

# THE POLITICAL FRONTIERS OF EUROPE AS A CIVIL SOCIETY: J. HABERMAS' REJECTION OF A EUROPEAN VOLK AND M. FOUCAULT'S BALANCE OF POWER AS PROTECTIONS AGAINST EUROPEAN NATION-STATE

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With the help of J. Habermas and M. Foucault, it is argued that the idea of Europe is, first of all, the ideal of an unlimited civil society. Human rights, the rule of law and the legal European institutions are its political backbone. The European Union itself is somehow the realization of this ideal conception of a borderless, unlimited society. It is argued that the European Union in this respect is a heterotopia within the bordered and sovereign member states themselves. Seen from the outside, however, and in the world of geopolitics, Europe is a political power with closed borders and excluding frontiers. In this respect the European Union is a continuation of the old European Balance of Power.

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## Introduction: Habermas' Europe

In his reply to Dieter Grimm, Jürgen Habermas is unusually brief and to the point as to the political status of the European Union. He makes five points: (a) The so-called “democratic deficit” of Europe is not at all a typical European problem; it is a characteristic of socio-economic globalisation processes. (b) Actually, these processes are the symptoms of the ongoing process of transformation of the social public sphere into a civil society, which is by definition indefinite and unlimited, and a society of strangers.<sup>1</sup> (c) The idea of a political European *demos* is an illusion from the past. (d) It must be replaced by participatory, deliberative citizenship as praxis of political legitimization, and (e) that process of democratic legitimisation must be backed by the rule of law.<sup>2</sup>

<sup>1</sup> These are my words; see on globalization (Habermas 1996: 186–187); on public sphere (*Öffentlichkeit*) (190); on civil society (*Zivilgesellschaft*) (189 and 190); on society of strangers (*Solidarität unter Fremden*) (189).

<sup>2</sup> Respectively: *Zukunft einer vergangenen Illusion* (Habermas 1996: 188); *Nation von Staatsbürger ... ein intersubjektiver Kontext möglicher Verständigung*, (189); *Verfassungsstaat* (189).

Summarized: Europe is *not* a political unity or a national polity based on sovereignty. Moreover, it should neither wish, nor endeavour to become such a unity.

I would like to endorse these views in order to assess what kind of political entity or polity the European Union actually is (§ 5). I shall argue that the idea or conception<sup>3</sup> of Europe – from now on written as “Europe” – is in itself unlimited (§ 1), and that it is a new formation, figuration or specification of the rule of law (§2). The really existing European Union, so I would like to argue with the help of some ideas proposed by Michel Foucault, is the *social* heterotopia of an unlimited civil society within the nation-states that are members of this Union (§ 3). As of contrast, the *political* reality of the EU is shown to be a new form of the age-old European political practice of the balance of power (§ 4).

### “Europe” unlimited

In Habermas’ argument Europe is pictured as a *Zivilgesellschaft*, a civil society. What does this mean? First of all a civil society<sup>4</sup> exists as a public or open sphere of social interactions. *The* civil society of a country or region is a concrete social entity, being a constellation of public places (roads, squares, public buildings), public social institutions (schools, churches (?), public health and welfare services, public transport and traffic authorities and so on), the set of so called free or voluntary associations made by private persons, and the myriad of social encounters, gatherings and interactions going on in the public domain. A lot of public infrastructure, public manners and public service is organized or controlled by (local) government and backed by public law. In so far, the state takes part of civil society and may be called its frame or backbone (Walzer 1993: 103); it is able and has the power to intervene in *social* public sphere anytime and to turn it into a *political* public order, but in constitutional states and polities it cannot take over civil society, states of exception excepted (further see § 3).

The public domain of civil society is not limited on forehand to some national, territorial bordered, public space. Civil society presupposes an absolute social space that gives room to an indefinite amount of civil associations and social practices. Some of them will be rather local, for example a neighbourhood committee being local by definition, others are semi-national (national automobile associations or sporting councils), some are explicitly global, for example the Red Cross and other INGO’s, and of course in the economic sphere the multi-nationals<sup>5</sup>; most associations are indifferent to (national) borders. If “Europe” is based on the ideal of a civil society, then it must be

<sup>3</sup> An idea or conception is a concept with a mission, or an ideal, such as the “regular idea” in Immanuel Kant’s and John Rawls’s “ideal conception”, also called “a realistic utopia” (Rawls 1993: 12, 14). I will not discuss here the ideological impact of those ideas. The ideals of “Europe” are briefly mentioned in the Preamble of the Draft European Constitution of 2004, [http://www.unizar.es/euroconstitucion/library/constitution\\_29.10.04/part\\_I\\_EN.pdf](http://www.unizar.es/euroconstitucion/library/constitution_29.10.04/part_I_EN.pdf), p. 3.

<sup>4</sup> See Karskens 2000, 2004 for a comprehensive overview of recent civil society theories.

<sup>5</sup> Today “civil society” mostly refers to the non-economic sphere; I do consider the economic sphere as part of civil society using a restricted form of voluntary associations. Also see next page and Foucault’s semi-economic interpretation of civil society at the end of this article.

potentially unlimited or indefinite as to the people, who are living and associating in its “space of appearance” or “common meeting ground”<sup>6</sup>.

As far as it concerns the number of member-states of the European Union, “Europe” therefore is an unlimited project. The number of participating states is nowhere fixed on forehand, and European human rights (see below) neither do limit “Europe” on forehand. It could be objected that only European states can become members of the EU; according to article 2 of the Draft Constitution “the Union shall be open to all European States which respect its values and are committed to promoting them together” (Draft ... 2004: 9). But, it is nowhere defined in a restrictive way what European States are. Why should Montenegro, once created as Turkish borderland, and Ukraine, which was both cradle of the Russian nation and border region of the Russian Empire, be more European states than, for example, South Africa created by Dutch and British colonists, New Zealand - the clone of old England, or Algeria, created by French imperialists?

The same point can be made in respect of the European homeland or continent. “Europe” originally was a meta-topical, polemical idea of “non-Asia”<sup>7</sup>, and it still is a meta-topical or heterotopical idea, as we shall see in § 3. As a political and cultural contrast-idea it is not restricted to the definite geological space of the European continent. The case of Russia is an interesting border-case in this respect. From a geographical, socio-economic, political, and cultural-historical point of view Russia definitely is European. At the same time, however, both in Western-Europe and in Russia itself, “Russia” has been for centuries, and still is, seen as a more general idea than “Europe”, or as being too “Asiatic” in order to be genuinely “Europe”. The topical case of Turkey shows the same polemical dynamics; here the dangers of “Asia” have become “Islamic” or “Arabic” negatives. So, strictly spoken “Europe” is not restricted to the European continent, to the European Lebensraum, or to the European civilization, culture or spirit.

After the Second World War “Europe” was turned into an ideal of independent states economically cooperating within a common and open market. Within that market territorial state-borders and other nation-state restrictions became irrelevant. European laws on competition enforce the member states to accept, protect and treat in a fair way any European (legal or natural) person, who is active at that open market. The idea of an open (European) market, as a space of exchange and cooperation, remained not restricted to the economy, but expanded itself to social, cultural, sexual and even political exchange and cooperation.

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<sup>6</sup> Both notions are forged by Hanna Arendt (1958) in order to characterize *political* public space; her general proposition on this topic says: “it is not the city state in its physical location; it is the organization of the people as it arises out of acting and speaking together, and its true space lies between people living together for this purpose, no matter where they happen to be” (Arendt 1958: 198). I will purposely use that characteristic of political action in Arendt as main political characteristic of social or civil society as against the territorially closed public space of nation states.

<sup>7</sup> Meta-topia is introduced by Charles Taylor (1993) to characterize the modern, Western, secularised public sphere; “Europa” was used by Herodotus of Halicarnassus (= Bodrum in Turkey) (485 – 425 BC) as a geographical term in his narratives of the Greek-Persian wars (499 – 479 BC). “Europe” contrasts with “Asia” where the Persians, that is to say, the enemies live. The Greek did not call themselves Europeans but *Hellenoi*, which contrasted with *barbaroi*. In Roman times “Europe” was known as a geographical term, but it was hardly used; the most important politico-geographical notion was the Roman Empire itself and its *limes*.

So, the ideal of an open, common market became the ideal of a “European” civil society without any internal (state) borders. As a consequence the existence of different Europe is also not allowed within “Europe”. Europe is “united in diversity”, as the Preamble of the Draft European Constitution said (Draft ... 2004: 5). Differences between member-states, ethnic groups, national cultures or trans-national regions may not limit or exclude cooperation; on the contrary, they are a challenge to cooperate. Recognition of historical differences between politics, economics and culture of member-states is closely connected to the rejection of state-borders or other political boundaries in European economics, culture and social exchange. Differences within Europe that are used as national political barriers must be levelled out.

The general principle of difference, competition *and* cooperation *within* one and the same social space is build on the (liberal) political, legal and social principle of the *public-private distinction*, which was already adopted as a constitutional principle in the Treaty of Rome. Therefore, a particular and uniform European culture, let alone a European *demos*, is not necessary for “Europe”, it is even a dangerous idea. Particular cultural characteristics of today’s European society are no more than a momentary result of manifold cultures; some explicitly remain typical local fostering parochial habits and customs, others are historically fused into “national” identities backed by invented traditions, but most are globally characterised by particular (professional, generational or religious) groups or subcultures.

Nation-state borders do not exist within the “European” social space and civil society.

East and West, German and French, New and Old Europe’s, and so on, are inexpedient stereotypes in “Europe”.

National(istic), ethnic or regional characteristics are social group differences. Socially they cannot be accepted as discriminatory social stratifications in “Europe”, and politically those discriminations must be ruled out in the European Union (EU). In the European space of appearance, however, socio-cultural differences are necessary as differential points of departure of social cooperation.

### **Sovereignty and Human Rights**

The European open market and society and the EU do not have any political right or monopoly on the use of violence and the enforcement of law, which is an essential characteristic of sovereign polities. Conceptually spoken, “Europe” cannot coerce, since coercion and compulsion are mutually exclusive with open market competition and free association. It is open to political discussion, whether the EU will or must become a sovereign political power including military and police forces. In my opinion that would be completely contradictory to the “European” idea. Persuasion, consensus formation, open cooperation and compliance with court decisions are the liberal, mercantile and republican civic manners, and thus political instruments, of “European” government. Therefore, it would be better if “Europe” and the EU never developed into a sovereign polity. Does this mean that “Europe” is an essentially a-political idea? And, that the EU is not and never will become a political entity or polity? In my opinion the answer to both questions is no.

In § 3, I shall discuss the political critical role of “Europe” and the EU as a heterotopia. The negative answer to the second question is given by the political role of Human Rights. The basic and minimal *political* presuppositions of “Europe” and of the socio-economic cooperation in the EU are *human rights* and the idea of a *constitutional polity*<sup>8</sup>. In addition, a European Court of Human Rights has the task and duty to protect these rights; it can legally enforce member states of the Treaty and of the EU to act in conformity with its verdicts. Moreover, individual persons, who are subjects of member states, have the right to appeal to that Court. A citizen, however, cannot act in “Europe” and in the EU without a national identity in which her or his political, human and European rights are incorporated. A general European citizenship does not exist, and as a consequence of our rejection of a European *demos* or *Volk*, a political European citizenship also is undesirable.

It could be objected, however, that the political reality of the European Union does tell a different story. Most people agree that the EU is some supranational polity, using all the principles of modern government, such as free election, popular and national representation, balance of powers, rational-legal bureaucracy and so on. Formally speaking the EU is no more than a set of treaties between its member-states, effectively “the Treaties have been ‘constitutionalized’ <...> the Community’s ‘operating system’ is no longer governed by general principles of public international law, but by a specific interstate governmental structure defined by a constitutional charter and constitutional principles” (Weiler 1999: 12). Also in the EU, it is a legal court, the Court of Justice of the European Communities, which plays an important political role with the help of the so-called prejudicial decision procedure. I will not engage myself in the debate on a European constitution, here. I only would like to underline that both protagonists and antagonists of a European Constitution already share a consensus or at least a common belief and trust in, the political role of the legal order or rule of law. It is that belief which I would like to call *Verfassungspatriotismus* (Habermas 1992), and it is different from the belief in some popular political unity or European *Volk*, democratic representation or political cooperation of national citizens within the body or common will of a (sovereign) state. It is that age-old idea of justice as an independent, counter power, which is the main political idea of “Europe”, turning the EU into a non-sovereign polity.

Neither “Europe”, nor the European Union do have and should have state sovereignty including state borders and state-violence. “Europe” is a *political* ideal of social cooperation backed by some constitutional, legal governmental institutions. The EU is its provisional realization (also see § 4). As a consequence, the European society is *a union*, that is to say a social practice creating an indefinite number of social unities or associations.

### Heterotopical closures and political frontiers

So far for “Europe”, which I did picture in an idealized way as the general ideal of social and political, non-national, open cooperation and competition based on universal principles

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<sup>8</sup> See *Treaty of Rome*, which was roughly identical to part II of the Draft of 2004; both connect human rights with the institution of a Supreme Court that can overrule Courts of member states.

of justice (human rights), active citizenship and peaceful social interaction. This idea is not bordered by frontiers, and it does not have a natural location on the European continent, it is therefore called a cosmopolitan idea.

The really existing “Europe”, the EU does neither have any formal borders but state-members of the Union do have state-borders, which are often closed to non-European foreigners. So, to people outside the EU, Europe actually does have borders and even frontiers. Moreover, from a global point of view the EU is a political entity, it is at least a political block, but often acts as a political unity in geopolitics and global economics. As a consequence Europe must have political borders, as well to the inside of Europe, as to the outside. What borders are we talking about, then? With the help of the notion of “heterotopia” forged by Foucault,<sup>9</sup> I would like to argue that the internal borders of Europe are heterotopical; its external borders, on the contrary, are political frontiers in a geopolitical struggle (see § 4).

A border is a system of opening and closure (*fermeture*) through which a place is accessible and at the same time isolated. The misconception of completely closed outside borders is part of the dream of a secured, totalised society or absolutist polity with an isolated, autarkic territory. That dream is a cornerstone of both nation states and utopias (often situated on islands). In contrast, a heterotopical border can be made everywhere in social space; it offers limited access to a particular social place, which is so different from ordinary social spaces that it may be called an “other-space”. Heterotopias, in contrast to ideals and utopias, do really exist; they are organized and designed with the aim of contesting and inverting existing political, social and cultural places here and now in social space (Foucault 1994: 655–656). Foucault mentions six heterotopical principles:

1) *Every culture and polity constitutes heterotopias*, such as liminal or sacred places in “primitive cultures” and deviancy places (asylums, prisons) in modern culture (Foucault 1994: 756–757). In my opinion, a foreign country and its inhabitants, the foreigners, are other heterotopical examples, although the foreign homeland or country is by definition situated outside our own social space. The idea of an effective existing *external* outside is a necessary condition of any demarcation or framing of local space as *our* place in politics, social and private life; this point is also called the principle of the “permanent constitutive outside” (Jacques Derrida) or the “exterior to the community” (Niklas Luhmann) (Mouffe 1993: 114): without really existing foreign other-places our own home-place cannot exist. Moreover, also inside each national or social homeland many heterotopical signs or places do refer to foreign countries: embassies, national houses, tourist agencies, or military bases. Does the EU have such a status of constitutive foreign outside? No and yes. Within the EU member states the *EU* is not a constitutive outside; it has a very specific heterotopical function as an *internal* outside. Politically it acts as a foreign ruling power over there in Brussels. But at the same time Europe is fully present in our own social space as an open, borderless societal space (see below). In the outside world, however, the European Union is as much a foreign

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<sup>9</sup> In the 1966 Introduction of *The Order of Things (Les mots et les choses)*; fully explained in *Des espaces autres* (DEA); this text was originally written as a radio talk in 1967, it was not published until 1986; references to the text are made with the initials DEA.

country with semi-closed borders as other geopolitical power blocks such as Russia, China, India or the USA.

2) Societies may *transform already existing heterotopias*: the pre-modern graveyard, for example, as against its place and function in modern cities (Foucault 1994: 757–758). I would like to add that foreign countries are continuously transformed in national political histories and in political theory; foreign countries have been pictured as barbarian wilderness, hostile soil, friendly nations, or as Promised Land. In the *European Union* the member-states are now involved in a transformation process from sovereign states with frontiers protecting them from neighbour states, into a fraternity of brother-nations with open borders. At the same time, however, the foreign outside of “Europe” is not a composition of different non European-nation-states, but a constellation of “Asian” images, such as the homelands of immigrants, the territories of the “terrorists”, the emerging Asian markets and the Arabic or Islamic World, being a mixture of birth-place, motherland, cultural, religious and economic areas and geographical spaces, often called “civilizations” (Huntington 1996).

3) Heterotopias *juxtapose different and incompatible locations* (emplacements) in one and the same place; in modern society, for example, theatres and cinemas sharing their public character with modern social publicity; in ancient societies, for example, the private - oriental garden represents the *cosmos* (Foucault 1994: 758–759). The European Union as a borderless social space can be called an incompatible political location juxtaposed to the bordered territorial space of each of its member states.

4) Heterotopias are often linked to some *division of (heterogeneous) time*; for example infinite time accumulation in galleries and libraries, transient time emplacements in fairgrounds and holiday villages (Foucault 1994: 759–760). In political theory and in national states time is prominently framed by historical narratives of the birth of the nation and by particular national timescales; they are characteristic constituents of the state itself and its laws, and they also legitimate the occupation and demarcation of the state territory<sup>10</sup>. In contrast, the story of “Europe” is told as a new and alternative narrative after the “bitter experience” of the Second (European) World War (Draft ... 2004: 3). In contrast with the past-oriented national stories it is a future oriented story of a new beginning and self-creation of a borderless space of cooperation. In this respect the new “Europe” story is definitely different from Westphalian “Europe”, created as a “balance of power” of sovereign states separated from each other by frontiers (also see § 4).

5) Heterotopias use *particular systems of opening and closure* (fermeture) in order to be accessible and at the same time to remain isolated from ordinary society. The entrance to a bathhouse, for example, is associated with rituals of purification and undressing; the entrance to a house of God uses the same sort of purification ritual, but now it is connected with veiling rituals. In fact, all fences, gates and front doors are closure systems that protect and demarcate heterotopical space. The example par excellence in (Western) society is the private domains. Closure and opening systems turn

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<sup>10</sup> On the onto-political connection between law (*nomos*) and settlement, see Carl Schmitt (1950) and Gilles Deleuze, F.Guattari (1980: ch. 12 and 13).

into frontiers and security systems from the moment they are perceived by the insiders as protection against the outside. The heterotopical point is that closures can juxtapose different emplacements without protecting firewalls in one and the same social and geographical space (see point 3). What is the peculiar closure of “Europe” by which it demarcates itself as a heterotopical place? In my opinion, it is the opening up of existing political space into social space by negating political frontiers. Immigrants, for example from other member-states are fellow competitors or partners in the European space. Of course, they are strangers too, and national differences are a favourite subject of European small talk, but they cannot be turned into real foreigners any more. In the outside world, however, Europe’s closure is just the same as the closure of national frontiers. Labour immigrants coming from non-EU states are foreigners who belong to excluded heterotopias or spaces from the outside (*espace du dehors*). They must fight the European frontier and often will die there.

6) Heterotopias have a *critical function* somewhere in-between illusion and compensation. In this respect a heterotopia mostly resembles utopia. The whorehouse, for example, is an illusionary critique inside existing local space of well ordered family life and one couple homes offering some compensation for reproduction; the colony is an example of compensatory political and socio-economical critique in outer heterospace; finally boats are mentioned as closed pieces of hetero-space that are literally floating in between local spaces (Foucault 1994: 761–762).

Really, the European Union is a very good example of a critical, inclusive heterotopia. While compensating for national closed border policies, it offers internal governmental and social alternative of national(ist) political life. It is a critical political process that constantly dislocates national(ist) closures and homogenizations. Moreover, today’s Europe criticizes the Westphalian power conception of the European space (see § 4).

In sum, it is the *political* critique in the idea of “Europe” as a borderless social space that turns the EU into a really existing internal and inclusive heterotopical alternative of state politics, national social life and national culture. In the outer-space of geopolitics, however, the EU is an excluding and closed political place reinforcing national closed border politics. The emergence of an immigration problem in the EU, and the creation of the Fortress Europe are proofs of this exclusive closure. They are the dark side of the disappearance in Europe of state borders as mutually exclusive frontiers as we shall see in the next section.

### Europe as a power balance

In his 1978 and 1979 lectures on governmentality, Foucault pictures Europe in between the seventeenth century and the First World War as a balance of powers (*l’équilibre européen*). According to him, Europe is a multiform, non-hierarchical, geographical community and a dominant trading power enriching itself at the expense of “outer-Europe”: “*Le jeu est en Europe, mais l’enjeu c’est le monde*” (Foucault 2004b: 57). Europe is a Union or community of states, somehow tied together by the historical role of Christianity as a uniting culture. Europe as a balance, however, did not come into existence until

the end of the religious wars, when Christianity was finished as uniting factor in politics and ordinary life. Furthermore, Europe does not know a power hierarchy. All recognized European sovereign states are equal in principle, notwithstanding great differences between the big and powerful states and the little ones, which is a unique characteristic in geopolitics. Another particular European characteristic is its multiformity; it does not use a universal principle or a univocal binding element. Finally, Europe was most of all a mercantile economic construction unequally and unilateral related as an imperialist power to non-European regions (Foucault 2004a: 305–315; 2004b: 54–60).

The European balance of powers, also known as the Westphalia states system, came into existence as a reaction against the absolutism of France and its expansion policy. The balance was maintained by a military-diplomatic technique of cooperation enabling the little ones to counter balance against the big ones; actually, the balancing existed in varying alliances sealed by Treatises. The idea of equilibrium of state power originated in the Italian city states. It was composed of three elements: mutually balancing of multiform units by keeping their differences within non-hierarchical limits; agreement between the economic powerful states that no one can get an edge on the other ones, and mutual check thereof; finally, a European system of law protecting treaties and mutual cross border agreements. Three instruments do maintain the balance: war, diplomacy and standing, professionalized armies (Foucault 2004a: 304–308). State mercantilism, however, was a disturbing factor in this balancing interplay, because it was designed as a zero sum game with unfair competition (Foucault 2004b: 54). In order to overcome this problem, the Physiocrats developed mercantilism in Europe into an open market system with fair competition; the unfair side was exported to states and colonies outside Europe. In doing so the Physiocrats created a new European idea of a collective economical subject engaged in an unlimited economy of growth and progress. To the world outside Europe, that economy became New Imperialism by which internal political conflicts could be diverted from Europe to the rest of the World (Foucault 2004b: 55–57). In the eighteenth and nineteenth century this strategy was very successful. It created a relatively stable European community of cross-border citizens with civil and political rights backed by national constitutions. The ideal-form of this plural, balanced interstate community is depicted in Kant's *Zum ewigen Frieden*; this political world system transcends the bonum commune of states and empires and even of the (Christian) churches. It uses the non-unity, the plurality maintained as plurality, which is the central idea of a balance, as main factor of peace, so Foucault says (Foucault 2004a: 308). From a more political and historical point of view Gerard Delanty<sup>11</sup> shows that this ideal-form is much more the generalization of the Pax Europæana of the absolutist states of the seventeenth and eighteenth century, and definitely not a result of eighteenth century Enlightenment, its new economy or cosmopolitanism (Delanty 1995: 68, 76).

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<sup>11</sup> Delanty turns out to be a quite important reference in the remainder of the article, but he is introduced here very casually.

Do Foucault's and Delanty's European pre-histories confirm my point of departure? Indeed, "Europe" can be seen as a continuation of the Kantian idea(l) of a cross border community of free citizens backed by law. And the European Union can very well be depicted as the temporary, empirical result of that endless project. But is this really a conclusion or a self-satisfying analytical statement of a Kantian philosopher? Perhaps, it is the idea of a power balance that offers a better explanation of the EU and even of "Europe". The crucial point of a balance is that it is never stable, it will always be a temporary result of correction of destabilizing forces; therefore it will never become itself a dominant power on its own. Moreover, the destabilizing forces cannot be ruled out, they are presupposed as a plurality that must be maintained in order to get a balance. This is why "Europe" is politically designed not as a static unity, but as a mobile effect of different, destabilizing and even antagonistic internal forces, which are its member states. As a consequence, differences and divergences within Europe are not a sign of the fact that "Europe" is a mistaken idea, or that the EU is not yet a grown up polity; on the contrary, they are the symptoms of the balancing processes that produce the EU.

The problematic point of this conclusion, however, is uncovered by Delanty's reading of Europe: it is the existence of absolutist, sovereign, closed and totalising states, each of them working as a detached destabilizing force that is affirmed and even strengthened by the idea of a balance of powers. In this way the balance theory seems to falsify our reading of Europe as a civil society slowly on emerging as an alternative or hetero-political force in the field of competing sovereign states.

### Europe as a plurality is a civil society

In comparison with Habermas' and my own idealistic and normative European picture of friendly social cooperation and competition, Foucault's and Delanty's genealogies of Europe as a result of the power balance of the European master states are more historical and down to earth; moreover, they pay more attention to Europe's role in geopolitics. Both stories ignore Habermas' normative ideals of democracy and of active, participatory citizenship; as far as they are mentioned, they are not principles or ideal conceptions, but results or symptoms of modern disciplinary or governmental power techniques.

Yet, Foucault offers also a lot of arguments in favour of the ideal of "Europe" as a civil society. He takes side with Habermas against Delanty's absolutist conception of the state. And he also points out the role of international law and the significance of a common culture of cross-border citizenship and civil cooperation. The core political idea, however, both in Habermas and Foucault, which I would like to underline, is the *principle of plurality*. My point is that it is this political counter-idea of plurality that in the end constitutes civil society as a new and alternative *political* entity. Plurality is already involved in the idea of equilibrium between polities with rather different size and power, and it became a decisive element or cornerstone of post-absolutist, often called democratic, conceptions of the political and politics. It entails the moral (Foucault) or normative (Habermas) devaluation or even rejection of homogeneity and homogenization as *the* objective of politics and government. As a consequence, the political idea of a *demos* being a homogeneous unity

is rejected as political cornerstone. My point is that also Foucault, just like Habermas, replaces the idea of a *demos* by a plurality of individuals or groups *and* by civil society. In Habermas this was done by connecting citizenship to the liberal idea of private persons socially tied together by solidarity – and of course, by ongoing communicative action; politically they are associated by cosmopolitan rights anchored in the rule of law and its national legal institutions. In his *Cours* of 1979, Foucault offers another analysis. He slowly drops the notion of population as subject of governmental power technologies and replaces it by the liberal power/knowledge system that focuses on individualized subjects as *homo oeconomicus* (Foucault 2004b: ch.11). In the following and final lecture of that *Cours* Foucault explains how this results in a new political phenomenon, which is civil society. Civil society, he says, is a complementary – rather compensatory – social domain next to the market. In contrast with the *homo oeconomicus*, who relates in an open and universalizing way with other fellows and spontaneously synthesizes himself into associations or societies, individuals in civil society interconnect in singular and local associations, which *exclude* the others as not associated or non-members. In doing so, civil society becomes a new and alternative *political* instrument or governmental apparatus that creates exclusive social domains. But, civil society is an alternative political apparatus, because it does not make any use of command, control and obedience, which is characteristic of legal rules and regulations and of state institutions. Thus, civil society is not any more an apparatus that belongs exclusively to nation states (Foucault 2004a: ch.12). This is the final result of Foucault's decomposition of the state and politics into no more than "a mobile effect of a regime of multiple governmentalizations" (Foucault 2004b: 79). Actually, Foucault here enlarges the model of a balance of powers, which was first of all designed for the containment of external, international politics, to the internal power / knowledge systems of multiple and multiform political forces competing for power. Government, law and administration are well known examples, but civil society too is one of those political forces.

## Conclusions

We can take Foucault's analysis as a corroboration of mine and Habermas' interpretation of Europe as a *political* civil society. But, there is one important objection against this civil society ideal of "Europe". As well in Habermas' picture of Europe as a genuine "life world", as in Foucault's picture of civil society the use of force and violence in politics and in social life is ignored. Both, Habermas and Foucault consider force and violence to be extra political phenomena belonging to the domain of physical influence. In doing so, they actually sponge on the nation states that are armed with the military, police *and* with the force of law entailed in the rule of law.

In order to meet this objection, I propose to consider Europe as a *heterotopolity*. All of them, "Europe", the EU and European civil society or community are heterotopolitical. They can only exist in a *critical* co-existence with unitary, absolute and coercive nation states. The power balance model supports this point of view. Next to, *and* as an alternative of the foreign policy of nation states, Europe too as borderless social space is part of the internal and external balancing system of the European states.

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## POZITYVIOS ALTERNATYVOS EUROPOS NACIJAI–VALSTYBEI

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### Santrauka

Remiantis J. Habermasu ir M. Foucault, Europos idėja straipsnyje traktuojama kaip neribotos pilietinės visuomenės idealas, kurio politinį pagrindą sudaro žmogaus teisės, įstatymo valdžia ir teisinės Europos institucijos. Tam tikra prasme šią idealią sienų neturinčios, neribotos visuomenės koncepciją realizuoja pati Europos Sąjunga. Šia prasme, žvelgiant iš „vidinės“ suverenių, turinčių sienas narių valstybių perspektyvos, ji laikytina heterotopija. Tačiau, žvelgiant iš išorės ir geopolitiškai, Europa yra politinė galia su uždaromis sienomis, griežtai sauganti savo ribas. Šiuo atžvilgiu Europos Sąjunga gali būti vertinama kaip senojo europietiškojo galios pusiausvyros projekto tąsa.

**Reikšminiai žodžiai:** galios pusiausvyra, pilietinė visuomenė, Europa, Europos Sąjunga, heterotopija.

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