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How to use the present crisis for fighting for a constitutional process of the European Union

The European Union is an institutionalized association of member states which is functioning as a central element of the present global political and economical constellation of powers. Like this present constellation of powers on a global scale the EU is a structure of domination in which the capital groups dominating national and transnational societal processes have a determining role. The present „refugee crisis“ – overlaying the finance and debt crises to be managed since 2008, and presently overlaid by the crisis of „terrorism“ which seems to be drawing the EU into an undeclared and undefined war – is challenging the EU internally and externally. I.e. the unforeseen and foreseeably still growing „wave“ of immigration, i.e. of people fleeing to „Europe“, because life in their home countries (or in the countries of a first refuge) has become unbearable for them, poses a challenge to the EU and to its member states: The EU is being challenged to define internal mechanisms of coping (frontier administration, registration and distributions of people fleeing to the EU), and it is likewise being challenged to rethink and to change its role in the crises and conflicts ravaging the countries of origin, as well as in the neighbouring countries which are being used as a bridge of passage by the multitudes of people in flight. The „wave“ of uncontrollable immigration has to be understood as a kind of „backlash“ to European policies of the past which actively or passively have promoted destructive processes in these countries. On the side of the EU, this challenge is putting into focus again that the EU has long time ago ceased to be a mere international organization, evolving into a transnational entity with a de facto constitution, even though the attempt to formalize it as such has been unsuccessful. And that this result has turned out to be effectively irreversible: there is no way back to a mere international association of nation states – except by a catastrophic turn of events.

It seems to be clear now that the present „refugee crisis“ (to use a misleading current characterization as a short-hand term) has lead to a state of exception on the scale of the EU. In this (very abstract) respect it has been comparable to the financial crisis of 2008 (and to the ensuing debt crises). This comparison may start from those

immediately concerned: Then it were those poor people who had taken apparently „cheap“ loans (and who have not been from the very poorest groups of the population) and whose becoming „unable to pay“ triggered off the financial crisis by their sheer numbers. Today it is the great number of people who have (mostly in consultation with their families) decided to take flight to Europe (remarkably knowledgeable about the high costs and the hindrances and dangers involved). The governments of the EU member states (who had been challenged in their state function als ‚lenders of last resort‘ then) are now being challenged in their function of guarantors of the public order, which in modern democratic states always also implies the active defence of human rights.

The difference between the two situations, then and now, seems to lie in what is in between the immediately concerned and the EU member state governments: Then, those concerned secondarily have been the banks, as a central segment of finance capital, and today, they can be identified as municipal administrations and regional or local civil society networks. And this constitutes, apparently, a really large difference. It is true, that Angela Merkel has declared the state of emergency in Europe today, as it is de facto arising out of the mass initiative of people in flight, and that she has used this to step out of the Schengen regime. But in the case of the financial crisis saving the banks has been an imperative accepted by almost everybody, and it could be met by a limited number of measures to be taken by the council of heads of states and prime ministers (or by agreements between these representatives acting outside of the EU constitutional framework), which have then be continued and regularized by the „quantitative easing“ put into practice by the ECB. In the present crisis, however, as it has been triggered off by the mass initiatives of people in flight, the constitutional imperative of safeguarding the human rights of these people has remained a weak postulate (which had already been ignored by the EU Frontex regime these same people had effectively overrun. And, on a secondary level, saving municipalities (or regions) from bankruptcy or from integration breakdown will prove, lastly, unavoidable – which cannot count, for its implementation, on an instance of power comparable to financial capital. Therefore it seems plainly impossible to define and to implement a small number of central measures capable of coping with the refugee crisis, while it remains probable that this crisis will continue to develop.

In spite of all these differences we have to acknowledge, however, that in both cases the EU and its member states have been put into an exceptional situation, a situation of emergency, i.e. a constellation of events which has occasioned and legitimized actions quite beyond the ordinary, with its established institutions and rules.

If we look more closely at what has happened in both cases, we shall see an emerging pattern of a strategy of „passive revolution“ so far in Angela Merkel's ways of operating on these European levels, within and without the institutional structures of the EU. This may be seen, on the one hand, from her proven readiness „to change everything“, while, on the other hand, clearly aiming at achieving, as a final result, that everything will remain the same as it is – i.e. deeply transforming established procedures and models of action, while making sure that the dominant forces within European societies remain in control. And she has shown her capability to legitimize this pattern of action by invoking the exceptional situation as requiring exceptional measures. In this way she has so far been able to prove her own (viz. of the group of member states' governments she is effectively leading) readiness and resolve to act, beyond the established rules and patterns. This way of creatively making use of exceptional situations is continuously safeguarding the effective reproduction of the economic, social and political structures of domination, as they exist within European societies.

In the face of this continuous practice of „passive revolution“ the question has to be asked, why it apparently is presently impossible to turn such exceptional situations into occasions for a practice of „active revolution“, i.e. for a practice challenging and changing these structures of domination themselves, at least in a perspective of a structural transformation going into a direction of overcoming domination and achieving at least first steps towards effective liberation.

Any adequate reply to this question will have to refer to a number of factors, and not just to one supposed key factor (as e.g. the historical defeat of the revolutionary left in the 20th century).

It seems to be unavoidable to address a simple cognitive factor as a first explanation of this inability. The left wing forces, as they really exist, evidently have considerable difficulties in understanding what is exceptional about these situations or which are the immediate reasons or causal factors for their emergence. And, by consequence,

they seem to have even greater difficulties in grasping the ,alternative‘ possibilities of action arising out of such situations of crisis. Reified ideas about how to distinguish between truly ,revolutionary‘ and merely ,reformist‘ politics, as they still dominate large strands of left wing thinking, seem to make it almost impossible to refer to the actual ambivalences and ,contradictions‘ in adequate way, which could be grasped as occasions for taking specific left wing and liberatory initiatives and for opening effective perspectives of a societal transformation in the sense of liberation.

In the midst of a structurally unresolved constellation of crises it has not even been possible to build only a common horizon for advancing towards an effective unity of left-wing counter-powers, let alone to construct a common project for a left wing alternative, to find the needed common definitions and to implement them in common practice. Such a project would have to make it possible to find common reactions capable of constituting a strategy of counter-offensive against the practices of ,passive revolution‘ implemented by the dominant powers. This lack of cognitive capability on the side of the left-wing political forces begins with the broad ignorance in face of the multi-level politics which have become characteristic of the European policy, as it is effectively constituted by the institutional structures and processes of the EU. Therefore, the skilful use made of multi-level politics made by leading politician and by European business leaders (now routinely combining „national“ and „European“ agency) does not yet find adequate answers from left-wing forces, at best just occasionally. Instead, especially critical situations tend to be met by debates on ,dissidents‘ or ,traitors‘, instead of looking for creative ways of combining different approaches to such moments of crisis. With regard to political parties or other organized forms of political agency common strategy debates are abruptly ended by splitting into organizations fighting each other – with the result that mutual propaganda takes the place of needed deliberation. As party organizations are an indispensable element for translating any kind of real initiatives into effective politics, mobilizing the specific power structures of the state, party splitting is especially disruptive for any conceivable politics of transformation (as it has recently happened to Syriza, with small political success, but enormous political damage) – because it does not only block any translation of radical initiatives into state politics, but in so doing indeed blocks societal learning processes in a decisive way. Instead of analyzing defeats and setbacks by common processes of deliberation and instead of learning from such analyses in a subversive way, those who disagree from one’s own

analysis are singled out and attacked as culprits – so that a splitting of common organizations becomes unavoidable. As a result, those who try to refer to given situations as they effectively present themselves are isolated as ‚pragmatic‘, who tend to remain restricted to mere tactics, while those who have the capability of critically going beyond mere tactical reactions towards a perspective of strategical action tend to constitute a „radical left“ which finally ‚succeeds‘ in avoiding the challenges of any intervention into really existing situations, beginning by not taking on board any kind of situational experience.

These kinds of splits can be seen as a second factor: The left wing forces tend to split, instead of looking for (and effectively finding) a way of living with (and, of course, to overcome) such unavoidable differences and oppositions and submit them to argumentative deliberation processes. Many political activists (not only within political parties) seem to prefer withdrawing into organizations of like-minded which are only capable of relating to each other by ways of propaganda battles and block all possibilities of a genuine common deliberation beyond their own internal spaces of communication. This, however, is a factor which is well within the reach of left wing politics – even though the emergence and development of innovative politics of left wing forces actively searching and addressing such challenges will be certainly very difficult.

All this has a specific relevancy for the imbrication of EU and member states‘ politics, as it prevails today. Beyond the analysis of the constitutionalization of neoliberal politics within the EU, as it has emerged since „Maastricht“, a new element has emerged in the form of the crisis management practices implemented by Angela Merkel. In fact, her practice of crisis management has taken a decisive step beyond the dynamic process of constitutionalizing neoliberal politics within the EU as a political community ‚sui generis‘, as it had developed until now. She has developed a capability of making use of such ‚states of exception‘ for establishing a common practice of making use of the ‚prerogative‘ of the governments of member states far beyond the framework of the EU treaties. This has been done consciously and systematically, not only contingently and in an ad hoc way. This common exercise of ‚sovereign prerogative‘ has not only clearly gone beyond the established ‚acquis communautaire‘: In so doing, it also has clearly established an unprecedented

hegemony of Germany within the EU (as relations of power are influencing such decisions immediately, without the rules and caveats of the EU institutions). And it has had structural effects beyond the frontiers of the EU, in neighbouring countries and spaces, as well as on the global level. As this new dimension of European politics has been in the interest of the participating governments as exponents of their respective member states it has been productive of a real situation of hegemony for the German government, reinforced by the interests of finance capital.

The existence of this new dimension of European and EU politics cannot be denied. It has tremendously increased the capability to act of Germany as well as of the EU so far. The big question (which is not yet fully answered) seems to be whether this new dimension, going far beyond regulated 'inter-governmentality', will prove to be effectively applicable to new situations of crisis – from the so-called refugee crisis via the crisis of government agency in the face of terrorist attacks to the foreseeable crises of climatic processes.

In the face of this increase in the capability of dominant and governing forces to mobilize and to use extraordinary powers, in order to reproduce existing relations of domination, the question of strategical alternatives to be developed by left-wing forces will be of decisive importance. An adequate in-depth analysis of this new dimension of European politics will be a much-needed first step into that direction. And making use of existing networks and experiences of the left wing forces will be required to go beyond this cognitive first step, creating at least a beginning of an innovative process of deliberation on how to confront the emerging constellation of crises and their more or less creative management (European, EU, member state) in its multi-level reality. Such a democratical counter-strategy will have to begin by carrying the debate on European politics to the public deliberation within the member states, while aiming at common, solidarity based reactions these politics from above. This can start well before it will be possible to have its claims articulated by more than one member state government. And it may well make use of already existing transnational networks of mobilization and alliance in order to make real problems the object of public deliberation and to propagate alternative approaches to their solution – making them prevail within the public of member states, while beginning to change the orientations of political parties, and, by their intermediation, also of a growing number of member states' governments.

The strategic aim of such alternative politics can at least begin to be achieved, when it will be possible for movements and political parties anchored within the respective societies, in a new situation of emergency, to press for alternative demands addressing the European dimension of politics in a number of member states, and when convergent demands will be raised within the European public debates – and when a number of governments will take this up in the Council of Ministers. This will not be easy and immediate success is improbable. But it would be already a significant first step towards an alternative polity to block the common exercise of their prerogative by the „heads of state and government“ within and without the European Council“, thereby effectively putting an end to the „Merkel method“. This would still be far from an effective strategy of transformation in Europe – but it would be a decisive starting point for really building such a strategy – in the face of the crises of the EU, and in face of the global crises of which they are a significant element.