

Euroasiatic solidarity under the lens of the modern romanist

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What do we mean by Eurasia?

«Eurasia is a single continental area inhabited by very different populations, amounting today to five billion people, partly migrants, many of whom have used and still use, often increasingly, the Roman legal (-religious) system».

(English translation of a quote from P. CATALANO, *Per un romanismo socialista del XXI secolo. Verso la solidarietà eurasiatica. Sassari-Roma-Xi'an 1973-2013*, now in R. CARDILLI, L. FORMICHELLA, S.PORCELLI, Y.O. STOEVA (a cura di), *Chang'an e Roma. Eurasia e Via della seta. Diritto, società, economia*, Cedam, Milano, 2019, p. 30).

Why is Eurasia so important?

«When there was unity and peace in the West, under Augustus, unity and peace also existed in the other side of the world: in Asia there was the Chinese empire. It's not just a coincidence; it is a fact placed for our reflection: Jesus Christ was born when the whole world was at peace».

(English translation of a quote from G. LA PIRA, *La nostra partecipazione all'Anno Santo*, in ID., *Il sentiero di Isaia. Scritti e discorsi: 1965-1977*, 2° ed., Firenze 1979 (1° ed. 1978), p. 625.

How has been implemented the concept of Eurasia?

The **Belt and Road Initiative** (*Yi dai yi lu*) is the realization of the idea of the *Silk Road* (*Seidenstraße*), which started in 2013 on the impulse of the Chinese government with the aim of improving communication routes and the interconnection between Asia and Europe, increasing commercial exchange, establishing an international financial network and facilitating contacts between different populations, cultures and civilizations, in the attempt to create a new model of international relations, based on mutually beneficial cooperation, as well as on the development of a shared global economy and a fair and transparent trade and investment system, based on shared rules.

What was the reaction of the EU to this initiative?

The European Parliament resolution of 16 september 2021 on a **new EU-China strategy**, in the section of the document dedicated to «*Fostering open strategic autonomy, including in trade and investment relations*»:

- 42. *Notes that in 2020, in the context of COVID-19, China ranked as the EU's largest partner for trade in goods for the first time, with the trade balance further deteriorating to the EU's detriment; recalls, however, that the US is still the EU's top partner in trade in goods and services combined; believes that China's economic rise and predicted growth will have a considerable impact on global economic developments over the next decade; points out that for different reasons, mutual investment levels remain below their potential and recognises the economic opportunities that characterise the wider region; considers that the volume of trade between China and the EU will require a rules-based and values-driven framework which needs to be rooted in international norms; stresses that respect for human rights is a prerequisite for engaging in trade and investment relations with the EU and urges China to comply with its international obligations and to commit to respecting human rights;*

What is the legal framework of this resolution?

- **The Trade and Economic Cooperation Agreement between the European Economic Community and the People's Republic of China**, signed in Brussels on May 21st, 1985, was with the Council Regulation (EEC) No 2616/85 of 16 September 1985 and came into effect on October 1^o, 1985;
- Its aims are «to promote and intensify trade between them», as well as «to encourage the steady expansion of economic cooperation» (Article 1);
- It consists of four chapters: Chapter 1 is dedicated to Trade Cooperation (Articles 2-9); Chapter 2 to Economic Cooperation (Articles 10-14); Chapter 3 regulates the Joint Committee (Article 15); Chapter 4 contains the final provisions (Articles

Article 3 of the Trade and Economic Cooperation Agreement between the European Economic Community and the People's Republic of China

1. In their trade relations, the two Contracting Parties shall accord each other **most-favoured-nation treatment** in all matters regarding:
 - (a) | customs duties and charges of all kinds applied to the import, export, re-export, or transit of products, including the procedures for the collection of such duties or charges;
 - (b) | regulations, procedures and formalities concerning customs clearance, transit, warehousing and transshipment of products or services imported or exported;
 - (c) | taxes and other internal charges levied directly or indirectly on products or services imported or exported;
 - (d) | administrative formalities for the issue of import or export licences.

Article 10 of the Trade and Economic Cooperation Agreement between the European Economic Community and the People's Republic of China

Within the limits of their respective competence, and with the main aims of encouraging the development of industry and agriculture in the European Economic Community and in the People's Republic of China, of diversifying their economic links, encouraging scientific and technological progress, opening up new sources of supply and new markets, helping to develop their economies and raise their respective standards of living, the two Contracting Parties agree to develop economic cooperation in all the spheres subject to common accord, and in particular:

- | industry and mining;
- | agriculture, including agro-industry;
- | science and technology;
- | energy;
- | transport and communication;
- | environmental protection;
- | cooperation in third countries.

Article 11 of the Trade and Economic Cooperation Agreement between the European Economic Community and the People's Republic of China

According to their needs and within the means at their disposal and as far as they are able, the two Contracting Parties shall encourage the application of the various forms of industrial and technical cooperation, for the benefit of their undertakings or organizations. In order to attain the objectives of this Agreement, the two Contracting Parties shall endeavour to facilitate and promote, among other activities:

- | joint production and joint ventures;
- | common exploitation;
- | the transfer of technology;
- | cooperation between financial institutions;
- | visits, contact and activities designed to promote cooperation between individuals, delegations and economic organizations;
- | the organization of seminars and symposia;
- | consultancy services;
- | technical assistance, including the training of staff;
- | a continuous exchange of information relevant to commercial and economic cooperation.

Article 15 of the Trade and Economic Cooperation Agreement between the European Economic Community and the People's Republic of China

1. The two Contracting Parties shall set up, under this Trade and Economic Cooperation Agreement, a **Joint Committee** comprising representatives of the European Economic Community on the one hand and representatives of the People's Republic of China on the other.
2. The tasks of the Joint Committee shall be as follows:
 - | to monitor and examine the functioning of this Agreement and review the various cooperation schemes implemented;
 - | to examine any questions that may arise in the implementation of this Agreement;
 - | to examine problems that could hinder the development of trade and economic cooperation between the two Contracting Parties;
 - | to examine means and new opportunities of developing trade and economic cooperation;
 - | to make recommendations that may help to attain the objectives of this Agreement, in the areas of common interest.
3. The Joint Committee shall meet once a year, in Brussels and Beijing alternatively. Extraordinary meetings may be convened by mutual agreement, at the request of either Contracting Party. The office of chairman of the Joint Committee shall be held by each of the two Contracting Parties in turn. Where both Parties consider it necessary, the Joint Committee may set up working parties to assist it in its work.

Other relevant documents regarding the UE-China relations

- October 2003: **EU-China Comprehensive Strategic Partnership;**
- 2003: **China's Policy Paper on EU;**
- 2014: **China's Policy Paper: Deepen the China-EU Comprehensive Strategic Partnership for Mutual Benefit and Win-win Cooperation;**
- 2020: **EU-China Strategic Agenda for Cooperation;**
- 30 December 2020: **EU-China Comprehensive Agreement on Investment (CAI)**
- The agreement grants EU investors a greater level of access to China's Market;
- In the agreement, China has committed to ensure fairer treatment for EU companies, allowing them to compete on a more level playing field in China. These commitments cover state-owned enterprises, transparency of subsidies, and rules against forced technology transfer;
- China also agreed to provisions on sustainable development, including commitments on climate and forced labour;
- Proposed in 2013, as of today the deal has not been signed.

What has this to do with Roman Law?

«The reality of Roman history and expansion is marked, on the one hand, by a complexity of choices and management of the *imperium populi Romani* with the pre-existing city communities [...] which cannot be reduced to a unitary and monolithic scheme and, on the other hand, at least from a certain moment onwards, it reflects a municipal policy of city creation, which outlines a universal empire with a deeply rooted urban plot, one of the legacies still visible in contemporary Europe, Asia Minor and North Africa».

(English translation of a quote from R. CARDILLI, *L'iniziativa 'yi dai yi lu' cinese come strumento di pace e commercio tra le civitates*, now in R. CARDILLI, S. PORCELLI, *Introduzione al diritto cinese*, Giappichelli, Torino, 2020, p. 355).

How has Chinese Law been influenced by Roman Law?

«The Chinese legal culture has proved itself to be aware of the delicate mechanisms of our legal systems of codified law and, more specifically, of the existing complementarity between the codes and a specialized class of lawyers who produce them, then interpret them and improve them on a daily basis; of the role of the *principium* as *potissima pars* of the system; of the pluralism, even linguistic, to which the system is open in the dialogue with this *principium*».

(English translation of a quote from S. SCHIPANI, *s.v. Diritto Romano in Cina*, in *Treccani XXI secolo*, Roma, 2009, p. 535).

What is the real meaning of the new Civil Code of the PRC?

«Today China has overcome the perception gained in the nineteenth century according to which the Western world is a threatening force that wants to destroy China. The country feels to be and really is a member of the international community of equal position and dignity with all the other countries, and also for the law a dialogue between equals is developed».

(English translation of a quote from J. XUE, *Dialogare con la cultura romana attraverso il diritto romano pubblico*, in *Index*, 44/2016, pp. 508-511).

Why is Roman Law still so important today?

«Tradition cannot be inherited, and if you want it you must obtain it by great labour. It involves, in the first place, the historical sense [...] and the historical sense involves a perception, not only of the pastness of the past, but of its presence».

(T.S. Eliot, *Tradition and the Individual Talent*, 1919)