

Collective Memory in the context of European integration processes: some critical reflections on the EU politics of remembrance¹

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Abstract. – This paper focuses on the construction of European memory and identity within the EU integration processes. The aim is to provide some critical reflections on the EU politics of remembrance by exploring the grand European narratives through the evolution of the EU law. In particular, the paper argues that equating Nazism and Communism as totalitarian regimes equally evils within the European memory-making has had a boomerang effect as it has paved the way in Eastern Europe to illiberal memory politics aimed at condemning the Communist past, yet at the same time downplaying national crimes committed in the Holocaust. The latter assumption is proved by introducing three case studies: Hungary, Poland, and Croatia as the most problematic EU member states in terms of WWII-related revisionism.

“If Europe is to be saved from infinite misery, and indeed from final doom, there must be this act of faith in the European family, this act of oblivion against all crimes and follies of the past”
(Churchill 1946).

Introduction

Collective memory – a term developed to explain how different social groups collectively remember the past – has been traditionally cited as an essential component of nation building projects (Halbwachs 1925). In nationalism studies, it has become a commonplace to consider nations as imagined communities (Anderson 1991), meaning that nations are politically constructed, and collective memory helps people to imagine they are part of the same nation. The power of memory resides in its ability to create a common We-identity: it binds people together by providing for a group’s unity and solidarity, and a sense of common belonging (Calhoun 1993: 211). The construction of official national memories is not, however, an easy task: it represents a process that implies selections, forgetting and many multiple accounts. What has to be remembered and how and what has to be forgotten from official national memories is decided in every society by people in power, and constantly transmitted through what has been termed as immaterial and material *lieux de mémoire*: symbols, historical narratives, museums, monuments, memorials, commemorations, memory laws, etc. (Nora 1984).

Memory studies has further explained that collective memory enjoys a complicated relationship with history. Although the two are sometimes made of similar material, history has facts and truth as

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goals, while memory is content to rearrange the past by elevating it to a mythical dimension as its goal is the identity formation (Fogu and Kansteiner 2006: 284). Memory has been thus often associated to fabrication of history, invented traditions, and historical revisionism (Hobsbawm and Ranger 1983). The fact that memory privileges mythology does not reflect necessarily a negative phenomenon. Memory can serve peace projects, especially in post-conflict societies, if the past is reconstructed in service of reconciliation. Conversely, memory can be manipulated for political goals and when this is the case it can intersect with the very concept of democracy, justify illiberal turns, and lead to the creation of divisions, conflicts and even wars. The potential of memory to exacerbate conflicts could be clearly observed in the Yugoslav Wars of the 1990s (Todorova 2003), while its reconciliatory potential is exemplary represented by the process of European integration.

Yet the notion of collective memory may be traditionally correlated to the concept of the nation, but this does not mean that nation-states are the only repository of memories. The power of memory in the identity creation has been recognized also by the European Union, which has undertaken – especially in the past few decades – significant efforts to unify the European memory in the name of integration. These efforts are visible in numerous *lieux de mémoire*: common symbols (the European flag and the European anthem); historical narratives, which attempts to integrate the memory of WWII and its core event, the Holocaust, and since the 2004 Eastern enlargement of the EU, Soviet communism; museums (notably the House of European History), commemorations (Europe Day), the EU’s official motto “United in diversity”, and even the EU law. Reasoning by analogy to nation-building, the EU institutions believed that the construction of a shared European memory would be a valuable resource for the collective identification processes (Neumayer and Georges 2013:2) that are crucial to the establishment of an “ever closer Union,” and thus necessary for making of Europe a real political community.

Nowadays, however, in Europe memory has become an object of dispute rather than unification. Across the continent populism and nationalism are on the rise, and divisive, openly illiberal memory politics represents a mounting phenomenon in the EU member states, thus threatening not only their democratic structure, but also the future of the whole European project. Such trends are particularly evident in the newer member states of Eastern Europe, where the politics of memory is often marked by revisionist interpretations of history, especially in relation to WWII atrocities. Yet in 1993 a journal article provocatively questioned: *A European Collective Memory, is it Possible?*, and since then scholars from different disciplines have continued to ask whether a genuinely shared European memory is capable of being realized (Pakier and Str ath 2012; Gluhovic 2013). Nowadays, almost thirty years later, the same question seems more actual than ever.

This paper focuses on the “Europeanization” of collective memory within the context of European integration processes. The aim is to provide some critical reflections on the existing EU politics of remembrance by exploring the European grand narratives and their changing perspectives through the evolution of the EU law. In particular, the paper argues that the European master narratives which attempt to define the Holocaust and Soviet Communism as equally evils have had a boomerang effect, especially in Eastern Europe, as this has paved the way within the region to WWII-related revisionism. In order to prove such assumptions, the paper introduces as case studies Hungary, Poland and Croatia that is, three countries that represent the most problematic EU member states in terms of historical revisionism (Echikson 2019).

2. European Memory – What is it?

The notion of European memory inevitably touches upon fundamental questions of “what is Europe?,” “who are Europeans?,” “what makes them Europeans?,” and not less importantly, “what can hold Europeans together in the days to come?” – thus providing for a potentially powerful tool for shaping European identity and legitimizing the past, the present and the future of the European integration. Europe has, however, a particularly problematic past, which renders the construction of

a transnational common European memory quite difficult and complex, as it has necessary to accommodate heterogeneous and potentially divisive memories of its member states.

Some first attempts aimed at promoting shared cultural elements and a common European identity have been put into practice since the beginning of the European integration, and included three reference points: a) the Schuman Declaration of 9 May 1950, which refers to WWI and WWII as the zero hour and the trigger of European integration; b) the Declaration on the European identity of 14 December 1973, which refers to the concept of European heritage and the role of common culture as the crucial element of European identity, while abstaining from focusing on any specific historical period, and c) the achievements of the integration process themselves, corroborated by the European official symbols (European flag, European anthem, and Europe Day).² Nonetheless, these early efforts aimed at constructing the European identity had proven to be insufficient for creating a common feeling of belonging (Prutsch 2015: 15).

In fact, the formation of Europe as a “community of memory” (Assman 2007:11) belongs, more properly, to what has been called the “third wave” of European integration. While the first wave comprises the economic integration, which is on the road to completion, and the second wave, the less successful political unification, the third wave consists of the cultural Europeanization (Karlsson, 2010: 38). The latter has been largely launched in the early 1990s, following the end of the Cold War. The formation of European memory has been positioned at the very heart of the cultural wave with the aim to foster the European identity and add additional legitimacy to the European project. A new memory framework has been thus founded initially in the form of Holocaust remembrance, and later by adding the memory of Soviet communism. At the same time, the EU institutions, mainly the European Commission and the European Parliament, have become central players in shaping the European memory politics. Especially in the past few years, this politics of memory has attempted to promote an active European remembrance of Europe’s 20th century totalitarian experiences. What follows is an exam of the EU politics of memory through the lengths of European master narratives which act as the EU’s founding myths: Europe’s success story after 1945, the Holocaust, and Soviet Communism.

1.1 Europe’s Success Story after 1945 – the Foundational Myth

Europe’s success story after 1945 is a tale about the birth of the EU itself and its successful evolution through integration. According to the EU official narrative, the first half of the 20th century was a period of European suffering at the hands of nationalism. The latter brought the continent to the point of ruins, but it was in this dark moment of the history that a vision of a light future took root. The very same states that provoked European suffering emerged from the ashes of WWII by renouncing to nationalism, and sought their redemption in the construction of an united Europe as a project of peace, prosperity and shared values (Della Sala 2016: 9). The Schuman’s speech of 9 May 1950, proposing to place French and German coal and steel industries under a common High Authority, incorporated the original aim of the European integration, that is to ensure that never again world wars start from the conflict between European states. It is thus conventionally regarded as having inaugurated what was to become the EU (Sierp 2014: 106). Later works on the myth added the European founding fathers – a group of heroic figures (including Konrad Adenauer, Alcide De Gasperi, Jean Monnet and Winston Churchill) who challenged the forces of nationalism and led to the rebirth of Europe (Ifversen 2019: 203). Moreover, the united Europe, according to its foundational myth, has been also responsible for peace and prosperity of the last half century (Della Sala 2016: 9).

The EU founding narrative has been institutionalized in several ways. References to WWII and the importance of peaceful relations among countries are contained in the Treaty establishing the

² The European flag and the European anthem were used in 1950s and 1960s as symbols of the Council of Europe, and approved by the European Council in 1985 as symbols of what was to become the EU, while the Europe Day, held on 9 May every year, marks the anniversary of the Schuman Declaration.

European Coal and Steel Community (1951), which remains the cornerstone of the EU's constitutional order. Its preamble not only stressed the importance of world peace, but introduced a vision of an European share destiny, identified in the rejection of old-age rivalries between states and the creation of the economic community that will broader and deeper community among peoples long divided by bloody conflicts. In addition, the preamble referred to a contribution which an organized and vital Europe can make to civilization, and saw this as indispensable for to the maintenance of peaceful relations. More recently, the "Resolution on the 60th anniversary of the WWII in Europe on 8 May 1945" – adopted by the European Parliament on 18 May 2005 – underlined the success of the European integration, and included three historical events, which became parts of European memory: 55 years since the Schuman declaration and the birth of the EU on May 9; 60 years since the end of WWII in Europe on 8 May; and one year since the accession of ten new member states on May 1 (Wæhrens 2011: 13). References to the peaceful Europe are further contained in the Treaty on the European Union (TEU) (as modified by the Article 1 of the 2007 Treaty of Lisbon): "DRAWING INSPIRATION from the cultural, religious and humanist inheritance of Europe, from which have developed the universal values of the inviolable and inalienable rights of the human person, freedom, democracy, equality and the rule of law." Moreover, the element of redemption contained in the EU foundational myth in relation to the EU original member states has been formalized in the EU's decision-making, especially in the Union's commitment to human rights protection, while at national level it made seen more normal that sovereign powers can be transferred to or pooled at European level (Della Sala 2016: 11). Finally, the narrative of the successful European integration has been enclosed as of 2000 in the EU's official motto "United in diversity," which signifies, according to the European Commission, that Europeans have come together, in the form of the EU, to work for peace and prosperity, while at the same time being enriched by the continent's many different cultures, traditions and languages.

What should be noted is that the EU's foundational myth does not deal with European geographical borders. Thus where Europe begins and ends remains a mystery that allows the EU expansion in terms of the enlargement through integration. The foundational myth is, however, much clearer in defining of who is part of the "We-identity" and who is not. By leaving open the question of borders, the narrative shows that the EU is not bound, as nation-states are, by concepts of national belonging and exclusion. Rather what brings Europe together are shared values (Della Sala 2016: 11). In this sense, the Article 49 TEU expressly states that the EU membership is open to "any European State which respects the values referred to in Article 2, and is committed to promoting them." These values are: "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 universally accepted democratic values are positioned here to anchor the European identity to its civic aspects, while the EU's official motto "United in diversity" denotes its cultural elements, as it implies the perception of a shared European heritage, regardless of so-called objective historical reality (Bruter 2003: 1148), and might thus include any form of common history such as myths, symbols and emotional bonds.

1.2 The Holocaust and Soviet Communism – Equally Evils?

New trends in the European politics of memory started, however, within the European cultural integration, and can be largely observed in the evolution of the EU soft law, mainly resolutions and declarations of the European Parliament. Although resolutions and declarations are non-binding statements, but rather symbolic or value-based political statements with which the European Parliament expresses its position on matters within the EU's competences, they remain quite relevant since they represent today the main instrument of memory-making at European level.

More precisely, as of 1990s the EU has established a model of remembrance that interprets Nazi Socialism as a never-to-happen-again historical period and the Holocaust as ultimate evil against which the European civilization has to be design (Prutsch 2015: 23). Such narrative was initially

enclosed in the “Resolution on European and international protection for Nazi concentration camps as historical monuments” of 11 February 1993, and the “Resolution on Auschwitz” of 18 April 1996. At the same time, restitutions of possessions of Holocaust victims became a central issue, which has been recognized by the “Resolution on the return of the plundered property to Jewish communities” of 14 December 1995, and the “Resolution on restitution of the possessions of Holocaust victims” of 16 July 1998. The same period saw the adoption of the “Resolution on a day to commemorate the Holocaust” of 15 June 1995. The Europeanization of the Holocaust then continued with the adoption of the “Declaration on the remembrance of the Holocaust” of 7 July 2000, which defines the latter as a historical singularity that “fundamentally challenged the foundations of civilisation and must be forever seared in the collective memory of all peoples.” This has been followed by the adoption of the “Resolution on remembrance of the Holocaust, Anti-Semitism and Racism” of 27 January 2005, which stresses that “Europe must not forget its own history,” and declares the “concentration and extermination camps built by the Nazis” to be “among the most shameful and painful pages of the history of our continent.”

By considering the Holocaust as an essential part of European memory, the EU has completely reversed the post-WWII logic, when the commemoration of the Shoah was not institutionalized in any form (Sierp 2014: 110) as the extermination of European Jews and National Socialism were considered essentially as a German problem. By contrast, the Europeanization of the Holocaust led to the transformation of the International Holocaust Remembrance Day – held every year on 27 January – into a truly European memorial day which is commemorated by both the EU member states, and the representatives of European institutions. In addition, the Europeanization of the Holocaust also meant that all EU member states had to come to terms with their own undemocratic past in an unbiased way by recognizing, for example, national crimes committed in the Holocaust. At national levels, this has been followed by several attempts aimed to criminalize the Holocaust denial. Moreover, it has been argued that the inclusion of the Holocaust as an important element of national history was one of the entrance tickets to the EU in the 2000s (Judt 2005: 803).

After the 2004 Eastern enlargement of the EU, a new trend in memory politics entered the Union. The enlargement brought eight countries from Eastern Europe into the EU, and with this also new communities of memory, which confronted the EU with a considerable challenge in terms of European cultural integration. In particular, the Baltic states and Poland were particularly active in fostering a “new European commemorative politics that focus on the recognition of communist crimes” (Mälksoo 2009: 154). The central claim in proposing such memory politics was that the Nazi regime and Communist regimes were equally evils (Closa 2011: 9). In this sense, it has been argued, in particular, that the Nazi regime and the Holocaust have become institutionalized and commemorated internationally, while crimes committed by Communist regimes have received much less academic and political attention, and have not been internationally investigated (Mälksoo 2009: 653) – an assumption that has been acknowledged also by the Council of Europe with the Resolution No. 1481 on the “Need for International Condemnation of Crimes of Totalitarian Communist Regimes” of 25 January 2006. The latter calls on the former Communist states to “clearly distance themselves from the crimes committed by totalitarian communist regimes and condemn them without ambiguity.” Accordingly, in several Eastern European countries the denial of Communist crimes has been criminalized following the criminalization of the Holocaust denial.

The EU’s response to the requests of Eastern Europe has been the construction of an European memory that includes Nazism and the Holocaust as well as Soviet Communism and Stalinism. This has culminated in a number of new resolutions adopted by the European Parliament that emphasize the need to share and promote the memory of crimes committed by all 20th century totalitarian regimes. For example, the “Resolution on the 60th anniversary of the end of the WWII in Europe on 8 May 1945” of 12 May 2005 recognizes that “suffering, injustice and long-term political and economic degradation endured by the captive nations located on the eastern side of what was to become the Iron Curtain”. Then, the “Resolution on the commemoration of the Holodomor, the Ukraine artificial famine (1932-1933)” of 23 October 2008, acknowledges the Holodomor as a crime

against humanity and stresses that readiness to come to terms with 20th century tragic history and reconciliation with the past forms a “stable basis for the construction of a common European future.” Moreover, the “Declaration on the proclamation of 23 August as European Day of Remembrance for Victims of Stalinism and Nazism” of 23 September 2008 proclaims 23 August – the day of the 1939 signature of the Molotov-Ribbentrop Pact – as “a Europe-wide Day of Remembrance for the victims of all totalitarian and authoritarian regimes.”

The most explicit position of what has to be intended as main components of European memory is contained, however, in the “Resolution on European Conscience and Totalitarianism” of 2 April 2009, as it has integrated for the first time the three EU’s foundational myths in a pan-European narrative. In particular, it acknowledges the impossibility of achieving “fully objective interpretations of historical facts” and that “no political body or political party” should have a “monopoly on interpreting history.” At the same time, however, it stresses that “the memories of Europe’s tragic past must be kept alive in order to honour the victims, condemn the perpetrators and lay the foundations for reconciliation based on truth and remembrance,” declaring Nazism to be the “dominant historical experience of Western Europe,” while Eastern European countries “experienced both Communism and Nazism.” The achievements of European post-war integration are described as a direct response and a real alternative to “the suffering inflicted by two world wars and the Nazi tyranny that led to the Holocaust and to the expansion of totalitarian and undemocratic Communist regimes in Central and Eastern Europe.” It is, however, maintained that “Europe will not be united unless it is able to form a common view of its history, recognizes Nazism, Stalinism and Fascist and Communist regimes as a common legacy and brings about an honest and thorough debate on their crimes in the past century.” Accordingly, the 2009 Resolution underlines the “importance of keeping the memories of the past alive, because there can be no reconciliation without truth and remembrance.” Following the 2009 Resolution, the European Parliament strongly pushed for creating the House of European History, which has been opened in Brussels on 6 May 2017 with the aim to strengthen European citizens’ consciousness of a common European past.

Finally, the “Resolution on the importance of European Remembrance for the future of Europe” of 19 September 2019 claims that the outbreak of WWII was a direct result of the 1939 Molotov–Ribbentrop Pact (the non-aggression pact between Nazi Germany and the Soviet Union); considers this as an indisputable fact; expressly condemns the Nazi and Communist regimes, including their symbols, as parallel evils which carried out mass murders, genocide and deportations, and caused a loss of life and freedom in the 20th century; pays tribute to the victims of all totalitarian and authoritarian regimes, and calls for a “common culture of remembrance” as a way of fostering Europeans’ resilience to modern threats to democracy. It recalls that European integration has been, from the start, a response to the suffering inflicted by two world wars, and built as a model of peace and reconciliation founded on the values common to all member states. Finally, the 2019 Resolution condemns extremist and xenophobic political forces in Europe that are increasingly resorting to distortion of historical facts, and employ symbolism and rhetoric that echoes aspects of totalitarian propaganda, including racism, anti-Semitism and hatred towards sexual and other minorities.

2. Conflicting Memories for an United Europe? - East and West Divide

Undoubtedly, the EU politics of remembrance has been inclusively formulated, and confirms the EU’s “united stand against all totalitarian rule of whether ideological persuasion” (Neumayer 2019: 54). In particular, the focus on the remembrance of all 20th century totalitarian regimes reflects the EU’s aim for a wide recognition of injustices, and this should be considered as a positive development. However, the present focus of the European memory is also quite problematic as it led to several negative (although unintended) consequences.

The first is related to the construction of European memory itself, as it raises the question of how useful are the three EU’s foundational myths as basis for the EU legitimacy and European

identity shaping. The narrative about Europe's success story after 1945 presents itself as a positive memory about the birth of the EU and its successful integration. It also anchors European identity to both civic aspects (shared values), and cultural elements (United in diversity). As a positive foundational myth it has thus at least the potential to evoke stronger emotional bonds (Kaiser, Krankenhagen, Poehls 2016: 144). By contrast, Nazism and the Holocaust as well as Soviet Communism and Stalinism represent an example of negative founding myths against which present-day Europe has been created. Such negative memories are problematic because they are neither suited to the legitimation of future policy nor capable of creating new affective bonds to the EU (ibid.).

Second, the insistence on the remembrance of 20th century totalitarianisms has finished to exacerbate diverging interpretations of same historical events in the European East and West, thus leading to the East and West divide within the Union. In Western Europe, Nazism is perceived as a never to happen again historical period and the Shoah as ultimate evil. WWII is thus essentially seen as a good war in which the Allies, including the Soviet Union, fought against Nazism and Fascism. Due to its connection with the resistance against National Socialism, Communism too largely remains accepted. Accordingly, for Western Europe there is simply no need for an engagement with the crimes of Communist regimes of Eastern Europe, or even with the legacies of Communist parties at home (Judt 2005: 826). Such view is not shared by Eastern Europe which went through a tragic double experience of Nazi Socialism and Soviet-style Communism. In this case, the period 1939-1945 was marked by the liberation from Nazism, yet at the same time marking also the beginning of foreign Soviet domination and the establishment of Communist regimes. The democratic systems which emerged after 1989 should be seen first and foremost as a counter project to the Communist past. For this reason, Eastern Europe does not see the Holocaust as exceptional and has pushed instead to establish Stalinist crimes and Communist terror on an equal level with the horrors of National Socialism.

Yet it is quite clear that this clash over memories constitutes a serious obstacle in the construction of a shared European memory. Moreover, it has been even intensified with the 2019 "Resolution on the importance of European Remembrance for the future of Europe." The latter suggests that WWII should not be seen anymore as an epic confrontation between Nazi Germany and the Allies, which included the Soviet Union, as it expressly claims that the outbreak of WWII was a direct result of the 1939 Nazi-Soviet non-aggression pact, and that this represents an indisputable fact. Such claim is problematic as it implies that WWII was not a result of German aggression, but of Nazi-Communist aggression. The same claim is also questionable as the historical research agrees in identifying as WWII aggressors Germany, Japan, and to less extent Italy (Hobsbawm 1994). The 2019 Resolution has been thus criticized for historical inaccuracy and distortion of history. Yet it is also truth that the aim of the 2019 Resolution is to construct a common European memory rather than discover historical facts and truth. Nonetheless, such reconstruction of the past is problematic as it further creates divisions rather than unification. Furthermore, the 2019 Resolution recalls that some European countries have banned the use of both Nazi and Communist symbols, thus expecting other countries to follow the example. This further represents a critical aspect as even Communist symbols, mainly the red star, are perceived in different ways in the European East and West – an issue that has been also emphasized by the Council of Europe. For example, in *Vajnai v. Hungary* of 8 July 2008, the European Court of Human Rights (ECtHR) clearly explained that the red star represents a symbol which has multiple meanings. While in Eastern Europe mass violations of human rights committed under Communism discredited the symbolic value of the red star, it cannot be understood representing exclusively communist totalitarian rule; it also symbolizes the international worker's movement, struggling for fairer society, as well as certain political parties active in different European states.

Third, the recognition of Nazism and Communism as equally criminal led the EU politics of memory to define both Nazism and Communism as totalitarian regimes. Yet this is not in line with scientific research, which teaches us a quite different story. In regime classifications, Nazi Germany is categorized as totalitarian, as well as the Soviet Union under Stalinism (Arendt 1951). Building totalitarian systems may indeed have been the cherished goal of other undemocratic regimes and

rulers of the European 20th century, but they simply failed to exert the total control over the masses, and thus remain authoritarian. In other words, not all authoritarian regimes can be categorized as totalitarian, but all totalitarian regimes should be classified as authoritarian. The experience of Eastern Europe with Communism vary greatly between periods and states. Even the totalitarian Soviet Union of 1940s and 1950s had experienced a widespread reform of Communism in 1980s. Albania was marked by a prolonged experience of heavily Stalinism, but Yugoslavia has experienced a liberal Communism with open borders and consumer socialism since the 1970s (Sindbæk Andersen, Törnquist-Plewa 2016: 7). It is thus scientifically incorrect consider all Communist experiences in Eastern Europe as totalitarian. But this is exactly what happened within the EU memory politics. For example, the 2019 “Resolution on the importance of European Remembrance for the future of Europe” uses the terms Stalinism and Communism interchangeably, thus implying that all Communist regimes were totalitarian. This is clearly producing negative effects in Eastern Europe as it reduces incentives to critically examine one’s own national Communist past.

Finally, the equation of Nazism and Communism as equally criminal led to a paradoxical consequence. Under the umbrella of EU politics of remembrance several Eastern European countries have started to promote openly nationalistic versions of their past in which the nation is always depicted as victim, unless it had collaborated with the Communist regime. This has culminated in a considerable WWII-related revisionism, which is expressed today by positive attitudes towards extremely right-wing nationalist movements from the past, largely depicted as Communist resistance movements – a trend that led to downplaying their complicity in the Holocaust. Hungary, Poland and Croatia represent the best examples of such trend.

3. The (Unintentional) Impact of European Memory Politics in the East – WWII Revisionism in Hungary, Poland, and Croatia

As of 2010s, Hungary, Poland and Croatia have experienced a significant rise of nationalism, accompanied by WWII revisionism. In Hungary, this coincided with the formation of the 2010 Viktor Orbán’s government and the subsequent adoption of the 2012 Constitution (officially termed Fundamental Law); in Poland with the 2015 elections, won by the nationalist-conservative Law and Justice Party (PiS), while in Croatia the same trend started immediately after the country’s 2013 EU accession. In all of these cases, changes in memory politics have been marked by strong condemnations of past communist regimes under the umbrella of EU politics of remembrance, yet at the same time rehabilitating WWII criminals and Nazi collaborators, and diminishing national crimes committed in the Holocaust.

In the period 1990-2010, in Hungary and Poland especially, the memory of Communism was treated with cautions condemnation. Both countries have experienced a peaceful democratic transition, and prosecutions of Communist leaders through the adoption of specific legislation, such as lustration laws, were mostly symbolic (Pistan 2019: 264). In Hungary, the only criminal measure related to Communism was the 1993 prohibition of the public use of totalitarian symbols: the five pointed red star, the hammer and the sickle, the swastika, the SS-runes, and the arrow cross,³ with the only exception of displays for scientific, artistic, or educational reasons (Section 269/B of the Criminal Code). Attempts aimed to penalize the Holocaust denial failed until 2010, when it was finally introduced in the Criminal Code (Section 269/C) (Könczöl 2017: 261). The same period has been marked in Poland by the 1998 creation of the Institute for National Remembrance (IPN – a research institute with prosecutorial powers to investigate the crimes of the Nazi and the Soviet regimes), while in 2009, the Criminal Code outlawed the propagation of fascism and other totalitarian ideologies, including the dissemination of public use of symbols of the past pertaining to Fascist, Communist, or other totalitarian content. While in Hungary, at least initially, the Constitutional Court

³ The symbol of the Hungarian fascist Arrow Cross government in WWII.

did not find the criminal ban on totalitarian symbols unconstitutional (Decision 14/2000 (V.12.) AB), in Poland such provisions were struck down by the Constitutional Tribunal in 2011 (Fijalkowski 2014: 295).

The obsession with memory of Communism started in Viktor Orbán's Hungary by amending the Section 269/C of the Criminal Code which now penalizes the "public denial of the crimes of National Socialism and Communist Regime" (rather than the sole Holocaust denial as it was previously). Then, the National Avowal (Preamble) of the 2012 Fundamental Law heavily denounced the "inhuman crimes committed against the Hungarian nation by communist dictatorship," while its Article U (3) allowed the creation of the Committee of national memory with the power to investigate the crimes against humanity committed by the Communist regime. Moreover, in 2017 a draft law, called *Lex Heineken*, attempted to ban the commercial use of totalitarian symbols. The latter was formally presented as necessary for preventing their normalization, as citizens may see them daily on commercial brands. Certainly, commercial brands do not use Nazi symbols, but some of them feature the red star, including Heineken, Converse, Milky Way, and San Pellegrino. In fact, *Lex Heineken* appeared more properly a reaction against the Dutch brewing company Heineken, which has been involved in a legal battle over copyright issues with Igazi Csiki Sör – a Hungarian brewer in Romania (Bán 2018). In addition, it was submitted to the Parliament after the ECtHR ruled in *Vajnai v. Hungary* that the Hungarian 1993 criminal ban on totalitarian symbols violates the Article 10 of the ECHR as it represented an indiscriminately broad limitation of freedom of expression. By relying on the ECtHR's decision, the Constitutional Court then changed its previous orientation and found the criminal ban on totalitarian symbols unconstitutional (Decision X/2013 (IV/2478/2012)). However, not only has Hungary refused to retract the original provision from the Criminal Code, but *Lex Heineken* even tried to expand it. Even though it was not passed by the Hungarian Parliament in the end, and is no longer on the Hungarian political agenda, it should be noted that *Lex Heineken* appeared at least not in line with the principle of free movement of goods in the internal market of the EU. The European Commission, however, greenlighted its approval by justifying it with the special historical context and circumstances in Hungary concerning the legacy of the country's previous Communist regime.

Once communism has been condemned, Hungary started to rehabilitate WWII criminals and collaborators by depicting them as anti-Communist, and building monuments in their honour, diminishing at the same time its own national guilt in the Holocaust. Historical research has shown that Hungary passed its own race laws in 1938; joined the Axis alliance in November 1940; helped Germans to invade both Yugoslavia and the Soviet Union in 1941, and that 440 000 Jews were deported from the country in 1944 (most of them would die in Auschwitz). Despite this, Hungarian People are depicted today as victims of what is perceived as Jewish-supported Communism. This newly fabricated Hungarian history is well represented in the Museum "House of Terror," which has only one room devoted to the Holocaust and around twenty to the Communist period, thus diminishing the unique tragedy of the Holocaust and relativizing its horrors with those of the Communist era (Echikson 2019: 90). It should be noted, however, that the denial of national guilts committed in the Holocaust did not penetrate into the Hungarian legal sphere; this has been the case of Poland and its controversial 2018 Holocaust Law.

In Poland, changes to the official view of Communism started with the 2017 street-decommunization law, which has prohibited the propagation of Communism and other totalitarian regimes through names of building, objects, and public service devices. It also obliged local authorities to rename locations that propagate Communism according to a list made by the IPN (Belavusau 2019: 14). This has been followed by the controversial Holocaust Law (an amendment to the 1998 Law on IPN), adopted on 26 January 2018 (thus on the eve of Holocaust Remembrance Day as the latter is held every year on 27 January). The 2018 Holocaust Law criminalized references to the complicity of the Polish state and Polish nation in the crimes of the Holocaust – with the practical effect that every Jew who is still alive and comes from Poland could be prosecuted. The Polish Prime Minister, Mateusz Morawiecki, clarified that the Holocaust Law was necessary to prevent the spread

of disinformation about the involvement of Poland in WWII atrocities, such as calling Nazi-administered concentration camps Polish death camps or Polish concentration camps. The 2018 Holocaust Law was strongly criticized in Europe, Israel, Ukraine, and the USA by describing it as an egregious denial of Poland's role in facilitating the genocide. In fact, Poland may also be the greatest victim of WWII, as claimed by its Prime Minister, but historians have long argued that while the Polish government did not have any role in the Holocaust, some individual Poles were complicit in the Nazi crimes, including the 1941 Jedwabne massacre in which ethnic Poles killed their Jewish neighbours. In response to international criticism, the Holocaust Law was amended in June 2018; instead of the initial criminal offense, the use of terms such as Polish death camps has become a civil offense (Belavusau 2019: 16).

Finally, Croatia is a somewhat special case. As one of the former Yugoslav republics, the country experienced in the 1990s the armed conflict (officially called the Homeland War), and an ultra-nationalist rule. Concerns about WWII revisionism firstly emerged in this period, when it became an official state policy put in place in the name of nation-building. In particular, Croatia attempted to downplay the crimes against humanity committed by the Independent State of Croatia (NDH) – a Nazi puppet state which existed in the period 1941-1945, and was governed by the Ustasha, the Croatian fascist movement responsible for sending thousands of Jews, Serbs, and anti-fascist Croats to concentration camps. The NDH regime started to be officially depicted not only as a quisling creation and fascist crime, but also as an expression of historical yearning of Croats for its own independent state (Pavlakovic 2008: 115). The launch of the parallel processes of democratization and Europeanization in 2000s made believe that WWII revisionism belonged to the dark period of the 1990s; however, immediately after the country's 2013 EU accession it aggressively remerged. The new younger revisionist, historians and politicians, are seeking to rehabilitate the NDH regime by denying (and not only relativizing as it was before) the mass crimes committed by the Ustasha movement. At the same time, anti-fascism is considered as an empty value since associated exclusively to the Socialist Yugoslavia with the result that more than 300 monuments commemorating Communist resistance have been damaged or destroyed, while the glorification of the Ustasha regime and its symbols is flourishing and gaining legitimacy (Pistan 2018: 117).

Similar developments in memory politics are possible, among others, as Croatia has never passed, more or less intentionally, an appropriate legislation which defines the very nature of the NDH regime, or criminalizes the public display of its symbols. For example, the use in the public space of the Ustasha chant "For the Homeland Ready" is generally tolerated even though the Constitutional Court condemned its use (Decision U-III-1296/2016 of 25 May 2016). Moreover, the fact that the NDH regime has not been defined as criminal or fascist by law makes possible the integration of the Ustasha iconography into the emblems of various legally recognized associations. Such attitude toward the Ustasha iconography can be partly explained by the fact that the official state symbols of today's Croatia are very similar or equal to that used by the NDH regime (the chessboard coat of arms, the national anthem, and the official currency *kuna*) (Pistan 2018: 149).

In an attempt aimed at facing Croatia's non-democratic past, including the public display of controversial symbols, the Croatian right-wing government set up in 2017 the "Council for Dealing with the Consequences of Undemocratic Regimes." It was composed of historians, political scientist, lawyers and even the former President of the Constitutional Court, with the competence to issue a series of recommendations which would help the drafting of a future possible legislation banning the public display of totalitarian symbols. In 2018, the Council finally issued the so called "Dialogue Document" – an advisory opinion that probably represents at best how the EU politics can be used at the level of member states to facilitate WWII revisionism. Although formally an advisory opinion, the structure of the "Dialogue Document" is very similar to a judicial decision; it not only obsessively invokes the country's 1990 Constitution, supranational law and case law, but contains even dissenting opinions. In dealing with Croatia's non-democratic past, the Document focuses on both the Socialist Yugoslavia, and the NDH regime. It firstly invokes the fact that Fascism and its crimes are well-known, while Communist crimes should still become an object of research, thus they remain largely

unknown. Without providing any scientific explanations, or any critical reflection on the very nature of the Yugoslav state, the whole existence of Socialist Yugoslavia has been proclaimed as totalitarian. Although this is not in line with the existing scientific research (see Perica 2004, Goldstein 2011), it served to build the second step in Council's reasoning, which consisted in the proclamation of the NDH regime as totalitarian too, thus allowing finally the equation of Socialist Yugoslavia and the Ustasha regime as equally evils.

The Document then focused on totalitarian symbols by invoking the ECtHR case law, mainly *Vajnai v. Hungary*, and recognizes that Communist symbols have multiple meanings as they may represent the "Partisan resistance" and, simultaneously, "totalitarianism." Accordingly, it claims that in Croatia too Communist symbols have multiple meanings, and for this reason their public display should not be prohibited by law. Although at first sight it may appear that such conclusion has been reached to show that Croatia follows European standards, it served only to make a similar move with Ustasha symbols. In fact, once Socialist Yugoslavia and the NDH regime were equated as equally criminal, the manipulation of the ECtHR case law became very easy, and similar reasoning has been transposed on Ustasha iconography. The Document thus claimed that the Ustasha chant "For the Homeland Ready" has multiple meanings too: it was genuinely an Ustasha salute, but it was also used by the Croatian defenders who died during the Homeland War of the 1990s. Moreover, in Croatia's recent past its use has been tolerated. The Document thus concluded that the public use of the Ustasha chant "For the Homeland Ready" should be considered as unconstitutional, but also that there are some exceptions, and that therefore it can be used in all events in which respect is paid in public spaces (including graveyards) to defenders who died fighting for today's Croatia under this slogan. In other words, when the Ustasha iconography is used to pay respect to people evoking the Ustasha memory in the Yugoslav Wars of the 1990s it should be considered evidently in line with the country's democratic Constitution, thus implying also the historical continuity between the NDH regime and today's Croatia.

The aforementioned examples of WWII revisionism in Eastern Europe are only the peak of the iceberg, but they are sufficient to show that the EU memory politics has unintentionally facilitated exactly what it aimed to condemn: the political forces in Europe that are increasingly resorting to distortion of historical facts, and employ symbolism and rhetoric that echoes aspects of totalitarian propaganda.

Conclusion – Europe with(out) Europeans?

Jean Werner Müller once observed that the project of the united Europe will probably require the readjustment of historical narratives and possibly the recasting of various collective memories from East and West (Müller 2002: 10). Yet in the last few decades, the EU has spent significant efforts in unifying the European memory, but its politics of remembrance has not always been conflict and tensions free. By positioning the remembrance of 20th century totalitarianisms at the very core of European memory, the EU has unintentionally intensified the East and West divide, and facilitated WWII revisionism in Eastern Europe.

In 2013, the then President of the European Commission, José Manuel Barroso, launched the "New Narrative for Europe" project by inviting all Europeans to help write a new story for "Europe 2.0." Whatever will be the future tales on where Europeans come from and where Europeans are going, it is quite clear that the creation of the European identity is missing of a fundamental ingredient: an European Constitution. In other words, Europe is entrapped today in a paradoxical situation. On the one hand, the failure of the "Constitution for Europe" project, which has been rejected through referenda in France and Netherlands in 2005, revealed a broad feeling of disenchantment of European citizens with the EU. On the other hand, the creation of a feeling of common European belonging would probably need a Constitution. Constitutions have, in fact, a powerful integrative potential. They author and narrate People's past (du Plessis 2000: 385) by

relying on common symbols, historical narratives, or civic elements of identity, such as universally accepted democratic values. In doing this, Constitutions play a fundamental role in creating and defining who are “We the People” – that is a symbolic representation of unity that does not exist in reality but is bound together through the foundational act. Moreover, People are usually emotionally affected to their Constitutions as they create a sense of authorship and ownership; a sense that “We the People” [...] includes also me (Lerner 2010: 69). If the EU citizens are to stay together in an European future, the relaunch of the project of the EU Constitution then appears a historical task of today Europe.

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