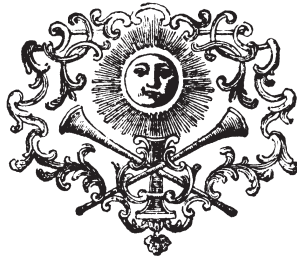


THE FEDERALIST

a political review

To look for a continuation of harmony between a number of independent unconnected sovereignties situated in the same neighbourhood, would be to disregard the uniform course of human events and to set at defiance the accumulated experience of ages.

Hamilton, The Federalist

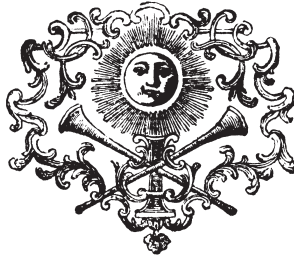


THE FEDERALIST

a political review

Editor: Giulia Rossolillo

The Federalist was founded in 1959 by Mario Albertini together with a group of members of the Movimento Federalista Europeo and is now published in English and Italian. The review is based on the principles of federalism, on the rejection of any exclusive concept of the nation and on the hypothesis that the supranational era of the history of mankind has begun. The primary value *The Federalist* aims to serve is peace.



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The Irreversible Crisis of Intergovernmental Europe

The Europe created in Maastricht, namely the European Union based on two systems of governance, i.e. community and intergovernmental, has now entered a state of irreversible crisis. The recent European Council summit, on 28-29 June, which saw the governments clashing yet again, and once more concluding nothing, is just the latest illustration of this. The sooner the implications of the present dramatic situation are appreciated, and efforts are made to redress it (which is what President Macron is calling for), the greater will be the chances of salvaging the European integration project (otherwise destined to implode).

First of all, it is crucial to grasp the true gravity of the pathological and painful situation that has come about, being careful never to underplay its symptoms (the selfish pursuit of conflicting national interests, the increasing distance between various inward-looking public opinions, each trapped within its own borders and sense of identity, and the lack of trust between member states and resulting state of paralysis), or conceal the mortal danger represented by the inexorable advance of different forms of populism and national sovereignism. The enemies of European unity lie both within and outside the EU. In addition to Trump and Salvini, they include Russia, which, no longer able to believe in the possibility of collaborating with Europe, would rather destroy it. They can be found in the Visegrad Group and in the increasingly nationalist and reactionary governments now in office in many European countries; they are also at work in France and Germany, where they are becoming increasingly strong and laying siege to the last bastion of democratic resistance represented by Merkel and Macron. Even though their proposals are purely demagogic and based on patently false assumptions, and their so-called solutions are a direct route to economic, social and political disaster, not to mention conflict (primarily between the respective national interests they claim to rep-

resent), their strategies are easily married together and draw strength from each other. The moral decay these forces are ushering in has the effect of throwing into stark relief the justness, wisdom and long-sightedness of the European unification project. It has become strikingly clear that the European Union is the only stronghold capable of defending democracy and progress; if it collapsed and disappeared, it would take with it every last chance of retaining, in Europe, a society that pursues universal values and citizens' rights, and seeks to combine development and economic wellbeing with the objectives of social justice and sustainability for future generations. Spinelli appreciated this fact from the outset. Indeed, his Ventotene Manifesto warns political forces not to allow *the incandescent lava of popular passions to set in the old moulds with past absurdities resurfacing*, but rather to take on *as their main duty (...) the creation of a solid international state*, directing *popular forces towards this goal*.

* * *

In grasping the reality of the current threats to Europe and democracy, it is crucial, at the same time, that we develop the capacity to react, in other words to understand what counter action must be taken in order to change the political framework that is feeding nationalism. Gripped by fears, some founded and some totally irrational, Western societies today are becoming increasingly closed and inward looking. Their malaise is now universally recognised to be rooted in a sense of uncertainty about the future and a lack of faith in the traditional political forces that, for better or worse, governed the Western world during the decades between the end of the Second World War and the outbreak of the financial and economic crisis in 2008-2009, and also managed the fallout from that. On many previous occasions, also in this publication, we have analysed the various changes now taking place in the world (the technological revolution to begin with), which are challenging the West, altering its influence on the global stage, and transforming its internal social balances; many have reacted to these changes by impulsively seeking refuge in a precise but closed sense of identity, in the belief that this offers a solution. In this time of epochal transition, Europe is the weak link of the Western system, and there are several reasons for this: its absence as a political power in the global system has had the dual effect of creating a deep vacuum — this has helped to strengthen both the rise of nationalism in the USA and the autocratic drift in Russia — and further weakening, internally, the bond of trust

that needs to exist between citizens, institutions and politics. The Europe of Maastricht, as appreciated by leading European figures of the time (from Jacques Delors to the German government, whose position was clearly set out in the 1994 Schäuble-Lamers plan), introduced a provisional model that demanded rapid correction. It was a model that sought to strengthen, also through enlargement, a large Europe-wide market (deeply integrated in terms of regulatory harmonisation and economic interdependence), but it allowed politics and the issue of democratic legitimacy to remain in the hands of the nation-states. Thus, despite the claim that there would be coordination of the different countries' policies — in reality, nothing concrete was achieved in this sense —, foreign and security policy, internal affairs and justice all continued to be governed at national level. In particular, the inadequacy of a single currency created without also creating a fiscal-economic and political union (essential complements if the aim is to obtain a balanced system) could not have been more apparent: while the monetary union protected European countries from financial market turbulence and allowed them all to enjoy extraordinary stability, it lacked the instruments necessary for the eurozone and, with it, the EU to become the strong European “global power” that was, and is, so sorely needed.

The real difficulty that needs to be overcome, then, is this weakness of the European Union (certainly not the European Union *per se*). Indeed, together with the excessive power still in the hands of the nation-states — inadequate and powerless, these are a breeding ground for selfish sentiments and resentment —, it is this weakness that is stopping the political system in Europe from working properly and offering the citizens effective responses, and preventing society from developing the sense of collective responsibility on which the exercise of democracy depends. In short, there will be no stopping the current drift until Europe's weakness and the excessive power of the member states have been overcome. At the same time, it must be made absolutely clear what overcoming the current framework actually means. Macron has outlined this clearly: it means embarking, without delay, on the construction of European sovereignty, initially in the eurozone in relation to economic and fiscal policy, and subsequently in other key policy areas (such as migration, foreign affairs and internal and external security), in this case more gradually, given that the latter are, as yet, less advanced and less ripe for this change. Put another way, and using terms closer to EU jargon, it means taking several specific and decisive steps towards completion of the monetary union, i.e.: i) creating an *ad*

hoc budget for the eurozone, separate from the one currently in place for the EU (the latter, structured along intergovernmental lines, is designed to support the functioning of a market, not to stabilise and help ensure a balance within a single monetary area); ii) creating a true political government equipped with effective, albeit still possibly limited, powers and resources; and iii) introducing democratic monitoring, by the European Parliament, of revenue and decisions on spending. Furthermore, these steps must be accompanied by the institutional reforms necessary to promote better sharing of the management of other policy areas (security policy, foreign policy and migration), those in which effective policies are currently impeded by the reluctance of many states to share resources, responsibilities and costs, and by Europe's powerlessness to counter these trends.

At present, however, such reforms are still only proposals, and would in any case likely be opposed by many EU member states. Indeed, most European governments at the present time are displaying, albeit with different registers and objectives, a willingness to re-embrace nationalism. In this regard, the power of the blow to Europe's foundations with the election, in Italy, of political forces that have created an openly populist and "sovereignist" (in the sense of nationalist) government cannot and must not be underestimated. Even though there is a measure of dialectical exchange within the new Italian government (thanks to the presence of individuals included, at the wish of the President of the Republic, to ensure that there is some continuity in Italy's internal and European policies), it is increasingly clear that Italy has become a country that causes problems in Europe, rather than a partner that is ready to work to resolve them; and it is difficult to predict whether it will be willing to accept reforms designed to deepen integration.

What the latest European Council meeting shows, therefore, is that in the current framework the European Union, if it continues to operate according to the usual mechanisms, will inevitably remain paralysed and find itself progressively eroded, from within, by the "sovereignist" stances and policies that are increasingly being adopted. Instead, it would do far better to focus, as in the past, on the mechanism of differentiated integrations and the need for a vanguard of member states to take responsibility for breaking the impasse. This is not the first time in Europe's history that such solutions have been required. The very birth of the ECSC stemmed from the breakdown of the framework of the Council of Europe, within which it had proved impossible to take

concrete steps to start a process of integration. In the end, only six countries shared the desire to create the first European Community, endowed with genuinely supranational characteristics. However, it is important to note that this Community always remained open and ready to embrace other countries that might subsequently wish to join it. As in all previous circumstances in which it has proved necessary to resort to the concept of the vanguard and initial core group, there need be no fear that this approach will result in the creation of closed, exclusive entities; as previous experiences have shown, it has never been a question of excluding any state, but rather of starting a process that would allow other countries, initially sceptical, to become part of the group later on, once they have gradually come to the decision to do so.

The birth of the monetary union was another turning point that showed marked similarities to the present scenario. At that time, the international framework that had, until then, allowed the European Community to enjoy stability and continuity was collapsing, and Europe needed to equip itself to face the new challenges that were emerging. It should be remembered that in the field of foreign policy, Europe's interests no longer coincided with those of the United States, a situation that had radically altered the terms of the transatlantic relationship established in the aftermath of World War II, while its internal balances had been altered by Germany's reunification and the strong likelihood of an enlargement of the Community to the East. Europe needed to find renewed stability by implementing a project that would deepen its integration, giving it the strength to withstand the centrifugal forces that the new framework was expected to generate. The creation of the single currency thus became the opportunity to fortify European integration to the point, as Draghi memorably put it, of making it irreversible (in the sense that the end of European unity would be a catastrophe for everyone), which, however, does not mean rendering the euro and European unity indestructible. The single currency, too, was a project spearheaded by a vanguard group, a fact that was universally recognised at the time; one need only look back over the debate, in that period, on the issues of a hard core and a federation within the confederation in order to appreciate this. Indeed, alongside the resistance of the few states that had opposed the project from the time of its very drafting, demanding, in the face of other states' determination to proceed, to be allowed to take advantage of special opt-out clauses, there emerged in some participating countries reservations and difficulties so marked that the project was only able to get started thanks to a strong initiative

on the part of France and Germany; their action had the effect of triggering the mechanism whereby the others, initially reluctant to sign up, were stimulated to make the necessary preparations to join. Even though the introduction of the single currency was not accompanied by the creation of a budgetary union, a true economic union, a social union or, above all, a political union, there can be no doubt that the founding of the monetary union gave the EU enough strength to withstand the very strong tensions of the early post-Cold War years and that this strength, in turn, allowed the single currency, notwithstanding its limitations, to survive the global economic and financial crisis.

But now, however, all this is no longer enough. The difference today, compared with the past, is that the destructive and subversive anti-Europeanism espoused by many of today's governments has wormed its way into the Council of the European Union and the European Council — the two bodies that shoulder the greatest responsibility for guiding the present EU and that, to work efficiently (given that they can only proceed by consensus), must be able to count on a constructive attitude on the part of all the member states, even the less pro-European ones. Despite being cumbersome, inefficient and not always completely transparent or truly democratic in nature, until now the Council and the European Council have functioned just well enough to carry the EU forward on the basis of a universally shared will to keep European unity alive (irrespective of the fact that the concept of European unity is understood in different ways). There is certainly no doubt that Europe's leaders over recent decades have been irresponsible in failing to correct the flawed European system, which has created bigger and bigger gaps between the European partners as the differences in their capacity to respond to the challenges of globalisation and technological development have grown. Now, however, we have reached a point at which the system has broken down completely and irreparably, making failure to act not just irresponsible but suicidal.

Reforms serving to patch up and strengthen the traditional Community method are certainly not the answer. What is desperately needed now is a true political leap, designed to counterbalance national power with European power, creating a decision-making mechanism that is no longer held hostage by the member states, and thus overcoming the situation in which they are the only "masters of the Treaties". Like it or not, only a breakaway initiative can pave the way for saving the European project — an initiative of an exceptional nature and strength, commensurate with the dangers we are now facing.

Perhaps it is already too late, but it is nevertheless a moral duty of all who hold democratic values dear to make a final attempt to fight back.

Stemming from Macron's France and Chancellor Merkel's Germany, which a few weeks ago in Meseberg reached an initial agreement in particular on several points for a reform of the eurozone (even indicating *ad hoc* instruments: an investment budget and a stabilisation tool against unemployment), there needs to emerge a strong and growing determination to relaunch Europe, and this must be reflected in a solid reform project proposal. Now, for the first time in many years, Germany is admitting that the single currency and the European Union are not two overlapping frameworks, and may well not be for a long time to come. This admission has had the effect of debunking the idea that the 27-member framework is inviolable, an idea that has hitherto been used, also by Germany, to justify the refusal to accept any real change in the existing European order. Hence, right now, these two countries' only chance of saving the European integration project (providing Berlin can avoid getting tangled up in a deadly crisis) is to prepare a vanguard initiative that will create, within an initial core group of countries, greater unity and a new system that is more solid, more cohesive and more effective, as well as more legitimate in the eyes of citizens. A process of gradual EU reform starting with the current Treaties is inconceivable in the 27-member Community framework, given that, under the flexibility instruments currently in place, any advance would require the agreement even of those opposed to it. In short, even the opponents of reform would have to play a constructive role. Equally, it would not be feasible, in the current situation, to change the Treaties through a constituent reform process involving the 27 member states. This therefore brings us back to the one possible solution, namely the launch of an initiative by a small vanguard of states ready to embark on the deepening of integration that the other partners are not yet ready to accept. The purpose of the initiative, which would always remain open to any country that might subsequently wish to join it, would be to bring about a pooling of sovereignty among the countries willing to participate from the outset. This sovereignty sharing would concern at least two areas: migration policy and economic and social policy. In the first case, it would involve the creation of a single framework based on shared control of external borders and a genuinely common migration policy, whereas in the second it would mean founding a fiscal and economic union. In both these areas, the necessary systems of shared governance would need to be identified, involving the EU institutions in

the process and seeking to secure their support for this first embryo of political union, with a view to its subsequent expansion.

This is just an outline of the direction to be followed, and as such it needs to be examined closely and evaluated thoroughly. What is certain, however, is that France and Germany must return to the idea of creating a hard core of countries that might act as a magnet to counteract the current centrifugal forces, as well as their efforts to create the kind of conditions, truly conducive to strong integration, that effectively bind together the destinies of the single states. This time, however, they will have to do what, in the past, was *not done*, namely, make sure that the political nature of the initiative also translates into institutional changes giving rise to true European political sovereignty.

Only by managing to pursue a project of this kind will France and Germany be able to reverse the current trend. All the countries able to do so must support them without hesitation, aware that this is the only way of launching a credible bid to undermine today's nationalist forces. Italy, for now, may not be able to lend such support, unless, in the name of this choice and under the pressure of public opinion, a split opens up in its government and the country manages to find the strength to break free from the spell cast by the League. In any case, the one thing that we, as Italians, can say for sure, both to ourselves and to our European partners, is that without Europe, Italy is doomed; but unless it can create a European federation, Europe too is doomed. Therefore, all we can say to our European partners is this: press on, without us if you have to, but for us too.

July, 2018

The Federalist

The Run-up to the 2019 European Elections: a Battle Over the Future of the European Union

The forthcoming European Parliamentary elections are increasingly assuming the character of a clash over the future of Europe. The deepening political divisions between the member states (and the impasse this is creating in numerous crucial areas), not to mention the breadth and depth of the challenges now threatening the security and the political and social stability of our continent, are exposing the full precariousness of the current European system.

Nationalist forces across the continent, in particular, are adopting stances designed to win them as much ground as possible in the electoral battle over the future of Europe. Having set aside — also in view of the chaos into which the UK has plunged in its attempt to “deliver” Brexit — the idea of pressing for their own countries’ exit from the European framework, the aim of these factions is now to secure, within the next parliament, the numbers and a level of consensus that will allow them to hold sway within the Community institutions. The key aims of their project are to further strengthen the centrality and power of the member states, nullify and dismantle the Community mechanism, and set an authoritarian and anti-democratic agenda, supported by a coalition of illiberal regimes and forces, in opposition to the liberal democracy and social market economy model currently embodied by the EU.

It is certainly useful and important that the forces and citizens who believe in the values of European civilisation and the European model, and understand the need for Europeans to remain united if they aspire to a future of progress, continue to defend the merits of all that has been achieved through the integration process to date; but this, alone, is not enough. It is not even enough to highlight the inconsistency of the stances adopted by the nationalist governments, which leads them to clash with and damage each other over specific issues. The mortal danger inherent in their plan to join forces in order to empty the EU of substance is very real. For this reason, it is crucial that *all genuine democ-*

rats oppose the nationalist project through concrete proposals designed to strengthen Europe and carry through to completion the original European vision of political unity on a federal basis.

The time has come to focus political attention on *the issue of creating the power that is needed in order to guarantee action at European level*, and on the consequent institutional leap that will have to be made in order to overcome the weaknesses of the current European framework. This is something that applies to the issue of security, but also to a series of other areas: sustainable development, the scientific and technological revolution, the labour market and youth unemployment; moreover, it acquires particular relevance when considering the shameful response of the states of intergovernmental Europe to the suffering of those seeking refuge in Europe.

The absence of a European federal government and the impotence of the European states, which claim still to be the “lords of the Treaties” and the masters of politics in Europe, are casting our society adrift and allowing tragedies of immense proportions to unfold on our borders.

* * *

All in all, this situation is not a fitting way to celebrate the 20th anniversary of the entry into force of the single currency. The euro is a great success, of which Europeans may rightly feel proud. First and foremost, it represents a political project that succeeded in shoring up and securing the European edifice at a time when the disappearance of the bipolar world order was weakening all the pillars on which the European Community was founded: the deep sharing of interests between Europe and the United States, their common ideological bond, created by the Cold War, the stability and absolute clarity of the geopolitical picture, and finally Germany’s diminished sovereignty and the political supremacy of France — both key factors in the relationship between these two countries, which, together, were the original driving force of the process of European integration. Once deprived of these foundations, the European edifice would have struggled to survive in the new global world had it also lacked, from the late 1980s, the objective of the single currency to work towards, and from the late 1990s, the stability offered by the euro itself.

The “founding fathers” of EMU, from Kohl to Delors, were the first to recognise that it was an incomplete construction that needed to be strengthened and completed without delay, through the creation of a budgetary union and an economic and social union, as well as, in

Kohl's opinion, a political union. Yet, despite remaining incomplete, the euro has, in recent years, kept many of its promises: in addition to becoming the world's second currency, allowing the development of the world's largest single market, it has eliminated the problem of inflation in Europe and fostered a new code of conduct among governments that previously tended to exploit the weakness of their own national currency in order to gain unfair advantages (even though it has not been enough to induce them to address the competitiveness issue). All this has hugely strengthened the interdependence of the European nations as well as the resilience of the European Union itself and the bond between its members.

Today, however, almost a decade since the explosion of the economic and financial crisis that forced Europe to confront the limits of the monetary union created in Maastricht, in this setting too it has become urgent for Europeans to take stock of the situation, and prepare to rise to the new challenges they face. Although the crisis has certainly shown the single currency to be stronger and more resilient than its critics anticipated, it has undoubtedly also shown it to be less effective than it was meant to be as a means of promoting the convergence and competitiveness of its members. As a result, Europeans today are more politically divided and therefore, from this perspective, weaker than they were at the time the single currency was created; and they need to understand why this has happened, and how to rectify it.

The problem is entirely political, and it lies in the fact that the monetary union is essentially a defective system. Had the single currency been supported by the creation of a federal political union (which everyone recognised as necessary when it was first launched), the European institutions would now wield limited but real competences and powers, and the citizens would feel a real connection with them, in the sense of being directly affected by their decisions and able to control them through the ballot box and the full parliamentary machinery; moreover, their actions would be fully coordinated with those of the lower levels of government, which in turn would continue to fulfil their role towards their own citizens. In this way, democracy and effective government would be guaranteed. In the present European system, on the other hand, the fact that the states share monetary but not economic and political sovereignty causes a series of short circuits that are feeding the emergence and spread of populist and nationalist sentiments and forces: i) the supranational level of governance remains ineffective and conditioned, politically, by the will of the national gov-

ernments, which often have divergent interests and therefore undermine the action of the Community institutions; ii) the national governments are forced to act within a very binding, rules-based framework, which is indispensable for the functioning of the European system as it is currently conceived, but often forces the national governments to make political choices that are unpopular in the short term; iii) the citizens can clearly see that there are two levels of government (the national one and the intergovernmental European one) that are weakening each other rather than generating synergy, with both therefore tending to pursue weak and inadequate policies; iv) finally, democracy is fully exercised only at national level, yet it is largely emptied of significance by the dynamics just described.

In turn, then, the solution to the problem can only be political; even more so because, in the face of Europe's weakness, both the old and the new powers are increasingly hankering after their share of our continent's wealth. Today, our social market economy model, based on liberal democracy, and the values (including freedom) that are central to our civilisation are under threat.

With regard to the monetary union, the Europeans can no longer afford to postpone the completion of the structure whose foundations were first laid 20 years ago: with some member states open to the idea of building a European political union, the time has come to create, around the euro, the foundations for a global economic and political power that can become a tangible model of unity, peace, freedom and solidarity, able to defend the universal values of our civilisation.

* * *

Over the past year and a half, France, under Macron, has advanced proposals for relaunching the EU that hinge on the idea of making the eurozone a more closely united and integrated unit at the heart of the EU, and taking its development as a global economic power as the starting point for the building of a new European sovereignty. However, the negotiations undertaken in order to arrive at a common position with Germany have so far resulted only in a compromise proposal that is still highly contradictory and inadequate. There is indeed still some considerable distance between the two countries' positions on the future of the European Union: France envisages Europe becoming a political power by equipping itself with the democratic powers and dynamics of a federal state community; Germany, on the other hand, is reluctant to abandon the current hybrid structure, in which politics and

power remain in the hands of the member states and integration continues to be decided between the national governments, keeping the effective role of the Commission to the bare minimum.

The so-called Aachen Treaty, signed on 22 January 2019 by the French and German governments (which in some ways recalls their signing of the 1963 Élysée Treaty), is also part of these endeavours; it is a gesture that is intended to be part of a process that aims, among other things, to bridge the gap and strengthen the mutual trust between these two countries in the wake of difficult years of profound transformation, also in the balance of power between them.

However, the Aachen Treaty is more than this. It also embodies the will of France and Germany, in today's Europe gripped by growing nationalist delusions, to stand as a bulwark protecting the European project of unity and solidarity between peoples, citizens and generations; a project of peace, freedom and democracy. Even though they are weakened and find themselves attacked (both from within and, even more so, from the outside) by hostile powers seeking to destroy them in order to destroy Europe, the governments of these two countries are well aware that they are the point of reference for all those who are firm in their intention to resist these attempts and instead relaunch the European project; they have indeed stated, in strong terms, their determination not to surrender and their commitment to building a stronger Europe.

* * *

This, then, brings us back to the new phase we are entering as the European political elections approach — a phase that all pro-European forces must address with the courage and vision necessary to rise to the challenge it represents. Precisely because Europe has no allies, and can only rely on itself to grow stronger, any attempt to reverse the current drift must necessarily focus on the fight to build a federal political union. Europe's rebirth can only come about if it gives itself a new structure, gets the citizens involved and proves courageous enough to open up a new road, thanks to the efforts of a vanguard of political and social forces and countries determined to press ahead. It is crucial that the key battle fought during the next European legislature should be the one to unite these forces in a single front linked to the pro-European section of society and allied with national governments that believe in unity — a front that can press to renegotiate the Treaties and create, with the involvement of the countries that are ready for this step, a European federal constitution, i.e. a core group of states within a broader

European Union that will, instead, accommodate those states that do not want political unity, only the single market. As Italians, we must not allow ourselves to be discouraged by the fact that, under the present government, our country will oppose such a project. On the contrary, we must appeal to the others to go forward also on our behalf, and in the name of all citizens who believe in Europe and want to live in Europe. Our view, and there can be no shifting us from our position, is that today Italy, to have a future, needs the European federation more than ever before.

January 2019.

The Federalist

Who is Sovereign in the Era of Global Interdependence?

FRANCO SPOLTORE

We are living an era in which, practically everywhere in the world, “democracy seems to be losing its way”. As a result of the growth of interdependence between states and societies in all sectors that affect the lives of individuals (from security to the production and consumption of the goods that are the basis of the levels of wellbeing and comfort defining the standards of living achieved by humanity), public opinion is becoming increasingly unsure of where sovereignty and the power to decide now lie,¹ in other words, what role should be played by states and individuals in governing processes that have expanded beyond the scope of both local and national levels of government. This is the reality that should be our starting point in attempting to analyse the two opposing forces that are increasingly conditioning political struggle and debate in society as a whole, namely the one that is driving the process of integration on a continental and world scale, and the other, which is fuelling calls for a return to national sovereignty. Historically, this is not a new problem, having emerged, for example, in the differences between federalists and confederalists during the process of consolidating the power of the United States of America. But in Europe, however, it is an issue that risks derailing the (still ongoing) process of creating the supranational institutions that are indispensable for leading the development of the world to-

¹ Francesco Rossolillo, *Che cos'è la sovranità*, Il Federalista, 17, n. 4 (1975), p. 194: “The ideal of sovereignty, in reference to the state, can be fully realised only in the framework of a global federation (the institution that achieves the overcoming of mankind’s division into sovereign states), wherein, moreover, the division of humanity into classes has been definitively superseded. (...) Once the component of violence in relations between citizens and between state and citizens has been eliminated, the state is reduced to a legal system that amounts to a contract freely permitted by the people, understood as an association of equal men. Thus, the ideal of the sovereign state corresponds to the ideal of the sovereign people.” (Quotation translated from the Italian) http://www.thefederalist.eu/site/index.php?option=com_content&view=article&id=919%3Ache-cose-la-sovranita&Itemid=1&lang=en.

wards a more peaceful and democratic, and also more environmentally sustainable, global order. Were this risk to materialise, the effects, regardless of the intentions of those claiming it would represent a recovery of the freedom to decide, would be a return to a situation of violent competition both *between* and *within* states, and a barbarisation of political and social relations, in other words an arrest of progress and of the process of civilisation of human relations. What we are currently seeing in Europe, with the re-emergence of micro-nationalist aspirations, is emblematic in this regard. Here we have a union of states that are no longer sovereign, but at the same time still not truly united, and the political consolidation of this union is proving to be a process so painfully slow that it is allowing the rebirth of nationalist and micro-nationalist feelings (the latter both at regional and even urban level). As shown by some governments' stances on where the European unification process should ultimately lead, and by the call for referenda on regional independence and the resurfacing of the absurd notion of absolute sovereignty for regions such as Scotland and Catalonia, a sense of nostalgia for an imaginary past golden age seems to be prevailing over the capacity to innovate. But all the above positions are incompatible with the ongoing globalisation of production, the economy and social relations. The problem, unfortunately, is the great difficulty that is being encountered in establishing a supra-national institutional model that might be followed in order to overcome these contradictions. Europe bears a huge weight of political and historical responsibility in all of this, in the sense that, having been the creator of the concept of the nation-state, and having nurtured, for five centuries, the development of this construct, in which the forces of modernisation and the development of civilisation were born, it is now struggling to go beyond this particular dimension of sovereignty. It has to be recognised that this dimension (albeit sometimes through historical upheavals and terrible bloodshed) was instrumental first in overcoming the era of the European wars of religion, and then in ending armed and violent conflict between city-states, between regional states, and finally, after the Second World War, thanks to the start of the process of European integration, between nation-states. However, twice in the last century, the forces of nationalism led Europe very close to exiting, completely and definitively, the stage of world history. It was only after the Second World War that these nationalist tendencies began to be harnessed, as an effect of the process of European integration and unification.

Today, the idea of ever closer unions of states is destined to remain topical and to dominate political debate, precisely because, in the wake of

the evolution of the mode of production, the real challenge of the present century is the need to affirm a new institutional model for governing the increasing interdependence that we see *within* and *between* continents, *within* and *between* economies, and *within* and *between* societies. In short, what is needed, on an institutional level, is a solution to the problem of how to frame and apply the principle of sovereignty in an increasingly interconnected and interdependent world.² This problem, closely linked to the issue of the division and sharing of powers between the various levels of government within a common jurisdiction, today carries new implications on account of its central role in defining individual freedoms in a world in which the freedom of action of the individual is now severely restricted. This is certainly not the place to look back over the various stages in the course of history, or to reconstruct the struggle between the forces favouring relations of equilibrium as opposed to hegemony among states.³ But the fact is that the Philadelphia Constitution of 1787 saw mankind taking its first partial step towards the establishment of an order showing that the sovereignty of states that have agreed to form a union can and must be shared within a federal system.

This innovation in fact marks the point, in history, at which those who believe in preservation of the rights of individual states (or parts thereof) that have joined a union, and those who instead argue that sovereignty should remain with the supranational government, began to engage in a more concrete and more heated debate. And as global in-

² Forrest McDonald, *States' Rights and the Union – Imperium in Imperio 1776-1876*, Kansas City, University Press of Kansas, 2000, pp. 1- 2: “In his celebrated Commentaries on the Laws of England Sir William Blackstone defined law as ‘a rule of civil conduct prescribed by the supreme power in a state, commanding what is right and prohibiting what is wrong’. That prescribing ‘supreme power’ was the sovereign. [...] Then the powers inherent in sovereignty were unlimited, and sovereignty was by definition indivisible: dividing it would involve the self-contradictory doctrine of *imperium in imperio*. The sovereign could, to be sure, create subsidiary units of power. Early on, these took the form of baronies awarded for military service; later the subsidiary units were commonly established through corporate charters, whether to cities, trading companies, or colonies. But, though such units were to varying extents self-governing, they (like all powers and rights belonging to the subjects) emanated from the sovereign and remained subordinate to the sovereign. In England prior to 1688, the Crown had been sovereign, though it made law through the estates of the realm. [...] and it enforced the law through the Court of the King’s Bench and lesser courts. Since the Glorious Revolution of 1688, after centuries of struggles between the estates and the Crown, and since the Act of Settlement of 1701, by which Parliament determined the royal succession, sovereignty resided in Crown-in-Parliament. In practice, this ‘triumph of English liberty’ meant parliament supremacy: Parliament could command anything that was not naturally impossible.”

³ Ludwig Dehio, *The Precarious Balance – Four Centuries of the European Power Struggle*, New York, Alfred A Knopp, 1962.

terdependence has deepened, this debate, initially confined to the English-speaking world, has become global too. However, as the recent story of the entry into force of the EU-Canada trade agreement shows — this agreement risked being blocked due to the reluctance of a regional government (the Flemish government) to sign it —, it clearly remains essentially unresolved both politically and legally. Contrary to what happened—following the militarisation and centralisation of those European societies that, historically, found themselves exposed to international tensions and the recurrent risk of war, the historical evolution of the United States demonstrates that it is possible to rise to the challenge of becoming increasingly involved in global power politics without encouraging, internally, the formation of excessively centralised and tyrannical governments. What is more, the United States also showed, before the Europeans, that it is possible to acquire the institutional dimensions necessary to tackle major global challenges without falling back on national or micro-national remedies to resolve problems that have gradually assumed supranational dimensions. Europe, on the other hand, continues to fall victim to “solutions” of this kind, so much so that, in order to remain in the field, even political forces originally inspired by universalist and internationalist values have, in turn, found themselves forced to endorse populist and demagogic arguments purely to secure the popular support that, in a democracy, is indispensable in order to be able to implement national and local government policies, and thus maintain the institutional *status quo*.

* * *

Debate and discussion of these aspects, central to the future of democracy in a global system of increasingly interdependent states, must be kept open and alive in order to establish which subject or subjects should be entrusted with the task of spearheading the transition from the era of sovereign nation-states to that of a world of interdependent and united states, and also how this should be done. And it should also be appreciated that, in this context, Europe still has a historic role to play, provided it can manage to equip itself with the supranational government it currently lacks, and whose absence is leaving it powerless and turning it into a constant source of international disorder.⁴ But, for this to be possible, it is necessary to overcome the feel-

⁴ Sergio Fabbrini, *Senza riforma Ue prigioniera della paralisi decisionale*, Il Sole 24 Ore 22 October 2017: “The EU has no government despite being made up of many governments. After more than 60 years of integration, it is not yet established who has the

ings of nostalgia for a past based on divisive political confrontations — a mindset that arises from an absolutist and populist conception of sovereignty, and fails to consider the wealth and complexity of the changing world, which cannot be reduced to a series of conflicts, more or less justified and justifiable, between the many centres, and equally numerous peripheries, of governance of world affairs.

The antagonism, more or less justified and justifiable, between centres and peripheries is precisely what is nourishing the populism we are seeing today. As remarked by journalist Claudio Bastasin, “if there is anything that all Western countries share, in terms of the social and political phenomena that have characterised the past twenty years, it is the difficulty individuals have had in adapting to the rapid transformation of economic structures in the era of new technologies, global trade and the shift from industry to services. With respect to this industrial transformation it is possible to identify two distinct types of reaction. In regions that, for geographical and historical reasons, are well integrated into global production chains (Catalonia, Veneto, Lombardy, Greater London, Holland, Bavaria and so on), the transformation has forced individuals to adjust, for example, to greater mobility and a level of autonomy that foments uncertainty, and this has made them impatient with the inertia of their states and with those who, in their eyes, are still sheltered from the realities of competition. In regions lying on the edge of this global change (the central states of the USA, large areas of Russia, the North of England, Greece, Southern Italy and Spain, Eastern Germany), a syndrome of backwardness and sometimes impotence has developed. In all these regions, the industrial transformation has been exacerbated by a reduction in the once hefty capital assets of nationalised industries (compared with the levels of the 1950s-1970s) and a decline of the basins of labour-intensive raw materials, phenomena that have come to represent, metaphorically, a lack of public help for individual citizens. A further and even more painful phenomenon, both culturally and geographically, seen in almost all these regions, has been the mobility of individuals, which ends up creating a sense of rootlessness and increasing feelings of victimisation and longing.”⁵

the authority to make decisions”, <http://www.ilsole24ore.com/art/commenti-e-idee/2017-10-21/senza-riforma-ue-prigioniera-paralisi-decisionale-210304.shtml?uuid=AEqAaQtC> (Quotation translated from the Italian).

⁵ Carlo Bastasin, *È l'antagonismo centro-periferia a nutrire i populismi*, il Sole 24 Ore, 13 October 2017, <http://www.ilsole24ore.com/art/mondo/2017-10-12/e-l-antagonismo-centro-periferia-nutrire-populismi-220323.shtml?uuid=AEr7R3lC>.

The new tide of populism in Europe is not based on *a single* ideology. Indeed, there exist many different populisms. But, the fact is, they are all forms that oppose the supranational course of history, and that tend to submit to, rather than attempt to govern, the factors at the root of the phenomena that are changing the way of life *in* and increasing the differences *between* cities, and revolutionising the way of life *in* and increasing the differences *between* geographical areas. These populisms are incapable of coming up with credible and democratic institutional responses to the need for better control of migration, of offering policies for the social integration of migrants, or of addressing the issues of the regulation and exploitation of the vertiginous increase in the flow of data and information *in* and *between* urban centres.

As far as the migration issue is concerned, the Western societies are clearly struggling to absorb and integrate the millions of migrants arriving in search of living conditions and prospects they could never aspire to in their countries of origin. The difficulties these societies are experiencing have a real material basis, in that no city can develop rationally if its population is constantly and rapidly increasing, and a growing percentage of its inhabitants are individuals who, from the perspective of their political, social and productive participation, are only partially integrated into the urban system that they have become part of. Indeed, for at least one generation, these individuals are unlikely to enjoy, within this system, the same rights as all the other residents, and this fact generates serious social imbalances both *in* and *between* urban centres, imbalances that in turn generate social conflicts and forms of protest.⁶

Modern societies are trapped by an ideological representation of the composition of post-industrial society that no longer corresponds to reality; similarly, they seem unable to go beyond beliefs and debates based on an old mode of production that is now fast being replaced. For this reason, the greatest contradictions within our societies are emerging in the ambit of the digital revolution. In today's world, where production processes reflect the pace and methods of data transfer, this phe-

⁶ Kate Pickett and Richard Wilkinson, *The True – and False – Costs of Inequality*, Social Europe, 18 October 2017: “The first research papers showing that health was worse and violence more common in societies with large income differences were published in the 1970s. Since then a large body of evidence has accumulated on the damaging effects of inequality. Countries with bigger income differences between rich and poor tend to suffer from a heavier burden of a wide range of health and social problems.”, <https://www.socialeurope.eu/the-costs-of-inequality>.

nomenon, to the extent that it becomes ubiquitous, with data becoming readily available and accessible in real time on a global scale, is destined to transform roles, professional profiles and urban behaviours.⁷ In truth, given the scale of this evolution, the time is ripe to review some of the principles underlying the flow control and quality (and reliability) of data transmitted, as well as the very concept of data and privacy protection, and the nature and size of the institutions that need to be in place in order to ensure correct use and operation of the relevant system. Obviously, the control and the material use of such a system will inevitably depend more and more on the technology that becomes available, and thus on the expertise of those entrusted with using it, on the efficiency of the law regulating its use, and on the application of the relevant rules. But in practice, with regard to the protection of privacy, there is a real need for legal instruments that, far from aiming to verify in all circumstances the correctness of all the procedures put in place to ensure confidentiality, correctness and reliability in data transmissions, should focus primarily on the ability to ascertain, and sanction, the existence of actual malice in behaviours,⁸ and the clear intent to cause material damage by violating privacy in communications.

However, all this would require the existence of an effective common legal system operating at a global level, in other words, a world federation with a single supranational institutional and juridical hierarchical order to which to refer and appeal. To date, no such order exists, either globally or even at continental level in those parts of the world where integration processes are more advanced. In this regard, Europe, for example, has no uniform system for regulating taxation of the new multinationals, a fact that has resulted in phenomena of tax avoidance. As shown by recent cases relating to the problem, raised by the Euro-

⁷ The quantity of data now transferred online every ten minutes (5 exabytes, which equals 5 billion terabytes, 1 terabyte = 1024 gigabytes, and is the equivalent of about 625 thousand images, enough data to occupy the memory of 412 DVDs) corresponds the amount produced in just over a century, from the start of the era of electrical recording of sounds and images at the end of the 19th century through to 2003. This is not the place for a detailed analysis of all that this represents in terms of the increase in productivity and of the economy and culture. In this regard see an editorial published in *The Federalist*, 58 (2016): *Europe and the Great Transformations of the Digital Era*. As far as images are concerned, suffice it to say that the equivalent of 72 hours of footage is now downloaded from YouTube every minute.

⁸ The law on personal data protection in force in Italy is an example of how difficult it is to protect privacy through a law listing all the cases of potential abuse in the use of computerised personal data: <http://www.garanteprivacy.it/web/guest/home/docweb/-/docweb-display/docweb/1311248>.

pean Commission, of the need to tax the proceeds of commercial transactions carried out through multimedia platforms such as *Amazon*, *Facebook*, *Twitter* and *YouTube*, or by multinationals such as *Apple*, legal disputes in this field tend to turn into confrontations and trials of strength between states —⁹ confrontations that are ultimately decided not by law, but by the outcomes of these trials of strength (in which all available means are deployed) between different national interests, as illustrated by the showdowns between North Korea, Iran, Russia and the USA. A significant example in this regard has been the confrontation between European and American institutions over the attempt by the EU, but also by its individual states and/or institutions, to enforce adequate taxation of commercial activities that, beginning in the United States, have been developed on the Internet, without generating practically any tax burdens for the major American companies involved. Such tests of strength have the effect, on the one hand, of undermining public confidence in the democratic institutions and their ability to promote development and prosperity,¹⁰ and on the other, of strengthening those forces and government solutions that do not take into account the general interest, but tend, rather, to favour those sectors of society that are able to exert greater pressure and influence on their respective governments. Such situations, which in the past encouraged movements whose rise resulted in conflicts and nationalistic military endeavours, have today become increasingly anachronistic and full of unknowns, also from a security point of view.

This is precisely why, today, the issue of the type of defence that European countries, especially France and Germany, want to (and can) pursue is intertwined with that of the state's role in promoting the safe-

⁹ Paul de Grauwe, *Why Facebook Should be Taxed and How To Do It*, Social Europe, 30 October 2017, <https://www.socialeurope.eu/why-facebook-should-be-taxed-and-how-to-do-it>.

¹⁰ See Danilo Taino, *I numeri sul declino della democrazia*, Il Corriere della Sera, 18 October 2017: "Democracy is declining throughout the world. In the wake of the years that followed the collapse of the Soviet empire, during which it won over a number of new countries, it is now retreating. According to the Freedom House's rating of the health of global democracy, 2016 saw a decline in political rights and civil liberties in 67 nations, as against an improvement in 36. But how much do citizens still believe in representative democracy, the form to which the West is accustomed and on the basis of which it has developed? And can they see any alternatives? These questions were asked by the Pew Research Center, which conducted a survey in 38 countries covering all the continents", http://www.corriere.it/opinioni/17_ottobre_19/democrazia-ricerca-numeri-declino-42af2eb6-b413-11e7-b73f-b517701f3ad7.shtml. (Quotation translated from the Italian).

ty and prosperity of its citizens. It is no coincidence that, today, as well as a drive towards integration, we are also seeing the emergence new military challenges, in both conventional and non-conventional arenas, as a result of a return to aggressive policies in different continents, from the Middle East, to Asia and Africa. As shown, among other things, by a recent French Defence Ministry report (*Initiative européenne d'intervention*) and by the first German reactions to it,¹¹ as long as the issue of European political unity remains unresolved, Europe will not be able to make any significant and lasting progress outside the extra-institutional national and European framework of voluntary, and therefore uncertain, cooperations between states.

* * *

The only way of making the progress that needs to be made, and can be made, remains that of promoting institutional development, primarily within regional integrations at continental level (so as to link the government of the different local areas with the government of continents). In the case of Europe, the area where the process of unification on a continental scale is most advanced, this means giving political substance to the euro area, i.e. the area where the greatest steps towards overcoming the principle of national sovereignty have already been taken. In this regard, it must be noted that the way in which the euro-zone was structured — the objective of monetary sovereignty was envisaged before creating sovereignty in the fiscal and economic field — introduced two permanent threats to its stability. On the one hand, the monetary union set the conditions for a single monetary policy, but among differently developed and, from the perspective of their production and economic cycles, unsynchronised economies; on the other, the strength of the single currency encouraged the moral hazard phe-

¹¹ "(...) the French defense ministry published its new *Revue stratégique*, a document outlining the basis for France's future military policy, particularly concerning its upcoming military planning law (*Loi de programmation militaire 2019-2025*). On the one hand, the document declares that the – national – 'safeguard of a complete and balanced armed forces model is indispensable' to guarantee 'France's national independence, strategic autonomy and freedom of action.' On the other hand, however, it attaches great importance to a 'stronger Europe' that can effectively defy 'common challenges.' According to the document, 'France seeks to strengthen the European defense,' and this also demands 'a strategic culture shared by the Europeans.' This would mean that 'at the beginning of the coming decade, the Europeans' must have a common defense doctrine and must be able to 'jointly intervene credible manner.' This demands launching a 'European intervention initiative' (*Initiative européenne d'intervention*), according to Paris' Ministère des Armées." <https://www.german-foreign-policy.com/en/news/detail/7423/>.

nomenon, allowing even the least responsible governments to finance their respective policies not by taxing their citizens, but by borrowing, on the market, the large sums of money they needed, exploiting the low interest rates on loans guaranteed by the existence of a continental monetary union. Instead of resolving the crises, every attempt to tackle these phenomena through a union that is not completely sovereign *vis-à-vis* its members in the fiscal and economic policy fields can only exacerbate the contradictions and imbalances between the member states, threatening their survival. From this perspective, it is clear that the choice between uniting (in the sense of truly overcoming the national or sub-national dimension of sovereignty) and perishing is destined to remain the real discriminating factor in political struggle in Europe, and the terrain of confrontation between those who want to preserve the *status quo* and those who instead want to strive for progress.

Prospects for Completion of the Economic and Monetary Union: Community Proposals and Franco-German Pressure

LUCA LIONELLO

1. Introduction.

Contrary to the predictions of many, the British decision in the Brexit referendum, rather than signalling the end of the European Union, has had the effect of propelling the latter into a new phase of the integration process, in which, no longer able to hide behind the convenient excuse of the British veto, the governments are finally coming together to discuss various projects concerning the creation of a common defence,¹ the fight against terrorism, the management of migration policies,² and, above all, the completion of the Economic and Monetary Union (EMU). The creation of a eurozone economic government, given that this would require transfers of sovereignty that would turn Europe into a true political union, has become, in many regards, the key issue on which efforts to bring about an effective relaunch of the process of European unification now hinge. This is why proposals for completion of the EMU have multiplied in the wake of the Brexit referendum. In May 2017, the Spanish government suggested the creation of a common eurozone budget and reform of the Stability and Growth Pact.³ In September 2017, French president Emmanuel Macron deliv-

¹ For example, on 11 December 2017, the Council adopted a decision establishing Permanent Structured Cooperation (PESCO) in the area of security and defense policy. Cf. www.consilium.europa.eu/it/press/press-releases/2017/12/11/defence-cooperation-pesco-25-member-states-participating/.

² The Parliament and Council are discussing reform of the Dublin Regulation on the management of asylum applications. Cf. *Proposal for a regulation of the European Parliament and of the Council establishing the criteria and mechanisms for determining the member state responsible for examining an application for international protection lodged in one of the member states by a third-country national or a stateless person (recast)* [COM(2016)0270 – C8-0173/2016 – 2016/0133(COD)].

³ Cf. T. Buck, *Spain urges sweeping reforms on eurozone to correct flaws*, Financial Times, 14 June 2017.

ered a solemn speech at the Sorbonne in which he affirmed the urgent need to create “a united, sovereign and democratic Europe” and proposed that the EMU should be completed through the creation of a separate eurozone budget that would be under parliamentary control at eurozone level.⁴ Just a few months later, in December 2017, the European Commission formalised a set of proposals designed to strengthen the economic union, namely to create new governance instruments and absorb, into the Community legal framework, intergovernmental reforms adopted at the height of the sovereign debt crisis.⁵ Finally, in Germany in recent times, euro area reform has been one of the main issues debated in the context of efforts to form a new grand coalition government between conservatives and social democrats following the country’s national elections in autumn 2017.⁶

In view of the current political debate and its importance for the future of European integration, this article sets out to analyse the various proposals put forward so far and to identify the main legal difficulties that could complicate efforts to complete the EMU.

2. *The Economic and Monetary Union Today.*

Before analysing the reform proposals, it is worth looking briefly at the characteristics of the EMU today. The decision to create the single currency was taken in Maastricht in 1992, and its introduction was preceded by an almost decade-long process of convergence between the participating countries. The creation of the single currency marked an important advance in the process of European integration, because currency is one of the key areas in which a sovereign state exercises its authority, and a common monetary policy demands strong economic and political integration between member states. Responsibility for monetary policy in the euro area currently lies with the European Central Bank (ECB), which exercises this role completely independently, pursuing the primary objective of price stability. However, the sharing of monetary sovereignty at European level has not led to the creation of a

⁴ *Initiative pour l’Europe – Discours d’Emmanuel Macron pour une Europe souveraine, unie, démocratique*, Paris, 26 September 2017. www.elysee.fr/declarations/article/initiative-pour-l-europe-discours-d-emmanuel-macron-pour-une-europe-souveraine-unie-democratique/.

⁵ European Commission, press release, *Commission sets out Roadmap for deepening Europe’s Economic and Monetary Union*, Brussels, 6 December, 2017. http://europa.eu/rapid/press-release_IP-17-5005_en.htm.

⁶ *Union und SPD wollen Verhandlungen bis 4. Februar abschließen*, *Süddeutsche Zeitung*, 26 January 2018.

corresponding shared fiscal capacity. The member states have refused to assign this competence to the European institutions, with the result that the nation-state remains the only authority able to collect and spend public resources. Thus, the European Union, having no independent power of taxation and being unable to borrow,⁷ currently has a limited role: it manages a small budget, which is essentially financed through national contributions, and it ensures the correct functioning of the internal market.⁸ In order to guarantee convergence of economic policies within the eurozone and sufficient robustness of national budgets in the event of crises, the economic union has adopted a “surveillance model”,⁹ according to which budgetary policies continue to be a national competence, but are coordinated at European level by the Commission and the Council, which exercise supervisory and sanctioning powers in the event of any serious non-compliance. Viewed in the light of these important differences, the EMU can be seen to show a fundamental asymmetry between the economic union, which is based on coordination of the national sovereign authorities, and the monetary union, which is instead endowed with a European-level sovereignty that is independent of that of the member states.

The explosion of the sovereign debt crisis in 2009 exposed all the weaknesses deriving from this asymmetry, and forced the member states and European institutions to confront the need to embark on a difficult process of reform.

The first stage in this process consisted of the creation of an emergency mechanism to guarantee financial assistance to countries experiencing serious financing difficulties that threaten the stability of the eurozone as a whole. Following the establishment, in 2010,¹⁰ of sev-

⁷ Art. 310 TFEU stipulates that revenue and expenditure shown in the EU budget must be in balance.

⁸ The annual EU budget amounts to around 1 per cent of the GDP generated by the member states. It is regulated by the multiannual financial framework which sets the annual maximum amounts that the EU can spend. The budget revenue comes from traditional own resources (customs duties and agricultural levies), the application of a uniform rate of 0.3 per cent to the VAT assessment base of each member state, harmonized in accordance with Community rules, and for the most part from national contributions proportional to the gross national income (GNI) of each country. The main items of expenditure are the common agricultural policy and the cohesion policy.

⁹ A. Hinarejos, *Fiscal Federalism in the European Union: Evolution and Future Choices for EMU*, *Common Market Law Review*, 50 (2013), p. 1621.

¹⁰ The European Financial Stability Facility was a limited liability company subject to Luxembourg created among the countries of the eurozone following a decision taken by the Eurogroup on 7 June, 2010. It had a fixed duration of three years and had a lend-

eral provisional mechanisms, in 2012 the eurozone countries created the European Stability Mechanism (ESM) through an intergovernmental agreement outside the framework of the European Treaties. This financial institution can provide loans, offer credit lines, make primary and secondary market purchases of government bonds, and guarantee direct and indirect recapitalisation of the banking system. This aid can be provided at the request of the country concerned, on the condition that the latter complies with a programme of adjustment of its economic and financial system to be agreed with the creditor countries in a Memorandum of Understanding. The European Commission plays an important role in negotiating the loan conditions and supervising compliance with them.

The second stage in the reform process concerned the supervision of national economic and budgetary policies.¹¹ The level of European supervision was stepped up through the introduction of the possibility of semi-automatic sanctions in the event of failure to comply with the European rules on public finance management. The Commission and Council then began to monitor the soundness of the member states, considering not only the deficit and debt parameters, but also macroeconomic imbalances. Finally, a procedure for assisted adoption of national budgets was introduced, under which the budget cycle of member states is monitored, step by step, from January through to December, yet without the Community institutions having a true power of veto. In this context of stricter fiscal discipline, 25 EU member states signed the Treaty on Stability, Coordination and Governance (TSCG,

ing capacity of 440 billion euros. The European Financial Stabilisation Mechanism, on the other hand, was a fund created through Council Regulation (EU) No 407/2010 on the basis of art. 122 (2) TFEU and guaranteed by the European budget. It was authorised to raise up to 60 billion euros.

¹¹ The reform process was carried out in two phases. November 2011 saw the adoption of the so-called Six-Pack, comprising: Regulation (EU) No 1173/2011 on the effective enforcement of budgetary surveillance in the euro area; Regulation (EU) No 1174/2011 on enforcement measures to correct excessive macroeconomic imbalances in the euro area; Regulation (EU) No 1175/2011 amending Council Regulation (EC) No 1466/97; Regulation (EU) No 1176/2011 on the prevention and correction of macroeconomic imbalances; Council Regulation (EU) No 1177/2011 amending Regulation (EC) No 1467/97; Council Directive 2011/85/EU on requirements for budgetary frameworks of the member states. The reform was completed by the so-called Two-Pack. Approved in May 2013, this comprised: Regulation (EU) No 472/2013 on the strengthening of economic and budgetary surveillance of member states in the euro area experiencing or threatened with serious difficulties with respect to their financial stability; Regulation (EU) No 473/2013 on common provisions for monitoring and assessing draft budgetary plans and ensuring the correction of excessive deficit of the member states in the euro area.

commonly known as the fiscal compact), whose main innovation was the obligation it placed on the signatory countries to introduce the balanced budget rule into their constitutional systems.¹²

Finally, the third stage in the reform process saw the introduction of the banking union in order to put a stop to the vicious cycle of banking and sovereign debt crises that was destabilising the euro area. This project has already seen the completion of several pillars: 2013 saw the establishment of an ECB-led single supervisory mechanism serving to monitor compliance with the rules on prudential supervision,¹³ while 2014 brought the creation of a single resolution mechanism equipped with a single resolution fund¹⁴ serving to support and help with the restructuring of struggling banks.¹⁵ Instead, other pillars of the banking union still remain to be completed: a European deposit guarantee scheme and provision for emergency fiscal support in the event of a systemic banking crisis.

Alongside these reforms, the crisis demanded the extraordinary intervention of the ECB that, adopting some unconventional measures, proved able to ensure the stability of the financial system and of the monetary union. Among the aforementioned measures, we can cite the injection of emergency liquidity into the European banking system as from 2009,¹⁶ programmes for the purchase of sovereign bonds issued by states targeted by speculative attacks (Securities Market Programme and Outright Monetary Transactions programme),¹⁷ which served to

¹² Article 3 of the Treaty stipulates that the “budgetary position of the general government” of a contracting party “shall be balanced or in surplus”.

¹³ Council Regulation (EU) No 1024/2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions.

¹⁴ Regulation (EU) No 806/2014 establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Resolution Fund and amending Regulation (EU) No 1093/2010.

¹⁵ The Single Resolution Fund is used to rescue failing banks when the other options are exhausted. Its resources (€ 55 billion) come from contributions from the banking sector.

¹⁶ Cf. *The ECB's enhanced credit support*, Keynote address by Jean-Claude Trichet, President of the ECB, University of Munich, 13 July 2009. <https://www.ecb.europa.eu/press/key/date/2009/html/sp090713.en.html>.

¹⁷ The Securities Market Programme was established through a decision of the European Central Bank of 14 May 2010 establishing a programme for the financial securities market (ECB / 2010/5). The Outright Monetary Transactions instrument was instead created through a decision of the Governing Council of the ECB of 6 September 2012 on technical features regarding outright monetary transactions.

safeguard the monetary policy transmission mechanism, and the ECB's Quantitative Easing programme¹⁸ that was introduced with the aim of averting the risk of deflation in the euro area.

3. *The Persistent Weaknesses of the EMU.*

The reforms of economic governance adopted so far have had the important merit of making it possible to manage the emergency situation created following the outbreak of the sovereign debt crisis, but they have not managed to overcome the structural weaknesses underlying the asymmetry between the economic side and the monetary side of EMU.

The first difficulty concerns compliance with budgetary discipline. When the member states of a monetary union retain their full fiscal capacity, they tend to engage in “moral hazard” behaviour in the management of their budgetary policy: public spending is increased beyond sustainable levels in the knowledge that the costs of an excessive debt burden will be shared with other countries. This sharing happens as a result of two mechanisms:¹⁹ i) deficit growth in one member state automatically leads to an increase in the financing costs for the others; ii) the risk of contagion, in the event of a monetary union member state reaching the brink of bankruptcy, inevitably forces the other governments to implement rescue policies *in extremis*, and the central bank to monetise all or part of the indebted country's public debt.

The second difficulty concerns the inability of the EMU to absorb the economic shocks that can affect the European economy during economic downturns. With the sole exception of times of systemic crisis, when the ESM can provide them with (only) emergency aid subject to conditionality, the capacity of the European countries to manage periods of recession and stagnation differs. At the same time, the capacity of governments to modernise their economic systems through the adoption of structural reforms also differs. This results in a divided and heterogeneous euro area, in which the member states' economic conditions are divergent and the citizens experience different levels of well-being and protection, according to where they live.

Alongside the structural weaknesses undermining the pursuit of sta-

¹⁸ The ECB launched its Quantitative Easing programme on 22 January 2015. Cf. ECB press release: *ECB announces expanded asset purchase programme*. Text available at: www.ecb.europa.eu/press/pr/date/2015/html/pr150122_1.en.html.

¹⁹ Cf. P. De Grauwe, *Economics of Monetary Union*, Oxford, Oxford University Press, 2016, p. 225.

bility and convergence, the economic union also suffers from another structural weakness, in this case linked specifically to the legitimacy of and level of consensus on decisions taken within the framework of economic governance. The adoption of a model based on increasingly strict and rigid surveillance of national budgets has had the effect of weakening democratic control over the management of national fiscal policies and resulted in European rules on coordination being increasingly perceived as imposed by technical or intergovernmental bodies, rather than by institutions accountable to the citizens. This disaffection with the European authorities became particularly marked in the period after the crisis when many countries were forced to adopt austerity measures to rapidly consolidate their public finances and win back the trust of both the markets and their partners. The “inter-institutional dialogue” between the intergovernmental bodies that make decisions (such as the Council) and the parliamentary bodies that need to be informed and can ask for explanations about political choices (European Parliament and national parliaments) is clearly insufficient to guarantee effective democratic control of the mechanisms of economic governance.

4. Completion of the Economic Side of EMU: the Commission's Proposals.

The European Commission has played a very important role in the process of reforming the economic side of EMU. Since the outbreak of the sovereign debt crisis, it has launched several legislative initiatives aimed at strengthening the governance of the euro area and establishing a banking union. This is illustrated both by the reform of the Stability and Growth Pact through the adoption of the so-called Six-Pack and Two-Pack, and by the establishment of the Single Supervisory Mechanism and the Single Resolution Mechanism in the framework of the Banking Union. During the same period, the Commission has also promoted a more structured and extensive process of EMU reform. In a series of official documents, the Commission, first under Barroso and then under Juncker, has analysed, in depth, the current deficiencies of EMU and suggested a number of projects designed to fill these gaps.²⁰ In the

²⁰ November 2012 saw the publication of a blueprint on EMU setting out a series of proposed short-, medium- and long-term reforms designed to guarantee the stability of the project through the establishment of a series of new unions alongside the monetary one, in particular the banking union, fiscal union and political union. In June 2015, President Juncker, in cooperation with the presidents of the other European institutions, published a report on the completion of the Economic and Monetary Union.

wake of the Brexit referendum, the Commission's reformist efforts have focused on completion of the EMU. In his *State of the Union Address*, delivered on 13 September 2017, president Juncker put forward a number of ideas on ways to strengthen the governance of the euro area, which were then made explicit last December in several legislative proposals of the European Commission, to be implemented by 2025.

The first of these proposals is that of incorporating the intergovernmental instruments created at the height of the sovereign debt crisis into the EU's legal framework. First of all, a European Monetary Fund (EMF), to replace the ESM, should be established through activation of the 'flexibility clause' set out in art. 352 TFEU.²¹ Anchored within the EU's legal framework, the proposed EMF would have broader competences than the ESM: in addition to providing last resort conditional financial support to struggling eurozone countries, it would serve as a backstop ("safety net") for the Single Resolution Fund in the context of a more solid banking union. Second, the terms of the TSCG (fiscal compact) should be transposed into a new European directive.²² This move would serve to simplify the legal framework of economic coordination and allow better and continuous monitoring of compliance with the Treaty within the European Union.

The second proposal concerns the creation of a dedicated euro area budget line within the EU budget.²³ This is the most significant project and also the only true innovation contained in the Commission's package of legislative proposals. The purpose of this proposed reform is to enable the EU budget to exert a true economic stabilisation effect, in addition to the functions it already carries out in support of the internal market. In particular, the proposal outlines four roles for the new budget line, specifying that it should be able to: promote and support structural reforms in the member states in order to achieve greater resilience of economic structures and better convergence in performances; support euro area member states so that they can respond better to rapidly changing economic circumstances and stabilise their economies in the event of

²¹ *Proposal for a Council regulation on the establishment of the European Monetary Fund*, COM (2017) 827 final.

²² *Proposal for a Council Directive laying down provisions for strengthening fiscal responsibility and the medium-term budgetary orientation in the Member States*, COM (2017) 824 final.

²³ *Communication from the Commission to the European Parliament, the European Council, the Council and the European Central Bank – New budgetary instruments for a stable euro area within the Union framework*, COM (2017) 822 final.

large asymmetric shocks; facilitate the convergence of member states on their way to joining the euro; sever the link between sovereign debt and the situation of the banks, so as to reduce systemic risks and reinforce the collective response capacity in the face of possible major bank failures. The proposal remains vague on the question of the amount of resources actually needed to make the EU budget truly capable of performing these new functions. At present, no increase in the overall level of expenditure is foreseen, given that substantial increases in available resources will be possible only in the new post-2020 multiannual financial framework.

Finally, the last proposal is to strengthen the institutional framework of the euro area through the creation of a European economy and finance minister able to play an interlocutory role and promote coordination within the framework of eurozone economic governance.²⁴ Under the proposal, “the function of the Minister as Vice-President of the Commission could be established as part of the appointment of the next Commission as from November 2019.” At the same time, “the Eurogroup could agree to elect the Minister as its President for two consecutive mandates, thus agreeing on an alignment of its mandate with the mandate of the Commission.”

5. The Limits of the Community Approach to the Creation of a Fiscal Union.

The Commission’s proposals on completion of the economic side of EMU have the merit of identifying the most serious deficits of the current system of governance and indicating the right direction to follow in order to try and overcome them. In particular, the creation of a fiscal capacity capable of guaranteeing the stability of the euro area as a whole and of promoting convergence would certainly be a decisive step forwards in terms of correcting the asymmetry that currently exists between the monetary union and the economic union. Furthermore, the identification of a figure responsible for economic policy, providing he or she were invested with real powers and made effectively accountable to the representatives of the citizens, could help to bridge the democratic deficit that has always characterised euro area governance. However, on closer inspection, the Commission’s proposals, outlined above, also have a number of limitations, which could hinder the effective completion of the economic union.

²⁴ *Communication from the Commission on a European Minister of Economy and Finance*, COM (2017) 823 final.

An initial difficulty concerns the necessary financial resources. None of the Commission's proposals envisages the creation of a fiscal capacity that enjoys autonomy from the governments and is also sufficient to absorb large-scale economic crises. On the one hand, the future EMF, as conceived in the Commission proposal, would become part of the EU's legal framework, but the member states' resources would continue to be theirs alone. Indeed, as stated in article 8 of the draft statute of the EMF, "the liability of each EMF member shall be limited, in all circumstances, to its portion of the authorised capital stock at its issue price. No EMF member shall be liable, by reason of its membership, for obligations of the EMF." This is borne out by the fact that the rules governing activation of the EMF would be virtually the same as those currently governing activation of the ESM, i.e. the decisions almost always have to be adopted by unanimity or by reinforced qualified majority (the latter representing 85 per cent of the subscribed capital), which would give Germany, France and Italy the power of veto.²⁵ With regard to the budget line within the EU budget, on the other hand, the main limitation would be the amount of resources available for the project. Despite identifying a number of new functions that would certainly require a massive mobilisation of capital (for example convergence, stabilisation and promotion of reforms), the Commission's communication remains essentially vague in this regard: it mentions only a sum of EUR 300 million that the Commission would immediately like to make available for structural reforms for the period up to 2020, and net payments of at least 1 per cent of EU GDP that should be accounted for in the next multiannual framework programme as stabilisation resources to protect the eurozone against the effects of possible financial shocks. One point that the communication instead reiterates very clearly is that the creation of a dedicated euro area budget line, given that this must still be based on national contributions or, it is to be hoped, on new own resources, would neither undermine the principle that the EU budget must be in balance, nor require the creation of European bonds or European taxes. Under these conditions it is clear that the euro area budget within the EU budget would play a little more than a symbolic role; indeed, while it would certainly have the capacity to mobilise some resources to foster

²⁵ Cf. articles 4 and 5 of the draft statute of the EMF set out in the annex to the *Proposal for a Council regulation on the establishment of the European Monetary Fund*, COM (2017) 827 final.

economic recovery and structural reforms, these would be effective only in the case of limited crises affecting individual countries.²⁶

The second difficulty concerns the implementation of the reform. To be adopted, the Commission's proposals on completion of the economic union need to have the consent of all the member states, including those that are not part of the euro area and even, until March 2019, of the United Kingdom. The legal basis for recourse to the EMF would be provided by the 'flexibility clause' in art. 352 TFEU. Under the terms of this provision, when the Union lacks the necessary powers to attain one of the objectives set out in the Treaties, the Council, acting on a proposal from the Commission and after obtaining the consent of the European Parliament, may adopt the appropriate measures. In order to implement this procedure, however, the governments of all the states represented in the Council must be in unanimous agreement, given that each has the right to veto the activation of the clause. The creation of a dedicated euro area budget line within the current EU budget raises a similar difficulty. Indeed, were this instrument to be introduced as part of the next multiannual financial framework, for the post-2020 period, as the Commission envisages, a unanimous vote by the Council would be necessary, in line with the procedure set out in art. 312 (2) TFEU. In conclusion, the introduction of specific mechanisms for the euro area within the 28-member EU framework necessarily entails going through all the hoops of unanimity voting, which means giving every member state the power of veto. In this situation, it is not inconceivable that countries hostile to the creation of a European fiscal sovereignty, even in an embryonic form, might seek to hamper the reforms, being fearful of one day finding themselves shackled to the power-sharing process involved. This is particularly plausible in the case of the governments that are currently being monitored by the Commission through a special supervisory procedure following breaches of the principles of the rule of law²⁷ or that oppose the EU-wide refugee resettlement scheme.²⁸ Clear-

²⁶ The ideal dimensions of a stabilising function for the euro area is debated among economists. The 1977 MacDougall report famously indicated the need for a steady increase in the budget, in particular up to 2.0 per cent - 2.5 per cent of GDP in a pre-federal phase, from 5 per cent - 7 per cent of GDP in an intermediate phase and up to 25 per cent in the event of the establishment of a true political union. Cf. *Report of the Study Group on the Role of Public Finance in European Integration*, Commission of the European Communities (1977), <http://aei.pitt.edu/36433/1/Report.study.group.A13.pdf>.

²⁷ Cf. B. Romano, *UE: in Polonia Stato di diritto a rischio, sì a procedura di sanzioni*, *Il Sole 24 Ore*, 20 December 2017.

²⁸ Opposition to the Commission's proposals on reform of Dublin mechanisms for

ly, to make the eurozone reforms dependent upon the unanimous vote of the member states would give these countries a powerful tool for political blackmail.

The last major flaw in the Commission's proposals on completion of eurozone governance concerns the overcoming of the democratic deficit. Indeed, the proposed new mechanisms fail to envisage any significant role for the institutions that represent the citizens. As regards the EMF, all that is envisaged is simple inter-institutional dialogue with the national and European parliaments, which, however, remain excluded from the decision-making process. Indeed, under the proposal, each year the EMF would send the European Parliament, Council and Commission a report on its activities, which would also include annual accounts and financial statements. At the same time, the managing director could, at the request of the European Parliament or on his own initiative, be heard by the competent committees of the European Parliament with regard to the EMF's performance. The national parliaments, on the other hand, would be entitled only to be informed and to request further clarification about the Fund's activities. Consequently, the real decisions would be taken exclusively at the intergovernmental level, by the Board of Governors, as happens today with the ESM. As regards the proposed additional budget line for the euro area, it is true that the European Parliament has full powers, together with the Council, to adopt the EU budget. However, it should not be forgotten that the annual statements are approved within the multiannual financial framework, and that the latter is an area where the Parliament remains notoriously subordinate to the Council, having the capacity only to approve what the latter has already decided unanimously. In general, the reforms show no sign of a will to involve the institutions representing the citizens in the decision-making processes concerning the new fiscal policy instruments that the Union might finally adopt.

6. *Macron's Speech on the Future of Europe.*

The legal and political obstacles to implementation of the European Commission proposals provide clear evidence that the creation of a true fiscal union within the euro area is a complex and ambitious undertaking that cannot be achieved through limited reforms within the existing

the distribution of refugees among all the member states is mounted, in particular, by the four countries making up the so-called Visegrad Group: Poland, the Czech Republic, Slovakia and Hungary.

legal framework, since it demands the initiation of a profound reform of the European and national legal order. Indeed, fiscal capacity, given that it determines the resources available for the pursuit of other policy goals, is intimately bound up with the exercise of state sovereignty, even more so than monetary competence. In this sense, the creation of a fiscal authority at European level will necessarily have profound implications with regard to *Kompetenz-Kompetenz*,²⁹ in other words, the extent to which the EU has the power to establish its own competences, and thus to be self-determining, like any other sovereign body.³⁰ Viewed from this perspective the creation of a common tax system would be a very ambitious step forward towards the creation of a European political union.

In the light of these considerations, the European Commission's justifiable aspirations to provide the euro area with a true autonomous budget will become credible, and its approach fully effective, only if the ultimate holders of sovereignty, i.e. the national governments, show that they are ready to overcome the limitations of the current Community framework. Now, unexpectedly, and in many ways incredibly, this is what seems to be happening in political debate between France and Germany. French president Emmanuel Macron famously made the need to refound Europe the central message in his presidential campaign and, since his election, he has strongly reiterated the importance of re-launching the European project, advancing a series of concrete proposals concerning, first of all, the euro area. In Germany, meanwhile, the negotiations between conservatives and social democrats prior to the formation of a new grand coalition government have revolved around the issue of reform and completion of the economic union.

The French president, in a speech given at the Sorbonne on September 26th 2017, made a particularly significant contribution to the political debate on the constitutional reform of the euro area, setting out his ideas for the creation of a sovereign, united and democratic Europe.³¹ Europe should be endowed with sovereignty in a range of policy areas, ranging from common security to the fight against terrorism and crime,

²⁹ A. Hinarejos, *The Euro Area Crisis and Constitutional Limits to Fiscal Integration*, Cambridge Yearbook of European Legal Studies, 14 (2012), p. 262.

³⁰ It is therefore no coincidence that the creation of a European tax system was theoretically excluded by national constitutional courts on the basis that it fell within the "reserved domain" of national identity. Cf. German Federal Constitutional Court, ruling of 20 June 2009, [2 BvE 2/08] para 252.

³¹ *Initiative pour l'Europe, op. cit.*

from the management of migration policies to technological, digital and environmental development. These are the areas in which the single nation-states have found themselves stripped of effective sovereignty as an effect of globalisation, and this sovereignty can be regained only through the creation of common instruments at European level. But the issue right at the heart of Macron's Sorbonne speech was, once again, the pursuit of fiscal union and, in particular, the need to create a separate euro-zone budget outside the existing Community framework. With regard to the necessary resources, Macron has mooted the possibility of creating "European taxes", for example on taxes on companies, financial transactions, and polluting products (such as coal), as well as a web tax. According to the French president, a eurozone budget, thus funded, would be able to perform some key functions, such as ensuring the stability of the euro area against economic shocks, promoting convergence between member countries, and above all financing common European assets in key fields: security, immigration, digital technology, the environment and European industry. Another important element of Macron's proposal is that the budget of the euro area will necessarily have to be placed under the strong political guidance of a European finance minister and be subject to strict parliamentary control at European level. The French president, in his speech, made no mention of a series of proposals previously advanced by the French government, such as the creation of euro bonds, pooling of the existing debt, and the establishment of a separate parliament for the euro area.

It was, quite clearly, a brave and ambitious speech. It remains to be seen whether the French president will be able to keep his promises and meet the high expectations he has raised, or whether he will, instead, opt to fall back on less ambitious projects for France and Europe. A lot will depend on the position of the new German government. It is important to note, however, that Macron's proposals show that, in the wake of a long period during which France had considered the question untouchable, reform of the European Treaties is no longer a taboo topic;³² it also marks France's new commitment to implementing a serious programme of structural reforms at national level. However, the main merit of Macron's Sorbonne speech remains the fact that it brought into focus the real issue upon which the process of completing EMU depends, namely the creation of a core of European sovereignty.

³² L. Pasha-Robinson, *Emmanuel Macron and Angela Merkel agree changing EU treaties 'no longer a taboo'*, The Independent, 15 May 2017.

7. Conclusions.

The limits set by the existing legal framework are such that plans to create a eurozone fiscal authority accountable to the citizens can succeed only in the context of a very broad reform of the existing Treaties. This reform should involve adoption of the differentiated integration model based on two concentric circles, the inner circle being formed by the euro area, within which there should be a true fiscal union. In this perspective, it is crucial, with the European parliamentary elections of Spring 2019 on the horizon, that member states and Community institutions prove able to draw up a common project for relaunching the integration process.

International Social and Democratic Federalism as the End of History

DOMÈNEC RUIZ DEVESA

Introduction.

This essay revisits Fukuyama's famous "end of history" thesis by enlarging its original paradigm, based on triumphant national liberal democracies, to one in which the end point of mankind's ideological evolution is, rather, characterised by a social democratic polity¹ that, operating in a supranational framework,² is designed to achieve both civil and social peace.

The closest thing in the real world to this ideal is the European Union, a supranational political project that effectively put an end to wars on the continent by creating a cross-border social market economy, even though the institutional framework of the EU is not yet fully federal in many respects.³

Interestingly, although Fukuyama's original article and subsequent book were widely interpreted as celebrating the victory of US-style democratic capitalism over Soviet communism,⁴ he himself acknowledged that Europe was actually closer to the end of history than America, even emphasising the former's overcoming of national sovereign-

¹ For an early proposal of (social) democracy as the end of history, see Domènec Ruiz Devesa, *¿La socialdemocracia como fin de la historia?*, El País, 03/02/2009. Madrid: https://elpais.com/diario/2009/02/03/opinion/1233615604_850215.html.

² See Domènec Ruiz Devesa, *Donald Trump y el fin de la historia*, El País, 15/03/2017. Madrid: https://elpais.com/elpais/2017/02/16/opinion/1487239024_28654.html (2017): "Paradójicamente, el ensayo de Fukuyama pasó por alto los proyectos de integración regional en clave federal como otra dimensión de la conclusión del proceso histórico, y que enlazarían con la aspiración kantiana de garantizar la paz perpetua".

³ This is despite the fact that the federal nature of the integration project was made clear from the outset, as stated in the Schuman Declaration of 9th May 1950.

⁴ The original article was published just a few months before the fall of the Berlin Wall.

ty⁵ rather than its bias towards a higher provision of social goods.⁶

As in any political philosophy, there is a certain degree of ambiguity in Fukuyama's work. To start with, the very idea that history has an end necessarily rests on a previous belief in progress. Yet World War II and the genocide of the Jewish people, the development of the atomic bomb, and the problem of climate change, have, among other negative milestones, all cast doubt on the idea of progress,⁷ since they clearly show that humanity is perfectly capable of destroying itself.

Overall, however, it can be argued that human history is moving progressively towards democracy⁸ and a more united world, even

⁵ See Francis Fukuyama, *The End of History?*, National Interest, n. 16 (Summer 1989), pp. 3-18, Washington DC, 1989, p. 5: "For Kojève, this so-called 'universal homogeneous state' found real-life embodiment in the countries of postwar Western Europe – precisely those flabby, prosperous, self-satisfied, inward-looking, weak-willed states whose grandest project was nothing more heroic than the creation of the Common Market", and Francis Fukuyama, *Epílogo a la segunda edición [2006] en rústica de El fin de la historia y el último hombre*, in: Juan García-Morán Escobedo (ed.), *Fukuyama. ¿El fin de la historia? y otros ensayos*, Madrid, Alianza Editorial, 2015, pp. 149-150: "Una interpretación errónea que me gustaría clarificar, sin embargo, concierne al muy difundido malentendido de que, de alguna manera, estaba defendiendo una versión específicamente estadounidense del fin de la historia (...) nada puede estar más lejos de la verdad. Cualquiera que conozca a Kojève y los orígenes intelectuales de su versión del fin de la historia, entenderá que la Unión Europea representa una encarnación más realista del concepto que los Estados Unidos. En la línea de Kojève, sostuve que el proyecto europeo era en realidad una casa construida como un hogar para el último hombre que surgiría al final de la historia. El sueño europeo –percibido sobre todo en Alemania– es trascender la soberanía nacional, la política del poder y el tipo de luchas que hacen necesario el poder militar (...) en cambio, los estadounidenses tienen una comprensión de la soberanía bastante tradicional".

⁶ Fukuyama does not see Europe's social model as either desirable or fundamentally different from that of the US, simply regarding them as two different modalities of liberal democracy, see Francis Fukuyama, *Epílogo a la segunda edición...*, *op. cit.*, p. 150 and 151: "La democracia liberal moderna se basa en el doble principio de la libertad y la igualdad (...) cada democracia liberal tiene, por tanto, que mantener un equilibrio entre las dos. Los europeos contemporáneos tienden a preferir más la igualdad a expensas de la libertad, y los estadounidenses, por razones arraigadas en la historia, lo contrario. Hay diferencias de grado y no de principio; aunque yo prefiero la versión estadounidense a la europea en algunos aspectos, es más una cuestión de gustos".

⁷ See, among many others, Domènec Ruiz Devesa, *Donald Trump y el fin de la historia*, *op. cit.*: "Esta creencia determinista entró en crisis con la Segunda Guerra Mundial y el holocausto del pueblo judío, y sobre todo con la fabricación de la bomba atómica, al resultar posible la propia autodestrucción de los terrícolas. La elección de Trump al mando de la primera potencia mundial supondría solamente la más reciente y pintoresca prueba en contra de la inevitabilidad del progreso".

⁸ There is ample empirical evidence of this trend in international politics, even before the end of the Cold War. See, in particular, Samuel P. Huntington, *The Third Wave. Democratization in the Late Twentieth Century*, Norman (Oklahoma), University of Oklahoma Press, 1991, and Yuval Noah Harari, *Homo Deus. Breve historia del mañana*,

though this progress does not always follow a linear, upward trend, but rather allows for regressions and setbacks,⁹ such as, most recently, Brexit and the election of Donald Trump as President of the United States of America. From this perspective, progressivism can be understood as an ideology that tries, at once, to favour and accelerate the aforementioned positive trend and prevent the world from regressing to previous stages of human development.

Consequently, both the end of history thesis and the idea of progress are in some ways deterministic, and thus generate some confusion between the positive (something *is going* to happen) and normative (something *must* happen) perspectives. The reading of Fukuyama's position set out in this essay is essentially a normative one, even though it shares his belief that no alternative paradigm, able to compete with the democratic one, is likely to arise anytime soon.¹⁰

Barcelona, Penguin Random House, 2016, p. 296: "En el sur de Europa (...) los regímenes autoritarios de Grecia, España y Portugal sucumbieron y dieron paso a gobiernos democráticos (...) durante la década de 1980, las dictaduras militares de Asia Oriental y América Latina fueron sustituidas por gobiernos democráticos; algunos ejemplos son Brasil, Argentina, Taiwán y Corea del Sur. En los últimos años de la década de 1980 y en los primeros de la de 1990, la oleada liberal se transformó en un verdadero tsunami que barrió al poderoso imperio soviético y creó expectativas sobre el inminente final de la historia".

⁹ See Domènec Ruiz Devesa, *Donald Trump y el fin de la historia*, *op. cit.*: "Pero también es cierto que las condiciones materiales y tecnológicas del *Homo Sapiens*, incluido el respeto de los Derechos Humanos, no ha dejado de mejorar con el paso del tiempo. Cabe entonces concebir el progreso como una poderosa tendencia, si bien no exenta de retrocesos y peligros", and Yuval Noah Harari, *Homo Deus. Breve historia del mañana*, *op. cit.*, p. 11: "En los albores del tercer milenio (...) hemos conseguido controlar la hambruna, la peste y la guerra".

¹⁰ See Francis Fukuyama, *Epílogo a la segunda edición...*, *op. cit.*, p. 163: "Existe una tendencia histórica general hacia la democracia liberal", and Yuval Noah Harari, *Homo Deus. Breve historia del mañana*, *op. cit.*, pp. 297 and 298: "En 2016 no existe una alternativa seria al paquete liberal de individualismo, derechos humanos, democracia y mercado libre. Las protestas sociales que barrieron el mundo occidental en 2011 (como Occupy Wall Street y el movimiento del 15-M español) no tienen absolutamente nada contra la democracia, el individualismo y los derechos humanos, ni siquiera contra los principios básicos de la economía de libre mercado. Todo lo contrario: llaman la atención de los gobiernos por no estar a la altura de estos ideales liberales (...) incluso los que arremeten contra las bolsas de valores y los parlamentos con las más duras críticas carecen de un modelo alternativo viable para hacer funcionar el mundo. Aunque uno de los pasatiempos favoritos de los académicos y los activistas occidentales es encontrar fallos en el paquete liberal, hasta el momento no han conseguido idear nada mejor"; and Domènec Ruiz Devesa, *Donald Trump y el fin de la historia*, *op. cit.*: "No se divisa ninguna alternativa creíble o deseable a la democracia representativa, sostenida sobre una economía social de mercado, y expandida a través de la integración supranacional, como medio para poder realizar de manera efectiva los valores de libertad, bienestar y paz".

This notwithstanding, this essay considers the most desirable outcome of human political development to be a global federal pact guaranteeing peace, environmental sustainability, economic prosperity and social protection. The first two goals are fundamental for the survival of humanity. The second two are necessary in order to provide decent living conditions for all, thereby reducing social conflicts and ensuring stable democratic societies.

Therefore, from a normative perspective, the end of history is just another term for real-world utopia or (in Kantian terms) perpetual peace, i.e. that moment at which certain fundamental transformations have been achieved, thus opening the way for an era in which war no longer exists and social and economic conflicts are fundamentally resolved.¹¹ But, to come about, all this requires something more than economic liberalism and democratic politics: it demands the triumph of an ideology that pursues the establishment of supranational political institutions (the ultimate guarantee of peace) whose aim is to bring about global social and ecological justice.

Perhaps mankind's final liberation from war, disease and want will result in a genuine post-materialistic spiritual renaissance, expressed entirely through the arts, public life and open love,¹² or as some put it, in the pursuit of happiness and eternal life.¹³

Ends of History.

The concept of the end of history has its roots in the thought of important philosophers such as Kant and Hegel,¹⁴ and it can be consid-

¹¹ Some believe this final stage will be reached only when technology makes it possible to re-design the human mind. See Yuval Noah Harari, *Homo Deus. Breve historia del mañana*, op. cit., p. 59: "Cuando la tecnología nos permita remodelar la mente humana, *Homo sapiens* desaparecerá, la historia humana llegará a su fin y se iniciará un tipo de proceso completamente nuevo".

¹² See Pilar Llorente Ruiz de Azúa and Domènec Ruiz Devesa, *Europa, ideal de unidad humana*, in: Eugenio Nasarre, Francisco Aldecoa Luzárraga and Miguel Angel Benedicto Solsona (Eds) *Europa como tarea. A los sesenta años de los Tratados de Roma y a los setenta del Congreso de Europa de La Haya*, Madrid, Marcial Pons, 2018, p. 403: "La Unión Europea y, al cabo, la federación mundial deben por tanto ser instrumentos al servicio de este ideal de unidad, de socialización, de comunidad, para asegurar una paz perpetua sobre la que asegurar a todos los seres humanos la justicia social y el desarrollo de una vida plena, es decir, intelectual, filosófica, moral y placentera".

¹³ See Yuval Noah Harari, *Homo Deus. Breve historia del mañana*, op. cit., p. 32: "Es probable que los próximos objetivos de la humanidad sean la inmortalidad, la felicidad y la divinidad. Después de haber reducido la mortalidad debida al hambre, la enfermedad y la violencia, ahora nos dedicaremos a superar la vejez e incluso la muerte".

¹⁴ See Francis Fukuyama, *The End of History and the Last Man*, London, Penguin,

ered a specific framing of the more general Enlightenment belief in human progress, even though the latter, as already mentioned, remains for many a somewhat questionable idea.

Kant saw, in history, an evolution towards “freedom” and “republican government”,¹⁵ while also advocating a global federal pact that would guarantee permanent peace among nations.¹⁶

Hegel continued in this tradition.¹⁷ He believed that the material world is shaped by ideas, and therefore saw history as the evolution of human consciousness, which will culminate in a rational form of society. In particular, the German philosopher argued that history proceeds by a dialectical process¹⁸ that should culminate in a state of equal freedom for all,¹⁹ which, in political terms, corresponds to a liberal democratic state.²⁰

The original end of history thesis has been revisited and developed by, among others, Karl Marx and, more recently, Alexandre Kojève²¹ and Francis Fukuyama. As already mentioned, the latter wrote a famous article on the topic, published just before of the fall of the Berlin Wall in 1989,²² and later converted it into a best-selling book.²³

Marx, while sharing Hegel’s belief in the concept of an end of his-

1992, p. 59: “Kant’s project of writing a Universal History that was at once philosophically serious and grounded in a mastery of empirical history was left to his successor, Georg Wilhelm Friedrich Hegel, to complete in the generation following Kant’s death”.

¹⁵ See Francis Fukuyama, *ibid.*, p. 58: “Kant suggested that history would have an end point, that is to say, a final purpose that was implied in man’s current potentialities and which made the whole of history intelligible. This end point was the realization of human freedom (...) when taking all societies into account, there was overall reason to expect general human progress in the direction of republican government, that is what we today understand as liberal democracy”.

¹⁶ See Immanuel Kant, *Projet de paix perpétuelle*, Paris, Librairie Philosophique J. Vrin, 1948.

¹⁷ See footnote 14.

¹⁸ See Francis Fukuyama, *The End of History and the Last Man*, *op. cit.*, p. 60: “history proceeds through a continual process of conflict, wherein systems collide and fall apart from their own internal contradictions. They are then replaced by less contradictory and therefore higher ones, which give rise to new and different contradictions-the so-called dialectic”.

¹⁹ See *ibid.*: “As Kant postulated, there was an end point to the process of history, which is the realization of freedom here on earth (...) the unfolding of Universal History could be understood as the growth of the equality of human freedom”.

²⁰ See *ibid.*: “For Hegel, the embodiment of human freedom was the modern constitutional state, or again, what we have called liberal democracy”.

²¹ See Alexandre Kojève, *Introduction à la lecture de Hegel*, Paris, Gallimard, 1947, and Shadia B. Drury, *Alexandre Kojève. The Roots of Postmodern Politics*, New York, St. Martin’s Press, 1994.

²² See Francis Fukuyama, *The End of History?*, *op. cit.*

²³ See Francis Fukuyama, *The End of History and the Last Man*, *op. cit.*

tory,²⁴ instead envisaged this being achieved by a victorious working class seizing power and establishing a communist society.²⁵

As for Kojève, he agreed with Hegel's view that Napoleon's victory in the battle of Jena in 1806 marked the end of history, given that, according to the German philosopher, mankind's ideological evolution culminated in the triumph of the ideals of the French Revolution: liberty and equality.²⁶

Essentially, Kojève's contribution was to take Hegel's original vision of the liberal order as the endpoint of ideological evolution and attempt to apply it to 20th Century reality, specifically to a context in which political Marxism was a powerful cultural force. His efforts led him to predict the emergence of a "universal and homogeneous state"²⁷ characterised by political and economic liberalism.

Interestingly, Kojève believed that the post-war Western European countries that established the European Coal and Steel Community embodied the very ideals of political and economic liberalism that he considered to have emerged triumphant in Jena. This prompted him to give

²⁴ See Francis Fukuyama, *ibid.*, p. 65: "Marx shared Hegel's belief in the possibility of an end of history. That is, he foresaw a final form of society that was free from contradictions, and whose achievement would terminate the historical process".

²⁵ See *ibid.*: "Where Marx differed from Hegel was over just what kind of society emerged at the end of history. Marx believed that the liberal state failed to resolve one fundamental contradiction, that of class conflict, the struggle between the bourgeoisie and proletariat. Marx turned Hegel's historicism against him, arguing that the liberal state did not represent the universalization of freedom, but only the victory of freedom for a certain class, the bourgeoisie (...) Marx, on the other hand, observed that in liberal societies man remains alienated from himself because capital, a human creation, has turned into man's lord and master and controls him (...) the Marxist end of history would come only with victory of the true 'universal class', the proletariat, and the subsequent achievement of a global communist utopia that would end class struggle once and for all".

²⁶ See Francis Fukuyama, *The End of History and the Last Man*, *op. cit.*, p. 64: "Hegel (...) did not mean that there would be an end to events arising out of the births, deaths, and social interactions of humankind (...) when Hegel declared that history had ended after the Battle of Jena in 1806, he was obviously not making the claim that the liberal state was victorious throughout the world (...) what he was saying was that the principles of liberty and equality underlying the modern liberal state had been discovered and implemented in the most advanced countries, and that there were no alternative principles or forms of social and political organization that were superior to liberalism".

²⁷ See Shadia B. Drury, *Alexandre Kojève. The Roots of Postmodern Politics*, *op. cit.*, p. x: "Since capitalism will also undermine national boundaries and homogenize culture around the globe, Kojève anticipated that history will culminate in the final and unsurpassable triumph of a global capitalist order. Soon we will be living in what Kojève called a universal and homogeneous state".

up his scholarly activities, and he ended up working as a French negotiator for the establishment of the European Economic Community.²⁸

Fukuyama updated Kojève's thinking, concluding that the end of the Cold War and the fall of the Soviet empire represented the universal triumph of the free market philosophy and liberal democracy, given that fascism, communism and nationalism could not possibly challenge the primacy of the liberal-capitalist ideology.²⁹

Clearly, for Hegel, Marx, Kojève and Fukuyama, the end of history did not mean the end of human events — this is, in fact, a common misinterpretation³⁰ —, but rather the end of the main ideological struggles, also because victory in the field of ideas is never translated immediately into victory in the real world.

The End of History, but Not the End of the Nation-State.

According to Fukuyama, though, the general spread, across the world, of the market economy, and incidentally (and less extensively) of democratisation, did not mean the end of cultural identity and of the nation-state as a key player in international relations, and in this sense his views differ from Kojève's universalistic conception,³¹ not to mention Kant's federalist paradigm.

²⁸ See Francis Fukuyama, *The End of History and the Last Man*, *op. cit.*, p. 311: "Kojève (...) was content to play out the rest of his life working in that bureaucracy meant to supervise construction of the final home for the last man, the European Commission".

²⁹ See Juan García-Morán Escobedo, *El 'gran relato' rehabilitado: Francis Fukuyama y el fin de la Historia*, in id. (Ed) *Fukuyama ¿El fin de la historia? y otros ensayos*, *op. cit.*, p. 13: "El conflicto entre ideologías rivales que había impulsado el desarrollo de la Historia en estos dos últimos siglos — y lo que es más, el debate ideológico de siglos de antigüedad sobre la mejor forma de gobierno — se habría resuelto definitivamente en favor de la democracia liberal".

³⁰ See Escobedo García-Morán, *El 'gran relato' rehabilitado...*, *op. cit.*, p. 14: "Con la expresión 'el fin de la historia' nuestro autor no se refería — como algunos de sus más apresurados y atolondrados intérpretes corrieron a señalar con maniifiesta ligereza — a la supresión de todo conflicto social significativo ni, menos aún, al cese de todo acontecimiento empírico digno de mayor o menor trascendencia histórica".

³¹ See Francis Fukuyama, *The End of History and the Last Man*, *op. cit.*, p. 244: "On the one hand, there is the ever-increasing homogenization of mankind brought about by modern economics and technology, and by the spread of the idea of rational recognition as the only legitimate basis of government around the world. On the other hand, there is everywhere a resistance to that homogenization, and a reassertion, largely on a sub-political level, of cultural identities that ultimately reinforce existing barriers between people and nations (...) these differences further suggest that the existing state system will not collapse anytime soon into a *literally* universal and homogenous state. The nation will continue to be a central pole of identification, even if more and more nations come to share common economic and political forms of organization".

Fukuyama felt that cultural differences are destined to prevent the emergence of fully fledged political supranationalism, at least for the time being, even though he engaged in a very interesting critique of nationalism, portraying it as a rather artificial and relatively new construct in political thought,³² a view that will resonate with European and world federalists. This American political scientist actually acknowledged the role played by the European Union in overcoming nationalism³³ and predicted that the latter would ultimately be cancelled out by economic globalisation,³⁴ even though he perhaps failed to take adequately into account the fact that free trade and production relocation would produce winners and losers, and thus result in a backlash against both market liberalisation and cosmopolitanism.

Furthermore, Fukuyama also predicted, in a world increasingly made up of liberal and capitalist democracies, the end of imperial-

³² See Francis Fukuyama, *ibid.*, pp. 268 and 269: "While admitting the very great power of nationalism over the past couple of centuries, however, it is necessary to put this phenomenon in proper perspective (...) this perspective misunderstands how recent and contingent a phenomenon nationalism is. Nationalism does not, in Ernest Gellner's words 'have any roots in the human psyche' (...) political entities took no account of nationality: the Hapsburg emperor Charles V could rule over parts of Germany, Spain, and the Netherlands simultaneously, while the Turkish Ottomans ruled Turks, Arabs, Berbers, and European Christians (...) nationalism was therefore very much the product of industrialization and the democratic, egalitarian ideologies that accompanied it. The nations that were created as a result of modern nationalism (...) were also the deliberate fabrications of nationalists, who had a degree of freedom in defining who or what constituted a language or a nation".

³³ See Francis Fukuyama, *ibid.*, p. 270: "The passing of the initial, intense period of nationalism is most advanced in the region most damaged by nationalist passions, Europe. On that continent, the two world wars acted as a great spur to redefining nationalism in a more tolerant fashion. Having experienced the horrendous irrationality latent in the nationalist form of recognition, Europe's population have gradually come to accept universal and equal recognition as an alternative. The result was a deliberate effort on the part of the survivors of those wars to dismantle national borders, and to turn popular passions away from national self-assertion into economic activity. The result, of course, was the European Community (...) the EC has obviously not abolished national differences, and the organization has difficulty building attributes of super-sovereignty as its founders hoped. But the sort of nationalism displayed in the EC over questions like agricultural policy and monetary union is already a highly domesticated version, and a far cry from the force that drove two world wars".

³⁴ See Francis Fukuyama, *ibid.*, p. 275: "Economic forces encouraged nationalism by replacing class with national barriers and created centralized, linguistically homogeneous entities in the process. Those same economic forces are now encouraging the breakdown of national barriers through the creation of a single, integrated world market. The fact that the final political neutralization of nationalism may not occur in this generation or the next does not affect the prospect of its ultimately taking place".

ism,³⁵ a reduction in political competition and military conflict (also considering the very few wars fought among liberal democracies),³⁶ and a greater emphasis on economics and technocratic management.³⁷

He even asserted that a non-communist Russia would not revert to great power strategies, or at least large-scale conflicts,³⁸ a prediction whose accuracy has turned out to be rather questionable, given Putin's aggressive tendencies, although Fukuyama did concede that conflict between "historical" states (those not at the end of history), and even between historical and "post-historical" ones,³⁹ was still possible.

The aggressive international policies pursued by Donald Trump show that there are actually many ways to exert pressure on and power over other countries without resorting to military conflict, and this should perhaps prompt us to pause and reconsider Fukuyama's hopes regarding the end of imperialism and political and economic domination as an effect of the spread of political and economic liberalism.⁴⁰

Democracy, Liberal but Also Social.

It is easy to agree with Fukuyama that liberal democracy is a more advanced and humane ideology, and hence more powerful and resilient,

³⁵ See Francis Fukuyama, *ibid.*, p. 60: "The civil peace brought about by liberalism should logically have its counterpart in relations between states. Imperialism and war were historically the product of aristocratic societies. If liberal democracy abolished the class distinction between masters and slaves by making the slaves their own masters, then it should eventually abolish imperialism".

³⁶ See Francis Fukuyama, *ibid.*, p. 262: "The fundamentally un-warlike character of liberal societies is evident in the extraordinary peaceful relations they maintain among one another. There is by now a substantial body of literature noting the fact that there have been few, if any, instances of one liberal democracy going to war with another".

³⁷ See *ibid.*: "Given the fact that access to those same resources can be obtained peacefully through a global system of free trade, war makes much less economic sense that it did two or three hundred years ago".

³⁸ See Francis Fukuyama, *The End of History?*, *op. cit.*, p. 18: "The automatic assumption that Russia shorn of its expansionist communist ideology should pick up where the czars left off just prior to the Bolshevik Revolution is therefore a curious one", and p. 19: "the growing 'Common Marketization' of international relations, and the diminution of the likelihood of large-scale conflict between states".

³⁹ See Francis Fukuyama, *The End of History and the Last Man*, *op. cit.*, p. 263: "Liberal democracies can, of course, fight states that are not liberal democracies".

⁴⁰ See *ibid.*: "... among each other, liberal democracies manifest little distrust or interest in mutual domination. They share with one another principles of universal equality and rights, and therefore have no grounds on which to contest each other's legitimacy (...) the argument is not so much that liberal democracy constrains man's natural instincts for aggression and violence, but that it has fundamentally transformed the instincts themselves and eliminated the motive for imperialism".

than other ideologies, including now almost dead ones like fascism and communism, others that are old but still very much alive, like nationalism, and newer ones, such as radical Islam and free-market authoritarianism.⁴¹

However, Fukuyama's assessment of liberal democracy as the end of history, understood as the only real political alternative, is incomplete, from at least two very important perspectives: the role of social justice and the organisation of regional and global governance.

According to Fukuyama, liberal democracy embodies a classless society, in which class conflict is somehow magically "resolved".⁴² This is, to say the least, inaccurate, given the increasing income and wealth inequalities observed in Western societies as a result of open-borders capitalism,⁴³ and the rise of populism as the political reaction to the growing imbalance between capital and labour.

Class conflict can potentially be overcome only if the political system, in addition to ensuring free elections, the protection of individual and of civil rights, and the rule of law, which are the main pillars of liberalism, also pursues, as explicit public policy objectives, social justice and economic rights.

In this respect, the European social market economy, with all its shortcomings, appears a better potential embodiment of the end of history, understood as an equilibrium between the state, the market, society and the environment, than capitalistic society in the Regan mould (a model recently taken to extremes by Donald Trump's international and domestic policies). This, as indicated in the introduction, is something that Fukuyama himself has acknowledged. As claimed by some

⁴¹ On the last two ideologies, Francis Fukuyama, *ibid.*, p. 243, says: "A new Asia authoritarianism would most likely not be the harsh totalitarian state with which we have become familiar (...) it is doubtful whether such a political system would be exportable to other cultures that did not share Asia's Confucian heritage, any more than Islamic fundamentalism has been exportable to the non-Islamic parts of the world". See also Yuval Noah Harari, *Homo Deus. Breve historia del mañana*, *op. cit.*, p. 298: "El islamismo radical no plantea ninguna amenaza seria al paquete liberal, porque, a pesar de todo su fervor, los fanáticos en realidad no entienden el mundo del siglo XXI".

⁴² See Francis Fukuyama, *ibid.*, p. 5: "In the universal homogeneous state, all prior contradictions are resolved and all human needs are satisfied (...) what remains is primarily economic activity".

⁴³ On the growing economic inequalities see among others, Thomas Piketty, *Capital in the Twenty-First Century*, Cambridge MA, Harvard University Press, 2014, and Branko Milanovic, *Global inequality. A New Approach for the Age of Globalization*, Cambridge MA, Harvard University Press, 2016.

authors, social democracy, understood as an endless process of market regulation and economic redistribution, is the most successful ideology in contemporary history.⁴⁴

Social democracy and federalist ideology both share a number of key principles (liberalism, democracy and socialism), although the latter, over time, has also embraced additional ones, namely environmentalism⁴⁵ and feminism.

The goal of federalism is civil peace, which goes hand in hand with social peace. But perpetual peace will remain unreachable as long as countries, or the world at large, are corroded by wealth inequalities, race and gender bias, discrimination towards immigrants and refugees, and environmental harm.⁴⁶ In short, continued lack of global social and ecological justice will continue to jeopardise world peace.

Democracy, Liberal but Also Transnational.

The second flaw in Fukuyama's depiction of the end of history is its purely national focus,⁴⁷ as he himself has more recently acknowledged;⁴⁸ nevertheless, it rests on the belief that liberal democracies are likely to remain at peace since they have a common interest in cooperating⁴⁹ and extending the reach of their common values around the world.⁵⁰

⁴⁴ See Sheri Berman, *The Primacy of Politics: Social Democracy and the Making of Europe's Twentieth Century*, Cambridge University Press, Cambridge, 2006.

⁴⁵ See Guido Montani, *Ecologia e federalismo. La politica, la natura e il futuro della specie umana*, Quaderni di Ventotene, n. 5 (2004), Ventotene, Istituto di Studi Federalisti Altiero Spinelli, and David Grace, Guido Montani, and John Pinder, *Cambiamento climatico e federalismo*, Quaderni di Ventotene, n. 7 (2008), Ventotene, Istituto di Studi Federalisti Altiero Spinelli.

⁴⁶ See Pilar Llorente Ruiz de Azúa and Alejandro Peinado García, *El manifiesto de Ventotene. Por una Europa libre y unida*. Altiero Spinelli y Ernesto Rossi, Sistema, n. 245, January, (2017), Madrid, and Pilar Llorente Ruiz de Azúa and Domènec Ruiz Devesa, *Europa, ideal de unidad humana...*, *op. cit.*

⁴⁷ Even though these ideas are actually to be found in chapter 26 entitled *Toward a Pacific Union*, see Francis Fukuyama, *The End of History and the Last Man*, *op. cit.*, p. 276.

⁴⁸ See Francis Fukuyama, *Epílogo a la segunda edición...*, *op. cit.*, p. 155: "Cuando escribí sobre la democracia liberal como la forma de gobierno final me refería a escala del Estado nacional. No vislumbré la posibilidad de crear una democracia global que de alguna manera trascendiera al Estado nacional soberano por medio del derecho internacional".

⁴⁹ See Francis Fukuyama, *The End of History and the Last Man*, *op. cit.*, p. 280: "Democracies that choose their friends and enemies by ideological considerations – that is, whether they are – are likely to have stronger and more durable allies in the long run".

⁵⁰ See *ibid.*: "The peaceful behaviour of democracies further suggests that the United States and other democracies have a long-term interest in preserving the sphere of democracy in the world, and in expanding it where possible and prudent. That is, if de-

Fukuyama also acknowledged the Kantian world federation as a liberal project, stressing, however, that it is workable only if the member states share the same values.⁵¹ He considered the League of Nations and, to some extent, the United Nations to be essentially flawed, on account of their inclusion of undemocratic countries,⁵² while suggesting that a true Kantian version of such leagues would resemble the North Atlantic Treaty Organisation (NATO).

However, while it is true that an international federation must be based on a liberal (and we would add social) democratic setting, both within and among its member states, this alone is certainly not enough. On this point, Fukuyama appears unable to distinguish between international and supranational organisations.

If the UN (like NATO) is far less effective than the EU, this is not just because these organisations include undemocratic members, but above all because they are subject to national vetoes and super-majority and unanimity voting requirements, and lack binding parliamentary bodies. In short, the UN and NATO are not federal, whereas the EU, albeit in a partial way, does possess key federal elements, as shown by the supremacy of Union law, the co-decision between the Council and the Parliament, and so on.

In hindsight, Fukuyama ended up conceding that national liberal democracies can potentially exercise violence against other countries and their citizens, and therefore accepted the European idea of the need to transcend national sovereignty.⁵³ Nevertheless, in view of the limit-

mocracies do not fight one another, then a steadily expanding post-historical world will be more peaceful and prosperous”.

⁵¹ See Francis Fukuyama, *ibid.*, p. 281: “The need for democratic states to work together to promote democracy and international peace is an idea almost as old as liberalism itself. The case for an international league of democracies governed by a rule of law was laid out by Immanuel Kant in his famous essay, *Perpetual Peace*, as well as in his *Idea for a Universal History* (...) an international federation, to work, must share common liberal principles of right”.

⁵² See *ibid.*, pp. 281 and 282: “The manifest failure of the League of Nations and the United Nations to provide collective security (...) has led to the general discrediting of Kantian internationalism and of international law in general (...) however (...) the actual incarnations of the Kantian idea have been seriously flawed from the start by not following Kant’s own precepts (...) if one wanted to create a league of national according to Kant’s own precepts, that did not suffer from the fatal flaws of earlier international organizations, it is clear that it would have to look much more like NATO than the United Nations – that is, a league of truly free states brought together by their common commitment to liberal principles”.

⁵³ See Francis Fukuyama, *Epílogo a la segunda edición...*, *op. cit.*, p. 157: “La idea europea de la necesidad de normas que trasciendan al Estado nacional es indudablemen-

ed political progress made by the EU so far, and in what seems to be a contradiction of his own critique of nationalism and his assertion that transnational democracy embodies the end of history, the author concludes that the latter, while nice in theory, is not realistic on account of insurmountable cultural barriers.⁵⁴

Conclusion.

The final question that must be posed is whether the end of history as understood by Hegel, Kojève and Fukuyama, i.e. a state of perpetual peace and political and economic freedoms, can be reached simply through global market capitalism and an ever-increasing number of national liberal democracies (which must nevertheless be allied in an inter-governmental organisation such as NATO). The answer is no. The end of history will also require the provision of social and economic rights, guaranteed by a global and democratic political federation.

It must be recalled that peace is not just the absence of armed conflict. While two peoples that ignore each other are technically at peace, at the same time, they are not cooperating with each other or building anything of value together.⁵⁵ Countries, beyond being at peace in this narrower sense, need to confront, together, transnational challenges such as climate change, migration, poverty, etc. And they cannot do this effectively in isolation or through traditional international organisations in which sovereignty is not pooled and most decisions have to be unanimously agreed.

Thus, the end of history can only take the form of a social and de-

te correcta a nivel teórico. No hay razón alguna para pensar que las democracias liberales soberanas no puedan cometer terribles abusos en sus tratos con otras naciones o incluso con sus propios ciudadanos”.

⁵⁴ See Francis Fukuyama, *ibid.*, pp. 157 and 158: “Si bien es posible defender teóricamente cierta forma de democracia que trasciende el Estado nacional, hay en mi opinión obstáculos insuperables para realizar este proyecto. El éxito de la democracia depende en gran medida de la existencia de una comunidad política genuina que esté de acuerdo con ciertos valores e instituciones básicas comunes. Los valores culturales comunes generan confianza y digamos que lubrican la interacción entre los ciudadanos. La democracia a escala internacional es casi imposible de imaginar dada la diversidad real de pueblos y culturas implicadas”.

⁵⁵ See Pilar Llorente Ruiz de Azúa and Domènec Ruiz Devesa, *Europa, ideal de unidad humana...*, *op. cit.*, p. 403: “La paz no es solamente la ausencia de guerras entre Estados, lo que se puede denominar paz civil internacional. Es también la paz social, es decir, la reducción de las desigualdades económicas y de los conflictos interclasistas (...) se trata en definitiva de una paz caliente, positiva, constructiva, que no se define exclusivamente en negativo, sino que es la base sobre la que se funda el progreso, la prosperidad y la búsqueda de oportunidades”.

mocratic world federation, composed of regional federations, of which the European Union is the most advanced example. Regardless of whether or not history is already moving in this direction, all peace-loving people must undoubtedly strive for such a future world order, and support the worthy causes promoted by the Union of European Federalists and the World Federalist Movement.

The Roots of the Crisis of Democracy in Europe and Worldwide*

STEFANO BARTOLINI

“Responsive” Democracy.

According to today’s prevailing interpretation, the crisis of national democracy is rooted in processes of a predominantly extra-national nature. First of all, globalisation and the weakening or elimination of national borders, be these economic, cultural or political-administrative, are preventing those in power from transferring the costs of national politics to local consumers and taxpayers, and precluding experiments and solutions at local level. At the same time, powerful non-national economic institutions and the markets are forcing national rulers to subject citizens to measures that they would have preferred not to impose, and preventing them from making choices that they would have preferred to make. Finally, the European Union and indeed the process of regional integration as a whole have now evolved to such a degree that struggling member states are no longer able to use the various currency, budgetary, fiscal and economic policy control mechanisms that were once available to them in times of crisis.

In other words, this line of reasoning (and action, of course) concludes that globalisation, European integration and powerful international players are responsible for throwing democracy (meaning a normative model founded on the prevalence of the popular will over every other consideration) into crisis. Essentially, democracy, understood in this way, is finding itself suspended and constrained to a degree proportional to the extent to which the popular will it expresses (through the interaction between universal suffrage, electoral competition between parties, and political representation) is being betrayed or manip-

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ulated. All this is leading to the conclusion that democracy needs to be “restored”; that it needs to regain a predominant role and genuinely express what the voters and the people want, without allowing itself to be deflected by the malign external influences mentioned above, which, on the contrary, must be strenuously resisted at both national and international level.

Interpreted in this way, democracy, revolving around three key components — inclusion (universal suffrage), competition for citizens’ votes, and representation — emerges in its genuinely popular dimension and becomes, ultimately, a sympathetic response to the prevailing demands and forces. If we add in other factors — the desire of politicians to be elected and re-elected, political competition in the form of elections, propaganda and campaigns, and the rule of anticipatory reactions that drives the elected to anticipate what the electorate might wish for —, then it becomes clear that all unmet demands should have no trouble finding those willing to champion them. Since, from this perspective, politicians clearly need to give the voters what they want, all the impediments, limits and procedural and consultative obligations they encounter must inevitably be seen as elements that distort the relationship between voters and those that they elect. And the more this particular vision of democracy — for the sake of simplicity I shall define it “*responsive*” — “responds” to and satisfies the aspirations of voters, the more is democratic it is deemed to be.

There is no doubt that the concept of responsive democracy is one of the normative aspects of democratic theory. Democracy that “fails to respond” ceases to be democracy. The question, therefore, is not whether an element of responsive democracy lies at the heart of democratic theory, but rather whether it is its only undisputed element, which must take precedence over every other principle. The fact is that, both from a historical and from a normative perspective, there is more to democratic theory than just the responsive element.

“Responsible” Democracy.

For the sake of brevity and simplicity we usually refer simply to “democracy”, thereby bypassing twenty-five centuries of discussion and debate on the limits and flaws of a wholly popular-plebiscitary vision of the concept. In truth, the democracy that has developed in the Western world can more accurately be defined as a “liberal-democratic” form that combines the principles of inclusion and popular support with those of limited and responsible government. However, out of

laziness and a fear of seeming pedantic, we often (if not always) omit that little word “liberal”, which actually defines the nature of the Western democratic experience.

In the history of constitutionalism, on both sides of the Atlantic, the term “liberal” has come to mean “limited government”, and thus to indicate a set of principles serving to define, or otherwise limit, the powers of whoever bears the responsibility of government, be it an absolute monarch or an elected president. The Europeans agitating for a “constitution” between 1830 and 1848 were seeking to secure guarantees against the arbitrary use and abuse of power, in favour of a government constrained by some general principle. Their objective was to legalise power by ensuring, through mechanisms serving to limit the so-called sovereignty of power, special protection of specific freedoms held by those governed. This is the fundamental meaning of the term “constitution” as used in the tradition based on the *Federalist Papers* (1787-1788), the 1789 *Declaration of the Rights of Man and of the Citizen*, and Benjamin Constant’s classic systematisation of constitutionalist thought in his *Cours de Politique Constitutionnelle* of 1818-1820.

The aim of limiting arbitrary power was pursued (with varying degrees of efficiency) through a combination of different mechanisms that included the identification and specific application of inviolable rights, an independent judiciary and the separation of powers, constitutional control of laws, reciprocal checks in the exercise of autonomous powers (as for example, in Italy, with regard to those of the prime minister and the president of the republic), verification by technicians of coverage of expenditure, and non-negotiable federal/regional decentralisations and autonomies. More recently, these mechanisms have also included greater autonomy of central banks and other unelected independent authorities — as such, these cannot be considered democratic in the electoral-popular sense — that are entrusted with sometimes considerably important tasks and functional jurisdictions. Finally, the inclusion, in Constitutions, of explicit relinquishment of shares of national sovereignty in areas involved in integration pursued through supranational entities, such as the EU, constitutes a further example of such efforts to limit arbitrary power.

In the constitutionalisation process that began in Philadelphia, these principles were expressed in two dimensions: horizontal (the courts, Congress and the presidency) and vertical (the states and the federation). But the nature of the relationships between the centre and the periphery, based on the vertical distribution of powers and competences

between the federal centre and the federated states, represented the fundamental structuring principle. In the European setting, on the other hand, the pre-existence of central and centralised governments and strong executives meant that checks and balances were essentially embodied in institutions that ensured a horizontal equilibrium, whereas (with the exception of Switzerland) the territorial balance of powers was less important.

But regardless of whether we are talking about purely horizontal, or also vertical, counterpowers and limitation principles, the fact remains that this “liberal” element of democracy is crucial in order to balance out the popular-representative one. Contrary to what was suggested at the start of this essay, the fact that the liberal principle imposes constraints, limits and sectoral safeguards on the responsive democracy principle should not, from a historical perspective, be interpreted in terms of limitations or impediments. Instead, the former principle completes the latter, given that these constraints, limits and safeguards constitute an additional element that lends substance both to the responsibility of those in power to respect inviolable rights and procedures, and also to the “rules” concerning that which is not and cannot be done in a democracy, even when you have the numbers to do it. In other words, “responsible democracy” tempers “responsive democracy”, i.e. it reins in the possible irresponsibility of majorities and of the popular will.

The combination of the democratic principle, based on inclusion, representation and the ability to respond to demands, with the liberal one that limits the breadth of government action, has had the effect of turning democracy into a “moderate” and sometimes even “conservative” system, but also a system of protection that curbs the sometimes dangerously powerful will of peoples, majorities and governments.

The Difficulty Marrying These Two Conceptions of Democracy.

Obviously there exists an implicit and ever-present conflict between the purely popular principle of responsiveness (based on inclusion, representation, popular will) and the liberal one of limited government (based on checks and balances, constraints and boundaries to government action). However, in the twentieth century, three mechanisms allowed democracy to incorporate both responsive and responsible elements. From an institutional point of view, as mentioned before, we have seen a gradual expansion of the sectors in which the limits and procedures of public decision making are constitutionally safeguarded. From a second, this time mainly cultural, point of view, it has to be ac-

knowledge that the “responsible” part of our twentieth-century democracies was based on a still predominantly elitist political culture, and on processes of selecting the ruling class that were shaped by this culture. Despite the growing professionalisation of politics, and the fact that, as a result, careers in politics are no longer the preserve of dominant social groups, it remained, for a long time, an unwritten rule that the defence of liberal values fell to socio-economic, cultural and political elites that, on account of their particular expertise and historical sensibilities, were particularly tuned in to them.

Finally, from a political point of view, the reconciliation of responsive democracy with responsible democracy was entrusted to the new political actor that dominated the processes of government in the 1900s — the same actor that drives the preferences and aggregates the demands coming from different social groups: the political party. In the last century, the mass political parties, in particular, sought to ensure that these preferences and demands coincided with their own long-term interests and coherent and integrated ideological visions. It was after the Second World War that political parties became, increasingly clearly, the dominant form of both political representation and political leadership, in many cases inheriting the mantle of the bankrupt political institutions of the prewar period. The stalemate equilibrium that characterised the Cold War years made national decision-making processes relatively straightforward, especially when they concerned international issues. The scope of the European economies was still prevalently national, and they were therefore little conditioned by competition and trade on the world markets. There was a high and stable level of cultural homogeneity within the states, a phenomenon that, if anything, had been accentuated by the border changes that were decided at the end of the Second World War. Strong and persistent group identities continued to underlie a high level of similarity in the political behaviours of different groups. Finally, the post-war recovery ushered in a period of unprecedented growth for the national economies; in this setting, an increased and legally defined role of the state in economic planning and control ensured that the national political elites had plenty of room for manoeuvre.

This favourable set of circumstances gave political parties an exceptional and perhaps unique opportunity to promote expansive economic and social policies at national level. The parties, being collective subjects and relatively united both ideologically and socially, became the key players in the political stabilisation of the twentieth century’s

rapidly changing societies. The internal discipline of the parties and the models of inter-party competition also provided means of managing the tensions between various phenomena: the electoral process, the representation of sectoral interests, relations between the executive and the legislative, and policy leadership. Political parties, concretely reconciling the function of representation with that of responsibility, became the pillars of democratic stability, without which democracy was not even conceivable.

There can be no doubt that, since the end of the twentieth century, the last two of the three mechanisms that supported the vision of responsible democracy have increasingly found themselves in crisis. On a cultural level, recent developments have increased the individualistic attitudes of citizens and the growing multiculturalism of societies. Together, these two elements have reduced the homogeneity of national culture, profoundly undermined traditional collective identities, and accentuated the tendency of every area of life, including that of political persuasion, to move progressively into the private sphere. Finally, they have accentuated new or previously latent cultural identities that, unlike those of the past, are not historically linked to traditional political parties. All these processes have been strengthened by the development of modern information and communication technologies. Certainly, it was never anticipated that changes in education, communication and technology would be such key factors in eroding the relationship of delegation that, through political parties, linked the elites with the masses.

These new cultural and political processes have only aggravated the tension between responsive democracy and responsible democracy, with the result that the balance between the two, while still deeply rooted in the institutional aspects of democratic functioning, no longer has a cultural and political basis. But the question is, can the responsible form of democracy sustain and defend itself on purely institutional foundations, i.e. without the cultural and political underpinnings that once supported it? Or is it not, instead, more likely that responsive democracy will emerge as the increasingly widely accepted form — a form, moreover, destined to clash more and more with the existing institutional order? Responsiveness is the credo adopted by the new parties and movements that have come into being in recent years, whereas they have rejected that of responsibility. They frequently regard the elements of limited government, listed earlier, as mere obstacles, impediments or constraints, introduced with the sole purpose of limiting and curbing the popular will as expressed in its purest form, that of an electoral mandate.

Thus, and contrary to the version of the crisis of democracy set out at the start of this essay (wherein democracy is perceived as betrayed and in need of being restored), the real crisis that is now deepening before our eyes is, above all, the crisis of the liberal and responsible part of democracy, or more accurately, the crisis of the balance between responsive democracy and responsible democracy (i.e. the fact that the former is increasingly outweighing the latter). In fact, responsive democracy, if we consider its ideal assumptions and popular and electoral dimension, hardly seems to be in crisis at all, given that it is nowadays widely equated with the will of the people and of the majority, as opposed to that of the so-called establishment, i.e. all the various traditional elites — political, technical, cultural and social. Furthermore, even from an institutional perspective there seems to be no crisis of responsive democracy, given that it is increasingly defined in opposition to the raft of constitutional, institutional and procedural constraints, which are seen as mere obstacles or defensive stratagems implemented by the aforementioned establishment purely for the purpose of conserving privileges and benefits. Whatever the elements of truth these arguments contain, and they certainly contain some, they are threatening to sweep away liberal democracy, and this is an outcome that can only be likened to throwing out the baby with the bathwater.

New Responsibilities.

In some ways, this situation seems paradoxical, since the developments of the last few decades, while weakening the responsible vision of democracy, have been expanding the set of responsibilities that democracy has to reckon with. The traditional liberal principles of limited government were originally established in order to counter despotic forms of government, with which Europe was certainly well acquainted. Today, even though this concept of responsibility often appears weak and outmoded, responsible democracy has still not managed to culturally embrace, in a systematic way, the new responsibilities thrown up by our twenty-first century world, and the new and modern constraints that they engender. Today's most widely accepted theory of democracy indeed struggles to incorporate the new responsibility issues created by the interdependent and interconnected world towards which we are now moving.

Substantially, these new responsibilities are the responsibilities that national electorates have towards “absent” voters, towards groups and territories that are not directly represented and whose interests and ex-

pectations can only be fed into the democratic system through far-sighted visions of the future. Modern political responsibility thus equates with guarantees that the effects of “democratic” political choices will not damage the interests and assets of those who are unable to participate in the democratic electoral process; in other words, guarantees designed to safeguard needs and requirements that have yet to evolve and be expressed. To clarify this, let us consider, as examples, three types of new responsibilities that democratic theory should incorporate and respect.

First of all, we have new and increasingly obvious *intergenerational responsibilities*. There is no doubt that responsive democracy cares little about the interests of tomorrow’s citizens, who do not yet vote, and those of future generations. The issue of the debt that we are passing on to our children and grandchildren, and of the pensions and services that may be denied them as a result of the costly choices made by previous generations, is not considered, or not adequately considered, within the political-institutional circuit of responsive democracy. We have never really culturally explored the notion of intergenerational irresponsibility as an expression of the popular will. There are two main reasons for this, a general one and another perhaps more specifically Italian one. First of all, in previous times governments controlled much smaller amounts of resources than they do now, and this had the effect of concealing the problem of the future depletion of these resources. Second, given that family ties continue to be very strong in our country, the frequent intergenerational transfers of resources within family units have meant that there has been no perception (or less perception than elsewhere) of the explosive potential of a vision of democracy based on short-term responsiveness.

More broadly, we are also seeing the emergence of new *intertemporal responsibilities*, which are different from intergenerational ones. These are responsibilities towards measures and policies that, while they are not necessarily being pursued in the setting of political competition right now, and perhaps will not even be in the short term, may well be demanded by many or all people in the long term: in other words, future choices that are still to be expressed. The issues of climate sustainability, land and sea pollution, the depletion of natural resources, the need for renewable energy, and long-term infrastructure all spring to mind in this regard, as do concerns over the education, skills and expertise that could one day prove indispensable. It is unthinkable to ignore these responsibilities on the basis of the fact that virtually no

one is seeking to organise and mobilise efforts to address these issues in the here and now. It is also clear that fulfilling these responsibilities demands commitment and resources that will thus be unavailable for immediate consumption.

Finally, we are also seeing a real increase in *intercommunity responsibilities*, i.e. responsibilities towards other communities. Responsive democracy operates at national level, but the decisions made in its name have considerable effects on the members of other communities that do not vote and perhaps will never vote within our own national setting. In addition to the important example of non-citizen immigrants and asylum seekers, we should therefore also think of the effects, both direct and indirect, that our fiscal, budgetary, commercial, military and regional decisions can have on our partners. Accordingly, the placement of government bonds on the global market generates obligations in relation to the savings of others, beyond the community of the voting citizens. Similarly, membership of a single currency obliges us to make choices that respect collective and not just national preferences, while rules and procedures designed to ensure fair and non-discriminatory competition limit our capacity to tax, regulate (through quota measures) and drive consumption and lending.

These new intergenerational, intertemporal and intercommunity responsibilities need to be upheld in the constitution, and on occasions steps have been taken in this direction. But the fact remains that until these responsibilities are systematically embraced as constitutive elements of democracy, they will only go on increasing the conflict between responsive democracy and responsible democracy.

In fact, thinking about it, the idea of democracy based on inclusion, representation and popular will contains no principle ensuring responsibility towards these communities that lack voting rights. Furthermore, it offers no guarantee that that “democracy” will remain “liberal” or “responsible” in the modern sense, and in the current climate, it is also hard to imagine what cultural visions, political forces or institutional mechanisms might be capable of achieving a new synthesis between democracy understood as a sympathetic response to the demands of the citizens and democracy understood as a responsible response to long-term problems and the long-term need for systemic compatibility. If today’s vision of “democracy” is, in a normative sense, dominated by the need to respond to demands, then pursuit of the normative principle of responsibility is left only to ineffectual stances and ethical choices that electoral competition does nothing to encourage (i.e. they don’t win elections).

The European Union Caught in a Perfect Storm.

From the perspective of the framework presented in this essay, it seems useful to analyse briefly the stance gradually adopted by the European integration process. The European Union never tires of pointing out its own “democratic” nature. However, European integration has unfolded in a way that has made the EU a model of democracy almost exclusively in the liberal (responsible) sense, which is quite the opposite of the form that prevails at national level. There is a precise reason for this.

For a long time, the member states, their parties and their elites regarded the external constraints placed, by the Treaties, on the national democracies as welcome effects of the process of integration. In fact, the difficulty encountered, at national level, in bringing lobbies to heel and managing local interests made them ready to accept and indeed welcome the various binding rules, which could be presented as emanating from forces that were somehow anonymous and beyond their control. It became, and indeed remains, common practice for political forces within the member states to blame the EU for choices that they actually welcome, but which, within their own countries, would have been politically damaging to them had they pursued them themselves. It was easier for them to tell citizens, more or less explicitly, that unpopular choices were imposed by others, and not their fault. In short, rather than assume direct responsibility for necessary reforms and for electorally costly plans, they chose to outsource responsibility for them.

European integration thus advanced in a mainly economic direction; the economic borders between the member states were gradually removed with the aim of achieving an economy of scale sufficient to overcome their individual weaknesses. For a long time, it continued to be held that the elements responsible for defining a state’s “national character”, “democratic nature” and “social make-up” should be kept shielded from the integration process, as indeed they were, and that management of redistributive capacity, national cultural symbols and political authorities should remain in the hands of the national state. However, it was inevitable that, in the long term, this removal of solely economic borders would also impact on national, democratic and welfare systems.

In actual fact, as recently as the mid-1980s there were still alternative solutions to the development of the EU on the table. At the start of 1984, the *Draft Treaty Establishing the European Union*, promoted by Altiero Spinelli and colleagues, proposed that the Union should be

founded on a federalist basis. Although Spinelli did not use the term “constitution”, his proposal was constitutional insofar as it: 1) established a clear separation between two legislative chambers designed to vote by majority (the Parliament and the Council) and an executive (the Commission); 2) clearly established the political responsibility of the Commission before these chambers; 3) introduced the crucial difference between organic laws (mainly concerning the organisation and functioning of the institutions) and ordinary legislation for enacting policies; 4) specified that the fiscal power of the Union should be expressed through organic laws; 5) introduced the principle that Treaties could be modified subject to the approval of a simple majority of countries representing at least two thirds of the population of the Union. As we know, his proposal was rejected by the member states.

The solution presented, at the time, as the alternative to founding a federal union was to complete the internal single market (and subsequently introduce the euro) within the substantial stability of the existing institutional framework. This was indeed the solution that found favour among the member states. Many argue that it was a “pragmatic” choice. Had Spinelli’s new treaty been approved, it would have made both the completion of the internal market and the introduction of the euro even more complex and controversial than they have proved to be (as well as, I might add, the eastward enlargements of the EU). However, this choice definitively established the nature of the EU. Together with the Single European Act and relative directives, it showed that the EU was conceived as a regulator required to take on a series of technical tasks and supranational “responsibilities” — an institutional setting largely shielded from political competition. The European Parliament, despite its constantly increasing legislative powers with regard to specific issues, has never been permitted to fulfil any political guiding role and has remained a limited legislative body whose competences do not extend to the major issues of interest to the Union and its member states.

In short, then, the EU was conceived to be an institution better placed than any national institution to ensure a responsible approach to long-term choices of the kind not demanding direct popular legitimisation at national level. The Commission, in particular, is the body that most clearly embodies the principles of intergenerational, intertemporal and intercommunity responsibility mentioned earlier. The European Union is democratic insofar as it undoubtedly adheres to liberal principles, and indeed is perhaps their most authentic expression. But im-

plicit in this vision of the EU was the idea that responsive democracy would remain entirely the prerogative of the nation state. Accordingly, the EU has not been made to incorporate any principle of responsiveness to electoral and political pressures. These aspects were the province of others and had to be managed in other settings, in other words by the nation-states and in the party-political and electoral arena. To summarise, the EU was certainly designed in accordance with liberal democratic principles, but without any capacity for democratic responsiveness.

It should thus come as no surprise that the European Union, thus constructed, has become a focus of political controversy especially in cases and situations that, at national level, are dominated by the responsive and popular side of democracy that the EU has little capacity to manage. The Union's peculiar nature — technically complex, politically weak and socially elitist — has made it the perfect scapegoat in the current phase of reaffirmation of responsive democracy, which began following the great crisis of 2008. From that time onwards, it has indeed found itself increasingly caught in the “perfect storm” created by the growth of the conflict, inherent in the modern conception of democracy, between liberal and popular principles: a technical regulatory “office” that, driven by the functional needs of integration, is constantly seeking to expand its scope of intervention as it seeks to navigate the difficult sea of national policies that are ever less amenable to constraints that have not been legitimised through the ballot box.

A Non-Conclusion.

The conclusion of an essay of this kind should really go beyond mere analysis, in order to tackle the question of what can be done to improve the situation discussed. But I actually find it very difficult to go into specific proposals. At present my overriding feeling is one of pessimism stemming from the objective difficulty of finding a new way of combining responsivity with responsibility.

The term “populism” is nothing more than the label we attach to the parties and movements that have decided, and found it profitable, to focus on short-term responses, and that have decided, and found it profitable, to disregard long-term responsibilities, questions of systemic compatibility, and the potential long-term negative consequences of their positions; movements that wave the flag of responsiveness and scorn the responsible approach. At the same time, there can be no denying that “populism” feeds on the attempt by some elites to protect poli-

cies of responsibility from the excesses of responsiveness. At present, the principle of responsiveness in the popular-plebiscitary mould is quite clearly predominating over the liberal “responsibility” one, be the latter understood in its classic version (that of limited government and internal safeguards) or its modern one (protection of absent groups), and this situation is generating institutional tensions at both national and European level.

At the same time there seems to be little hope of there emerging “institutional” solutions capable of rebalancing the two principles. The decision to entrust a series of supranational institutions with the task of taking care of the issues of systemic compatibility and long-term responsibilities seems, for the moment, to be a failed solution. Similarly, the attempt to inject an element of democratic responsiveness into the European Union, through the European Parliament, competition between European political parties, *Spitzenkandidaten*, and other mechanisms designed to politicise the organisation, also seems to have run out of steam.

Consequently, all we can do at the present time is place our hopes in the development of new ideas: engaging in and fighting for a new, revised theory of democracy that brings out all the inconsistencies and risks inherent in applying one that is understood solely in terms of responsiveness at national level — a revision that proposes a necessary new synthesis between responsiveness and both old and new responsibilities. The other possible outcome, namely the possibility that an increasingly responsive and ever less responsible form of democracy will fully reveal its dark side (nationalism, protectionism, etc.) and only then, after the umpteenth catastrophe, lead people to start reasoning from different premises, seems to be too high a price to pay.

Notes

A NATION'S AGONY

Venezuela's ongoing political and economic decline, which started five years ago, is dragging the country towards catastrophe. Despite being among the ten countries with the biggest oil reserves in the world, Venezuela has been brought to its knees by senseless policies, and its starving population forced to start fleeing to neighbouring states. It is estimated that in the course of 2017 and the first part of 2018 over two million Venezuelans left their homeland, often illegally, thereby extending to this part of South America the sad phenomenon of emigration that is already known elsewhere in Latin America.¹ Considering that Venezuela has a population of 31 million people, the scale of the exodus is clearly huge. We are talking about numbers that make the migratory flows we are seeing in Europe pale into insignificance,² also because, in Venezuela's case, the phenomenon has been concentrated in a period of little more than a year. Venezuela is emptying of people; what is more, those that have left the country, mainly for Ecuador or Peru, are becoming virtually ghettoised and obliged to do the most humble jobs despite, in many cases, having a high level of education. Ironically, the Ecuadorian and Peruvian populations are tending to subject the Venezuelan newcomers to the same humiliations inflicted on their own compatriots living in Europe or the USA.

Although the election of Chávez as president of Venezuela was greeted with optimism across Latin America, and also welcomed by many Western political forces, which saw him as the prototypical friend-of-the-people, anti-capitalist, anti-American president, Venezuela's crisis can actually be traced back to the early years of his mandate. Chávez's

¹ Agencia Brasil, 24 August 2018.

² *Avvenire*, 15th September 2018. Between January 2018 and the time of writing (October 2018), around 74,000 refugees landed on EU shores after crossing the Mediterranean.

rise to government, together with that of Morales in Bolivia, seemed to offer a new road to socialism in a subcontinent that had previously seen socialism evolve into dictatorship, first in Cuba and then in Nicaragua. After embarking on a policy of nationalisation and introducing a strongly anti-US foreign policy, Venezuela under Chávez lost little time in entering into trade agreements with Cuba, Nicaragua, Russia, China and Iran, leading the country to be classed as a “rogue state” by American president George W. Bush. The most important aspect to note is that Venezuela’s economic and trade policy was linked to crude oil extraction and oil prices on the international markets. In the early years of Chávez’s rule, the price of oil per barrel was high, making it easy for the president to dispense largesse to the population as a whole, by applying merely “political” prices to many primary goods. The cost of a litre of petrol in Venezuela during Chávez’s time in office was 0.01 euro and even today, with the crisis in full swing, it still costs only a few cents, although the problem nowadays is finding fuel stations that have any available to sell. Indeed, having seen many wells forced to close due to a lack of spare parts, Venezuela is now in the paradoxical position of having to import oil. The entire Venezuelan economy has been based on oil for many years, but the rich revenues generated, instead of being at least partly reinvested in infrastructure or new economic activities, have been used to pay for the purchase of goods and services from abroad, particularly from countries hostile to the USA. Cuba, for example, provided doctors and drugs, which Venezuela paid for in barrels of oil in a sort of barter arrangement that did not involve the movement of capital, while arms were purchased from Russia and Iran. Chávez’s charisma and popularity, his carefully crafted man-of-the-people persona, and his obsessive use of propaganda to exalt his “achievements” all helped to conceal the country’s authoritarian drift, which quickly led to the birth of a regime. However, the true nature of the situation did not become clear until the time of Chávez’s death in March 2013, and the sharp drop in oil prices a few months later.³ After fourteen years with Chávez at the helm, the presidency was taken over by his anointed successor Maduro, another so-called man of the people,⁴ who, however, lacks the charisma that had allowed his mentor to rule unchallenged.

³ At the time of Chávez’s death in March 2013, a barrel of oil cost an average of 109,18 dollars. In August 2018 the price was 72.69 dollars (and the previous March it had dropped to 66,27 dollars). https://www.clal.it/mini_index.php?section=petrolio.

⁴ Maduro, before becoming Chávez’s devoted supporter and right hand man, was a bus driver and trade union leader.

Maduro's assumption of the presidency and the simultaneous collapse of oil prices exposed the flaws of a policy that was leading the nation towards social chaos and economic default. Maduro responded to the first signs of the crisis by tightening police powers, closing down newspapers that challenged him, and imprisoning opponents. The lack of primary goods, the country's astonishing need to import refined oil, and the central bank's lack of foreign exchange reserves were not allowed to be seen as signs that his policy was failing; instead the crisis was attributed to various other alleged causes: the middle and upper classes' exportation of their wealth abroad; a US-led conspiracy to starve the people of Venezuela and oppose the government's socialist policies; and attempts, by opponents, to slander the government. Maduro's populist approach, like that of Chávez before him, simply rejected the very clear evidence of what amounted to a demagogic economic policy. Ultimately, Maduro's desire to conceal the true causes of the crisis prompted him to hold a constitutional referendum that effectively marked the definitive transformation of his government into a formal dictatorship, sanctioned by a popular vote. Maduro won his referendum amidst accusations of fraud and protests from the entire international community, with the sole exception of Russia and China (the latter refraining from comment). The first consequence of the referendum result was Venezuela's indefinite suspension from Mercosur, under the terms of the organisation's commitment to the democracy rule set out in its *Protocolo sobre compromiso democrático*:⁵ the other full members of Mercosur — Argentina, Brazil, Uruguay and Paraguay — voted unanimously to suspend Venezuela, accusing Maduro of violating fundamental democratic rights.⁶ This political act by Mercosur sent out a hugely significant message: those that do not respect the fundamental rules of democracy cannot be part of a community and deserve to be isolated. It is a message that we in Europe would do well to heed, given the attacks on the foundations of democracy seen, for example, in Hungary and Poland.

With Venezuela now lacking the support of this continental brotherhood, the regime has stepped up its insistence that the country's nation-

⁵ The *Protocolo de Usuhuaia sobre compromiso democrático en el Mercosur* was signed in July 1998 and amended in December 2011. Venezuela's suspension is the third time it has been used against a member state; on two previous occasions it was implemented against Paraguay.

⁶ See: *Venezuela e Mercosur: la difficile via verso la democrazia*, *Il Federalista*, 59 (2017), n. 2, p. 169.

al sovereignty is under threat from treacherous neighbours and foreign powers that, it argues, are determined to subdue a people's government — the very same government that, notwithstanding the financial aid received from Moscow in early 2018, has been forced to relinquish its national currency (the bolivar) because the country's economy is in default. Since the end of 2017, the rate of inflation in Venezuela has remained at absurd levels (four-digit percentage rates and even higher), with the result that the price of goods, of any kind, can change completely within the space of a single day. This lack of currency has resulted in a freeze both on domestic purchases and on foreign imports. Many commentators have likened Venezuela's financial situation to that of the Weimar Republic in the last century. But unlike Weimar Germany, which had just come through a disastrous war and was burdened with exorbitant claims for compensation from the powers that had emerged victorious from World War I, Venezuela has brought its social instability and chaos on itself, in the name of an ultra-sovereignist agenda. In 2017 the rate of inflation in the country was estimated to stand at 1,000 per cent, before rising to 1,000,000 per cent in July 2018, while its GDP was 50 per cent down on the value for 2013.⁷ These are figures that are clearly spinning out of control. What is more, the crisis has also had dramatic repercussions beyond the country's own borders. Venezuela is indeed one of the world's main oil-producing countries, it is a member of the Mercosur regional agreement (albeit currently suspended from this), and it enjoys financial support from China and Russia, a fact that clearly sets the country in opposition to the USA. Russia is the only nation in the world to have accepted the *petro*, i.e. the cryptocurrency imposed by Maduro in place of the *bolivar*. The value of the *petro* is determined by the price per barrel of oil. Maduro calls it a cryptocurrency, but this is a misnomer: what Venezuela is actually doing is selling Russia its oil production for the coming years in exchange for immediate financial aid. But the point is, not even Russia can indefinitely sustain a nation of 30 million people that is in economic agony.

The most serious aspect of all this, however, is Venezuela's isolation from the rest of its continent, which, among other things, is opening up a deep divide within Mercosur. On September 4th 2018, the foreign ministers of 13 Latin American countries met in Quito, the capital of Ecuador, to discuss the Venezuelan migration crisis. One city particu-

⁷ See: *Business Insider*, 26 July 2017 and *InvestireOggi*, <http://www.investireoggi.it>, 24 July 2018.

larly hard hit by the daily flight of thousands of people from Venezuela is Cucuta in Colombia, which, in just over a year, has been transited by more than 600,000 refugees. Meanwhile, in the northern Brazilian province of Roraima, which lies on the border with Venezuela, the army has been deployed in an attempt to contain the migratory flow. Peru, Ecuador and Chile are now demanding that all Venezuelans entering their territory, both refugees and those simply passing through, have an entry visa and passport; until July 2018, under the terms of a South American Schengen-type agreement (now suspended), all they had needed was an ID card. The news agency *Pressenza* has dismissed the Quito summit as pointless, claiming that it was intended to damage Venezuela's image.⁸ Meanwhile, the Venezuelan government is suffering from the "siege syndrome" that typically afflicts populist governments (whether in the American continent or Europe) that, finding themselves to be incapable of governing effectively, see everyone around them as the enemy: international institutions, banks and neighbouring countries, as well as the forces that they loosely call "the elite", being unable to define them any more precisely than that. Because the point is, they feel they have to indicate an enemy in the name of the sovereign people for whom they claim to speak.

Maduro has rejected as fake news reports of Venezuela as a nation in disarray with a fleeing population, while at the same time he has asked the UN to contribute half a million dollars to the Venezuelan government's efforts to help departed citizens return home (under its "Return to the Homeland Plan"), claiming that they fled "...because they had been cheated and misled... only to find themselves robbed of their belongings".⁹ These claims show a complete loss of contact with reality. However, with the opposition to Maduro incapable of acting in unison, and with some of its leaders in prison, there is a risk that the army will ultimately become the arbiter of this situation. This would certainly be a sad outcome for a country that has already experienced military dictatorship in the past, and a sad return to the past for the whole of Latin America, which, from the 1980s onwards, has seen the collapse of all its military regimes and the advent of democracy. The wind of Venezuelan populism, with its pursuit of easy consensus, is also being felt beyond the country's borders. The recently elected presi-

⁸ Rosi Baró, *Making up a migration crisis to create a "casus belli" against Venezuela?*, Pressenza International Press Agency, <https://www.pressenza.com/2018/09/making-up-a-migration-crisis-to-create-a-casus-belli-against-venezuela>.

⁹ *Avvenire*, 22nd September 2018.

dent of Brazil, the largest Latin American country and a founder member of Mercosur, is a populist with an army background who, on more than one occasion, has eulogised the years of military dictatorship and harshly criticised Mercosur's trade policy.¹⁰ The whole Venezuelan situation and the wind of populism that is now also blowing from Brazil threaten to undermine not only the role of Mercosur, but also the democratic advances that began with the fall of Latin America's military regimes in the 1980s.

Stefano Spoltore

EUROPEAN INSTRUMENTS FOR ENVIRONMENTAL POLICIES AND RESOURCES FOR SUPRANATIONAL DEMOCRACY*

1. Introduction

Study of measures aimed at fighting pollution must necessarily start with the definitions of the terms public goods, market failure, negative externality and public intervention. Goods can be classified as private (if they are rival and excludable in consumption), club (not rival but excludable), common resources (rival but not excludable), or public (neither rival nor excludable). Clean air, given that it is shared by everyone and its consumption cannot be regulated, falls into the category of public goods. In a public goods economy, individuals have no interest in revealing their preferences, in particular their marginal evaluations. Underestimating or concealing these evaluations is thus the dominant strategy of consumers, who act as free-riders and effectively prevent economic actors from producing public goods, which will therefore neither be demanded nor supplied. This is a textbook case of market failure, given that these goods cannot be produced efficiently in a free decentralised economy. With regard to air pollution, it is also necessary to consider the question of negative externalities. An externality occurs

¹⁰ See: *El Observador*, 21st October 2018; *La Nación*, 29th October 2018.

* This lecture was delivered at the *Supranational Democracy Dialogue* meeting, held in April 2018 at the University of Salento.

when one actor's production or consumption choice directly influences another one's pay-off, without being compensated for. In environmental economics this is a key concept, because pollution is classified as a negative externality mainly caused by producers and affecting both producers and consumers. This constitutes another example of market failure, which therefore demands some kind of public intervention.¹ In the following sections we will discuss the main strategies public authorities may adopt in order to tackle the problem of pollution.

2. Public Action to Protect the Environment

Bosi² identifies six main strategies that states, through incentives, disincentives and regulation mechanisms, can use in order to protect the environment. The first two, namely public production and mergers of companies, aim to internalise externalities. Public production serves to bring the polluting economic activity under the control of a political authority, meaning that the relative emissions are controlled by political rules. Pollution thus ceases to be an externality, since its level, being determined by voters, becomes a political choice that is made taking into account an economic pay-off. The limit of this strategy is that it is a radical solution that considerably limits the freedom of economic players in a decentralised economy. Company mergers, on the other hand, internalise externalities by unifying the production cost functions of the firms involved. The weakness of this strategy, therefore, is that it impacts only on negative pure production (i.e. producer-to-producer) externalities. However, this is offset by its very low cost of implementation, compared with that of the public production strategy. I will analyse the other strategies in more detail.

2.1. Regulation.

Through regulation, political authorities can oblige companies to keep emissions below given limits, and individual consumers to avoid certain behaviours. In the short term, companies may react to a legal restriction by decreasing production. They may also invest in research and development, so as to equip themselves with less-polluting installations in the future. However, recourse to industrial regulation has two considerable drawbacks. First, it necessitates the recruitment of inspectors, who constitute a significant cost for the public authority;

¹ Paolo Bosi, *Corso di Scienza delle Finanze*, Bologna, Il Mulino, 7th ed., 2015.

² *Ibidem*.

moreover, individual cases may differ considerably from each other, with the result that a single regulation may not affect all polluters equally. Second, at international level, since regulation is seen by companies as an onerous obligation, they may choose to relocate their factories to countries with less stringent rules.

Regulation of emissions from consumer goods is less problematic, particularly in the field of standardised mass consumption. After all, standardised goods are easier to monitor, and citizens cannot relocate their activity in the way companies can. The European regulation on passenger car emissions is one of the best-known cases. A report commissioned by the European Commission to monitor the effects of regulation on prices³ shows that in a free market economy prices are determined more by competition than by the costs to companies deriving from the regulations themselves, including fines for transgressions. In the light of this brief consideration, we can say that a regulatory policy on consumption is suitable both for national states and for regional organisations, because consumers are bound to their territory. States would only be induced to leave this kind of legislation to a supranational body for two reasons: it would allow them to share the costs of policy implementation, and would also boost cross-border business. On the other hand, regulating companies' emissions at national level is a less efficient solution because states embrace a more restricted territory and, theoretically, in a global scenario, the activities of a limited number of organisations would be easier to coordinate. Nevertheless, regulation policies alone are not enough to fund democratic supranational bodies that lack fiscal capacity, given that the only income would derive from fines for transgressions, which are by definition intermittent and unpredictable.

2.2. *Allocation of Property Rights: the Coase Theorem.*

The Coase theorem was enunciated in 1960, and thus coincided with the birth of environmental economics.⁴ Even though it was widely criticised, it gave rise to a debate that considerably enriched this topic. Robert Coase criticised the very concept of externalities as a cause

³ Adarsh Varma, Dan Newman, Duncan Kay, Gena Gibson, Jamie Beevor, Ian Skinner, and Peter Wells, *Effect of regulations and standards on vehicle prices. Technical report*, Didcot, AEA Technology plc., 2011; <https://www.google.com/search?q=E%EF%AC%80ect+of+regulations+and+standards+on+vehicle+prices.+Technical+report&ie=utf-8&oe=utf-8&client=firefox-b>.

⁴ Steven G. Medema, *Of Coase and Carbon: The Coase theorem in Environmental Economics, 1960-1979*, Denver, University of Colorado 2011; <https://studylib.net/doc/10316193/of-coase-and-carbon—the-coase-theorem-in-environmental-e>.

of market failures, since the reactions of damaged individuals are themselves externalities against the player that inflicted the damage. This situation can be overcome only if property rights are fully allocated, so that only the market has the right to interfere with the goods of others. Therefore, the destination of property rights is not important, given that individuals are able to trade them efficiently; what matters is the state's ability to allocate them and guarantee a free-trading environment.⁵ The first prominent critic of this approach was Allen Kneese,⁶ who highlighted two main problems. First, there arises a problem of equity, in the sense that it is fairer to compensate a victim of pollution rather than expect him to pay for his health. Second, in the real world, establishing a market without transaction costs is difficult, and in the case of a large number of individuals affected by externalities, it is too expensive to aggregate their preferences and thus create a market.⁷ A case study shows that "the Coase theorem is not robust in the presence of imperfect information, non-maximising behaviour and transaction costs. (...) The use of standard schemes or government intervention may, under some conditions, be a more effective and cost-efficient approach."⁸ This report confirms Kneese's points, showing that application of the theorem is more complicated in practice than in theory.

2.3. *Pigouvian Taxes.*

The theorisation of so-called Pigouvian taxes stems from the work of Arthur C. Pigou.⁹ A public intervention is justified by the difference between the value of the marginal private net product and the value of the marginal social net product. This difference impacts on private and public marginal costs, leading to a situation in which producers have no interest in reducing the losses incurred by society, which are negative externalities. Therefore, public intervention is required in the form of a targeted fiscal policy. The value of the tax should be equal to the external marginal cost, calculated from an ex-post efficiency perspective, leading the producer to reach a maximised level of production net of the taxation.

⁵ Paolo Bosi, *Corso di Scienza delle Finanze*, op. cit..

⁶ Allen V. Kneese, *The Economics of Regional Water Quality Management*, Baltimore, The Johns Hopkins Press and Resources for the Future, 1964.

⁷ *Ibidem*.

⁸ Jens Abildtrup, Frank Jensenb, and Alex Dubgaardb, *Does the Coase theorem hold in real markets? An application to the negotiations between waterworks and farmers in Denmark*, Journal of Environmental Management, 93 (2012), p. 169; <https://www.ncbi.nlm.nih.gov/pubmed/22054583>.

⁹ Arthur C. Pigou, *The Economics of Welfare*, London, Macmillan and Co., 1920.

As in the case of the Coase theorem, the transition from theory to policy is very complicated. In fact, it is difficult for a public authority to gather information about every producer's marginal costs and optimal levels of production in order to calculate the right amount of the tax. Furthermore, assuming that this amount is determined, it would remain valid only in the short term, i.e. for as long as industrial activities remain the same. Any increase or decrease in the number of firms would make it necessary to recalculate the tax.¹⁰ Italian legislation adopted as a result of the Kyoto Conference provides a current example of the Pigouvian tax.

2.4. *Transferable Pollution Rights: the Basis of Cap-and-Trade Policies.*

The proposal of transferable pollution rights seeks to decrease negative externalities by combining the role of public institutions with the market economy. In this scenario the state provides pollution rights in the form of vouchers which limit companies' emissions to a given level. The total amount of permitted pollution is thus politically decided, and the assignment of the rights should be based on efficiency and equity criteria. After this phase, producers will start bargaining the value of these vouchers and redistributing them, according to their own individual cost-benefit evaluations. The placing of a limit on the total number of allowances in circulation ensures that they have a value, and this whole process should result in their optimal distribution.¹¹ According to the International Monetary Fund,¹² choosing between a carbon tax and the above-described Emissions Trading System (ETS) is less important than getting the design basics of the chosen option right. The important thing is to cover emissions comprehensively, establish stable prices in line with environmental objectives, and exploit fiscal opportunities. The ETS actually presents some weaknesses: the permits concern only certain polluting activities and therefore do not achieve full coverage; they

¹⁰ Dennis W. Carlton and Glenn C. Loury, *The Limitations of Pigouvian Taxes as a Long-Run Remedy for Externalities*, *The Quarterly Journal of Economics*, 95, n. 3, (1980), p. 559. Richard N. Cooper, Peter Cramton, Ottmar Edenhofer, Christian Gollier, Eloi Laurent, David JC MacKay, William Nordhaus, Axel Ockenfels, Joseph Stiglitz, Steven Stoft, Jean Tirole, and Martin L. Weitzman, *Global Carbon Pricing. The Path to Climate Cooperation*, Cambridge, Mass, The MIT Press, 2017.

¹¹ Paolo Bosi, *Corso di Scienza delle Finanze*, *op. cit.*.

¹² Mai Farid, Michael Keen, Michael Papaioannou, Ian Parry, Catherine Pattillo, Anna Ter-Martirosyan, *et al.* *After Paris: Fiscal, Macroeconomic, and Financial Implications of Climate Change*, Staff Discussion Notes No. 16/01, International Monetary Fund, 2016; <https://www.imf.org/en/Publications/Staff-Discussion-Notes/Issues/2016/12/31/After-Paris-Fiscal-Macroeconomic-and-Financial-Implications-of-Global-Climate-Change-43484>.

require accompanying price stability provisions, and furthermore, the allowances have to be put to auction in order to obtain revenue to finance broader fiscal policies. This theoretical design has been adopted in different areas of the world, in particular by the European Union.

3. Taxing Pollution and Supranational Institutions

3.1. *The Game Theory Approach.*

Game theory is a discipline that lends itself very well to studies on the management of environmental problems as it can accurately describe certain situations that typically arise during the process of negotiating international agreements on climate. Intergovernmental conferences in this field commonly adopt the “pledge-and-review” scheme, which basically means that states are required to fulfil certain tasks and present reports on their efforts. The “pledge and-review” scheme creates a competitive environment whose outcome is similar to the “tragedy of the commons” situation.¹³ Accordingly, the dominant strategy of the actors, assuming that they are self-interested and fully informed on the relative benefits and costs, is to avoid cooperation because they cannot influence another player’s behaviour. The Nash equilibrium¹⁴ is a non-cooperative solution, and it arises because acting virtuously alone is relatively less advantageous than refusing to act. The following table schematises simply the situation described, showing the players’ outcome in the short term; the solution corresponding to a Nash equilibrium is shown in bold.

	B cooperates	B does not cooperate
A cooperates	(+ ; +)	(- - ; ++)
A does not cooperate	(++ ; - -)	(- ; -)

¹³ This phrase was first used by G. Hardin in 1968 (G. Hardin, *The Tragedy of the Commons*, Science, 162 (1968), p. 1243; <http://science.sciencemag.org/content/162/3859/1243.full>) to describe situations where freely accessible goods, whose ownership is not clearly defined and whose exploitation is not regulated, are inevitably bound to run out because of the exploitation by individuals pursuing only their own interests (free-riders). The tragedy can only be avoided if the ownership of such goods is clearly defined and their exploitation is regulated by the owners.

¹⁴ J.F. Nash, Jr demonstrated that in a game in which each player chooses his strategy in order to obtain the highest profit, none of the players is interested in changing his strategy unless another player changes his own (strategic rationality). If each actor adopts a dominant strategy, i.e. adopts the choice giving him the highest pay-off taking into account opponents’ expected moves, a Nash equilibrium is reached. In the case of the tragedy of commons, a Nash equilibrium, given the interaction of actors’ dominant strategies, leads to a non-cooperative and therefore sub-optimal solution.

The traditional response to this dilemma, which condemns the international arena to impotence, is to create a supranational power that can force states to cooperate: this new political actor should be capable of enforcing laws that will decrease the pay-off for non-cooperative behaviours. But, since this political development is not in sight, many scholars from the “Carbon Price Project” have proposed a new approach for promoting international cooperation.¹⁵ The idea is to evaluate each state’s contribution and redistribute, in equal parts, the sum raised at international level. Assuming that the players each start off with two units, and that the redistributed resources double in value, with the excess being assigned to a third player, each actor’s final pay-off would be equal to the non-redistributed resources plus the value of the states’ minimum contribution multiplied by two. For example, if one of the states does not contribute, nothing is redistributed to it, and therefore its pay-off is equal to the starting resources. Therefore, it is in the states’ interest to all redistribute the same amount of resources. This new approach, known as the “common commitment game”, can be summarised in the following table.

	B gives 0	B gives 1	B gives 2
A gives 0	(2 ; 2)	(2 ; 1)	(2 ; 0)
A gives 1	(1 ; 2)	(3 ; 3)	(3 ; 2)
A gives 2	(0 ; 2)	(2 ; 3)	(4 ; 4)

This situation provides multiple Nash equilibria, since, unlike what we saw in the first case, there is no single dominant strategy. Therefore, actors will coordinate their action in order to achieve the maximum outcome, i.e. the desirable solution given the environmental needs.

The main critical issue with the game theory approach is the fact that it considers states as individual and homogeneous players. It is thus difficult to imagine that political choices, like putting a price on carbon emissions, can be determined only by the national interest and the decisions of other states. For massive cooperation to be achieved, each state involved in the process has to choose to massively cooperate. If only one state refuses, the whole game ceases to be a useful tool. Another

¹⁵ Richard N. Cooper *et al.*, *Global Carbon Pricing. The Path to Climate Cooperation*, *op. cit.*.

concern is that the role of the game regulator is not well identified, and were this regulator to be an international organisation, such as the World Bank or the UN, it would also lack democratic accountability. Furthermore, if no enforcement is envisaged, the international arena would remain the same, with the issue of carbon pricing continuing to be left to intergovernmental negotiations. Even though this outcome might amount to a practical success in relation to a specific issue, it would not contribute to the creation of a supranational democratic institution. In conclusion, game theory is useful for understanding why international agreements fail, but, since it is based on self-interested actors, it cannot serve as a roadmap for achieving a supranational democracy.

3.2. International Conferences on Climate.

Game theory is a useful means of analysing why numerous international climate change conferences based on the “pledge-and-review” method have failed. The Kyoto Conference,¹⁶ for example, must be considered a failure because, after declaring an overall common commitment to decreasing emissions by a given percentage, the states decided to act individually. Moreover, on July 25, 1997, the US Senate passed the Byrd-Hagel Resolution, which blocked any attempt to adopt the measures envisaged in Kyoto. American senators were concerned about the relative advantage developing countries would obtain if developed ones were forced to cut their emissions. In particular, the text of the resolution states: “The United States should not be a signatory to any protocol (...) which would mandate new commitments to limit or reduce greenhouse gas emissions (...) unless the protocol or other agreement also mandates new specific scheduled commitments to limit or reduce greenhouse gas emissions for Developing Country Parties within the same compliance period, or would result in serious harm to the economy of the United States”.

The Paris Agreement¹⁷ is based on a different concept, in fact the treaty will become binding only if a minimum number of countries sign it. Its text states that the “agreement shall enter into force on the thirtieth day after the date on which at least 55 Parties to the Convention accounting in total for at least an estimated 55 percent of the total global greenhouse gas emissions have deposited their instruments of ratifica-

¹⁶ https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=XXVII-7a&chapter=27&clang=_en.

¹⁷ https://unfccc.int/sites/default/files/english_paris_agreement.pdf.

tion, acceptance, approval or accession”. These numbers suggest that only a common action on the part of the world’s biggest polluters, which are always reluctant to ratify agreements of this kind, would really have the power to breathe life into the treaty. Moreover, the Paris Agreement requires all Parties to put forward their best efforts through nationally determined contributions and to strengthen these efforts in the years ahead, and to report regularly on their emissions and on their implementation efforts. This mechanism is actually very reminiscent of the “pledge-and-review” scheme that has failed to bring success to the Kyoto Conference.

4. National and European Environmental Policies

Having briefly outlined the two most famous international conferences on climate change, and their weaknesses, let us now look at the situation on the European stage, both at national and EU level.

4.1. *National Level: Carbon Taxes.*

Since the EU lacks the features of a fiscal union, only its member states have the power to implement fiscal policies. In Italy, the first law regulating taxation on emissions is law no. 448/1998 *Public finance measures for stabilisation and development*, where article 8, paragraph 1 states: “In order to pursue the objective of reducing carbon emissions, in accordance with the conclusions of the Kyoto Conference of December 1-11, 1997, excise duty rates on mineral oils must be recalculated (...)” The second paragraph states that the change in these rates must not increase the overall tax burden on citizens. Therefore, paragraph 10 provides that the increased revenue generated should be offset by a reduction of fiscal pressure on certain other budget lines. Therefore, Italy transposed into law the principles of the Kyoto Conference, but the result was limited to a reallocation of fiscal burden, without introducing any funding of political instruments to further cut carbon emissions.¹⁸ Currently the country taxes oil products when these are used to produce energy. This case constitutes an exception to the EU’s “Energy Tax Directive”, which envisages a fiscal drag on electricity output.¹⁹ Among the various national policies, an interesting

¹⁸ Italian Law no. 448 of 23 December 1998, *Misure di finanza pubblica per la stabilizzazione e lo sviluppo*, Gazzetta Ufficiale, n. 302, 29 December 1998, supplemento ordinario n. 210/L; <http://www.camera.it/parlam/leggi/984481.htm>.

¹⁹ OECD. *Taxing Energy Use 2018*. Paris, OECD Publishing, 2018; <https://www.oecd-ilibrary.org/content/publication/9789264289635-en>.

case study is the *British Climate Change Levy*. As McEldowney and Salter show,²⁰ the CCL falls short of being a carbon tax and is, in effect, an energy tax, but, as indicated, the tax rate does not vary directly in relation to the carbon content of fuels. In its own terms, it has nevertheless made a contribution to achieving the UK climate change targets. Estimates vary, but savings of 12.8 million tonnes of carbon dioxide are calculated to have been made between 2001 from 2010, which corresponds to a 20 per cent reduction in carbon emissions.²¹ The example provided indicates that a national policy could achieve important results, even if coordination with other countries is not ensured.

4.2. EU level: Emissions Trading System.

The European Union's Emissions Trading System (EU ETS) was established in 2005 and it concerns the countries of the European Economic Area, i.e. the EU member states plus Iceland, Liechtenstein and Norway. It covers around 45 per cent of greenhouse gas emissions in this area. The whole operation was divided into three phases. Phase 1 (2005-2007) covered only CO₂ emissions from power generators and energy-intensive industries, and free allowances were distributed. In phase 2 (2008-2012), a lower cap on allowances was set: the proportion of free allocations fell slightly to around 90 per cent, several countries held auctions, and the penalty for noncompliance was increased. In phase 1, trading volumes rose from 321 million allowances in 2005 to 1.1 billion in 2006 and 2.1 billion in 2007. Currently, the programme is in phase 3, whose main feature is the application of a single, EU-wide cap on emissions in place of the previous system of national caps. Auctioning is the default method for allocating allowances (replacing free allocation), and more sectors and gases have been included. Phase 4 will start in 2021 and end in 2030, the official term envisaged by the Paris Agreement. To achieve the EU's target of an at least 40 per cent reduction, the sectors covered by the ETS must reduce their emissions by 43 per cent compared with 2005.

The EU ETS has two main limits: it covers only part of the total emissions, and the revenue from auctions is available only to the member states, not to the EU. Moreover, most of the credits gained have been used to finance domestic activities. The main revenue use categories are

²⁰ John McEldowney and David Salter, *Environmental taxation in the UK: The Climate Change Levy and policy making*, Denning Law Journal, 27 (2015), p. 37; <http://ub-plj.org/index.php/dlj/article/view/1276/1139>.

²¹ *Ibidem*.

renewable energy (2.89 billion euros, or 40.6 per cent of total revenue use), energy efficiency-related spending (1.95 billion euros, or 27.4 per cent), and sustainable transport (774 million euros, or 10.9 per cent).²²

5. Conclusions

As we have seen, the current projects can be divided into two categories: carbon pricing and cap-and-trade policies. The first solution does not require the creation of supranational democratic actors, since it is based on cooperation between individual states. An “internationally-harmonised domestically-collected carbon price” is sustainable.²³ The second one, on the other hand, needs supranational actors able to coordinate states and create a common scheme: democratic accountability is thus not mandatory. The purpose of this paper was to analyse the specific issue of carbon emissions, and the fiscal instruments set up by governments to limit them. But every report indicates that a successful environmental action can only derive from a combined recipe of proposals, which includes both state-led and market-led initiatives and embraces interventions of different kinds. In order to efficiently implement a combination of these policies, citizens and governments will likely require supranational institutions, as French president, Emmanuel Macron, recently declared. In a speech on green finance delivered in Brussels on March 28, 2018, he stated that European citizens need a true European system of own resources in order to sustain a green and durable economy. Consequently, an autonomous budget would ensure the capability to make important investments in infrastructures and projects in the field of ecological transition. This budget must not be incompatible with environmental purposes or other policies, and indeed must offer new instruments that may contribute to the pursuit of the ecological vision. Macron then proposed the implementation of a border tariff as an instrument to finance a European budget line for environmental policies.²⁴ This sort of green dumping seems in-

²² Xavier Le Den, Edmund Beavor, Samy Porteron, and Adriana Iliescu, *Analysis of the use of Auction Revenues by the Member States*, European Commission, 2017; https://ec.europa.eu/clima/sites/clima/files/ets/auctioning/docs/auction_revenues_report_2017_en.pdf.

²³ Martin L. Weitzman, *Can Negotiating a Uniform Carbon Price Help to Internalize the Global Warming Externality?* Harvard Project on Climate Agreements, *Journal of the Association of Environmental and Resource Economists*, 1 (2014), p. 29.

²⁴ Emmanuel Macron, *Discours du Président de la République à la conférence sur la finance verte*, Brussels, March 2018; <https://en-marche.fr/articles/discours/discours-du-president-de-la-republique-a-la-conference-sur-la-finance-verte>.

teresting but also rather unrealistic, especially given that Germany, which has important commercial interests with carbon-dependent countries, would likely oppose it. Nevertheless, the whole proposal fits in with Macron's idea of a sovereign Europe, whose realisation requires a democratically controlled eurozone budget funded with European own resources. This is currently the only position held by a European head of government that calls for the creation of new supranational institutions, and therefore its success is important to all those who wish to see the creation of democratic institutions above the level of the national states.

Federico Bonomi

CAN THE EUROPEAN UNION'S “DEMOCRATIC DEFICIT” BE FIXED THROUGH INSTITUTIONAL SOLUTIONS?

Democratic institutions, continually subject to challenge and change, are not static features of the political arena. European democracy has evolved substantially over the past fifty years in tandem with political developments. An expanding European Union is conferring substantial power on supranational institutions far removed from the people, if not fully independent of them.¹ This situation raises questions about the character of present and future democracy in Europe: who will do the governing and to whose interests should the governments cater when the people are in disagreement and have divergent preferences?² “Democratic deficits” can potentially derive from both the input and the output of the political process, in the first case meaning that citizens are not adequately represented in the legislative process, and in the second that policies do not adequately reflect voters' preferences.³ Democracy needs to be based on consensus and par-

¹ P.A. Hall, *Institutions and the Evolution of European Democracy*, in J.E.S. Hayward and A. Menon, (ed.s), *Governing Europe*, Oxford, Oxford University Press, 2003, p. 1.

² A. Lijphart, *Patterns of Democracy: Government Forms and Performance in Thirty-six Countries*, New Haven – London, Yale University Press, 1999.

³ C. Crombez, *The Democratic Deficit in the European Union: Much Ado about Nothing?*, *European Union Politics*, 4, n. 1 (2003), p. 103.

ticipation, especially in Europe, given the size and variety of the political communities that form the EU. In the next paragraph, I analyse the “democratic deficit” concept in more depth, before setting it in the context of the European Union. Looking at the historical evolution of the European institutions and at their current structure, I argue that the “democratic deficit” in Europe lies in the lack of *government for the people* and *government by the people*. It is nevertheless necessary to define these two categories and identify their boundaries. To do so, I refer to Mosca’s⁴ definition of political institutions, according to which representative democracy is a political system that offers the public some voice in the selection of the political elite, but cannot erase fundamental inequalities of power, with the result that societies differ primarily according to how their institutions provide for a “circulation of elites”; I then consider the current status of the European elites.

An analysis of democracy in the European Union needs to take into account two different relationships. First, there is the relationship between the citizens and the EU institutions, which is relevant to the issue of democratic representation (input): are the citizens of European countries well represented in the EU institutions? This question requires an analysis of the political arena generally, and whether it meets three basic conditions: 1) the existence of a public opinion, which makes the political process transparent; 2) the existence of a legislative process that does not involve too many levels of delegation, because delegation introduces noise; 3) the protection of minority rights.⁵ With regard to this question of representation, it is crucial to understand that at European level it is not enough to have only national representation, meaning “all countries should be represented”; there must also be political representation, in the sense that members of supranational institutions should discuss issues from a political, rather than only a technical, perspective. The second relationship is that between the European Union and Europe’s national states: over the course of European integration, the national states have delegated competences to supranational bodies. However, since the complex system of the European Union means that supranational institutions create regulations, but the national states are still the ones implementing policies (output) in the areas most important for guaranteeing citizens *de facto* rights (i.e. the area of labour markets and that of social

⁴ G. Mosca, *The Ruling Class*, New York, McGraw Hill, 1939.

⁵ C. Crombez, *op. cit.*, p. 105.

policies), it is crucial to understand whether the states can operate within the boundaries set by the European Union. Considering these two relationships together, and continuing to bear in mind Mosca's definition, the question is: were the citizens of the European member states given the opportunity to vote on their representatives in the supranational institutions that set the rules by which their national governments must abide in acting on their preferences (and indeed on the very creation of these institutions)?

A brief historical excursus is needed in order to answer this question. Europe's three main institutions, those that today hold legislative and executive power, namely the European Parliament and the Council of the European Union in the first case, and the Commission in the second, were originally created as European Coal and Steel Community (ECSC) institutions under the Treaty of Paris of 1951, albeit with different names and functions. The prime ministers of six European countries signed this Treaty and subsequently the Treaties of Rome. Thereafter, the institutions evolved over time and welcomed new members, until eventually, in 1976, a decision of the European Council introduced elections to the European Parliament by universal suffrage; the first such elections took place in 1979. Today, the President of the Commission is elected by the European Parliament on the proposal of the European Council, while the Council of the EU is made up of the national states' representatives (nationally elected representatives holding ministerial posts within their own governments). Going back to Crombez's basic conditions for representation,⁶ it is fair to say that the *vox populi* was not central in choosing the elites that created the European institutions⁷ and that the system they built is complex and characterised by a high degree of delegation. A fundamental step in Europe's integration was the Maastricht Treaty, signed in 1992, which created the Economic and Monetary Union; thereafter, further steps were taken in this direction, too, leading to the creation of the European Central Bank, followed by the launch of the single currency. The ECB assumed control of the monetary policy of the countries that had signed up for the single currency, and the introduction of the euro led to convergence of interest rates across all the Eu-

⁶ *Ibidem*, p. 104.

⁷ L. Hooghe and G. Marks, *A Postfunctional Theory of European Integration: From Permissive Consensus to Constraining Dissensus*, *British Journal of Political Science*, 39, n. 1 (2008), pp. 5-6.

ropean states involved. Fiscal policy, on the other hand, remained in the hands of the national governments but was (in theory) subject to strict limitations.⁸ Since then, sporadic and often inconsistent attempts have been made to align these national economies, which, however, continue to differ structurally, and in terms of the citizens' priorities and preferences, with the result that policy output may diverge, as the eurozone crisis has indeed shown. In addition, to date, the sanctions that exist for violations of the strict fiscal policy rules have never been imposed.

With the citizens never having been able to choose, other than in a very indirect way, the elites representing them at supranational level, the lack of a European public opinion is a striking feature of the EU. That said, over time the institutions have evolved in a way that has given the EU an institutional framework that is not fundamentally undemocratic, by which I mean that a system consisting of a bicameral legislature and an executive can function democratically. The issues on which the democratic deficit debate has often focused in recent years, such as the precise composition of the institutions and the voting mechanism used within the Council, are interesting and important, but they do not fundamentally affect the institutional framework.⁹ What is crucial, therefore, is the question of the "circulation of elites" within this framework. The behaviour of the elites, which translates into EU decision-making, is actually influenced more by what they consider to be national interests than by class conflict¹⁰ or any other forms of social division that might be present within national societies. One reason for this is that the differentiation between delegation and subsidiarity within the EU is so complex that it becomes impossible to trace clear lines of accountability. As a result, the citizens are left struggling to understand Europe's multi-level political dynamics, and the whole process of governance is left looking less than transparent. Furthermore, given the European Parliament's limited powers, competition between political parties standing in European elections is not really meaningful as they shoulder no concrete responsibility for common policies, and elections therefore end up be-

⁸ P. De Grauwe, *Design Failures in the Eurozone: Can They Be Fixed?*, London School of Economics *Europe in question* discussion paper series, 2013, http://ec.europa.eu/economy_finance/publications/economic_paper/2013/pdf/ecp491_en.pdf.

⁹ C. Crombez, *op. cit.*, p. 115.

¹⁰ S. Hix, *The Political System of the European Union*, London, Macmillan, 1999.

ing fought on national issues. Accordingly, rather than pressing for circulation of elites at EU level, a first step would be to actually empower them. The fact that there exists no underlying sense of collective European identity, no European-wide political debate, and no European institutional infrastructure able to ensure the political accountability of those who hold political office at European level means that there is actually a triple deficit that seems impossible to overcome,¹¹ especially if we consider the failure to solve any of these problems prior to Europe's eastward enlargement, since when they have only been exacerbated. In short, within Europe's political organisation, there is no *government by the people*.

Moving on to the second aspect, that of policy output, or *government for the people*,¹² the importance of the subsidiarity principle emerges clearly if we ask the question: do the regulations passed by the highly delegated and technical European elites leave enough political and, more importantly, economic room for national or local policy-making? The democracy issue is less clear cut here than in the case of the need for *government by the people*, but nevertheless if the institutions were to pursue policies granting economic and social rights, then concerns over democratic representation should at least diminish. However, various problems immediately emerge: Europe's capacity for positive integration is systematically limited by the plurality of national interests, which reflects the diverse identities present within the nation states. For this reason, European-level policy is strongest in the field of negative integration, where the Commission and the European Court of Justice have not encountered political obstacles in expanding the scope and intensity of market competition; for this reason, the policy options open to the governments of Europe's capitalist economies have been considerably reduced, yet without this reduction being offset by a commensurate increase in the capacity for government at European level.¹³ This rather broad statement is concretely illustrated by the Maastricht Treaty, which transferred monetary policy power to a non-elected body, the ECB, allowing it to set interest rates auto-

¹¹ F. W. Scharpf, *Governing in Europe: Effective and Democratic?*, Oxford, Oxford University Press, 1999, p. 187.

¹² *Ibid.*, p. 188.

¹³ W. Streeck, *From Market-Making to State-Building? Reflections on the Political Economy of European Social Policy*, in S. Leibfried and P. Pierson, (ed.s), *European Social Policy: Between Fragmentation and Integration*, Washington, Brookings, 1995, pp. 389-431.

mously. The Treaty also laid down strict fiscal policy rules that leave the national governments little room for budgetary manoeuvre, especially in emergency situations, as the eurozone crisis has shown.¹⁴ From the perspective of the balance of power between the EU member states, it should be remarked that the introduction of the euro has placed macroeconomic performances at the top of the European institutions' agenda. Since the crisis, the difficulty of accommodating different economic structures and different types of welfare programme has been reflected in the formation of two opposing blocs, the northern European countries, headed by Germany, versus the southern ones. As the balance of power has favored the imposition of northern economic rigour, the southern nations have been left with even less scope for intervention. It is not my intent to support a "sovereignist" position here, but the analysis presented in this paragraph shows that the "move to the market"¹⁵ is a consequence of the lack of scope for positive integration in the EU. In addition to that, in the wake of the crisis, diverging economic cycles have made it even more difficult to pursue *government for the people*.

According to Moore,¹⁶ the development of democracy is a struggle to do three things: 1) identify arbitrary rules; 2) replace arbitrary rules with just and rational ones; 3) ensure that the population has a say in the making of the rules with which they have to comply. Numbers two and three are the steps that European democracy needs to realise in order to ensure government both *for and by the people*. However, solutions will not be found overnight. The current development of a European Banking Union may be considered an important step forwards in terms of avoiding the problem of diverging scenarios in times of crisis, while also increasing supranational surveillance of the banking system (and, indirectly, of national finances). In this regard, however, a paradox arises: the northern countries are opposed to the mutualisation of debt that would be required in order to complete the Banking Union, since they believe that their southern partners should first manage to reduce their debts; but at the same time, the latter, to the extent that austerity policies continue to be implemented, find themselves with very

¹⁴ Y. Dafermos, *Debt Cycles, Instability and Fiscal Rules: a Godley-Minsky Model*, Economics Working Paper Series No. 1509 (2015), University of the West of England, https://www.boeckler.de/pdf/v_2015_10_24_dafermos.pdf.

¹⁵ P.A. Hall, *op. cit.*

¹⁶ B. Moore, *Social Origins of Dictatorship and Democracy: Lord and Peasant in the Making of the Modern World*, Boston, Beacon Press, 1996.

little scope for achieving this objective without cutting wages and social protection. This issue is harshly debated both in academia^{17, 18} and in the institutions. This specific situation sheds light on a bigger picture: Europe's supranational institutions were created by European states and have since been maintained by them, yet the states are unwilling to assign further power to them. This is illustrated by the fact that the Council is currently the most powerful institution, and probably the least transparent. Increasing the powers of the European Parliament, or giving the President of the Commission greater popular legitimation, through direct election to this office, would reduce the powers of the Council,¹⁹ and hence of the states' rulers. The complex system of checks and balances in place within the EU means that there is little incentive to move in this direction, as the quest for democracy would be transformed into a fight for power. However, the "small steps" approach to integration will find itself increasingly challenged by the globalised context in which the EU finds itself having to operate. The states' capacity to temper market competition with social protection²⁰ will be depleted as an effect of the growth of international integration, and the question of *government for the people* could well be reduced to little more than an electoral slogan.

In conclusion, the causes of the democratic deficit in Europe lie in the EU's institutional framework. European high officials in Brussels, calling for an "ever-closer union", convinced that there is no alternative to European integration, have continually encountered resistance to their governance in the real world.²¹ Europe's existential crisis is entirely institutional, and the debate hinges largely on a crucial question that puts even greater pressure both on the national states and on the supranational institutions: who will do the *governing for the people* in the future? But the aspect they overlook is the importance of *government by the people*.

Emilio Massimo Caja

¹⁷ A. Benassy-Quéré, M. Brunnermeier, H. Enderlein, E. Farhi, M. Fratzscher, C. Fuest, P. Gourinchas, P. Martin, J. Pisani-Ferry, H. Rey, I. Schnabel, N. Véron, B. Weder di Mauro and J. Zettelmeyer, *Reconciling Risk Sharing with Market Discipline: A Constructive Approach to Euro Area Reform*, Policy Insight n. 91 (2018), London, CEPR.

¹⁸ W. Schäuble, *Non-paper for Paving the Way Towards a Stability Union* (2017), <https://www.sven-giegold.de/wp-content/uploads/2017/10/17-10-10-Non-Paper-BMF-on-Reforming-ESM-09-10-2017.pdf>.

¹⁹ C. Crombez, *op. cit.*, p. 117.

²⁰ K. Polanyi, *The Great Transformation*, Boston, Beacon Press, 1957.

²¹ J. Zielonka, *Is the EU Doomed?*, Cambridge, Polity Press, 2014.

Interventions*

FROM THE EURO TO EUROPEAN FEDERAL DEFENCE: EUROPE AND A NEW WORLD ORDER**

1. *General Considerations.*

The purpose of this essay is to analyse the advances made since the birth of the euro as a federal element of the European Union, right through to the development of the Permanent Structured Cooperation on security and defence (PESCO), which was created in December 2017. We will focus, in particular, on the federal nature of the Economic and Monetary Union (that is, the management of the euro) and on the developments seen in the field of European defence policy. The latter does not yet have a federal scope, even though there is no doubt that PESCO is federally inspired and will possibly develop further in this direction in the future.

The changes in Europe (and in the world) that began in 1989 made it necessary to transform the “old” European Community, an economic organisation, into the European Union, a political one. This transformation was brought about by the Treaty of Maastricht, which was signed in February 1992 and has been in force since January 1993. This Treaty established the bases for creating the Economic and Monetary Union, which, however, did not become a reality until 1 January 1999, the year that saw the birth of the euro as an international currency. The EU’s Common Foreign and Security Policy, which stemmed from the same Treaty, was launched in 1993.

* The “Interventions” section contains articles that the editor feels may be of interest to our readers, even though they do not necessarily reflect the ideas espoused by this review.

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Europe's first initiatives of a defensive nature resulted from the implementation, at the beginning of the 21st century, of the Common Security and Defence Policy (CSDP), which made provision for crisis management operations. The basis of the CSDP was set out in the Treaty of Lisbon, in force since 2009; indeed, it is here that, for the first time, reference is made to territorial defence. However, the application and implementation of a true defence policy, designed to facilitate strategic autonomy of the European Union, was probably not seen until the creation of PESCO in December 2017, and at present this policy is still evolving, largely as a result of the implementation of the *Global Strategy for the European Union's Foreign and Security Policy*, which was unveiled in June 2016.

This birth and launch of a European defence policy can be seen to have been prompted, to a large extent, by three factors: the growing threats posed to the European Union since 2014 (as a consequence of, first, the illegal annexation of Crimea by Russia and, second, the birth and expansion of the so-called Islamic State and jihadist terrorism); the United Kingdom's decision to withdraw from the European Union (Brexit has become an internal federator); and the appointment of Donald Trump, who is demanding the application and development of a European defence policy, as the new President of the United States (an external federator).

2. The Euro as an Expression of the Federal Vision of the European Union.

The last decade of the 20th century was a particularly important time for European unification, as it saw the European Union creating its first federal project, the euro, which was made possible in part by the implementation of a package of economic and social cohesion measures. The creation of the euro was also about making the most of the new, borderless Europe, given that the advantages of the internal market would have disappeared had there remained the possibility of competitive devaluations between member states. For this reason, the Economic and Monetary Union (EMU) emerged as a necessity. In this context, given that a bank cannot function if decisions have to be taken unanimously, the decision-making model had to be federal too.

On 2 May 1998, the European Council decided to launch the third phase of the EMU, and drew up the list of countries that, meeting the convergence criteria, could enter it: Germany, Austria, Belgium, Spain, Finland, France, Ireland, Italy, Luxembourg, the Netherlands and Portugal. That same day, the European Parliament approved the transition

to this third phase, with 468 votes in favour, 64 against and 24 abstentions. At the same time, the members of the Executive Council of the European Central Bank (ECB) were appointed; the ECB, which became operational on 1 January 1999, replaced the European Monetary Institute and assumed responsibility for eurozone monetary policy.

As mentioned, it is important to note the federal character of the ECB's Executive Council, which does not represent all the member states as it has only six members, appointed solely on the basis of their professional expertise. Indeed, the ECB is independent of all political power, and has no relationship with the Eurogroup, a subgroup of the Council that brings together the single currency member states.

At the same time, the exchange rates between the currencies of the participating countries were fixed and a "Council of the Euro" (later known as the Eurogroup), comprising the economy and finance ministers of the member states, was formed. This Council met for the first time in Luxembourg on 4 June 1998.

The importance of the decision to launch the third phase of the EMU was enormous, assuming historic proportions when the euro became a fully-fledged single currency. In this sense, Ramón Tamames went so far as to describe the implementation of the single currency as "a declaration of independence, similar to the one made in its time — the late eighteenth and early nineteenth centuries — by the thirteen American colonies with the unification of the dollar." The importance of the euro is undeniable: it guaranteed monetary stability, homogeneity of inflation and interest rates, and the overcoming of exchange rate barriers; it boosted intra-community trade, and it made the single European currency a means of international payment.

Since the economic crisis, it has been strongly argued that the design of the euro was flawed. Possibly, it represents the most that could be achieved, considering the balance of power at the time. What is clear, however, is that had the decision not been taken at that particular point in time, it might have proved impossible to take it later. Without the Economic and Monetary Union, the effects of the economic crisis for Europe would have been much more devastating than they have been. From its very beginning, the eurozone has represented almost 20 per cent of world's GDP.

It should be noted that the start-up of the third phase was greeted with little enthusiasm in public opinion, as there was no clear understanding of its advantages. On 28 September 2000, 53 per cent of Danish voters, in a referendum, rejected the proposal to adopt the euro in

place of the Danish crown, even though the country's political parties and the EU had campaigned in favour of this. Three years later, on 14 September 2003, a referendum in Sweden was also won by the faction opposed to joining the EMU.

Although Denmark, Sweden and the United Kingdom all decided not to switch to the euro, it was subsequently adopted by other member states: Greece in 2001, Slovenia in 2007, Cyprus and Malta in 2008, Slovakia in 2009, Estonia in 2011, Latvia in 2014 and Lithuania in 2015. Therefore, with the euro crisis of 2012 now firmly behind us, the EMU currently has a total of 19 members, and virtually all the other EU member states are negotiating to join it. In 2018, the euro made up 30 per cent of the currency basket of the International Monetary Fund, whereas the dollar made up 43 per cent, the yuan 11 per cent, the yen 8 per cent, and the pound sterling 8 per cent. In addition, approximately forty states accept the euro as currency even though they do not belong to the EMU.

It is necessary to bear in mind both the federalising character of the single currency and also its role as a federator: it is federalizing because it is the expression of an ongoing political process, and it is a federator because it has had the effect of accelerating this process. Indeed, the Economic and Monetary Union is widely accepted as the factor that can most influence Europe's transition from economic Community to political Union.

This is explained by the fact that monetary policy is managed by the ECB, supranationally and in accordance with a clearly federal model. The functioning of this bank is inspired by the model of the German *Bundesbank*, whose decision-making body also has fewer members than the number of the country's *Länder*. The ECB is the only EU institution with an expressly federal character. Germany, to achieve its unification and demonstrate its commitment to the pursuit of a European Germany as opposed to a German Europe, was prepared to relinquish its highly successful currency, the German mark. In exchange for the disappearance of the mark and its incorporation into the euro, Germany demanded that the European Central Bank use the same system of governance adopted by the German Central Bank, the *Bundesbank*.

The euro, insofar as it is the first clearly federal expression of the European Union, marks the reaching of a new stage in the building of a unified Europe. It is important to understand that the euro is linked to economic and social cohesion and to a social model. We have seen how the Cohesion Fund helps the European states to make convergence possible.

Furthermore, currencies are not neutral, but reflect a model. Whereas the dollar has long been considered “the currency of the empire”, the euro, despite the difficulties it encountered as a consequence of over-zealous application of austerity policies in the second decade of the 21st century, is internationally regarded as an expression of the social market economy, which gives rise to a specific model of society: the welfare society.

3. The Emergence of the European Union as a Global, Normative and Diplomatic Actor.

When analysing the international dimension of the European unification project from its beginnings in the 1950s to the present day, we see that, as a consequence of the Cold War and the bloc policy, Europe was initially merely a passive member of the international community, wielding only limited influence, first as a commercial actor and subsequently as an economic one. It was not until after 1989, when the disappearance of the bloc policy allowed the European construction process to start changing in nature, from economic to — after Maastricht — political, and enabled the progressive development of a common foreign policy, that Europe was able to embark on the process that would see the European Union, from the beginning of the 21st century, emerging as a global player.

There are three main factors that explain the EU’s (albeit sometimes imperfect and contradictory) rise to prominence on the global political stage: a) the increase in its commercial and economic weight, especially following the birth of the single currency as an expression of the welfare society model (the EU accounts for half of the world’s social expenditure); b) the importance of cooperation for development and humanitarian aid (in this field, the EU contributes almost half of the world total) and of Europe’s hefty financing (again amounting to almost fifty percent) of the United Nations system, and c) the only recent (as recent as 2011) establishment of a European common diplomacy, which we will analyse below.

At the same time, since the beginning of the 21st century, the European Union has become a normative actor, to use the expression of Ian Manners, for whom a normative power is one whose power lies in its capacity to transform international rules, in this case in the direction of greater international regulation in the defence of shared values, such as human rights, the rule of law, etc. This international dimension is a consequence of Europe’s internal welfare society model, which implies a balance between markets, society and the state.

Thus, the European Union has actively participated (in some cases taking a leading role) in world governance on issues such as human

rights, the abolition of the death penalty, the International Criminal Court, the Paris Treaty on Climate Change of 2015, and the United Nations' sustainable development goals for 2030, approved in 2015 by the General Assembly and promoted by the European Union. Along the same lines, we must not forget the European Union's important initiative in 2008, when it launched the G20 summits (an arena in which it has become the clear leader), and its impact, in terms of international regulation, through the first ten of these summits, including, most recently, the Hamburg one in July 2017 and the eleventh in Argentina in November 2018.

The emergence and development of the European Union as a diplomatic actor became possible after the entry into force, on 1 December 2009, of the Treaty of Lisbon, which provided for the creation of a common European diplomacy, and thus implied the existence of a "minister" (a role currently filled by the High Representative of the Union for Foreign Affairs and Security Policy, hereinafter, for brevity, referred to as HR), a "ministry" (the central administrative body of the EU foreign service in Brussels), and some "embassies" (or overseas Union delegations). In this role, it is having a great impact, as we will see in more detail below.

As of 2019, these "embassies", which were previously just Commission delegations, number 146 (the two most recently opened ones are in Kuwait and Turkmenistan). They are recognised by states and international organisations, and they are concretely working and developing bodies. They cover practically all of the states represented in the international community, including the 28 EU member states. Furthermore, 10 of the European ambassadors are accredited to more than one state or international organisation. This new diplomacy is different from that of the single member states; officials of the Commission and the Council of the European Union constitute two thirds of it, while diplomats from the member states make up the remaining one third. It is also worth remarking that this new diplomacy increases the rights of citizenship through the provision of consular assistance.

It should be noted that these two diplomacies (national and European) have been operating for more than seven years simultaneously, without a hierarchy between them. Each acts according to its specific competences and they have co-existed in a relationship of "compatibility", albeit never "complementarity". This compatibility, however, does not mean that their coordination invariably works well and has the effect of strengthening the common action of the European Union. Now, however, member states' embassies are starting to close, with some of them being incorporated into the EU ones.

This, then, describes the emergence of the EU as a diplomatic actor, whose fundamental role is to present the global policy of the European Union in an autonomous way, giving it unity and coherence, both in its planning (both with regard to political and security aspects and to external relations, which have some economic dimensions) and in its execution. It should not be forgotten that the HR is also Vice-President of the European Commission. Thus, European diplomacy provides security to the whole of the Union through the external dimension of its common policies and the development of the Common Foreign and Security Policy.

4. The Foreign Policy Innovations of the Lisbon Treaty.

A characteristic of the Lisbon Treaty is that it includes most of the changes introduced by the *non-nata* European Constitution, and does so by means of the so-called veil theory. That is to say, the more visible aspects disappear while the changes remain. As regards the external dimension, the establishment of Europe's own "minister for foreign affairs", "ministry" and also "embassies" was a major element at the core of the Constitutional Treaty. Although the Lisbon Treaty, in accordance with the veil theory, did not use these actual names, it nevertheless embraced all these innovations, through the assignment of new duties to the HR, the setting up of the European External Action Service (EEAS) and, finally, the creation of the aforementioned Union delegations.

The duties of the HR are to conduct the Union's Common Foreign and Security Policy, and draw up and apply proposals (Art. 18.2 TEU). Furthermore, given that the HR presides over the Foreign Affairs Council and, at the same time, serves as Vice-President of the European Commission (Articles 18.3 and 18.4 TEU), he or she can be said to embody two different European identities, the intergovernmental one and the community one. And the result of this, i.e. the existence of "one single mind" in European external action, is a key step forwards in consolidating the EU's role in the international arena. The first HR was Catherine Ashton (2009-2014), and she was succeeded by Federica Mogherini (2014 to the present time).

As stated in Article 27.3 TEU, the EEAS is the HR's executive arm. It is a unique administration that helps the HR to fulfil all his or her commitments. Founded on the basis of the "Council decision of 26 July 2010 establishing the organisation and functioning of the European External Action Service", it is an expression of a common European diplomacy and is considered one of the most significant steps forwards in this field, with considerable impact on different areas. In the context

of the European Neighbourhood Policy, for example, the EEAS has strengthened the traditional role of the European Commission, which was previously criticised for being too technical.

The Union delegations form a network that permits a broader and more consolidated European presence in the external sphere. At present, this network comprises 146 delegations, a large number in comparison with the number of embassies some European countries have. The great advance brought by this development is that, thanks to this new European legal personality, the EU can now be represented in third countries and also within international organisations. The delegations work under the authority of the HR (Art. 221 TFEU).

The EU has been implementing the above-mentioned changes ever since the entry into force of the Lisbon Treaty (December 2009). However, it is under the mandate of the current HR that they are really becoming consolidated, as Federica Mogherini adopts a different stance to that of her predecessor, Catherine Ashton. This consolidation is strengthened further in the framework of the present European Commission, headed by Jean-Claude Juncker, who enjoys more legitimacy as a result of the application of Article 17.7 TEU, which establishes that the President of the Commission should be elected taking into account the results of the European Parliamentary elections.

The appointment of Federica Mogherini as HR in 2014 confirmed the switch towards a more powerful foreign policy. Throughout her mandate she has demonstrated a willingness “to broaden margins, and break through limits”, pushing the European Union forwards as a normative and diplomatic actor far more audaciously than her predecessor Mrs Ashton did. As Federica Mogherini is also Vice-President of the Commission, she is responsible for the coordination of five commissioners in charge of the foreign dimension of the Union. What is more, she will also be responsible for any future defence policy, albeit with the support of the Deputy Secretary General for CSDP, Pedro Antonio Serrano de Haro.

5. Main Innovations of the Global Strategy: Reinforcement and Increased Prominence of the Most Normative Dimension of European External Action.

The *Global Strategy for the European Union's Foreign and Security Policy*, or simply *Global Strategy*, whose main title is *Shared Vision, Common Action: A Stronger Europe*, was finally drawn up after lengthy negotiations and quite a few delays, and officially presented on 28 June 2016. It was more than two years in the negotiating, a process,

conducted under the leadership of the HR, that involved representatives of the national foreign affairs ministries and of the European Parliament, as well as a group of experts from different countries. This explains why it was only presented and not approved at the European Council of June 28.

Although the Global Strategy was widely criticised for having been presented five days after the Brexit referendum and a few months before Trump's victory, its presentation actually proved particularly timely, providing the European Union with a clear strategy that has allowed it to cope collectively with these new unforeseen challenges, achieving common positions of great significance and some effectiveness, as highlighted by assessments carried out by the EEAS, specifically on 25 June 2017 and 25 June 2018.

Previously, traditional approaches highlighted the tension that can exist between the defence of national interests and the moral principles that should underlie the policies conducted by member states. However, with the new Global Strategy, the EU has started moving in a direction that underlines the difficulty of separating interests and values, insofar as the two complement each other and come together as an indivisible part of its foreign policy.

The Global Strategy document, entitled *Shared Vision, Common Action: A Stronger Europe*, gives prominence to this issue, developing it under the headings "A Global Strategy to Promote our Citizens' Interests" and "The Principles Guiding our External Action". With regard to the interests, the following are identified: peace and security, prosperity and democracy (which includes the promotion and respect of human rights, fundamental freedoms and the rule of law), that is, values; and, finally, a world order based on norms (through multilateralism within organisations, especially the United Nations). Meanwhile, the principles embraced are pragmatism, unity, interaction, responsibility and partnership.

Certainly, the section dealing with principles does not refer to the normative dimension; it only stresses a purely strategic approach. In other words, it looks at "how" the EU should act on the international stage. The reason for this is that interests have been identified as values, which underlines their indivisibility in European external action and, ultimately, the EU's aspiration to impact on the international scene through an ambitious normative promotion campaign.

This approach is a reflection of the EU's own internal nature, as the key values underpinning the European project (peace, democracy, hu-

man rights and fundamental freedoms, i.e. the rule of law) are the very same ones that determine its external action. At the same time, these values are reinforced as universal rules that go beyond the purely community level to assume cosmopolitan value, given that Europe's principles are worked into conventions, treaties and international agreements (especially those reached within the framework of the United Nations) that transcend the purely European sphere.

Thus, the identification of interests as values clearly reinforces the normative dimension of the EU's external action: put simply, in acting on the international stage, the EU intervenes in the modification of norms, pursuing its own values in so doing.

Similarly, pragmatism emerges in the new strategy as one of the principles that must guide European foreign policy, as we have indicated previously. At first glance, this might seem to suggest that Europe has espoused a vision more typical of *Realpolitik*, where utopianism is rejected and, therefore, the ends justify the means. However, this is not the case, since the pragmatism promoted by the EU in the document is clearly underpinned by idealistic aspirations, namely the values that the EU strives to export onto the international stage in order to move towards the "better world" it aspires to reach. Specifically, pragmatism is included in the strategy in order to meet the need for an analysis that is closer to the realities of third-party states, while nevertheless taking Europe's own normative model as a reference. In this way, the EU seeks to correct erroneous analyses that could reduce the effectiveness of its external action.

Within the new strategy, resilience is framed as the third priority of the EU's external action and is defined as "the ability of states and societies to reform, thus withstanding and recovering from internal and external crises." The EU therefore takes into account the dimensions both of the state and of society, since both are indispensable when promoting the necessary changes. In the social dimension, democracy emerges as a crucial European aspect of resilience, with the document indicating that the pursuit of security depends on "a resilient society featuring democracy, trust in institutions, and sustainable development..."

Still on the subject of resilience, Europe's engagement in other parts of the world is multidimensional in nature, being related, among other things, to environmental disasters, humanitarian assistance, energy, culture and even the respect and defence of human rights. In this way, Europe seeks to manage uncertainty by focusing on the main weaknesses that third countries present in order to deepen its involvement in those

areas where it can make a significant difference. This approach must be implemented even in those countries that do not wish to strengthen their ties with the EU. In this sense, the adoption of differentiated and specific (tailor-made) approaches, together with application of the pragmatism principle, is particularly important as it will allow the EU to look for new possibilities to achieve sustainable security.

6. The Repercussions of the Notion of Strategic Autonomy (Contained in the Global Strategy) on the Development of the Common Security and Defence Policy.

With the aim of achieving a common defence, the Treaty of Lisbon took a fundamental step forwards, addressing the question of the provision of instruments of self-defence for the Union, and therefore going beyond the narrower idea of crisis management. To this end, it improved the existing instruments of the CSDP, increasing the cases in which Petersberg tasks can be carried out (even including the prevention of terrorism). It also made it permissible for a Union mission to be entrusted to a member state or group of member states and simplified the procedures for financing tasks.

Given that the new mechanisms of the CSDP were already established by the Treaty of Lisbon — we refer to the defensive alliance, which implies territorial defence (Art. 42.7 TEU), permanent structured cooperation (Article 42.6 TEU), and the European Defence Agency (Art.s 42.3 and 45 TEU), which aims to strengthen cooperation in the area of capabilities —, any further development of the defence policy could only stem from the incorporation, into the Global Strategy, of the principle of strategic autonomy. The solidarity clause between the member states, allowing them to act to prevent and react to terrorist threats or natural disasters or man-made disasters (Art. 222 TFEU), was already incorporated into it.

Most relevantly, the true innovation of the Lisbon Treaty in relation to European defence was the mutual assistance clause, which is the core of the defensive alliance, demanding a mutual defence commitment on the part of the member states, a commitment even more binding than that required under article 5 of the Washington Treaty. Indeed, it is underlined (Article 42.7 TEU) that “if a member state is the victim of armed aggression on its territory, the other member states shall have towards it an obligation of aid and assistance with all the means in their power”.

In order to make this defensive alliance credible, the Treaty of Lisbon envisages the possibility of the existence of a permanent rapid in-

tervention force that can respond immediately to an aggression. This is in fact the permanent structured cooperation referred to in Article 42.6 TEU, which establishes that “Those member states whose military capabilities fulfil higher criteria and which have made more binding commitments to one another in this area with a view to the most demanding missions shall establish permanent structured cooperation within the Union framework”. It therefore envisages that a group of states that have sufficient permanent military capabilities might, if they wish, implement them without the need for unanimity.

What this means is that since December 2009, the date of the entry into force of the Treaty on European Union, there has existed an authentic defensive alliance between the twenty-eight. In other words, since that time the European Union has in fact had a solid legal basis on which to launch a European defence policy. However, until a few months ago, it had remained impossible to do so, because the provisions of the Treaty of Lisbon, for various reasons, had not been implemented. Now, however, it would appear that the situation has changed, and that decisions are being made that will at last make the progressive implementation of a European defence policy possible.

7. The Decisive Steps in the Creation of a European Defence Policy: Permanent Structured Cooperation.

As a consequence of the implementation of the Global Strategy, several steps were taken in the course of 2016 and 2017 towards creating an EU defence policy. These included the Bratislava Declaration on a new relationship with NATO, the European Defence Action Plan, the progress made towards achieving an operational capacity, the creation of the operational headquarters, the European Commission’s launch of an investment fund for defence and, especially, the important steps taken towards permanent structured cooperation.

The Joint Declaration by the European Commission and the NATO Secretary General, following an informal meeting of 27 European Union defence ministers on 26 and 27 September 2016 in Bratislava, clearly showed that the EU and NATO are looking to establish a new relationship based on joint work and mutual support; it provided confirmation of a new climate and signalled acceptance of the Global Strategy. It was further elaborated upon in the conclusions adopted by the respective Councils, which include more than forty proposals.

This declaration is the breakthrough that will allow the European Union to develop its PESCO, since it is the first time that a clear coop-

eration has been established between these two organisations on the basis of their acceptance of the principle of compatibility, which allows the development of a non-hierarchical relationship. The development of a European self-defence mechanism, through PESCO, will become more evident once this is achieved.

The European Defence Action Plan, adopted by the European Commission and published on 30 November 2016, develops the *Global Strategy for the European Union's Foreign and Security Policy*. Its objective is to create the conditions that will allow the ambitions of the Strategy to be realised. It presents different proposals, including a common defence market or the use of the Community budget, in order to help promote unity in the field of defence. The most ambitious proposal, which is already under way, is the creation of a European defence fund with two "windows", one for research and the other for capability.

The European Council of 15 December 2016 set out to achieve "the establishment of a permanent operational planning and conduct capability at the strategic level, and the strengthening of the relevance, usability and deployability of the EU's rapid response toolbox", in order to make the principle of strategic autonomy, which will be developed in subsequent Foreign Affairs Councils, a reality.

In the course of 2017, various measures were taken, including the decision of the Foreign Affairs Council of 6 March 2017 to establish a military planning and conduct capability with the aim of immediately launching it to lead a group of crisis management structures that are already operational. This is considered to represent the embryo of a general headquarters; however, the creation of the latter was not decided due to the veto by the United Kingdom, based on its view that this should be an exclusively NATO headquarters.

The Foreign Affairs Council of May 2017 addressed the key principles of the governance scheme of the permanent structured cooperation. It reviewed some of the measures that illustrate the development and implementation of the first steps that were taken towards a defence policy, with the expectation that there would follow others in the same direction throughout the rest of 2017, a fundamental year in this field. Furthermore, in June, the European Commission presented its report reflecting on the future of Europe in the field of defence policy, in which it set the common objectives for 2025.

It has become essential to activate permanent structured cooperation, regulated by Articles 42.6 and 46 TEU and Article 1 of Protocol No. 26; this is a commitment made in Juncker's agenda *A New Begin-*

ning for Europe, as well as in various parliamentary resolutions, especially most recently, the European Parliament resolution of 16 March 2017 on constitutional, legal and institutional implications of a common security and defence policy: possibilities offered by the Lisbon Treaty, where Point 30 “underlines the importance and necessity of participation in permanent and efficient structured cooperation by all member states willing to advance their defence integration to the highest level of ambition” and says that it is believed “that a permanent ‘European Integrated Force’ (EIF) should be set up as a multinational force”.

Perhaps the most important decisions are those adopted by the European Council, on 22 and 23 June 2017, on the development of the CSDP, and especially on permanent structured cooperation. Its conclusion number 8 says that in order to “strengthen Europe’s security and defence in today’s challenging geopolitical environment and to help reach the level of ambition of the EU expressed in the EU Global Strategy, the European Council agrees on the need to launch an inclusive and ambitious Permanent Structured Cooperation (PESCO).”

This proposal is now being implemented following the decision taken at the Foreign Affairs Council on November 13, 2017, where the constituent act of PESCO was approved by all the member states except Denmark, Malta and, of course, the United Kingdom. Thus, PESCO and its thirty projects are now coming into being, both formally and materially.

8. *Europe and a New World Order.*

It is not clear that there exists a new world order. What is clear, at least, is that the liberal order and the multilateral system created in the wake of the Second World War is being sorely tested. The most significant changes are the loss of the relevance of the so-called Western bloc and the rise of the developing world: China and the whole of Asia in particular. Added to this is the United States’ successive abandonment of international multilateral institutions.

In the Western bloc, too, especially since Trump became US president, political and economic tensions between Europe and the United States have been growing, even to the point of threatening to trigger a trade war (a risk that was averted in July after a truce was reached between the President of the United States and the President of the European Union), as have tensions over security and defence.

With regard to this latter area, even cooperation within NATO is not at its best; and to this we must also add the problems with Russia (es-

pecially since its illegal annexation of Crimea in 2014), the ongoing problem of jihadist terrorism, and the tensions in the Sahel region, which have worsened in the past year or more. Against all this, however, we have seen the almost complete elimination of the so-called Islamic State as an actor with a significant territorial presence.

Contrary to previous expectations, the role of the European Union has been growing stronger, particularly since the Brexit referendum, as there has been an increase in the level of cohesion between the states, the institutions and the citizens. This has not only had the effect of considerably changing the citizens' perception, as demonstrated by the latest Euro-barometers, i.e. those from winter 2016 onwards — these have shown better levels of acceptance of the European project, in some regards even better than the levels recorded prior to 2007 —, but also brought about a relaunch of the community process as a whole.

This situation has led the European Commission to dominate the negotiation of Brexit, which might still culminate in a UK-EU agreement amounting to “differentiated integration from the outside” (until now the UK's differentiated integration has always been “from within”). Indeed, while the United Kingdom, from 30 March 2019, will cease to participate in the Union's institutions as a result of its withdrawal, such an agreement would allow it to continue to belong to the European bloc, possibly as Norway does now.

Over the years, the UK has chosen not to participate in several important developments of the EU, such as the EMU, the Schengen Agreement on the free movement of people, and certain aspects of social policy, among others. In the future the UK will likely continue to participate in some aspects of European integration but will not participate in its institutions. This is what we mean by differentiated integration from the outside.

It will continue to be an economic partner and a neighbouring country; it will cooperate closely with the EU in the field of internal security; it will also participate to some extent in European foreign (and also security and defence) policy. In short, as we have seen since May 2018, when the President of the United States, Donald Trump, decided to withdraw the United States from the nuclear agreement with Iran, the United Kingdom has tended to align itself, alongside France and Germany, on the European side. At present, the United Kingdom, with all its peculiarities, is closer to Europe than to the United States.

This new international scenario not only enables but also requires the European Union to step up its pursuit of strategic autonomy in the

policy areas of foreign security and also defence, so as to be able to lead world politics, especially in the field of international governance, where there is a particular need for international regulation of the kind being achieved through the application of the G20 proposals.

The December 2017 launch of PESCO and its rapid development over the following year provides the best example yet that strategic autonomy is not a theoretical principle, but something that is gradually becoming a reality and may possibly be achieved by 2027, which marks the end of the seven-year financial framework (2021-2027) wherein provision is made for a very sizeable (more than 30%) increase in the EU's spending on its Common Foreign and Security Policy and on defence. All this is borne out by the words of French President Emmanuel Macron who, speaking on 27 August 2018, declared that "Europe cannot depend on anyone militarily".

It is conceivable that PESCO might possibly become a European NATO, albeit in a timeframe of about ten years. This is due to the fact that one of its objectives is to lend credibility to the defensive alliance among EU member states envisaged by Article 42.7 TEU. To achieve this, there needs to be a rapid intervention force in place, ready to respond to possible aggressions. France's recent invoking of Art 242.7 TEU, an initiative aimed at creating such an intervention force, represents an attempt to reduce the necessary timeframe, and in June it gave rise to a letter of intent signed by nine states including the UK and Denmark. The intention is to implement this intervention force in March 2019. In the joint Franco-German Meseberg declaration a few days later this intention was reaffirmed and linked directly to PESCO.

9. Conclusion: the Need for Federal Reform of the European Union and the Need to Debate this Issue in the Run-up to the May 2019 European Parliamentary Elections.

There are currently many signs that make us think that the relaunch of Europe is under way, in other words that the European train is back on track: a track whose construction was started in 1948 in The Hague, in preparation for a train that began to run a decade later in Rome. Over the years, the number of wagons in the train has increased and at times it has travelled at great speed. However, in the second five years of the 21st century, it found itself on the point of derailing, when the proposed Constitutional Treaty was abandoned following its rejection in referendums held in France and the Netherlands in May 2005. Subsequently, for the past decade, the train has been going very slowly.

However, ever since June 2016 and the Brexit referendum, expectations have changed. This is largely thanks to the conviction that the uncoupling of a very heavy wagon (the United Kingdom) that has thus far made it very difficult for the European train to advance will finally allow Europe to start moving once again. The train is now gathering speed and this is what allows us to state that the relaunch of Europe is under way, and that with the UK's disengagement two months before the European elections — which, if not definitive, will certainly last at least five years —, we expect the European project, from 30 March 2019, to resume its journey along federal path first taken in The Hague and in Rome.

We say that the train is on track not only because Europe's future is being rethought in the key areas, those of the most important milestones of European integration, but also because these initiatives are now being transformed into concrete proposals that are beginning to be taken up by the European institutions. In other words, these are no longer only good intentions.

A further demonstration that the new climate is producing effects is provided by the December 2017 appointment of Mario Centeno as President of the Eurogroup. In his two years as Portuguese finance minister in a leftwing government, Centeno managed to make European convergence criteria compatible with the development of a social policy. His appointment to as head of the Eurogroup possibly means that Europe's policy of austerity is, at last, entering a different phase. Similarly, the new Spanish socialist government led by Pedro Sánchez, who took oath on June 2, will strengthen this new climate of relaunch of the European Union.

The train is moving. It is important to ensure that it does not derail and that it can continue to advance at ever greater speed, or to use instead President Juncker's analogy, "the wind is in our sails" and accordingly we must take advantage of the window of opportunity that has now opened up to undertake the necessary reforms — reforms that could be introduced right now, such as some of the ones proposed in order to take advantage of the end of the Legislature and the various initiatives that have been prepared ready for implementation after the elections of 2019. Accordingly, the Spinelli Group in its manifesto dated September 4, has proposed a formidable roadmap for the IX Legislature 2019-2024, setting out the federal future of Europe.

The EU's global strategy in recent months reflects this idea that "the wind is in our sails", as it is allowing the Union to strengthen it-

self as a normative power, and seeing it taking the initiative in world affairs: in the application of new norms, in the battle against climate change, and in the stipulation of new commercial treaties, like the ones recently signed with Canada, Japan and Mexico, and the one that may soon be signed with the MERCOSUR countries (meanwhile, negotiations with New Zealand and Australia have already begun). The protectionist policy of President Trump and the withdrawal of the United States from the Paris Treaty on Climate Change, as well as UNESCO and other international organisations, are other circumstances serving to widen to Europe's window of opportunity.

This situation facilitates and demands the assumption of greater responsibilities by the EU in world politics, and Europe is responding in this sense, as we have seen with the implementation both of its global strategy and, especially, its defence policy, and with the deployment over the past seven years of a European diplomacy (compatible with the diplomatic machinery of the member states), currently directed by HR Federica Mogherini, who is seeking to broaden the scope of European foreign policy, and break through its limits.

The distancing of European foreign policy from the foreign policy of the new President of the United States was clearly underlined by the aforementioned Mogherini during her first visit to the new United States administration in February 2017, when she also demanded that EU foreign policy be granted due respect, just as Europeans respect American positions. Over the past year and a half, her stance has certainly been backed up by actions.

To conclude, as we said earlier, Europe's single currency has both a federalising character and a role as a federator. The President of the European Commission reiterated this in his most recent State of the Union Address, delivered before the European Parliament on 12 September: "we must do more to allow our single currency to play its full role on the international scene" and "the euro must become the face and the instrument of a new more sovereign Europe."

13 September 2018

Francisco Aldecoa Luzarraga

Documents

A DRAFT TREATY FOR THE ESTABLISHMENT OF AN *AD HOC* BUDGET FOR THE EUROZONE*

The Crisis of the European Union.

The European Union today finds itself in a crisis situation the like of which it has never experienced at any other time in its history. The unification process has stalled, and the deadlock reached cannot be attributed to specific political or economic issues, as has sometimes been the case in the past, in particular in the wake of the 2011 financial crisis and the migration crisis of 2015-2016. This time, it is a result of the electoral successes recorded by various nationalist and anti-democratic forces that would like to dismantle the structures created in the course of the European unification process, out of a desire not only to return to national sovereignties that in reality no longer exist, but also to proudly pursue illiberal political agendas.

Today, the presence of illiberal forces in government across Europe has left the EU in a state of paralysis; indeed, within the European Council and the Council, these forces are failing to guarantee the one condition necessary to ensure an even minimum level of functioning of the system, namely the will, on the part of the members, to safeguard the existence of the European framework (in spite of their different visions of what this framework should look like). In this respect, what is now happening in Italy cannot and must not be underestimated.

Analysing the situation that has come about, it is clear that certain issues seized on by anti-European forces in order to win consensus in public opinion (in particular migration and the economic situation) are used merely as instruments for electoral ends. So, while it remains true,

* This document has been presented at the National Board of the Movimento federalista europeo on September 15th, 2018.

on the one hand, that the success of the “antisystem forces” in Europe is rooted, to a large extent, in the difficulties encountered by democratic politics in governing globalisation, it is equally true that these anti-democratic forces are a problem in themselves — one that will not be overcome simply by putting sticking plasters on the problems that they seek to exploit instrumentally. Therefore, to counter their propaganda with effective solutions, *democratic politics must succeed in re-establishing the European project.*

The Struggle to Save Democracy.

France and Germany, which have always been the driving forces of European integration, bear an additional responsibility at the present time. Their governments have, in fact, become the last bastions of democracy in Europe. And they are faced with two major tasks: to save Europe, by managing to speed up, considerably, the process of building European political unity; and to serve as a point of reference for all democratic forces engaged in the struggle to definitively consign nationalism to Europe’s past. As was the case during the war and the resistance to Nazi-Fascism, this is a battle that should unite all those who hold democracy dear, regardless of the differences in outlook between the parties on the right and left of the political spectrum; after all, the danger to Europeans today is every bit as great as it was then — Europe is at risk of self-destructing, and in so doing of depriving the coming generations of any future prospects.

Next year’s European elections will be a decisive point in this struggle to decide the fate of democracy in Europe. And they will also provide an important opportunity to assess the determination, on the part of politics and democratic forces, to field an alternative project to the nationalist and anti-European one.

A crucial litmus test of this determination will be December’s European Council summit, where the governments of France and Germany have undertaken to present a project indicating, primarily, how to resolve some of the issues that are currently paralysing the EU and preventing it from acting. The first of these is the question of completing the economic and monetary union through a reform that, unlike other types of reform (where proposals are advanced mainly by the Commission and the European Parliament), remains in the hands of the governments; the dossier that these two countries produce on this most sensitive of issues will perhaps provide the most telling indication yet of whether it will prove possible to move forward on the path to political union.

For France, judging by the suggestions it has put forward, the objective should be to turn the eurozone into a global economic power; and for some time now France has been involved in negotiations with Germany in an effort to work out what proposals these two countries can advance jointly. A breakthrough came with the Meseberg Declaration of 19th June 2018, the crucial and most controversial aspect of which is a plan to create an autonomous budget for the eurozone. The creation of such a budget, in the framework of the monetary union, would open up the way for the establishment of a first effective fiscal power at European level, and thus for the construction of a European sovereignty, alongside the national sovereignties, moreover in an area that is part of the very essence of statehood. It is a transition that would be decisive above all on the political level, since it would be a first step in changing the nature of the European institutional system. Indeed, the creation of a genuinely federal political instrument, and the attribution of autonomous decision-making power to the European bodies governing it, would, for reasons of democratic sustainability, have to be subject to democratic scrutiny by the European Parliament.

If France and Germany, together with the other more pro-European countries, prove bold enough, in December, to propose a reform of this type for the eurozone, and at the same time undertake to support the start of a process of Treaty reform to be accomplished within a specific time frame, then the political debate ahead of the European elections will change radically. The democratic and pro-European forces will suddenly look far more likely to unite strongly on a common platform in support of EU reform, and this will give substance to the whole electoral campaign, and help the pro-European front to engage more meaningfully with the citizens and counter the propaganda of the anti-system forces with a courageous and ambitious vision.

The Importance of a Bold Vanguard.

If a eurozone reform project of this kind is submitted to the European Council, it will certainly not win the support of all 27 EU member states, or even, quite probably, of all the euro area countries. The key issue today, then, is how to avoid Europe being kept captive by those governments seeking to stop the EU machinery from working, and indeed to destroy the Union itself. This is why the question of differentiated integrations has returned to the fore, together with the need for a vanguard of countries that is prepared to step up to the plate and break the deadlock. There are no other possible ways: a process of

gradual EU reform starting with the current Treaties is inconceivable in the 27-member Community framework, given that, under the flexibility instruments currently in place, any advance would require the agreement even of those opposed to it. In short, even the opponents of reform would have to play a constructive role. Equally, it would not be feasible, in the current situation, to change the Treaties through a constituent reform process involving the 27 member states.

This is not the first time in Europe's history that such a solution has been required. The very birth of the ECSC stemmed from the breakdown of the framework of the Council of Europe, within which it had proved impossible to take concrete steps to start a process of integration. In the end, only six countries shared the desire to create the first European Community, endowed with genuinely supranational characteristics. However, it is important to note that this Community always remained open and ready to embrace other countries that might subsequently wish to join it. As in all previous circumstances in which it has proved necessary to resort to the concept of the vanguard and initial core group, there need be no fear that this approach will result in the creation of closed, exclusive entities; as previous experiences have shown, it has never been a question of excluding any state, but rather of starting a process that would allow other countries, initially sceptical, to become part of the group later on, once they have gradually come to the decision to do so. The birth of the monetary union provides another example in this sense. After all, the single currency, too, was a project spearheaded by a vanguard group, a fact that was universally recognised at the time; one need only look back over the debate, in that period, on the issues of a hard core and *a federation within the confederation* in order to appreciate this. Indeed, alongside the resistance of the few states that had opposed the project from the time of its very drafting, demanding, in the face of other states' determination to proceed, to be allowed to take advantage of special opt-out clauses, there emerged in some participating countries reservations and difficulties so marked that the project was only able to get started thanks to a strong initiative on the part of France and Germany; their action had the effect of triggering the mechanism whereby the others, initially reluctant to sign up, were stimulated to make the necessary preparations to join.

More recently, the introduction of the fiscal compact (or *Treaty on Stability, Coordination and Governance in the Economic and Monetary Union*, TSCG) showed that it is possible for certain decisions cru-

cial for safeguarding the functioning of the EU to be taken (by a majority vote) even by only some of the member states; the fact that, in this case, the number of participating states subsequently reached 25 only goes to show that once a valid initiative has been launched, it will go on to attract increasing support. This precedent, i.e. the TSCG, which came into force on 1st January 2013, is particularly important for two reasons; first, it shows that a treaty involving only some of the EU member states can be stipulated within the framework the European Union and with the support of the Community institutions; second, it shows that such a treaty can be brought into force by a majority decision, without the need to reach unanimity.

What we need to see today is the same determination shown on previous occasions, not least because the stakes are now so much higher than in the past. What is certain is that France and Germany must resume their journey, which was interrupted with the birth of the euro. In other words, they must relaunch the idea of creating a hard core of countries that might act as a magnet to counteract the current centrifugal forces, and resume their efforts to create the kind of conditions, truly conducive to strong integration, that effectively bind together the destinies of the single states. This time, however, they will have to do what, in the past, was not done, namely, make sure that the political nature of the initiative also translates into institutional changes giving rise to true European political sovereignty.

It is in this spirit that we have decided to propose, as a contribution to the ongoing process that began with the Meseberg Declaration, and as part of the drafting of proposals for the December European Council, a draft Treaty conceived by Paolo Ponzano, Giulia Rossolillo, Luca Lionello and designed to initiate the long-awaited and much needed reform of the monetary union, and orient the same towards a true federal political union.

Luisa Trumellini

Milan, 15th September 2018

DRAFT TREATY BETWEEN THE EUROZONE MEMBER STATES

THE UNDERSIGNED EUROPEAN UNION MEMBER STATES
WHOSE CURRENCY IS THE EURO,
HEREINAFTER REFERRED TO AS THE “CONTRACTING PARTIES”,

wishing to take further steps towards the political integration of Europe,

mindful, nevertheless, that other EU countries are currently unwilling to take such further steps forward and to agree to the sharing of sovereignty necessary for this purpose,

concerned that the current asymmetry between a monetary union endowed with its own sovereignty, independent of that of the individual states, and an economic union consisting of mere coordination of national policies, could, in the event of asymmetric economic shocks between the different countries, fatally undermine the stability of the eurozone,

realising that this threat could well materialise, should a new economic crisis arise following the end of the ECB’s current programme of interventions, when there will be no stabilisation mechanisms able to guarantee sufficient resources to counteract the aforementioned shocks between the euro area countries,

convinced of the need to promote economic convergence among eurozone countries, by encouraging investment and reducing unemployment,

convinced of the need to combine sound public finance management by the contracting parties with greater economic growth of the euro area,

HAVE AGREED THE FOLLOWING PROVISIONS

ARTICLE 1

Through this Treaty, the contracting parties, as eurozone member states, undertake to create: i) an own budget, separate from and supplementary to the EU budget, with the aim of stimulating convergence and economic competitiveness of the contracting parties through investments for innovation and the development of human capital; ii) an ad hoc instrument, to be named the *European Employment Fund*, in order to be able, in the event of severe crises and/or asymmetric shocks,

to address the consequent sharp increases in unemployment that would be recorded in some countries.

ARTICLE 2

This own budget will amount to a total of 80 billion euros annually. For an initial three-year period, the budget shall be financed by national contributions from the contracting parties. To ensure successful pursuit of the objectives of this Treaty, the national contributions earmarked for this purpose will not be considered when calculating, for the contracting parties, the 3% ratio between annual deficit and gross domestic product envisaged by the Stability and Growth Pact.

The European Employment Fund will amount to 8 billion euros per year and be financed by national contributions from the contracting parties. In this case too, the national contributions earmarked for this purpose will not be considered when calculating, for the contracting parties, the 3% ratio between annual deficit and gross domestic product envisaged by the Stability and Growth Pact. Certain specific conditions shall automatically trigger activation of the Fund.

ARTICLE 3

The financial contributions paid into the budget and the Fund by the contracting parties shall be proportional to their relative financial contributions to the European Union budget. The own budget and the Fund will be managed by the European Commission, in cooperation with the contracting parties, according to the ad hoc financial rules annexed to this agreement. In particular, it shall be the responsibility of the European Commission to verify that the budget and Fund are used solely to achieve the objectives set out in art. 1 of this Treaty, and therefore not to finance expenditure that is provided for in the EU budget and thus benefits all the EU member states. The European Commission will report to and be answerable before the European Parliament with regard to the implementation of the own budget and the Fund.

ARTICLE 4

The contracting parties will decide, at the latest by the end of the third year from the entry into force of the present Treaty, the measures necessary to ensure the subsequent financing of the own budget and the Fund¹ and to incorporate the provisions of this Treaty into EU law. In

¹ At this point, the contracting parties will decide whether the present budget/fund should continue to be financed by national contributions pursuant to article 2 herein or

this regard, the contracting parties undertake to request an extensive revision of the European Treaties.

ARTICLE 5

This Treaty is open to any EU member state that has decided to adopt the euro (the single currency of the European Union).

ARTICLE 6

This Treaty is ratified by the contracting parties in accordance with their respective constitutional requirements. It will enter into force on 1st January 2021, provided that at least three quarters of the contracting countries have deposited their instrument of ratification of the above agreement with the General Secretariat of the Council of the European Union.

from own resources of the European Union or, where appropriate, by an ad hoc European tax established, in the meantime, by the same contracting parties.

Thirty Years Ago

EUROPEAN UNION AND EUROPEAN COMMUNITY: TWO INCOMPATIBLE INSTITUTIONAL SYSTEMS?*

When the European Parliament approved the Draft Treaty establishing the European Union, it decided to subordinate the enforcement of the new treaty to the ratification by a number of Community Member States whose population amounted to two thirds of the EEC population (Art. 82 of the Draft Treaty approved on February 14th 1984). The reasons for this decision are the same as those which led the Philadelphia Convention in 1787 to establish that ratification by 9 of the 13 states would be sufficient to implement the federal constitution of America: in both cases, the attempt was to avoid a small minority of States, or even a single state, from blocking the process of federal unification desired by the majority.

The 1984 Draft Treaty did not provide for the nature and the discipline of the legal ties which would develop between the States of the future European Union and the States in the Community which decided not to join the Union itself, at least immediately. It merely established that the governments of the States of the Union “will meet to decide in common agreement... on the relationships with the member states which have not yet ratified” (Art. 82 of the Draft Treaty). The question is important, since the attitude of the States which might be contrary to the transition from the Community to the Union might be very different according to whether the latter is seen as a breach of Community commitments or as a further step in construction designed to protect these commitments.

Even in the not improbable case that some States were in any case

* Summary of the Colloquium held at the Faculty of Law of the University of Milan on November 16th 1987, published in *The Federalist*, 30, n. 3 (1988), p. 201.

contrary to the prospect of the Union, an institutional system of the Union and a formal commitment of its members such as not to prejudice the *acquis communautaire* vis-à-vis the member states of the EEC who are not members of the Union would remove one of the politically and juridically very strong objections of those states who are contrary to the Union.

The moment will arise, sooner or later, though precisely when cannot to be forecast today, when the circumstances and political will of some states will once again place the objective of the Union on the order of the day, in which there will be an institutional perspective similar to that indicated in the 1984 Draft Treaty: powers of codecision of the European Parliament in legislative matters, abolition of the veto right, strengthening of the power of government of the Commission. It is hardly necessary to recall that underlying these proposals for institutional reform there are, at one and the same time, issues relating to greater efficiency (inasmuch as the requirement for unanimity produces the inevitable effect of paralyzing every decision in controversial cases) and issues of principle (inasmuch as the current Community institutions violate both the criterion of the separation of powers and the basic canons of democracy since the body which represents the people is not endowed with legislative power).

It will thus be important to have previously explored and perfected a series of legal and institutional criteria regarding the compatibility between the European Union and the current Community, for the reasons stated above.

On this theme, which has so far been neglected, a Colloquium was organized on November 16th 1987 by the Faculty of Law of the University of Milan, in which several well-known Italian scholars in international law, constitutional law and community law took part.

The political premises, the reasons for and the prospects that induce experts to raise the problem of compatibility between Community and Union were explained by Francesco Rossolillo, Vice-President of the *Union Européenne des Fédéralistes*. Since it is unrealistic to posit an identical desire for progress in all the Community countries — he stated — it is necessary to provide for procedures and solutions which do not hold up the process, but at the same time safeguarding the interests of all. Moreover, not even the ECSC or the EEC would have been born if we had had at all cost, from the outset, insisted on the participation of, for example, the United Kingdom.

The juridical and institutional problem of the compatibility between

Union and Community was raised by Antonio Padoa Schioppa (University of Milan), who suggested a solution (see the following documentation) regarding which he solicited the agreement of scholars of international and community law present in the Colloquium. The fundamental basis for this hypothesis is the principle whereby the Union would not in any case be empowered to violate Community Law and the *acquis communautaire*. The resources of the Union would appear to be different and additional with respect to Community revenue. The institutions of the Union, although formally distinct from Community ones, are made up of the same people, limited, however, to the members of countries participating in the Union. The powers of the Union would in part be competitive (in keeping with the principle mentioned above), in part separate.

On these lines the Colloquium enjoyed an articulated and lively discussion.

In relation to the basic question of the Colloquium the speakers agreed in their reply that institutional mechanisms like those indicated in the enclosed document may be certainly conceived, with the purpose of making it possible to achieve compatibility between the Community and a possible European Union.

The difficulties are of a different nature, however, regarding the various bodies and power. As regards the bodies, a relatively simple two-tier functioning of the European Parliament and the Council of Ministers may be envisaged, while it is relatively more complex to see what could happen in the Commission. As regards powers, matters not included in the Treaties of Rome (from currency to energy, and defence itself) could more easily be pursued by the Union; for other matters, it would certainly be possible to create a mechanism of concurrent powers such as to attribute primacy to Community law.

More generally, Art. 41 of the Vienna Convention on international treaties lays down the possibility of a new treaty between only some of the states which have subscribed to a previous treaty, provided that the latter does not prohibit it and provided it is not incompatible with it. The treaty of the Union could be seen in this light according to Francesco Capotorti (University of Rome), who however observed that the compactness of the Community construction could be damaged and that the European Parliament could have difficulty in following this road. Moreover, Fausto Pocar (University of Milan) pointed out that the Vienna Convention itself does not necessarily presuppose the consent of all states in order to ratify a second one.

Other speaker stressed the positive potential of the current Community institutions, in their opinion not fully developed so far. Antonio Tizzano (University of Naples) reconstructed the events that led to the approval of the Single Act, in the course of which one country (Italy) for the first time subordinated its agreement to the agreement of the European Parliament — stressing the aspects which involve a more active role of the European Parliament and holding that the time has not yet come for further progress in the institutional field to be achieved. The creative role of Community law was stressed by Alberto Santa Maria (University of Milan), with reference to the deeply innovative results that derived from the principle of the direct application of Community law within the legal systems of the individual member states.

Alberto Predieri (University of Florence) also pointed out the major obstacles that the prospect of Union presents in this phase although the inadequacy of current Community institutions, particularly as regards democratic legitimation, is clear. A constituent mandate attributed to the European Parliament could be decisive, and to this end a referendum carried out in the individual states (or even at Community level) could constitute a strong thrust. A consultative referendum for Europe could be arranged in Italy even without the need for constitutional legislation.

It will not be impossible or inappropriate in future to carry out the procedure provided for under Art. 236 for the revision of the Treaties of Rome, Franco Mosconi (University of Pavia) pointed out, concretely verifying the prospects of involvement of all the states in the current Community in the further steps towards the Union. If then it should emerge that some states are not in any way disposed to this proceeding and do not even consent to other proceedings, it would be necessary to ask, as Riccardo Luzzatto (University of Milan) pointed out, if it is not inevitable that we will have to pay (or at least be prepared to pay) the price of break-up.

This is a central issue regarding which the Colloquium was designed to stimulate debate. It is precisely the question of consensus of all — a consensus which is obviously required and desired, but equally indispensable to proceed — which makes the question of the compatibility between Community and Union even more pregnant. A positive reply to the question of compatibility would have the result of placing the states which want the Union in a strong position, even as regards negotiations, *vis-à-vis* other states in the Community. Thus it is not at all impossible that all would end up joining the Union. If this did

not happen, not only would the entry of the Union be always possible but the commitment not to violate Community law should be scrupulously observed by the Union, making the Community Court of Justice its guarantor.

Antonio Padoa Schioppa

APPENDIX**

Let us assume that a group of member states in the European Community (e.g. the six founder states plus Spain and Ireland) manifested the political will to proceed towards a European Union by adopting institutional reforms corresponding to those envisaged by the Draft Treaty of the European Parliament of February 14th 1984: attribution of Community legislative power to the European Parliament itself, to be exercised in agreement with the Council of Ministers deciding on a majority basis; reinforcement of the powers of government of the Commission.

The question on which we wish to begin reflection is the following: is it possible to imagine an institutional system of the Union which does not prejudice the working of Community institutions, so that it protects the member states of the Community who do not belong to the Union itself?

If the reply were to be affirmative, it would be conceivable that the new treaty on the European Union could be drawn up with the agreement of all member states, even with those who at least at the beginning — but the door would naturally be always open — did not agree to join the Union. Certainly the alibi of opposing the Union in the name of the Community would thus be removed.

Let us try to outline schematically some principles of a positive reply (in the sense that is of compatibility) on the question that we have formulated: on the practicability and coherence of which — in addition to other aspects of the theme which interests here — the speakers and the participants will express their position.

We may consider the problem of compatibility between Union and Community from four standpoints: the principles, resources, institutions and powers.

** This is a document presented at the Colloquium by Antonio Padoa Schioppa. The document is the result of discussions with Franco Mosconi and Francesco Rossolillo.

1. *The principles.*

a) The Union should not be allowed to make any decision which conflicts with Community law and with the *acquis communautaire*;

b) the legal limits which should be placed on the Union are the same that hold for the member states vis-à-vis the Community: where a state can decide independently without violating the Treaties of Rome and Community law, the Union should be able to do the same;

c) the Union should therefore be able to decide — with the procedures and with the bodies that are proper to it — *secundum legem* and *praeter legem* not *contra legem* (where *lex* is Community law);

d) if the Union decided on a matter not yet dealt with by the Community, but belonging to its powers, the bodies of the Community should be able to decide as such, according to Community procedures at any time;

e) the member states of the Union could be allowed to adopt — in view of Community decisions — preliminary procedures in keeping with the principles of the Union, which with regard to the Community would be worthwhile as simple *interna corporis* (e.g. preliminary vote of the European Parliament);

f) guarantor of all this would be the Court of Justice.

2. *The resources.*

The financial means and the budget of the Union should be distinguished from those of the Community. The initiatives of the Union would be financed with additional resources as compared with Community resources, e.g. by earmarking an additional share of national VAT to the Union budget.

3. *The institutions.*

The European Union could adopt the same bodies as the Community (European Parliament, Council of Ministers, Commission, Court of Justice), which in the Union would be made up of the same people who belong to the Community but without the participation of the representatives of the states which do not belong to the Union. The powers and ties between the bodies of the Union would be defined in the Union treaty.

European Parliamentarians, ministers, commissioners and judges coming from the states in the Union would thus act in two ways, as officials of the Community in Community affairs, and as officials of the Union in Union affairs. If from the standpoint of legal identity and

powers, the institutions were naturally distinguished, the unitary nature of the procedure of appointment and the identity of the persons would greatly simplify matters. Days of meetings and presidents would be distinguished. The administrative structures of the Community, duly strengthened and subsidized to cover the cost of the additional labour, could also serve the Union.

4. Powers.

The problems arising from the compatibility of the two structures (the Community's and the Union's) deserve careful examination to be carried out sector by sector. In this paper, we only go so far as to stress the fact that there are certainly sectors in which compatibility will be lesser or least and others in which it will be greater or greatest.

Agriculture: since this is the sector which is most fully covered by the EEC, it could stay outside the sphere of Union intervention.

Single market: the states in the Union could — when respecting the principles mentioned above — give the process a further push e.g. proceeding with greater rapidity to the adoption of measures suggested by the White paper. On this it should be necessary to carry out a specific study of compatibility.

Social and regional policy: the states in the Union could earmark a considerable amount of the Union budget to these two sectors;

Currency: the example of the EMS has shown the practicability of wide-reaching agreements, assumed by a group of states in the Community. Further institutional progress — including the creation of a central Union Bank — could be achieved without raising problems of legal compatibility with the principles of Community law.

In conclusion we must stress that what has been formulated above is only some of the possible means of solving the problems mentioned at the outset, means that could be adopted only by virtue of political will whose entity and breadth cannot be foreseen now. It will be the authoritative specialists who have agreed to take part in the Colloquium — and for this I wish to thank them in the name of the Faculty — who will give the first assessment of this set of problems.

For once, we will carry out here an intellectual exercise on the grounds of *ius condendum*, starting from the basis of Community *ius conditum*. For all, and in particular for the students who I see are many, it will be an interesting experience.

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