

The Ventotene Manifesto and the European Area of Freedom, Security and Justice

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ABSTRACT

The article reflects on the legacy of the 1941 Ventotene Manifesto in light of today's European Area of Freedom, Security and Justice (AFSJ). While Spinelli and his co-authors could not foresee cross-border judicial cooperation or harmonised procedural rights, their call for federalism and equality foreshadowed the Charter of Rights and the AFSJ. Salazar argues that placing the individual at the centre of Europe remains the key to reviving the "spirit of Ventotene." He highlights current shortcomings – from limited powers for Eurojust to stalled progress on the EPPO – as examples of the cost of "non-Europe," and calls for a renewed commitment to integration, rights protection, and effective justice across the Union.

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Altiero Spinelli (1907-1986) was an Italian politician, political opponent of the fascist regime in Italy and, for this reason, once interned on the island of Ventotene during World War II. On the small southern Italian island in the Gulf of Gaeta, together with *Ernesto Rossi* and *Eugenio Colorni*, he wrote the “Manifesto” – entitled “*Per un’Europa libera e unita*” (For a Free and United Europe) – calling for the establishment of a European federation as a reaction to the destructive excesses of nationalism, which had led to the Second World War. The Manifesto of June 1941 ideologically underpins the idea of a united Europe, and *Spinelli* continued to strongly advocate European integration throughout his entire life and career. After the end of the war, *Spinelli* became one of the founders of the European federalist movement. He was a member of the European Commission for six years (1970-1976) and later a member of the first elected European Parliament for ten years until his death. The main building of the European Parliament in Brussels (usually referred to with the acronym “ASP”) is named after him.

On 23 May 1986, 30 years ago already, *Spinelli* died in Rome. Only two years earlier, on 14 February 1984, the European Parliament had debated and adopted the draft “Treaty establishing the European Union,” also known as the “Spinelli Draft.” On 22 August 2016, the leaders of the Eurozone’s three largest countries met on the island of Ventotene to (re)launch the debate on the way forward following Britain’s vote to leave the European Union. The summit took place on the 30th anniversary of *Spinelli*’s funeral in the small cemetery on the island where the Manifesto had been conceived and signed by him and his fellow prisoners at the Ventotene internment camp.

The word “justice” is not among the inspiring words that make up the Manifesto; nevertheless, a sincere sense of justice and equality pervades the document, which essentially addresses combating all forms of totalitarianism, dictatorship, and oligarchical privileges.

Indeed, the Manifesto includes among its post-war priorities “the impartial application of laws enacted” and mentions the terms “judicial independence.” At that time, these references – even for the law student *Spinelli* prior to his arrest and detention by the fascist regime – were “confined” to a strictly national dimension that did not leave room for the idea of a federal judiciary to come, this matter being destined for a more distant future.

Despite the absence of such a reference, the advent of freedom for entire populations, as a result of the fall of the authoritarian regimes and the consequent generalization of freedom of speech and association, may already seem the foreshadowing of a still embryonic common “Area of Freedom, Security and Justice” (AFSJ) in which (at least some of) these rights were developed and ultimately proclaimed in the 2000 Charter of Nice.

However, it is still remarkable that the “vision” of the signatories of the Manifesto did not include the perspective of creating an “area” in which all states have to face common challenges; this was not perceived, at the time of writing the document, as current or even imaginable. Times were not yet advanced enough to imagine that, in a near future, the following would be possible or necessary:

- To introduce common rules among Member States to regulate the crossing of their internal and external borders;
- To imagine that the intensification of the free movement of persons and, as a result, the rise in relationships among citizens of different Member States would lead to uniform provisions regulating the dissolution of these relationships and governing child custody and even the return of children unlawfully abducted abroad;

- To imagine that new tools of judicial and law enforcement cooperation would be established in order to prevent crime and prosecute criminals who, for their part, exploit “security deficits” as the unavoidable collateral from the full development of the freedom of circulation of persons.

All these new ideas could not yet find a political awakening within a document conceived while the roar of weapons still resounded around the tiny island of Ventotene.

Even if the times were not yet ready, *Spinelli* was a staunch defender of the individual and his inalienable right before the behemoth of the Hegelian state, whether it be Nazi fascism or Soviet communism. Precisely in this respect, he would probably not have remained disinclined to the idea of creating an “area” in which terms only apparently antithetical to one another – such as freedom, security and justice – could enjoy a non-conflicting and harmonious development. And an area in which equal treatment for all individuals would be recognized by each state party.

He would probably have been fascinated by the huge challenge posed to the European Union (although not always considered as such) by the creation of a true area of justice relying on respect for the rules and not on the law of the strongest ones. An area of justice where:

- Asylum seekers see their demands treated in a substantially uniform way regardless of the Member State examining them;
- Arrest and surrender of criminals for the purpose of surrender from one state to another occur on the basis of decisions taken by a truly independent judiciary and not through “extraordinary renditions” or disguised expulsions;
- Accused or suspected persons enjoy the same core of procedural rights in criminal trials, wherever conducted: procedural rights with a tangible added value from those already provided by the European Convention on Human Rights and proportionate to the increase in instruments of law enforcement intervention and cooperation within the same common area;
- Personal data are adequately protected, even beyond the European borders and in a transatlantic dimension;
- People can seek protection for their rights in civil, commercial, and family matters – regardless of the Member States in which they are to be enforced or defended – by preventing or resolving conflicts between national courts and by laying down precise criteria regarding jurisdiction and the enforcement of judgments.

Unknown to its authors at the time of its conception, the 1941 Manifesto already seems to provide an anticipated response to such questions, by placing the individual at the center of a Europe to come and by proposing a federalist solution to the key problems left unresolved after the massacres produced by two successive world wars. These unprecedented conflicts were largely due to the exacerbated nationalist sentiment that characterized the first part of the last century, a sentiment which now seems to be returning...

Jacques Delors, former president of the European Commission, once said that “one cannot fall in love with a single market.” Although it may be true that most of the European policies are not really attractive in the eyes of the people, the creation of a true European “Citizenship” for everyone – through the full and effective implementation of the Charter of Rights – is a challenge that should, however, be appealing to everyone, including the authors of the Manifesto.

By shifting the perspective to the present day, it should become apparent that our time appears indisputably characterized by a certain “*fatigue*” towards the European project, in general, and the creation of a common area of justice, in particular. In order to revive the “spirit of Ventotene” the question could be raised as to the real cost of “non-Europe” instead of “more Europe.” This would imply raising the issue of how many losses EU citizens and residents are suffering in terms of less welfare, less freedom, less security, and lack of integration for those who knock on our doors, due to the failure of implementing one of the fundamental objectives of the European Union since the Amsterdam Treaty entered into force in 1999, namely the creation of the AFSJ. Among the many examples that could be given (and to limit ourselves to just cooperation in criminal matters), mention should be made of the non-allocation to Eurojust of the increased powers of intervention already provided under Art. 85 TFEU. Another example is the disappointing outcome to date of negotiations on the establishment of a European Public Prosecutor’s Office (EPPO), where the balance between the European level and the national level has constantly shifted towards the latter. Both deprive Europe and Europeans of new tools that could prove very useful for an enhanced fight against organized crime and terrorism.

Although the famous phrase “*Si c’était à refaire, je commencerais par la culture*” (“If I were to do it again, I would start from the culture”), allegedly attributed to *Jean Monnet* – another great protagonist of European integration –, was probably never uttered, now that the roar of the canons has definitely come to an end within the Union, it is not irreverent to imagine that those exiled at Ventotene would start again today by dreaming of a Europe unified under the realm of the law and human rights.

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