legal aspect, but none of these sets of values should be homogeneous and fixed, but open to different interpretations and transformations, respecting the diversity that forms the basis of the pluralism of contemporary societies. Only in that way metaphysical assumptions may be avoided.

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