

# Cosmology and Practices of the European Union

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## Abstract

*This article experiments with a small number of theoretical notions deriving from Michel Foucault's analytic of power. The European Union is presented as a strategic field of power relations between a number of regimes of practices. Interacting in that field will be the political regime, juridical regime, economic regime and security regime. Interaction is constituted by what Foucault calls the logic of strategy. The idea is to present the ongoing structural rearranging of the relations between the regimes as a process of perpetual transformation, something reminiscent of the Classical Chinese notion of the Dao. The article suggests that the type of knowledge implied by this notion amounts to a sort of political cosmology.*

## 1. Introduction

This small tract presents an experiment with a small number of theoretical notions. These notions derive mostly from the work of Michel Foucault, and the context of the experiment is the European Union (EU). I will shortly say more about the experiment, but I will first tell what provided me with the inspiration for it. To begin with, a rather simple problem exists in the background: how much of the activity of a big governance apparatus such as the EU may be considered as *proactive* and how much as *reactive*? How much is just responding to events, shocks, situations and crises? How much is acting first, planning and controlling the course of developments?

Believing that a careful theoretical analysis of the problem prepares the way for a successful analysis of reality, this article stays on the side of theory. What will have to suffice as the reference to reality is just a very quick and impressionistic glimpse

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of some events in the recent history of the EU.

In retrospect, it is not entirely impossible to imagine 2000 as a watershed year. Earlier, the European Communities (EC) had been piecemeal and pragmatic, but nevertheless resolute in the project of lifting restrictions on trade and competition. Later on, the goal of establishing the European Single Market, launched in 1986, was already more ambitious. The European Union itself was created in Maastricht (1993), and further powers were transferred to it a bit later in Amsterdam (1997).

Then things changed. After the turn of the millennium, the EU seems to have been running from one crisis to another: the global crisis of the liberal world order and its rule of law ensued from the war on terrorism that started with 9/11; political crisis followed with the rise of anti-establishment populism and led to the failure of the European Constitution in 2005; the global financial crisis that led to the European debt crisis was set off by the bankruptcy of Lehman Brothers in 2008; the refugee crisis in 2015; Brexit; and so on.

Upon closer investigation, however, it is apparent that both proactive and reactive actions were taken all the time, and no sharp watershed moment existed. The point of this story is to illustrate what these different modes of political action might be. But what is it that really makes the two different? Think, for instance, of the failed project of the European Constitution. On the one hand, the plan itself was certainly as *proactive* as possible: the goal was to make Europe not just economically but also politically integrated. On the other hand, the project on the whole, in a broader context, may be perceived as a *reaction* to the fall of the Berlin Wall.

Should unclarity of this nature emerge, the definitional problem itself seems to require some thought before more individual cases are analysed. How to enter into this problem? It seems to me that a possible key was afforded by Matti Nojonen's article, published in this volume, on the classical Chinese notion of the *Dao*.<sup>1</sup> What struck me the most about Nojonen's text was its emphasis on all-encompassing change as a 'process of perpetual transformation'. The ancient Chinese seemed to suggest that only by accepting in the first place that change never ends can one have an idea of what may come next and how to intervene.

That said, traversing or practising the *Dao* (the 'Way') is apparently not so much about interventions, but about taking part in a process of unfolding that is 'autogenerative'. On this basis, the search for external causes of change is a mistake and an attempt to trace changes back to their origins is pointless. What matters is the way through which things continue to be rearranged every moment and internally. Knowledge of the *Dao* leads to mastery, but this does not happen through realising some kind of metaphysical freedom. Instead, the *Dao* occurs through the internalisation of a 'mode of spontaneity' that characterises the process of perpetual transformation. Apparently, internalising spontaneity means submerging in the process of change, rather than escaping or being liberated from it.

In Nojonen's text, there are two aspects of the *Dao* that I find especially

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<sup>1</sup> *Dao: Cosmological Thinking and Social Practice*.

interesting from the point of view of the governing of society. First, as Nojonen says, the *Dao* affords ‘a specific, dynamic and practice-related approach to politics, governance and strategic behaviour’. A little later, Nojonen goes on to define what this approach involves:

It is about the grasp of the dialectic between the various yin and yang properties – more precisely, between their correlatives as *governing dispositions* – that condition the chosen path and the direction of one’s undertaking. (Nojonen 2019, italics added)

Hence, one will choose a path, but the undertaking from that time on depends on the interaction between ‘governing dispositions’ that one cannot command or even fully predict. I will briefly say more about how I transpose the notion of interaction between governing dispositions in the context of the EU and its ‘perpetual process of transformation’. What is important at this point is to observe that what happens in this interaction is *internal to the process*, not external events or exogenous shocks like 9/11 or the insolvency of Lehman Brothers.

Finally, I want to point out another aspect of the *Dao* that relates to the governing of society. According to Nojonen, with respect to its societal effectivity, the *Dao* as ‘politics’ owes critically to the ruler’s power to involve their subjects, not by force, but by bringing them into a state of willing participation and self-government. From such a perspective of subjectivation, the *Dao* is ‘to cause people to be in complete accord with their ruler [and] follow him to death or survival undismayed by any danger’, as Nojonen puts it, quoting the strategic thinker Sunzi.

In what follows, I will try to proceed on the basis of the Chinese inspiration noted above and consider the EU as a perpetual process of transformation. The process involves interaction between impersonal governing dispositions as well as interaction of these dispositions with individual human beings. First I would like to further develop a rigorous analytical apparatus. For this purpose, I will need to translate the problem of reactive and proactive governing into the language of Foucault’s analytic of power.

## 2. Europe as a strategic field of power relations

As mentioned in the beginning, the European Union is not the ultimate concern of this experiment; it is merely a theoretical sandbox. Consequently, the European Union will be represented rather freely for the purposes of staging a thought experiment. Having said that, the prospect exists that this type of theoretico-dramatical fiction, so to speak, could make it possible someday to conduct rigorous analyses of the real European Union, or for that matter, any similar giant power structure. That would be a distant future prospect, not something to be realised here.

For the purposes of the experiment, the European Union will be understood in a specific and rather limited way. First of all, the European Union will be imagined

as a *strategic field of power relations*.<sup>2</sup> This field is one of perpetual transformation. Secondly, the power relations are imagined as established through the interaction of a selection of heterogeneous *regimes of practices*.<sup>3</sup> Regimes of practices stand for the governing dispositions in the Chinese model of the Dao. Thirdly, the field and the interaction are imagined as constituted by *the logic of strategy*.<sup>4</sup> This is the logic that explains the ‘autogeneration’ of the EU’s perpetual transformation. An illustration of how that logic might work is the ultimate purpose of this whole experiment.

For our purpose, therefore, the EU is a *strategic field of power relations* established in the interaction between *regimes of practices* informed by the *logic of strategy*. Let us consider the regimes of practices first and then the logic of strategy. Before explaining what a regime of practice is, let us point out which individual regimes will be considered in the experiment that follows:

- a) Political regime
- b) Juridical regime
- c) Economic regime
- d) Security regime

These are the four regimes that will play the role of the main protagonists of our experiment. Now, what is a regime of practice? First of all, a regime of practice is a *methodological viewpoint* that places techniques and mechanisms of governing before everything else. This means that practices are *not* subordinated to the institutions that would house them, nor to the ideologies that would inform them, nor to the actions that would materialise them in specific circumstances.<sup>5</sup> Practices constitute a reality of their own which is relatively independent from ideologies, institutions and actions.

Focus on practices and their regimes means *abandoning* the internal point of view of institutions and their societal functions. Instead, practices are viewed in the external context of what Foucault calls the ‘general economy of power’: regimes of practices develop their techniques independently and merely find support in institutions and their societal functions.<sup>6</sup> Furthermore, the subject matter of regimes of practices – the techniques employed in the governing of society – are ‘mobile’ in two senses: they develop all the time and move freely across the institutional boundaries established, according to the division of their societal tasks.<sup>7</sup>

Especially important among the techniques pertaining to all regimes of practices is their peculiar mechanism of ‘subjectivation’. What does Foucault mean

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<sup>2</sup> The ‘strategic field of power relations’ is a general notion of Foucault; see, for instance, his *Will to Knowledge* (1998b, 96).

<sup>3</sup> Focus on ‘regimes of practices’ defines Foucault’s method generally; see, e.g., Foucault 2000a, 225.

<sup>4</sup> The notion of ‘the logic of strategy’ was introduced by Foucault in his *Birth of Biopolitics* lectures; 2008, 42.

<sup>5</sup> In Foucault’s words (2000b, 225), practices ‘are not just governed by institutions, prescribed by ideologies, guided by pragmatic circumstances [...] but, up to a point, possess their own specific regularities, logic, strategy, self-evidence and “reason”’.

<sup>6</sup> For a more elaborate explanation, see Foucault 2007, 116-119.

<sup>7</sup> *Ibid.* See also Foucault 1998, 98-102.

by subjectivation? The French word *assujettissement* means *submission, state of dependence, or action of subjugation*. In Foucault's theoretical use of the notion, all those aspects are involved, but they combine with an idea of conversion or transformation. Subjectivation involves a process of metamorphosis, the shaping of individuals, casting them in the mould of a subject.

Subjectivation may very well be seen as impersonal social structures acting on human individuals, as the formative power of society over its members.<sup>8</sup> Yet with Foucault, one also finds that subjectivation is not simply the work of an impersonal society but somehow very much the work of the individuals themselves as well. The effect of subjectivation is a self-subjecting individual. Subjectivation allows practices of power an access to the inner constitution of individuals, affecting what people do through what they are or have come to be. The subject of this type of power will ultimately be someone who 'is subject to his own identity by conscience or self-knowledge' (Foucault 2000a, 331).

Preparing the experiment, I will at this point establish three elements of an analytic, designed on the basis of Foucault's theoretical notions explained above. For our purposes, the following elements will constitute a regime:

1. Function
2. Technique
3. Subjectivation

The experiment proceeds by way of first reconstructing political, juridical, economic and security regimes. For each of these in turn, there are the societal function, the technique of governing and the mechanism of subjectivation. After that, I will go on to consider the way in which the regimes of practices interact. As that interaction is constituted by what will be called, following Foucault, 'the logic of strategy' (Foucault 2008, 42), I will still have to say a word on that before moving to the experiment itself.

The logic of strategy is usually understood as the logic that characterises games and warfare. More generally, one might say that strategic logic prevails in any field of action that is conditioned by the following four elements: (1) different actors exist and they pursue different goals; (2) everyone has to plan their actions with the view of the possible actions of others; (3) others may either assist or resist one's attempts to achieve their goal; and (4) strategy is just as much about trying to influence others' actions as it is about planning one's own moves.

Foucault transposes this type of strategic logic from the sphere of human actors to the sphere of the interactions and relations between regimes of practices that are 'heterogeneous'. No overall perspective exists that would allow 'homogenisation' of the regimes. They pursue fundamentally and irreversibly different goals, and they work on the basis of equally different rationalities. While the logic of strategy

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<sup>8</sup> At one point Foucault would say that a historically evolving network of practices exists, in which 'power passes through individuals' and makes them subjects'; Foucault 2003.

establishes the possibility of coexistence and connections between the coexisting regimes, it does so in such a way that the regimes nevertheless remain heterogeneous (Foucault 2008, 42).

Characteristic of the strategic relations in which regimes coexist is ceaseless structural rearrangement. Sometimes regimes find support and make use of each other, but at other times they need to block others in order to secure their own success. What enables this game are the techniques that move across the functionally established boundaries. One regime may be able to make use of the other regime's techniques and include it in its own repertory of means, where it might be refined to better suit its own purposes. Strategic logic explains the way in which regimes couple and decouple techniques from all sides, borrowing and lending them back and forth.

I believe this is enough abstract conceptual clarification. Let me just summarise. Two things are important for the understanding of a strategic field of power relations: regimes of practices and the logic of strategy. Regimes of practices may be analysed through their societal functions, techniques of governing and mechanisms of subjectivation. The logic of strategy explains the way in which regimes of practices interact without forming a unity. Each regime has its own separate existence, and regimes continue to be separate. Despite their disparity, which cannot be overcome, the regimes nevertheless coexist in strategic relations.

Let us begin with the experiment.

### **3. Regimes of practices**

#### **3.1 Political regime**

For a long time, it was considered a major problem for the European Union that it has not been able to enact a political regime that would be capable of uniting individuals into a European people. The so-called democratic deficit (which means a variety of things, but in the first place held that democratically elected politicians cannot control the executive branch) was blamed for the fact that Europeans did not believe that they belonged to the EU in the way they believed that they belonged to their nation states. During the last couple of years, the trend in this respect seems to have changed. Not only the considerable rise in parliamentary election turnout (42.2% in 2014, 50.6% in 2019) but also the most recent Eurobarometer tells that the EU is currently seen by the public in a much more positive light than before: more people trust in the EU, more people think their voice counts in the EU, and more people are satisfied with the way democracy works in the EU.<sup>9</sup> This is somewhat surprising, considering the fact that the EU has not done so much lately to repair its democratic deficit.

Be that as it may, today's trends will not really affect our modest theoretical experiment. Let us now consider what pertains to the political regime in terms

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<sup>9</sup> Eurobarometer is available on <<https://ec.europa.eu/commfrontoffice/publicopinionmobile/>>.

of its societal function, technique of governing and mechanism of subjectivation. Beginning with the societal function, let us agree that the political regime is based on the idea of *common cause*. Common cause is not only the task of politics but necessary for the mobilisation of any particular collective action, as well as its legitimacy. It explains why people should unite into a polity in the first place. The political function must take care of the reproduction of the common cause, because the existence of common cause is the ultimate *raison d'être* of the political regime.

Let us move next to the political technique of governing. The way in which a democratic political regime reproduces the common cause is through mechanisms of *collective will-formation*. Employing these, people are able to debate, negotiate and determine their collective will in regard to common affairs. Voting in elections, discussions in the public sphere, participation in political associations and demonstrations, all of these are political mechanisms of collective will-formation. Their purpose is to unite individuals into a political body, a sovereign *demos*. Each and every individual is to contribute their willpower to this political sovereign, which then turns this willpower back to the subjects, in the form of legislation, as an expression of their own so-called general will.

Thirdly, let us consider the political mechanism of subjectivation. What kind of individual self-understanding underlies the political practice of power? Let us say that the political subject, a citizen generated by the political mechanism, is two things at once: someone in whose name political power is exercised and someone who is *therefore* subjected to that very same power. In this way, democracy purports to arrange a system for state power that is essentially self-government: people are in command of themselves. Belonging to a people, a *demos*, every citizen is at once both the master and the servant, and each one is equal to everyone else.

Democratic polity may be questioned from a realist point of view. What if the truth is that the polity tells its citizens what their will is, and not the other way around, as it should be? This type of polity may first tolerate, then ignore and eventually declare incompetent all those who disagree and resist, such that the 'general will' is determined top-down, not bottom-up. The infamous Carl Schmitt called this the 'logic of Jacobinism', which justifies 'the rule of a minority over the majority, even while appealing to democracy' (Schmitt 1988, 26). As to the mechanism of collective will formation, important for Schmitt is the following:

[...] the question of who has control over the means with which the will of the people is to be constructed: military and political force, propaganda, control of public opinion through the press, party organizations, assemblies, popular education, and schools. (Schmitt 1988, 29.)

Schmitt's view is that 'only political power, which should come from the people's will, can form the people's will in the first place' (1988, 29). This type of critique – democracy as a polity of blind crowds led by propaganda – is an ineradicable European legacy. Without doubt it played a role in the early political design of the EU as well. At the time, one of the concerns of European leaders and thinkers must

have been the need for the European states to reconceive themselves in such a way that would prevent the possibility of the rebirth of National Socialism. Democracy understood in the plain sense of majority rule appeared as a rather dangerous game.

To conclude, it is fair to say that even if the EU has by now been able to create a fair amount of trust and sense of belonging among people, historically speaking this is not an achievement for a well-functioning democratic political regime. Much more important for the EU's success has been the fact that it has been able to install other mechanisms and functions, which are housed by other regimes than the political one. These other regimes were very efficient at compensating for the EU's lack of political regime. Let us have a look at these next.

### 3.2 Juridical regime

The juridical regime has been one of the resources through which the EU has historically compensated for its lack of political regime. In the 1960s, the constitutionalisation of the EU (the EC at the time) was carried out by its Court of Justice through the adjudication of cases rather than through political channels. In their so-called landmark decisions,<sup>10</sup> forward-looking judges started to interpret the Treaty of Rome in a progressive way. The court said that this treaty affords individuals certain rights, even though these are not explicitly given in the text of the treaty. Moreover, individuals could invoke these rights against Member States directly in their national courts, without the mediation of national laws. EU law was understood to be a *sui generis* legal order, having a life of its own, and even today EU law continues to be relatively independent from the democratic political regime.

Let us now consider how this European legal experience reflects the functioning of the juridical regime in general. Like with the political regime above, the following will offer a sketch of the juridical regime's societal function, its technique of governing and its mechanism of subjectivation. To begin with, the societal function of the juridical regime is undoubtedly to deliver justice. Justice plays the same role in the juridical regime as common cause plays in the political regime. Justice is its *raison d'être*, the ultimate reason why any juridical regime normally exists. Another way of saying this is that, on the whole, the legitimacy of the regime rests upon justice. Important here is that justice is not a mere idea, or even a standard of criticism, but something infused in the structure and functioning of the regime.

The delivery of justice is normally done by a very specific juridical technique, which is employed in all modern juridical regimes: the technique of subjective rights. In the first place, rights protect the individual against injustice in its primordially juridical sense: abuse of political power by state authorities. How does the technique of subjective rights work? A comparison with the technique of the political regime illuminates this question: through collective will-formation, citizens give their willpower to the political sovereign and the political sovereign returns it back in

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<sup>10</sup> Among which the most important are *Van Gend en Loos*, Case 26/62, Judgement of the Court of 5 February 1963; and *Costa v. ENEL*, Case 6/64, Judgement of the Court of 15 July 1964.

the form of legislation. Quite similarly, through subjective rights every individual abandons their so-called natural freedom (to do as they please) and in return they get civil and political rights. This mechanism of give-and-take is what Foucault (2008, 43) calls 'the fundamental axiomatic of the rights of man', the bartering of freedom for rights. This technique is probably the best candidate for the true constitution of the law as a regime of practices.

From the point of view of subjectivation, subjective rights also comprise the mechanism by which the legal regime recruits individuals to work for the system. Inviting them to practice their rights, the regime calls the individuals 'in their place' as its subjects (Althusser 2008). In the same way that the citizen is the subject of the political regime, the rights-holder is the subject of the juridical regime. For the maintenance of the legal order, more important than legislators and police are the individuals invoking their rights before legal courts. Outsourcing the upkeep of the system to individual rights-holders is generally an efficient arrangement, but it has been an especially smart solution for the EU, since it lacks both democratic legitimacy and a law-enforcement apparatus. All the EU's juridical regime needs is subjective rights: questions of legitimacy do not arise, because the system seems to be on the side of the individual from the start; questions of enforcement do not arise, because rights-holders take care of this by themselves.

It is possible to say that it was through the fundamental axiomatic of rights that the European Court of Justice, in its 1960s cases on direct effect and supremacy, established the juridical regime of European law. Direct effect made it possible that rights were invoked by individuals, and every time this happened it contributed to the reproduction of that system overall. Every time someone draws on rights, they materialise the law in real life. The more there are individuals making use of their rights deriving from the EU system, the more there are subjects of the juridical regime of the EU. This became a way for the EU to compensate for its democratic deficit, such that it could exist as a legal polity even without exercising a democratic political function.

People are generally used to associating the invocation of rights with struggles for justice. The famous 19<sup>th</sup>-century German scholar Rudolf Jhering suggested that subjective rights are the juridical mechanism that upholds not only the legal system but 'objective justice' as well (Jhering 2003). Looking at the contemporary topography of politics one finds that many civil society movements pursue their social goals in the tangible form of rights: the rights of women, the coloured, the indigenous, the unborn and so on. Also for lawyers, rights comprise the language in which jurists articulate justice: justice is built into the system of law through rights, and justice is materialised in society through rights. This is what makes rights such an indispensable element for the overall juridical technology of power; its effectiveness is partly due to the idea that justice is associated with rights.

In this respect, the EU law's notion of rights stands as a peculiar exception. In EU law, concern for justice does not seem to play the pivotal role described above. This is not to say that the EU's judges have not had occasions to hoist the banner

of justice. For example, a little more than a decade ago there was the great battle between the EU Court of Justice and the UN Security Council over the rights of those whom the latter had listed as terrorists.<sup>11</sup> More recently, the Court has disciplined multinational companies such as Google and Facebook regarding individuals' so-called right to be forgotten, thereby limiting the collection of personal data. One way or another, no governing regime that claims to be juridical can entirely bypass justice.

Nonetheless, the more one explores the EU legal system, the less one can say that this system is genuinely concerned with justice. Neither social nor individual justice seems to have ever constituted the final frame of reference for the understanding of the EU's notion of rights. Rights in EU law ultimately appear to be instrumental for something else entirely. I will say more about that in a moment, but to conclude this part, one further problem should be noted here. That is the question of whether subjects invoking their EU rights would genuinely consider themselves as individuals struggling for justice. Invoking their EU rights, are they not somewhat aware that something completely different than justice lies behind those rights?

### 3.3 Economic regime

It is very difficult, if not impossible, to say whether the EU as a whole exists today for one sole purpose or another. As a many-headed beast, does it know its goals? Maybe they are all negotiable. It might be a sober choice to explore the EU's workings purely as an apparatus, as a machine that is not in itself capable of meaning and purpose. What remains if one does not assume any final objectives, but only looks at it as a technology that produces real effects and then induces from these effects what seems to be encoded to it as commitment? If presumed as a mindless thing, what niche can this technology nonetheless carve out for itself in the realm of virtues? This type of analysis would probably confirm rather quickly that the EU has been historically driven by economic virtue. This puts the economic regime at the centre of the strategic field of this experiment, as will be seen later.

At this point, however, let us proceed in the same manner as above and try to outline the economic regime's societal function, its technique of governing and its mechanism of subjectivation. To begin with, the basic function of economic regimes at all times has been the production of sustenance and wealth for society. What we are concerned with here is the way in which the modern liberal economic regime represents this function. For the purposes of the experiment, let us propose the following: economic liberalism says that society's prosperity depends on the economic vitality of its own people. There is no other way to create wealth than to have the people produce it. They do it for themselves and for the society, which after all are the same thing in terms of economic liberalism: the society is composed of its individuals, it is not anything more or anything different. In this way, the *vitality of*

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<sup>11</sup> The most famous of these cases is *Kadi and Al Barakaat*, joined cases C-402/05 P and C-415/05 P, judgment of the Court of 3 September 2008.

*each individual* plays the same role in the liberal economic regime as common cause plays in the political regime and justice in the juridical regime. Since vitality comes first and only then does prosperity follow as its consequence, the former is the real *raison d'être* of the economic regime.

The technique that the economic regime has developed for generating vitality in individuals is circulation. Not only the EU's economic regime, but economic thinking more broadly has come to rely on the approbation of circulation as something that truly animates societies, whereas immobility evokes an impression of a moribund society.<sup>12</sup> Insofar as circulation is essentially motion, it is also life. The great wheel that vivifies societies by putting things in motion is the market where everything circulates. In an almost magical way, circulation is capable of producing more value, more activity, more consumption, and indeed more *production*. Commerce produces more commerce, movement produces more movement, and circulation produces more circulation. Movement nourishes life, creates surplus energy and spreads it around.

Let us next view the economic regime from the point of view of subjectivation. What lies under the liberal generation of economic vitality and its technique of circulation as its specific economic subject? We can suggest the following: the liberal economic regime tells people that what motivates them (what can make them move) is always ultimately their own interest. Even when we pretend or believe it to be something nobler, it is really our own individual interests that keep us active and alive. The technique of circulation cannot work if individuals cannot focus all their attention on their own interests. Doing this makes them more mobile and the society more vital. Thus, corresponding to the citizen and the rights-holder of the two other regimes, the third figure pertaining to the economic regime starts to appear in the form of the self-seeker.

As far as noting less than life itself is at stake, underlying the self-seeker subject cannot be merely the rational calculation of preferences usually associated with the economic mind. It seems that something much more powerful than this must reside in the psychic structure of a true self-seeker. Maybe the true source of economic vitality is not individual interest, but individual *desire*. It is the desire that needs to be set free if one wishes to generate economic vitality and activity. Moreover, it will probably have to be the type of desire that is never fully satisfied, because satisfaction represents relief, suggesting immobility. Curiously enough, at this point a clandestine (but probably more real) occupation of the economic regime turns out to be not satisfaction of needs, but *generation of dissatisfaction*. Insofar as the sense that something is lacking is what makes us get up and move, the economic regime has to arrange things so that a state of continuous dissatisfaction is secured, and desire will never be completely relaxed in the individual. That kind of figure, a perpetually unsatisfied self-seeker, appears to be the final product of the liberal economic mechanism of subjectivation.

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<sup>12</sup> For a historical perspective, see Fernand Braudel (1992) and Antonio Serra, *Breve trattato*,.

There is no doubt that the EU was originally an economic regime and still is fundamentally attached to mechanisms of circulation. In the context of the EU, the perspectives of the market, competition and economic freedoms are always relevant. It boils down to a very simple rule: what accelerates circulation is beneficial, good and right; what slows it down is detrimental, bad and wrong. The EU's vehicle of circulation – the Common Market and the free movement of goods, workers, services and capital – should carry out the function of generating economic vitality. For it to work properly, however, is it somehow not only possible, but also necessary to not only set desire free, but also *excite* desire and disseminate dissatisfaction in individuals?

### 3.4 Security regime

Like the political function, the security function in the traditional sense was effectively also lacking in the EU before the Treaty of Maastricht, whose new pillar system provided a framework for closer intergovernmental collaboration in law enforcement matters, as well as in foreign and military affairs. While the EU still has no police force or army of its own, it now provides a variety of frameworks for Member States to co-operate in security sectors, such as, for example, the administration of external borders. As for its law-enforcement and executive functions more generally, the EU will probably in the future rely too greatly on Member States, whose administrative apparatuses are not always extremely responsive to the needs of the EU. However, because of some fairly recent developments, including third-country migration and terrorist attacks, various security mechanisms rapidly started to move towards the centre of the EU's strategic field of power<sup>13</sup> as a response to the increasing sense of a potentially dangerous element growing in the European population.

Let us now consider the security regime with a view towards its societal function, its technique of governing and its mechanism of subjectivation. To begin with, a security regime's function is obviously to maintain stability in society. Hence, its *raison d'être* is what may be called the state's *basal order*.<sup>14</sup> As a function, this involves not so much reacting to disturbances that have already happened as elimination of them in advance. The security regime's function is fulfilled when it is one step ahead of developments and capable of intervention at the stage where disturbances are still at the level of a threat. That is why the security regime needs to

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13 This has occurred by way developing the European border control regime on the whole, and especially through such partial initiatives as 'EU travel intelligence architecture' and the reform of the Common European Asylum System (CEAS), which involves the Dublin Regulation; the Reception Conditions Directive; the Qualification Regulation; the Asylum Procedure Regulation; Eurodac Regulation; the EU Asylum Agency Regulation; and the Resettlement Framework Regulation. Noteworthy are also the enhancement of surveillance technologies by artificial intelligence; various extensions of police powers, including undercover policing; cross-border data gathering and exchange; 'criminalization of solidarity' targeted at NGOs and individuals who help migrants; and finally the EU's agreements on migration with third countries, which can effectively mean externalisation of refolement practices.

14 Following Carl Schmitt, one might also speak of the 'concrete order' of the community (*Gemeinschaft*). Schmitt 2004, 51.

continuously investigate what is secretly mushrooming as a potential threat to the society. This aspect of secrecy reflects the regime's own style of working as well, as transparency is not one of its cardinal virtues. On the contrary, the security regime can govern disturbances only to the extent that antisocial elements do not know how and what surveillance has found out about them.

Turning to the technique of the security regime, it is a natural starting point to say that it must be *exclusion* – exclusion of whatever poses a threat to order. Such phenomena as criminality and terrorism are examples of clearly destructive elements that need to be excluded, eliminated or at least kept under control and surveillance. The migration of people reveals another type of threat. Whereas terrorism is a threat because one knows that its aim is to destroy order, immigration is a threat exactly because *one does not know* who the incomers are and what they may have in mind. What foregrounds that abstract aspect of threat is not so much some concrete and identified destructive elements, but the much more vague anxiety that derives from circumstances which one is not familiar with. In other words, everything that is strange, other than what one knows, potentially disturbs order, whereas everything familiar is secure. At that more profound level, what underlies the technique of the security regime is a more general exclusion of 'otherness'.

Coming now to the security regime's mechanism of subjectivation, it is important to make a distinction between the target groups that may be involved. The more obvious group would be, of course, dangerous and potentially antisocial elements of society. In terms of these, one could think that the rehabilitation of delinquents and the integration of immigrants in society have something to do with subjectivation. It is clear, however, that the technique of exclusion is not helpful there; policies of rehabilitation and integration are about inclusion. To consider the way in which exclusion works as a mechanism of subjectivation, one needs to turn to something else.

The question is whether underlying the security regime a mechanism of subjectivation is at work, not among delinquents but among the *normal* people. Going down to that more profound level, one might consider the effects of exclusion of otherness in the constitution of the self, so to say. Insofar as the other and its exclusion are constitutive of the self at the level of formation of individual identity, then it is logical to think that at the level of society this type of constitutive effect is at work in the security regime, for which everything strange poses a threat. Perhaps the technique of exclusion implicates a mechanism of subjectivation that produces docility in the normal members of society by way of maintaining hostility towards whoever is strange and unknown.

Let us return for a moment to migration and terrorism as concrete phenomena that the EU security regime has had to deal with more intensively in recent years. We could say that we have *plain otherness* in the case of migration of non-Europeans and *radical otherness* in the case of terrorists. The terrorist represents radical otherness because their desire is to destroy. In the language of psychoanalysis, in the terrorist the so-called 'death drive' or Thanatos dominates. Repression and control of this are

absolutely necessary. The plain otherness of the third-country migrant is different. In the first place, migrants are individuals on the move. Apart from those who are pushed by war or fear of persecution, why are migrants in general on the move? It is probably because of a want and need of something that cannot be satisfied in the place where they are coming from. Against the destructiveness of a terrorist, the migrant mind is governed by exactly the opposite impetus, the so-called 'life-drive' or Eros.

What seems to be important for our purposes is that both of these figures represent desire and dissatisfaction. One notices straightaway how this evokes our earlier discussion of the mechanism of subjectivation pertaining to the economic regime, namely, the generation of dissatisfaction. We will return to the possible link between these two mechanisms in the next section, but let us now prepare some ground for identifying this connection by way of making a general methodological remark. Two basic procedures seem to ensue from encountering otherness. The first procedure is based on a simple model that can be explained very quickly. An encounter with otherness presents the self as a problem: *I am not like that stranger. Who am I then?* A process of generating self-awareness sets off an affirmation of identity, and a rejection of difference results from it. The problem of the self is the same as in the previous procedure, but entry to it is crucially different: *I am like that stranger. Who am I then?* In the mirror of the other, one realises something about oneself that one previously did not know. Encountering strangeness leads into the zone of our own inner secrets.

Finally, where does this methodological remark leave us? I believe it raises the question of how much the economic regime may recognize itself in the mirror of the security regime. That will be one of the questions dealt with in the next part.

#### 4. The logic of strategy

Let me sum up the elaborations that I have made above. I have sketched out four regimes of practices: political, juridical, economic and security, and expounded on them in terms of societal functions, techniques of governing and mechanisms of subjectivation. The basic blueprint of what this resulted in may be presented in the form of a table:

<b>Regime</b>	<b>Function</b>	<b>Mechanism</b>	<b>Subjectivation</b>
<b>Political</b>	Common cause	Collective will-formation	Citizen
<b>Economic</b>	Vitality	Circulation	Self-seeker
<b>Juridical</b>	Justice	Subjective rights	Rights-bearer
<b>Security</b>	Order	Exclusion	Docile subject

The function of the political regime is reproduction of common cause, to which end it employs techniques of collective will-formation, the effect of which is the citizen subject. The function of the juridical regime is delivery of justice, for which it employs the technique of subjective rights, the effect of which is the rights-bearer subject. The function of the economic regime is the generation of economic vitality, for which it employs the technique of circulation, the effect of which is the dissatisfied self-seeker subject. The function of security is maintaining order, for which it enacts the technique of exclusion, the effect of which is the docile subject, who is hostile towards everything that is strange.

After all this groundwork, let us finally move on to the more exciting part of our experiment and consider all this from the perspective of the logic of strategy. As one will recall, this logic should explain the way in which different governing regimes coexist and interact between each other in the strategic field of power relations. Presuming that the economic regime still dominates in the EU, I will be looking at the process of perpetual transformation and structural rearrangements from the strategic point of view of the economic regime.

#### 4.1 Economic and political

Let us first have a look at the strategic relationship between the economic regime and the political regime. The economic regime compensates for the lack of democratic political function in the EU. Even though the EU lacks democratic legitimacy, its existence is nevertheless justified insofar as it is capable of producing prosperity. However, this relationship of compensation is not all there is to it. In fact, the above structural analysis of the functions and mechanisms at work in both regimes should make perceptible something that may be called an *intrinsically antagonist relation* between them. Due to this antagonism, the economic regime may be imagined as if it was carrying out strategic manoeuvres against the political regime, aiming at a partial decoupling of the political regime from the governing system of the EU.

The antagonism seems to be inscribed in the *functions* of the two regimes. Whereas the political function is based on the belief that a *common cause* mobilises action and reinvigorates societies on the whole, the economic function considers this as a serious hazard. Insofar as the best way to generate economic vitality is to make individuals concerned about their own interest, the idea of a common cause only serves as a distraction. Common cause makes people attend to something that merely causes harm to the proper functioning of the market mechanisms. Therefore, from the point of view of the economic regime, mechanisms of collective will-formation should be removed, or at least blocked, to secure the market mechanisms' best possible functioning. To the extent that the economic function is as dominant in the EU as one is accustomed to thinking, it may in fact be found the structural background of the EU's democratic deficit.

Be that as it may, in our experiment two structural rearrangements appear to take place in the strategic game played by the economic regime with respect to the political regime. To begin with, it is in the interest of the economic regime to try to

block or *decouple from* the mechanism of collective will-formation of the political function. At the same time, however, it is in the interest of the economic regime to *couple* with the political notion of common good, or more accurately, to appropriate this notion by way of identifying it with economic vitality. In other words, the economic regime should try to *redefine* the common good as economic prosperity and nothing else. Along these lines, one could say that inasmuch as the economic function is installed in full force in the EU, this will not only make the political function superfluous but moreover downplay – and even eradicate – the crucial political mechanism of collective will-formation, in order to make the economic mechanism as efficient as possible.

#### 4.2 Economic and juridical

Let us next consider the strategic connection between the economic and the juridical regime. The critical question asked above was, what in the EU legal system stands behind rights instead of objective justice? We may recall that in the normal arrangement of the juridical regime, subjective rights are associated with the idea of objective justice; justice enters the juridical function and its mechanism of rights at the point where individuals are required to abandon their natural freedom, which is ‘to live as they please’, governed by self-interest. Instead of letting people realise their desires and allowing them to live freely, the juridical rights-bearer is asked to recognise the authority of the law as well as each other’s legal rights. This is the price to be paid for the protection of the legal system and for civil and political rights; one may no longer live as one pleases, being subject to rules of justice.

Like with the political function, here too the economic function may be seen as carrying out a remarkable strategic rearrangement of structures. To begin with, the juridical rights afforded to individuals are extremely useful for the economic regime, because this mechanism is an efficient way of materialising economic freedoms and enhancing the circulation of assets in the market. In other words, articulating free movement of goods, persons, services and capital as *legal rights* of individuals is a way to create a supporting relationship between the market system and the legal system. Therefore, from the point of view of the economic regime, the mechanism of rights should be preserved.

However, the justice aspect involved in the mechanism of rights turns out to be problematic for the economic regime. That is because justice implies a renunciation of the element that is absolutely indispensable for the economic regime, namely, desire. Abandoning desire is what ‘the fundamental axiomatic of the rights of man’ (the social contract, in other words) requires from the individual. Thus, suppression of desire is always involved in the juridical mechanism of rights. Insofar as desire is something without which the economic regime cannot breathe, it should try to reconstruct the mechanism of rights so that desire is preserved. Insofar as economic vitality is really best produced by way of liberating and perhaps even exciting desire in individuals, the juridical abandonment of natural freedom should be cancelled. Inciting desire is crucial for the economy, just as compromising desire is crucial for

the law.

Imagined as a strategic game of rearranging structures between regimes, the strategy of the economic regime with respect to the juridical regime can be fleshed out in the following manner. The economic regime has an interest in borrowing the mechanism of rights from the juridical regime, but it needs to break that down and have it reassembled so that it fits better for its own purpose. The first thing to do is to try to decouple the element of justice from this mechanism, just as it had to decouple the element of common cause pertaining to the political regime.

However, we may imagine that the decoupling of justice is only the first step in the economic regime's overall strategy in the game of structural rearrangements. Something probably needs to be replaced instead of justice; rights should be associated with something other than justice in order to give them new meaning and purpose. The new arrangement should support the function of generating economic vitality without repressing the free play of desire in individuals, because the more everyone desires, the more efficient and powerful the economy is. Insofar as the EU were to commit itself exclusively to the generation of economic vitality, the structural arrangement of its functions and mechanisms would not appease desire, but rather excite it. On this basis, might it be possible for the economic regime to couple rights precisely with desire, so that it would replace justice?

Let us imagine that this type of strategic manoeuvre conducted by the economic regime, this structural rearrangement, would fully succeed in the EU. What might its consequences be for the juridical regime? First of all, every individual right in EU law would manifest in the broader context of governing economic vitality. Every right would have to be reconstructed in such a way that the element of desire is incited. The final purpose of rights in the EU would be to secure everyone's access to the market as economic agents and competitors. Rights would exist to make it possible for everyone to put their products, skills and other assets in economic circulation. Moreover, this is something that people would be expected to do out of economic gain, not because of civic virtue, which mobilises action in politics, or out of some sort of duty, as in the case of the law. In this way, it would not be very difficult to consider liberation of the individual's self-interested desire as the novel meaning and purpose of rights. Desire would indeed substitute for justice in that structural position.

### **4.3 Economic and security**

Let us finally turn to the coexistence and connection between the economic regime and the security regime. The way in which this question might be approached is to consider it against the background of the economic regime's previous manoeuvres with respect to the juridical and political regimes. Could it be exactly these that bring the economic regime into contact with the security regime?

With respect to the political regime, the question can be framed this way: can the political system of democracy ascertain that its essential technique of collective will-formation has a security function of its own? Collective will-formation imposes

on people the requirement to think in terms of common interest, not merely their own. Consequently, general will takes the place of free desire, as the individual *qua* citizen is persuaded to conduct their life guided by the light of common interest, not self-interest. Conceived thus, democracy indeed seems to have a security function. Insofar as the economic regime manages to remove common cause from the strategic field of power relations, it creates a situation that is potentially dangerous.

The next question is whether the same happens in the case of the juridical regime in its subjectivation of individuals as bearers of rights. Is security involved here as well? Important from the perspective of security is that rights require us to abandon the natural freedom to do as we please – that is, desire – and replace it with justice. With that comes the whole package of rules and requirements that the legal system basically is. More crucially, in the guise of justice another idea arrives and takes hold of our thoughts without notice. This idea insists that *rules* should govern our lives; we should live in a regulated fashion rather than freely and dangerously. Through justice, we will be afforded an area of freedom defined by rights but also *confined* by rights. From the point of view of security, these limits are indeed essential. Beyond these limits, freedom is genuine but all too dangerous. Here again, the economic regime's meddling with juridical rights produces a situation in the strategic field of power relations that is potentially dangerous.

How about the economic regime's connection with the security regime as such. On the face of it, one might think that a well-functioning economic system contributes to security in that it gratifies people's material needs. As long as there is food, shelter and so on, everyone is safe. As long as the economic regime is about satisfying needs, it would be easy to consider a security function operating there. As seen above, however, the kind of economic system we have depends on dissatisfaction rather than satisfaction. Insofar as economic vitality requires that people continuously feel want and need of something, it cannot risk producing safety and comfort. Were those to be achieved, the economic system would quickly collapse. One must continue to desire more and more, because this is the sign of life; one must be ready to take the risk and live dangerously.

What about the methodological remark about the different procedures of encountering otherness that ended with the question of how much the economic regime may perhaps recognise itself in the mirror of the security regime? This question may also be posed in more concrete terms with the help of our concrete images of the migrant and the terrorist. Insofar as desire must exist as a force that *makes people move*, it is not that the economic regime ultimately wishes to instil in individuals the same type of feeling that exists in migrants – let us say, a wish for life. However, in that this feeling is essentially *based on dissatisfaction*, it may on occasion turn dangerous. Perhaps it can take a more destructive form, such as that represented by the terrorist, the drive for death.

Now, how should one assess the situation in the strategic field of power relations where the economic regime's strategy has been to liberate self-interest and desire from the shackles of common cause and juridical justice? Might it not be the

case that the economic regime finds itself at a crossroads where it has produced a situation in which one can no longer be sure if life or death wins? Whether the desire and dissatisfaction it has been so carefully nurturing will develop into a destructive or productive form?

## 5. Cosmology?

Let me conclude by way of returning to the beginning. Inspired by the classical Chinese notion of the *Dao*, I wanted to experiment with certain theoretical notions of Michel Foucault: the strategic field of power relations, regimes of practices, and the logic of strategy. My question was, could the rearrangement of structures between the regimes of governing be seen as something similar to the perpetual and autogenerative process of transformation that characterises the *Dao*-informed idea of politics as a competition between different governing dispositions? While I do think that Foucault tried to make something like this perceptible by his notion of a strategic logic, I can only hope that my disposition of it is as clear.

Strategic logic characterises the constant confrontation and interaction between regimes of power. This interaction between regimes is at once a struggle for the souls of individuals, because regimes need subjects. Different regimes try to conquer the strategic field of power relations by way of trying to impose their own concepts of humanity on the living bodies that we humans are. Although the above experiment does not mean to put forward anything like the final result of thorough and rigorous research, what it does suggest is that in the background of the governing apparatus of the EU there stands a very problematic element the subject of desire.

Let us assume that the reality of the present state in the EU would in reality be something like the one described in the above experiment. The economic regime still has the upper hand with respect to the other regimes, leading to people being subjectivated as economic agents concerned with their own self-interest, enabled as subjects of desire. Yet, this condition need not stay that way forever.

The present arrangement, I believe, has its future transformation already potentially present within it. Perhaps the flip side of the economic excitement of desire, the dissemination of dissatisfaction, will at some point bring the economic regime's hegemony to an end. Growing dissatisfaction often leads to fundamental changes, even revolutions, but the future revolution may be a rather strange one: it may happen that people get tired of being dissatisfied and decide to stop. It is hard to know what would be born out of that.

And knowledge of that sort, what would that be? I would suggest we call it *cosmology*, the logic that resides behind the movements of the universe, like the *Dao*. In the world of politics and power, this logic is the logic of strategy.

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