

## Carlo Curti Gialdino, The Symbols of the European Union: Europe Day


**Caption:** In his book entitled The Symbols of the European Union, Carlo Curti Gialdino, Professor of International Law at the University of Rome ‘La Sapienza’ and Legal Secretary at the Court of Justice of the European Communities from 1982 to 2000, explains why 9 May was chosen as Europe Day.

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[...]

## 2. 9 May, Europe Day

The Constitutional Treaty confirms 9 May as Europe Day<sup>(7)</sup> to commemorate the declaration of 9 May 1950 by the French Foreign Minister Robert Schuman, which is conventionally and notionally seen as the ‘prime mover’ and first step along the path of European integration<sup>(8)</sup>.

Commemorating 9 May as the date on which European integration really started has recently come in for criticism on the grounds that the Schuman declaration, far from being in any way collective, was no more than ‘a unilaterally French act, as politically calculated, and not resulting from the overwhelming will of the European peoples, or even as their own action’<sup>(9)</sup>. Such an interpretation nevertheless demonstrates little knowledge of European integration in general and the origins of the Schuman declaration in particular. While it may appear, from a legal point of view, to be a conventional unilateral declaration, from a notional point of view it is rooted in the very idea of European integration and was preceded by negotiations which were as discreet as they were effective.

In establishing 9 May as Europe Day, the Treaty does no more than constitutionalise the decision adopted by the Milan European Council of 28 and 29 June 1985, which approved all of the proposals set out in the final report of the Committee on a People’s Europe. The Adonnino Committee, keen to give a new impetus to the image of Europe in education, had suggested ‘confirming 9 May of each year as Europe Day with a view to creating awareness and giving information in schools in particular as well as on television and in the other media. The date of 9 May, which is of great significance to the Community, will fit in with similar initiatives taken by the Council of Europe’<sup>(10)</sup>.

It is worth bearing in mind, moreover, that the French President, Valéry Giscard d’Estaing, had suggested to the other members of the European Council, during the ceremonies surrounding the 25th anniversary of the Schuman declaration (9 May 1975), that a day should be set aside to symbolise the founding of Europe<sup>(11)</sup>. However, nothing was to come of this suggestion. Following the approval by the Milan European Council of the Adonnino Committee’s reports, the European Commission, although encouraged by the written question by the MEP Manuel Cantarero del Castillo, who proposed that 9 May should be declared a European public holiday in all the Member States, waited until 9 May 1986 to celebrate Europe Day formally for the first time, but did not organise, as it might well have done, any accompanying popular events in all the Member States<sup>(12)</sup>. In his reply of 10 July 1986, Commissioner Ripa di Meana merely recalled the high-level concert held in Brussels to mark the occasion and the considerable publicity surrounding a series of events linked to the People’s Europe, concluding ‘the Commission hopes in that way to lay the foundations for an awareness of Europe that encourages citizens to recognise 9 May as the date of a genuine holiday shared by all’<sup>(13)</sup>. The concerts of classical music, although broadcast, usually in the late evening or early morning, are elite events to which people are invited or for which they buy tickets, in contrast to major popular events where the music that is played is also more generally accessible.

One aspect which the Constitutional Treaty neglected relates to the question of whether or not 9 May is a public holiday<sup>(14)</sup>. From 1962 to date it has been a holiday only for employees of the Community institutions and bodies<sup>(15)</sup>. 9 May is not included, moreover, in the list of official holidays set out in Annex I to the Rules of Procedure of the Court of Justice of the European Communities<sup>(16)</sup>. During the work of the Convention, the question was raised by many delegates both in their amendments<sup>(17)</sup> to the text proposed by President Giscard d’Estaing and in speeches in the plenary sessions<sup>(18)</sup>. However, neither the text adopted by the Convention nor the text of the Constitutional Treaty specifies whether 9 May is to be considered as a public holiday. In this respect, the Union’s institutions, at present by directive, and, after the entry into force of the Constitution, by framework law, could lay down that the Member States must establish 9 May as an official public holiday in their respective legal calendars. The Council, replying on 28 April 1998 to the written question from the MEP Wilmya Zimmermann on 9 May as a European public holiday, noted that it was for the Commission to make proposals on this issue, and that it had not yet done so.

Even if the institutions of the European Union were to take no action, the Member States could act independently bearing in mind that they have the power to set their own legal calendar. Following the entry into force of the Constitutional Treaty, it could even be considered that the Member States have a duty to take such action pursuant to the obligation of sincere cooperation enshrined in Article I-5 of the Constitution.

### 3. The topicality of the Schuman Declaration

Robert Schuman (1886-1963)<sup>(19)</sup> made his declaration public<sup>(20)</sup> during a press conference held at 6 pm on 9 May 1950 in the Salon de l'Horloge at the Quai d'Orsay, the headquarters of the French Foreign Ministry<sup>(21)</sup>, renamed the Salon Robert Schuman on 9 May 1990. Before reading the press release, he made a few introductory remarks which highlight the real motivation for this initiative. It is worth reproducing them in full: 'It is no longer a time for vain words, but for a bold and constructive act. France has acted, and the consequences of her action may be immense. We hope they will. She has acted essentially in the cause of peace. For peace to have a chance, there must first be a Europe. Nearly five years to the day after the unconditional surrender of Germany, France is now taking the first decisive step towards the construction of that Europe and is associating Germany in this venture, something that will completely change things in Europe and permit other joint actions which were hitherto impossible. Out of all this will come forth Europe, a solid and united Europe. A Europe in which the standard of living will rise thanks to the pooling of production and the expansion of markets, which will bring down prices.'

This introduction was followed by the more specific terms of the declaration, which can be divided into two parts. One part is more directly linked to the foundations of the Coal and Steel Community, subsequently established by the Treaty of Paris of 18 April 1951, which was wound up on 23 July 2002 as its fifty-year term had expired. The significance, at that time, of the pooling of coal and steel, resources which had supplied the war machine and control of which had led to military conflict between France and Germany on several occasions, should not be underestimated.

A second part represents the start of the path towards European integration and is as topical as ever. It describes the outlines of the system devised by Jean Monnet<sup>(22)</sup> and his collaborators.

First of all, the 'Community method'. There were various aspects to this method. First, the gradual nature of the process. Schuman stated that 'Europe will not be made all at once, or according to a single plan. It will be built through concrete achievements which first create a *de facto* solidarity'. From the solidarity of coal and steel production, the basis for industrial production, to the economic unification of the member countries through a process whose ultimate outcome would be Europe's political unification.

Second, a new kind of institution. A common higher authority would be entrusted with the management of the scheme, and would be composed of independent persons appointed by the Governments on an equal basis; the Governments would also choose a chairman by common agreement. The High Authority is the first example of a supranational Community organisation and was also, paradoxically, as the result of a shrewd insight by the internationalist Paul Reuter<sup>(23)</sup>, as far as possible from the simple intergovernmental cooperation approach of the conventional international organisations. The High Authority, as a supranational institution, was the first recognition of a general European interest.

The decisions of the High Authority would have executive force in the member countries and be subject to legal control. This is the germ of the 'community of law' subsequently affirmed by the Court of Justice in its *Les Verts* judgment<sup>(24)</sup>. Decision-making procedures would be governed by the qualified majority principle, again alien to the intergovernmental approach of the conventional international organisations.

Third, the long-term aims. Schuman considered the ECSC to be the 'first stage', the 'first concrete foundation' of a 'European federation' 'indispensable to the preservation of peace'<sup>(25)</sup>. Serving peace was considered to be the paramount objective<sup>(26)</sup>, bearing in mind that at the time of the declaration (1950) the countries of Europe, including France and Germany in particular, had clashed on three occasions in the

preceding 80 years, two of which had led to world wars, leaving 50-60 million people dead. The suggested accreditation of a representative of the United Nations to the High Authority, tasked with making a twice-yearly public report to the UN, should also be seen in this context. Fifty years later, in a changed international situation, this idea can be linked to the proposals for a permanent seat for the European Union on the UN Security Council.

Fourth, the open nature of the initiative: the action ‘must in the first place concern France and Germany’, but was open from the outset to all the countries of Europe which wished to participate.

Lastly, the reference to the ‘European federation’. From the point of view of Schuman and his colleagues, the declaration and the coal and steel community which it presaged had a clear political intent and were not limited to a mere economic agreement, since they laid the foundations for full, i.e. political, integration, with respect to which market aspects were clearly ancillary. The idea, from the outset, was one of a federation of states and not a federal state.

[...]

(7) As the text of the Constitution accepts, on this point as well, the practice of the Community institutions, it probably puts an end to proposals and initiatives to set a different date for a public holiday to celebrate Europe. I remember, for instance, that on 13 January 1998 the Italian Chamber of Deputies rejected the Battaglia agenda, under number 9/3838/5, not accepted by the Government, which proposed the date of 14 July as representative of the values of equality, solidarity and democracy, widely shared by the political culture and sensibilities of the peoples of Europe (Chamber of Deputies, *Resoconto stenografico*, Session 295, pp. 103-104).

Yves Depoux, a history and geography teacher at the Lycée Louis Armand of Mulhouse, has sent a petition, pursuant to Article 21 of the EC Treaty, to the President of the European Parliament. Depoux, who has been supporting this initiative since 1997, calls for a celebration of Europe on 25 March. He takes the view that a holiday on 9 May, in France and Germany at least, is overshadowed by the celebrations of the end of the Second World War (8 May). 25 March would be a good date. It would not only commemorate the anniversary of the signing of the Rome Treaties, but would also be a significant date from a symbolic point of view. 25 March is the religious feast of the Annunciation, and would symbolise to the world that Europe is pressing forward. The text of the petition can be consulted at <http://www.multimania.com/euop/>. Signatures are at present being collected: ydepoux@yahoo.fr.

(8) The literature on the Schuman declaration is very extensive. From the point of view of its origins, called a ‘plot’, see in particular P. Fontaine, *Jean Monnet. L’inspirateur*, Jacques Grancher, Paris, 1998, especially pp. 61-65; P. Fontaine, *A new idea for Europe. The Schuman Declaration — 1950–2000*, 2<sup>nd</sup> ed., Office for Official Publications of the European Communities, Luxembourg, 2000. Fontaine, who was Jean Monnet’s assistant from 1973 to 1976, highlights the fact that ‘the Community spirit was invented and carried forward by statesmen who wanted first and foremost to construct a Europe at the service of people and makes the European idea a project for civilisation’. See also A. Mattera, *Il progetto europeo di Jean Monnet*, in M. Maresca (editor), *Valori e principi nella Costituzione europea. Il diritto alla mobilità*, Il Mulino, Bologna, 2004, pp. 131-160, especially p. 159, who stresses that the European project is ‘in particular a plan of high human and, dare I say, Christian, value since, as Jacques Delors stressed, taking Hannah Arendt as his model, it associates the *pardon* with the *promise*, a “paradigm” which, without trying to forget, “makes it possible to recreate life, to reintegrate into the community free men respectful of the freedom of others, who would otherwise have been excluded and denied any hope by the weight of the past, remorse and even guilt”.

(9) In this respect see A. von Bogdandy, *The European constitution and European identity: Text and subtext of the Treaty establishing a Constitution in Europe* in *Altneuland: The EU Constitution in a Contextual Perspective*, Jean Monnet Working Papers, 5/04, p. 7. von Bogdandy adds — taking up a reconstruction already put forward by L. Siedentop, *Democracy in Europe*, 2000, p. 113 ff. — that ‘the celebration of this event could also be read as bowing to the primacy of French diplomacy, further fuelling resentment. With such a backdrop, a persuasive rite of celebration of the European Union or its Constitution — as an important means for grounding it in public discourse and, thus, in the self-conception of the citizen — can hardly be established’.

(10) *EC Bulletin*, supplement 7/85, p. 24, point 5.5.

(11) Letter from Jacques Chaban-Delmas, President of the European Committee for Europe Day to the President of the European Commission François-Xavier Ortoli, 4 June 1975, reproduced by M. Göldner, *Politische Symbole der europäischen Integration*, op. cit., appendix 3.12.

(12) *A People’s Europe*, Communication from the European Commission to the European Parliament, op. cit., p. 9.

(13) *OJEC*, 1986, C 277, p. 21.

(14) Signatures are being collected on the web for a petition to the Italian authorities calling for 9 May to become a national holiday, now that ‘step-by-step Europe is not just in the minds and plans of governments [...] but is part of the life and conscience of all European citizens [...]’; ‘<http://www.ilcannocchiale.it/blogs>’.

(15) Decision of 7 May 1962 of the Heads of Administration of the Community Institutions (Document CA/D/5/62) and regulation on the establishment of the list of holidays of the officials of the European Communities of 17 November 1966, adopted following the common agreement of the Institutions of the European Communities. See above, Chapter I, note 70.

(16) Annex I applies to the Court of First Instance pursuant to Article 101(2), second paragraph, of the Rules of Procedure of the Court. For the ruling that 9 May is not on the list of official holidays laid down in that Annex, see the Order of the Court of First Instance (Second Chamber, Extended Composition), 31 January 2001, Case T-126/00 *Confindustria et al versus Commission*, not published in European Court Reports.

(17) Duhamel, Lequiller, Berès, Berger, Floch, Van Lancker, Marinho, Fayot.

(18) Plenary session of 27 February 2003 (Duhamel).

(19) According to the Apostolic Constitution ‘*Divinus perfectionis Magister*’ of 25 January 1983 of John-Paul II ( *L’Osservatore Romano*, 27 February 1983), the stage of the canonical process represented by the diocesan investigation by the archbishop of Metz, opened on 9 June 1990, for the beatification of the servant of God, Robert Schuman, was closed on 29 May 2004. The canonical process has now moved to Rome to the Congregation for the Causes of Saints (Diocese of Metz, Service Communication, *Clôture du procès diocésain en vue de la Béatification du Serviteur de Dieu Robert Schuman*, in ‘[http://catholique-metz.cef.fr/pages/dossiers/20040528\\_dossier\\_schuman/20040528\\_robert\\_schuman.pdf](http://catholique-metz.cef.fr/pages/dossiers/20040528_dossier_schuman/20040528_robert_schuman.pdf)’); G. Santamaria, *Con Schuman l’Europa sulla via della Santità*, in *Avvenire*, 29 May 2004, p. 15; E. Zin, *La fede illuminò la sua azione politica. Robert Schuman beato? Chiusa la fase diocesana del processo canonico*, in *30 giorni nella Chiesa e nel mondo*, September 2004; Idem, *Robert Schuman. Il padre dell’Europa. Sulle tracce di benedetto*, in *Tracce*, No 11, December 2004, pp. 116 ff., and in ‘[http://www.tracce.it/det\\_Articoli.asp?Sessione=dicembre+2004 & ID=20041227](http://www.tracce.it/det_Articoli.asp?Sessione=dicembre+2004 & ID=20041227)’.

(20) The ceremony, attended by some two hundred journalists, was not attended by any broadcasters or photographers. The photograph used to illustrate the declaration of 9 May, in which Monnet appears alongside Schuman, was in fact taken on 20 June 1950 at the opening of the negotiations which would lead to the signature of the ECSC Treaty. It has been shrewdly observed in this respect that ‘here again it is not so much the photograph which represents reality, but reality as it actually happened, drawing on the roles that people played, that suggested the photograph’ (F. Mastronardi, *Storia dell’integrazione europea*, op. cit., p. 31).

(21) As is known, the Schuman declaration was drawn up by a small team, coordinated by Jean Monnet, ‘the inspiration’ (as he was called by General de Gaulle), made up of Pierre Uri, Etienne Hirsch and Paul Reuter, who worked practically in secret. The final (ninth) version was not drawn up until 6 May 1950 by the group at the *rue de Martignac 18*, headquarters of the *Commissariat général au Plan*. Meanwhile, on 28 April, Jean Monnet had forwarded a preliminary version to Bernard Clappier, head of Schuman’s office, and on 1 May the Minister had endorsed Monnet’s proposal. Nine people, including Schuman, were aware of the initiative; at the *Quai d’Orsay*, the French Foreign Ministry, only the Secretary-General, Alexander Parodi, had been informed. The Prime Minister, Georges Bidault, was briefed on the initiative only on 3 May, while Ministers René Pleven and René Mayer were informed of the plan so that they could if necessary counter any doubts and uncertainty on the part of Bidault in the Cabinet. On 8 May, the French magistrate Mischlich forwarded to Adenauer the letter of the preceding day in which Schuman explained the declaration to the German Chancellor. On 8 May, Adenauer wrote to Schuman that Germany was ready to play its part in organising the plan. This information was brought to Schuman’s attention during the Cabinet meeting called for the morning of 9 May. The letters are published in *La naissance d’un continent nouveau*, Fondation Jean Monnet pour l’Europe, Centre de recherches européennes; Lausanne, 9 May 1990, pp. 182-188.

(22) Monnet is therefore one of the co-founders of European integration. The official iconography is therefore correct when referring to the 1950-1952 photograph in which Schuman is seated next to Jean Monnet in Monnet’s garden at Montfort l’Amaury.

(23) In his *Mémoires* Jean Monnet recalls that Paul Reuter was ‘the originator of the High Authority, in terms of both the word and the body itself’ (J. Monnet, *Mémoires*, Fayard, Paris, 1976, p. 350). On 12 April 1950, following a meeting with Jean Monnet at the *Commissariat au Plan*, Paul Reuter, returning to the house of his friend A. Mestre, where he was staying in Paris, pencilled a note which begins with the following words: ‘Peace, Europe, France–Germany, German Unity, Franco-German Union not ruled out’. The note ends with the idea of the High Authority: ‘This international authority will therefore follow the tradition of the provisions of the Havana Charter on basic products, but with a much greater ambition whose political significance is essential: opening a breach in the solid walls of national sovereignty which is wide enough to rally states and deep enough to lead states, through its positive results, along the progressive and new path of unity in peace’. See *Le Professeur Paul Reuter se souvient* and *Notes de Paul Reuter après un entretien avec Jean Monnet, 16 avril 1950*, in *La Naissance d’un continent nouveau*, op. cit., pp. 137-155.

(24) Judgment of 23 April 1986, Case 294/83, *Les Verts v European Parliament*, ECR, p. 1339.

(25) In a handwritten note of April/May 1952, Jean Monnet, President-elect of the High Authority, wrote: ‘We shall maintain peace only if we build Europe’. ‘Europe-Histoire, Marché unique, Monnaie unique, Fédération’ (Fondation Jean Monnet pour l’Europe, Lausanne, Jean Monnet Archives, handwritten note April/May 1952).

(26) ‘Europe was not achieved and we had war’: this is the primordial message of the declaration. Jean Monnet had already put forward the notion of peace as a value and a foundation for European integration in his ‘reflection note’ of 5 August 1943, sent to the French National Liberation Committee, chaired by de Gaulle and Giraud. Monnet wrote that ‘there will be no peace in Europe if the States rebuild themselves on the basis of national sovereignty, with its implications of prestige politics and economic protection [...]’. The countries of Europe are not strong enough individually to be able to guarantee prosperity and social development for their peoples. The States of Europe must therefore form a federation or a European entity that would make them into a common economic unit’, *Note de réflexion de Jean Monnet. Alger, le 5 août 1943* in *La naissance d’un continent nouveau*, Fondation Jean Monnet pour l’Europe, Centre de recherches européennes, Lausanne, 1990, pp. 121-122.