Norms and change in regional identity formation:

The contested limits of European community

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Daniel C. Thomas
Professor of International Relations, Leiden University, The Netherlands

d.c.thomas@fsw.leidenuniv.nl

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Please do not quote or cite without permission. The paper is based on the book manuscript, The Limits of Community: Membership Norms and the Politics of EU Enlargement (Oxford University Press, under contract), which shows how changes in membership norms affected EU decision-making on enlargement over six decades. At ECPR Warsaw, I am especially interested in suggestions on how to improve the fit between the theoretical and empirical parts of this paper.
Abstract: Many explanations of European Union (EU) decision-making on relations with neighboring states, especially those applying for membership, attribute an important role to formal and informal definitions of European identity – in other words, to rules and expectations regarding the behavioral, cultural or structural characteristics of a “European” state. This logic is echoed in the contemporary public debate over Turkey’s quest to join the EU, which focuses on whether Turkey is a European state and why today’s EU seems so reluctant when its precursor, the European Economic Community, recognised Turkey’s eligibility for membership as early as 1963. But while scholars largely agree that collective identity matters, prevailing understandings of collective identity downplay the contestation and evolution of these norms over time. Drawing on various strands of international relations constructivism and social identity theory, this paper offers a dynamic concept of the political identity of regional communities and illustrates its heuristic power with regard to the evolving membership norms of the EU over six decades.
Introduction

Regional identity matters in international politics. The dynamics of regional integration are deeply shaped by formal rules and informal expectations regarding the behavioral, cultural or structural characteristics of states that are eligible to join regional communities. Yet these definitions of regional identity are continually contested and subject to change. As Finnish Foreign Minister Erkki Tuomioio stated in 2006, while holding the EU’s rotating presidency, “The EU has to be ready to take all those European countries whose population wants to join Europe and that fulfil the criteria – and please don’t ask me where the borders of Europe are, that’s something we didn’t want to put on the agenda.”\(^1\) The same rules and expectations are an important driver of ‘Europeanization’ – reform and restructuring within the EU’s neighboring states. And these issues are not limited to Europe. As Rudolfo C. Severino, former Secretary-General of the Association of Southeast Asian Nations noted, ‘The 1967 ASEAN Declaration states that ‘the Association is open for participation to all States in the South-East Asian Region subscribing to the aforementioned aims, principles and proposes.’... This raises the question: what precisely is Southeast Asia?’\(^2\)

Unfortunately, dominant understandings of regional integration are ill suited to explaining the nature, transformation and effects of regional identity over time. Much of the literature on European identity focuses on the social-psychological dynamics of Europeanness as individuals experience it (Checkel 2005, Checkel and Katzenstein 2009, Risse 2010). Though relevant to various forms of political behavior and interest mobilization, this literature tells us little about how the states that form a regional political community define what binds them and how they evaluate the in-group/out-groupness of a non-member state or society. Realist (Skålnes 2005) and liberal institutionalist (Moravcsik and Vachudova 2005) approaches to enlargement assume that membership norms are epiphenomenal, at best, to underlying strategic or domestic political interests.

The liberal constructivist literature attributes a greater effect to membership norms but its claims are disputable and it offers little insight into how these norms evolve over time. Schimmelfennig (2003) and Sædelmeier (2005) argue that when the states of central and eastern Europe framed their membership applications in terms of the Union’s multiple commitments to liberal democracy, EU member states were reluctant to disavow those commitments, which would contradict their values and call all their normative commitments into question, and thus they accepted the applicants’ quest for membership despite its high cost. However, the limited historical scope of both studies force them to treat EU identity as a fixed and exogenous quantity (“Europe” = liberal democracy), weakening their conclusion by excluding systematic evaluation of how EU identity varies over time and how these variations affect EU decision-making in different periods.

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How then should we conceive of the political identities of regional or supranational political communities and how can we study them empirically? Following this introduction, Part I develops a constructivist theory of regional identity that conceives of regional organizations as representatives of imagined communities of states whose limits are defined by membership norms that change over time. Part II then illustrates the heuristic power of this conceptualization by examining the evolution of EU identity norms over six decades, which in turn have shaped decision-making outcomes at every stage of European integration. Finally, Part III offers concluding observations.

Part I. Understanding regional (European) identity

In order to understand the identity of a regional political community, we start by unpacking the familiar concept of ‘region’. While most social scientists include geographic proximity in their definitions of region and regionalism, it would be misleading to conceive of regional geography simply in materialist terms, as if it were defined by physical terrain. As Edward Said (1978) recognised in his critique of Western views of the East, geography is meaningful and thus politically consequential principally through the ways in which it is imagined. Similarly, John Ruggie (1999:235) argues, “space is not given in nature. It is a social construct that people, somehow, invent.”

Defining the limits of community is an essential aspect of this social construction of geographic regions. Consider Benedict Anderson’s definition (1983) of one of the most familiar building blocks of political geography, the nation, as “an imagined political community... imagined as both inherently limited and sovereign... The nation is imagined as limited because even the largest of them has finite, if elastic, boundaries, beyond which lie other nations.” Nations are “distinguished not by their falsity/genuineness, but by the style in which they are imagined” (1983:6-7). Similarly, William Rogers Brubaker defines the nation as “an idea – and an ideal: it is a distinctive way of characterizing and evaluating political and social membership” (1990:380). Anderson and Brubaker were speaking of national communities as communities of individuals, but their logic helps us to understand the identity and limits of regional groups or communities of states.

The founders of a regional community are often quick to trumpet what they have (or aspire to have) in common, be it heritage, values, interests, or some combination of all three. But as social identity theorists point out, the construction of identity involves two interdependent activities simultaneously: creating commonality and establishing difference. Actors attribute certain characteristics to an Other in order to provide meaning and coherence to their collective Self. The same is true of building a regional community of states. No group of states can claim that certain characteristics distinguish its members without referring implicitly or explicitly to other states that lack the same characteristics, either entirely or in sufficient measure (Neumann 1999, Rumelili 2004). Regional identity is thus closely tied to how the members of a regional community distinguish themselves from others and thereby define the extent or limits of their community.
Just as states play a critical role in defining the limits of a national community by structuring patterns of communication and movement and the content of school curricula, regional organizations are central to the process of regional community building. In most processes of regional integration, participating states create an international organization to govern relations among members and between members and non-members. But the creation of these organizations involves far more than functional innovation.

Consider a standard definition of a group: “a collection of individuals who are engaged in a specific type of mutually oriented activity (or set of interconnected activities), entry to which occurs according to one or more criteria of membership” (Hechter 1987:16). Just as “groups may be distinguished from crowds, which have no membership criteria” (ibid), the members of regional communities are distinguished from other states in the international system by the characteristics they attribute to themselves and thus the criteria they apply to states seeking to join. Membership in regional organizations is limited to states that are accepted as part of the group and one of the most important functions of these organizations is to define, communicate, implement, and if necessary enforce these distinctions (Abbott and Snidal 1998: 24). Such constitutive distinctions underlie the membership criteria that define who can join the group of states that comprise the community. As such, the process of representing a regional community is simultaneously a process of community building and rebuilding.

The identity of a regional community of states is thus best understood in terms of the characteristics that members of the community agree should distinguish them, and those eligible to join, from other states in the international system. These constitutive norms may reflect the beliefs of the community’s ruling elites and/or they may be embedded in the community’s formal documents, but not necessarily. This is true because political elites may believe one thing but commit themselves publicly to something altogether different when operating as part of a group. Similarly, the language that diplomats adopt for treaties or other foundational documents may serve various purposes and in any case is often not updated to reflect the evolution of membership norms, which are subject to change and reformulation independent of the content of formal texts. As such, the political identity of a regional community is expressed in the membership criteria expressed by its members in their collective deliberations, not by what beliefs they carry individually nor by what rules they drafted at some earlier point in time.

Membership norms matter a great deal in and around regional communities of states. By defining the identity of the community and thus the socially appropriate characteristics of member states, membership norms determine the legitimacy of various membership scenarios. If current members of the community value their standing within the community, and prospective members value accession, then the norms defining the criteria according to which the eligibility of applicant states should be judged will be a significant determinant of behaviour. This effect is not politically neutral: the ability to deploy membership norms in political battles over the identity and extent of a community of states represents “a very important category of power” (Hurrell 2005:40). Membership
norms will also have a differential impact on various actors, depending upon their policy preferences and the fit between their identity and the prevailing norms.

Various factors may shape the membership norms of regional communities of states, including the material interests, domestic structures, cultural values, historical experiences, and political ambitions of the member states. Once membership norms are established within a regional community, they persist over time, creating incentives for community actors to accept certain states for membership and reject others, regardless of their preferences. There is also likely to be feedback from decisions on applicant states to the status of the norms themselves: after making a decision on whether or not to accept a particular applicant state, policymakers may utilize the norms in public justifications of their decision, thereby reinforcing the salience of the norms and making it harder for later membership choices to follow a different logic.

However, any regional community’s membership norms are subject to change. Even well established norms are open to interpretation and contestation by member governments, parliamentarians and activists with contrary preferences regarding regional identity and order. This interpretation and contestation may lead to normative change, raising or lowering the salience of physical geography, historical or cultural legacies, constitutional order, economic structure, or state behaviour within the definition of the norm. Membership norms thus fit Stephen Krasner’s argument (1988), borrowing from evolutionary biology, that social institutions exhibit a punctuated equilibrium pattern over time, persisting for a while only to be overturned or transformed by elite political entrepreneurship or mass social mobilization that are themselves difficult to foresee.

So how does one identify and trace changes over time in membership norms of the European regional community? EU membership norms are most clearly and reliably evident in the language used by member states’ officials and their representatives, European Commission officials, and members of the European Parliament, speaking publicly or behind closed doors in official deliberations regarding the characteristics that distinguish the Union’s member states from others in the international system. A membership norm exists when most such pronouncements express a common definition of the shared identity of the community’s members and thus of the characteristics that membership applicants are expected to have. A change in membership norms is evident when most such pronouncements express a new definition, including when community members choose not to contradict a novel definition by a high-profile actor and then begin to speak about membership in similar terms.

In order to distinguish membership norms from the self-serving rhetoric of political actors with distinct preferences regarding particular membership choices, it is important to discount pronouncements made during deliberations on any particular applicant state. In addition, EU membership norms should not be confused with the Union’s formal rules on membership, which have been modified several times since the 1957 Treaty of Rome. These treaty provisions may be consistent with the membership norms prevailing at various times, but not necessarily, and they may even be directly contradictory.
Wherever possible, the paper relies on evidence of internal discourse and official records to identify and trace the evolution of EU norms. Primary sources for such material include travaux préparatoires and procès verbaux from EU meetings, the internal notes of member states and EU institutions, as well as diplomatic correspondence and position papers found in national archives and the historical archives of EU institutions. These archival sources were supplemented by interviews with senior officials from EU institutions and the member states’ permanent representations, memoirs, speeches and other statements by key decision-makers, as well as contemporary print and electronic media accounts of the events in question.

Part II: The evolution of EU membership norms

This part of the paper demonstrates how the dynamic understanding of regional identity presented above improves our understanding of European integration and community building since the late 1950s. Contrary to the essentialist claims that pervade the rhetoric of national and supranational officials, the norms that determine EU membership eligibility change over time, sometimes through gradual changes in elite views and sometimes as a result of political entrepreneurship by relatively weak actors. (The impact of these changes on EU decision-making is the subject of other works by the author.)

II.A. A Europe of non-Communist states, 1957-1961

The treaty establishing the European Economic Community (EEC) that was signed in Rome on March 25, 1957 was intended, according to its preamble, “to lay the foundations of an ever closer union among the peoples of Europe.” To that end, the signatories declared their desire “to preserve and strengthen peace and liberty,” and called “upon the other peoples of Europe who share their ideal to join in their efforts.” However, neither democracy nor human rights were mentioned anywhere in the treaty – neither as a goal of the new community nor as a requirement for membership or association. In fact, Article 237 of the treaty declares simply, “Any European state may apply to become a member of the Community.” So what was the “ideal” upon which the Six had chosen to build their new community, and what additional states, if any, were they really ready to welcome as members? To answer this question, it is necessary to begin by examining the attitudes and negotiations that shaped the Treaty of Rome.

The Early Postwar Period: The late 1940s and early 1950s was a time of great ideological and political turmoil in western Europe. The confrontation between liberal democratic states and authoritarian communist states that had erupted over Berlin in 1948 then exploded into a shooting war in Korea two years later, exacerbating fears about the intentions of local Communist parties and about the region’s vulnerability to Soviet attack. In addition, western Europe was divided between those who believed that the continent ought to be rebuilt on a foundation of sovereign nation-states, those who believed that states should be subsumed within a federal or supranational structure able to protect peace
and democracy, and those who favoured integration through ever-deeper economic ties. All of these tensions shaped the launch of the EEC.

At a clandestine meeting in Geneva in May 1944, one month before the allied landing at Normandy, nine national resistance groups had called for the establishment of a federal union with supranational authority that would be open to all European states able “to guarantee democratic institutions and the free development of the human personality.” In early May 1948, the European Movement’s congress in The Hague proposed the creation of a Council of Europe, a common declaration on human rights, and an independent court of human rights. This new body, the congress declared, “should be open to all democratic European nations which undertake to respect fundamental human rights.” The following month, the European Parliamentary Union prepared its own draft constitution for a federal United States of Europe whose “supreme goal [would be] to realize and guarantee in its States the fundamental rights of man enunciated in the preamble of the United Nations Charter.” The same text also stipulated, inter alia, that “The Constitution of each member state must foresee the existence of a Parliament of which at least one Chamber must be freely elected on the basis of universal suffrage.”

The official Statute establishing the Council of Europe was signed in London on May 5, 1949 by the governments of Belgium, Denmark, France, Germany, Ireland, Italy, Luxembourg, the Netherlands, Norway, Sweden and the United Kingdom. The states that signed the Statute would be represented in a Council of Ministers empowered to make decisions on the basis of unanimity while their parliaments would send delegates to a Parliamentary Assembly. The federalists’ emphasis on democracy and human rights as the foundation for European integration is reflected unambiguously in the Statute, which expressly limits Council membership to democratic states that respect human rights and the rule of law. Article 3 of the Statute declares, “Every member-state of the Council of Europe recognizes and accepts the principle of the rule of law and the principle that everyone who comes under its legal and sovereign authority is entitled to the basic human freedoms, and to human rights...” The Council’s commitment to federalist principles was strengthened the following year by agreement on a European Convention on Human Rights and Fundamental Freedoms, which stipulated the creation of a supranational European Court of Human Rights and a Human Rights Commission to interpret and enforce its rules.

Notwithstanding the broad acceptance of the Council of Europe, other voices continued to advocate forms of integration focused on boosting the standard of living and preventing war by deepening economic ties between the countries of western Europe. In May 1950, at Jean Monnet’s recommendation, Robert Schuman declared France’s desire to create a High Authority to control all coal and steel production in France and Germany. This proposal, intended “as a first step in the federation of Europe,” was to be “open to all

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5 Projet de Constitution fédérale des Etats-Unis d’Europe de François de Menthon, juin 1948, at http://www.ena.lu/mce.cfm (May 18, 2005), translation by DT.
countries willing to take part.” “[T]he general objective assigned to the High Authority,” Monnet wrote a few weeks later, “can be summarised by the formula of raising the standard of living by increasing productivity.” On 18 April 1951, the foreign ministers of Belgium, France, Germany, Italy, Luxembourg, and the Netherlands signed the Treaty establishing the European Coal and Steel Community (ECSC). From the first draft circulated by the French in June 1950 to the final text signed ten months later in Paris, the treaty made no mention of democracy or human rights, neither as a principle of the community nor as criteria for membership. A treaty protocol identified close relations with the Council of Europe as a priority for the ECSC, but membership in the Council was not a requirement for joining the new community. Instead, the treaty declared “Any European state may apply to accede.”

But even after the Treaty of Paris, the tension between European integration initiatives focused on bolstering democracy and those focused on raising standards of living and preventing war remained unresolved for some time. When French Prime Minister René Pleven proposed the creation of a European Defence Community (EDC) to contain a rearmed Germany, Italian federalists convinced premier Alcide de Gasperi to insist in 1952 that the EDC and the just-launched ECSC be encompassed within a supranational European Political Community (EPC). Responsibility for drafting an EPC treaty was given to the members of the ECSC’s parliamentary assembly, reconstituted for this purpose as an “ad hoc assembly” under the presidency of Paul-Henri Spaak. The draft treaty, which the assembly completed after six months of work in close consultation with the governments of the Six, stated that the EPC’s first mission would be “to contribute towards the protection of human rights and fundamental freedoms in Member States.” The treaty also incorporated the core provisions of the European Convention for the Protection of Human Rights and Fundamental Freedoms (signed in Rome on 4 November 1950) as “an integral part of the present Statute” and authorized the EPC to “intervene” when a member state fails to maintain constitutional order and democratic institutions within its territories. In stark contrast to the Treaty of Paris, the draft EPC treaty indicated that “Accession to the Community shall be open to the Member States of the Council of Europe and to any other European State which guarantees the protection of human rights and fundamental freedoms...” and authorized the Community to “conclude treaties or agreements of association... with such third States as guarantee the protection of the human rights and

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fundamental freedoms.” In short, the EPC treaty would have placed states that do not respect democracy and human rights beyond the scope of European integration.

Unfortunately for the federalists, the EPC project was abandoned in 1954 when it became clear that the French parliament would not support the EDC. With the EPC’s demise, the federalists’ idea that participation in the institutions of European integration should be limited to democracies that respect human rights was cast aside. As one commentator put it years later, “the original euphoria gave way to very sober utilitarian considerations and sight of a general concept of fundamental and human rights was lost.”

In its place emerged the liberal vision of European integration focused on boosting living standards by eliminating barriers to trade. During the EPC negotiations in a December 1952, Dutch Foreign Minister Johan-Willem Beyen had circulated a memorandum proposing that “the principal aim of European integration should be the raising of the general standard of living of the European peoples.” To this end, he favoured replacing the ECSC’s sectoral integration plan with a general common market without national customs duties or import quotas. In the same spirit, a committee of senior German civil servants and scholars appointed by German Economic Minister Ludwig Erhard had called in June 1953 for the creation of a European common market characterized by the free movement of labor, goods and capital, a single currency, and common regulatory legislation. As Erhard saw it, the failure of the EPC’s “mechanically calculated formula” constituted an opportunity to pursue his vision of economic liberalization of the entire “free world,” starting with the convertibility of currencies. So when Beyen sat down with his Benelux counterparts Paul-Henri Spaak (Belgium) and Joseph Bech (Luxembourg) in late 1954 to prepare a joint proposal to relaunch European integration, there was little support in Europe’s capitals for any formal provision limiting the process to democratic states. Jean Monnet described the attitude of the Six in 1955: “Our Community is neither a small Europe nor a limited Community. Its limits are not set by us. They are set by those countries themselves who, for the moment, do not join it.”

Negotiation of the Treaty of Rome: Formal negotiations to create the European Economic Community were held in a time of increased East-West tension in Europe. The Soviet Union’s threat to use force to repress political liberalisation in Poland in August 1956, followed by the Red Army’s invasion and crushing of the uprising in Hungary three months later, caused major fears of a Communist threat to democracy throughout western Europe. Meanwhile, the United States’ insistence that Britain and France relinquish their military

gains in the Suez crisis, and those two countries’ inability to counter the Soviet invasion of Hungary, clearly demonstrated the limited power of west European states in this period. These developments affected thinking about the purpose and scope of European integration, as shown below, but given the recent failure of the EDC and EPC, they did not cause the Six to rethink their new focus on economic integration.

In April 1956, less than a year after formal talks between the foreign ministers of the six ECSC states began at Messina, the Intergovernmental Conference on European Integration, chaired by Spaak, proposed the creation of a European economic community. The Spaak report’s emphasis on the free movement of labour and capital, rather than on the creation of powerful community institutions, was unmistakable: “The object of a European common market should be to create a vast area with a common political economy which will form a powerful productive unit and permit a steady expansion, an increase in stability, a more rapid rise in the standard of living, and the development of harmonious relations between the Member States.”15 The conference’s first drafts of a treaty, prepared soon thereafter, made no mention of membership criteria. Instead, they emphasized that it was “necessary to pursue the establishment of a Europe united by the progressive fusion of national economies, the creation of a large common market and the progressive harmonisation of their social legislation.”16 As in the Treaty of Paris, no mention was made of democracy or human rights.

This was not because the negotiators were unaware of alternatives. After all, the chair of the intergovernmental conference in 1955-57, Paul-Henri Spaak, had also chaired the ad hoc assembly that drafted the EPC statute in 1953. This awareness is reflected in a 1957 working paper of the intergovernmental conference, which explicitly compared the proposed membership clause of the new treaty to those included in the earlier ECSC, EDC and EPC treaties – the last of which would have limited membership to “member states of the Council of Europe and all other European states that guarantee the maintenance of human rights and fundamental liberties...”17 Despite this side-by-side comparison, and the fact that adding EPC-like membership criteria would not have prevented any of the Six from joining the common market, the negotiators and the governments they represented chose not to limit the potential scope of the new community in this manner.

Frustrated federalist political actors outside the conference tried to force the issue onto the agenda: “Modern history has seen the rise of the criminal state. It has been painfully brought home to us that the protection of our liberties transcends national boundaries and that common measures are indispensable to safeguard our freedom... The European Community must be so constructed that the fundamental liberties of our citizens can be effectively protected and preserved. Not only member states as such, but also individuals and groups of individuals, must be able to appeal when human rights are alleged

16 Projet de redaction d’articles, 20 juin 1956 (MAE 131 f/56 gd) in HAEU CM3-NEGO-99; Projet d’articles, 17 juillet 1956 (MAE 175 f/56 gd) in HAEU CM3-NEGO-100.
17 Les clauses d’adhésion, 24 fevrier 1957, MAE 643 f/57 mts in HAEU CM3-NEGO-262.
to have been violated,” wrote Hans Nord, the Secretary General of the Netherlands Council of the European Movement.” As if hinting at developments to come, Nord added: “I stress the importance of this aspect of the European Community. For it may become of the greatest value in dealing with those countries in Europe which at present cannot participate in our joint efforts.”

Nonetheless, the negotiators never included anything resembling the Council of Europe or EPC criteria in any draft of the treaty to create the common market. In the end, the treaty’s provision on membership (Article 237) read simply, “Any European state may apply to become a member of the Community. It shall address its application to the Council, which shall act unanimously after obtaining the opinion of the Commission. The conditions of admission and the adjustments to the Treaty necessitated thereby shall be the subject of an agreement between the Member States and the applicant State. This agreement shall be submitted for ratification by all the Contracting States in accordance with their respective constitutional requirements.”

The treaty’s preamble does express the signatories’ commitment “to preserve and strengthen peace and liberty,” but evidence from the negotiating record suggests that the reference to liberty was understood principally in economic rather than political terms. For example, the draft treaty preamble tabled by French negotiator and leading treaty drafter Pierre Uri proposed that the Six call “other countries that share their ideal to join their effort and to contribute with them, to mutual advantage, to the development of more intense and freer exchanges...” Although the treaty’s final text did not include the second half of Uri’s phrase, the consistent focus on economic integration and the prevailing understanding of “free world” suggest that the negotiators of the Treaty of Rome understood “liberty” as a reference to free markets and trade within the common market. It is thus clear that the Six did not want their enlargement choices to be constrained by formal political criteria. They did not share the federalist vision of European integration in this period.

The treaty also included a provision (Article 238) allowing the EEC to sign association agreements with other states or international organisations. Although Article 238 did not specify the possible purposes of association agreements nor indicate any formal criteria for which states would be eligible, it was apparently drafted to facilitate close ties with European states outside the EEC and with other states (especially former colonies) with which the Six had long maintained close relations. At the signing of the Treaty of Rome, the Six adopted Declarations of Intent to conclude associations with Morocco, Tunisia, Libya,

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19 Projet de rédaction du préambule, 14 janvier 1957, MAE 112 f/57 vr in HAEU CM3-NEGO-182.
20 Fifteen years later, Walter Hallstein defined the Treaty of Rome’s conception of “freedom” as a commitment to the free movement of goods, services, and workers, the free establishment of businesses, and free market dynamics regarding the production and consumption of goods. Walter Hallstein, The Making of Europe (London: George Allen & Unwin, 1972).
Italian Somalia, Surinam and The Netherlands Antilles, and many other states applied for EEC association in the years that followed. But as with regard to membership, the treaty indicates that the Six preferred that their choices on association not be constrained by formal criteria.

The point of these observations is not that the governments that signed the Treaty of Rome cared little about democracy or human rights. However, the absence of democracy and human rights from the treaty that is widely celebrated as the source of today’s European Union was clearly no accident. Respect for these values had already been stipulated as strict criteria for membership in the Council of Europe and the aborted European Political Community, and they could have been added to the Treaty of Rome without changing the function, structure or initial membership of the new community. Thus we are led inescapably to the conclusion that the founders of the EEC made a conscious choice in 1956-57 (collectively if not individually) not to include democracy or respect for human rights as criteria for membership in their new community. Instead, motivated both by the liberal economic thinking that underlay planning for the common market and by the heightened geopolitical pressures of the Cold War, the EEC would be open to all non-Communist states in Europe.

After the Treaty of Rome: Within months of the Treaty of Rome’s entry into force on 1 January 1958, the EEC’s six governments and the European Commission had confirmed their commitment to the openness of the new community with the exception of Communist states. This first became apparent in various official commentaries and reports on the question of relations with the eleven non-EEC members of the Organisation for European Economic Cooperation (OEEC) – Austria, Denmark, Greece, Iceland, Ireland, Norway, Portugal, Sweden, Switzerland, Turkey and the United Kingdom. The fact that no distinction was made for Portugal, despite it being ruled in this period by a highly repressive dictatorship formerly allied with Nazi Germany, is particularly significant.

In March 1958, soon after taking office as first president of the European Commission, Walter Hallstein insisted on the EEC’s willingness to consider membership for the OEEC Eleven: "There can only be discrimination, in other words an unwarranted differentiation in the treatment of other European States, if the Six deny to other European States the treatment which they accord one another, that is, if they refuse admission to a State which is willing to pay the same price as the Six for the advantages of membership of the custom union. Obviously that has not happened. Quite the opposite: the Treaty embodies the principle of the open door." This openness was confirmed in an official

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23 Spain did not join the OEEC until 20 July 1959. See Francisco José Rodrigo Luelmo, “The accession of Franco’s Spain to the OEEC, 28 April 2010, at: www.cvce.eu...

memorandum submitted by the Six to the OEEC’s Maudling Committee on 17 October 1958, in which the EEC “solemnly reaffirms that it is determined, both for economic and political reasons, to arrive at an agreement which will make it possible to associate with the Community on a multilateral basis the other Member States of the O.E.E.C.” Likewise, a high-level Belgian foreign ministry meeting in February 1959 concluded that the "Six non-Six" (Austria, Denmark, Norway, Sweden, Switzerland, UK) should be invited to apply for membership while the five under-developed states (Greece, Iceland, Ireland, Portugal, Turkey) should be offered association agreements designed to prepare them for eventual membership. (FOOTNOTE) That same month, the Commission's "First Memorandum," drafted in close consultation with the Six, recommended that any of the Eleven willing to pursue deeper integration should be offered association or full membership in the EEC in accordance with Articles 238 and 237 of the Treaty of Rome. Spain was not mentioned in any of these documents because it was not yet a member of the OEEC, but the casual inclusion of Portugal confirms that the presence or absence of democracy was not an important consideration.

The only formal condition to be imposed on OEEC states seeking membership or association was that they accept the purposes and modalities of the Treaty of Rome. In this spirit, the EEC’s October 1958 memorandum to the Maudling Committee specified that any association agreement to be adopted under Article 238 "must not in any way prejudice either the content or the implementation of the Treaty of Rome." To this end, such agreements must create more than a free trade area: they must provide for a broad convergence of social and economic policies and legislation akin to that applying within the EEC. The memorandum thus reconceived association as a stepping-stone to full membership. But apart from an applicant's willingness to accept these administrative and legislative requirements, it did not mention any additional constitutional or political criteria for association.

Looking beyond the Eleven, though, EEC officials made no secret of their understanding that the new community would be closed to Communist states. Robert Marjolin, Vice President of the European Commission and former head of the French delegation in negotiations on the Treaty of Rome, made this point unequivocally in a speech in Washington DC in April 1958. The creation of the EEC, he said, was "taken in a spirit of friendly cooperation with the other European nations in the hope that the union of the Six may in time become a broader union of free nations... We are determined to build a United

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26 First Memorandum from the Commission of the European Economic Community, 26 February 1959, at: http://aei.pitt.edu/933/

Europe because we believe in the Free World and that the Free World will be stronger if we are stronger.” Hallstein himself said in January 1959 that the goal of the EEC’s founders had been “to insure that Europe should be a strong and united partner in the Atlantic alliance.” Fifteen years after the treaty, Hallstein recalled, “the Europe that was about to unite belonged fully to the non-Communist world.”

With the second Berlin crisis raging in the autumn 1961, Hallstein went to great lengths to portray the EEC as a pillar of the “free world,” which he defined as the community of states wherein economic exchange is not subject to central control, with no mention of democracy or human rights. The same point is evident in the Commission’s aforementioned First Memorandum, according to which "the enterprise of the Six [is] the instrument and expression of a fundamental political idea" - namely, the ambition to create a dynamic economic pillar within "Western Europe" that would support the "free world." And given the evident readiness to include Portugal in the community, one cannot attribute this anti-Communist norm to an underlying but unstated commitment to democracy.

The openness to Portugal also cannot be explained by a strong distinction within the EEC regarding the criteria for association and for membership: building on the October 1958 memorandum, a May 1960 Commission document states explicitly that association agreements with European states should be oriented from the outset toward preparing them for full membership in the EEC. Later that year, German economic minister Ludwig Erhard called for the Six to accept "the principle of a multilateral association with regard to their economic relations with the other free countries of Europe," particularly in light of the confrontation with Soviet communism. As he saw it, limiting the common market to the six original members was "not sufficient to solve either the European problem as a whole or that of the Atlantic community [and] no such limitations were envisaged when the Rome Treaties were born."

These ideas were widely shared by the governments of the Six. In a crucial meeting of the EEC’s Council of Ministers held in early 1960 to discuss how to respond to recent requests for association and membership, Belgian foreign minister Pierre Wigny interpreted the treaty as requiring simply that candidates for full membership must be European and must be capable of adjusting to the common external tariff and the absence of internal tariffs. France’s Maurice Couve de Murville introduced the possibility of association agreements with a number of countries including Spain, and spoke of the "great value" that

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32 First Memorandum from the Commission of the European Economic Community, 26 February 1959, at: http://aei.pitt.edu/933/
he attached to "the idea that the Common Market must give the impression of being an open association." Germany's Heinrich von Brentano agreed that the Common Market "must remain open," and warned that a failure to welcome Greece and Turkey could increase Soviet influence over those countries.  

Similarly, a lengthy study of the implications of the Treaty of Rome for EEC association and membership prepared by the Belgian Foreign Ministry in the winter of 1962 also makes no mention of democracy or human rights as possible criteria.

**II.B: A Europe of parliamentary democracies, 1962-1969**

The Treaty of Rome was not amended in the 1960s, nor did the member states collectively issue any new authoritative criteria for EEC membership during these years. Yet despite this continuity in formal rules, prevailing norms regarding the political requirements for membership changed significantly early in the decade. This normative change resulted in large part from political entrepreneurship by members of the European Parliamentary Assembly frustrated by the absence of democratic principles in the Treaty of Rome and disturbed by the new community’s openness to authoritarian governments in Ankara and Madrid (see chapter 3). But as the following account shows, the parliamentarians’ efforts benefitted significantly from a political opening created by the member states’ own disagreement on the terms of political union. In this sense, the struggle over membership norms that re-emerged in the early 1960s was the latest phase in a larger struggle over the purpose and form of regional integration that had persisted since the early 1950s.

Despite the failure of plans for a supranational European Political Community in 1953, many members of the EEC’s European Parliamentary Assembly were strongly committed to the federalist vision of strong supranational institutions guaranteeing democracy and human rights at the national level. Many of them had earlier belonged to the parliamentary assembly of the Council of Europe, which was only open to democracies, and/or the Common Assembly of the European Coal and Steel Community, which itself had constituted the ad hoc assembly responsible for drafting the statute of the EPC. Although disappointed by the actual content of the treaties of Paris and Rome establishing the ECSC and EEC, members of these assemblies had repeatedly insisted on the “democratic character” of the community of the Six, which they believed was reflected most clearly in their own supranational assembly of freely elected parliamentarians.  

At the same time, a French government initiative was questioning the Treaty of Rome from an entirely different perspective. Unhappy with the EEC’s quasi-supranational method of decision-making and concerned that eventual British entry would further diminish French influence, Charles de Gaulle had proposed in 1960 that the Six establish a new, largely intergovernmental body to coordinate political, economic, defence and cultural

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35 Note sur les régimes d’adhésion et d’association prévus par le Traité instituant la Communauté Economique Européenne, 7 février 1962, MBAE, file B-3.

36 See Wigny report 1957.
policy. The other five member states were skeptical of de Gaulle’s idea, which they feared would subordinate the EEC’s new institutions to intergovernmental control and weaken the trans-Atlantic alliance by creating a rival to NATO. They agreed however in February 1961 to explore the possibility of a political union amongst the members of the EEC and open to subsequent enlargement. An intergovernmental committee chaired by French diplomat Christian Fouchet was charged with negotiating the details of such a union, but a lack of consensus among the Six was evident as soon as the committee began its work: the Dutch were particularly outspoken in support of the existing EEC institutions, the priority of NATO on defense cooperation, and the importance of remaining open to British membership (Camps 1964, Vanke 2001).

The institutional uncertainty created by the French initiative facilitated a counter-initiative by parliamentarians concerned by de Gaulle’s well-known aversion to supranational institutions and his government’s open support for involving Spain in European integration. For these parliamentarians, the question of eligibility for EEC membership was tied inextricably to their view of the EEC as a stepping-stone to deeper political integration. French and German support for the European ambitions of Spain since in the late 1950s, as well as the accommodative attitude of the Six toward the Turkish military coup in 1960 (both discussed in the preceding chapter), had made it clear that the Six were willing to consider any non-Communist European state for membership in the EEC. This openness was clearly incompatible with the federalist vision of Europe.

In response, EPA members and their colleagues in the Council of Europe’s consultative assembly (all drawn from the same national parliaments) began to press their own, alternative vision of European integration. Various EPA reports and resolutions in late 1960 and early 1961 demanded that political union must not compromise the supranational institutions of the existing EEC. But Europe’s parliamentarians also made clear their views on which states should be associated with the process of European integration. In January 1961, German social democrat Annemarie Renger, a member of the Council of Europe’s assembly, released a draft report highlighting the total absence of democracy and the consistent violation of human rights in Franco’s Spain and warning that official ties with NATO and the OEEC, as well as political support from the French and German governments, were consolidating the Franco regime’s hold on power and discouraging the opposition.

Another early indication of their thinking emerged around a joint conference of the European Parliamentary Assembly and the parliaments of various newly independent African states, held in in late June 1961. In a document prepared before the conference,

37 For more detail on various proposals connected to this process, see European Parliament, Political Committee (1964). Towards Political Union. A selection of documents with a foreword by Mr. Emilio Battista, January 1964, at http://aei.pitt.edu/944/.


39 These talks were a first step toward an association agreement signed in Yaoundé on 20 July 1963 between the EEC and a number of African states plus Madagascar. (see IO 19:02, march 1965).
the EPA’s political commission recommended that the forthcoming meeting declare that “respect for human rights and fundamental liberties” was a fundamental principle of any association agreement between the EEC and its African partners.40

The subsequent evolution of proposals for political union suggests that this pressure from the EPA had some effect. A communiqué on political union issued by the leaders of the Six at the Bonn summit in July 1961, noted the EPA’s position, affirmed the “political traditions which form their common heritage” and identified European integration closely with the fate of “free peoples.” Such language was consistent with pre-existing EEC membership norms, as discussed in the previous chapter, but the EPA wanted a stronger commitment. When Prime Minister Harold Macmillan announced in late July that the UK would soon apply for EEC membership, the newly elected president of the EPA’s socialist group, German social democrat Willi Birkelbach, declared that British accession would “anchor parliamentary and democratic principles even more firmly at the heart of the EEC.”41

In the early autumn of 1961, the European Parliamentary Assembly’s political commission appointed two working groups to consider how the community should respond to the growing number of states applying for association or membership. The first, chaired by Dutch parliamentarian Marinus Van Der Goes Van Naters, focused on the various responsibilities of the Council, Commission and Parliament in decisions on membership, with an evident preference for expanding the role of the latter. But Van Der Goes Van Naters’ report did not discuss membership criteria.42 That task was left to Birkelbach, whom the EPA appointed as rapporteur of a second working group on political and institutional aspects of the association and adhesion process.

A former political prisoner of the Nazi regime, Birkelbach believed that the purpose of European integration was to advance democratic values and human rights: “We had seen how fragile democracy really was. We had seen it destroyed in our own country.”43 For this reason, he concluded, “In Europe, parliamentary democracy, the liberties and the rights inherent in democracy must have not only a national basis, but must also be so firmly established at the international level that they can no longer be questioned.”44 As he later explained, “The parliament’s purpose was to ensure that the political, democratic nature of

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43 Author’s interview with Willi Birkelbach, Frankfurt, July 15, 2001. See also Willi Birkelbach, with Luise Maria Dressler, Fazit: gelebt-bewegt (Marburg, Germany: Schüren Verlag, 2000).

the Community was secure. It was important to show the Commission and the ministers that they had to give priority to democratic principles and institutions.”

To succeed, though, Birkelbach and his committee colleagues would have to craft a definition of the community’s political identity that member states’ governments could not ignore, regardless of their particular preferences. Such a definition would have to be radical in its conception of membership eligibility and yet still plausibly grounded in the Treaty of Rome, whose Article 237 indicated that “Any European state” could apply for membership. To be approved by the EPA, it also had to be acceptable to the liberal, Christian democrat and socialist groups in the assembly. And to have any effect on the Six, it would have to be rooted in positions they had already accepted, at least formally or rhetorically. Fortunately for Birkelbach, intra-community discourse on membership eligibility was evolving in this period.

On 2 November 1961, after months of committee deliberation and mutual concessions, Christian Fouchet distributed to his colleagues the first complete draft of a treaty on political union. The draft immediately encountered stiff resistance because of its inclusion of defense cooperation and the lack of clear openness to British participation, among other points. However, a significant element of the draft that does not appear to have sparked debate was its proposal that the union would be committed, inter alia, to “the defense of human rights, fundamental liberties and democracy and to justice in every sphere of social life” and therefore that membership would be limited to states that already belonged to the EEC and the Council of Europe, the latter of which was only open to rights-protective democracies. These provisions directly echoed the 1953 draft statute for a European political community, which had been abandoned by the Six but retained as a goal by federalist parliamentarians.

Their inclusion in the draft treaty indicates that the EPA’s agenda on membership eligibility was shared at least by some of the governments represented on the Fouchet committee. If formally adopted in a treaty on political union, these provisions would have constituted a major step beyond the Treaty of Rome’s ambiguous commitment to “liberty,” its provision that “any European state may apply to join,” and the non-Communist membership norm that prevailed in the EEC’s early years. The problem was that such a membership rule contradicted the demonstrated policy preferences of at least two of the member states, France and Germany.

At the same time that the Six were debating the terms of political union, Birkelbach and his colleagues on the EPA’s political committee were drafting their own report. Given the high profile of the Fouchet committee and its regular contact with the EPA’s political committee, Birkelbach and colleagues would have been fully aware that the Six were now willing to consider the possibility that European integration should not be open to “all European states” or even to any non-Communist European state. Such ideas were not new – they had featured in the 1944 anti-fascist Venetone Manifesto, the 1948 Statute of the Council of Europe, and the unsuccessful 1953 draft Statute of the European Political

45 Author’s interview with Willi Birkelbach, Frankfurt, 15 July 2001.
Community -- but they had been rejected by the founders of the ECSC/EEC, much to the dismay of committed Euro-federalists like Birkelbach. Now some of the Six had clearly proposed that membership in their community should only be open to European parliamentary democracies – a radical departure from the existing treaty and recently prevailing norms.

The question was whether a proposal made in the midst of inconclusive intergovernmental negotiations could be converted into a norm powerful enough to affect collective decision-making. While recognizing that Article 237 referred first of all to geography, Birkelbach and his EPA colleagues believed that the creation of a common market and the treaty’s aspiration to “ever closer union” implied other economic and political characteristics as well. Moving beyond the simple reference to “liberty” in the treaty’s preamble, the first draft of Birkelbach’s report identified a “democratic form of state” as a requirement for membership. During an early November meeting of the EPA political committee, Commission president Walter Hallstein expressed his general approval of the draft, but a committee member voiced doubt about the definition of democracy, prompting Birkelbach to scrawl, “Was ist?” (“What is?”) in the margin of his personal copy.46

On 19 December 1961, the political committee of the EPA unanimously adopted Birkelbach’s report on association and adhesion, which asserted, despite the debate swirling around the Fouchet committee, that the political character of the Community is “no longer contested.” The opinion that the Community is simply an “enlarged international economic treaty” is almost never advanced, it says, except occasionally “in those countries that begin to study more closely the bases of the three treaties in order to prepare their membership or association with the Community.”

But rather than tabling a federalist manifesto on moving beyond the Treaty of Rome, which was unlikely to gain any broader reception, Birkelbach had made sure to link the novel aspects of his text to political positions that were already accepted by political parties and governments of both the centre-right and centre-left. For example, building upon the pre-existing norm that Communist states were not eligible for membership, the report asserted “the political structure of [an applicant state] must not make it a foreign body in the Community.” Instead, the report proposed that any state applying for full membership must recognize and support the Community’s ultimate goal of political union, and must have domestic structures and foreign policies consistent with that goal. To start, it must support the general foreign policy commitments of the existing member-states: that is, it must be willing and able to cooperate with the western or Atlantic alliance. This principle would clearly exclude members of the Warsaw Pact, but the report did not take a position

on whether it would also exclude neutral states such as Austria, Ireland, Sweden and Switzerland.\textsuperscript{47}

In addition, following the earlier controversy about defining democracy, the report offered a simple definition of which states were eligible for membership: “The guaranteed existence of a democratic form of state, in the sense of a free political order, is a condition for membership. States whose governments do not have democratic legitimacy and whose peoples do not participate in the decisions of the government, neither directly nor indirectly by freely-elected representatives, cannot expect to be admitted in the circle of peoples who form the European Communities.” On the other hand, the report was noticeably tentative on the question of whether respect for human rights should also be a formal requirement for community membership: “One could... suggest requiring of States that wish to join the Community that they recognize the principles that the Council of Europe has posed as a condition for those who want to be members of it.” Explanation of this clause is even relegated to a rare footnote: “This involves above all recognition of the principles of the rule of law, human rights and fundamental freedoms (cf. article 3 of the Statute of the Council of Europe).” (Birkelbach went further in his subsequent presentation of the report to the full EPA, expressing his personal view that respect for human rights was integral to the political identity of the community.\textsuperscript{48})

The Birkelbach Report also addressed the question of association with the EEC, as provided by article 238 of the Treaty of Rome. Some members of the political committee preferred to apply the same requirements to association and adhesion in order not to weaken the latter, but other members preferred a flexible stance on association.\textsuperscript{49} The final report thus recognised that association could take various forms, some more similar to membership and others more distant, and insists simply that any association must be consistent with the “fundamental political character of the Community.” In addition, it asserted that adhesion should be the general rule or expectation, and that association should be reserved for exceptional situations. But it stopped short of establishing clear criteria: “Regarding association, it is necessary to ask what attitude we must take regarding European states that do not fulfill the political conditions of full membership. It is surely a very delicate question to which one cannot respond in a summary fashion.” Finally, according to the report’s closing paragraph, “it is necessary to foresee for each association contacts at the parliamentary level between the European Parliamentary Assembly and the freely-elected representatives of the people in the country in question.” The significance of this assertion would not become apparent until the Greek crisis in 1967.

The Birkelbach Report did not impose new legal obligations on the community’s members, nor did it reflect shared beliefs or policy preferences regarding enlargement among all the community’s member states and supranational actors. But its politically

\textsuperscript{47} According to Jean Rey’s remarks in Council session 1-3 June 1964, early drafts of the Birkelbach report excluded neutral states from possible membership, but this was dropped after protests from Austria and Sweden. See AHConE CM2.848.1965.

\textsuperscript{48} Assemblée Parlementaire Européenne, Débats, Séance du mardi 23 janvier 1962, p.55.

\textsuperscript{49} Assemblée Parlementaire Européenne, Débats, Séance du mardi 23 janvier 1962.
balanced provisions corresponded closely to the national constitutions of the Six, to proposals they had accepted within the Fouchet committee, and to their formal commitments within the Council of Europe, all of which made the report harder to refute or ignore than most emanations from the European Parliamentary Assembly, the weakest of the EEC's institutions. The release of the report in December 1961 and the reception it received in early 1962 thus contributed to the emerging norm that the EEC was a community of parliamentary democracies within the Western alliance – a significant departure from the sparse content of the Treaty of Rome and from the norm that prevailed in the first half-decade after the treaty. The fact that the report’s assertions were novel for the EEC and contrary to the policy preferences of some of the member states’ governments did not stop it from being recognised as an unassailable expression of the EEC’s communal identity -- variously praised and tolerated but never openly criticized at the European level.

When Birkelbach’s report was presented to the full EPA on 23 January 1962, it was met with universal acclaim from members of various political groups within the assembly as well as representatives of the European Commission. Socialist member Fernand Dehousse applauded the report’s insistence that community membership was only open to states with similar economic and political structures, defining the latter in terms of parliamentary democracy and respect for human rights and fundamental freedoms for all. Christian Democratic member Jean Duviesuard praised Birkelbach for looking beyond the geographic requirement for membership and defining economic and political criteria not articulated in the treaty: “This document is more than a report... it will constitute a foundational text, almost a law.” Duviesuard even predicted that the report would have an impact on European integration comparable to the 1955 Messina conference that led to the Treaty of Rome. Speaking for the European Commission, both Sicco Mansholt and Jean Rey welcomed the report as a valuable contribution to the development of a community “doctrine” on association and adhesion.\textsuperscript{50} The next day, Strasbourg’s leading newspaper called the report “A ‘charter’ for membership and association with the European Economic Community.”\textsuperscript{51}

The strength of the emerging norm was also apparent when deliberations over political union resumed in early 1962. Frustrated by the stalemate over Fouchet’s November proposal, the French government distributed a new draft treaty on 18 January. Unlike its precursor, though, which reflected input from all the member states, this new draft was heavily intergovernmental in character, reportedly at the direct instruction of Charles de Gaulle (Camps 1964). It is thus interesting to note that while the new draft treaty dropped the proposal that all members must also belong to the Council of Europe, it retained the preambular affirmation of their collective “attachment to the principles of democracy, of human rights, and of social justice,” which was already a major step beyond the Treaty of Rome.

Whether or not de Gaulle was informed about the Birkelbach report, his aides surely were, and this revised draft treaty shows the French government’s desire to retain a similar

\textsuperscript{50} Assemblée Parlementaire Européenne, Débats, Séance du mardi 23 janvier 1962, pp.54-96.

\textsuperscript{51} Les Dernières Nouvelles d’Alsace (Strasbourg), 24 janvier 1962.
conception of community membership, at least formally. France’s five EEC partners immediately rejected the January draft, but their counter-proposal maintained the same preambular affirmation of democratic principles, as did a final draft treaty adopted by the Fouchet committee on 15 March. These negotiations on political union ultimately proved unsuccessful and the various draft treaties were abandoned, but the fact that all had included parliamentary democracy as a requirement for membership could only have reinforced the emerging norm.

The Council secretariat distributed the Birkelbach report to the governments of the Six on 5 February 1962, though they would have already been well acquainted with its contents. At about the same time, the Six asked the Commission to draft a comprehensive doctrine on association for their discussion.

It was not long before the European Commission embraced Birkelbach’s proposal for a general policy on membership. In an April 1962 speech, Commission vice-president for external relations Jean Rey lamented that the member states “had not had the time... to elaborate a doctrine regarding all these associations that rain down everywhere, to ask themselves what is to be done, which will be accepted, which will not be accepted, on the basis of which criteria...” Rather than focus on each application separately, Rey said, the community should address the general question, “how does the Common Market conceive of its enlargement?” In mid-May session of the Council of Ministers, Walter Hallstein announced the Commission’s full support for the Birkelbach report: “The Commission is of the opinion that if it had elaborated its own document on the subject [of association and adhesion] it would not have arrived at more valuable conclusions than those contained in the Birkelbach report” and recommended that the Council take it as the basis for its own discussions. (Hallstein then explained that the Commission did not believe that there existed, in the Birkelbach Report or elsewhere, any indisputable criteria that would automatically qualify an applicant state for association or adhesion; this required that the applicant state justify its demands to the community. In other words, he was saying, the membership norms proposed by Birkelbach could disqualify an applicant state, but not ensure its acceptance.) The following month, Hallstein gave an unreserved public welcome to the Birkelbach Report, declaring that its publication had “enhanced the authority” of the EPA.

The report also found favor in other European circles. In a May 1962 memorandum of the Political Committee of the Council of Europe’s Consultative Assembly, rapporteur Maurice Macmillan (British conservative MP and son of prime minister Harold Macmillan) noted that Birkelbach’s “weighty report to the European Parliament [has] with great logic and coherence put forward detailed proposals for a theory of membership and association.”

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52 AHConE CM2.1.1962.
53 AHConE CM2.848.1965: Jean Rey’s comments in Council session 1-3 June 1964.
54 Jean Rey speech, 9 April 1962, at: www.aei.pitt.edu/14811
Macmillan’s memorandum explicitly and uncritically accepted the requirements for EEC membership proposed by Birkelbach.\(^{57}\) This endorsement was hardly surprising, given the Council of Europe’s own membership rule and the fact that Birkelbach’s proposals could help insulate Britain’s quest for EEC accession from interference by reluctant member states, but it added to the normative momentum of the report.

In addition to these endorsements, the report’s close parallel to the national constitutions and Council of Europe commitments of the Six made it particularly difficult to rebut, even for member states troubled by its implications for their views on community enlargement. Neither the French nor the German government – both supportive of bringing Spain into the EEC and thus most likely to resist the report’s recommendations – criticised the report publicly or even behind closed doors in EEC deliberations. Given that neither government had hesitated to criticize earlier assertions of authority by the EPA, this silence suggests that they accepted the Birkelbach Report as a legitimate (however inconvenient) expression of the community’s political identity as it was understood in early 1962.

The persistence of the new norm alongside divergent member state preferences was evident in 1964-65 during discussions among the Six of an Italian foreign ministry memorandum on the future of the Community and its relations with third countries. The memorandum itself, distributed to the Council in May 1964, borrows the Birkelbach report’s insistence that candidates for adhesion must fulfill geographic, economic, and political criteria, but is more demanding on the last dimension: “The European construction presupposes a substantial similarity of political systems within the member states. Membership is therefore excluded both for countries whose international status prevents them from assuming the obligations deriving from a future implementation of political unity and for countries whose domestic political regime is founded on significantly different criteria than those that inspire the six member states.”

The memorandum was also very strict with regard to European states applying for association: “For these countries, the formula of association should only be granted on a temporary basis and as an intermediary step to arrive at the original goal of full integration... Because this involves an association oriented to membership, it is important that such a state fulfills the political conditions required for membership both on the domestic and international level. Otherwise, the only alternative is a commercial accord.”\(^{58}\) Given Italy’s sense that it had paid the highest material price for the Greek and Turkish associations, which Foreign Minister Giuseppe Saragat had communicated to his counterparts three months earlier, and its concern about a possible deal with Spain, it is impossible here to disaggregate the Italian government’s economic interests from its normative convictions.\(^{59}\)

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\(^{57}\) “Report on the general policy of the Council of Europe,” Consultative Assembly of the Council of Europe, 9 May 1962, Doc.1420, p.24 at CoE archives doc PACEDOC3191. Macmillan’s only objection to Birkelbach’s report concerned the constraint it might impose on EEC’s relations with neutral democratic states that had applied for association -- Austria, Sweden and Switzerland.

\(^{58}\) AHConE CM2.1965:848

\(^{59}\) AHConE CM2.1964:186, Saragat’s declaration to the Council, 24-25.02.1964.
It is nonetheless noteworthy that in two subsequent Council discussions of the Italian memorandum (1-3 June 1964 and 8 May 1965), Belgium, Luxembourg and the Netherlands endorsed the Italian position, while France and Germany merely expressed skepticism about the practical implications of abstract yet strict guidelines on such a political matter; France also sought to discredit the memorandum by pointing out that it had been distributed in the midst of discussions about Spain. Despite the clear and controversial implications of the Italian proposals, none of the member states expressed doubt that only parliamentary democracies were eligible for membership, as one would expect in the presence of an idea that had acquired normative status.

So while the EEC’s formal membership rule (“Any European state may apply”) remained intact throughout the first decade following the Treaty of Rome, European parliamentarians succeeded in early 1962 in exploiting disagreements among the member states to redefine the limits of Europe as a political community. In the process, they replaced a membership norm that welcomed non-Communist states with one that welcomed only Western-oriented parliamentary democracies that accept the goal of political union.

II.C: A Europe of liberal democracies, 1970-2005

The EEC’s decisions in the 1960s to deny closer ties to authoritarian regimes in Spain and Greece were highly contested at the time, but these internal deliberations and public debates led the Six to rethink the purposes of European integration and thus to redefine the limits of the community they were building. As a result, respect for human rights, which had been recognised as a possible membership requirement but relegated to a footnote in the 1962 Birkelbach report, acquired clear normative status by the start of the next decade. By the time the (renamed) European Union issued its ‘Copenhagen criteria’ in 1993, the salience of human rights within the community’s membership norms was already well established.

The first public expression of this normative shift came in the October 1970 ‘Davignon Report’ on political cooperation. Meeting in Luxembourg, the foreign ministers of the Six defined the community’s “fundamental aim” in terms that moved well beyond the Rome treaty: “A united Europe should be based on a common heritage of respect for the liberty and rights of man and bring together democratic States with freely elected parliaments.” Then, in December 1973, following the accession of Denmark, Ireland, and the United Kingdom, the foreign ministers of the Nine issued a ‘Document on the European Identity’ expressing their shared determination “to defend the principles of representative democracy, the rule of law, social justice – which is the ultimate goal of economic progress - and of respect for human rights.” They also spelled out the implications of this commitment for the community’s enlargement: “The construction of a United Europe... is open to other

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60 AHConE CM2.1965:848

61 http://aei.pitt.edu/4543/ (accessed 18 Feb 2014)
European nations who share the same ideals and objectives. With these two declarations, the member states identified themselves collectively for the first time not simply as a community of non-Communist democracies but as a community of liberal democracies founded on respect for human rights.

It is important to note here that the language of human rights was not new to Europe around 1970. However obvious, this observation relates directly to the question of whether the 1970 and 1973 documents reflect a true normative shift for the EEC or simply a tactical decision to formalize what had long been understood informally. The fact that human rights language had been prominent in Europe for at least two decades (since the signing of the European Convention on Human Rights and Fundamental Freedoms in 1950 and the failed proposal for a European Political Community in 1952) and the governments of the Six would not have paid a domestic political price for framing the European integration process explicitly in terms of human rights, one can only conclude that the Six did not conceive of the community in those terms during the 1950s and 1960s. Hence the conclusion that the 1970 and 1973 declarations heralded a real change in membership norms.

By this point, the EEC’s membership norms were recognized beyond the community. For example, Turkey’s former (and future) Prime Minister Bülent Ecevit observed in 1976, “The European Economic Community attaches great importance to modes of government. It is known that free democratic regimes are a clear necessity within the EEC. There is no place in the EEC for those that do not obey this condition.”

Step by step over the next two decades, EU governments reaffirmed and elaborated the membership norm. In April 1977, the European Parliament, the Council and the Commission issued an unusual joint declaration affirming “the prime importance they attach to the protection of fundamental rights, as derived in particular from the constitutions of the Member States and the European Convention for the Protection of Human Rights and Fundamental Freedoms” and committing to respect these rights in “the exercise of their powers and in pursuance of the aims of the European Communities.”

In 1978, the EC’s heads of state and government agreed a ‘Declaration on Democracy’ reaffirming the same principles as the 1973 declaration and reiterating that “respect for and maintenance of representative democracy and human rights in each Member State are essential elements of membership of the European Communities.” In its 1978 submission to the European Court of Justice’s Matheus v. Doego case, the Commission clarified its (new) interpretation of the EEC Treaty’s Article 237: “It permits the accession of the state only if that state is a European State and its constitution guarantees, on the one hand, the existence and continuance of a pluralistic democracy and, one the other hand,

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effective protection of human rights."\footnote{Cited in Dmitry Kochenov (2004). Behind the Copenhagen façade: The meaning and structure of the Copenhagen political criterion of democracy and the rule of law. \textit{European Integration online Papers} 8:10, p.4.} In this new normative environment, it didn’t seem to matter that the treaty said nothing about democracy or human rights.

Meeting in Stuttgart in June 1983 to consider the EC’s future, the Nine issued a ‘Solemn Declaration on European Union’ that explicitly reaffirmed their 1978 declaration.\footnote{\textit{Bulletin of the European Communities}, June 1983 6/1983 pp.24-29} The following year, the European Parliament adopted MEP Altiero Spinelli’s draft treaty on European Union, which proposed that “[a]ny democratic European state may apply to become a Member of the Union” and empowered the Union to impose penalties “[i]n the event of serious and persistent violation of democratic principles or fundamental rights by a Member State.”\footnote{\textit{Official Journal of the European Communities} No C 77/33, 14 February 1984. (Spinelli was a co-author of the 1941 Ventotene Manifesto calling for a European federation of democratic states and a major influence on the 1953 draft statute for a European Political Community.)}

Starting with the 1986 Single European Act, the EU gave legal status to its membership norm. Although the SEA did not modify the Treaty of Rome’s openness to “Any European state,” as Spinelli had proposed, it broke new ground legally with its expression of the signatories’ determination “to work together to promote democracy on the basis of the fundamental rights recognized in the constitutions and laws of the Member States, in the Convention for the Protection of Human Rights and Fundamental Freedoms and the European Social Charter.” The 1992 (Maastricht) Treaty on European Union also retained the “Any European state may apply” formula but its preamble reaffirmed the signatories’ “attachment to the principles of liberty, democracy and respect for human rights and fundamental freedoms and of the rule of law” while the main text stipulated that the Member States “systems of government are founded on the principles of democracy.”

Gathered in Copenhagen in June 1993, the Twelve elaborated the implications of their treaty commitments, declaring: “Membership requires that the candidate country has achieved stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities, the existence of a functioning market economy as well as the capacity to cope with competitive pressure and market forces within the Union.”\footnote{It is interesting to note that in addition to the 1993 ‘Copenhagen criteria,’ the 1973 Declaration on the European identity and the 1978 Declaration on Democracy were also agreed in the Danish capital.} Though entirely consistent with the post-1970 priority on human rights, this specific reference to protection of minorities was connected to recognition that many of the countries desiring accession in this period faced significant challenges in this area. At the same time, the Copenhagen summit conclusions pointed out that enlargement is a reciprocal deal: candidates must be able to “take on the obligations of membership” and the Union must be able to “absorb new members while maintaining the momentum of European integration.” These latter clauses became important post-2005, but they received little attention in 1993.
Four years later, the Amsterdam Treaty amended the Treaty on European Union to state unambiguously “The Union is founded on the principles of liberty, democracy, respect for human rights and fundamental freedoms and the rule of law... which are common to the Member States.” At a 1999 European Council meeting in Cologne, the Fifteen authorised the creation of a special inter-governmental and inter-parliamentary body to draft a human rights charter for the Union. The European Parliament, the Council of Ministers and the European Commission jointly approved the EU Charter of Fundamental Rights in December 2000.\textsuperscript{70}

At about the same time, the possibility of suspending the voting rights of a member state committing a serious and persistent breach of human rights, which had been established by the Amsterdam Treaty, suddenly became relevant. When parliamentary elections in Austria in 1999 resulted in a coalition government involving the far-right Freedom Party (FPÖ), the EU’s other fourteen governments imposed diplomatic sanctions on Vienna. The sanctions fell short of suspending Austria’s voting rights, but they were only lifted after an investigatory panel of “wise men” appointed by the European Court of Human Rights concluded in June 2000 that the Austrian government was fulfilling its duties to respect human rights.\textsuperscript{71}

The European Council was therefore restating a well-established norm when it declared at Laeken in December 2001, “The European Union’s one boundary is democracy and human rights. The Union is open only to countries which uphold basic values such as free elections, respect for minorities and respect for the rule of law.” The same can be said about the EU’s unsuccessful draft constitutional treaty adopted in July 2003 after intensive inter-governmental and inter-parliamentary consultations, which also declared that membership was limited to European states committed to “the values of respect for human dignity, liberty, democracy, equality, the rule of law and respect for human rights.” In the end, despite a growing chorus of dissent among opposition politicians in a number of member states (see details below), these membership norms continued to prevail within the Council until some time in 2005. As EU commissioner for enlargement Olli Rehn explained at the start of that year: “I am often asked where Europe’s ultimate borders lie. My answer is that the map of Europe is defined in the minds of Europeans. Geography sets the frame, but fundamentally it is values that make the borders of Europe. Enlargement is a matter of extending the zone of European values, the most fundamental of which are liberty and solidarity, tolerance and human rights, democracy and the rule of law.”\textsuperscript{72}

\textbf{II.D: An uncertain Europe, 2006-present}

In retrospect, the consensus among European Union governments that only European states committed to the principles of liberal democracy were eligible for EU

\begin{footnotesize}
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\item[\textsuperscript{70}] The Charter did not acquire legal status until it was appended to the 2009 Lisbon Treaty.
\item[\textsuperscript{72}] Olli Rehn, Values define Europe, not borders, \textit{Financial Times}, 4 January 2005
\end{itemize}
\end{footnotesize}
membership – and that all such states plausibly fulfilling this standard had a right to membership – reached its highpoint in the Union’s hardline on corruption and authoritarian tendencies in Slovakia in the late 1990s and then in the EU’s pressure on Austria in 2000 over the far-right Freedom Party’s role in government. The eventual fruits of this consensus included the decision to offer accession to ten former Communist states of central and eastern Europe plus Cyprus and Malta, and the decision to grant candidate status to Turkey.

However, new conceptions of European identity and new attitudes toward EU enlargement began to emerge in the early years of the new century, leading to a breakdown in normative consensus at the highest levels of the European Union. One challenge to the pre-existing norms came from those who believed that the “big bang” accession of ten (and soon to be twelve) new member states had stretched the finances and decision-making capacity of the Union to such an extent that it might never achieve its internal and external goals. Another challenge came from the belief that European integration requires an underlying cultural homogeneity that would be endangered by further enlargement. Some people and some governments held both beliefs, though the second was rarely expressed as clearly. On the other hand, there were still member state governments committed to the vision of the EU as a community of liberal democracies. This unprecedented dissensus since 2005-06 has produced a new politics of membership and enlargement in recent years characterized by contention, hard bargaining and political deadlock on all but the easiest cases. In order to explain this normative change, it is necessary first to examine earlier trends in public opinion as well as political discourse by non-governing political elites.

Notwithstanding the membership norms described above, there have always been dissenting voices including those who associated European identity with a particular (usually Christian) religious heritage. 73 Although rarely heard from senior figures in Europe’s mainstream parties as recently as the 1990s, such attitudes began to acquire real political salience around the start of the new century. This change can be attributed to three coincidental developments: the growing visibility of non-European and especially Muslim immigrants in towns and cities across Europe; the terrorist attacks in New York and Washington DC on 11 September 2001; and the work of the EU’s constitutional convention between 2001 and 2003, which focused public attention on the values and principles underlying European integration.

In this environment, centre-right and far-right politicians across Europe adopted a new discourse that was unprecedented in its exclusionary view of community at both the local and European levels, with more and more politicians questioning Islam’s compatibility with European values. In addition, authorities adopted more stringent administrative practices relating to immigrants and there was a “very significant rise” in violent assaults,

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73 E.g. Christopher Dawson, Understanding Europe. Image Books: Garden City, New Jersey, 1952
harassment and vandalism directed against Muslims, according to the EU’s own European Monitoring Centre on Racism and Xenophobia.74

The growing political resonance of anti-immigrant and anti-Muslim sentiment in Europe was confirmed in April 2002, when far-right politician Jean-Marie le Pen took second place in the first round of France’s presidential elections. Several weeks later, rising Dutch politician Pim Fortuyn was assassinated by a (non-Muslim) political activist angered by Fortuyn’s critique of Islam as a “backward” religion. In this heated atmosphere, more established politicians saw opportunities to gain advantage by identifying with the increasingly common view that Europe did not extend beyond the traditional limits of Christianity. In May 2002, for example, Bavarian premier and conservative candidate for chancellor of Germany Edmund Stoiber insisted that the EU needed geographic limits and these should exclude Turkey and the countries of North Africa.75

Meanwhile, the victory of the moderate Islamist but pro-EU accession Justice and Development Party (AKP) in Turkey’s November 2002 election raised the profile of a EU candidate country with a secular state but an overwhelmingly Muslim population.76 The new AKP government’s repetition of its commitment to EU accession and insistence that its view of religion’s role in public life was no different from those of Europe’s Christian Democrat parties did not temper the growing debate over whether a Christian religious heritage is key to European identity. Within days of the AKP victory, the president of the EU constitutional convention and former president of France, Valery Giscard d’Estaing, declared unequivocally “Turkey is a country close to Europe... but it is not a European country.”77 Although inconsistent with the official position of the EU (note the previous month’s summit recommittal that Turkish accession would be judged “in accordance with the same principles and criteria as are applied to other candidate States”), Giscard’s view reflected and legitimated a growing current of opinion in Europe, which even its partisans recognised was contrary to norms then prevailing in official circles.78

In early 2003, the Vatican called for an explicit reference to Christianity in the draft Constitution’s preamble – a position that gained support from about ten of the participating governments, as well as the European People’s Party, the largest in the European parliament.79 In response, the new government in Turkey suggested that if there were to be a reference to Christianity in the text, it should also mention Europe’s Jewish and Muslim

77 “Pour ou contre l’adhésion de la Turquie à l’Union Européenne,” Le Monde, 8 novembre 2002.
This debate within and beyond the convention found powerful echoes across the continent. The Vatican was less clear, however, on the implications of its position: its ambassador to Ankara announced in October that the Holy See did not regard the EU as a Christian club and would not oppose Turkish accession, but the Holy See itself did not speak out a year later when media portrayed Cardinal Ratzinger’s vocal opposition to Turkish accession as official Vatican policy on this controversial matter. In the end, due to vigorous opposition from the governments of Belgium and France, the final text of the constitutional treaty said only that the EU drew its “inspiration from the cultural, religious and humanist inheritance of Europe.”

But rather than disappear, the debate over Europe’s cultural identity transformed into a row over public expression and display of religious symbols, from crosses hanging in public schools to headscarves worn by students and public servants. This debate boiled over with the November 2004 murder in Amsterdam of Dutch filmmaker Theo van Gogh after his release of a film saying that Islam discriminates against women, which sparked the bombing of a Muslim school in Eindhoven and an even more intense clash across Europe regarding the integration of Muslim immigrants.

With Europe’s new culture war raging, and far-right politicians like Belgium’s Filip Dewinter gaining support by decrying “the Islamisation of Europe,” centre-right politicians across the EU – many still in opposition and preparing for elections – became even more critical of immigration and multiculturalism. On the campaign trail, Germany’s Angela Merkl declared “the notion of multiculturalism has fallen apart.” And Merkl was not the only politician leading the charge against immigration and multiculturalism who also openly opposed Turkey joining the EU. In the Netherlands, Geert Wilders left the ruling VVD party in September 2004 to launch a new party opposed to Turkish accession.

In response to such sentiment, French president Jacques Chirac announced in October 2004 that while he still supported Turkey’s quest to join the EU, he would also support changing France’s constitution to require a referendum on the accession of any new member. Just hours after the December summit that authorized accession negotiations

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80 Turkey calls for Islam and Judaism in Constitution, EUobserver.com, 1 December 2003.
86 Kees Arts and Henk van der Kolk (2006). Understanding the Dutch ‘No’: The Euro, the East and the Elite, PSOnline (April), 244.
with Turkey, Wolfgang Schüssel announced that Austria too would hold a referendum on Turkish accession.\textsuperscript{88} Despite these concessions, French and then Dutch voters rejected the proposed EU constitutional treaty in the spring of 2005 – a rejection that was widely attributed, at least in part, to the EU’s recent decision to open accession negotiations with Turkey.\textsuperscript{89} In August 2005, just three months before the German elections, Angela Merkl and Edmund Stoiber wrote to their fellow conservatives across Europe: “We are firmly convinced that Turkey’s membership would overtax the EU politically, economically and socially and endanger the process of European integration.”\textsuperscript{90}

In late March 2006, leading figures from conservative and Christian Democrat parties across the EU gathered in Rome for two “study days on Europe” organized by the European People’s Party. Echoing the view he had expressed earlier as Cardinal Ratzinger, Pope Benedict XVI urged the participants not to forget Europe’s “Christian roots.”\textsuperscript{91} After the meeting, French interior minister Nicholas Sarkozy once again spoke out against a “Europe without borders.”\textsuperscript{92} If translated into policy, this newly legitimated focus on the cultural sources of European identity would mean a redefinition of the EU’s openness to liberal democracies and thus have clear implications for the EU’s approach to enlargement.

In short, there appears to have been a breakdown in the previous consensus on European identity among the governments represented in the Council in this period. If this is true, we would expect the EU to retain its treaty commitments while emphasizing new criteria and procedures for decision-making on enlargement that were less likely to facilitate accession by controversial applicant and candidate states. In short, given that progress toward membership requires consensus in the Council, we would expect the EU to find ways to say no without saying no.

Unfortunately, the EU’s 30-year rule means that we cannot gain direct documentary evidence of whether, and if so how, this new public discourse affected membership norms prevailing within EU institutions. What we can do, however, is to assess whether the empirical record is consistent with the hypothesis of normative change. To start, if the new public discourse described above did indeed herald a normative change within the institutions, and especially within the Council, we would expect to see a changed discourse on the criteria and/or process of enlargement.

Furthermore, we would expect to see this change beginning in late 2005, soon after Angela Merkl’s election victory in Germany. This is not because a single member state with

\textsuperscript{88} Austria says it will have referendum on Turkey, \textit{EUobserver.com}, 17 December 2004.


\textsuperscript{90} With a foot in the door, \textit{The Telegraph} (Calcutta), 26 September 2005.

\textsuperscript{91} The program and key speeches are visible at \url{http://www.eppgroup.mobi/Activities/pday06/day041_en.asp} (23 Feb 2014).

\textsuperscript{92} The EU’s weary travellers, \textit{The Guardian}, 4 April 2006.
dissenting views is itself enough to overturn community norms: multiple cases from earlier periods show the opposite. But with the election of Merkl, the increasingly powerful political forces that had been arguing since 2001 for a redefinition of the limits of Europe were now represented within the Council by the head of the EU’s largest and most influential member state. It is therefore to be expected that the combination of unprecedented public demands and a powerful voice within the Council would disrupt the pre-existing consensus definition of the EU as a community of liberal democracies.

This is exactly what we see in this period with the EU institutions’ unprecedented interest in the Union’s “absorption capacity.” This concept had first been mentioned in the Commission’s 1976 opinion on Greek accession and then formalized in the 1993 Copenhagen Summit’s conclusions, which stated “The Union’s capacity to absorb new members, while maintaining the momentum of European integration, is an important consideration in the general interest of both the Union and the candidate countries.” But after 1993 it had been largely ignored in favor of a focus on the applicant countries’ readiness and ability to meet the Union’s political, economic, and administrative criteria.

This changed dramatically in late 2005. Three months after the Merkl/Stoiber letter warned that Turkish accession would “overtax the EU,” and six weeks after their CDU/CSU alliance won Germany’s parliamentary elections, the Commission included an unprecedented discussion of absorption capacity in its annual enlargement strategy report: “The Union’s capacity to absorb new members, while maintaining the momentum of European integration, is an important consideration in the general interest of both the Union and the candidate countries... The Union has to ensure it can maintain its capacity to act and decide according to a fair balance within its institutions; respect budgetary limits; and implement common policies that function well and achieve their objectives.”

Two weeks later, Angela Merkl took office as Chancellor of Germany, ending Austria’s isolation as the only member state consistently skeptical about enlargement and opposed to Turkish accession.

At their March 2006 meeting in Salzburg, the EU’s foreign ministers reiterated that the Union’s “absorption capacity has to be taken into account” in enlargement decision-making. One week later, the European Parliament asked the Commission to “submit a report by 31 December 2006 setting out the principles which underpin [the Union’s] absorption capacity.” Hinting at the answer they wanted, the MEPs indicated “defining the nature of the European Union, including its geographical borders, is fundamental to understanding the concept of absorption capacity.” The Parliament also declared, “the capacity for absorption of the Union... remains one of the conditions for the accession of new countries” and called on the Commission to “factor this into the overall negotiation timetable.”

Austrian chancellor Wolfgang Schüssel didn’t hide his satisfaction with these developments: “For the first time, we are now discussing issues like Europe’s geographical

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borders and... the question of the EU’s capacity to absorb new members. If you don’t see this as progress, I can’t help you.”

At the June 2006 summit concluding the Austrian presidency, the Fifteen instructed the Commission to prepare a report on absorption capacity, which Schüssel commented was not simply about finances and institutional efficiency: it also had a cultural dimension, he said. Danish Prime Minister Anders Fogh Rasmussen insisted that the focus on absorption capacity was “not a new criteria,” which was technically correct but blind to the concept’s sudden rise in political salience. French President Jacques Chirac explained that absorption capacity was partly about responding to popular anxieties about enlargement, so there must be a means for the citizens of member states “to be able to say if they accept [the candidate state] or not.” Such comments led one journalist to conclude, “the west European centre right has come up with an inelegant euphemism for Europe’s borders: ‘absorption capacity.’ In plain English, it means ‘we can’t take any more, probably’.”

On the other hand, a number of EU governments remained committed to the liberal democratic definition of European identity. For example, Swedish Foreign Minister Carl Bildt criticized ‘absorption capacity’ as a “buzzword” and a “flawed concept” that obscures the transformative potential of European integration. He thus decried “those who wants to slow down or perhaps even stop the process [of enlargement] altogether. There is talk of defining the borders of Europe. Drawing big lines on big maps of the east of Europe risks becoming a dangerous process. We should know that such a process will have profound effects in those areas or nations that fear ending up on the other side of those lines. We could easily see forces of atavistic nationalism or the submission to other masters taking over when the light of European integration - however vague or distant - is put out. If that happens, the lines on the maps will certainly not protect us from the consequences of what happens beyond them.” It is thus apparent that the Council was deeply divided by 2006 over the nature of the EU as a political community and thus over the definition of which neighboring states were eligible for membership, in stark contrast to earlier periods, when the member states accepted a common definition of European identity regardless of their preferences regarding particular applicant states.

In response, the Commission’s November 2006 report on EU enlargement strategy acknowledged broad public uncertainty about enlargement but sought to replace discussion of absorption capacity (which sounded like a Pampers advertisement) with ‘integration capacity,’ conceived as a set of institutional and financial challenges for current member states to address rather than as an insurmountable obstacle to new member states. In a further rebuttal, the Commission addressed the closely-related debate over the borders of

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97 EU cements ‘absorption capacity’ as the new stumbling block to enlargement, EurActiv.com, 16 June 2006.
98 The EU’s weary travellers. The Guardian, 4 April 2006.
Europe: “The term ‘European’ combines geographical, historical, and cultural elements which all contribute to European identity. The shared experience of ideas, values, and historical interaction cannot be condensed into a simple timeless formula, and its is subject to review by each succeeding generation.” But the Commission’s arguments could not hide the fact that the earlier consensus among the member states regarding the political character of their community, and thus the potential limits on its enlargement, no longer existed.

In its place, there was now a dissensus that would make it far easier for member states to pursue their enlargement preferences without incurring the wrath of their peers. This normative change was not reflected in changes to the EU treaty: the 2009 Lisbon Treaty repeated a familiar line, “The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities.” The treaty also repeated that any European state committed to these principles may apply for membership. But it was clear by this period that such treaty language was no longer backed by a normative consensus among the member states regarding the characteristics that would make an applicant eligible for membership.

Part III: Conclusions

The evolution of EU membership norms over five decades reveals the potential dynamism of regional identity. Contrary to the rhetoric one hears from EU officials, the promotion of liberal democracy was not always central to the member states’ shared understanding of their joint endeavor. In fact, EU membership norms were always contested and changed fundamentally at several points in the course of European integration. In the current period, the EU’s member states and supranational institutions no longer agree on a definition of the European Union’s political identity, and thus lack consensus on the terms by which applicant states’ eligibility for membership should be judged. The significance of this normative dissensus should not be under-estimated.

For example, whereas Turkey could refer to earlier membership norms to overcome resistance to its quest for accession, the politics of EU enlargement has entered a new phase in which the path to Turkish accession is far less clear. In the new normative environment, then President of the European Council Herman van Rompuy, himself a long-standing skeptic of Turkish accession, could confidently declare, “Progress in accession negotiations and progress in political reforms in Turkey are two sides of the same coin,” because he knew that there will always be a gap between EU ideals and Turkish reality (as there was for all candidate states) that Turkey’s opponents within the Council can use to frustrate Ankara’s ambitions. If anything, this gap has widened since 2013, with the Turkish government’s harsh reaction to nonviolent protests in Taksim Square/Gezi Park, followed by its dismissal

102 Remarks by President of the European Council Herman Van Rompuy after his meeting with Prime Minister of Turkey Recep Tayyip Erdoğan, Brussels, 21 January 2014, EUCO 16/14.
of police and judiciary officials investigating charges of corruption by senior AKP officials, a tightening of restrictions on internet access, and a rollback of new constitutional protections of judicial independence.

These changes in EU norms have made things much easier for those within the EU who believe or find it convenient to argue that Turkey does not share EU values and thus should not be allowed to join. Unless the member states re-converge around a new definition of their community and this definition encompasses rather than excludes Turkey – and there is scant sign of this happening at present – Turkey is bound to remain stuck between candidacy and membership, regardless of what reforms Ankara adopts or how many times it mentions the EU’s earlier promises.