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From the German Past to the European Union's Future. 'Constitutional Patriotism' and the Transnational Making of a European Political Concept (1988-2008)

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Abstract

The European Union (EU) is still in the making, and so are the concepts used to think and talk about it. They sometimes appear to mix various political and intellectual traditions randomly, forming an incoherent discourse. The purpose of this article is to analyse the processes by which certain concepts succeed or fail to become part of this discourse. It focuses on the career of the concept of constitutional patriotism, made famous by the German sociologist and philosopher Jürgen Habermas. It will first insist on the difference in French and German contexts of national politicisations of the concept. Then, its introduction in the European arena will be examined. The article will challenge the view of a linear Europeanization of political concepts. Rather, the career of constitutional patriotism will appear as a complex process of co-production in which a transnational thought collective, involving both scholars and politicians, has played the main part.

Keywords

Constitutional patriotism, Habermas, Europeanization, European citizenship, Social history of ideas

The process of European integration not only challenges traditional political practices and institutions, it also challenges traditional concepts, old theories and established knowledge (Smith and Lequesne 1997). Over the years, a specific discourse on the European Union (EU) has been produced. The production of this discourse is understood here as encompassing 'not just the representation or embodiment of ideas [...] but also the interactive processes by and through which ideas are generated in the policy sphere by discursive policy communities and entrepreneurs' who struggle to give meaning to the new political object (Schmidt 2015: 171). The aim of this article is to provide a better understanding of the processes at work in the making of this discourse. More generally, it aims at addressing the processes of conceptual change in contemporary political discourse (Ball, Farr and Hanson 1995).

A striking case of such conceptual change can be observed in the late 1990s - early 2000s, at the height of the European constitutional debate. A discussion emerged amongst European Union scholars and politicians about the legitimate relationship between the EU and its citizens. Several prominent politicians and scholars made a case for a peculiar concept: 'constitutional patriotism'. Forged in German debates, where it had been shaped by the social theorist Jürgen Habermas, it was meant to conceptualise a new kind of bond between European citizens and the EU (Menent 2016; Müller 2007a). In strong contrast to nationalistic feelings, such patriotism was defined as an attachment of European citizens to European values and principles, rather than to a definite identity. As such, it was regarded by many as paving the way for the solution of one of the great problems of European integration: inventing a sense of belonging to the EU that would not imitate – and compete with – deep, historically rooted national traditions. Therefore, the concept enjoyed an important official success. Quantitatively, it was increasingly used by European institutional representatives; qualitatively, it was given the strategic function of summarising the core of a long-searched civic philosophy linking together European institutions and European citizens.

But not everyone was happy with this concept. The debate reached a political climax when, in 2000, the then German Minister of Foreign Affairs, Joschka Fischer, gave a famous speech on the future of European Union – and launched a controversy with the French Minister of Domestic Affairs, Jean-Pierre Chevènement. In a highly symbolic speech, held a few days after the 50th anniversary of the

seminal Schuman declaration of the 9 May 1950, J. Fischer made the case for a renewal of European integration, and argued for a 'federation of Nation-States'. Fischer neither used the concept of 'constitutional patriotism' nor cited Habermas. But J. P. Chevènement did, in a violent response attacking Fischer's speech and its 'typically German view of Europe', which he critiqued as an 'escape [from the past] in post-nationalism' and fear of the nation (Chevènement 2000).

This article intends to challenge the 'Europeanization under German influence' thesis implicit in the French Minister's position, as well as in scholarly analyses (e.g. Scicluna 2011). It will contest the view of a linear Europeanization of political concepts, defined as the progressive convergence around national pre-existing models (Börzel and Risse 2000; Radaelli 2004; Spahiu 2015). Rather, the career of constitutional patriotism will appear as a complex process of co-production in which a transnational thought collective (Fleck 1979) involving both scholars and politicians has played the main part (Vauchez and Mudge 2012). I will first give an overview of the uses of the concept in German debates, in order to underline the specific context of its invention. I will then show how it circulated in a different national context – France – and how it was eventually introduced into the European political discourse during the European constitutional debate.

STUDYING POLITICAL CONCEPTS IN CIRCULATION

Why are certain concepts introduced and regarded as legitimate in European debates while others fail? In this case, how can we understand the emergence of constitutional patriotism in European debates? In order to address these questions, it is necessary to start with an almost trivial observation: concepts of political theory and philosophy are Janus-faced, as is the very notion of 'political thought' (Freeden 2005). Concepts produced by theory or philosophy about the political are regarded as characterised by a rigorously constructed meaning, produced by highly specialised professionals supposed to follow rational procedures and scientific purposes. Concepts in use in political theory and everyday politics should therefore be carefully distinguished as belonging to two different spheres (Bourdieu 2004). However, political concepts do not exactly match these expectations. Being "political" can also refer to the fact that some of them are in use in the political game: they are the vocabulary which in some way relate to the problems of organisation and relations in the polity – a phenomenon once analysed in terms of 'double hermeneutics' by Anthony Giddens (Giddens 1990).

The fact that political concepts can at the same time be elements of the everyday political game and of its theoretical study is reflected in the empirical observation of their circulation. Conceptual circulation refers to the expansion process of the uses of a concept to new debates, a process which constitutes the "career" of a concept. It can be transnational – from one national debate to another. It can also be observed when theoretical concepts, usually mostly discussed by scholars, abruptly become fashionable in the political vocabulary, sometimes in the media, be it even for just a short amount of time. The career of a political concept therefore appears as a guideline pointing to a network of actors, stages and debates at first sight hardly related. Focusing on this circulation allows us to scrutinise the processes by which a political concept gains acceptance and is legitimised, not only in scientific arguments but in everyday political controversies and collective representations. In what follows, I shall argue that paying attention to this ordinary conceptual circulation can prove of great help in understanding the construction of political thought in the European Union.

From this perspective, investigating the career of a concept starts with tracking down its occurrences – where and when it is used. It also requires paying attention to the context of its uses – for to use a concept is to say that some words not only carry a meaning but also take place in a context where

they are produced and received (Skinner 1969). In the case of political thought, the relevant context to be studied is a complex one, mixing ideational, political, social and personal stakes. Finally, the concepts used in these changing historical contexts do not move by themselves in the light air of ideas. After all, to be used, a concept needs a user. That is to say that this investigation has to be actor-centred as well and gather sociological material on the actors involved, be they individual or institutional. Their role can be obvious, as in the case of actors discussing the concept frequently and decisively. But it can also be more discreet, in the case of actors who do not appear to be major thinkers or politicians, but who nevertheless play a pivotal role in connecting others together, or shaping their discussions by institutional or editorial activities.

Following these principles, this article is based on a chronology of the frequency of use of the phrase “constitutional patriotism” (fig. 1), in order to define how often and on which occasions the expression was used. It focuses on Germany, where the concept was invented, and France, where it was discussed early on. This is not to say that it has not circulated in other national debates (e.g. Ballester 2012; Aitchison 2008). But it would have been barely possible to examine more cases in sufficient detail. Instead, it seemed preferable to investigate two countries that have long played central roles in debates about the EU. Moreover, Germany and France typify two extremely different traditions regarding citizenship and national belonging – one based on culture and traditional ties, while the other is articulated around the state and political belonging (Brubaker 1992). Contrasting these two cases was therefore a way to tackle the diversity of contexts surrounding the discussion of constitutional patriotism. Thus, the publications and actors considered are mostly French and German: 198 articles using the concept from its beginning (1988) to the enforcement of the Lisbon Treaty (2009, not included) were collected to be analysed. Articles were selected from both scientific journals regularly using the concept in different disciplines (philosophy, political science, law and sociology) and in reviews addressing a wider public (e.g. *Esprit*, *Merkur*). After collecting these first publications, the scope of the investigation was inductively broadened to include neighbouring countries (e.g. Belgium), on the one hand, and some relevant English publications, on the other – although in a less systematic way.

Finally, at the European level, occurrences of the term were researched in European parliamentary debates, as parliamentary debates are arenas where conceptual change can usually be clearly observed (Bayley 2004). In order to understand the social and political debates prevailing at the time of these publications, historical literature, newspaper articles and biographical information about the main actors were collected as well.

A CERTAIN IDEA OF GERMANY: BIRTH OF A CONTESTED CONCEPT

What does constitutional patriotism mean? ‘The expression will sound in many ears like a contradiction in terms’ (Müller 2007a). There is something uncomfortable in thinking of the association of a feeling of belonging to a community (patriotism) and the political and legal concept of constitution. Patriotism is an affective relationship bounding citizens to the nation-state, and to each other. The constitution is a legal and political text playing a foundational role in modern states and defining the organisation of the state and its relationship to citizens. In constitutional patriotism, the strong feeling of patriotism is thus connected to a rational law, and not to more emotionally moving objects such as nations. Defined in this way, constitutional patriotism is very close to the oxymoron contained in the idea of ‘rational feeling’ developed by the Kantian tradition about the concept of respect. To that extent, it is open to the same criticisms, especially that of being a contradiction in terms and of lacking any possible empirical experience. The meaning of the concept therefore is theoretically far from self-evident and in practice, it lacks empirical support.

DEBATING THE GERMAN PAST: THE HISTORIANS' QUARREL

Facing this conceptual difficulty, we might expect to find some help in considering its original meaning. The concept of constitutional patriotism was made famous by the German philosopher and social theorist Jürgen Habermas during the heated public controversy known as the Historikerstreit ('historians' quarrel'), which lasted from 1986 to 1988 in Germany. However, strictly speaking, Habermas was not the 'father' of the concept, since it had been first coined by the German political scientist Dolf Sternberger (1907–1989) in 1979, in a short newspaper article celebrating the 30th anniversary of the German Constitution (Grundgesetz) of 1949. Although he was a renowned political scientist and one of the fathers of post-war German political science, his concept barely resonated until it was used by Habermas. Significantly, it was not before 1990, once the Historikerstreit was over, that a posthumous collection of Sternberger's articles on the issue was published under the title *Verfassungspatriotismus* (Constitutional Patriotism).

This contested 'fatherhood' is more than purely anecdotal, inasmuch as Sternberger and Habermas hold totally different, rather opposite, definitions of the concept. According to the explanations Sternberger later provided, constitutional patriotism was to be understood as a wide-ranging descriptive notion: 'Patriotism in its European tradition had always and essentially something to do with the Constitution of the state, which means that patriotism is always and essentially a constitutional patriotism' (Sternberger 1990). In this descriptive sense, the concept was supposed to point out the hidden connection between a feeling of belonging to a community and the institutions of this community. That is to say that the main issue in patriotism should not be its national dimension, which leads to nationalism, but its relationship to the state embodied by the constitution. This attempt to praise anew the 'tradition of European patriotism' before the age of nations was then 'to be understood as a return to pre-national patriotism' (Müller 2007a).

For Habermas, constitutional patriotism is distinguished from nationalism and conventional national identity as well. But, contrary to Sternberger, he refuses to conceive of political belonging as based on an inherited identity, even be it the constitution of the state. Habermas observed that the historical coupling of nation and state, that strongly conditioned the development of democracy in Western European countries, was being increasingly weakened in the contemporary world (Habermas 1998 [1996]; Habermas 2001 [1998]). This opened the way for a new kind of political belonging, no longer based on a given, inherited, collective identity. Instead, in line with his previous work on communicative action and the public sphere, he called for a sense of belonging developing from the rational discussion of basic principles and values among equal citizens. Constitutional patriotism – attachment to the fundamental principles of a political community – was supposed to result from this rational process of collective negotiation. In short, where Sternberger intended to make a case for a pre-national patriotism, Habermas pleaded for a post-national one.

It should be underlined here that, in both cases, these definitions were hardly given at the time of the first use: Sternberger waited until a conference in 1987 to display the precise meaning of his concept, while Habermas at first only mentioned it in the last lines of a polemic article (in Augstein 1988). Therefore, constitutional patriotism was from the beginning ill-defined.

Finally, the context of the debates was undoubtedly a very specific one: in 1979 as in 1988, the debates were about the German past and, explicitly, its relation to WWII. The Historikerstreit, during which the concept was reborn, was a public controversy among historians, quickly joined by other intellectuals, on the interpretation of the Nazi past. It was launched in July 1986 when the historian Ernst Nolte (1923–2016) published in the *Frankfurter Allgemeine Zeitung* a seminal article pleading for a 'historicization' of the Final Solution. He claimed that a full scientific understanding of the events would require ceasing to consider them *sui generis*, and, especially, would require scholars to

address the causal role of the USSR. In proposing to emphasise other aspects of the Final Solution, it was suggested that it should be possible for Germans to re-establish a more positive relationship with their national past – and thus, to reconnect with a somewhat traditional form of patriotism.

This polemic statement started a violent and long controversy on the historical meaning of Nazism, the German past and identity. Several historians fiercely replied to him, denouncing an attempt to reduce the exceptionality of Nazism. They were soon joined by an experienced actor in public debates, Jürgen Habermas. It was not long before he became the representative of the ‘discontinuity’ thesis against the partisans of the historical ‘continuity’ thesis defended by Nolte.

AN ACADEMIC CONCEPT IN POLITICAL CONTEXT

This was all the more controversial as the debate between distinguished academics emerged from a tense political background. For the 1985 commemoration of the end of WWII, the German Chancellor, Helmut Kohl, and the American President, Ronald Reagan, visited the cemetery of Bitburg, where members of the SS are buried beside American soldiers. This was followed by the launching of a programme aimed at redefining the politics of memory in the Federal Republic. Nolte and his supporters were known to be close to the Conservative government (as was Sternberger), as in the case of historian Michael Stürmer, who was then Kohl’s speechwriter (Specter 2010; Müller 2007a). Habermas being a distinguished representative of the second generation of the Frankfurt School and having a Marxist background, his friends were to be found in the Social Democratic Party (SPD) or the Greens, i.e. in the opposition. Political affinities paralleled academic ones.

The second act took place in Germany, shortly after the end of the Historikerstreit. It occurred on the occasion of the Reunification debate, in the years surrounding the fall of the Berlin Wall (1988–1993). At this point, the historical question of dealing with the German past was turned into the legal question of grounding Germany’s future. The Reunification debate was, for our purposes here, mainly a political and legal one. The questions raised by the prospect of German reunification, although complex, revolved around the question of the Constitution, for the 1949 Constitution was from the beginning supposed to be provisional, valid only as long as the country was divided. With the end of the Cold War and the prospect of Reunification, a constitutional change should have been expected. However, many voices argued for an emergency reunification, modelled on the integration process of the former Allied-occupied parts of the FRG (article 23 of the Grundgesetz). In doing so, East Germany was to be blended into West Germany, and to adopt its political organisation and rules.

But, for Habermas, this solution involved a major risk, for in avoiding a constitutional debate, it failed to address the question of loyalty of East Germans to the institutions of the Federal Republic. In his own words, it sounded like an annexation (Anschluss). Using his authority as an established public intellectual, he once more publicly made a case for a constitutional patriotism that would be the grounds for a shared sense of belonging in both parts of Germany. Two weeks after the fall of the Wall, he exposed his thesis to his academic friends in a short text on ‘national feeling’ and to the public in a series of articles in *Die Zeit*, a leading liberal newspaper (Specter 2010). Given the difficulty of legitimating reunification on a shared national past, he pointed to the risk of a nationalist revival, and of an increasing hatred of democracy in the East as in the West. This puzzle could only be solved by promoting and adopting constitutional patriotism as a civic norm, on the occasion of the debate on the new Constitution. According to Habermas, to overcome their past and prepare for their reunified future, Germans needed to move beyond the nation, and this could only be achieved by praising constitutional democracy in place of the nation and the corresponding

feeling of belonging to such a post-national democracy: constitutional patriotism. The object of this new patriotism was to be the universal democratic values embodied in the Constitution. Following Habermas's work on deliberative democracy, constitutional patriotism was thus closely associated with a reflection on the foundational and integrative role of democracy.

But, as an observer put it as early as 1988, things had changed in Germany:

Jürgen Habermas, has argued that German identity must consist of constitutional patriotism (Verfassungspatriotismus), Willms [a political scientist belonging to the 'New German Right'] responds: 'Identity lies in the nation, not in the constitution.' Quite early in the debate on the national question, Willms recognized that the political climate was changing and that this might open up new opportunities for the right. [...] He observed that the nation could be discussed in a way which had been impossible a few years before. The 'political-intellectual spectrum' had moved. What once had been dismissed as extreme rightist had shifted to the right. (Betz, 1988)

In this context, Habermas's argument was defeated and Germany reunified without voting on a new Constitution. Constitutional patriotism had failed to be generally accepted as the new legitimate civic norm of the old Federal Republic.

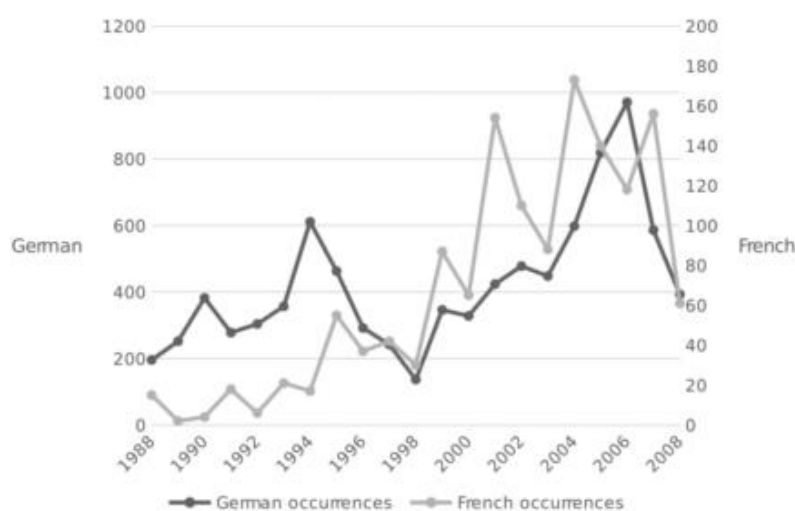


Figure 1 Occurrences of 'constitutional patriotism' in French and German books. Source: Google Ngram.

The specific character of the debates where "constitutional patriotism" was first used can thus be defined: it was first formulated in a German academic and political debate originating in German history and concerning national memory. If we consider that its origin is disputed, its initial definition unclear and the context of its first introduction very specific, it turns out that to bet at the very beginning that constitutional patriotism would become a key concept of many European debates would have been quite daring. However, it happened to be increasingly used by a great number of political theorists, in Germany and beyond, in France and eventually in the European Union, where it became a kind of an ideal view of the expected relationship of citizens to political institutions (Müller 2007b; Rambour 2004). The rest of this article aims to understand how it escaped Germany and entered European debates.

BECOMING EUROPEAN: EUROPEANIZATION UNDER GERMAN INFLUENCE?

The concept of constitutional patriotism was in the first place designed for German debates (Turner 2004). Nevertheless, is this sufficient grounds to jump to the conclusion that its use in European debates simply reflects the domination of German conceptions of Europe? Interestingly enough, this thesis finds support in political arguments. But, as we shall see, this does not fully capture the complex processes at work. In fact, the Chevènement vs. Fischer debate in 2000 is better understood as the crossroads of two national politicisations than as the result of an even process of Europeanization of the concept.

THE INTRODUCTION OF CONSTITUTIONAL PATRIOTISM INTO FRENCH DEBATES: FROM POLEMICS TO THEORY ... AND BACK

The ‘Europeanization under German influence thesis’ overlooks a major step in the concept’s career: its introduction into different national contexts – in this case France. It is not to be denied that the concept was still of much more common use in Germany than in France (fig. 1). Nevertheless, a brief examination of the articles using the concept in France at this time (1988–1993) reveals a curious fact. While in Germany, constitutional patriotism was mainly used in public political controversies, most French uses are to be found in philosophical or theoretical articles. Moreover, even when they deal with problems similar to those encountered in Germany (nation, identity, community), they are neither very concerned with the German case nor with legal debates. In other words, in crossing the border, the concept seems to have lost its German political and academic context (Bourdieu 2002). How could such an allegedly German concept have managed such a resettlement?

In the late 1980s, Habermas was far from unknown in France. Partly translated since the early 1970s, he had given a series of lectures at the prestigious Collège de France in 1983, where he had met Michel Foucault and other famous French intellectuals. However, his plea for a new German constitutional patriotism was not really echoed in France, where the general intellectual mood was suspicious about the reunification of its powerful neighbour (Bouchindhomme and Habermas 2005). The introduction of the concept was thus mainly academic, thanks to the work of a small group of French scholars and translators of Habermas’s work.

Four names particularly deserve to be mentioned: Habermas’s two main translators, Rainer Rochlitz and Christian Bouchindhomme, and two of his main French editors, Jean-Marc Ferry and Heinz Wismann. All of them had been trained as philosophers in the hermeneutic tradition of Gadamer and Ricoeur. Except for Wismann, who was older, they were at the very beginning of their career; to introduce Habermas’s work, already famous but not a classic in France yet, was an opportunity to be associated with him, to use his name as a source of legitimisation in their domestic academic debates. They could all rely on a familiarity with German debates (indeed, Rochlitz and Wismann were born in Germany) and on personal acquaintance with Habermas – especially Ferry who, in 1989, worked with him as a research assistant. Finally, they were closely connected to each other, with Wismann playing a pivotal role as editorial director of a small but active books series (‘Passages’) he had founded in 1986, and where Habermas’s books were published at this time. This network assumed the major role of framing the reception of Habermasian thought from the early 1980s on.

Compared to Germany, three major moves in its understanding can be traced to their role. First, in the editorial forewords they produced for Habermas’s French editions, it is striking to notice that they almost completely turned away from his Marxist past. Assuming that it was then no longer relevant, and coming themselves from very different traditions, they played down its relationship

with the Frankfurt School in a way that strongly contrasted with previous presentations. For instance, whereas in 1973 Habermas was said to 'inherit the Frankfurt School' (Ladmiral and Habermas 1973), we are told in 1986 that 'he owes nothing to the Frankfurt School' and works 'alone' (Bouchindhomme and Habermas 1986).

Secondly, the genealogy of constitutional patriotism itself was rearranged, especially by Ferry. Although he, of course, described the concept as related to its first use during the *Historikerstreit*, he clearly stated that constitutional patriotism was already implied by the French Republican tradition as early as 1791 (Ferry 1992). It would in fact have been the 'true' revolutionary patriotism – a statement which is of much value in France. Doing so, he translated the concept into a mainstream French vocabulary and intellectual tradition and tore it away from its German origins. Even more so, it suggested an empirical case of effective constitutional patriotism and thus answered a critique regularly made of the concept.

Thirdly, a strong theoretical turn was given to the concept. In a 1990 article, Ferry justified his use of the concept as resulting from a 'more systematic, more theoretical questioning on what a nation is, what it involves concerning national identity' (Ferry 1990). Constitutional patriotism was defined 'from a systematic point of view' as follows: 'This concept is clear: [...] it means that political identity, from now on different from national identity, is grounded on universalist principles (in understanding) and thus transnational (in extension)'. This definition of constitutional patriotism as civic belonging is very close to Habermas's. Nevertheless, it constitutes a blatant case of a theorisation process (Strang and Meyer 1993), i.e. of interpretation of a contextual notion in terms of abstract categories, which makes it available for virtually universal use. Moreover, the universalist principles the concept conceals were explicitly made equivalent to its transnational dimension, that is to say, its ability to circulate.

These three processes resulted in distancing the concept from its original context and in strengthening its definition. On the one hand, they made it acceptable in the French context, by giving a proper genealogy to the author and the concept. On the other hand, the theorisation process strengthened the philosophical legitimacy of the concept, and firmly rooted constitutional patriotism in long-term debates – be they national or, as implied by the universalistic dimension it was given, transnational.

However, it would be oversimplifying to say that it was not relevant to early 1990s political debates: constitutional patriotism was at the same time linked to a new political issue: the European integration process. In Germany, it was a while before the concept was imported into European issues. Habermas's early attempts to introduce constitutional patriotism in European debates almost completely failed until the mid-1990s. Until then, fewer than 10 per cent of the German articles using constitutional patriotism mentioned European integration, and, even then, generally only to explain how difficult it was to think of a European patriotism. Constitutional patriotism had been so strongly tied with German domestic problems that it sounded strange for Germans to use it in connection with Europe. But while the question at stake in Germany was the place and integration of citizens to the German nation, in France the issue connected to constitutional patriotism was the place and integration of the French nation in Europe.

French debates on Europe have proved, at least since Maastricht, very heated academically as well as politically. They have revolved around the national question. In 1992, two lines appeared which did not follow the traditional political cleavages. They opposed those who dismissed the Treaty in the name of different pictures of the nation, from extreme-right to extreme-left and even amongst traditional pro-Europeans, and those who saw the Treaty as a decisive step for European integration. The patriotic question surfaced in this context: for instance, Pierre Bérégovoy, speaker of the

National Assembly, started one of his 1992 speeches by praising the 'daring patriotism' of Maastricht's defenders. Another MP and future vice-chairman of the European Commission, Jacques Barrot, also pleaded for a 'European patriotism' which was to combine with national ones. Not very surprisingly then, the 'European turn' of constitutional patriotism appears to have occurred in France before Germany, although the concept was still much more common in the latter.

Its French spokespersons were indeed strongly involved not only in academic work, but also in public debates on Europe, and were especially connected with the old, left-liberal Catholic and traditionally pro-European review *Esprit*. Ferry had been a member of its editorial board since 1988 and published several articles on post-nationalism inspired by the work of Habermas. In 1992, at the very heart of the Maastricht ratification process, he was a co-editor of a book, published by *Esprit*, discussing the European future, in which he and Habermas praised constitutional patriotism (Lenoble and Dewandre 1992). Similarly, a philosopher and fellow member of the board of *Esprit*, Joël Roman, published in 1992 one of the first French daily press articles using constitutional patriotism, entitled 'Europe has to be post-national'. No more than six years after Habermas's first use, the concept had been reframed as a European issue in French debates.

Two points are to be made here. First, if the arguments are quite similar in both countries, they are used in very different political contexts and debates, so that it is difficult to consider these debates as proof of a transnational discussion of constitutional patriotism. It appears more accurate to underline the different politicisations the concept became subject to than the apparently shared aspects of the polemics. Secondly, since the 'European turn' of the concept seems to have occurred in France following its own logic, considering constitutional patriotism as a mere Europe-wide extension of a German idea, resulting from German activism or influence, completely overlooks the shaping accomplished by the French scholars who used the concept.

THE RECEPTION OF CONSTITUTIONAL PATRIOTISM IN EUROPEAN DEBATES: BETWEEN NORM AND FACT

Constitutional patriotism has proved a contested political and theoretical concept. It has been discussed in a variety of debates of great significance not only for Germany, but also for Europe. Nevertheless, their stakes seemed more national than Europeanized. I want to focus finally on the way it entered European political discourse, i.e. how certain actors helped turn it into a legitimate concept in European institutional arenas, especially during the European Constitutional Treaty debates (2000–2008).

Two processes are to be underlined here. First, Habermas himself was an active proponent of a European constitutional patriotism from the mid-1990s. Indeed, in line with the controversies raised in France, he saw in European integration a very relevant case for the application of constitutional patriotism. He thus strongly pleaded for a European Constitution, towards which a new European patriotic feeling could be directed (Habermas 2001). The constitutional debate itself, if conducted properly, should have been the occasion on which a truly European democratic discussion on the values to be embodied in the Constitution would have developed – therefore triggering a sense of European constitutional patriotism. The controversy on the European Constitution, however, led Habermas to move the emphasis of his concept slightly, as some observers noticed (Lacroix 2009). Being attacked – first in Germany, where counterarguments had already been tested in previous debates (Grimm 1995; Habermas 1995, 1998) – for lacking an empirical basis, he increasingly developed a more substantial, less procedural, view of constitutional patriotism, weighting shared identity and values more than he had before (see Habermas and Derrida 2003). Significantly, in his

2011 book on the crisis of the EU, the vocabulary of constitutional patriotism is missing – replaced by the more traditional concept of 'civic solidarity' (Habermas 2012, 2011).

These arguments, developed in numerous and widely translated publications, conferences and newspapers, were important contributions to the constitutional debate. But Habermas was by then no longer the sole user of the concept, and its European discussion cannot be traced back to the German theorist only. A new generation of political philosophers reinterpreted constitutional patriotism in a more liberal and cosmopolitan way, which, they claimed, was more fitted to actual European political debates. Contrary to the Habermasian meaning of the late 1990s, this small group, often located in Brussels around Ferry (notably Justine Lacroix or Paul Magnoste), promoted a second-generation interpretation of the concept (Lacroix 2002b; Lacroix and Magnoste 2005; Magnoste and Costa 2006): 'Constitutional patriotism's deepest meaning is not to be found in an effective identification [...] but in a practice or a habit resisting any identification' (Lacroix 2002a). Such a practice means the involvement of citizens in political affairs creating and strengthening a shared feeling of belonging to a common polity. These authors saw it as a way back: constitutional patriotism in its original meaning was nothing substantial, but a mere civic process. It thus cannot be defined by one given set of values or a legal text but only as an open process, never bound to a specific form or historical tradition. To put it differently: for them, the point in the concept was not only to put aside the nation, it also had to make room for democracy. The debate should therefore be more closely related to democracy than to the nation and legal constitution: the real priority for the EU was to strengthen its democratic instruments and the involvement of its citizens.

Besides this new framing, we also note at this time an increasing effort of the new spokespeople of the concept to cross national and disciplinary borders, and to improve the circulation of their theses. Geographical circulation was favoured by the already-mentioned fact that far from making careers in French or German academic institutions, they were located in Brussels, and closely connected to European institutions. Considering disciplinary circulation, it is worth noting that they coordinated interdisciplinary projects, as made possible at the Free University of Brussels, where Ferry and his former students led the Centre for Political Theory. It is especially true of the relationship of these French (and Belgians) scholars to legal studies: Ferry led a private doctoral seminar since 1999, whose purpose was to allow students of law and political theory to meet. He also joined the editorial board of a review called *Penser le Droit* in 2005, while Lacroix held lectures in a French institute on legal studies between 2006 and 2008. In so doing, these scholars built bridges between their initial specialty, political philosophy, and other disciplines involved in thinking about the European integration process.

The interplay and familiarity due, on the one side, to common engagement with European issues, and, on the other, to the efforts of these scholars to find new audiences to bridge the gaps between different disciplines facilitated this conceptual academic circulation. Indeed, the scholars promoting the concept were located in a 'border-land' (Vauchez and Robert 2010) where scholars of different national and professional backgrounds met, debated, and tended to use a common language because they dealt with shared European issues and necessary mutual understanding. Through the mediating action of its defenders, constitutional patriotism became familiar to European specialists.

The new generation of users of the concept was also involved in European political expertise: if they only rather rarely held academic and partisan positions at the same time (though it was the case for one prominent Belgian political scientist connected to this network, Paul Magnoste), they very commonly advised politicians or European institutions. It might be directly (e.g. Kalypso Nicolaïdis, who was close to Justine Lacroix, and chairwoman of the International Group of Expert Advisors on the Convention for the Future of Europe for the 2003 Greek Presidency) or more informally, through meetings and reports organized by think-tanks, such as *Notre Europe*, created by Jacques Delors,

where Justine Lacroix started her career. Nicolaïdis and Ferry have since become members of the Spinelli Group, a militant political think tank gathering scholars and politicians for a 'federal and post-national Europe', which also counts Delors and Fischer amongst its members. As advisers or experts, they were close to institutions in need of technical tools. This generally requires an awareness of and sensibility to the current political problems and an ability to propose precise recommendations (Robert 2012). The reframing of constitutional patriotism in terms of democracy can then be understood as to some extent reflective of the general concern of European institutions and their experts for democratic legitimacy (Zimmermann 2004). But, more importantly, these academic mobilisations favoured the circulation of the concept from academic papers to political discourses, which they enter as technical opinions of qualified experts.

This is reflected by the increased penetration of the concept into the European political vocabulary during the constitutional debate. Even though its introduction remained limited in quantitative terms, the concept was linked to a very decisive question: the relationship between national and European belongings. Indeed, the European reframing of the concept of constitutional patriotism suggested a way towards the creation of a direct, specifically European, political link between the EU and its citizens, based on abstract principles and values - without repudiating the older national bonds. The constitutional process could thus appear, through public debate of the principles to be embodied in the European Constitution, 'as the prelude to the emergence of a European "demos" beyond the nation states' (Lacroix 2002a: 955). In this perspective, if national and European patriotisms were not thought of as mutually exclusive, it was nevertheless clearly possible to draw the conclusion that attachment to European democratic values should have primacy over particular national loyalties. It could therefore constitute a powerful tool in the legitimisation of the EU.

This potential did not go unnoticed. To take the European Parliament as an example, the concept was used five times in European parliamentary debates between 2001 and 2004 – which is not much, except that it does not appear to have been the case before. One of these occurrences may be found in a resolution proposal of 2003, signed 'in the name of the EPP' (European People's Party, the majority European party) by its German representative at the European Convention, Elmar Brok (CDU), also a member of the federalist Spinelli Group, and Iñigo Méndez de Vigo, former lecturer in constitutional law who was appointed President of the College of Europe in 2009. It required the European governments 'to set an example on European constitutional patriotism during the final Intergovernmental Conference negotiations' (Méndez de Vigo and Brok 2003) on the European Constitutional Treaty, instead of defending narrowly national interests. Constitutional patriotism was not displayed here as a contested theoretical concept, but as a norm of European political behaviour which should be adopted by 'truly' European leaders.

The concept was discussed beyond the European Parliament, as well. In France, the debate continued in different newspaper articles and books devoted to the constitutional project and pleading for - or against - the concept (Beaumont 2003; Chevènement 2005). It took hold in other European countries. For instance, the concept was notably supported by the Spanish socialist José Luis Zapatero, who became Prime Minister in 2004 and expressed his support for the concept on several occasions (Ballester 2012). The Conservative Spanish party later endorsed constitutional patriotism as well, and it was a Spanish MP who underlined the interest of this 'good and interesting' theory during a session of the European Convention, even though it was to defend the role of national parliaments in the constitutional process (Laborda 2002). Finally, the French President of the Convention for the Future of Europe, Valéry Giscard d'Estaing, if he didn't allude directly to constitutional patriotism, campaigned for a kind of 'European patriotism' based on 'European shared values' (Giscard d'Estaing 2006) – which, in spite of other differences, is closer to the concept promoted by the Habermas than to the more procedural meaning of the second generation. This

nevertheless underlines the fact that the idea of a value-based European patriotism had come to be widely accepted as a central normative issue in the constitutional debate.

Academic defenders of the concept underlined this entrance into legitimate political discourse, which in turn strengthened their claim in proving its relevance:

In public justifications, but even more so in state practice – countries in Western Europe are now converging on a notion of membership and political attachment that is best theorized in terms of the category of constitutional patriotism. In other words, what once appeared as a highly idiosyncratic construct for the very specific situation of post-war West Germany is now becoming an accepted norm and practice across at least Western Europe. (Müller 2007b) .

This 'convergence' would not only be found in 'public justifications', but also in effective practice, which would only be qualified by the descriptive concept of constitutional patriotism: in this view, the concept has to be taken seriously because it describes real practices and political norms. It all happened as if theoretical arguments were strengthened by the political uses of the concept at the European level.

The failure of the Treaty in 2005 and the subsequent economic crisis, did, of course, severely abate these optimistic interpretations. The prospect of creating a shared sense of belonging, directed towards European values, came to be regarded as grimmer than ever before (e.g. Kumm 2008). Constitutional patriotism was frequently analysed as unable to take into account the actual situation and diversity of the EU, and thus as failing to deliver an adequate model of how citizens could develop a strong attachment to non-national institutions. Indeed, the term was only rarely endorsed by major leaders after 2008. However, it did not disappear. It is still defended by academics as the only way out of the crisis (Müller 2008), and Habermas still enjoys a prominent place amongst scholars honoured by European institutions. Significantly, the concept is, up to now, still to be found within the grey literature produced by European institutions as a possible answer to future challenges (e.g. Pichler 2015; Prutsch 2017). If it is certainly less fashionable today than it used to be during the constitutional debate, constitutional patriotism has, perhaps for lack of a better concept, secured a lasting position in the conceptual apparatus used to think about the relationship between European citizens and EU institutions.

CONCLUSION

The European success of constitutional patriotism in the early 2000s was the result of a much more complex process than is assumed by the 'Europeanization under German influence' thesis. Instead of a linear process of Europeanization around German values, the circulation of constitutional patriotism involved a very different logic: theoretical and political on the one hand, national and transnational on the other. The different steps examined here are summarised below.

First, constitutional patriotism, although it originated in German debates, succeeded in European debates as a transnational (re)creation. Indeed, far from being the exact translation of a German concept, it was increasingly reinterpreted by French and Belgian scholars, who decisively contributed to shaping its European meaning. Secondly, the European uses of the concept were co-produced by political and academic actors. We observed constant connections between academic debates and political controversies. This was most of all observed at the European level, where political actors need concepts to think and legitimise the political process, whereas scholars need both political support for their work and the legitimacy given by the political uses of their concepts. First a national controversial concept, constitutional patriotism was gradually used as a political watchword in the

very non-national context of European institutions and finally depicted as a descriptive concept by its academic defenders.

Table 1: Circulation Processes in the European Career of Constitutional Patriotism

Type of circulation	<i>From one academic arena to another</i>	<i>From an academic arena to a national political one</i>	<i>From an academic arena to European political one</i>
Illustration	Introduction in France	Maastricht debate (France)	Political uses in the European Parliament
Process	Theorization	Politicization	Technicization
Mediation arenas	Academic institutions	General reviews, newspapers	Border-lands (think tanks, expert committees)

First, constitutional patriotism, although it originated in German debates, succeeded in European debates as a transnational (re)creation. Indeed, far from being the exact translation of a German concept, it was increasingly reinterpreted by French and Belgian scholars, who decisively contributed to shaping its European meaning. Secondly, the European uses of the concept were co-produced by political and academic actors. We observed constant connections between academic debates and political controversies. This was most of all observed at the European level, where political actors need concepts to think and legitimise the political process, whereas scholars need both political support for their work and the legitimacy given by the political uses of their concepts. First a national controversial concept, constitutional patriotism was gradually used as a political watchword in the very non-national context of European institutions and finally depicted as a descriptive concept by its academic defenders.

This suggests that the conceptual innovation in the EU's political discourse results from transnational and political-academic mobilisations rather than linear convergence around a predefined set of values or concepts. This conclusion is in line with other works on the history of European integration, which have especially underlined the constant implication of academics in the making of the concept of a 'community of law', for instance Vauchez (2015). Rather than identifying an 'essence' of the EU, this approach therefore points out the diversity of processes and actors who contribute to the production of its meaning. But the case of constitutional patriotism invites further investigation of the contemporary making of a European political discourse and of the 'protean' set of concepts – e.g. 'governance' or 'European citizenship' (Shore 2011; Tsaliki 2007) – used to discuss the EU today.

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ENDNOTES

¹ The opposite may, of course, be true as well: concepts first used by politicians may enter the vocabulary and tools of scholars. Given the purpose of this paper, though, I will only discuss the former case. Nevertheless, I precisely hope to point out the complexity of the relations between both kinds of discourse.

² Based on Google Ngram data, which, according to its developers, represents several million books, nearly 4 per cent of all books ever published. (Michel and Alii 2011)

³ Ernst Nolte received a PhD in philosophy at the University of Freiburg in 1952, before specialising in the history of fascism. He taught from 1973 to 1991 at the Free University of Berlin.

⁴ Born in 1938, M. Stürmer received a PhD in political history at the University of Marburg in 1965. He taught from 1973 to 2003 at the University of Erlangen-Nürnberg. He was during the 1980s an adviser to the conservative Chancellor Helmut Kohl.

⁵ Jean-Marc Ferry was born in 1946. He is one of the main early translators and commentators of Habermas in France. He taught philosophy at the Free University of Brussels for years and has actively pleaded for a more integrated Europe.

⁶ To take but one example, the piece 'Why Europe needs a Constitution', was first published in German ('Warum braucht Europa eine Verfassung?', *Die Zeit* June 28, 2001 and *Zeit der Übergänge* (2001), before being translated into English (*New Left Review* Sep-Oct. 2001, and *Time of Transitions* 2004), French (*Cahiers de l'Urmis* no. 7 June 2001), Swedish (*Arena* no. 6, 2001) and Danish (*Politiken* September 9, 2001). The text was presented in different lectures in Paris, Rome, Madrid, Warwick and Hamburg, in 2000-2001.

⁷ Justine Lacroix was born in 1970. After graduating Sciences Po (Paris) she worked for the European think-tank Notre Europe, and defended a PhD in philosophy at the Free University of Brussels under the supervision of Ferry in 2003.

⁸ Paul Magnette was born in 1971 in Belgium. Before becoming a prominent member of the Belgian Socialist Party, he received a PhD in philosophy at the Free University of Brussels in 1999, where he later directed the Centre for European Studies.

⁹ Emphasis added.

¹⁰ See for instance his Leuven Conference on 'Democracy, Solidarity and the European Crisis', and the introduction delivered by Herman Von Rompuy (Leuven, 04/26/2013). <http://habermas-rawls.blogspot.fr/2013/04/>. [Last accessed: 07/15/2017.]

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