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Introduction

In the last fifteen years, we have witnessed a shift of power from the Commission to the Council. An evil that has crept into the EU body. An almost endemic disease. Founded in 1958 by a treaty where the balance between the Commission (representing European interests) and the Council (representing the interests of member countries), was largely respected, the EU has then seen a gradual predominance of the second. This imbalance would require, to be corrected, a bold reform ensuring the coexistence of the two EU's souls.

Is a solution in sight? Can the proposals heal the endemic disease?

In this paper, we present firstly the proposals, related with the future of the Union, prepared by the three main European institutions (Parliament, Commission and Council) in sight of the 60th Anniversary of the Rome Treaties. Then we will put forward our proposal for an ambitious reform.

1. European Parliament

At the end of February 2017, the European Parliament (EP) has voted three resolutions concerned with the reform of the EU. The majority has been shrinking, and significantly, with the increase of the federal level of the proposal. The resolution of the Liberal Guy Verhofstadt, got only 14 majority votes; the one of the popular Reimer Böge and socialist Pervenche Berès fifty; finally, the one of Elmar Brok and Mercedes Bresso (again popular-socialist) was approved with a majority of more than one hundred votes. The EP has always been considered an institution closer to Europe than Member States, but in this important opportunity the shift towards Member States has been evident.

Here below we provide the summary of the three resolutions¹

The first resolution, drafted by Mercedes Bresso (S&D) and Elmar Brok (EPP) focuses on making the most of the existing Lisbon Treaty. It proposes, inter alia, that:

- a) The Council of Ministers should be turned into a genuine second legislative chamber, and its configurations into preparatory bodies like Parliament's committees;
- b) Each member state should present at least three candidates, including both genders, for the role of "its" Commissioner;

¹ With some minor modifications, the text is the one delivered by the EP. See: <http://www.europarl.europa.eu/news/en/news-room/20170210IPR61812/parliament-sets-out-its-vision-for-the-future-of-europe>



c) The Council should switch completely to qualified majority voting, wherever this is possible under the treaties, to avoid blocking important draft laws and speed up the legislative process;

d) A permanent Council of Defense Ministers should be set up to coordinate the Member States' Defense policies.

The resolution was approved by 329 votes to 223 with 83 abstentions.

The second resolution, by Guy Verhofstadt (ALDE), looks at ways to move further than the current toolbox allows and suggests various reforms of the Lisbon Treaty, in the areas of economic governance, foreign policy, fundamental rights and transparency. It proposes, inter alia:

e) creating an EU finance minister and giving the EU Commission the power to formulate and give effect to a common EU economic policy, backed up by a euro-area budget;

f) reiterates that the European Parliament should have a single seat,

g) reducing the size of the College of EU Commissioners substantially, including by cutting the number of Vice-Presidents to two;

h) states the need to allow EU citizens, in each Member State to vote directly on the European political parties' lead candidates for Commission President.

The resolution was approved by 283 votes to 269 with 83 abstentions.

In the third resolution, Reimer Böge (EPP) and Pervenche Berès (S&D0) propose bringing the euro area economies closer together and making them more resilient to outside shocks. They outline a convergence strategy funded by a specific euro area budget, financed by its member states and available under clear conditions. Their proposals include:

i) a fiscal capacity consisting of the European Stability Mechanism (ESM) and specific additional budgetary capacity for the euro area, funded by its members as a part of the EU budget;

k) a European Monetary Fund (which should gradually develop out of the ESM) with adequate lending and borrowing capacities and a clearly-defined mandate to absorb economic shocks;

l) a convergence code: five years to meet convergence criteria on taxation, labour market, investment, productivity, and social cohesion;

m) a bigger role for the European Parliament and national parliaments, merging the functions of Eurogroup President and economic and monetary affairs Commissioner, plus a finance minister and treasury within the European Commission.

The resolution was approved by 304 votes to 255 with 68 abstentions.

2. European Commission

A White Paper ahead of the sixtieth anniversary of the Rome Treaty. This is the contribution from the European Commission, presented by Jean-Claude Juncker at the EP. A document consisting of five scenarios, each corresponding to a possible evolution

(or involution) EU-27, to be put in place by 2025 ². All realistic, because not processed at the table, but bearing in mind the preferences revealed by the civil and political European society in the recent years. The White Paper does not cover the scenario of a Europe totally devoid of the EU, the one pursued by the Europhobes. It is not the Commission's job to do it. But it would be desirable if the pro-European policy would do it. Explaining to the citizens the costs of non-Europe. So far, such a scenario has not been designed, but it is counterproductive to appear shy in front of such a tough competition.

We find some sign of what we might see if Europe should fail, in the second scenario, where the WP hypothesizes a customs union limited to goods and capitals. The reduced regulatory capability of the EU would lead to growing differences between its members, with repercussions on the free movement of labor and services. Those who fall ill abroad will have to pay a large bill. It would be more difficult to find a job in another member country; also tourism would suffer because of more border controls. The EU will struggle to conclude new trade agreements, because of the different priorities of the Member States; furthermore some of them would block ratification. In short, a fragmented Europe, heading for to seeing the expansion of these fractures. Not really attractive scenery.

Just a little more attractive is the first, where continuity it is assumed. Europe is merely putting in place the current agenda for reform. One of these is the creation of a kind of European intelligence, national authorities will exchange information, this would allow more effective in the fight against terrorism, with major successes in its prevention. Other advances could take place in EU's action on climate change, financial stability and sustainable development. In short, a progress without any modification of the treaties, but by reforming the existing one.

In the third scenario, but only in it, differentiated integration appears. Those who desire going on faster, can do it. A reality now present for the euro and Schengen area, would be expanded to other areas, where a number of Member States would decide to cooperate more deeply. The defense, security, justice, and intelligence services are hypothesized. Other enhanced co-operation would be possible in taxation and social policies. In this differentiated dynamic, the single market would be strengthened as well as the ability to conclude trade agreements.

Fourth scenario: Do less but more efficiently. The EU focuses on a small number of policies. Deepening the single market in some key areas, the digital market and networking industries could be two exemplifications. Furthermore, external border control would be entrusted to a European authority. By contrast, Europe would leave areas such as regional development, public health and social policy areas not directly linked to the single market. State aid control would also be given back to national authorities.

Finally, the fifth scenario: to do much more, but all together. This would mean that by 2025, Europe would, among other things, speak with a unique voice on the international scene, it would have a common defense complementary to NATO, while the European Parliament would have the last word on international treaties, and the single market would be completed. In short, a much more federal Europe.

² https://ec.europa.eu/commission/publications/white-paper-future-europe_en

The White Paper intends to stimulate a debate, to be the beginning of a reflection on the future of a continent who cannot afford to divide.

3. European Council

In this section, we report the programmatic points of the Rome Declaration of 25 March 2017³:

“A safe and secure Europe: a Union where all citizens feel safe and can move freely, where our external borders are secured, with an efficient, responsible and sustainable migration policy, respecting international norms; a Europe determined to fight terrorism and organised crime.

A prosperous and sustainable Europe: a Union which creates growth and jobs; a Union where a strong, connected and developing Single Market, embracing technological transformation, and a stable and further strengthened single currency open avenues for growth, cohesion, competitiveness, innovation and exchange, especially for small and medium-sized enterprises; a Union promoting sustained and sustainable growth, through investment, structural reforms and working towards completing the Economic and Monetary Union; a Union where economies converge; a Union where energy is secure and affordable and the environment clean and safe.

A social Europe: a Union which, based on sustainable growth, promotes economic and social progress as well as cohesion and convergence, while upholding the integrity of the internal market; a Union taking into account the diversity of national systems and the key role of social partners; a Union which promotes equality between women and men as well as rights and equal opportunities for all; a Union which fights unemployment, discrimination, social exclusion and poverty; a Union where young people receive the best education and training and can study and find jobs across the continent; a Union which preserves our cultural heritage and promotes cultural diversity.

A stronger Europe on the global scene: a Union further developing existing partnerships, building new ones and promoting stability and prosperity in its immediate neighbourhood to the east and south, but also in the Middle East and across Africa and globally; a Union ready to take more responsibilities and to assist in creating a more competitive and integrated defence industry; a Union committed to strengthening its common security and defence, also in cooperation and complementarity with the North Atlantic Treaty Organisation, taking into account national circumstances and legal commitments; a Union engaged in the United Nations and standing for a rules-based multilateral system, proud of its values and protective of its people, promoting free and fair trade and a positive global climate policy”.

³ <http://www.consilium.europa.eu/en/press/press-releases/2017/03/25-rome-declaration/>

4. A scheme for a differentiated integration

The Rome Treaty gave birth to a two souls process of economic integration. To the supranational soul, inherited from the ECSC, a second one was added, the intergovernmental soul, expression of the typical working way of the international institutions. The “deepening” of the integration implicit in the transition from a two-goods common market to a general one, characterized by the well-known four freedom of circulation and by the freedom to establish, was thus accompanied by a step back on the road towards a European federation. While the Commission represented the European interest, the Council was created to represent the one of the Member States. In respect to the ECSC the Commission was deprived of the decision power, transferred *in toto* to the Council. An enormous change, which justified too its modest name, in respect to that of High Authority of the ECSC treaty.

Alongside the past sixty years, or more precisely, through the various modifications of the Rome Treaty, in spite of the growth of the competencies of the European Parliament, the Council has firmly maintained the decision power into his hands. The exception is represented by the rules on the working of the ECB, which is the only true federal institution of the EU.

Born out of the action of the six founding Member States, the EU has grown up to 28, then falling back to 27. Brexit represents the most serious symptom of the illness which is now affecting the European integration process. The successive enlargements, since the first one, have gradually brought into the Union, countries characterized by too huge differences in terms of political cultures and historical experiences. In other words, more and more countries with prevalent intergovernmental conception of the EU integration process have come into the system. The consequence has been that of increasing difficulties of cohabitation among the two souls. Difficulties of cohabitation, not impossibilities. This means that we just should adapt the house to the existing situation, to make it hospitable for such a big family. Adapt it to the differentiated needs and preferences of its inhabitants, the European citizens.

In the following sections, we will present a scheme for a differentiated integration, a combination of confederalism and federalism.

To describe our model, we will use the image of a two-store house.

The first floor represents the confederal level, while the second floor is the federal one. The steps represent the negotiation chapters to accede the first floor. The entry door is a two way one, as any Member State would have the right to exit, withdrawing from a pure intergovernmental integration process. We also see a flat roof. We will soon see the reason.

Let's now have a look at the interior. On both floors, we see people trading. The payments are represented by the small bags holding the various national currencies at the first floor, and the single currency, the euro, at the second floor. Interchanges among the first and the second floor are represented by the elevator connecting the two levels and allowing the trade of goods and services.

The two floors are connected by a one way sliding scale. Any lodger (Member State) of the first floor can decide whether moving to the second floor, but when this decision has been taken and the move to the second floor has been realized, it will no longer be possible to go down to the first floor. In other words, the federal choice is irreversible. However, as nobody can be compelled to stay into a house against its desires, a sort of emergency exit should exist. This, in our example, could take the form of a helicopter platform placed of the roof of the house. The house can be left, but a high cost will have to be paid for calling the helicopter and be taken away.

Figure 1

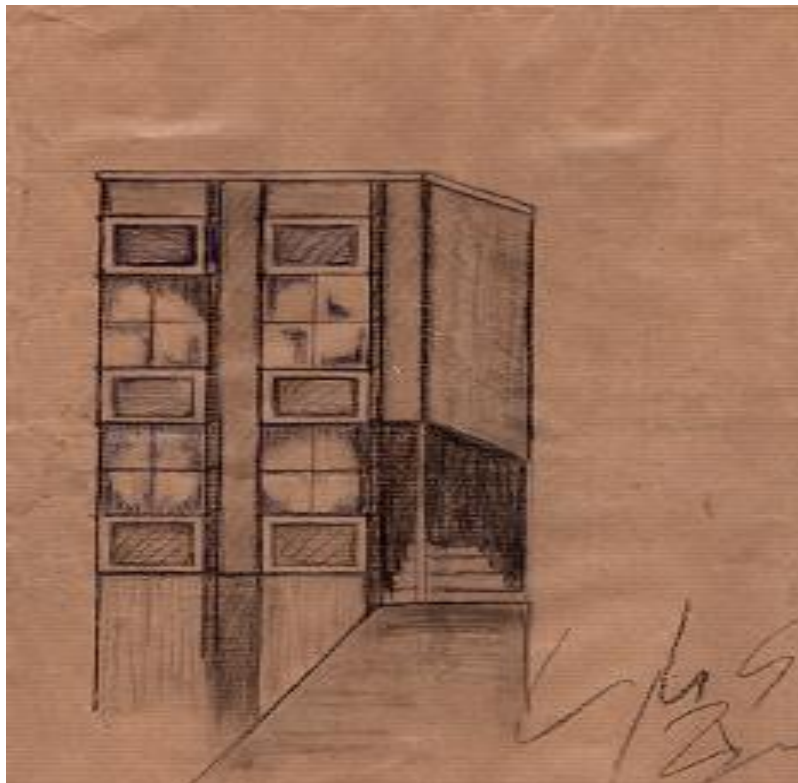
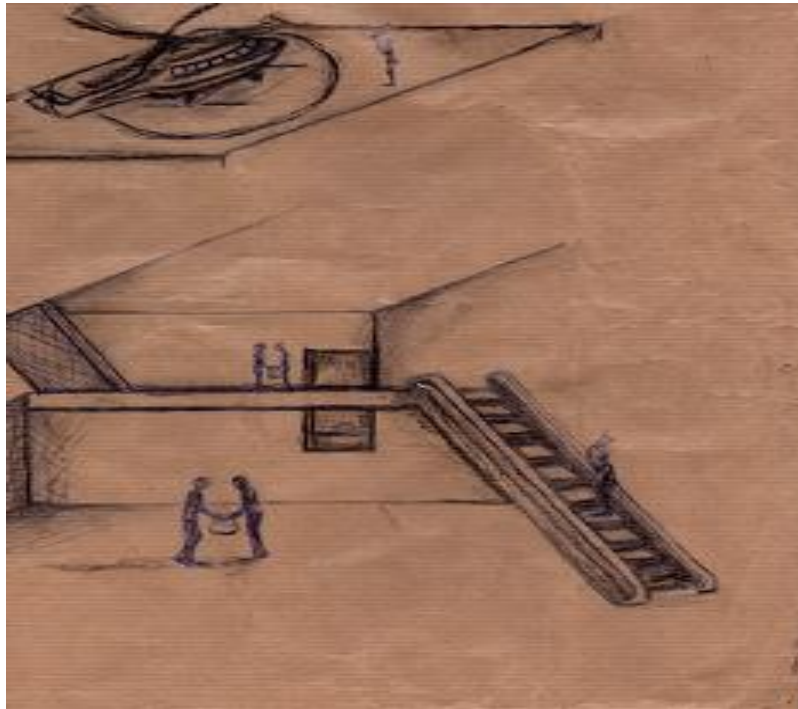


Figure 2



(design by Leyla Sultan Budak)

4.1 The confederal level

The basic principle of the confederal level is that any country will maintain its own sovereignty. A pure intergovernmental agreement should link its inhabitants. This integration scheme would be principally an economic one. We have two options: the custom union or the European Economic Area (EEA). A custom union would not imply any more than a common external tariff in terms of shared sovereignty. However only tariff barriers will be removed, while the invisible ones will continue to be present. Conversely the EEA model would provide full accession to the Single European Market (SEM), the one we will find at the second floor, but will ask more in terms shared sovereignty, namely accepting the decision of the federal floor in terms of regulations for the SEM. We consider this second option as preferable to the first one. Consequently, the treaty instituting this type of two-level integration will adopt the EEA model. Free circulation of goods, services, capitals and freedom of establishment will be its basic feature. No obstacle could be accepted, with the few exceptions which are today existing for the SEM. Free circulations of labour, researchers, students and people should represent a further feature. However, in this case some limitations could be admitted. These will have to be negotiated.

Exchange rates and their movements are relevant for the dimension and direction of international trade and investments flows. The stability of exchange rates is, thus, essential for the smooth working of the EEA. While any member of the confederal level will maintain its own currency (full monetary sovereignty), a mechanism of fixed but

adjustable rates would be recommendable. The concrete form could be that of the present EMS II. Exchange rates stability requires a good degree of monetary cooperation among central banks. A board gathering the presidents and governors of the member states central banks would be highly desirable. We will come back to this point in the section concerning the institutions.

As we have already noticed the confederal level could fit the need of those EU Member States available to share mainly some aspects of economic sovereignty. In our EEA based model these would be those related with the SEM and the Trade Policy. Furthermore, national central banks should be ready to coordinate, as far as possible in accordance with their economic conditions and their position in the economic cycle, their monetary policies, to maintain the highest possible degree of exchange rates stability and avoid volatility.

The first floor could also represent an initial step for candidate states. The development of the *acquis communautaire* requires, at present, a lengthy process of negotiations. This has been the case since the fifth enlargement. However, entering the confederal level would imply a sharp reduction in the number of negotiation chapters. The benefits would be relevant. The candidate countries would touch the benefits of the SEM and Trade Policy in a few years. Once inside the house they will find further incentives to ride the sliding scale, if they wish to do so.

Security, migrations problems and terrorism calls for cooperation in these fields. Consequently, mutual commitments in these fields will be needed.

4.2 The federal level

Economic governance

In terms of economic policies, the federal level, besides the SEM and Trade Policy would imply the European Monetary Union (EMU), with a reinforced fiscal pole in respect to the present situation. Within the Directorates General of the European Commission, the Economy and Finance one should play the role of European Ministry of Finance and Economy. Article 126 of the TFEU, on “excessive government deficits”, should be widely emended, giving to the Commission, in its capacity of European government, stronger powers. This new situation would allow the emission of Eurobonds. Consequently, the ECB could play a role of lender of last resort. This would imply a modification of article 123 (which is now prohibiting the purchase on the primary market of Member States debt instruments by the ECB) allowing the ECB purchases of Eurobonds on the primary market. These interventions should be governed by the principle of “conditionality”, i.e. commitments of Member States to consolidate their public finance in the framework of the Stability and Growth Pact.

Defence Policy

Concerning the need of a European Common Army we observe that Defence, on the base of subsidiarity principle, is a public good which can by far be produced in a more efficient way at federal than at national level. According to the theory of fiscal federalism

defence, being characterised by scale economies should be passed to the federal level, to be more efficient and effective. We do not have here to spend words on the absurdity of keeping, today, 27 independent systems of defence through Europe. It is not just a question of efficiency but a question of how money of European taxpayers is spent. The EU level ensures a better management of these resources. Transfer of certain excise and production taxes, or of a part of them, to the EU federal budget will pose the first stone for the construction of the Common European Army.

Foreign Policy

A common foreign policy is, in a certain sense, the oldest ambition of the supporters of the European Federation. In 1897 Luigi Einaudi, commenting the Greek-Turkish war of those years⁴, advanced the idea that the six ministers of the great European powers of those times, would be acting together, “as if they were a European cabinet”. A single power has still the right to veto a decision taken by the other ones, so impeding their design, but little by little it will happen that one of them will have to accept the decisions of the majority and give up its right to declare war unilaterally. Einaudi’s conclusion is that “the birth of the European Federation will not be less glorious only because will be born out of fear and mutual distrust and not out of brotherly love and humanitarian ideals”⁵.

More than 100 years after the publication of this article, the delegates to the European Convention, charged to draft the Constitution for Europe, sharply debated whether European foreign policy should be under the unanimity or the majority rule. Unanimity is still the rule fixed in the Treaty on European Union. In article 21 we read: “The European Council shall act unanimously”.

The step that Einaudi considered in those distant times as indispensable to attain the federal level, has not yet been done. The federal level is far, not surprisingly the European foreign policy is still weak. The message of Einaudi is that the pooling of sovereignty, in the form of shared sovereignty, which implies the acceptance of the decisions of the majority is the very essence of political integration and marks the difference between a simple alliance and a federal pact.

For these very reasons, we consider that the European federal level should foresee a reform of article 21, introducing majority vote.

The European Budget

In our considerations concerning the European budget we will rely again on Einaudi⁶. A European Federation, as Einaudi repeatedly wrote, needs a federal budget. The principles he puts down can be validly used in the search of new own resources. A very stringent problem today and a core element of the federal level of our proposal.

The right to taxation, he writes, should be stated in the Federal Constitution, where the specific taxes must be listed. The Federation holds the exclusive competence of external

⁴ See: Angelo Santagostino, “Luigi Einaudi. The Liberal Father of Europe”, Orion, Ankara, 2015, p. 20-21

⁵ *Op. Cit.* p. 21

⁶ *Op. Cit.* pp.81-82

trade; consequently all custom duties on imported goods should be credited to the Federation. At the same time, as “logical inference”, also all excise duties must be credited to the Federation.

Import duties and excise duties are as Siamese brothers, where the first are the seconds appear⁷.

Today excise are no more Siamese brothers of the duties. The second have almost disappeared, while the first have tremendously grown, as a result of the increase in public expenditures. However the idea of Einaudi to finance the Federal Budget through the excise still holds true. Inevitably on a repartition base with Member States, for the reason above mentioned: value added taxes constitute a relevant part of fiscal revenues and their automatic transfer to the European Budget would cause a huge fiscal crisis in Member States. A repartition system will have thus to be studied and negotiated among second floor EU Member States. This transfer of should be coupled with a correspondent transfer of spending competences from Member States to the EU.

The Institutions

The European Senate and the House of Europe.

According to a proposal advanced by Luigi Einaudi⁸ it will be important for the European Federation to have, besides a chamber of representatives, a chamber of states. The chamber of states, working as a counter-balancing power to the federal government. With the chamber of representatives as a sole legislative power, no one could guarantee the progressive stripping of federate states of their prerogatives and the transformation of the federal state into a centralized super-State.

Our proposal is that of transforming the Council of the European Union into a European Senate.

As the Council of the EU, the European Senate will be formed by the representative of the second level Member States, directly elected by the people, as permanent representatives, for the whole duration of a legislative period of five years. Negotiations will determine how many senators will represent Member States. Two-three per Member State seems appropriate.

The institution of a second Chamber will call for a change in the name of the first Chamber. The proposed name is House of Europe. Consequently, the European Senate and the House of Europe will constitute the European Parliament.

The repartition of competences between the Senate and the House will be negotiated in the European Convention and later in the Intergovernmental Conference called to modify the Treaties.

⁷ *Op. Cit.* p. 81

⁸ *Op. Cit.*, p. 36

Here we advance two options:

First. In order to smooth the way of such a deep reform, the European Senate will receive and retain all the present powers of the Council of the EU. An evolutionary clause will indicate the period and the modalities for establishing the new repartition of powers within the two branches of the European Parliament.

Second. The Convention and the subsequent IGC proceed directly to define a new repartition of powers between the two Chambers. The new European Parliament will be elected by the citizens of the second level Member States just after the ratification and entry into force of the new Treaty.

In principle internal issues like Single European market and regional policy will fall within the competences of the European Senate while external issues, like foreign policy and trade policy, will be attributed to the realm of the House of Europe. For other competences like Budget and Defence shared competences could represent the best solution.

The European Council and the European Commission

These institutions would maintain substantially the present powers. However, two reforms can be advanced:

- 1) Unification of the two presidencies and election of the president of the two institutions by the European Parliament, in a joint voting session of the Senate and the House.
- 2) Remaining members of the European Commission elected by the Parliaments of the second level Member States and ratified by the House of Europe.

Joint Monetary Board

This board would be formed by the presidents of the ECB and the presidents/governors of the national central banks of the countries participating to the confederal level. The aim of the board would be the coordination of monetary policies for price and exchange rates stability to ensure the smooth working of the EMS and consequently of the EEA.

Joint Council

The relations between the two levels would be regulated by a Joint Council formed by a representative of the second level and representatives of first level Member States. Decision will be taken at unanimity.

5. From confederal to federal level

The model of differentiated integration we have so far delineated envisages a two-stage route, possible but not obligatory. Only those countries willing to be part of a federal union would reach the second floor. The one-way sliding scale of our example is the representation of a second negotiation process whose chapters will be represented by those competencies which are exclusive of the federal level, especially EMU. Actually, the adoption of the euro would be one of the requisite in order to accede to the second level.

However, in the passage from confederal to federal level the concerned State would recuperate a part of its economic sovereignty, as would participate to the decision process concerning the SEM.

6. Transition problems

The scheme we have here presented would pose transition problems to the EU countries choosing the confederal level, as they will have to withdraw from some policies, particularly Agriculture and Regional policies. A sort of partial-exit will have to be negotiated. Not an easy task. In this respect, the experience and know-how that will be accumulated in the forthcoming moth (or years), through the Brexit negotiations could provide a useful tool box. On the other side the difficulties, renunciations, sacrifices and uncertainties linked to the partial-exit could provide a stimulus for the federal choice.

Conclusions

In the Introduction, we underlined the need for a reform with the capacity to reconcile the two souls of the EU. Europe has grown in depth and width in the past 60 years. A success story may sometimes cause a final failure. This because depth and width, after trespassing a critical threshold, inevitably present a trade-off. We cannot have more of the two at the same time. The confederal-federal model allows for this reconciliation. It provides an opportunity for those countries that, for their culture and history, are available to pool just a segment of their economic and political sovereignty, to be part of an advanced process of integration. At the same time, it could work as training ground for those countries that are willing to join the federal level.

We consider that the two stores house whose features we have delineated if this work, could be the base, after a careful work of definition of the details, for a peaceful and constructive coexistence and reconciliation of the two souls of Europe.

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