Common Market Law Review **62**: 691–704, 2025.

EDITORIAL COMMENTS

Seventy-five years of the Schuman Declaration. Pragmatism lay on the pace; idealism, on the goal

'World peace cannot be safeguarded without the making of creative efforts proportionate to the dangers which threaten it.' The opening words of the Schuman Declaration resound with unexpected clairvoyance on its 75th anniversary. To use it as a framework of analysis to revisit the roots of the Union and to generally assess its progress is certainly a task too ambitious for an editorial. The following lines offer just some thoughts and reflections on today's Union and its legal order through the glass of the Schuman Declaration, its context and objectives, its institutional imaginary and the philosophy underlying it.

Context, peace and the military worm

The geopolitical chessboard has moved under our feet and the European project is once again shaken in perplexity, wondering what was that it was supposed to achieve, and what has happened in the meantime. Five years ago, the European Parliament's President and the leaders of its political groups issued a Statement on the Schuman Declaration 70th anniversary, opening with the remark that 2020 presented the Union with the 'most difficult challenge since the end of the Second World War: a health, economic and social crisis triggered by the outbreak of COVID-19'.[1] Five years later, we can say with modest pride that the Union did survive that one, and we wonder whether it is only now that we are faced with yet a greater challenge. Now that our founding tragedy seems to be fading in our memory,[2] it might as well have been erased altogether on the other side of the Atlantic. There, Europe stands officially accused of retreating 'from some of its most fundamental values – values shared with the United States

1. 'Statement by EP Conference of Presidents on the Schuman Declaration Anniversary', 7 May 2020, Press Release, <www.europarl.europa.eu/news/en/press-room/20200507IPR78608/statement-by-ep-conference-of-presidents-on-the-schuman-declaration-anniversary> (all websites last visited 2 May 2025).

2. With the expiration of the European Coal and Steel Community (ECSC), the references to the war in Europe taken from the Schuman Declaration no longer features in the preambles of the Treaties in force, however referring as a *fait accompli* to the 'historic importance of the ending of the division of the European continent' (Preamble TEU).

of America',[3] and the European integration project is depicted by the highest office in the country, amongst many other niceties, as having been created only to 'take advantage' of the US.[4]

Without undertaking a rebuttal of delusional statements to which we have grown accustomed in recent months – facts and history speak for themselves – a couple of quotations unearthed by the historian Victor Gavin suffice to illustrate the sentiment on the other side of the Atlantic in the founding moments of the European project of integration. John Foster Dulles, the then US Secretary of State, affirmed that 'from a purely selfish standpoint any American program for peace must include a federated continental Europe'.[5] Eisenhower himself thought that 'so many advantages would flow from such a union that it is a tragedy for the whole human race that it is not done at once'.[6] If the Schuman Declaration made the initial offer of a new community, the US 'made possible its realization',[7] European integration becoming in its turn key in promoting the hegemonic rise of the US.[8] We seem today far removed from the Atlantic atmosphere that surrounded the Schuman Declaration.

The key driver of the Schuman Declaration was peace. Subsequently engraved in the Preamble of the ECSC Treaty, it has featured ever since in the *acte de naissance* of the integration project as its blood mother. However, with the achievement of this main goal,[9] the argument goes, the *raison d'être* of integration lost its compass: the success of the integration project deprived the Schuman approach of its 'mobilizing force', since 'what it offers either seems irrelevant or does not appeal to the very

3. JD Vance Speech at the Munich Security Conference, 14 February 2025.

4. Donald Trump made that statement during his first mandate and has consistently repeated it during the first months of his second mandate. See eg F Burwell, 'The Art of the Transatlantic Deal' (*Atlantic Council*, 3 March 2025) <www.atlanticcouncil.org/in-depth-research-reports/report/the-art-of-the-transatlantic-deal/>.

5. John Foster Dulles, 'The Unification of Western Europe' (4 June 1948) cited by Victor Gavin, 'Were the Interests Really Parallel? The United States, Western Europe and the Early Years of the European Integration Project' (2010) 8 Journal of Transatlantic Studies 32, 33, doi: 10.1080/14794010903533925.

6. Eisenhower Mss Diaries, 11 June 1951, cited by Gavin, ibid, 35.

7. Albert W Lovett, 'The United States and the Schuman Plan. A Study in French Diplomacy 1950–1952′ (1996) 39 The Historical Journal 425, 452, doi: 10.1017/S0018246X00020318.

8. David M McCourt, 'Hegemonic Field Effects in World Politics: The United States and the Schuman Plan of 1950′ (2021) 6 Journal of Global Security Studies 6(3) 2021, doi: 10.1093/jogss/ogaa035.

9. The EU was awarded the Nobel Peace Prize in 2012 for having contributed over six decades 'to the advancement of peace and reconciliation, democracy and human rights in Europe' (Nobel Prize press release, 12 October 2012) <www.nobelprize.org/prizes/peace/2012/press-release/>.

different idealistic sensibility of contemporary European society'.[10] However, 2025 marks the turning point in this self-perception of historical success: peace is no longer obsolete as a core objective. It has become apparent that the peace achieved was vulnerable and the security on which it rested was built on an unreliable partnership leading to a dangerous dependence. But does this development simply return the EU to its existential mission? One may say yes and no. The objectives and values of integration have ever since unfolded into a much more complex set of goals and aspirations, which logically follow the natural development of a political project in a peaceful society.

Geopolitical reality now pushes the Union to overcome one of its most prominent unfinished businesses – a true European defence – which remains a crucial challenge 73 years after the first attempt towards a European Defence Community failed in 1952. This failure has pursued the EU like a shadow.[11] Back in the early nineties, the fissures amongst EU partners became apparent in the context of the Gulf War and were perhaps even more conspicuous when Yugoslavia descended into civil war. In this context, the then Belgian Minister of Foreign Affairs famously described the Union as an 'economic giant, a political dwarf and a military worm',[12] a depiction resented by many but which some secretly took as a source of pride more than preoccupation, seeing in it a distinguishing feature of the EU as a civil power. Further episodes of fragmentation in foreign policy fuelled debates on the identity of the EU.[13] But even today the Union struggles to shake off the 'military worm' mantra, which missed, however, the most important part of any formula trying to capture the essence of the EU: that whatever kind of giant, dwarf or insect it may morph into, the Union was and is, above all, a legal creature – a 'Community of law'.[14] Seventy-five years later, a solid

10. Joseph HH Weiler, 'In the Face of Crisis: Input Legitimacy, Output Legitimacy and the Political Messianism of European Integration' (2012) 34 Journal of European Integration 825, 837, doi: 10.1080/07036337.2012.726017.

11. Current challenges and proposals for advancement are laid out by the Draghi Report, 'The Future of European Competitiveness, Part B: In-depth Analysis and Recommendations' (September 2024).

12. Quote by Mark Eyskens as reported by Craig R Whitney, 'War in the Gulf: Europe; Gulf Fighting Shatters Europeans' Fragile Unity' *The New York Times* (25 January 1991).

13. Eg the debate after the Iraq war opened by the 2003 contribution of Habermas and Derrida 'February 15, or What Binds Europeans Together: A Plea for a Common Foreign Policy, Beginning in the Core of Europe' and the further contributions to the debate in Daniel Levy and others, *Old Europe, New Europe, Core Europe: Transatlantic Relations after the Iraq War* (Verso 2005).

14. The idea of a 'Community of law' features in Walter Hallstein, 'Die EWG – Eine Rechtsgemeinschaft. Rede anlässlich der Ehrenpromotion' (speech at University of Padua, 12 March 1962) (1979) Europäische Reden 342, 343–344, as noted and translated by T von Danwitz, 'The Rule of Law in the Recent Jurisprudence of the ECJ' (2014) 37 Fordham

legal armour has been built around its functional core, which today provides a foundation for the 'creative efforts' needed to move forwards. Whether the worm will ever turn into a butterfly is a question for another time. Let us just say that we may just have the material for a solid legal cocoon.

The value of law and the law of values

The Schuman Declaration did not concretize the legal technicalities of the revolutionary integration proposal. It did contain, however, all the crucial elements of what turned out to be a successful and innovative legal structure: the notion of Treaty-based integration, an institutional system with a supranational core – the High Authority – 'whose decisions will *bind*' and will be enforceable.[15] From the historic *The Law of Integration*[16] to the seminal project of *Integration through Law*,[17] law and its judicial interpretation have shaped the discussions on the nature and direction of the European project, sometimes displaying antagonistic and critical visions, and often questioning the limits and sustainability of a paradigm based on legal integration as its core engine.[18]

With the evolution of the integration process, European law has developed into a structured and autonomous legal order – incorporating its self-perception as a 'complete system of legal remedies'.[19] Without completely abandoning its functionalistic focus on economic integration, the EU legal order fits within the model of constitutionalism, a model present since the inception of legal integration – as Advocate General Lagrange's Opinion in *Costa v ENEL* bears witness, referring to the Treaty of Rome as a 'véritable constitution'.[20]

The central place of the law in the process of integration as well as its constitutionalization have recently accelerated and expanded. The

International Law Journal 1311, 1312–1313. This expression was famously endorsed by the Court of Justice in Case C-294/83,

15. In this sense, see Julio Baquero Cruz, *What's Left of the Law of Integration? Decay and Resistance in European Union Law* (OUP 2018).

16. Pierre Pescatore, *Le droit de l'intégration. Emergence d'un phénomène nouveau dans les relations internationales selon l'expérience des Communautés Européennes* (AW Sijthoff 1972).

17. Mauro Cappelletti and others, 'Integration through Law: Europe and the American Federal Experience' in Mauro Cappelletti and others, *Integration through Law*, vol 1 (European University Institute 1986).

18. For this discussion see, amonst others, Loïc Azoulai, '"Integration through Law" and Us' (2016) 14 International Journal of Constitutional Law 449, doi: 10.1093/icon/mow024.

19. Case C-294/83, *Les Verts v Parliament.*

20. Opinion of AG Lagrange in Case C-6/64, *Costa v ENEL*, EU:C:1964:51.

judicialization of the rule of law crisis after the *Portuguese Judges Case* pushed the Court to peel off layers of the Treaties to find within them a constitutional core.[21] After a rapidly consolidating case law on judicial independence, only a few days before the full-scale Russian invasion of Ukraine, the Conditionality Regulation rulings generalized the operationalization of EU values through concretizing principles: 'Article 2 TEU is not merely a statement of policy guidelines or intentions, but contains values which … are an integral part of the very identity of the European Union as a common legal order, values which are given concrete expression in principles containing legally binding obligations for the Member States'.[22] With that statement, the Full Court confirmed that the core values of the integration project had abandoned the purely rhetorical sphere to enter legal space, with yet undetermined potential, but with already clearly discernible effects for the significance of membership, the relationship between legal orders and the limits and foundations of substantive EU law.[23]

The Schuman Declaration conveyed a readiness to expand its mission of integration indeterminately through an organization 'open to the participation of the other countries of Europe'. Seventy-five years later, with 27(=28-1) Member States and probably with a challenging enlargement on the horizon, the emphasis on the legal status of values has buttressed the intensity and reach of candidates' and Member States' commitments towards the Union, but also towards themselves and their citizens.[24] Article 2 TEU values are not only requirements *for accession.* Member States have a *continuing obligation* to comply with them as well as a *non-regression* obligation as the Court famously ruled in *Repubblika*[25] and restated thereafter.[26] Those very values also preserve membership until the materialization of the now very real possibility of voluntary withdrawal.[27]

One could even say that, through the Treaty-based character of the nascent organization – its supranational character; the pooling of sovereignty in specific areas; and the binding legal nature of its rules, subject to

21. Case C-64/16, *ASJP*, EU:C:2018:117.

22. Case C-156/21, *Hungary v Parliament and Council*, EU:C:2022:97, para 232 and Case C-157/21, *Poland v Parliament and Council*, EU:C:2022:98, para 264.

23. For a general study on the judicial mobilization of values see Luke Dimitrios Spieker, *EU Values Before the Court of Justice. Foundations, Potential, Risks* (OUP 2022).

24. At least, in theory. See the discussion in Editorial comments, 'Another "Big Bang" Enlargement? Three Candid Suggestions to Start Preparing' (2024) 61 CML Rev 899, doi: 10.54648/COLA2024063.

25. Case C-896/19, *Repubblika,* EU:C:2021:311.

26. Case C-156/21, *Hungary v Parliament and Council*, para 125 et seq.

27. Case C-621/18, *Wightman and Others*, EU:C:2018:999, para 62.

'appeal'[28] – a first seed of primacy was already (remotely) planted in the system by the Schuman Declaration. Years after, *Costa v ENEL* would openly confront that crucial question, discovering primacy as an intrinsic feature of EU law. Absent primacy, the argument goes, the attainment of Treaty objectives would be jeopardized, giving rise to discrimination; 'obligations undertaken under the Treaty would not be unconditional, but merely contingent' and ultimately, EU law would be 'deprived of its character as community law' and 'the legal basis of the Community itself' would be called into question.[29] Primacy was in this way founded on an argument emphasizing its nature as a functional requirement for the existence and survival of the Community itself.

Today, when primacy seems to face serious attacks *de principe* on different flanks, the centrality of values in legal discourse inaugurates a new and powerful line of argument. Primacy is not only a self-serving tool to ensure the preservation of the Union and its legal order: the values that underlie that very legal order are the ultimate material foundation of the Union, and the primacy of its legal order, their corollary.

This process has rapidly taken place in the time span of the last five years. A first additional layer to the philosophical foundations of primacy was added – by way of *communiqué de presse* – after *Weiss*,[30] and consolidated in subsequent case law. This new line of argument emphasizes the connection of primacy with the structural principles of Article 4 TEU – the equality of Member States[31] and the principle of sincere cooperation.[32] Article 4(2) TEU at the same time provides ammunition to the most important source of objections to primacy – the EU's obligation to respect the national identity of its Member States. Case law has, however, partially deactivated its conflictual potential in a primacy-buttressing move that has turned Article 4(2) TEU into the vessel that connects European identity with national identities.[33] By turning to the *Foto-Frost* traditional approach,[34] the Court has found that:

28. The Schuman Declaration announced that 'appropriate measures will be provided for means of appeal against the decisions of the Authority'.

29. Case 6/64, *Costa*, EU:C:1964:66, 593 and 594.

30. CJEU, 'Press release following the judgment of the German Constitutional Court of 5 May 2020′ (Press release No 58/20, 8 May 2020) <curia.europa.eu/jcms/upload/docs/application/pdf/2020-05/cp200058en.pdf>.

31. Joined Cases C-357, C-379, C-547, C-811 and C-840/19, *Euro Box Promotion and Others*, EU:C:2021:1034, para 249.

32. Case C-430/21, *RS*, EU:C:2022:99, para 55.

33. ibid paras 70–72.

34. Case 314/85, *Foto-Frost*, EU:C:1987:452, para 20.

> 'if a constitutional court of a Member State considers that a provision of secondary EU law, as interpreted by the Court, infringes the obligation to respect the national identity of that Member State, that constitutional court must stay the proceedings and make reference to the Court for a preliminary ruling under Article 267 TFEU, in order to assess the validity of that provision in the light of Article 4(2) TEU, the Court alone having jurisdiction to declare an EU act invalid'.[35]

This is a forceful argument that empowers the Court to react to claims of rule of law relativism. The values that 'define the very identity of the European Union as a common legal order' 'have been identified and are shared by the Member States'.[36] EU membership intrinsically means adherence to a shared concept of the rule of law which Member States themselves share 'as a value common to their own constitutional traditions, and which they have undertaken to respect at all times'.[37] Article 4(2) TEU, which 'must be read taking into account the provisions, of the same rank, enshrined in Article 2 and the second subparagraph of Article 19(1) TEU, cannot exempt Member States from the obligation to comply with the requirements arising from those provisions'.[38]

The argument based on values provides a new narrative for primacy – but also for integration itself. Under this new conception, what underpins both and serves as the core of the legitimacy of the Union is a material system of values, freely accepted by the Member States, who have engraved them at the core of primary law, making clear that they lie at the intersection of the common constitutional traditions among Member States, and between them and the Union. This framework provides a solid theoretical structure to address the blatant rebellion by the Polish 'constitutional court' that has taken judicial infringements to a whole new level.[39]

When looking back from this perspective at the Schuman Declaration and that 'first step in the federation of Europe', we can genuinely wonder, at least from a constitutional point of view, whether the last step is near, what that step should be, and who should be the one to take it. The constitutional clarification of the core of the treaties is, in a way, a product of the evolution of functionalism reaching its limits. The EU has not become the European federation to which the Schuman Declaration repeatedly referred, but it has definitely grown into a

35. Case C-430/21, *RS*, para 71.
36. Case C-156/21, *Hungary v Parliament and Council*, para 127.
37. Case C-156/21, *Hungary v Parliament and Council*, para 234.
38. Case C-204/21, *Commission v Poland*, EU:C:2023:442, para 72.
39. See the Opinion of AG Spielman in C-448/23, *Commission v Poland*, EU:C:2025:165, rendered in the framework of infringements proceedings originating in the ruling of the Polish Constitutional Court of 7 October 2021, Case K 3/60.

'wider and deeper community'. If eternity clauses really make a difference, there is good reason to say that the Court's interpretation entails that the Union has one now,[40] with all the existential choices that follow.

From 'means of appeal' to an EU Constitutional Court

The Schuman Declaration did not explicitly mention a supranational court, nor did it foresee the prominence of the future case law of such a court in the development of the European project. It, however, relied on the basic premise that supranational binding rules should be subject to review, announcing that 'appropriate measures will be provided for means of appeal against the decisions of the Authority'. This enigmatic sentence was thereafter concretized, not without hesitancy, as a permanent court of justice for the ECSC.[41] This modest first reference should not hide the expectations that were soon laid on the nascent supranational court: its creation was inspired by the desire 'to crown the constitutional structure of the Community with a Supreme Court which was a truly constitutional body',[42] within an overall structure defined as a 'remarkable legal phenomenon', which was at the same time a creation of the law, a source of law and a legal system.[43]

In the first article published in this journal, Andreas Matthias Donner, the then Dutch judge and the second President of the Court of Justice, emphasized that 'the Court could perhaps best be characterized by defining it not as an international court, but as the administrative and sometimes constitutional court of the Communities'.[44] Ten years after, he warned, however, against the comparisons between the EC Court with constitutional ones – for the supranational court was preserved from politization:

> 'exactly because those treaties are not to be assimilated with a constitution, the dangers of a meddling in politics by "nine old men," that exist where a constitution is concerned, which with a few brushes and

40. In this sense see Koen Lenaerts and Piet Van Nuffel, *EU Constitutional Law* (OUP 2021) para 3.010 and fn 42.

41. Anthony Arnull, 'The Many Ages of the Court of Justice of the European Union', Working Paper EUI AEL, 2020/02 <https://hdl.handle.net/1814/67273>; Ditlev Tamm, 'The History of the Court of Justice of the European Union Since its Origin' in Allan Rosas and others (eds), *The Court of Justice and the Construction of Europe: Analyses and Perspectives on Sixty Years of Case-law* (Asser Press/Springer 2013) 9, 16.

42. Walter Hallstein, *Europe in the Making* (Norton 1973) 35.

43. ibid 30.

44. Andreas Matthias Donner, 'National Law and the Case Law of the Court of Justice of the European Communities' (1963) 1 CML Rev 8, 11, doi: 10.54648/COLA1963003..

> some succinct formulas indicates the powers of constitutional institutions, are greatly diminished as regards the interpretation of the treaties'.[45]

Today's reality seems far removed from that vision, as the Court's facet as constitutional court has become entrenched. Recent times attest, moreover, to the amplification of the self-perception of the Court of Justice as a depositary of common national constitutional traditions, progressively becoming their protector. The results of the progressive transformation of EU law, or rather, of the acceleration of its constitutional development, accentuates the tensions posed by the classic themes of legal integration – the limits of judicial intervention, the lines of competences, legitimacy, or the potential constitutional spillover effect. What is relatively a new phenomenon is that these issues are now raised simultaneously in the framework of litigation where the most sensitive national debates in extremely polarized contexts are shifted to the European judicial arena both through EU institutional action and directly from the desk of national judges, sometimes finding themselves removed from their traditional role as impartial arbiters.[46] The Court of Justice is put under strain, faced with unprecedented litigation that places upon it the responsibility of offering a legal forum for questions which have little or nothing to do with what was *traditionally* understood as EU law. The rule of law litigation may be seen as only the starting shot in a growing trend, in which EU law is called upon to address national institutional and constitutional conflicts which become rapidly europeanized, from judicial independence and its many facets, to extremely sensitive political matters such as the Spanish amnesty law. We should not be surprised if the annulment of the first round of the Romanian 2024 presidential election makes it, in one way or another, to the Court of Justice.

The fact that values and principles occupy centre stage in case law and legal debates is symptomatic of profound disruptions. For one thing, when values come before courts, it is because the disagreement on their content has become fundamental, and their shared character contested. The last ten years have marked a process through which the constitutional substratum, so far taken for granted, has been projected to the forefront of the EU legal debate, being pushed to be hardened as an enforceable positive core

45. Andreas Matthias Donner, 'The Constitutional Powers of the Court of Justice of the European Communities' (1974) 11 CML Rev 127, 129, doi: 10.54648/COLA1974010.

46. Ondrej Kadlec and David Kosar, 'Romanian Version of the Rule of Law Crisis Comes to the ECJ: The *AFJR* Case is Not Just about the Cooperation and Verification Mechanism' (2022) 59 CML Rev 1823, 1843, doi: 10.54648/COLA2022120.

containing the higher-ranking obligations for the Union and its constituent components.[47]

Against the background of permanent constitutional litigation, the long-standing discussion on the limits of and methods for integration is reaching its outer limits. Whether and in which circumstances values are enforceable in a free-standing capacity is *the* key question, raised explicitly in *Commission v Hungary,* where the Commission relies on Article 2 TEU as a self-standing ground in its infringement action motivated by the Hungarian 'anti-LGBTQI+ law'.[48] But one cannot but think that, whatever the result may be, the cat is already out of the bag – the possibility of operationalizing values through already existing provisions and principles is already pretty vast – as already made clear by the Court in the two rulings on the Conditionality Regulation. This is only one of the developments that currently push the Court to position itself on the structural limits of Union law – with other crucial value-laden questions occupying centre stage of the constitutionalization debate, such as the characterization of the citizenship of the Union as part of the EU constitutional core, based on the values of Article 2 TEU, in order to establish prominent limits to the exercise of the Member States' power to lay down the conditions for granting nationality.[49]

In this quest, the focus is bound to move from the preservation of checks and balances in the Member States, to the scrutiny of compliance with values by the institutional design of the EU itself, as well as to the articulation of the balance between the different values and core principles. A recent example of such trend is the jurisprudential resolution of the conundrum of the judicial review in the Common Foreign and Security Policy. If a value-centred approach was conceivable,[50] there is no doubt that a strong attachment to core principles and values and the desire to balance these with the federal structures and the principle of attribution are behind the solution arrived at in the landmark case *KS and KD.*[51] The Court has resolved an apparently unsolvable tension at the heart of EU primary law,[52] by reconstructing the inconsistencies of the EU Treaty into a reverse political question doctrine that arguably paves the way for accession to

47. On this process, see Jürgen Bast and Armin von Bogdandy, 'The Constitutional Core of the Union: On the CJEU's New, Principled Constitutionalism' (2024) CML Rev 1471, doi: 10.54648/COLA2024099.

48. Pending Case C-769/22.

49. Case C-181/23, *Commission v Malta*, EU:C:2025:283, paras 91 and 95.

50. Opinion of AG Ćapeta in Joined Cases C-29/22 P and C-44/22 P, *KS and KD*, EU:C:2023:901, points 154-155.

51. Joined Cases C-29/22 P and C-44/22 P, *KS and KD*, EU:C:2024:725.

52. Editorial Comments, 'From Opinion 2/13 to KS and KD: Confronting a Legacy of Constitutional Tensions' (2024) 61 CML Rev 1455, doi: 10.54648/COLA2024097.

the European Convention on Human Rights, at least from a legal standpoint.[53] The ball of accession is back in the political court, which must now fulfil not only a constitutional duty, but an existential need –now more than ever, with the potential significant evolution of the Common Defence Policy as one of the crucial developments to be expected in the near future.

On values and politics – mind the gap

Looking at the contained scope of the Schuman Declaration, it is clear that nowadays the measure of success has diversified. The values and objectives of today's Union only minimally differ from those of a State. The Schuman Declaration, as a very first step, placed a measured compromise between pragmatism and idealism at the heart of integration, which still beats today. Does the move towards value-centred integration mean that integration has shifted away from its carefully balanced roots? Not really.

Although it refrained from advancing a grandiloquent political plan, the Schuman Declaration was not short of idealism, recurrently alluding to the value of solidarity, projecting a 'true foundation for economic unity' and aiming ultimately at the goal of a European federation. Pragmatism lay on the pace; idealism, on the goal. 'Europe will not be made all at once or according to a single plan. It will be built through *concrete achievements* which first create a de facto solidarity'. Seventy-five years later, the accumulation of those concrete achievements has reached every aspect of social, economic and political life, and solidarity is an evolving *de jure* actionable category.[54]

The Schuman Declaration also hinted timidly at the crucial social legitimacy of integration – the *equalization* and *improvement* of the living conditions of workers. Echoing that initial goal, the promotion of the well-being 'of its peoples' is, together with the promotion of values and the achievement of peace, the first of the objectives of today's Union.[55] The success of economic integration is beyond doubt, as is the extraordinary improvement of living conditions if we take 1950 as

53. Sara Iglesias Sánchez,'The Jurisdiction of European Courts in the CFSP. Between Exceptionalism and Consistency of Legal Remedies in a Union Based on the Rule of Law' (2025) 229 EU Law Live Weekend Edition 1, <eulawlive.com/weekend-edition/weekend-edition-no229/>.

54. On this debate, see inter alia Esin Küçük, 'Solidarity in the EU: What Is in a Name?' (2023) 2 Nordic Journal of European Law, doi: 10.36969/njel.v6i2.25409. Amongst the growing case law, the recent judgment in Case C-181/23, *Commission v Malta* alludes to Union citizenship as 'one of the principal concrete expressions of the solidarity which forms the very basis of the process of integration' (para 93).

55. Art 3 TEU.

a threshold. However, the balance between the 'social' and the 'market' in the concrete realization of the 'social market economy' EU constitutional objective remains one of the most crucial and delicate tasks for the future evolution of the Union. The population at risk of poverty or social exclusion reached 94.6 million in 2023, amounting to 21.4% of the EU population, with great differences between Member States and across their regions.[56] With poverty even being disconnected from unemployment and minimum wages no longer protecting earners from the risk of poverty,[57] the well-being of citizens as an objective continues to be crucial for the realization of the EU core values.

All the achievements notwithstanding, the challenges for the survival of the integration project are felt more strongly than ever in ballot boxes across the EU. This may be just a perception, product of the golden age fallacy. But the public debate that surrounds this 75th anniversary celebration is marked by the advance of populism, the manipulative revisitation of history, the contestation of minority, migrants' and women's rights, the retreat from basic premises of antidiscrimination law and climate law, and all this hand in hand with the challenges that digitalization poses to the democratic process, openly and officially sponsored by foreign powers and powerful private corporations. Disinformation, manipulation and hate fuel an omni-present digital public space that the EU struggles to reconstruct through regulation against the self-serving accusations of deviating from a distorted vision of 'free speech'.[58]

A strong structured legal system, entrenched in solid values, will be crucial in upholding the achievements of integration in a climate of height-tened contestation. But will it be enough? The cleavage between legal discourse and political reality makes a dramatic entry on stage. The valor-ization of Europe can animate and strengthen political action, articulate the debate, and provide for ammunition in institution-led litigation, but cannot substitute political will to enforce compliance with – and realization of – the constitutional core. The decade-long consistent failure to activate the

56. 'Risk of poverty or social exclusion in regions' (*Eurostat*, 15 October 2024) <ec.europa.eu/eurostat/web/products-eurostat-news/w/ddn-20241015-1>.

57. See Impact assessment accompanying the Proposal for a Directive of the European Parliament and of the Council on adequate minimum wages in the European Union SWD (2020) 245 final, 28.10.2020. The Directive was adopted on 19 October 2022 ([2022] OJ L 275/33) and is currently the object of annulment proceedings. AG Emiliou proposed its annulment in his Opinion in Case C-19/23, *Denmark v Parliament and Council*, EU:C:2025:11.

58. This comes on top of and notwithstanding the different constitutional approaches to freedom of expression on both sides of the Atlantic. See eg Sionaidh Douglas-Scott, 'The Hatefulness of Protected Speech: A Comparison of the American and European Approaches' (1999) 7 William and Mary Bill of Rights Journal 305.

internal political safeguards of common values through Article 7 TEU serves as the epitome of this fatal disconnection.

At the risk of appearing fatalist, we should not forget that 2025 also marks the 80th anniversary of the end of what remains today the deadliest war in history. The Schuman Declaration reminds us that the founding creative efforts allow the Union today to look back at those times as distant shadows from the past. May new true and enthusiastic creative efforts ensure that this continues to be the case in the future.