

Leo Klinkers

**Sovereignty, Security and Solidarity,
when people have a say**



**Towards the United States of Europa
or, how America becomes Europe's little brother**

Dedicated to my wife Iet

ISBN

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In Greek mythology, Europe was a young princess. It inspired my federalist friend Alexandru Diaconu, President of the Jean Monnet Association in Bucharest, Romania, to design this image: a dancing Europe. It could be a beautiful statue on the square in front of the European Parliament in Brussels. And an inspiration for transferring the leadership of Europe into the hands of women. Thanks to Rob Touw for improving the image, making it fit for the title page.

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Foreword

The future institutional character of the European Union is under question today. Europe may achieve the unity of a free trade area, or the unity of a cohesive and comprehensive democratic order. The problem of generating a comprehensive democratic order in Europe derives from the fact that what we know as the European Union was born first and foremost as an economic union, or, more loosely still, as an economic community. This concern to devise a common economy masked (from the public) a more ambitious concern to devise a common polity.

The European institutions, conceived as future bodies of a democratic state, do not yet have a fully democratic character. As a matter of fact, the decisions on which the fate of the European peoples depends are made by the Council of Ministers or by the European heads of state and government, which lack adequate democratic control. Within the framework of the European Union the Council embodies the confederal principle, while the Parliament embodies the federal one.

Being the only legitimized seat of democratic power, European governments represent the fundamental means of European unification and also the obstacles to its attainment, because they are inclined to reject a genuine European federation involving an irreversible transfer of substantial parts of their sovereignty to a supranational authority. In fact, they are only likely to favor a type of unification which does not involve the irrevocable transfer of power.

Pressure on governments and political parties in favor of European unification were exercised by movements which were independent, able to provoke an action that governments would not, otherwise, take readily on their own. The basic features of such movements were: a) they were not political parties, but organizations aimed at uniting all supporters of a European federation, irrespective of their political beliefs or social background. Seeking national power to achieve European unification a political party would be fatally weakened by intending to transfer to supranational institutions substantial parts of the national power, for which it would be competing; b) they were supranational organizations uniting all supporters of European unification beyond their national allegiance, so as to imbue them with a supranational loyalty and enable them to organize political action at European level; c) they were seeking to establish direct influence on public opinion, outside national electoral campaigns, which would help it to exert effective pressure on the European policies of governments.

The existence of movements with these characteristics represented, however, merely a subjective condition for effective action. There was also a need for objective conditions, such as those provided by crises within national political systems. During periods of relative stability of national political systems, when governments appear able to deal with the principal political, economic or social problems, the movements for European unification were unable to influence national governments effectively, because public opinion tended to support the latter and their policies. Only at times of acute crisis, when governments were unable to cope with the pressure of events, public opinion was able to support a European policy. At such times those movements were able to mobilize support for European solutions and persuade governments in favor of them. Such crises were supposed to arise since we are living during a historically critical stage for the nation states which, after periods of relative and apparent stability, are subject to intense crises of their political systems. There were only two possible ways to fill the power vacuum created by the existence of a European context along with a national one: either by starting with a European government of a federal nature, or by moving towards this federal goal with a step by step convergence of the national policies of the different countries.

During these period of crisis a 'moderate' school (identified in the action of Jean Monnet) supported a functionalist approach, whilst a 'radical' school (identified in the action of Altiero Spinelli) suggested to initiate a constituent democratic procedure under which the ultimate responsibility for proposing the nature of the European institutions would be entrusted to the representatives of public opinion, and

whose draft of the European Constitution will then be directly submitted for ratification to the appropriate constitutional organs of the member states, without being subjected to prior diplomatic negotiations. The concept of a constituent European assembly was patterned by the leaders of the 'radical' school on the way the first federal Constitution in history was drawn up, namely that of the American Constitution, worked out by the Philadelphia Convention in 1787. This constituent stand stemmed from the belief that the functional approach to European unification would not achieve profound and irreversible unity. In the long run it appears impossible to integrate selected sectors of national activity without a federalist constitutional framework from the very start. By refusing to start with a supranational authority of a democratic character the principle of the national veto was, in fact, inevitably retained (even with a formal acceptance of majority voting). This would deprive European institutions of the capacity to overcome special interests that arise from the exercise of unfettered national sovereignty, and to ensure the supremacy of the common European interest.

As objective historical circumstances force national governments to face the need for supranational unification, whilst they resist giving up their sovereignty, it was inevitable that they followed the functionalist approach that postpones indefinitely the establishment of an authentic supranational authority. Functional institutions established by the unanimous decisions of national governments have shown themselves to be weak and incapable of acting decisively at critical moments when particularly grave problems face them. As a consequence, positive results obtained in more favorable circumstances tend to be compromised or abandoned in times of crisis.

The 'radical' school twice nearly succeeded in initiating the democratic constituent procedure: with the ad hoc Assembly in 1952 and with the Draft Treaty in 1984. These two attempts, which were so nearly crowned with success, have, in spite of their failure, made a decisive contribution in furthering the process of European integration. The failure of the European Political Community in the 1950s provided the premises for the Treaty of Rome. Similarly, the Single European Act, however inadequate, nevertheless represents a major step forward, because by its commitment to complete the internal market has generated expectations and energies which are forcing governments to examine even more advanced solutions. As frequently asserted by President of the Commission, Delors, this was made possible by the EP Draft Treaty.

All this is well known. Less well known is the fact that both Monnet and Spinelli much owe to the British federalist tradition for their conversion to federalism and in particular to the Federal Union Movement, the first European federalist movement organized on a popular basis.

Leo Klinkers too owes much to the Anglo-Saxon federalist tradition. This volume which presents a strong case for a politically and legally integrated Europe, as the only alternative to the dissolution of the European project, places itself on the same line of succession of the classics of federalist thought. The arguments provided in this volume in support of a European federal union are incontrovertible. Europe must federate or perish. This is the central question of our time. A time of crisis from which Europe will come out stronger and more united, as it has been for all previous crisis, or will fall back into anarchy and war.

There is a real danger that the European Union risks being delegitimized by the current democratic deficit. Such a deficit is not simply the effect of the limited role that democratic representation plays within the institutional machinery of the Union, but of a certain insensitivity of national leaders, and politicians in general, to the complexities of constitutional politics. The 'constitutionalizing' of the European Union has entered the scene through the back door, by the progressive creation of a single 'legal order' *ex proprio vigore* (i.e. a coherent, systematic body of legal norms with autonomous validity, coincident to a territorially bounded social and political entity), mainly intended to prop up the establishment of a common economic zone. Since the Rome Treaties, the European Court of Justice played, in fact, a major role of 'constitutionalization', i.e. of transforming the treaties into a 'material' Constitution.

Leo Klinkers argues that this 'material' Constitution has to be converted into a 'legal' Constitution by a Constitutional Assembly on the model of the Philadelphia Convention of 1787, and should enter into

effect by the legitimization of popular will. This is the meaning of the European Revolution. A peaceful Revolution which is likely to have immense consequences on the rest of the world.

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Pavia (It.), October 2018

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Introduction

In 1787 thirteen American colonies founded the United States of America by designing a federal constitution. Since then, many attempts have been made to turn Europe into a federal state; these attempts have always failed. There are two reasons for this: a lack of knowledge of the essence of federalism and a lack of political courage. I leave aside to what extent one reason activated the other.

Since 1787 the American Constitution has served as a model for the creation of twenty-seven federal states². Together these states house 40% of the world's population. If we take into consideration that the American Constitution was based on ideas put forward by European philosophers, the question arises as to who has been asleep in Europe for more than two hundred years.

You can, of course, reply that 40% of the world's population have allowed themselves to be fooled and should never have enabled the federal state to come into being. In that case we go our separate ways from here. However, if you take a moment before answering this question, you may be interested in the purpose of this book: the transfer of knowledge. Offering an explanation as to why there's still no overall European federation. And why the current way of governing the European Union is wrong and why a federal Europe would be good. Hundreds of millions of soldiers and civilians would not have died in vain in the wars on the European continent in the 18th, 19th and 20th centuries, caused by the nationalist-driven anarchy of Europe's nation-state design, if Europe had been given the same form of federal government as America, soon after 1787. As once said by the French President Francois Mitterand : *'Le nationalisme, c'est la guerre'* (Nationalism is war).

If you try to acquire this knowledge perhaps you will leave your comfort zone to undertake what European leaders have unjustifiably failed to do for two hundred years: to create the United States of Europe.

A plea for a federal Europe has nothing to do with ideology, nor with opinions. Knowledge, knowledge and more knowledge must be the basis of political constructions: constitutional knowledge (the legal basis) and institutional knowledge (the organizational basis).

To avoid any misunderstandings: I have nothing against the European Union. On the contrary. The EU is a symbol of the age-old need for a united Europe. Respecting the sovereignty of Member States, their specific cultural identity, their openness towards other cultures, a complex of values based on liberal democracy, the restless monitoring of human rights and – in order to realize these principles – cross-border governance in order to defend common interests as a matter of course. With a radical rejection of the nation-state anarchy that has previously caused so much disaster.

However, the European Union is based on an operating system, like a car runs on an engine. No matter how beautiful a car looks, if you put a third-hand engine from the 1950s in a modern car, you get into trouble. And that is emphatically the case in 2018. Caused by the malfunctioning of the EU operating system.

This system has a name: *intergovernmental administrating*. That is an administration in policy areas, driven by the national interests of governments. After a while this way of governing reveals a number of ingrained system faults. Caroline de Gruyter (publicist on European aspects in the Dutch newspaper NRC Handelsblad) has repeatedly described one effect of these system errors in her columns as follows: *'Europe's problem is the lack of ownership by national politicians'*.

Over time, these system errors start to eat the system up from the inside, especially when the operating system is under pressure due to problems from the outside. Recall, for example, the financial crisis since 2008, Europe's migration problems and President Trump's divide & rule politics. The intergovernmental

² Argentina, Australia, Belgium, Bosnia and Herzegovina, Brazil, Canada, Comoros, Germany, Ethiopia, India, Iraq, Malaysia, Mexico, Micronesia, Nepal, Nigeria, Austria, Pakistan, Russia, Saint Kitts and Nevis, Sudan, Somalia, Venezuela, United Arab Emirates, United States, South Sudan, Switzerland.

administrating under treaty law is unable to monitor and preserve the unity and solidarity within the EU Member States.

Each intergovernmental operating system has a limited political life cycle. The life cycle of the European Union is now clinically dead. Time for a new engine: the federal United States of Europe. I will explain the Why and How in the following chapters.

I have chosen to write a text without academic references, such as footnotes. Those who want to delve deeper into the knowledge complex regarding federalism will find everything they would like to know in the bibliography.

I thank Inge Klinkers and David West for supporting my work for the federal cause; Fernand Jadoul for his contribution to the European Federalist Papers and the promotion of the brilliant adage *'Where there is a will, there is no border'*; Robert Stewart, Herbert Tombeur and Derek Morton for sharing their knowledge of federalism; Lorenzo Sparviero and Mauro Casarotto for the creation of the *'Federal Alliance of European Federalists'* (FAEF) under the aegis of 'federating the federalists'; Francesco Paolo Sgarlata, Giovanni Florenzano and Stefano Troiano for their professional support by recording videos to further the goal of 'federating the federalists'; Catherine Guibourg and Michel Callouët for their support of new federalist initiatives; Jos Steehouder for his journalistic sharpness; Bart van den Berg and Pepijn van Kouwenhoven for their infectious enthusiasm for federalizing Europe; Moses Marinho Sanches Junior for his constant search for knowledge. More specifically, I would like to thank Peter Hovens, co-founder of the cooperative SamenWereld, who seduced me into writing this book.

Leo Klinkers, The Hague, July 2018
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PART I WHAT IS FEDERALISM?

PART I deals with the importance of acquiring some basic knowledge of federalism. I am countering popular misunderstandings about federalism and false prophets who deceive the people with unsound narratives on federalism.

Chapter 1 explores the curious contradiction that the citizens of Europe might reject, en masse, a federal European state, while their needs seem to be precisely reflected in the elements a federation has to offer.

In Chapter 2 I demonstrate with the aid of examples and drawings of federations the true nature of a federation: the most democratic and powerful way of organizing, since it connects people, while leaving their individuality intact.

My hopes and expectations are that as soon as the citizens of Europe find out that a federation encompasses exactly what they want, they will start to move in the direction of replacing the current European Union with a United States of Europe. And thus, by having a say in their own future, create what title of this book proffers: Sovereignty, Security and Solidarity.

1. Something very strange is going on

1.1 What do the people of Europe think?

The opinions of the citizens of Europe are divided. Some consider unity and solidarity within Europe to be indispensable. They understand that cross-border cooperation between states is necessary because a number of political and social issues cross the national borders. Returning to war-driven anarchy – in the sense of the absence of cross-border governance and ensuing wars – as in the 18th, 19th and 20th centuries, is not an option for them.

Others see no added value in a unifying Europe and certainly not in today's European Union. They consider this to be a toothless tiger with no democratic representation; with too much erosion of the national sovereignty of the Member States; too much artificial, bureaucratic and anxious short-term policy making and the filling of holes with new voids; too little influence of citizens on the decision-making process and too much of lobbyists; impunity for ignoring (by member states) agreements, rules and regulations and the shameless bargaining between Member States in order to obtain as many benefits as possible for their own state; the costly travelling back and forth of the European Parliament between Brussels and Strasbourg; the maintenance of a fraudulent subsidy and VAT circuit; the absence of a sound system of accounts; no solid constitutional and institutional basis for the euro and the incapability of responding vigorously to external threats such as, for example, immigration problems, terrorism and a significant shift of power in the geopolitical arena; the pawn of major powers at the mercy of divide and rule.

In short, in their view, European leadership is a series of stories and narratives without the prospect of a political intervention of the caliber 'I had a dream ...'. There is no sign that the EU will be able to escape from the same malaise that characterized the thirteen confederated United States in 1787.

Some opinions are factually correct. Others more emotional or difficult to prove. This mix of partly correct and partly incorrect observations makes it difficult to have a sensible discussion about the future of Europe.

1.2 Which groups can we distinguish?

Groups concerned with Europe can be distinguished more or less as follows:

Federalist movements: in the current way of governing the European Union, they see the source of the misery as summarized above. In their view, all or most of this misery will disappear if the European Union were to be run on a federal basis. An effective and efficient Europe that takes care of the common interests, while preserving the sovereignty of the Member States.

Pro-Europe groups: they prefer the current European Union, but in a better organized form. They reject a federal Europe on the basis that a federally organized Europe would be a superstate destroying the sovereignty, autonomy and cultural identity of the Member States.

Anti-Europe groups: they want as little European governance as possible, or rather none at all. One part strives to reduce the European Union: admitting fewer Member States, reducing the powers of the European Council, restoring the borders between Member States and only leaving them open a little. Another part wants to abolish the European Union altogether and close the borders hermetically. Back to the nation-state of the 19th century.

1.3 Why is this difference of opinion so strange?

Over the years, the Eurobarometer has shown that the majority of European citizens are in favor of Europe. However, if you ask people whether they would vote in favor of a federal Europe, at least 90% would reject this option.

Yet what do we hear, if we were to ask individual European citizens the following questions? Mind you: I have done this exercise many times before.

1. Do you want your country to be and to remain sovereign?
The answer will undoubtedly be 99% yes, 1% do not know and 0% no.
2. Do you want to preserve the cultural identity of your country?
So, do you want to preserve your republic or monarchy, your language, your specific morals and customs, your diversity of values, your regional differences and your dialects? Believe me, at least 95% say yes, 4% say no and 1% do not know.
3. Do you think that there are common problems or interests that can only be solved through cross-border cooperation between countries?
The answer will likely be: 85% yes, 10% no and 5% don't know.
4. Should cross-border cooperation take care of (a limited number of) common interests only, leaving other interests to be the domain of the individual countries?
The answer is clear: 99% for subsidiarity and 1% do not know.
5. Should a limited list of common problems and interests be taken care of from an integrated European perspective, thus not from the national interests of member states?
So, do you want separate Italian, German, French and Dutch defense policy - or an integrated European defense policy? The answer will probably be in the order of 80% for an integrated European approach, 15% non-integration and 5% do not know.
6. Do you think that connectivity between Member States - in whatever form - should have the power to actually implement measures?
I believe that the answer will be: 95% yes, 4% no and 1% do not know.
7. Do you think that a connectivity between Member States - in whatever form - should have democratic legitimacy?
Would we be surprised if the answer were to be: 95% yes, 4% no and 1% do not know?

Do you want to do this Poll yourself? Go to www.samenwereld.nl/poll.

This outcome – gathered in many discussions for a number of years – confronts us with a strange contradiction. If we ask Europeans directly whether they would like a federal Europe, then at least 90% will strongly protest. If we ask them the previous questions, their answers go directly in the direction of a choice for a federal Europe, because those answers indicate exactly what a federation has to offer.

1.4 How can this be explained?

There is only one explanation for this strange contradiction: the people at large do not know what federalism is. Not even 10% of European citizens have any sense of the basic elements of federalism. In the many years I have spent studying this subject, I'm sad to say that even a majority of people who call themselves federalists cannot explain the essentials of federalism and why it is superior to the intergovernmental EU operating system, which is slowly but surely succumbing to its own system failures.

In general, the people of Europe are unaware of the true nature of federalism. They do not know that it is precisely a federal state that preserves and guards the sovereignty, autonomy and cultural identity of Member States. And guarantees democratic decision-making.

Not every federation listed in footnote 1 is hundred percent democratic. One might question the democratic degree of some of them, but do not make the mistake to blame for that their federal structure. It all comes down to the democratic degree of its leaders.

The people do not know that a federal body will be set up to serve just a small, limitative list of common interests that can no longer be taken care of by an individual state. This lack of basic knowledge leads citizens to listen to false prophets who make them believe that a federation is a superstate intent to destroy the sovereignty of the Member States. The opposite is true. Not only does everything that is dear to the Member States remain intact, but they are even given extras, such as a better protection of their shared interests.

This general lack of knowledge is also curious for another reason. Up to now, I have only talked about federalism in the public order. That is to say, that of the public authorities. If we look at the private sector, it is quite astonishing that the whole of the Netherlands is covered by hundreds of private federations. To name but a few: the federally organized sport (NOC*NSF, including the soccer bond KNVB), the Entrepreneurs' Organizations (VNO-NCW) including the large number of Employers' Organizations. This network of private federations affects millions of citizens of the Netherlands.

1.5 Isn't it time to make a breakthrough?

We, therefore, have two contradictions that are hard to reconcile.

Firstly, a large majority of citizens is against federalism, but, on closer inspection, this majority has wishes that are inextricably linked to federalism.

Secondly, we have a European political system that has refused to federalize for two hundred years, while accepting a huge number of federal organizations in the private sphere.

This calls for a breakthrough, which may start with more knowledge about the system errors of the current system and the system power of a federation. And people with knowledge – instead of opinions – can be expected to act accordingly.

2. What is a federation?

2.1 Introduction

I do not give a formal definition of the term 'federation'. Any definition has its flaws. I shall try another approach, namely by describing the concept of 'federation' in different ways. Through comparisons. Experience has taught me that this works best. However, I do have a request: do not run off with the comparison. As with definitions, there is always a comment to be made or a question to be asked. It is for this reason that three different comparisons are now being made. Together, they give you a clear picture of elementary federalism.

First of all, it is important to know that a federation is not just an organizing principle for states. So, it is not restricted to the authorities alone, to the public order. It is a perfect way to create strong organizational constructions, even in the private sphere. This is what I will demonstrate first of all.

2.2 Private federations

2.2.1 The UEFA as a first example

Take a look at the largest private federal organization in Europe: the UEFA. Even many people who do not like soccer know what the UEFA is. It is based on thousands of amateur and professional football clubs. With their own legal identity as an association, they form together – organizationally – a federal structure in a national association. In the Netherlands, this is the KNVB. This body is needed because individual clubs cannot represent certain common interests on their own. For example, drawing up a competition agenda from August to June. They can't decide themselves who to play against next week. That would be chaos.

An observation aside: do not confuse the legal status of being an association with the organizational structure, of being a federation.

There are fifty-four national bonds in Europe. Including the unions of Monaco, Andorra and Lichtenstein. Together, they form the federal body known as UEFA. And that takes care of the organization of the Champions League, and of the four-yearly European championship. An individual local club or national association is incapable of doing that.

This UEFA example conceals some of the basic characteristics of a federal organization:

It is organized from the bottom to the top. Keep this in mind: a federation – either public or private – is built up from the basis of society. Essential to being a federation is that the decisions of a federal body can be traced back to the interests of the grassroots level.

It is fitting to mention here the meaningful adage of the foundation of federalism: *'All sovereignty rests with the people'*. Although this refers to a public federation, it also applies in full to private federations: you do it for the grassroots level. Later I will tell you that this principle formed the basis of the Encyclical *'Rerum Novarum'* by Pope Leo XIII in 1891 and by Abraham Kuyper's adage *'Sovereignty in one's own circle'*.

The structure from bottom to top is a layered one. The bottom layer is formed by the individual clubs. The second layer is the national association. The UEFA will follow as the European layer, with the FIFA above it, which – by means of a continental division – represents all football clubs in the world with an agenda that national or continental associations – let alone individual clubs – cannot represent.

The members of each layer are sovereign, autonomous and independent in their own home. They determine their own order. Their own rules. Their own cultural identity. Only matters that they cannot regulate themselves are – together with all other clubs – regulated by a federal body. Yet, that body is only competent to decide on those matters that have been entrusted to it as a common interests. Limitatively.

So: built from the bottom up, in autonomous layers, while taking care of a limited number of common interests and that are therefore happy to share their sovereignty with a body guaranteeing the care of those common interests.

If you see anything like that, you see a federal organization. As I mentioned earlier, the whole of the Netherlands is covered by hundreds of private federations, including the federal constellation of the VNO-NCW, the federal top body of all business organizations. Whatever the name of the branches and their members – association, bond, federation or any other name – the VNO-NCW is a gigantic federal organization and should be called the FNE: Federation of Netherlands Entrepreneurs.

The example from the world of football should make it clear that a federal organization is in no way a super-organization or – in the public sphere – a superstate destroying its members' sovereignty, as some ignorant politicians tend to claim. On the contrary. In essence, a federal organization is the only form of organization in which the layered parts each retain their sovereignty. I will explain this in more detail in Paragraph 2.3 with a few drawings.

And please remember that billions of people in the world enjoy the fact that there is a UEFA and a FIFA. With a billion-dollar economy. Thanks to the fact that a federation is an extremely strong form of organization.

2.2.2 An apartment building as second example

The comparison that follows is likely to be understood best by people who own an apartment in an apartment building, also known as a condominium or condo. If an owner wants to decorate his home with IKEA furniture, no one is able to prohibit or force them to go to a furniture boulevard instead. Would the owner on Wednesday like to eat minced meat and on Friday fish, no problem. Twice a day a cold shower, go ahead. Apartment owners are bosses in their own homes.

But ... in such a building there are also some interests that no individual owner can look after on their own. Who takes care of the maintenance of the roof, the lifts, the central heating, for example? Who keeps the stairs clean and ensures a regular painting of the building? Because individual owners cannot take care of these tasks, they are all members – by law – of an Owners' Association. They elect a board, to which they transfer the responsibility for these common interests and pay a monthly sum, to financially enable these processes.

I must now mention some basic concepts. I have made these key terms bold for the sake of highlighting. Everything concerning the apartment building is the **sovereign decision** of the apartment owners. However, some of these powers are vested in the management of the board. This is called a **vertical separation of powers**. And this vertical separation means that the individual owners **share sovereignty** with the board. And that, taken together, is the essence of a **federal organization**. Thus, the legal status is an association, the organizational status is of a federal nature.

Please note that the owners do not lose their sovereignty. Rather, they request a federal body to carry out certain tasks, namely to take care of the common interests. Not only do the owners **keep their sovereignty**, but they also get **extras**, namely the knowledge that their common interests are being taken care of. Of course, the quality of that care depends on the quality of the board's administration, but should it prove to be unsuitable, a new administration may be chosen.

When I discuss the public federations later, this will be clarified with the aid of some drawings.

Please note that the board itself exercises sovereign control over these transferred powers. Imagine that after a few years the building's boiler needs to be replaced in the middle of winter with a more energy-efficient new model. In that case the board can decide that on a certain day for a number of hours the building will be without heating. This is not a top-down decision at the discretion of the administration, but rather a decision that can be traced back directly to the interests of the residents, based on the **vertical separation of competences** and therefore **shared sovereignty**.

There is something else that needs to be added. When someone at the notary signs the deed of purchase of an apartment, he receives a small book with the rights and obligations of apartment owners. For example, stating that one should not drill into walls after eight o'clock in the evening, or on Sundays. Or, when purchasing a sun protection system, it should be of an orange color. We can regard these regulations as a 'Constitution' from which all members of the federal community derive their coherence and order. In short, the status of a condominium is a perfect example of a federal organization.

2.2.3 Your money in a savings account as third example

Suppose you have a lot of cash in your home, under the mattress. You are the sovereign owner of that money. Very nice, but a lot of money in the house makes you vulnerable. A thief looks directly under the mattress and runs off with the money.

If it is white money, it would be wise to put it in a savings account. Then the money will no longer be in your home and you will not lose a single euro. It will remain yours. On top of that you will receive some extras. The money is better guarded in a bank than in your home. You will also receive a bit of interest. Should a financial crisis occur, then your money is safe (at least in the EU) up to 100,000 euro. As you know, your bank can invest your money, which is part of the vertical division of powers and therefore of shared sovereignty. You can choose a bank that invests in causes you find valuable, for example in sustainability. With all the savings accounts of their customers who want to promote sustainability, the bank can make considerable results in this area. With your money under the mattress you can't do that. Here you can see the standard elements of a – virtual – federation.

2.3 Public federations

With the aid of a few drawings I will now explain the construction of a federal state organization. Next, I will deal with concepts such as integration, subsidiarity and aspects of some federal states in Europe.

2.3.1 A federal state structure

Below are four individual states. They all have sovereign powers A-Z.



They realize that there are interests that they, as an individual state, cannot, or can no longer, take care of individually.

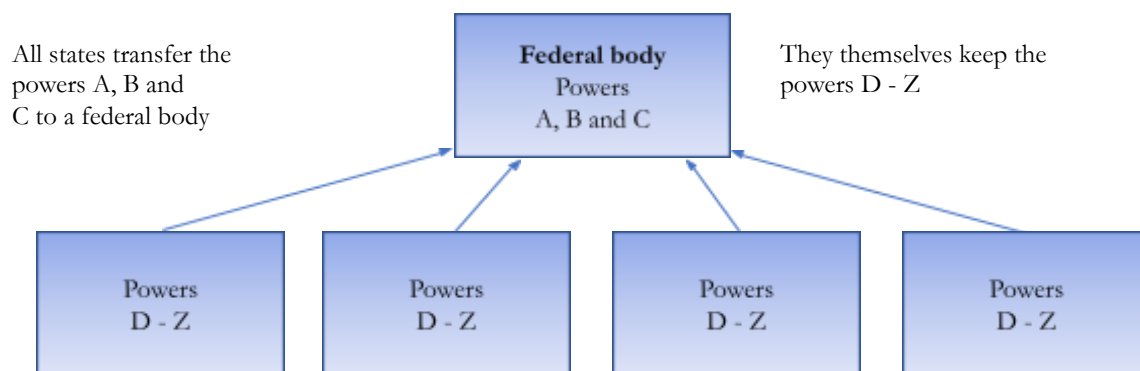
Traditional common interests are: a common defense policy and defense force, a common foreign affairs function. A more recent interest manifesting itself in the European Union as communal interest is in the field of immigration policy. The 2003 Dublin Accord, establishing the principle that immigrants should be received by the country in which they first report, shows that Italy and Greece are collapsing under that burden (shifting the burden to Spain since a new Italian government is closing the borders hermetically), while some Eastern European countries refuse to cooperate in achieving a proportional distribution of immigrants across all EU countries.

As far as immigration is concerned, the EU Member States and, above all, the countries of Eastern Europe, can brace themselves when a new generation of European leaders of the level of statesmen – politicians with knowledge and courage rather than opinions, and not led by national interests – will make it clear that

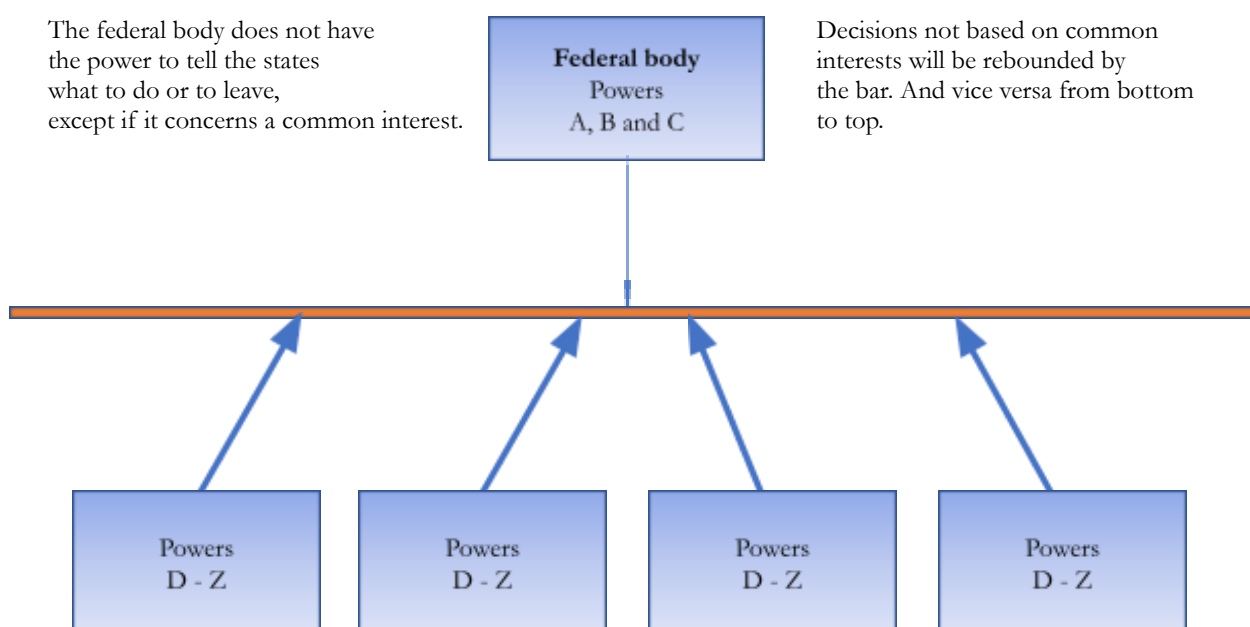
Europe can only survive demographically and geopolitically if no less than five hundred million immigrants from around the world are brought to Europe by the end of the 21st century.³

There are other interests that are not predetermined. Which policy area may or may not be considered as a field of common interest is a matter of political negotiation.

Suppose that these four states no longer want or are able to look after the aforementioned interests themselves but prefer to transfer responsibility for these to a federal body – in that case the drawing looks as follows.

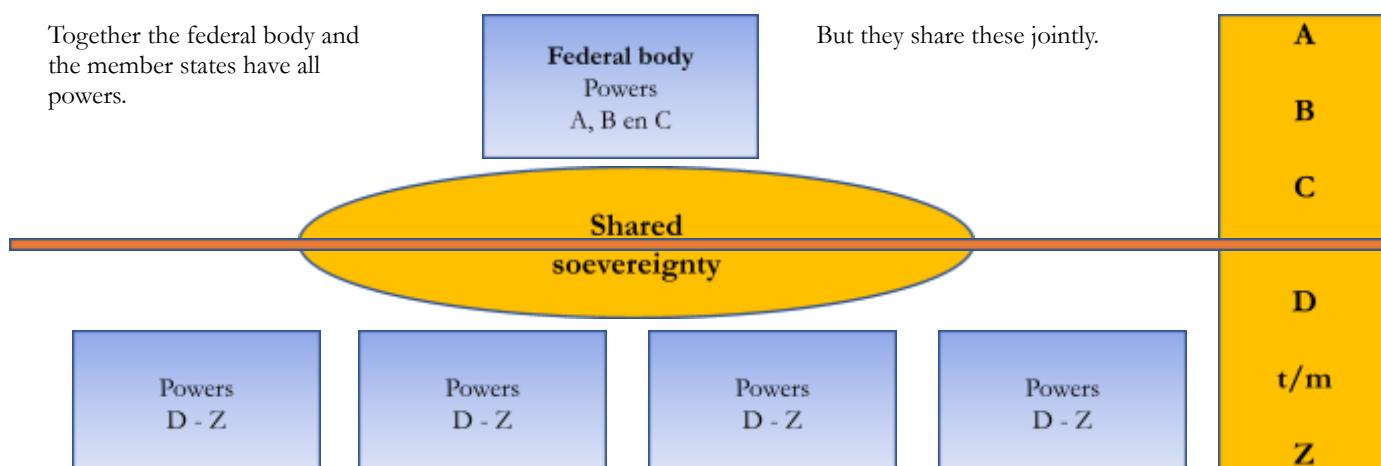


The most important aspect of a federation is the vertical division of powers, as stated before: there will be a **bar** between the Member States and this federal body. This symbolizes that the federal body does not have the power to take any top-down decisions that are not included in the limitative list of common interests transferred. Any decision that does not fall within a policy area of the limitative list of common interests meets this bar and bounces back. The reverse is also true: states cannot simply demand that the federal body does something that is outside their list of interests. See the bar in the drawing.



³ See www.samenwereld.nl; 7 Routes to get Knowledge; Route 7 'The common interests' route; Common interest 3: one common European immigration policy.

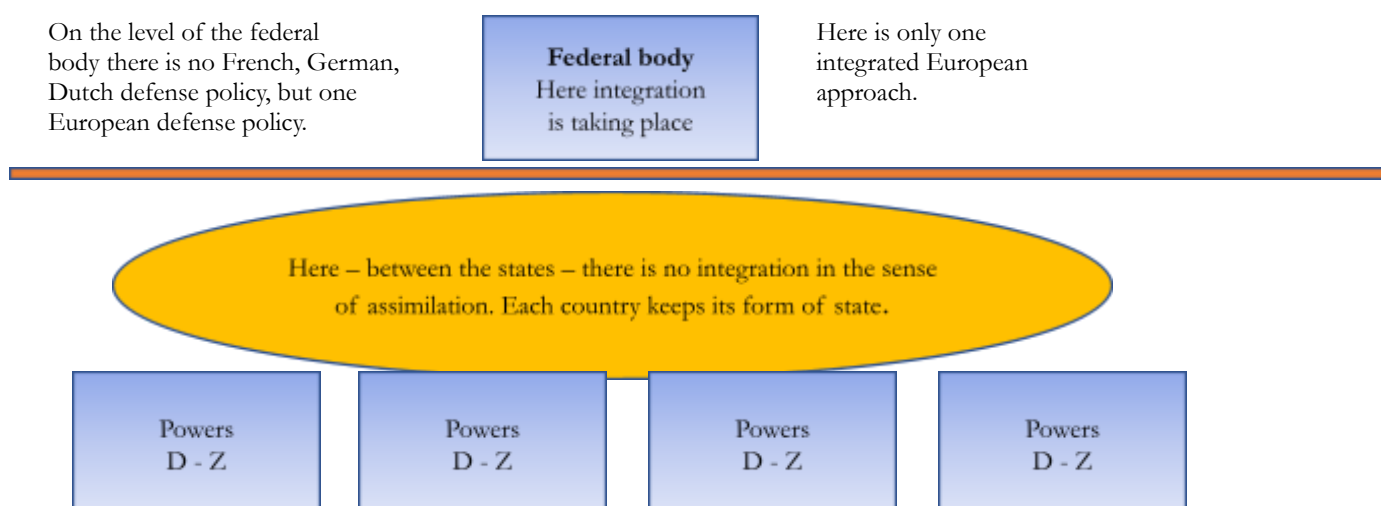
The following drawing shows the result of this vertical division of powers: **shared sovereignty**.



2.3.2 How does the concept of *'integration'* fit in with this?

Avid supporters of the current European Union are constantly pleading for more *'integration'*. With this, they mean that Member States should be in line with each other, as much as possible. Strictly speaking, the call to integrate further is a task for countries to assimilate. That is to say: adapting to one another as much as possible and thus taking on each other's characteristics. This is one of the most important causes of conflict within the EU. Countries, parliaments and peoples do not want to assimilate. Not only do they want to preserve their own sovereignty, but they also want to maintain their cultural identity. This need for further integration is one of the many systemic errors within the EU's current operating system. Notice that such a system error is completely absent in a federal form of government.

Does this mean that the concept of *'integration'* is not relevant at all? It is certainly relevant if you know where exactly in the operating system this relevance applies. That is, at the level of the federal authority.



2.3.3 How does the concept of *'subsidiarity'* fit in with this?

Usually I answer that question: 'Nowhere'. And that, of course, leads to raised eyebrows. People who ask this question know what the essence and importance of *'subsidiarity'* are. But because they're usually

unaware of the essentials of federalism, they think that subsidiarity should also be placed somewhere within the legal framework of a federal organization.

The principle of subsidiarity in Article 5 of the Treaty of Lisbon – the legal basis of the European Union – means that EU authorities must always consider in their decisions what Member States themselves can do better or perhaps even best. If that is the case, they should turn their backs on the matter and leave it to the Member States.

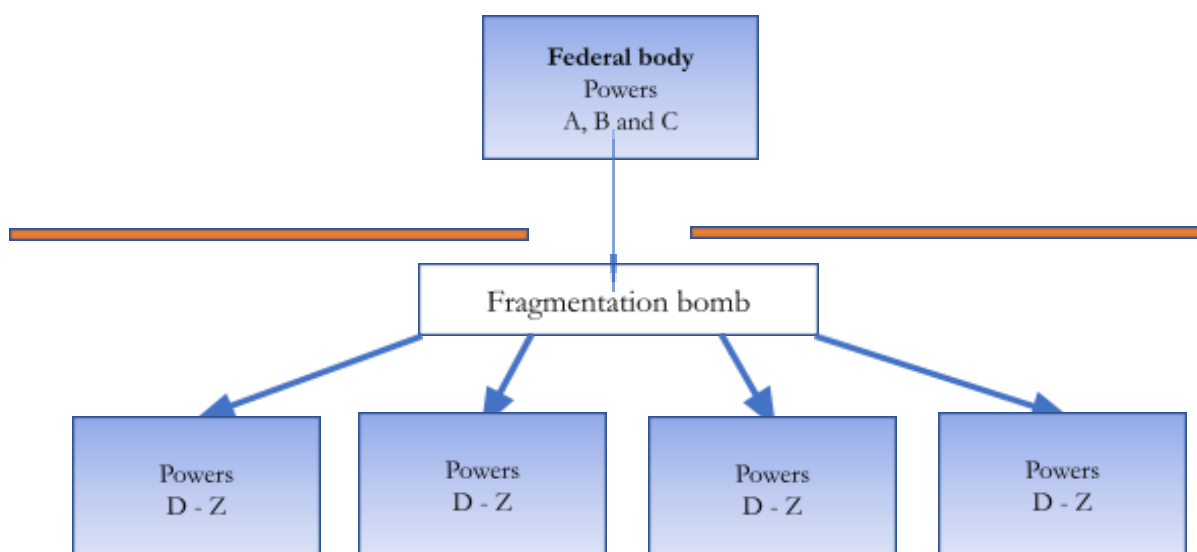
However, this article does not work. I will discuss this in the next section. First, I'd like to answer the question: why does the constitutional basis of a federal organization lack an article stating that the federation must respect the principle of subsidiarity? Well, such an article is absent because a federal organization is the same as subsidiarity. The vertical separation of limitative powers, added to the bar that rebounds top-down decisions falling outside of those powers, is the same as subsidiarity. In other words, the vertical division of powers and subsidiarity coincide. So, you should not include it in a federal constitution. Avid supporters of the principle of subsidiarity are, in fact, complete federalists. Even though they don't know that.

Another important EU interest that has become the EU's most important cornerstone over the years is a self-evidence within a European federation. That is, the principle of the single market, comprising the four freedoms: the free movement of people, goods, factors of production (capital and labor) and services throughout the Union. So, two of the EU's important principles – subsidiarity and the single market – are automatically present in a federal state. As a consequence, the UK cannot become member of a European Federation if it is holding on to its claim to block the free movement of people. The same – so, no membership of the federation – applies to countries which reject a federal migration policy based on open borders.

2.3.4 Why does '*subsidiarity*' not work in the EU?

The Treaty of Lisbon – which consists of two sub-treaties – contains a list of subjects on which the European Union can take decisions. When we add this to the principle of subsidiarity – leaving matters to the Member States themselves if regulation at that level is more effective – this resembles the restrictive list of common interests to which a federal authority is confined. However, this is only an illusion. Article 352 of the Treaty of Lisbon contains a number of provisions which, in short, provide the European Council (that is, the group of Heads of State or Government, the people who take the final decisions) with the power to take any decision considered to be in the interest of the Union.

As a result, a large gap is visible in the EU subsidiarity principle, as demonstrated in the next figure.



The European Council shoots all decisions that it considers serving the interests of the Union as a whole through the hole in the bar, after which the Council aims at the Member States' precious national interests – by unleashing a 'fragmentation bomb' – causing these to fall to pieces. This only serves to increase the general feeling of resistance towards compulsory country assimilation. Brexit is just one of the many symptoms of the European Union shooting itself in the foot.

Of course, there are Heads of State or Government – for example, Emmanuel Macron (France) and Mark Rutte (the Netherlands) – who argue in favor of concentrating EU policies on a limited number of key interests, as a type of limitative list. But apparently, they're not aware that by doing so, they are advocating a federal organization of the EU. Since the Lisbon Treaty is only the sum of national interests, with conflicting rules and national exceptions to general regulations (the notorious opt-outs), it cannot function as a solid constitutional foundation for a handful of common interests. What is more, if Macron were to have his way (as advocated in his Sorbonne speech of September 2017), of adapting the Treaty of Lisbon to this end with yet another, new treaty – the typical conceptual impurity with which France has been dealing with federalism over the years – then the EU's administrative chaos will only increase and its disintegration will come closer. Only a federation – with a constitution establishing vertical separation and thus shared sovereignty – can take care of this interest, as proposed by Macron and Rutte. Leading European politicians should know this. Statesmen would act accordingly.

2.3.5 Aspects of some federations in Europe

It is not interesting to discuss in this book in detail specific aspects of the four federal states of Europe. Apart from federal Russia, these are Germany, Switzerland, Austria and Belgium. I shall confine myself to a few elements that are worth knowing: faits divers.

Although the Swiss constitution contains the word '*confederation*', it has been a genuine federation since 1848, with the layered structure from the bottom (cantons) upwards (federal government) appealing to the imagination. Although Switzerland does not belong to the European Union, it is member of the Schengen treaty and has economic commitments (free trade agreements) with the European Union. Switzerland has also incorporated parts of EU legislation into its own legal system through bilateral agreements and is thus closely linked to European laws. Examples include land, air and passenger traffic, trade and agricultural products, banking, and the relationship with the Dublin immigration agreement.

Another interesting point is the rebuttal of one of the claims by which anti-federalists try to prove that Europe can never become a federation. The claim being that to be able to achieve a federation, you need one nation with one language. That is nonsense. The small country of Switzerland boasts no less than four different cultures; constitutionally, four official languages are recognized: German (63%), French (20%), Italian (6%) and Reto-Romanesque (0.5%).

In Germany, circa 95% of the population speak official German, but there are also other languages, partly regional, partly coming from immigrants. Federal Belgium officially recognizes three languages: French, Dutch and German. Federal India – with twenty-nine states the largest democracy in the world – constitutionally recognizes no less than twenty-two official languages. In addition, India has about seven hundred regional languages and dialects.

Belgium deserves a few special comments. After liberating itself from the northern Netherlands in the 1830s, the French language and culture were dominant. The Dutch-speaking Flemish people were subordinate to this, especially in an economic sense. Management positions in companies and governments were exclusive to French speaking persons. After the First World War – with many Flemish soldiers dying who did not understand the French orders – turbulent movements arose with a view of breaking away from the Walloon part of Belgium. After the Second World War, this resistance increased and from 1960 onwards, Belgium took the initiative with six daring constitutional and institutional reforms to convert its decentralized unitary state into a federal state. In this way, it was possible to give the two primary parts of the state – Wallonia (French speaking) and Flanders (Dutch speaking), but also the small

German-speaking part – their own sovereign foundations, enabling them to coexist peacefully. This is an unprecedented achievement.

Spain, with its autonomous regions, from which Catalonia and the Basque country would prefer to separate, the United Kingdom, with its devolution (Scotland, Wales and Northern Ireland each have their own political institutions), Ukraine, with its East, West and Crimea parts, Israel, with its Jewish and Palestinian parts, and Cyprus, partly Greek and partly Turkish, can all learn from the Belgian example.

In July 2018, the Israeli Parliament adopted a law defining Israel as a Jewish nation state with Jerusalem as its undivided capital. As a consequence, the Arab Israelis, who make up about 20% of the population, can no longer consider Arabic as their official language. This decision is at odds with the original objective as pursued by the founders of Israel at the end of the 1940s, namely equality and coexistence of Jews and Arabs. It is also a huge step backwards when considering the more recent attempt to turn Israel into a two-state country, comparable to the status of a federal Belgium.

However, the Belgian Federation is not complete yet. There will be a new political intervention. One problem being that federalization has been carried out from the top to the bottom: many of the powers of the original central authority have been divided among the federal regions, whereas at the central government level the joint composition has been maintained. So, X Walloons and Y Flemish. And that's the problem. At the level of the federal government you should only see Belgians because the concept of '*integration*' applies there. It will probably take some time until Article 35 of the Constitution comes into force. This will finally determine the core of what a federation is, namely the strict vertical division of powers and thus the representation of a limitative list of common interests at the central level. The French-speaking part of Belgium is still opposed to this, due to Article 35 in actual practice inevitably leading to a diminishment of powers for the federal government.

To conclude, a final aspect of Belgium should be mentioned. The policy area of Foreign Affairs takes place at the federal level. However, the federal parts of Wallonia and Flanders are still allowed to pursue their own foreign policies. As is the case in some other federations, they are empowered to conduct their own foreign policy on subjects that do not belong to the federal level. That is why the Netherlands not only has a Belgian embassy, representing the Belgian federal government, but also a Representation of the Flemish government.

Germany is undeniably the strongest federation in the European Union. This fact alone (also looking at the strength of federal America and India) should by now have led to the decision to transform the European Union into a federal community. However, it also seems that Germany, in particular, is not anxious to see a federal Europe come into being. The only explanation being that if the European Union is given a federal form of government, Germany will lose its position as the strongest EU Member State: 'in the land of the blind, one-eye is king'.

This leads to yet another comment to be made on one of the many structural errors in the EU system. The European Council – the group of twenty-eight (after 2019 perhaps twenty-seven) Heads of State or Government – is the boss in the EU. The European Parliament and European Commission only play minor roles in the decision-making process. The same applies to the national parliaments of the Member States. However, the European Council is not democratically elected. Moreover, the members perform incompatible functions: it is not possible to be both boss (member of the Council) and servant (head of government/head of state). Both aspects (unelected and incompatible) are contrary to written and unwritten principles of democracy. Within that European Council, decisions are taken on the basis of the principle of unanimity: all members must agree. In practice, this leads to the exchange of votes under the threat of the use of a veto. This is the weakest form of decision-making, fed by acting on the basis of national interests rather than on one European interest. Furthermore, only Germany and France have the upper hand. Which is an example of what Jean-Jacques Rousseau already stated in the 18th century: democracy is tending towards an elective aristocracy that in turn inevitably tends towards oligarchy. The question is: why do these European leaders act without shame in violation of such basic principles of constitutional law while performing the political office, being the most important office in the world? As a punishment, they should be required to overwrite ten times the English Magna Carta of 1215, the Dutch Plakkaat van Verlatinghe (Placard of Abandonment) of 1581 and the American Declaration of Independence of 1776.

2.3.6 Are all federations the same?

In any case, all federations must comply with a standard of fixed characteristics in order to be entitled to be a federation. However, they may differ in some respects. Herbert Tombeur and I explain in the 'European Federalist Papers' how federations can differ from one another. In short:

In most federations, the Länder, Member States, provinces, regions – or whatever part of the federation is called – have the same competences. This is for example the case in the United States, Switzerland and Germany. For this reason, these countries are seen as the strongest forms of federalization. In other federations, for instance Russia and Belgium, the parts are not all the same. For example, the German-speaking region of Belgium, due to its small size and limited number of inhabitants, does not have the same powers as Wallonia and Flanders.

Some federations are very strict in applying the vertical separation of powers. The competences of the federal body are not mixed with those of the parts. In other federations, a form of cooperation between the federal body and the Member States on certain subjects has been regulated.

This might be a source of conflict between the federal body and the other parts of the federation. If the fields of cooperation are not properly regulated, this may result in both parts having the same competences on exactly the same issues. For example: if you are allowed to decide for yourself when to take a holiday and for how long, but your boss has exactly the same authority with regards to your holiday, then there is a source of conflict. This so-called *sharing of powers* is completely wrong.

The way in which a federation is created can also be different. The United States of America were built from the bottom up, while Belgium was formed from the top down. This highlights the way in which constitutional provisions affect the institutional elaboration. An American example: when, in the course of 2018, President Trump withdrew from the Paris Climate Agreement, the state of California declared itself not bound by it. The American federation is built on the basis, the states. And they do not allow themselves to be deprived of their autonomy by a federal president who is in disregard of the Constitution.

2.3.7 A final example of the need to abolish the intergovernmental EU system

In his book *The Disease of Europe*, Guy Verhofstadt describes a breath-taking series of symptoms of a sick Europe while demonstrating that they all emerge from the intergovernmental system itself – as an accumulation of national interests. Chapter 12 (*The delusion of the European budget*) contains the following text:

"It was a satisfied but tiring British Prime Minister [Tony Blair] who addressed representatives of the European Parliament in Brussels on 20 December 2005. After months of palaver, the European Council, under its leadership, had finally managed to reach an agreement on the European Union's multiannual budget. Six months earlier, the then President, Jean-Claude Juncker, the Luxembourg Prime Minister, had failed. That would not have been Juncker's fault. On the contrary. With his enormous experience, he had already reached a fairly close agreement in June. But it was Tony Blair who had sabotaged this agreement. Did he not want to give Jean-Claude Juncker this success? It was an open secret that the two could not stand each other. Anyway, the official version was that Blair wanted to do things differently. No longer a multiannual budget that was just a copy of the previous one, but a new budget that would herald a break with the past. It would put an end to agricultural spending, which has run its course, and it would really put its faith in technology and innovation, in other words, in the future. But not much of that came of it in practice. The outcome was scarcely different from the draft budget proposed by Juncker. What is more, in order to reach an agreement, Blair had to do everything possible for weeks in row. He had to buy off one Member State after another. That had been the only way to convince them all. The result was awful. There was hardly anything left of the initial set-up. In order to get the deal done, he had to promise no less than forty-one gifts to the Member States: compensations, corrections and ad hoc exceptions. They ranged from 100 million aid for the Canary Islands, to 200 million aid for the peace process in Northern Ireland, to 865 million aid for the decommissioning of a dilapidated nuclear power plant in Lithuania. Those were the most sensible concessions. In order to convince the Netherlands, Blair doubled the fee for the Member States that collected the customs duties, even though this was an own revenue of the Union to which they were not entitled. In order to please Germany, Austria and the other net contributors, their VAT payments were

reduced, but by different percentages for each country. In addition, Sweden and the Netherlands again received a fixed discount on their BNI contribution. In order to lift Poland, the Czech Republic and Hungary on board, they were allocated additional resources from the Structural Funds, in contravention of all the rules in force. The same thing happened for Cyprus and the German state of Bavaria. In order to spawn Finland, Ireland, Italy, Luxembourg, France and Portugal, additional rural development payments were granted to each of them. Spain and the Baltic States also acquired additional funds, which they could use as they wished, irrespective of all the rules. It was a horse-trading of the purest kind. Blair defended the chord with fire, but also added in one breath that this exercise should not be repeated. Tony Blair – he's far too proud of that – didn't admit he had failed, but his 'never again' spoke volumes.












The central sentence in this quote is: *'It was horse trading of the purest kind'*. This was the case in the 2005 EEC and it is still the case in the EU since 2009. A Union? Connectivity? Forget it. Since the creation of intergovernmental European governments in 1950 (Schuman Plan), 1951 (establishment of the ECSC), 1958 (establishment of the EEC) and 2009 (establishment of the EU), Europe is not a community that demonstrates a shared responsibility for Europe's future. The claim of 'my country first' has been the guiding principle for undemocratic and weak European decision-making. Fearfully guarded by adhering to the principle of unanimity in the European Council, except in matters where there is no evidence of a threat to an individual Member State.













2.3.8 So, why should we want a federal Europe?

Federalism is a source of four things that people appreciate. In the first place it makes something disappear that we (almost) all want to see disappear, namely nationalist-driven wars. Secondly, it gives us back something that was destroyed by the advent of intergovernmental control systems after the Second World War, namely sovereignty at home. Thirdly, federalism is the best constitutional and institutional foundation for democracy, for European citizenship and for European prosperity and security. And fourthly, as a federation Europe will no longer be a pawn in the game of the geopolitical powers, but rather a center of power in the evolution towards a multipolar world order.

We know the United States of America as a large and powerful country. It is powerful thanks to its federal structure, but is it also large? The following table lists the states of the EU and the US in terms of population, from large to small. What does it look like? The United States have considerably fewer inhabitants than the EU. California – the largest American state in terms of inhabitants – is ranked 6th and is more than half the size, in population terms, of Germany. There are seven American states with a population exceeding ten million, against ten such states in the EU.

Countries of the EU and States of the USA in terms of population (> 10 million)
Source: US/Census Bureau; (2017) Eurostat (2018)

Country/State	Population *1.000	EU/USA
Germany	82.521	
France	66.989	
United Kingdom	65.808	
Italy	60.589	
Spain	46.528	
California	39.536	
Poland	37.972	
Texas	28.304	
Florida	20.984	
New York	19.849	
Romania	19.644	

Netherlands	17.081	
Pennsylvania	12.805	
Illinois	12.802	
Ohio	11.658	
Belgium	11.351	
Greece	10.768	
Czech Republic	10.578	
Georgia	10.429	
Portugal	10.309	
North-Carolina	10.273	
Total EU 28	511.522	
Total VS	325.719	

From this point of view, the US is not large at all. If you imagine the EU being governed on the basis of a federal constitution and being able to develop decisiveness, then America will simply be Europe's little brother. This statement is supported by the following strengths of today's Europe, a list that was presented to me by Michel Caillouët, former ambassador of the EU in a number of countries.

The European Union is:

- The world's largest economy.
- The world's largest trading bloc.
- The world's largest exporter of manufactured goods and services.
- The world's largest importer of manufactured goods and services.
- The world's largest exporter of agricultural and food products.
- The world's largest research programme into new scientific discoveries.
- The world's largest aid donor to poor countries.
- The world's largest investor and recipient of direct foreign investment.
- The world's largest civilian robotics programme.
- The world's largest producer of scientific publications.
- The world's largest number of science graduates.
- The world's largest wind farm market.
- The world's largest number of commercial seaports.
- The world's largest merchant fleet.
- And so on.

If the EU becomes a federal state, we will retain that lead. We can even develop it even further. But if we are not prepared or able to establish a federal Europe, we will lose that lead. If only because Europe – due to its increasing administrative problems – will be the victim of uncontrollable geopolitical shifts.

PART II AMERICAN SUCCESS FOLLOWED BY EUROPEAN FAILURE

PART II explains the origins of the need for federalization.

Chapter 3 deals with the birth of the world's first federal state. In 1787, the Philadelphia Convention laid down centuries-old thoughts of European philosophers on the construction of a democratic state in a draft federal constitution. Two years later, it came into force.

This radical innovation in the design of a state created the need elsewhere in the world to follow that example. Up until the present, this has failed to happen in Europe. In Chapter 4 a number of events are listed, marking the growth of thinking about a federal structure for Europe. However, sooner or later, each endeavor came to a standstill.

A new attempt will undoubtedly take place in the future. However, this can only succeed if the formula of the creation of the American Federation is known and understood. That is why this Part starts with an analysis of the main conditions for success leading to the American Federal Constitution in 1787.

In Chapter 3, I concentrate on the way in which the authors of the Federalist Papers – James Madison, Alexander Hamilton and John Jay – explain where the founding fathers of the Convention disobeyed their ‘employer’ (the Confederate Congress), why they dared to do so, and how uniquely they enshrined principles of political theory in binding law.

3. The American Federalist Papers

3.1 Introduction

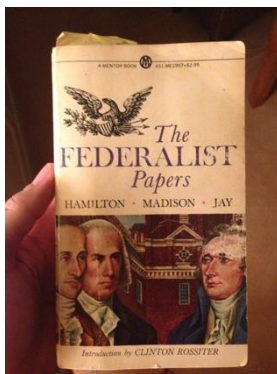
This chapter deals with the birth of the federal United States of America. The ‘mother of that baby’ was the Philadelphia Convention, a group of 55 people who, as representatives of thirteen confederal states, threw the confederal Treaty of the Articles of Confederation into the dustbin, in Philadelphia from May to September 1787, to draft a federal Constitution instead. And in doing so, creating a connectivity that eventually would encompass fifty states.

The three writers of the famous Federalist Papers, Alexander Hamilton, James Madison and John Jay, acted as ‘fathers’. Between October 1787 and May 1788, they wrote no less than eighty-five Papers to explain to the citizens of the thirteen separate confederal states why it would be preferable to replace the confederal form of government – to a large extent similar to the current EU – with a federal one. On a broad social level, thinking along and discussing Federalist Papers, a majority of those citizens took up that idea. They agreed to discard the confederal treaty and ratified the federal constitution. As a result, the United States of America, from 1789 onwards (which entered into force two years after the 1787 draft federal constitution) is based on a Constitution comprising only seven articles, a brilliant constituent document that has been improved upon over the years with twenty-seven amendments.

The emphasis of my approach is on how the authors of those Papers have dealt with two behaviors of the Convention. Behavior 1: What unique innovation in political theory and practice has this Convention brought about? Behavior 2: what courageous steps did the Convention take? Courageous in the sense of behavior that one should characterize as ‘out-of-the-box.’

Basic thinking about European federalization dates back to 1600, through the writings of Johannes Althusius. Other European philosophers – such as Rousseau, Montesquieu and Locke – have continued and improved this work. The members of the Philadelphia Convention were aware of these writings. They knew their classics. Strictly speaking, therefore, the American Constitution is based on the ideas of European philosophers.

3.2 The Federalist Papers



3.2.1 Goal

I approach the Federalist Papers as a doctrine full of innovative insights into the form and content of state-building that does justice to two inalienable rights of a people: freedom and happiness. What I am writing below is therefore intended to combat the evil of the disintegrating European Union. Not by once again adapting the law and structure of the European Union in vain, but by replacing it with a federal form of government. Exactly as was done in America between 1787 and 1789. The facts and arguments of that time apply convincingly to the dying political life cycle of the European Union. Applicable as in: learning from what the Americans managed to create at the end of the 18th century, building on the ideas of European philosophers such as Aristotle, Althusius, Montesquieu and Locke.

At this point one can also mention another philosopher, the 17th-century Portuguese/Dutch Baruch Spinoza. In his *Ethics* he answered the question ‘How can a person become happy’ with: ‘Use your brains’. That is quite different from one of Juncker's discouraging remarks in 2011 when he was still leading the EU group of Finance ministers: ‘We politicians know exactly what we should be doing, but if we did that, we would lose the next elections’.

Herbert Tombeur and I have already written in the aforementioned European Federalist Papers (2012-2013) that the European Union is going to disintegrate. It is the inevitable consequence of a system error in the Schuman Plan of May 1950.

In order to avoid any misunderstanding, I would like to reiterate my appreciation of the European Union as a symbol of the age-old desire for a united Europe. Its operating system, however, contains all the errors from the large book of errors regarding public governance. It is against this background that my observations about the American Federalist Papers have to be understood.

The characteristic symbiosis of 'birds of a feather flock together' prevents political journalism from maintaining sufficient distance from the political environment. Apart from exceptions, contemporary political journalism – at least in the Netherlands, but according to my federalist relations also in other EU countries – fails as a shield protecting citizens from the limitless political nonsense about how the European Union should be run. In-depth analyses of the shortcomings of intergovernmental administration, of the social and economic effects of the absence of democratic governance, of administering on the basis of national interests rather than on the basis of one European interest, of the unifying and democratic power of federalism, all this and much more that political journalists should have made clear to the people of Europe a long time ago, are absent. Except in the case of a single journalist with a good dossier on Europe. But he or she hardly gets a chance to get their story posted: victims of the entertainment industry, which has also pushed quality media into a downward spiral.

3.2.2 Confinement

The Federalist Papers contain a large number of interesting aspects. However, I shall confine myself to topics which, in my opinion, are unique in the history of federal statehood. Unique in two respects. On the one hand because it is new, not done before. On the other hand, because of its audacious character, best formulated as: acting 'out-of-the-box.'

In support of this approach, I would like to refer to Robert A. Levine (1930-2010), former senior official in the American federal administration. In The New York Times of 9 January 1999, he published an article under the title *'What the EU needs is a copy of "The Federalist Papers"'*. He put forward this position at the start of the Economic and Monetary Union and explained that Europe could learn some useful lessons from America in the pursuit of full economic integration. The main lesson being that, without a federal foundation, economic and monetary union will sooner or later fail. In view of the harsh effects of the financial crisis since 2008, we can see its predictive power: in the absence of a federal foundation – due to political mismanagement during the Maastricht Treaty in 1992 – the single currency, the so-called 'Euro', is one of the increasingly frequent splits that dissipate the Union.

Now to work. I split my quotes into 'New' and 'Out-of-the-box'.

3.2.3 New 1: from non-binding philosophy to binding law

For centuries – from Aristotle, via Althusius to Montesquieu, Rousseau and Locke – ideas on the constitutional and institutional aspects of popular sovereignty and democracy have been non-obligatory and non-binding. Until James Madison got involved. First, in April 1787, with his *'Vices of the Political System of the United States'*, he smashed the confederal form of government. This led him to write a letter dated 16 April 1787 to the then leader of the Confederacy, George Washington, asking him permission to organize a Convention to examine these *Vices* and to submit plans for something better to that Convention. A few weeks later he included this 'better' in the so-called *Virginia Plan* of May 1787, a comprehensive plan for a new political order. Washington gave the green light for the organization of the Philadelphia Convention, and the rest is history. But it was a history that had never been shown before: the non-binding thoughts of European philosophers were burned into the mandatory law of a federal constitution.

As an aside: Madison had no difficulty in criticizing the form of government of the Confederation. The thirteen confederal states were faced with a difficult task. From 1776 – the *Declaration of Independence* – but in fact only from 1783 (the official end to the war of independence) they struggled with the task of turning colonies into states. Each state did so in its own way. Each tried to invent the wheel of free democratic governance. There was no collectivity. By 1787, a maze of unequal representative government systems had emerged. Hence the unrest and unease by Madison, representative of Virginia in the confederal Congress.

I must now confess that it is not entirely true to say that this was not done before. A few years earlier, around 1760, a constitution on European soil had been designed in Corsica by its leader Pascal Paoli, in collaboration with Jean-Jacques Rousseau. This document was, of course, based on Rousseau's thoughts on popular sovereignty, democracy and social contract, as well as on Montesquieu's ideas on the trias politica. Although this can also be seen as making non-binding philosophers' thoughts legally binding, the initiative lacked the idea of federalization that did take place in America a few years later. I expect Corsica to be at the forefront of the queue as a separate state within a federal Europe.

So, the Americans knew their European classics. Europeans still did not. Except Switzerland. That country decided, in the middle of the 19th century, to follow the American example. Germany, Austria and Belgium only followed after the Second World War with the formation of their federal states.

How the present leaders of the European Union think about that can best be expressed by the words of Geert Mak in the tv show *De Wereld Draait Door* of 7 March 2016: *"Talking about federation in Europe is like throwing a devil into a barrel of holy water; one can only hear screams and moanings"*.

3.2.4 Out-of-the-box 1: Ignoring the order

The Philadelphia Convention had a mandate given to it by law by the Confederal Congress. I quote the relevant part of that task because it makes it easier to understand how Madison, in Paper 40, is defending the criticism that the Convention was guilty of ignoring the task, which was the following:

"Whereas there is provision in the articles of Confederation and perpetual Union for making alterations therein (-); and whereas experience hath evinced that there are defects in the present Confederation (-); Resolved – That in the opinion of Congress it is expedient that on the second Monday in May next a convention of delegates, who shall be appointed by the several States, be held at Philadelphia for the sole and express purpose of revising the articles of Confederation and reporting to Congress and the several legislatures such alterations and provisions therein as shall, when agreed to in Congress and confirmed by the States, render the federal Constitution adequate to the exigencies of government and the preservation of the Union."

Well, the Convention in Philadelphia stepped out of the box twice. Firstly, the Convention threw the Confederal Treaty into the dustbin, did not waste a single word on improving or strengthening the Articles of the Confederation, and simply designed a federal Constitution. Secondly, they did not care about first submitting their product as an opinion or advice to the confederal Congress and to the parliaments of the thirteen states. Instead, they immediately presented it to the citizens of those states for ratification. Hence the criticism from anti-federalists, contained in the statement that the Convention was unauthorized to make such a fundamental deviation from the mandate that had been given.

In Paper 40, Madison, a constitutionalist par excellence, writes a sound defense with the character of some kind of sophism. He is skillfully playing with a few words that are not well formulated in the remit of the Convention. First, he reformulates the assignment as he thinks it is meant to be:

"From these two acts [there was another assignment before it, but I will not consider it, LK] it appears: 1st, that the object of the convention was to establish in these States a firm national government; 2nd, that this government was to be such as would be adequate to the exigencies of government and the preservation of the Union; 3rd, that these purposes were to be effected by alterations and provisions in the Articles of Confederation, as it is expressed in the act of Congress, or by such further provisions as should appear necessary (-); 4th, that the alterations and provisions were to be reported to Congress and to the States in order to be agreed to by the former and confirmed by the latter"

Then Madison starts the counterattack: 'If I compare these words well and honestly – as if they were the authorization of the Convention – then I find that it was the task to design a national government that meets the requirements of such a [national] government and to process the Articles of Confederation in such a way that they serve those purposes. Well, common sense and legal axioms dictate that there are two rules that must be observed in such an assignment. The first rule is that each part of these words must have some meaning and serve a purpose. The other rule is that if some parts are contradictory, the least

important part has to make way for the most important part. The end justifies the means here, and not the other way around. Imagine, then, that the words with which the Convention has been authorized are incompatible; that, according to the Convention, it is impossible to create a national and adequate government by means of alterations and provisions of the Articles of Confederation; what words in the mandate should we embrace and what words should we reject? What is the most important and what is the least important part? What is the purpose and what are the means? Let the most scrupulous analysts in terms of delegated powers and the incorrigible opponents of the Convention answer this. Let them explain whether the happiness of the people of America was so important that the Confederacy Treaty had to be set aside to create an adequate government, or whether the creation of such an adequate government should not be carried out in favor of the preservation of the Articles of Confederation. Let them explain whether the goal was the preservation of those articles and whether a reform of government was the means; or whether the goal was the creation of an adequate government for the benefit of national happiness – a goal originally expressed by those confederal articles themselves – and which now, because they do not appear to serve that goal of national happiness sufficiently, must be sacrificed’.

And that’s how Madison continues. It would stretch too far to mention all of his arguments. In essence, his argument boils down to this: ‘Do you want Liberty and Happiness? Then stop whining. Surely it could never have been the intention, with such a solemn instruction from Congress, to prohibit the Convention from drawing up substantial reforms? Are you still unaware that the confederal treaty is not instrumental in achieving the goals of liberty and happiness? There is no point in modifying the Articles of Confederation. It only makes it worse. In order to serve these purposes, we need a federal constitution. Period.’

I resist the temptation to list how often the treaties of the intergovernmental EU operating system have already been amended, without being able to guarantee any stability for the Union, let alone the connectivity and happiness of the European people. On the contrary, with each adaptation it gets from bad to worse, a typical effect of the underlying system errors. If Madison would have lived between 1951 and 2009 he would have strongly condemned the continuous alterations of the EU’s treaty-based system, ending up in the present legal monster called the Treaty of Lisbon.

And that brings me to New 2.

3.2.5 New 2: the use of concepts from systems theory

Hamilton and Madison already used the term ‘system’ in their time. This is remarkable aspect number one.

If you know that the systems theory was actually only developed as a science in the 1930s, we should admire the fact that they already understood at that time that, in matters of state formation, the connection between making regulations, the allocation of powers, the separation of powers, the organizational design, the design and implementation processes of policy, the supervision and control, the constitutional relations with other countries can only be done in two ways, namely right or wrong. For lovers of cybernetics and social systems theory – both of which can be seen as specific parts of general systems theory – the Papers mentioned are a source of pleasure. Especially because of their bold use of the concept of ‘system error’. This is remarkable aspect number two.

Hamilton and Madison mercilessly nail the Articles of Confederation – the treaty that was supposed to keep the Confederation of thirteen states together – against the wall of system failures. They even go a step further and explain that inevitably, a system based on system errors will collapse. And that is remarkable aspect number three. They already understood that a system error would erode the system itself. Automatically. Nothing can stop that. It acts as a meltdown of a nuclear reactor. Or, as has been the case in 1986, the exploding Challenger, seconds after its launching due to a design error. Once underway, the process of destruction accelerates and broadens automatically. To result in anarchy and chaos. They were already aware of that at the time.

And it is precisely this last point – the fact that a system error inevitably ruins the system – that we witness in the European Union. Nobody can deny that a few serious externally driven conflicts have led to an increasing number of internal conflicts. External problems such as the financial crisis, the problem of refugees and the threats of terrorism are increasingly dividing the objective of European unity. The Treaty of Lisbon, which was intended to keep the Member States together within a stable community, is not only insufficiently instrumental in monitoring that goal, but in itself one of the wrong products of the system error in the foundation of the EU that is responsible for the fission process. I will later explain this systemic error in the EU's foundations.

Let me now bring Hamilton and Madison forward. In Paper 6, Hamilton describes his view of the Confederation as a *disunion* of words as follows:

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

Because of the systemic errors in the confederal treaty, he sees the Confederation disintegrating, prey to the age-old way in which independent states deal with each other, namely by waging war (Papers 7 and 8).

In the following Papers, Hamilton describes in detail how this *disunion* can be seen as a break-up of a system. And that only an energetic, powerful and financially independent federal government can prevent such a drama, resulting in new tyranny and anarchy (Paper 9).

Hamilton explains in Paper 13 that the Confederation's system failures have already led to blocks within the thirteen states. A Northern, a Central and a Southern block. And his fear that this could lead to wars and violence between the blocks motivated him to commit himself to the interpretation and defense of the federal constitution as the solution to leave member states in their own right and self-esteem on the one hand, and to make a separate political provision for common interests and concerns above the states on the other.

What are we seeing in the EU at the moment? A collapse into four clearly distinguishable blocks. A north-western part that wants to integrate further. A southern Mediterranean region that wants to get rid of the euro. A Central block that has problems with both the euro and refugees. And a group of four countries in Eastern Europe are calling for more opt-outs (like England) from the Treaty of Lisbon, mainly inspired by the problem of refugees and the strict budgetary rules.

Here is a striking resemblance to the American Confederation. The question is, however, whether it can be shown that the disintegration process in the EU can also be traced back to a system error, such as Hamilton and Madison did when basing the disintegration of the Confederation on underlying system errors. Well, nothing is easier than that. The comprehensive system error that is currently destroying the EU can be found in the so-called ‘*Schuman Plan*’ of May 1950.

In that plan, Schuman, on the instructions of Jean Monnet, and partly based on a flood of arguments pro-federalization between 1945 and 1950, including the federal wishes of Eisenhower and Churchill, argued that Europe should become a federation under the name of the United States of Europe. He then made the mistake of placing the genesis of this federation in the hands of the Heads of Government: wrong means to that end.

Heads of Government, by virtue of their role, can only create policy cooperation. They did so in 1951 with the establishment of the European Coal and Steel Community, in 1958 under the Treaty of Rome this was extended to the European Economic Community and in 2009, under the Treaty of Lisbon, to the European Union. This is intergovernmental administrating, which is not a federal form of government. In accordance with the basic ideas of, for example, Althusius and Locke, a federal form of government is created from the bottom up, whereby only a very small part of the powers of ‘the people’ are integrated into a federal body, with all other powers remaining with the people and with the states in which they live. Intergovernmental administrating is only cooperation in policy areas, works top-down, with compulsory uniformity, without democratic control or countervailing power, with the constant pressure on Member States to assimilate. And with punishments if they refuse to do so.

Back to Hamilton. In Paper 15 he describes the Confederation as a political monster with principal defects and fundamental errors. In Paper 16 he sees the Confederation die a natural death, which is exactly the image associated with a system error: the system is eroded by internal errors and sooner or later it will explode. In Paper 22 he summarizes everything that falls under the heading of those *defects and errors* within the concept of system, with the words:

‘In this review of the Confederation, I have confined myself to the exhibition of the most material defects; passing over those imperfections in its details by which even a considerable part of the power intended to be conferred upon it has been in a great measure rendered abortive. It must be by this time evident to all men of reflection, who are either free from erroneous prepossessions, or can divest themselves of them, that it is a system so radically vicious and unsound as to admit not of amendment but by an entire change in its leading features and characters.’

In this way, in No 22, he gives support to what Madison in Paper 40 is very much saying to those who accuse the Convention of not having been authorized to ignore the instruction to amend the confederal treaty and to take a completely different course. Hamilton also states in Paper 22 that the collapse of the confederal system is due to the fact that it has never been ratified by the people. To conclude with: *‘The fabric of American empire ought to rest on the solid basis of the consent of the people’*. In Paper 30 – apparently already destined to become Finance Minister – he cites the errors in the confederal system that make it impossible to create a sound financial basis for an energetic and strong government.

It should be noted that the US federal government has approximately 24% of national income, the EU only 1%. Against this background, in its Annual Report for 2012, in Paragraph 1.5, the Dutch Central Bank describes in detail why the US federal system was able to bring the financial crisis under control soon after 2008. So far, however, this unique paragraph has not brought any national or European politician to federal ideas. This is how we remember this crisis in terms of chaos and upheaval, rather than the other role that a crisis can play: to clean up what is long overdue. And thus pave the way for the new that could not be made by the obstacles that led to the crisis.

And Hamilton always opposes two extremes, just like Madison: liberty and happiness on the one hand – to be achieved through the federal constitution – and chaos and anarchy on the other, if one clings to the confederation. Working with such perceptions, the image of federalists as the good guys and the anti-federalists as the bad guys has slowly developed.

Madison also mentions the danger of the *disunion* in almost all of his 29 Papers; in Paper 18 he speaks of the *‘... weakness, the disorders, and finally the destruction of the confederation’*. But it was not until Papers 37 to 40 that he used the term ‘system’ to delve deeper into this unmistakable disintegration of the Confederation. In order to avoid an abundance of quotes, I shall limit myself to the absolute minimum. Here is an observation from Paper 37:

‘It has been shown in the course of these papers that the existing Confederation is founded on principles which are fallacious; that we must consequently change this first foundation, and with it the superstructure resting upon it.’

In Paper 38 Madison uses the doctor-patient metaphor to explain how to deal with the political problem of a disintegrating Confederation. In so doing, he puts all opponents of the federal Constitution at the same level as doctors who will never be able to cure a sick person because they follow the wrong way of thinking. In Paper 40 he makes it abundantly clear that the Convention was meant to be *‘for correcting the errors of a system by which this crisis had been produced’*.

Personally, I find Madison’s Papers 38, 39 and 40 the most fundamental ones. In those Papers he explains how you can create a sound political order. By opting for a federal system. This does justice to the importance of sovereignty on two levels: sovereignty of the federal state as such, vested with the powers to represent the common interests, and sovereignty of the federal states for all other powers. Yet his Paper 51 is also special, especially due to him stating there:

‘You must first enable the government to control the governed; and in the next place, oblige it to control itself – as much a need in a republic as in any other form of government.’

And that brings me to New 3.

3.2.6 New 3: the invention of the vertical separation of powers

The horizontal separation of the three powers is expressed in the well-known trias politica. And I have discussed the vertical division of powers in detail in Part I. Now I am discussing this topic by referring to the authors of the Federalist Papers.

In Papers 38, 39 and 40 – combined with Paper 45 – Madison explains this vertical separation. As such, the term does not appear in his argument. Madison uses two words to explain this separation: *‘federal’* for a body with a limitative range of powers (in the German federation called the Kompetenz Katalog) that are urgently needed in order to be able to look after the common interests. Issues such as, for example, a common defense and a common foreign policy.

The other word is *‘national’*. Madison reserves this term for the otherwise unlimited complex of competences that remain with the Member States. By stressing *national* he emphasizes the importance of the interests of the states in order to take the wind out of the sails of anyone who is afraid that a federal body could become a new tyrant. The federal states remain the basis of the new state, which is hence called ‘the United States’. The states remain sovereign but are united (integrated!) at a federal level, while they can remain completely different at a state level (zero integration!). This vertical division of powers is therefore called *‘shared sovereignty’*. Madison has already introduced this vertical separation in Paper 14.

As mentioned before, the *‘shared sovereignty’* as a fundamental aspect of layered state formation from the bottom up was already known to Althusius around 1600. Jean Bodin was a contemporary, and a declared opponent of the idea of sharing sovereignty. In his view, sovereignty was one and indivisible, with the sovereign, the ruler, the monarch. I shall leave this matter aside.

3.2.7 Out-of-the-box 2: ignoring the principle of unanimity

In Paper 40 Madison admits that the:

‘... convention have departed from the tenor of their commission. Instead of reporting a plan requiring the confirmation of all the States, they have reported a plan which is to be confirmed and may be carried into effect by nine States only.’

What is the case here? The confederal treaty stipulated that important decisions – and certainly that would either amend or abolish the treaty – required unanimity from all thirteen states. However, the Convention had simply decided to ignore this and to submit the draft federal constitution to the people of the thirteen states, whether or not to ratify it by means of a system of delegates for each state, and then to put it into effect as soon as the people would have ratified it in nine of the thirteen states.

So, that was a genuine violation of the rules of the confederal treaty. Why did they dare to do this? Well, the Convention did not want to accept the risk of one or two states opposing the Constitution – and thus its end – and opted for the introduction of a majority system: with nine states in favor, the Constitution would enter into force.

By the way, the European Council also continues to apply the system of unanimity, although decisions of a lower order (by EU Councils of Ministers) are occasionally subject to a majority system. The curse of an unanimity system is the fear of a nationalist type of politician that fears decisions that could potentially harm the interests of his Member State, the ensuing driving of national and nationalistic agendas (own country first), a disguised right of veto and, as a result, an exchange of voting behavior in back rooms.

Madison defends this out-of-the-LEGAL-box step of the Convention by first noting that in the flood of criticism of the Convention's work, this subject had hardly received any attention and that this apparent tolerance could only have arisen from the *'irresistible conviction of the absurdity of subjecting the fate of twelve States to the perverseness or corruption of a thirteenth.'* There is not a single word of Spanish in this. If you wonder if the Federalist Papers are full of this kind of harsh language, the answer is in the affirmative. Only John Jay, who was only able to write five Papers due to illness, was milder in the use of his words. Probably because, as a celebrated diplomat, he was used to getting his way differently from Hamilton and Madison.

3.2.8 Out-of-the-box 3: ratification by the people

It was already clear on the previous point: no ratification by a confederal Congress, not by the legislatures of the thirteen states, but by the people themselves. Unheard of in confederal circles but pushed through by the Convention and across all Federalist Papers supported by the authors. The people as the alpha and omega of federal state-building. There are interesting observations on this point in Hamilton's Paper 22, including:

'The fabric of American empire ought to rest on the solid basis of the consent of the people. The streams of national power ought to flow immediately from that pure, original fountain of all legitimate authority'.

Madison adds to this in Paper 39:

'It is to be the assent and ratification of the several States, derived from the supreme authority in each State – the authority of the people themselves. The act, therefore, establishing the Constitution will not be a national but a federal act.'

3.2.9 New 4: the ingenious system of checks and balances

The invention of a vertical separation of powers is the consequence of the Convention's rejection of democracy in the sense of Aristotle's popular sovereignty: 'All of us in a marketplace – such as in the Agora in Athens – to have our say on everything is unworkable'. Instead, the Convention put the concept of republican government on the map. The word 'republican' had two accents. In the first place: never again a monarch who considers sovereignty as something personal and who does not think in terms of sharing sovereignty (the concept of sovereignty favored by the philosopher Jean Bodin, contemporary of Johannes Althusius) and who then gives himself a license to rule over the people like a tyrant. Secondly, the Convention used the concept of republican as a government of, for and by the people.

But ..., the Convention feared that a rejection of the ancient Greek concept of democracy – and thus of the need to accept that the people should be governed – would bring a potential tyrant back to power. In addition, as adherents of Montesquieu's trias doctrine, there was a desire to introduce a horizontal separation of powers. Thus, they were confronted with the question: how do we link all this?

The Convention found the solution in an ingenious system of *checks and balances* to manage both the horizontal and vertical separation of powers. They understood very well that the legislative, executive and judicial powers would in any case operate to a certain extent in each other's fields, and that the federal body would always try to gain more power at the cost of the powers of the states (and vice versa). But they came up with a brilliant system of countervailing powers to stop the usurpation of one power over the other.

A detailed description of the usefulness and necessity of that system of (a) horizontal separation, (b) vertical separation and (c) the system of checks and balances, in order to balance the powers in both the horizontal and vertical sense can be found in Madison's Papers 47 to 51.

3.2.10 New 5: a Constitution of just seven articles with only generally binding law

In his May 1950 plan, Schuman made the system error of putting the creation of a European federation in the hands of people who cannot act upon this in their capacity as Heads of Government. As one of the

excrements of that system error, the European Union started under the Treaty of Lisbon in 2009. That treaty – consisting of two sub-treaties – has more than four hundred articles. Not only do they partly contradict, but they are also followed by Protocols and Declarations which frustrate the functioning of those articles. The Treaty of Lisbon is therefore a legal monster. We are talking here about a collision of rules. Legal students learn that legislative technique requires that you only create rules that are generally binding. Exceptions to rules are a curse, they multiply like rabbits, and in doing so make the regulation neither feasible nor enforceable.

How else did the Americans do that? Apparently already aware of the old Dutch saying *'The more rules, the more fools'* they made a Constitution of only seven articles. The members of the Convention knew only too well that the thirteen states would like to try to incorporate their own folklore into the Constitution and that they would be unable to stop it if they did not, as a matter of principle, concentrate solely on generally binding constitutional law. No exceptions made.

Well, one of the pleasant advantages of making generally binding law is that it means that – by definition – you can regulate very little. If everyone has to agree with the law to be written, there is not much to regulate. It was precisely by applying this principle that it was possible to get the people of nine states to support the Constitution fairly quickly. In fact, after 1789, the Constitution was improved and supplemented by twenty-seven amendments. However, it is still a model of brevity.

This figure of only nine states for the federal constitution to enter into force bears a striking resemblance to Article 20 of the sub-treaty of the European Union and Articles 326-334 of the sub-treaty on the Functioning of the EU. These articles give nine EU Member States the right to establish a form of enhanced cooperation, without qualifying the content of this enhanced cooperation. This could therefore be a form of federal cooperation. Nine countries could together form a European federation and function as a federation – i.e. as one Member State – within the EU system, as do the federations of Belgium, Austria and Germany. In the European Federalist Papers, Herbert Tombeur and I see this aspect as the key to establishing a federation of at least nine EU Member States that can then function as a single entity within the EU and grow through the accession of other Member States.

3.2.11 Hamilton and Europe

Hamilton discusses Europe in detail in various Papers. He expresses admiration for Europe's status at the end of the 18th century, but also fear. Fear of the commercial strength of a number of European countries, with their many merchant ships and a military fleet to protect that trade. But he is not free from any arrogance. In Paper 11 he says:

'By a steady adherence to the Union, we may hope, ere long, to become the arbiter of Europe in America, and to be able to incline the balance of European competitions in this part of the world as our interest may dictate.'

With comments such as these, Hamilton underpins the urgency of building a strong defense of its own, and thus of obtaining a great deal of money from somewhere in order to be able to pay for it. Later, as Minister of Finance, he succeeds miraculously. In Paper 12 he states that the world consists of four parts, each with its own interests and then continues:

'Unhappily for the other three, Europe by her arms and by her negotiations, by force and by fraud, has in different degrees extended her dominion over them all. Africa, Asia, and America have successively felt her domination. (-) It belongs to us to vindicate the honor of the human race, and to teach that assuming brother moderation. Union will enable us to do it. Disunion will add another victim to his triumphs. Let Americans disdain to be the instruments of European greatness.'

It is true that they became arbitrators in Europe, at least from the start of the 20th century, by freeing us twice from domination. Woken up from the isolationism of the 19th century, American military supremacy – and the commercial strength associated with it – is still vital. We will see if this might change if President Trump continues along the path of renewed isolationism. If so, the two guiding motives of the Philadelphia Convention and the authors of the Federalist Papers – *liberty and happiness* versus *chaos and*

anarchy – may well become important themes in Europe. Certainly if – as is the case in the Declaration of Independence of 1776 – the first two are seen as inalienable rights. The EU cannot guarantee this with its intergovernmental operating system.

I understand that my unmistakable sympathy for the American Constitution – and, above all, for its origins – prompts the following question:

3.2.12 How is President Trump's behavior possible within that alleged strong Constitution?

That is a legitimate question. Why am I advocating the creation of a federal Europe along the lines of America, when President Trump, in the opinion of authoritative psychiatrists (despite the 'Goldwater Rule' = psychiatrists may not judge a person's neuroses without their own research), is demonstrating behavior described in psychiatric manuals as authoritarian (always looking for an opening to establish autocracy), narcissistic (self-respecting as the best, even brilliant, President ever), and psychopathic in the sense of lying, presenting things differently than they are, creating conflicts, ruling by dividing, causing harm without remorse, accusing others of misconduct he himself demonstrates, disregarding the rule of law and seeing himself as a victim as soon as he is called to account for these types of behavior. So, you may ask me: 'How is that possible within a Constitution that you think is cast-iron?'

Well, the first answer is: a €150 000 car is a fine car, but if you cannot drive, you will cause accidents. No matter how strong an organization is, there is always someone who can destroy it. Secondly, it is not the Constitution as such, but the electoral system based on a district system – with the principle 'the winner takes all' – that always tends to a two-party system with all decision-making power in the hands of one party. The absence of a mitigating coalition quickly evolves into a battle between tribes; human behavior only one level higher than cannibalism. As far removed from a sincere fulfilment of the political office as the distance between Mars and Earth. Or. In the words of Abraham Lincoln, spoken on June 16th, 1858 at the Illinois State Capitol: *'A house divided against itself cannot stand'*.

See how this is also happening in England, where they follow voting by districts as well. If the UK had had a system of coalitions, there would not have been a Brexit. That is one of the reasons why Herbert Tombeur and I, in our draft federal constitution for Europe, have opted for an electoral system based on proportional representation within one constituency of all countries making up the federation. Thus, popular voting. Whether the bad experiences in America with their district system (continually corrupted by 'gerrymandering' (which is adjusting the boundaries of a district in order to gain a majority within that district) give the Americans reason to introduce proportional representation too, after many unsuccessful attempts, we will have to wait and see.

If within such a two-party system the conduct of the leader is driven by one or more mental disorders, this is quickly taken over by the layers underneath and sooner or later this organization collapses. Or, in the words of Paul Krugman: *'The Slippery Slope of Complicity'*. The Dutch psychoanalyst Manfred Kets de Vries, who worked as a professor at the famous European management institute INSEAD, near Paris, for many years, wrote a number of intriguing books about this phenomenon (see the bibliography).

3.2.13 Is it possible to remove President Trump?

The American Constitution provides for an article in the event that a (mentally) malfunctioning president cannot be removed through an impeachment procedure. So, on this point, that Constitution is indeed strong. This is structured as follows.

After John F. Kennedy's murder, Congress adopted Amendment 25 in July 1965. Article 4 empowers the Vice President, together with a majority of Ministers, to inform the Senate and the House of Representatives that in their opinion the President is incapable of governing the country. The Vice President then immediately becomes the acting President. If the President fails to undo this, the Vice President is finally confirmed as Acting President. This article was applied in the Watergate affair when

President Nixon, in order to avoid impeachment, preferred to resign, under the notice, of no longer being able to exercise the presidency.

We have to wait and see whether this article will be applied against Trump. It depends on the interpretation of proven criminal behavior by the President as a condition for an impeachment. It raises two questions which, in America's constitutional history, have not yet been answered in a convincing manner, because an impeachment has never been carried out fully. The first question is: can you indict a President of criminal behavior while he is in office? Some argue that presidential immunity prevents him from indictment. Others are of the opinion that immunity does not apply in this case because no one is above the law. The second question is: can you impeach a President for criminal behavior demonstrated prior to becoming President? Opinions are also divided on this issue.

Well, if impeachment proves to be unfeasible, the application of Amendment 25 would be a constitutionally sound solution. But unlike Nixon, who left the White House standing on the stairs of a helicopter, smiling broadly with both arms high up in the air, the application of Article 4 of this amendment will be based on the observation that the current President suffers from some serious neuroses and might therefore be removed in a straitjacket.

Then America can do once again what it has always done after lows: reinvent itself.

3.2.14 Can President Trump's conduct be considered pre-fascist?

An increasing number of writers see in the behavior of this President striking similarities with fascist-oriented behavior. It's outside the scope of this book to go into this in more detail. For the sake of brevity, I refer to the articles by Richard North Patterson and Ian Buruma in the bibliography.

4. Specific events in Europe with a federal touch

This chapter tells the story of events that played a role in the pursuit of a federally united Europe. It is intended to clarify that the usefulness and necessity of federalism have long been discussed in Europe. The list below is therefore by no means exhaustive.

4.1 Johannes Althusius

In 1603, the German-born philosopher Johannes Althusius (Latin for his original name Johannes Althaus) published the famous '*Politica method digesta, atque exemplis sacris et profanes illustrate*'. With convincing constitutional observations, he melts the ideas of European philosophers such as Aristotle, Socrates and Plato about democracy into a methodology to create a state from below: a method to institutionalize a form of state from the basis of society. Althusius conceived the idea of a vertical separation of powers (which was not defined as binding law by the Americans until 1787 in the federal constitution), resulting in a shared sovereignty between organized groups of people and their representatives, one of the cornerstones of federalist thinking. This methodology is considered to be the first well-considered concept of the constituent elements of federalism.

William van Orange, the founder of the Netherlands, was impressed by Althusius' constitutional-federalist ideas and in 1584 (the year in which he was killed) gave him a post as professor at the University of Herborn in Germany. We could say that William of Orange was a federalist head of government *avant la lettre*. Perhaps an interesting subject for discussion between our current Head of State, King Willem-Alexander, and the Dutch Prime Minister Mark Rutte?

Althusius' *Politica method* ... is regarded as an academic justification for the Plakkaat van Verlatinghe (Placcard of Abandoning, 1581), the declaration of independence by which the Dutch territories no longer obeyed the Spanish King Philip II and seceded.

4.2 The Treaty of Westphalia

In 1648, the Peace of Münster and the Peace of Osnabrück merged into the Treaty of Westphalia to end a number of bloody long-term wars within the Holy Roman Empire. Among them was the Eighty Years War that the Netherlands waged against Spain, within which the Netherlands actually seceded from Spain in 1581 by means of the above mentioned Placcard of Abandoning. That Treaty of Westphalia formalized a concept that had been discussed for some time in Europe, namely the sovereignty of individual states, not dominated and suppressed by a King or a Pope far away elsewhere in Europe. It marks the entrance of guaranteed nation-state sovereignty, defined borders, being bosses at home and no longer afraid that another state may attack and take over.

Well, this guarantee proved not to be very strong. The struggle of oppressed peoples against oppressors made way for struggles between nation states. Mutual irritations grew into conflicts, conflicts grew into hunger for power, which in its turn evolved into wars. The reason for this is the absence of joint cross-border government, which has already been mentioned. Also referred to as the anarchy of the nation states. Anarchy in the sense of the lack of constitutional and institutional provisions to solve concerns and interests shared by European countries by means of shared governance.

So, the promising concept of the Westphalian nation state soon came to the end of its political life cycle. Wars continued. After Napoleon met his Waterloo in 1815 and Europe had realized that thirteen former English colonies had set up a federal state in America with cross-border administrative cooperation, nothing was learnt from this and the battles on the continent continued. Except in Switzerland. After their fifth religious war, Switzerland transformed its confederal structure (as was the case in America between 1776 and 1787) into a federal state of four peoples with their respective cultures. And they lived happily and for a long time, while the wars raged on elsewhere.

It was only after the First World War, with the creation of the League of Nations, and after the Second World War, with the arrival of the United Nations in 1945 that cross-border government to prevent wars

became part of the established world order. Although ... the UN is a form of intergovernmental administration and therefore weak. Not resistant to countries that believe, without a UN mandate, that they have the right to go and wage war somewhere in the world.

The curse of nation-state thinking was discovered a long time ago. But what do we see now, in the second decade of the 21st century? With the success of populism, nationalist-driven people are trying to hijack democratic procedures in order to kick Europe back to the dark past of the nation states fighting each other with newly acquired power.

4.3 Corsica: Pasquale Paoli, Montesquieu and Jean-Jacques Rousseau

Corsica, which was part of the Republic of Genoa from the 13th to the 18th centuries, went through a short period of a kind of independence in the middle of the 18th century, until the Treaty of Versailles – which sold Corsica to France in 1768 – brought the island under French rule. From 1755 to 1769, Pasquale Paoli – leader of the resistance against Genoa – governed the island, assisted by Napoleon Bonaparte's father. Paoli was a skilled man with democratic insights, based on the trias politica of Montesquieu and Rousseau's concept of popular sovereignty. Rousseau supported him in the drafting of the Corsican constitution. Although this short-lived democratic adventure in Corsica is not directly linked with federalism, it must be recognized as a source of growing awareness of the importance of establishing democratic states based on indisputable principles and inalienable rights. So, food for the French Revolution in 1789, but – in our case – food for the Declaration of Independence in North America in 1776.

4.4 The Declaration of Independence in 1776: Thomas Jefferson

Inspired by the increasingly harsh tax measures of the British Government, the thirteen American colonies decided to declare their independence. In 1776, Thomas Jefferson in particular designed their famous Declaration of Independence. This sign of absolute separation is expressed with arguments derived in part from the Magna Carta of 1215, compulsorily signed by King John Lackland to grant freedom and justice to the English people. It also relies on the aforementioned Placcard of Abandoning of the Netherlands in 1581, by which they abandoned the Spanish King Philip II because of his dictatorial behavior.

The U.S. Declaration of Independence introduced principles such as:

All sovereignty rests with the people.

All men are created equal.

The people have inalienable rights, such as the right to life, freedom and the pursuit of happiness.

Governments derive their power from the people.

It is the right of the people to abolish governments when they become destructive with regard to these rights.

4.5 The Convention of Philadelphia in 1787

I have already mentioned this subject, but I am now looking at it from a different angle. After the Declaration of Independence of 1776, the thirteen states, loosely united under a treaty called the Articles of Confederation, began to set up their constitutional and institutional infrastructure. Each in their own right. It was a mess. The Confederation suffered from the same disintegrating events that are now causing the European Union to collapse. Some states threatened to leave the Confederation. Through mutual hostility, three blocks were created: North, South and Central, ready to fight each other.

Then James Madison intervened. He requested and obtained permission from George Washington to convene the Philadelphia Convention in 1787. This Convention of fifty-five representatives of the thirteen confederal states was entrusted by the Confederal Congress with the task of improving the Articles of Confederation. Aim: to create better order within the Confederation. Instead of working to improve the articles of its Confederate Treaty, they threw it in the bin after ten days and created the first Federal Constitution in the history of the world. A Constitution of only seven articles. A piece of work based on

the ideas of European philosophers. Never equaled and to this day – for more than two centuries – never understood by European political leaders.

Why is this Constitution so brilliant? Because of the absence of political folklore, driven by national(ist) interests polluting correct constitutional legislation by allowing exceptions to general binding rules: the deadly disease of the current Lisbon Treaty.

Later, the seven articles of this federal Constitution were improved by twenty-seven Amendments, but it is still the shortest federal Constitution I know. With the power to unite no fewer than fifty states, while these states remain sovereign: they have their own legislative, executive and judicial powers, their own laws and policies, their own cultural identities.

The fact that it is a very short Constitution demonstrates a strong principle of federalism: a federation is created so that a federal authority can take care of a small list of common interests. This principle of federal law means:

The more members, the greater the diversity of wishes and therefore the fewer common interests. Which automatically creates the need to adopt less general binding rules.

Intergovernmental government, based on the two treaties making up the Treaty of Lisbon, is exactly the opposite: this combination of two separate treaties led to over four hundred articles and a host of protocols, which act as exceptions to the general rules in order to accommodate the national(ist) interests of Member States. The worst legal document ever written in the history of Europe.

In September 1787 – about five months after its inauguration – the Convention finalized the fine-tuning of this federal Constitution and sent it to the people of the thirteen States for ratification. In doing so, not only did the Convention renounce its task of improving the Confederation's Treaty – by drafting a federal constitution instead – but it also sidelined the Confederacy Congress by sending the draft Constitution to the people instead of submitting it to Congress, with the risk that it would be rejected in its entirety. Moreover, the Convention had unilaterally decided that the federal constitution would enter into force as soon as the population of nine of the thirteen states had ratified it. Unheard out-of-the-box steps and outright disobedience, only to be understood if one understands the essence of the aforementioned Declaration of Independence: *'All sovereignty rests with the people'*.

4.6 The process of the ratification of the federal Constitution

The ratification process did not proceed smoothly in all respects. There were groups in favor of and opposing the federalization of those thirteen states. To inform and educate the people about the benefits of a unified federal Constitution, to replace the disintegrating Confederate Treaty, three men began explaining what the Philadelphia Convention had achieved: James Madison, Alexander Hamilton and John Jay. During the course of a few months they published eighty-five articles in newspapers under a pseudonym. Later, these articles were called the Federalist Papers, which are educational materials of the highest order since they relate to the essence of constitutional law and its institutional requirements when thinking in terms of federalism.

At the heart of the federal Constitution are the brilliant checks and balances that guarantee Montesquieu's concept of the trias politica, the horizontal division of the three branches. Thanks to these checks and balances, both at the level of the fifty states and at that of the federal body – combined with the vertical division of powers between the fifty states and the federal body – an American President will have a hard time in acquiring absolute supremacy over the legislative and judicial branches of federal government. Unless this is to take place through a coup d'état.

This requires, however, a comment. Although the system of checks and balances will probably block the executive President's absolute supremacy over legislative and/or judicial power, indirect supremacy is conceivable. President Trump's unequivocal attempts at gaining absolute power – as some other presidents elsewhere have done – might be hard to succeed. The checks and balances contain so many countervailing powers that he will always meet barricades that might be impossible to overcome. But with the help of a

Republican majority in the Senate, Trump can significantly influence the appointment of vacancies in the ranks of hundred ninety-seven federal judges. The majority of the Supreme Court now consists of conservative judges. If Trump succeeds in completing two terms of office, the system of federal judges will shift considerably towards the conservative side. In this way, his executive agenda can count on the support of a conservative part of the federal jurisdiction. In such circumstances, establishing autocracy, supported by the judiciary, is not unthinkable. After all, the tried and tested recipe of so-called 'strong men' is: provoke unrest, antagonize different population groups, declare martial law and establish autocracy.

4.7 The United Kingdom: 140 years of trying to federalize the British Empire

From 1803 to June 1940, Britain made many attempts at federalizing the whole of the British Empire, the world's largest at its peak. As early as a few years after the loss of the thirteen North American colonies, they understood that this could tempt their dominions, colonies, protectorates and other areas to secede as well. Over the course of 140 years, the United Kingdom has therefore attempted to federalize its Empire with parts of the European continent and even with the United States of America. These attempts were supported by both political and civil movements, but they all failed. The British federalization effort was not strong enough to stop the striving for independence in the overseas territories. They fought for their freedom, except for Malaysia, which acquired its independence through negotiation. Some even chose a federal form of government, including India, as stated the largest democratic federation in the world.

One of the most remarkable events were the tireless efforts of Philip Kerr, the 11th Marquis of Lothian, better known as Lord Lothian. Kerr, to Prime Minister David Lloyd's Private Secretary between 1916 and 1921 and co-founder of the famous Chatham House (the big brother of the Dutch Clingendael Institute) played an important role in the editing of the documents of the Paris Peace Conference that put an end to the First World War. However, he soon began to understand that the harsh retaliation against Germany by the Versailles Treaty could provoke a new war and that this had to be prevented by federalizing Europe. The anarchy of nation states should be replaced by a federal form of Europe. The League of Nations, which was set up at the initiative of the American President Woodrow Wilson, would be too weak to serve that purpose. He managed to secure extensive political and civil support, but these federalist efforts would also fade away over the years.

I would like to draw your attention to the two books by Andrea Bosco – founder of the Lord Lothian Foundation in 1987 – in the bibliography. He describes in detail the uninterrupted flow of British federalist movements and actions by organized citizens and politicians from 1803 to 1940. This long and intense process raises the question as to what is still known about this history in today's England. And another question: is it possible to use the former British federalization efforts to support the new calls for federalization in the UK, which were heard immediately after the Brexit referendum? The Guardian of 10 July 2016 contained two articles by Linda Colley and Martin Kettle (see bibliography), advocating the federalization of the United Kingdom itself. A plea for an upgrade of the existing devolution – namely the fact that Scotland, Wales and Northern Ireland already have a parliament, a government and their own decision-making areas – into a true federal state. Both articles deal with the need for internal federalization – in other words, the United Kingdom and its four parts – and with the need for it to remain linked to the European Union, though in a federal context. After all, within a federation, Member States will remain sovereign. And that issue was at the heart of the Brexit referendum, wasn't it? At the time of writing this book (Summer 2018) there is some uncertainty. But when the Brexit process finally grinds to a halt, Britain can still gain its coveted sovereignty by making an offer to the European Union, as Churchill did to France in June 1940.

The last British effort in the context of Europe's federalization came from Winston Churchill, assisted in this by Jean Monnet and Charles de Gaulle. In June 1940, he offered the French Prime Minister Paul Reynaud a British-French federation, on the condition that France would not surrender to Germany. Because of the great importance of this piece of British history – placed within the current context of Brexit – I will revisit this in further detail in Paragraph 4.8.

First, I would like to draw attention to the strength of the former British federalization struggles by quoting from Bosco's book *June 1940. Great Britain and the First Attempt to Build a European Union* (p. 10):

‘It was this debate on federalism in general, and on Anglo-French wartime collaboration in particular, that brought the British Government to consider the application of the federal principle in order to transform Anglo-French war co-operation into a stable political union. Jean Monnet – then Chairman of the Anglo-French Coordination Committee, a body based in London and created on the initiative of Monnet himself in order to give greater effect to the war effort – had been strongly influenced by that lively debate. (-) From March 1940 the Foreign Office had seriously examined an ‘Act of Perpetual Association between the United Kingdom and France’ drafted by Arnold Toynbee and Alfred Zimmerman at Chatham House, and set up an ad hoc inter-ministerial Committee chaired by Maurice Hankey in order to translate it into a Constitution.’

In England – it has to be reiterated – the pursuit of federalism as an instrument of European cohesion was characterised by an awareness of the constituent elements of correct federalism, while at the same time it was confessed on the continent with characteristics of confederal-intergovernmental governance. And that has been the case until 2018. Influenced by the typically French way of approaching federalism, on the basis of administrative concepts rather than constitutional elements, some people dare to claim that the current European Union also contains federalist characteristics.

4.8 June 1940: Churchill’s offer to France

In Bosco’s aforementioned book he begins Chapter VII entitled *‘Jean Monnet, Churchill’s proposal and the downfall of France’* with an extensive quote from a telephone conversation between De Gaulle and the French Prime Minister Reynaud at 16:30 on 16 June 1940. I present this quote in its entirety, since it concerns an *indissoluble union*, offered by Churchill to France while the Germans found themselves at the outskirts of Paris.

‘At the most fateful moment in the history of the modern world, the Governments of the United Kingdom and of the French Republic desire to make this declaration of indissoluble union and unyielding resolution in defence of liberty and freedom against subjection to a system which reduces mankind to a life of robots and slaves. The two Governments declare that France and Great Britain shall no longer be two nations but one. There will thus be created a Franco-British Union. Every citizen of France will enjoy immediately citizenship of Great Britain; every British subject will become a citizen of France. The devastation of war, wherever it occurs, shall be the common responsibility of both countries and the resources of both shall be equally, and as one, applied to its restoration. All customs are abolished between Britain and France. There shall not be two currencies, but one. During the war there shall be one single War Cabinet. It will govern from wherever it best can. The two Parliaments will unite. A constitution of the Union will be written providing for joint organs of defence and economic policies. Britain is raising at once a new army of several million men, and the Union appeals to the United States to mobilise their industrial power to assist the prompt equipment of this new army. All the forces of Britain and France, whether on land, sea or in the air, are placed under a supreme command. This unity, this union, will concentrate the whole of its strength against the concentrated strength of the enemy, no matter where the battle may be. And thus, we shall conquer.’

Prime Minister Reynaud noted with increasing astonishment – and pleasure – this Declaration of Union, as De Gaulle dictated it, but suddenly paused to ask him: *‘Does he agree to this? Did Churchill give you this personally?’* De Gaulle then gave the phone to Churchill, who sat next to him. The latter confirming that this was a decision made by the British War Cabinet. Reynaud *‘transfigured with joy’*.

This had been preceded by a bold action on the part of Jean Monnet. Bosco tells of how Jean Monnet – supported by the pro-federal enthusiasm in British society – in the meantime had transferred his own federal thinking to Churchill. Churchill needed to listen to him because Monnet, through his relationship with President Roosevelt, acted as an intermediary to receive war equipment from America, while America itself still took a neutral stance. Because of this important position Monnet dared to approach Churchill at the beginning of June 1940 with a bold proposal. Bosco describes it as follows (p. 300):

‘It was however only at the beginning of June that Monnet understood the necessity of ‘a bold stroke that would fire the imagination of the two peoples on the edge of despair,’ a ‘total union, an immediate merger, that seemed necessary if we were to face together the choice between tyranny and freedom that was now being thrust upon us.’ France and Great Britain had to ‘join forces, in war and for the future.’ Persuaded that they should begin from a merger of the two air forces, Monnet appealed to Churchill on the 6 June.’

'If the forces of our two countries are not treated as one, we shall see the Nazis gain mastery of the air in France, overpowering her, and then concentrating all their strength against the United Kingdom. The Allied aircraft now operating in France are outnumbered by several to one. But if we combine the two countries' air forces, the ratio becomes about one to one-and-a-half; and with our proven superiority when evenly matched we should then have a chance of winning. In a word, victory or defeat may be determined by an immediate decision to use our respective aircraft and pilots in the present battle as a single force. If that in turn requires a unified command for our two air forces, then this problem should in my opinion be studied, and studied now.'

This interaction between Monnet and Churchill took place as French troops withdrew and the British army tried to avoid massacres by leaving Dunkirk's beach as soon as possible. In that chaos, Churchill's offer came too late. Also, because he initially doubted the usefulness and necessity of a federal union between England and France. Just like De Gaulle did. But both finally understood that with a radical political renewal there was an opportunity to end the war, or at least to stop Hitler's further advance. If ... and that was what it was all about, France would gather, from that extreme British offer, sufficient political courage to refuse surrender and tell Hitler that France would fight until the bitter end.

On that famous day of 16th June 1940, De Gaulle had already telephoned Reynaud to say that he could expect an important announcement from Churchill and that Reynaud should not take any important decisions – De Gaulle was referring to the decision to surrender – before receiving the announcement from Churchill – who was still in the process of drawing the contours of a Franco-British government in his War Cabinet and could not inform Reynaud until later that afternoon.

And then things went wrong. On that same day, Reynaud received two reports from the English War Cabinet. Conflicting communications. One gave Reynaud a free hand to offer Hitler a ceasefire, provided that the French fleet was brought to safety first. The other was Churchill's offer – also from the War Cabinet – to establish a common federal union on the condition that France would not surrender. Since the first message reached the French Government earlier than the second, it immediately gained a majority within that French Government, where Pétain had already made a plea for a ceasefire. France capitulated. Churchill received the sad news at 18.30h, already seated in the train to Southampton, from where a delegation from the British government would meet Reynaud and his government on board a Navy vessel off the French coast to sign the Act of Union. Bosco quotes Clement Attlee (p. 306):

'We knew it was all over and Reynaud had lost. We got out of the train and drove back to Downing Street and went back to work'.

Let us calmly wait and see whether, out of the ashes of the burning Brexit process, one or more British statesmen will rise up like phoenixes to realize what Churchill had failed to do, based on their fabulous history of federalization. Although there are no longer any German troops marching the outskirts of Paris, if the current American President continues to disrupt the world order, a European Federation, including the United Kingdom, might be the only answer to survive geopolitically.

4.9 The Vatican: Pope Leo XIII

Let us return to the end of the 19th century. Pope Leo XIII published eleven encyclicals, of which *Rerum Novarum* (From new developments) dated 1891 is the best known. Mainly driven mainly by observations on the social aspects of labor – it was written during the Industrial Revolution – he borrowed elements from Althusius' concepts of federalism. The Pope introduced notions of a political and scientific nature to the doctrines of the Catholic Church. In *Rerum Novarum* he mixed the doctrine of the (Catholic) family as the basis of life with the federalist notion that federalism is based the construction of a state.

4.10 The Netherlands: Abraham Kuyper

And then we see an interesting jump. The Dutch Calvinist theologian, pastor and statesman Abraham Kuyper, founder of the Free University in Amsterdam, borrowed ideas from Althusius (also a Calvinist) and from *Rerum Novarum* (Catholic) about merging Calvinistic-driven positions with politically-driven positions for the government of the people. Kuyper came up with the concept of 'sovereignty in one's

own circle', meaning that each organized group of people, starting with the family, has its own sovereign and independent authority, which is not subject to any other group. This is precisely the first and most important cornerstone of the method of federalism as devised by Althusius, which is being implemented excellently in the American federal constitution with regards to the creation of a federal state.

See here the universal applicability of the principles of federalism. It is by no means limited to a specific form of government. Thousands of private organizations around the world have been formed on the basis of federal thinking. The Catholic Church derived from these principles a new doctrine on social values in the context of labor, while Calvinism found in the ideas of Althusius the basis for policymaking, stemming from the values of the smallest organization: the family.

4.11 The Interbellum: Aristide Briand and Gustav Stresemann

Between the First and Second World Wars, the so-called Interbellum, not only did the British Lord Lothian tirelessly try to federalize Europe in order to prevent a new war, but he was accompanied by the French statesman Aristide Briand and his German colleague Gustav Stresemann. These two men tried to federalize both countries by setting up a form of cooperation in certain policy areas. Although they called this way of operating 'federalization', it was, strictly speaking, only an attempt at establishing intergovernmental governance. Their efforts would fail due to the rise of Hitler and Mussolini, and their own funeral.

4.12 The Ventotene Manifest: Altiero Spinelli and Ernesto Rossi

Influenced by the American Federalist Papers of Madison, Hamilton and Jay, the Italian Altiero Spinelli, assisted by Ernesto Rossi, wrote the famous Ventotene Manifesto. This manifest, written in 1941 while exiled by Mussolini on the island of Ventotene, is widely recognized as the basis of post-war thinking about European federalization. After the war, Spinelli played an important role in the unification of Europe. He founded the Union of European Federalists (UEF), was involved in setting up Europe's intergovernmental governance system in the 1950s, became a Commissioner in the European Commission, was a Member of the European Parliament, put a lot of energy into drafting a European Constitution, but failed to realize his ideal: the creation of a federal Europe based on a unifying federal constitution instead of a collapsing intergovernmental treaty. In one way or another, other political powers have always succeeded in transforming his federal efforts into intergovernmental governance.

Spinelli inspired Heinrich von Brentano – German Foreign Minister in Konrad Adenauer's cabinet – to draft a one hundred and sixteen articles long European Federal Constitution. The draft was vetoed by the French Government in 1954 and would no longer play a role in the post-war political debate on constitutional and institutional cooperation between European countries.

4.13 The Congress of Europe in The Hague in 1948

Between 1945 and 1950, Europe was overwhelmed by conferences and plans to unite the countries of Europe. An important meeting was the Congress of Europe in The Hague, in the Netherlands, from 7 to 11 May 1948. This is generally considered to be the first federal event in European history, which is, of course, an exaggeration given that there had already been countless attempts at federalizing Europe between 1800 and 1940.

In any case, more than seven hundred-fifty representatives from twenty-six European countries, even including observers from Canada and the US, came together in The Hague, with Winston Churchill, Konrad Adenauer, Harold Macmillan, Anthony Eden, François Mitterand, Paul Reynaud, Paul-Henri Spaak, Altiero Spinelli, Jean Monnet and philosophers such as Bertrand Russell and Raymond Aron. Even religious leaders, artists, entrepreneurs and historians were present.

The Congress discussed the future structure and role of a Council of Europe (1949) which, in 1950, would draft the European Convention for the Protection of Human Rights and Fundamental Freedoms in Europe. The Congress of Europe in The Hague in 1948 called for political, economic and monetary

union, resulting in the establishment, in 1951, of the European Coal and Steel Community (ECSC), the first example of intergovernmental governance in Europe by six countries.

This type of operation has since been extended to the European Economic Community (EEC), and next to the current European Union (EU). So, from 1800 onwards, any attempt at uniting Europe through federalism has always ended in a form of intergovernmental administration.

4.14 The United States of Indonesia: The Hague 1949

The Congress of Europe in The Hague in 1948 was not the only Dutch initiative with regards to federalization. In December 1949, at the same location as the Congress of Europe – The Hall of Knights (part of the Parliament) – the Dutch government signed an agreement with the leaders of its former colony of Indonesia. This agreement finally granted independence to Indonesia, after five years of failed negotiations and fighting.

At that time, the Dutch government was fully aware of the principles of federalism and acted accordingly by insisting that this independent Indonesia would have to be the federal United States of Indonesia. Why? Because between 1945 and 1949 the southeast of this empire, the Moluccas, together with the Dutch army, had fought against the rebellious Indonesians. The Netherlands knew the principle that a federation is composed of member states, each retaining its own sovereignty within the federation. Thus, in order to save the sovereignty of the Moluccas, the Netherlands persuaded the leaders of Indonesia to sign the agreement with the aim of establishing a federal Indonesia.

However, immediately after the signing of the treaty, the Indonesian leader Sukarno started the destruction of the federation, in January 1950. He only wanted a Unitary Republic of Indonesia and had his friend Hatta sign the agreement in The Hague in December 1949, while he, in Indonesia, began to organize the collapse of the federation. Sukarno acted so quickly that the leaders of the Moluccas – aware that repression was imminent – decided in April 1950 to declare their own independence. After eight months, in August 1950, Sukarno completely abolished the United States of Indonesia. He fought against the guerrillas of the Moluccas and won the battle after the execution of their leader Dr. Chris Soumokil on 12 April 1966. This is a sad example of a handful of failed attempts at achieving a federation.

4.15 The Schuman Declaration: Robert Schuman and Jean Monnet

Driven by the many post-war conferences and plans to unite Europe, and under the influence of Jean Monnet, who was Franklin Delano Roosevelt's advisor in the support of England in the war against Germany, in addition to Churchill's advisor to call Paul Reynaud and offer him the aforementioned British-French federation, French Foreign Minister Robert Schuman presented the famous Schuman Plan or Schuman Declaration in May 1950. This document, just two pages long, contains twice the unconditional claim that Europe should become a federation. However, at the end of his speech, Schuman made the terrible mistake of assigning this work to the European Heads of State or Government: a wrong goal-means relationship and thus the system error that, since 1950, has prevented the federalization of Europe from materializing and which ultimately will lead to the implosion of the European Union.

After all, Heads of Government do not have the power to establish a federation. They can only enter into partnerships in certain policy areas (as Briand and Stresemann did during the Interbellum). In 1951 the Schuman Plan led to the aforementioned European Coal and Steel Community, the first European intergovernmental administration system six countries. A system that, because of its inherent systemic errors, is currently falling apart under the clinically dead Treaty of Lisbon.

4.16 More details about Jean Monnet

4.16.1 Monnet's career

Monnet's role and importance in the context of European federalization should not be underestimated. In staccato some aspects of his career:

Son of a father who was in charge of a Cognac Cooperative in the French town of Cognac; the fact that a cooperative is the lookalike of a federation may have already influenced his thinking in terms of federalization – the writings about Monnet do not give a definite answer to this.

He was sent to London before the age of twenty to learn English and was involved with businessmen who organized the supply of the Allied forces (this was during WOI); as a result, at a young age, he accessed an environment of politics, diplomacy, bureaucracy, finance and trade.

From 1919 to 1923, he was deputy Secretary-General of the League of Nations, i.e. in the vicinity of Sir Drummond, who, as Secretary General of the Union, became Secretary of the Study Committee for the elaboration of the Briand Memorandum.

Between the two world wars Monnet stayed repeatedly in America, where he worked his way up to the White House as advisor to Roosevelt.

During WWII Monnet was in London to use his relationship with Roosevelt for the benefit of receiving American aid prior to America becoming involved in that war.

In this way he also ended up in the immediate vicinity of Churchill and De Gaulle, so even after the war in France he had easy access to influential political circles.

In so doing, Monnet became the author of the Schuman Plan of May 1950, the birth certificate of the European Coal and Steel Community, which would be established a year later, and thus also the birth certificate of the intergovernmental system of what is now known as the European Union.

I have already mentioned that the Schuman Plan contained a serious systemic error which inevitably undermines the EU and which has now brought it to the end of its political life cycle. Once again, we encounter this system error: the task of federalising Europe has been placed in the hands of the Heads of Government, but they cannot do so; they can only organize cooperation in policy areas; and once they have that power in their hands, they do not give it up; the decision-making process then automatically goes top-down, resulting in the top-down compulsory uniformity of Member States, the erosion of their sovereignty and cultural identity; forced assimilation.

4.16.2 Monnet's operating is hard to understand

It is unclear how Monnet, as Schuman's advisor, could have made the same mistake that had also frustrated the work of Aristide Briand and Gustav Stresemann. These French and German statesmen had tried to federalize France and Germany a few years earlier, during the Interbellum, even though only as a matter of policy cooperation and therefore only concerning an intergovernmental form of administration. Which influenced thousands of others to make the false assumption that you can start with an intergovernmental/confederal system and then assume that it will eventually evolve into a federal system.

It is fair to assume that Monnet must have learned in the vicinity of Roosevelt how a true federation was structured constitutionally and institutionally. Almost every American can explain this. Nevertheless, under the banner of the urgent need for European federalization he enabled with this text of the Schuman Plan the Foreign Minister to tell a story that had nothing to do with federalization.

4.16.3 The typically French approach to federalism is a possible explanation

An explanation – see also Andrea Bosco's publications – of the way in which Jean Monnet interpreted federalism may be attributed to the typical French administrative approach to federalization, a top-down way of thinking inspired by the French centralist unitary state: the power does not lie at the basis of society, but in Paris.

A famous sentence from Monnet reads: *'Nous ne coalisons pas des états, nous unissons des peuples'*. (We do not form a coalition between states, but we unite peoples). It failed because the Schuman Plan contained wrong means (a top-down administrative approach) to the end (a bottom-up federal constitutional foundation). As a result, the European Union became nothing more than an artificial form of cooperation between states.

The probable correctness of this statement – namely that the French mainly think in terms of top-down administration instead of bottom-up constitutionalism – is reinforced by Emmanuel Macron's Sorbonne Speech of September 2017. It can be read in four parts. First of all, he argues in favour of the need for drastic renewal of the functioning of the EU: fine. Then there is the need to grant the people of Europe more involvement: that is fine too. He goes on to advocate the need for the EU to focus on a limited number of common interests: still fine. And then there is the big mistake: in order to achieve that third point, he argues for a supplementary treaty. In doing so, he continues on the route of great errors. It is not really possible to think of anything worse:

The European Union is in the hands of administrators who act in the interests of their state; it is not in the hands of representatives of the people who act in the interests of the European citizen.

As a result, cooperation on the basis of treaties was opted for after 1950, as an accumulation of national interests of states. It is therefore a coalition of states rather than a connectivity between peoples.

It has not been decided to serve the interests of a European people – in all its different ways – from a single European constitutional basis.

Over the years, this accumulation of national interests has forced new treaties and repeated amendments to existing treaties, making it an inextricable legal chaos.

Then, as is always the case, other administrators jump forward with the message that they are going to solve this.

And then they come up with new proposals to amend the treaty law system, making it even more complicated until it breaks down.

Macron's proposal to appoint a kind of super minister for the small collection of common interests is nothing less than the recipe for a disaster. A minister who does not derive his authority from a constitution floats in the air and, like Icarus, falls hopelessly down as soon as the heat of incompatible national interests causes him to be burned.

What Macron is proposing is '*administrative federalization*'. The combination of these words is an oxymoron. Like a 'pregnant man'. That does not exist. And yet such a twirl is also in the brains of other European leaders. People who, when political and social problems arise – often caused by themselves – think they can and must solve these problems by way of administrating and then let themselves be guided by the interests of their own state. Outdoing themselves with ever further-reaching administrative measures, which in turn fall further and further beyond the reach of the people. The scenario of what I mentioned earlier as one of Rousseau's statements: a democracy tends to an elective aristocracy and inevitably twists to an oligarchy.

So once again: Monnet's unmistakable goal of uniting Europe has resulted in the contrary by a simple wrong means-to-end relationship. Monnet made Schuman state explicitly on two occasions that Europe should become a Federation, but he put its creation in the hands of the Heads of Government. Schuman did not see that mistake. Probably because of the French administrative culture, which assumes that the representation of the people is best done by governing them centrally – from above. The instrument Schuman used at the advice of Monnet was cooperation between Heads of Government. This would later be named 'intergovernmental administration'. The legal basis for this type of work can only be a treaty. And a treaty – now the Treaty of Lisbon – will only be signed if the Heads of Government of the participating countries are certain that it will serve all their interests. As a result, such a treaty is nothing more than an accumulation of national interests, without the whole being more than the sum of its parts. As more countries join, it becomes inconvenient and the need arises to either leave the original treaty or to strengthen it with additional treaties. Yet any intervention under treaty law only weakens that legal basis, it doesn't strengthen it. It should have been a federal constitution, just like it had been the case in the United States of America.

This wrong means-to-goal relationship now acts as a divisive force between the EU countries as soon as an (external) problem leads to internal conflicts. The question is whether the nine-hundred or so people who occupy Jean Monnet Chairs, somewhere in the world of universities, are aware of this. Let alone if they dare to accept that the current behaviour of some Heads of Government who close their borders to immigrants can be directly traced back to the crucial system error in the Schuman Plan of May 1950. And thus essentially caused by the erroneous means-to-goal relationship that Jean Monnet himself designed. The fact

that the Schuman Plan states twice that there is only one objective, namely the establishment of a European Federation, has led many people to believe, even to this day, that what has been constructed since 1951 is federal in nature. Quod non.

It is not the choice of your goals that determines who you are, but the choice of the means by which you want to achieve those goals.

What, then, are you going to ask? Well, it is easy to formulate that, even though I need to introduce a pleonasm: *constitutional federalization*.

To represent a handful of common interests of the people of Europe, while preserving the sovereignty of the Member States, we need a federal organization.

A federal organization is only a federal organization if it is based on a Constitution rather than on a Treaty.

This Constitution regulates the powers of administrators and the way in which they are democratically accountable.

Constitutional federalization is therefore a pleonasm, since a constitution is a unconditional feature of a federation.

4.17 The Treaty of Maastricht in 1992

On 7 February 1992, the twelve Member States of the European Economic Community (EEC) would sign the Maastricht Treaty as the foundation of the current European Union (EU) and of the Economic and Monetary Union (EMU), which produced the euro in 2002.

The Dutch government tried to turn this meeting in Maastricht into a federalist event. This failed due to tensions between some Heads of Government and because of Germany's need for close cooperation with France (against the Dutch idea of creating a federal base under the Euro) in order to bring the reunification of West and East Germany to a successful conclusion.

The fact that European unity was not strengthened by a federal impulse came as a shock in the Netherlands. From that moment on, the employees of the Dutch Ministry of Foreign Affairs were afraid to use the F-word.

4.18 The European Federalist Papers: Leo Klinkers and Herbert Tombeur

The absence of a federal basis for the aforementioned Economic and Monetary Union has been the subject of many comments. As I mentioned earlier, a spicy comment came from Robert A. Levine, a senior official in the US federal government. In an article in The New York Times of January 1999, he said – warning of the weak political foundations of the future euro – that Europe should write its own federalist papers in order to understand the importance of a federal organization for monetary security between cooperating countries. Well, no one responded to this call. No politician, scientist or philosopher has picked up on this signal to inform the people of Europe, and their political leaders in particular, about the principles of federalism. As Madison, Hamilton and Jay did in 1787-1788.

Between August 2012 and May 2013, Herbert Tombeur and I wrote the twenty-six European Federalist Papers, using the same writing technique as Madison and his co-authors, exchanging interactive comments, questions and answers on the foundations of federalism. Some of our Papers explain the weaknesses of the European Union as a result of the systemic error in the Schuman declaration, which has been severely exacerbated by the current Treaty of Lisbon due to a large number of systemic errors. Another group of Papers discuss the reasons for the establishment of the Federation of America, its fundamental constitutional and institutional principles, and the strength of federalism through the vertical separation of powers and the brilliant checks and balances. A third group of Papers is devoted to the drafting of a European Constitution with only ten articles. Three articles more than the original American Constitution but in line with Europe's current social and political culture. We have also inserted a number of principles of direct democracy from the Swiss Constitution, an aspect absent from the US Constitution.

At the end of this work, we set up the infrastructure for a Citizens' Convention, such as the Philadelphia Convention of 1787. With the support of the Jean Monnet Association in Bucharest, we decided to hold this Convention in Bucharest in November 2013, as a signal to the newly democratized Eastern European countries (which are strongly committed to their newly acquired independence) that federalism would be their best option within a united Europe. Today, we see EU countries such as Poland, Hungary, Romania and the Czech Republic trying to resist the typically intergovernmental failure of compulsory decision-making from above and end up fighting an uphill battle against 'Brussels'. That would never have happened if Europe had been a federation.

The aim of our Convention was to improve our draft federal Constitution containing ten articles by circa fifty European federalists. We would then distribute this draft Constitution to the citizens of Europe and ask them to ratify it, as the Philadelphia Convention did. If the people of nine countries had ratified the draft, we would declare the federation established, provided that the respective governments supported the decision of their people.

This aspect of nine countries stems from the aforementioned opening offered by the Lisbon Treaty in combining Article 20 of the sub-treaty on the European Union and the Articles 326-334 of the sub-treaty on the Functioning of the European Union. These articles provide the legal basis for establishing some form of closer cooperation between nine EU countries within the intergovernmental EU system.

At a crucial time, however, we did not manage to gather enough resources to bring about the Convention in Bucharest in 2013. Since then, I have devoted my time to re-preparing a Citizens' Convention, with the aim of drawing up a federal Constitution for Europe by improving our initial draft and having it ratified by the people of at least nine EU countries.

I will further go into this in Part III.

PART III A NEW ATTEMPT TO FEDERALIZE EUROPE

The previous pages have made it clear that Europe's many attempts at federalization have thus far failed. Sufficient reason never to make a new attempt again. Or perhaps we should?

If my prediction of the inevitable break-down of the current European Union – caused by the errors of the intergovernmental operating system – were to become reality, there will only be three possible continuations of European coexistence: either we keep muddling through, following the example of the thirteen confederal states in America between 1776 and 1787, or we step back into the past and go in the direction of an anarchy of the nation states, or we establish a European Federation.

My aim, of course, is to go for the latter option: let's federalize.

In order to help this process of European federalization, Chapter 5 will contain the draft of a European Federal Constitution, as developed by Herbert Tombeur and myself. Then, in Chapter 6, follows an outline of a draft Convention of Citizens for a Federal Europe. A Convention based on the Philadelphia Convention in 1787: the best practice, thus our benchmark.

5. The design of a European federal Constitution

Here I present the draft European federal Constitution (from the European Federalist Papers) that I wrote together with Herbert Tombeur, and with Fernand Jadoul as guest author (2012-2013). This draft is derived from the American Constitution as a best practice yet strengthened and improved by adapting it to European constitutional and political relations. We have also deleted what we believe to be wrong and replaced these elements with a better approach. Including, for example, the district-based electoral system, which we have exchanged for a system based on a ‘popular vote’. In the European Federalist Papers, we give a detailed explanation of the topics we formulate differently, and why.

Please note that this text, containing a mere ten articles, is to be submitted to a Citizens’ Convention (see next chapter), with the task of improving these articles. Yet with an absolute ban on adding more articles. If this is not adhered to, it will cause a hopeless battle against amateurs and bunglers tumbling over each other in order to pollute this carefully designed example of constitutional regulation with all kinds of national or perhaps even nationalist-populist political folklore.

I have included the version of May 2013. For the accompanying Explanatory Memorandum, I refer to the European Federalist Papers themselves.

PREAMBLE

We, the Citizens of Austria, Belgium, Cyprus, Germany, Estonia, Finland, France, Greece, Ireland, Italy, Luxembourg, Malta, the Netherlands, Portugal, Slovenia, Slovakia and Spain establish this Constitution for all countries in the Eurozone, and furthermore for each country entering the Eurozone, with the goal of forming a Federation that guarantees freedom, order, safety, happiness, justice, defense of the Federation against enemies, sustainability of the environment as well as acceptance and tolerance of the diversity of cultures, convictions, ways of life and languages of all who live and will live in the territory that belongs to the jurisdiction of the Federation.

Article I – The Federation and the Bill of Rights

1. The European Federation is formed by the Citizens and the States, participating in the Federation.
2. The powers not delegated to the European Federation by the Constitution, nor prohibited to the States by this Constitution, are reserved to the Citizens or to the respective States.
3. The European Federation endorses the rights, freedoms and principles as written in the Charter of the Fundamental Rights of the European Union, excluding the principle of subsidiarity, as mentioned in the Preamble of this Charter. The European Federation accedes to the European Convention on Human Rights and Fundamental Freedoms.

Article II – Organization of the Legislative Branch

Section 1- Setting up the European Congress

1. The Legislative Branch of the European Federation lies with the European Congress. It consists of two Houses: the House of the Citizens and the House of the States, also known as the Senate.
2. The European Congress and its two separate Houses reside in Brussels.

Section 2 – The House of the Citizens

1. The House of the Citizens is composed of the representatives of the Citizens of the European Federation. Each member of the House has one vote. The members of this House are elected for a term of six years by the Citizens of the Federation who are qualified to vote, united in one constituency. The election of the members of the House of the Citizens always takes place in the month of May, and for the first time in the year 20XX. They enter office at the latest on June 1st of the election year. The members resign on the third day of the month of May in the final year of their term. They can be re-elected twice in succession.
2. Eligible are those who have reached the age of thirty years and are registered as Citizen of a State of the Federation during at least seven years.

3. The members of the House of the Citizens have an individual mandate. They carry out this mandate without instructions, in the general interest of the Federation. This mandate is incompatible with any other public function.
4. The right to vote in elections for the House of the Citizens belongs to anybody who has reached the age of eighteen years and is registered as a Citizen in one of the States of the Federation, regardless of the number of years of that registration.
5. The House of the Citizens choose their Chairperson, with the right to vote, and appoint their own personnel.

Section 3 – The House of the States, or the Senate

1. The Senate is composed of eight representatives per State. Each Senator has one vote. The Senators are appointed for a term of six years by and from the legislature of the States, provided that after three years half the number of Senators resign. The first appointing of the full Senate takes place within the first five months of the year 20XX. The three-yearly appointments to replace half of the Senators takes place in the first five months of that year. The Senators enter their office at the latest on June 1st of the year of their appointment. They resign on the afternoon of the third day of the month of May in the final year of their term. The Senators who resign are immediately re-appointable for a further term of three years. The Rules of Proceedings of the Senate regulate the way of resigning of one half of the Senate.
2. Eligible as Senator are those who have reached the age of thirty years and who have been registered for a period of at least seven years as a Citizen of a State of the European Federation.
3. The Senators have an individual mandate. They carry out this mandate without instructions, in the general interest of the Federation. This mandate is incompatible with any other public function.
4. The Vice-president of the European Federation chairs the Senate. He has no right to vote unless the votes are equally divided.
5. The Senate elects a Chairperson pro tempore who in the absence of the Vice-president, or when he is acting President, leads the meetings of the Senate. The Senate appoints its own personnel.
6. The Senate holds the exclusive power to preside over impeachments. In case the President, the Vice-president or a member of Congress is impeached the Senate will be chaired by the Chief Justice of the Court of Justice. In case a member of that Court is impeached the President will chair the Senate. No one shall be convicted without a two third majority vote of the members present.
7. Conviction in cases of impeachment shall not extend further than the removal from office and disqualification from holding any office of honor, trust or salaried office within the European Federation. The convicted shall nevertheless be liable and subject to indictment, trial, judgment and punishment according to law.

Section 4 – The European Congress

1. The time, place and manner of electing the members of the House of the Citizens and of appointing the members of the Senate are determined by the European Congress.
2. The European Congress convenes at least once per year. This meeting will begin on the third day of January, unless Congress determines a different day by law.
3. The European Congress settles Rules of Proceedings for its manner of operating.

Section 5 – Rules of Proceedings of both Houses

1. Each House settles Rules of Proceedings. They regulate what subjects require a quorum, how the presence of members can be enforced, what sanctions can be imposed in case of structural absence, what powers the Chairperson has to restore order and how the proceedings of meetings and votings are recorded.
2. The Rules of Proceedings regulate punishment of members of the House in the case of disorderly behavior, including the power of the House to expel the member permanently by a two third majority.
3. During meetings of the European Congress no House may adjourn for more than three days without the consent of the other House, nor may it move its seat outside of Brussels.

Section 6 – Compensation and immunity of members of Congress

1. The members of both Houses receive a salary for their work, determined by law, to be paid monthly by the Treasury of the European Federation. Next to that they receive a compensation for travel and

accommodation expenses in accordance with the real expenses made and confined to the travels and activities justified by their work.

2. The members of both Houses are in all cases, except treason, felony and disturbance of the public order, exempted from arrest during their attendance at sessions of their respective House and in going to and returning from that House. For any speech or debate in either House they are not to be questioned in any other location.

Article III – Powers of the Legislative Branch

Section 1 – Way of proceeding to make laws

1. The House of the Citizens has the power to initiate tax laws for the European Federation. The Senate has the power – as is the case with other law initiatives by the House of the Citizens – to propose amendments in order to adjust federal tax laws.
2. Both Houses have the power to initiate laws. Each draft law of a House will be presented to the President of the European Federation. If he/she approves the draft he/she will sign it and forward it to the other House. If the President does not approve the draft he/she will return it, with his/her objections, to the House initiating the draft. That House records the presidential objections and proceeds to reconsider the draft. If, following such reconsideration, two thirds of that House agree to pass the bill it will be sent, together with the presidential objections, to the other House. If that House approves the bill with a two third majority, it becomes law. If a bill is not returned by the President within ten working days after having been presented to him/her, it will become law as if he/she had signed it, unless Congress by adjournment of its activities prevents its return within ten days. In that case it will not become a law.
3. Any order, resolution or vote, other than a draft law, requiring the consent of both Houses – except for decisions with respect to adjournment – are presented to the President and need his/her approval before they will gain legal effect. If the President disapproves, this matter will nevertheless have legal effect if two thirds of both Houses approve.

Section 2 – Substantive powers of the Houses of the European Congress

The European Congress has the power:

- a. to impose and collect taxes, imposts and excises to pay the debts of the European Federation and to provide in the expenses needed to fulfill the guarantee as described in the Preamble, whereby all taxes, imposts and excises are uniform throughout the entire European Federation;
- b. to borrow money on the credit of the European Federation;
- c. to regulate commerce among the States of the European Federation and with foreign nations;
- d. to regulate throughout the European Federation uniform migration and integration rules, what rules will be co-maintained by the States;
- e. to regulate uniform rules on bankruptcy throughout the European Federation;
- f. to coin the federal currency, regulate its value, and fix the standard of weights and measures; to provide in the punishment of counterfeiting the securities and the currency of the European Federation;
- g. to regulate and enforce the rules to further and protect the climate and the quality of the water, soil and air;
- h. to regulate the production and distribution of energy;
- i. to make rules for the prevention, furthering and protection of public health, including professional illnesses and labor accidents;
- j. to regulate any mode of traffic and transportation between the States of the Federation, including the transnational infrastructure, postal facilities, telecommunications as well as electronic traffic between public administrations and between public administrations and Citizens, including all necessary rules to fight fraud, forgery, theft, damage and destruction of postal and electronic information and their information carriers;
- k. to further progress of scientific findings, economic innovations, arts and sports by safeguarding for authors, inventors and designers the exclusive rights of their creations;
- l. to establish federal courts, subordinated to the Supreme Court;
- m. to fight and punish piracy, crimes against international law and human rights;

- n. to declare war and make rules concerning captures on land, water or air; to raise and support a European defense (army, navy, air force); to provide for a militia to execute the laws of the Federation, to suppress insurrections and to repel invaders;
- o. to make all laws necessary and proper for carrying out the execution of the foregoing powers and of all other powers vested by this Constitution in the Government of the European Federation or in any Ministry or Public Officer thereof.

Section 3 – Guaranteed rights of individuals

- 1. The immigration of people, by States considered to be permissible, is not prohibited by the European Congress before the year 20XX.
- 2. The right of habeas corpus is not suspended unless deemed necessary for public safety in cases of revolt or an invasion.
- 3. The European Congress is not allowed to pass a retroactive law nor a law on civil death. Nor pass a law impairing contractual obligations or judicial verdicts of whatever court.

Section 4 – Constraints for the European Federation and its States

- 1. No taxes, imposts or excises will be levied on transnational services and goods between the States of the European Federation.
- 2. No preference will be given through any regulation to commerce or to tax in the sea ports and air ports of the States of the European Federation; nor will vessels or aircrafts bound to, or from one State, be obliged to enter, clear or pay duties in another State.
- 3. No State is allowed to pass a retroactive law nor a law on civil death. Nor pass a law impairing contractual obligations or judicial verdicts of whatever court.
- 4. No State will emit its own currency.
- 5. No State will, without the consent of the European Congress, impose any tax, impost or excise on the import or export of services and goods, except for what may be necessary for executing inspections of import and export. The net yield of all taxes, imposts or excises, imposed by any State on import and export, will be for the use of the Treasury of the European Federation; all related regulations will be subject to the revision and control by the European Congress.
- 6. No State will, without the consent of the European Congress, have an army, navy or air force, enter into any agreement or covenant with another State of the Federation or with a foreign State, or engage in a war, unless it is actually invaded or facing an imminent threat which precludes delay.

Section 5 – Constraints for the European Federation

- 1. No money shall be drawn from the Treasury but for the use as determined by federal law; a statement on the finances of the European Federation will be published yearly.
- 2. No title of nobility will be granted by the European Federation. No person who under the European Federation holds a public or a trust office accepts without the consent of the European Congress any present, emolument, office or title of any kind whatever, from any King, Prince or foreign State.

Article IV – Organization of the Executive Branch

Section 1- Establishing the offices of the President and the Vice President

- 1. The executive power is vested in the President of the European Federation. He/she is in office for a term of four years, together with the Vice President who shall also be in office for a term of four years. The President and the Vice President are elected as a duo by the Citizens of the European Federation, which has to that goal one constituency. They are re-electable – forthwith – for one term.
- 2. The election of the President and the Vice President of the European Federation will be held on the third Friday in the month of October; the first election in the year 20XX. To bridge the period between ratification of the Constitution of the European Federation and the first election of its President and Vice President the European Congress appoints from its midst an acting President. This acting President is not electable as President, nor as Vice President, at the first Presidential election of the European Federation.
- 3. Electable for President or Vice President is any person who, at the moment of his candidacy, to be set by federal law, has reached the age of thirty-five years, who has the nationality of one of the States of

the European Federation and who has been registered as a Citizen of one of the States of the Federation for at least fifteen years.

4. The President receives a salary for this position, set by the European Congress. The salary shall not be increased nor decreased during the term of his/her presidency, and he/she does not receive any other compensation or in kind from the European Federation, nor from any individual State of the Federation, nor from any other public institution within or outside of the Federation, nor from a private institution or person.
5. Before the President enters the office he/she will pledge, in front of the Chief Justice of the Court of Justice, in the month of January in which his/her office begins, the following oath or affirmation: "I do solemnly swear (or affirm) that I will faithfully execute the office of the President of the European Federation and shall to the best of my ability preserve, protect and defend the Constitution of the European Federation.

Section 2 – Vacancy and end of the term of the President and the Vice President

1. The President and the Vice President will be removed from office on impeachment for, and conviction of, treason, bribery or other high crimes and misdemeanors. In case of removing the President from office, his/her death or his resignation, the Vice President will become President.
2. Whenever there is a vacancy in the office of the Vice President the President will nominate a Vice President who will take the office upon confirmation by a majority vote of both Houses of the European Congress.
3. Whenever the President transmits to the President pro tempore of the Senate and the Chairperson of the House of the Citizens his/her written declaration that he/she is unable to execute the powers and duties of the office, and until he/she transmits to them a written declaration to the contrary, such powers and duties shall be discharged by the Vice President as Acting President.
4. Whenever the Vice President and a majority of either the principal officers of the executive departments or of such other body as Congress may by law provide, transmit to the President pro tempore of the Senate and the Chairperson of the House of the Citizens their written declaration that the President is unable to execute the powers and duties of the office, the Vice President shall immediately assume the powers and duties of the office as Acting President.
5. Thereafter, when the President transmits to the President pro tempore of the Senate and the Chairperson of the House of the Citizens his/her written declaration that no inability exists, he/she shall resume the powers and duties of the office unless the Vice President and a majority of either the principal officers of the executive departments or of such other body as Congress may provide by law, transmit within four days to the President pro tempore of the Senate and the Chairperson of the House of the Citizens a new written declaration that the President is unable to execute the powers and duties of the office. Thereupon Congress shall decide the issue, assembling within forty-eight hours for that purpose if not in session. If the Congress, within twenty-one days after receipt of the latter written declaration, or, if Congress is not in session, within twenty-one days after Congress is required to assemble, determines by two-thirds vote of both Houses that the President is unable to discharge the powers and duties of the office, the Vice President shall continue to execute the same as Acting President; otherwise, the President shall resume the powers and duties of the office.
6. The terms of the President and the Vice President will end at noon on the 20th day of January in the final year of their term. The terms of their successors will then begin.
7. If, at the time fixed for the beginning of the term of the President, the President elect shall have died, the Vice President elect shall become President. If a President elect is unable to pledge the oath or affirmation for beginning his office, or if the President elect shall have failed to qualify, then the Vice President elect shall act as President until a President shall have qualified; and the Congress may by law provide for the case wherein neither a President elect nor a Vice President elect shall have qualified, declaring who shall then act as President, or the manner in which one who is to act shall be selected, and such person shall act accordingly until a President or Vice President shall have qualified.

Article V – Powers and tasks of the President

Section 1 – Presidential powers

1. The President is commander in chief of the armed forces, security agencies and militia of the European Federation.
2. He/she appoints Ministers, Ambassadors, other Envoys, Consuls and all public officials of the executive branch of the European Federation whose appointment is not regulated otherwise in this Constitution and whose offices are based on a law. He/she removes from office all public officials of the European Federation after their conviction of treason, bribery or other high crimes and misdemeanors.
3. He/she may seek the opinion, in writing, of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices.
4. He/she has the power to grant amnesty and grace for offenses against the European Federation, except in cases of impeachment.
5. He/she has the power to make treaties, by and with the advice and consent of the Senate, provided two thirds of the Senators present concur.
6. He/she nominates and appoints judges of the Constitutional Court of Justice and of Federal Courts, by and with the advice and consent of the European Congress.
7. He/she organizes once per year a consultative referendum among all Citizens of the European Federation with the right to vote in order to obtain the opinion of the European people with respect to the execution of the federal policy domains. The referendum shall be executed under the umbrella of the European Digital Agenda.
8. He/she organizes a decisive referendum among all Citizens of the European Federation with the right to vote on the question of whether or not the European Federation should accede to, or should co-establish, an international organization with compulsory regulating power, after advice of the Senate about this acceding or co-establishing.
9. He/she may organize a referendum among all Citizens of the European Federation with the right to vote on a draft law that has met objections by the President according to Article III of this Constitution and about which the Houses of Congress after these presidential objections do not come to an agreement during two years. The term of two years begins as of the first plenary vote in the House that did not initiate the draft law.

Section 2 – Presidential tasks

1. The President gives the European Congress once per year information about the State of the Federation and recommends measures that he judges necessary.
2. The President may on extraordinary occasions convene both Houses of the European Congress or either of them, and in case of disagreement between them with respect to the time of adjournment he/she may adjourn them to such time as he/she thinks proper.
3. The President receives Ambassadors and other foreign Envoys.
4. The President takes care that the laws are faithfully executed.
5. The President commissions the tasks of all government officials of the European Federation.

Article VI – The Judicial Branch

Section 1 – Organization

The judicial power of the European Federation is vested in a Constitutional Court of Justice. European Congress may decide to install lower federal courts in States. The judges of the Constitutional Court of Justice as well as those of the lower federal courts hold their office as long as their conduct is proper. For their services they receive a salary which during their office cannot be reduced.

Section 2 – Powers of Federal Courts

1. The federal judicial branch has the power to judge in all conflicts arising under this Constitution; with respect to all laws of the European Federation; to treaties made, or that shall be made under the authority of the European Federation; to all cases affecting Ambassadors, other Envoys and Consuls; to all cases of a maritime nature; to all cases in which the European Federation is a party; to controversies between two or more States, between a State and Citizens of another State, between Citizens of several States, between Citizens of the same State in matters of land in another State and between a State or Citizens of that State and foreign States or Citizens thereof.

2. The Constitutional Court of Justice has the exclusive power in all cases in which only States, Ministers, Ambassadors and Consuls are party. In all other cases, as mentioned in Clause 1, the Constitutional Court of Justice is the court of appeal, unless European Congress decides otherwise by law.
3. Except in cases of impeachment, the trial of crimes, as determined by law, will be by jury. These trials will be held in the State where the crime has been committed. If they have not been committed within any State the trial will be held at such place or places as decided by law by European Congress.

Section 3 – High treason

1. High treason against the European Federation shall only consist of levying war against the Federation, or of adhering to its enemies by giving them aid and comfort. No person shall be convicted of high treason without the testimony of at least two witnesses to the crime, or on confession in open court.
2. European Congress has the power to declare the punishment for high treason, but in no way a verdict of high treason shall lead to attainder or confiscation for the offspring of the convicted person.

ARTICLE VII – The Citizens, the States and the Federation

Section 1- The Citizens

1. The Citizens of each State of the European Federation possess also the Citizenship of the European Federation with all the associated political and other rights. The Citizens of a Member State are also entitled to all rights and favors of the Citizens of any other State of the Federation.
2. A minimum of 300,000 Citizens of the European Federation is required to present a draft law to the European Congress. This draft describes only the contours of the goal or is a draft law. It will be laid down as a People's Initiative at the Registry of the House of the Citizens. Congress and the President decide on the receptivity of the People's Initiative. The House of the Citizens deals with this People's Initiative according to its legislative procedures. Both Houses of Congress make a final decision regarding this proposal within two years of its registration. In case one House accepts a draft law as a result of this People's Initiative, while the other House rejects this draft or does not make a decision within the determined time period, the President presents the accepted draft law with the advice of each House regarding this People's Initiative to the Citizens of the Federation and to the legislatures of the States. In case the presented draft law is accepted, by a simple majority, by the Citizens and by the States, it will become federal law. Should there be no such majority this People's Initiative is rejected. Should neither House decide within the determined time period the President presents the People's Initiative to the Citizens of the Federation. They decide by simple majority whether the People's Initiative should be maintained. In case it is maintained the People's Initiative will again be dealt with by Congress. Congress makes a final decision carrying the overall meaning of the People's Initiative, under the supervision of the President. Congress determines by law the procedure for dealing with a People's Initiative without committing itself to substantive conditions.
3. A person convicted in any State of the Federation for high treason, felony or other crimes, fleeing from justice and found in a different member State, will at the request of the executive authority of the State from which he/she fled, be surrendered to the State with jurisdiction relating to that crime.
4. Slavery or any form of compulsory servitude, except in case of punishment for a crime for which the said person has been lawfully convicted, will be ruled out in the European Federation or in any territory under federal jurisdiction.

Section 2 – The States

1. Full faith and credit will be given in each State to the public acts, records and judicial proceedings of all other States. Congress may prescribe by general law the manner in which such acts, records and proceedings will be proved, and the effects thereof.
2. The States of the European Federation have the exclusive power to regulate matters of Citizenship. A State's Citizenship is valid in any other State of the Federation.
3. States may join the European Federation with the consent of a two-third majority of the Citizens of the acceding State, a two third majority of the legislative branch of the acceding States, a two-third majority of the Citizens of the Federation and a two-third majority of each House of the European Congress, in this order. The European Federation takes note of this consent and acts accordingly.
4. States joining the European Federation after the Constitution having come into force retain their debts and are bound to the laws of the Federation as of the moment of their accession.

5. Any change in the number of States of the European Federation will be subjected to the consent of a two-third majority of the Citizens of the concerned States, a two-third majority of the legislative branch of all States and a two-third majority of each House of the European Congress, in that order.

Section 3 – The Federation

1. The European Federation will guarantee a representative democracy for each Member State and will protect them against an invasion and, at the request of the legislative branch, or that of the executive branch in case the legislative branch cannot convene, against internal violence.
2. The European Federation will not interfere with the internal organization of the States of the Federation.
3. The European Congress has the power to have at their disposal and make all necessary regulations with respect to the territory or other possessions belonging to the European Federation.

Article VIII – Changing the Constitution

The European Congress is authorized to propose amendments to this Constitution, each time a two third majority in both Houses consider this necessary. If the legislative branches of two thirds of the States consider it necessary Congress will hold a Convention with the assignment of proposing amendments to the Constitution. In both cases the amendments will be a valid part of the Constitution following ratification by three quarters of the Citizens of the European Federation, three quarters of the legislative branches of the States and three quarters of each House of the European Congress, in this order.

Article IX – Federal Loyalty

1. This Constitution and the laws of the European Federation, which will be made in connection with the Constitution, and all treaties, made or to be made under the authority of the European Federation, are the supreme law of the Federation. The judges in every State will be bound hereby, notwithstanding any other regulation in the Constitution or the laws of any State.
2. The members of the European Congress, the members of the legislative branches of the States and all executive and judicial officers, both of the European Federation and of the States, will be bound by an oath or affirmation to support this Constitution. But no religious test shall ever be required as a qualification for any office or public trust under the European Federation.

Article X – Transitional Measures and Ratification of the Constitution

1. All debts entered, and engagements contracted by States before the ratification of this Constitution will remain valid within the European Federation.
2. The ratification by a simple majority of the Citizens of nine States of the Eurozone will be sufficient for this Constitution of the European Federation to come into force.

6. A Convention of Citizens for a Federal Europe

6.1 Forget it! It has been tried so many times before

Obviously, one could comment that there is no point in trying, once again, to create a European Federation. After all, every single attempt since 1800 has failed. Anyone who is a bit interested in this theme will know that in the course of the 19th and 20th centuries many conferences took place on a pro-federal basis. The dominant feature being the dominance of the political presence. It was certainly the case – especially following the First and Second World Wars – that non-politically bound federalists regularly stoked up the fire of European federalism, yet these attempts always petered out as soon as they ended up in the hands of political parties and national parliaments.

This does not mean that, since the Versailles Treaty of 1919, the end of the First World War and the arrival of the famous but soon forgotten League of Nations, little or no attention has been paid to federalism within political parties. Under the auspices of the United Nations, which was founded in 1945, the federalist fire was kept alive for some time within Dutch political parties. For example, the list of members of the Dutch Council of the European Movement, set up in 1947, consisted of an umbrella association of a number of European-focused organizations, twenty-nine members of the House of Representatives and eleven from the Senate.

But people were always too scared to take the step of fulfilling the concern for common European interests by sharing – not transferring – national competences with those of a federal body.

When the European Coal and Steel Community (ECSC) was established in 1951 – based on the 1950 Schuman Plan – as a combination of six countries collaborating on the basis of policy and not on the basis of sharing competences, many a politico-related federalist breathed a sigh of relief: federalization no longer needed to be advocated because it was assumed that the intergovernmental operating system of the ECSC would eventually evolve into a federal system for the whole of Europe. This way of thinking still exists within parts of the European Parliament: ‘If you change the underlying treaty frequently, a federation will automatically emerge’. On the contrary, it only serves to weaken the treaty even further.

6.2 We haven’t yet tried one approach: using the Philadelphia Convention as the best practice

One attempt at federalizing Europe has never been tried: taking the Philadelphia Convention – the best practice – as a benchmark. Bring together a small group of professionals to draft a federal constitution, submit this draft to the people of Europe for ratification, state that it will enter into force if the citizens of nine Member States accept it by a majority and then join the EU as one federation of at least nine countries. Or ensure that all Member States are involved in this process, so that the EU can make way for the United States of Europe.

Thus, the answer to the question as to ‘How should we create the United States of Europe?’ can be brief: by following as much as possible the same path as the Philadelphia Convention did. Which argumentation could be strong enough to be able to ignore this best practice as an example of knowledge and insight with the aim of replacing an incorrect administration with a healthy system and the courage to act in accordance with this knowledge?

6.3 How should such a Convention be structured?

6.3.1 How many participants should the Convention encompass?

The Philadelphia Convention had only fifty-five participants: approximately twenty invited representatives of the various states did not turn up. But this small group laid the foundation for what would become the most powerful country in the world. And their product – a Federal Constitution – would subsequently serve as a model for several dozens of other federations around the world.

I am in favor of a Convention of fifty-six members: two per EU country. To me, the figure of fifty-six is a matter of principle. If fifty-five Americans with the political, philosophical and political knowledge of the time managed to design the constitutional foundation for the most powerful federation, then with fifty-six people and with much more knowledge – especially of past failures – we must certainly succeed. If not, we should be ashamed of ourselves.

However, the idea of two members per EU country is, in my view, a relative matter. When England leaves, two places become available so that two different countries can each get a membership. Or one country could even receive England's current two. If, in some EU countries, no one meets the requirements for membership of the Convention, then we would let go of the goal of two members per country, as long as the total membership of fifty-six is maintained.

6.3.2 Which error is prohibited per se?

In recent years I have regularly put forward this idea of a Convention after the example of the one in Philadelphia – and therefore of a limited number of Members. The reaction was always the same: 'Surely you have to involve a lot of people in such an important subject? You have to involve hundreds, if not thousands, of European citizens in the design of a federal Constitution, otherwise you will not have any support and commitment'. And more of such well-intentioned but ill-considered remarks. They are also fed by the fact that in more places in Europe – such as in September 2017, in the Sorbonne Speech of President Macron – the usefulness of, and need for, Citizens' Conventions is being promoted. In various versions. For example, several different Conventions throughout Europe, or one very large Convention containing a huge number of participants, spread over months of work.

Usually I answer such observations with a few questions, such as: 'Do you ever sit in an airplane?' The answer is always in the affirmative, after which I ask: 'Did you help build that plane?' Of course, the answer is always in the negative. After that, it's easy: 'You didn't help building that plane and you know that planes can fall from the sky. Still, you step into it? From what do you derive your support and commitment to step into a plane?' This usually serves to clarify that designing an important product – in this case, a Federal Constitution for Europe to protect the free personal development of more than five hundred million Europeans – is a matter for professionals. For constitutional experts. So, with a ban on involving amateurs.

Does this mean that no efforts should be made to secure the support and commitment of the people of Europe with regards to a federal constitution? On the contrary. It has been known to me that gaining support and commitment is just as important as making a professional Federal Constitution. I have elaborated detailed on its importance in the study *'Policy starts with Society. A search for the human dimension'* (2002). But you have to organize it differently. Not by involving hundreds or even thousands, just like that. I will revisit this matter in detail later.

6.3.3 What is the profile of the members of the Convention?

Next, let's focus on the profile of the fifty-six members of the Convention. This doesn't concern the individual profile of each member, but rather the profile of the level of knowledge required to be present in the Convention as a whole. These fifty-six members, together, must guarantee the presence of three knowledge complexes: a) knowledge of basic federalism and its history, b) knowledge of constitutional law and legislative technique, and c) knowledge of a handful of common interests such as the care of a communal European defense policy, foreign policy, financial-economic policy, climate and energy policy, immigration policy, the harmonization of taxes and various other interests that cannot be taken care of by individual Member States and that are therefore the reason for establishing a Federation.

The latter knowledge complex, the presence of knowledge of a number of specific policy areas, is necessary because the Federal Constitution must have a Memorandum of Explanation. This article-by-article explanation will clearly state the common interests for which the federation is to be established.

It is important to note that the Convention's interpretation of common interests is only a global one. This exhaustive list serves as a context and will at a later stage – in a democratic context – be further fleshed out in terms of policies, based on political negotiations between the parties populating the parliament. The Convention will focus primarily on the construction of the federal system. This is a task and a matter for the people, in accordance with the principle of *'All sovereignty rests with the people'*. It must not be the case that the Convention is dominated by discussions on the substance of policy. That is a task and a matter of political consideration. The content of the federal policy areas falls within the remit of the federal European Parliament.

There is another profile requiring our attention: the male-female ratio within the Convention. The distribution must be 50-50. This will be a challenge, because Europe has no tradition of taking the proportional presence of women in leading positions for granted and, therefore, of organizing it in a straightforward manner.

6.3.4 Who selects the members of the Convention?

The fifty-six members of the Convention are selected by European federalists. They are located all over Europe and know each other. Together with them, the organizers of the Convention organize a so-called Environmental Analysis. This is an analysis to source, based on the three aforementioned knowledge complexes, those men and women who can be potential members of the Convention. From this analysis fifty-six people will be selected.

There may be many potential members left after this selection. They will be invited to be available to support those acting as members of the Convention.

6.3.5 Are politicians welcome as members of the Convention?

The answer is: no, unless... Politicians have had two hundred years to transform Europe into a federation. The political-philosophical and constitutional knowledge was present. As was the example of America. The creation of twenty-six federations following the example of the American one has also existed for some time. By failing to learn from this, politicians are guilty – since the French Revolution of 1789, two years after the creation of the American federal Constitution – of the deaths of hundreds of millions of soldiers and civilians. And billions in damage inflicted on nature, the environment, and property. So, politicians can only be accepted as members if they abundantly meet one of the three knowledge requirements as mentioned. Not in their capacity as politicians, therefore.

The argument that today's politicians cannot be blamed for what their peers have failed to do since 1789, and for what they have done wrong, does not hold water. For the sake of brevity, I would like to refer to the systematic lack of knowledge and political courage on the part of the current EU leaders, and in particular of the members of the European Council.

The position of refusing politicians in their capacity as politicians has an extra cause in addition to the two hundred years of failure mentioned above.

It stems from the wrong design of the European Convention (February 2002-July 2003) under the leadership of the French statesman Valéry Giscard d'Estaing. This Convention had been called for by the Laeken Declaration of 2001, based on the question as to how to proceed with the European Union, what improvements would be useful and necessary and, above all, what geopolitical position the Union should aspire to. The Convention was to result in a new treaty to replace all existing European treaties, suitable for a new European Union with flexible governance and for the enlargement to as many as twenty-five – or more – Member States. The Convention's product would then be assessed at an Intergovernmental Conference and, following any amendments, would be adopted by the European Council of Heads of State or Government.

And then things went wrong.

No fewer than two hundred and seventeen people took part in the Convention: representatives of the Member States, the national parliaments, the European Parliament and the European Commission; representatives of thirteen countries waiting to join the EU; representatives of various European institutions and civil society organizations such as employers' and workers' organizations, non-governmental institutions, representatives of universities. Such a large number of members, combined with their national backgrounds and institutional interests, guarantees a hotchpotch of political folklore, leading to the safeguarding of their own interests rather than thinking in terms of one communal, European interest.

The aim was to produce a document for a draft Treaty establishing a Constitution for Europe. A wrong combination of words: an oxymoron. You either make a treaty or you make a constitution. Few people realize that this, too, is a systemic error that lies at the root of the predictable collapse of the European Union.

After 16 months of consultation – driven by national and private interests – the final product (accepted by 209 of the 217 members) was submitted to a Conference of representatives of the governments of the then Member States and of the States preparing to accede.

This Intergovernmental Conference worked on the draft from October 2003 until June 2004, after which the European Council took a final decision on 18 June 2004. The Treaty, referred to as a Constitution (sic!), was signed on 29 October 2004, in Rome, by the Heads of State or Government of 25 Member States.

At that time, ratification had to take place on a country-by-country basis. For ten countries, including France and the Netherlands, this had to be done by referendum. The rest is history. In France and in the Netherlands (2005), the Constitution was rejected by referendum.

The rejected draft text was then politically altered during a number of years. This eventually resulted in the Treaty of Lisbon in 2007, which entered into force in 2009. This is without doubt the worst legal document ever produced in Europe. A legal student who would include something like this in his thesis would immediately receive the 'consilium abeundi': the advice to leave.

Here we come across an incomprehensible aspect of human behavior. Most people think it is normal that everything which is created – whether it be a loaf of bread, a house, a car, a rocket or a computer – should be made by professionals. They buy it because the decision to do so is based on the knowledge or the assumptions that there were no amateurs or bunglers at work and that the product does not suffer from any system faults. Compare this: as soon as it is discovered that the brake of a certain type of car has a system error, that type is immediately recalled to the garage, worldwide, in order to rectify that error. Wouldn't it finally be time to recall the broken intergovernmental operating system of the European Union to replace it with a federal system?

However, such a thing does not happen. It is considered entirely normal that the intergovernmental operating system provided for in the Treaty of Lisbon was made by amateurs and bunglers. It is not known that its system failures are so serious that sooner or later, slowly or quickly, the European Union will either explode or implode.

This is why the rule of 'qualitate qua' – in the sense of allowing politicians to participate in the composition of a political document of the highest order, just because they are politicians – is the most serious mistake to be made. While only knowledge must be at the constitutional foundation of a prosperous, safe and just life in Europe.

6.3.6 What is the task of the Convention?

The Convention comprising fifty-six members has the task of improving the Federal Constitution that Herbert Tombeur and I have designed in the aforementioned European Federalist Papers. This draft contains only ten articles: three more than the Federal Constitution created by the Philadelphia Convention.

We took the US Constitution as best practice, as the benchmark. Not with the aim of copying it, but in view of transforming it into a Constitution for a Federal Europe. We improved some parts of the US

Constitution because the current European political and social relations allowed for these improvements. We took on board several aspects of the twenty-seven Amendments that in later years would be added to the US Constitution. And we also introduced some elements of direct democracy from the Swiss Federal Constitution.

And yet our draft Constitution is confined to ten articles. There is no need to include more to keep twenty-eight-plus countries together within a European Federation, under the guarantee of preserving their sovereignty, autonomy and cultural identity.

A Constitution of only ten articles is not only a practical argument from the point of view of careful legislative technique. It is also a matter of principle. When making legislation, one all-important criterion applies, a criterion that should be repeated over and over again: to regulate only generally binding rules. The more parties are affected by legislation, the more observations they will make, the more they will all want to see things regulated on the basis of their own national or institutional interests, the more exceptions they will demand to these generally binding rules, the fewer the number of common interests will be and thus the smaller the number of rules to be made. Therefore, we should make only those rules that all stakeholders feel must be binding for all of them.

The Treaty of Lisbon is precisely the opposite. With its two sub-treaties it contains over four hundred articles, often of a contradictory nature, plus a staggering number of exceptions to the general rules in order to please certain Member States. That is why the Treaty only serves an accumulation of national interests, not one single European interest. The way in which, in recent years, some EU countries have flouted the rules of the Treaty – because they have not served their national interests – says everything.

In recent years there have been regular criticisms to our approach. This usually concerned two different subjects.

Firstly, ‘From where do you get the guts and the knowledge to create a draft of something as great as a European Federal Constitution?’ The answer is a question in return: ‘Can a baker bake bread? Constitutional law is our background. Authoritative examples of cast-iron Federal Constitutions are in front of us. And we have years of experience in the practice of various governments. If, on that basis, we had been unable to improve upon the American Constitution, we would have had to return our academic diploma.’

Our design is fine. But we are well aware that there is always room for improvement. That is why it is the task and duty of the Convention consisting of fifty-six members to work on our draft and improve where necessary. In other words, the Convention does not start from scratch, but takes our draft as a basis.

Secondly, ‘Why do you copy the American Constitution?’ Our answer is: ‘If you dare to ask this, you have not even studied that document. Now sit down and start studying. Return in a couple of weeks to continue this discussion at a knowledge level and not at an opinion level.’

6.3.7 What should have been the task of the European leaders?

This rather unabashed parrying of these two ill-considered criticisms has a background that has been explained at the start of our European Federalist Papers, and in Paragraph 3.2. 2. But it does no harm to reiterate it here.

The New York Times of 9 January 1999 contained an article by Robert A. Levine, a senior member of the US Federal Government, entitled ‘*What the EU needs is a copy of the Federalist Papers*’. He put forward this position at the start of the economic and monetary union, with the euro as the single currency. Levine explained that Europe could learn some useful lessons from America in this process of full European integration, including the advice to create a federal basis for the system of the euro. Without such a foundation, he considered the euro to be too vulnerable. Well, we have indeed experienced this, with the banking crisis of 2008 and ensuing economic crisis.

There is also something else to be added. In Paragraph 3.2.5 I already mentioned Paragraph 1.5 of the Annual Report 2012 of the Dutch Central Bank. In a few pages it is clearly explained why the federal system of America was – indeed – able to bring the crisis under control in America. If the responsible EU politicians had considered the value of Levine’s advice in 1999, we would have been able to limit the serious damage done to the EU economies – and the dramatic cutbacks for some countries. Due to their guilty negligence, they are in no position to criticize us who, in the end, undertook what they wrongfully failed to do as responsible leaders: writing the European Federalist Papers as the foundation of a Federal Constitution.

Those who constantly argue that the euro has failed, should also be better informed. They, too, are apparently unaware of Levine’s valuable advice. It is not the currency of the euro that is weak, but rather the lack of a federal foundation underpinning the euro. An attempt to redress this under the Maastricht Treaty in 1992 failed however, due to personal frictions between our Prime Minister Ruud Lubbers and the German Chancellor Helmut Kohl, who needed Mitterrand (opposing federalization) to unite East and West Germany.

6.3.8 How much time is needed to carry out that task?

The Convention does not need to last any longer than a week, from Monday to Friday, with a daily schedule as follows.

Monday: arrival of the members, transportation to the hotel, a joint dinner and discussion of the work for the next few days.

Tuesday: Members decide by a majority on the content of each of the ten articles: five in the morning and five in the afternoon. This has been thoroughly prepared in advance. I repeat: these are articles that are generally applicable, and which serve a single interest: the European interest by providing a limitative list of the common interests of the Member States. There is no room for the inclusion of any national interests, let alone for exceptions. There will be no more than ten articles. Anyone can think of several hundred articles. But it is about discipline, that can best be expressed by the German saying: *‘In der Beschränkung zeigt sich erst der Meister’*, the unforgettable words with which J.W. von Goethe made clear, in 1802, what a pupil needs to do if he wants to become a teacher.

Wednesday: a majority of Members will decide on the content of the Explanatory Memorandum to the draft Constitution. This Memorandum concerns a General Explanatory Note, as well as an article-by-article Explanatory Note. This was missing from the draft American Constitution in 1787, a lack which was largely remedied by the aforementioned Federalist Papers of Madison, Hamilton and Jay. In those eighty-five Papers, the three men explained – and defended – what the Founding Fathers meant with the seven articles of the Constitution. In addition, the Federalist Papers are still instructive when it comes to the Supreme Court’s question as to how to assess some issues correctly. Without a good Explanatory Memorandum, it is difficult for judges to apply a so-called ‘teleological’ approach. That is: to examine what the original legislator may have meant with certain rules. Of course, the European Federalist Papers already contain an Explanatory Memorandum on the draft Constitution, but there is always room for improvement.

Thursday: on this day, the Members will decide how to present the draft Federal Constitution for Europe to the citizens of Europe, explaining the goal and request to ratifying it.

Friday: on the last day, we welcome representatives of political bodies, either from the EU or from Member States. Pro-European institutions, representatives of civil society, knowledge institutes and the media are also welcome. With a few keynote speakers and a panel discussion, they will be informed of the outcome of the Convention. The Convention will end on Friday.

This ‘marching order’ makes it clear that it is not a conference with speakers who enjoy talking and an audience that is bored, but a Convention in which each participant is working hard and collaborating to achieve a successful outcome. No speeches, no declarations, no representation of national interests. We

have seen and heard enough of this over the past 70 years. It is about finalizing the text of the concept of a Federal Constitution, its Explanatory Memorandum and the way in which the citizens of Europe are served.

6.3.9 What should be the venue for the Convention?

I have a preference to hold the Convention in The Hague. With its Peace Palace and various International Courts and Tribunals, it is the world's legal capital. Moreover, until the 1990s, the Netherlands often participated in thinking about and cooperating in the federalization of Europe. Even though federalism is no rewarding discussion topic in the Netherlands at the moment, the seed is still in the ground and will germinate, just as the seed in the deserts will blossom as soon as a heavy rainfall passes over it. The same may apply to Great Britain, which has a history of 140 years of European federalization: the seeds are still in the ground.

6.3.10 How to gain support for the Federal Constitution among the citizens of Europe?

Two concepts are important here: 'federate the federalists' and 'educate the people'.



The first – 'federate the federalists' – concerns the following. One of the reasons why any attempts at federalizing Europe continue to fail is the extremely low level of organization of federalist movements in Europe. There are many hundreds, especially if one also considers the pro-European movements, which do not all explicitly have federalism as an objective. The strange thing about this situation is that all federalist movements fall under the concept of 'single, decentralized, unitarian movements'. They stand on their own (single), have (almost all) local, regional and national departments (decentralized) and form a unitarian

status within themselves. However, there is no federation of federal movements.

On 12 May 2018 we made a breakthrough with some Italian federalists. Admittedly, on a very small scale, but still. In Milan, we managed to create a federation of thirteen different federal movements, the Federal Alliance of European Federalists (FAEF).

It is an umbrella organization under which heterogeneous federal movements find a common federal home. These are movements that take federalism to heart, albeit in very different ways. This should be the start of a new phase of European federalism: the creation of federations comprising federal movements at a local/regional, national and European level. As did the UEFA, which I mentioned in Part 1 as an example of the largest European private federation.

The need to work hard on 'federating the federalists' is threefold. Firstly, if you, as a federal movement, are unable and unwilling to close a federation with other movements, how can you ever create a federal Europe? Secondly, it is only by systematically working on improving the degree of organization that you can build up authority and exercise power. Thirdly, in this way, we can – and must – make it clear to the people of Europe what federalism is and why it is far better for their prosperity and security than the intergovernmental EU operating system, which has in any case reached the end of its political life cycle. Under the adage *'All sovereignty rests with the People'*, the citizens of Europe are the alpha and omega of a federal Europe.

The federalists will therefore have to 'take to the streets'. Both literally, with demonstrations, but also figuratively, by informing and teaching the citizens of Europe in all kinds of ways about the usefulness and necessity of European federalism. We know that the political leaders of the European Union have not been able or willing to do this since the arrival of the intergovernmental governments in 1951.

'Federating the federalists' is necessary for what I referred to at the start of this Section as: 'educating the people'. Public support is needed to persuade the people of Europe to ratify the draft Federal Constitution. This requires the transfer of knowledge, insight and, above all, feeling. The people cannot

buy it anywhere in a supermarket. It is up to the federalists to hand it over. Not simple, but necessary. The ‘course material’ no longer needs to be made. What federalists should hand down as ‘educators’ of the people is already stated in <https://samenwereld.nl/federal-europe>. It is just a question of organizing. And, of course, of funds.

6.3.11 How do the citizens of Europe vote on the draft Federal Constitution?

The answer to the question as to how to vote is with a voting system based on blockchain technology. Blockchain technology is currently being experimented with in all kinds of applications all over the world. The most common application being crypto-currencies such as BitCoin. There have already been experiments with organizing the process of voting through a blockchain system.

We are currently designing our own system, which can be applied throughout Europe. Please note that the ratification of the draft Federal Constitution is neither a Referendum nor a European Citizens’ Initiative. These are procedures with too many constraints and pitfalls. We do not need to ask any authority for permission to give the citizens of Europe the opportunity to express an opinion on the draft Federal Constitution. It is just a question of organizing. Again: not simple, but it is possible. Here, too, there is a need for funding.

6.3.12 Who organizes the Convention?

The Convention is organized by a Foundation called ‘Citizens’ Convention for a Federal Europe’. It will in principle exist temporarily and will cease to exist after the completion of the ratification process unless new circumstances make the continuation of the Foundation useful or necessary. In the event of termination of the Foundation, its assets will be transferred to the aforementioned Federal Alliance of European Federalists (FAEF).

The Foundation has a board of four and a staff of six people. Together, they form the Convention’s Organizing Team of ten people. The Board of Directors is accountable to a Supervisory Board of three persons.

6.4 Timeline of the activities prior to the Convention

6.4.1 Timeline

As soon as sufficient funds are available, the organization of the Convention can begin. The whole process will take about one year.

In general phases:

- Selection of participants: two months.

- Study and production by the participants: five months, including working on support and commitment.

- Convention duration: one week.

- Strengthening public support of Citizens by informing, teaching and explaining the draft Constitution, including ratification: five months.

The design and testing of a voting system – based on blockchain technology – for ratification will take place within that year. This is an estimate of the required turnaround time. If it has to take longer, then we take more time: quality is the only thing that counts.

It starts with the selection of the members of the Convention. This includes the following activities.

6.4.2 Conducting an analysis and drawing up the list of members

A group of circa ten federalists meets for two days to analyze the men and women who meet the requirements of the three knowledge complexes.

6.4.3 Gross list of potential candidates

This analysis leads to a shortlist of potential candidates. From this list, fifty-six people are selected, who are then all approached personally. A person-centered approach is a necessary condition for creating support among the potential members themselves. The result of this approach is a list of people who are willing and able to act as members of the Convention. If some are unable to participate, others from the gross list will be approached.

6.4.4 Keeping others on standby

All potential members who are not finally included in the list of fifty-six participants are invited to be available to support the teams of members participating in the Convention.

6.4.5 Determining the date of the Convention

Only when it is clear which fifty-six people will be attending the Convention we set the date at which the Convention is to take place. Personal interviews with potential members will include a discussion of their views on the preparation of the five-month period prior to the Convention. If they think it can be done within fewer months or that, conversely, more time will be needed, then the timing of the Convention will be adapted accordingly. This also extends to the actual venue alternatives in The Hague.

6.5 Participants' work prior to the Convention

6.5.1 Studies to be carried out

Members, but also those who, as non-members, participate by supporting the de facto Members, are asked to take a thorough look at all available documents and videos. In addition, they receive digitally:

Two books by Professor Andrea Bosco, the authority on the history of European federalism.

Other reading material that is unavailable on the website, but that should be studied such as the aforementioned Paragraph 1.5 of the 2012 Annual Report of the Dutch Central Bank.

Any reading material which members of the Convention believe their colleagues should take note of.

The working methods of the members of the Convention are also supported by a Protocol which they are expected to sign.

6.5.2 Consultation with Supporters and Citizens

During the five months preceding the Convention, all members will be able to consult with those who are prepared to support them. The Supporters are therefore people featuring on the longlist but who were not selected as members. The actual members shall be free to consult with them in any way and to use their expertise.

For the record, any member of the Convention is free to cooperate with members of other countries.

The same applies to the involvement of the citizens of Europe in these reflections taking place in this phase. If the members find it useful and necessary to have conversations with the citizens themselves regarding the work they have to do, they are free to do so. They can organize mini-conventions and so-called 'living room conversations'. Or they can give lectures and write publications. They can also work in their own environment on the aforementioned aspect of 'federating the federalists', by setting up federations of federal movements and involving their members in approaching the citizens. All this falls within the scope of gaining support and commitment.

In the same period, prior to the Convention itself, one of our federalist friends is undertaking a 'Bicycle Tour to the Heart of Europe'. He will visit the members of the Convention, talk to individual and organized citizens regarding Europe, their wishes, thoughts and ideas, and he will also visit political philosophers, mayors and leaders of civil society organizations to discuss the essence of 'educating the people' with them. His findings will be published online and in the form of a book.

6.5.3 Putting forward any improvements to the draft Constitution, the Explanatory Memorandum and the way of approaching the people of Europe

The studies to be undertaken by the members prior to the Convention, plus their consultation with Supporters and Citizens, should result in proposals for improvements to be made to the draft Federal Constitution, the Explanatory Memorandum and the way of approaching the European people. These proposals must reach the organizing committee two months prior to the start of the Convention. This harvest will be processed in new documents within a month, which will then be immediately available to the members. On this basis, they will be able to prepare for the decision-making within the Convention.

6.6 Participants' work during the Convention

When the Convention finally takes place, most of the work will have been done. The most important decisions will have already been made. It is only a matter of concluding the preparatory work with any clear decisions. Of course, there is always the possibility of amending the final versions during the Convention.

Unlike in the European Council, which works with the reprehensible system of unanimity, decisions are to be taken by majority: half plus one.

The course of the Convention will be recorded. On paper and on video. In addition to the use of social media – the discussions can be followed via a live connection.

6.7 Participants' work following the Convention

Soon after the Convention, the overall result will be incorporated into a comprehensive document, supported, if possible, by video material. The general findings will be communicated on the Friday, when guests from the political and social world will be present.

This is followed by a relatively uncertain period of about five months: the draft Federal Constitution and its Explanatory Memorandum must be brought to the attention of the people of Europe. This is partly a question of providing information and partly a continuation of the educational trajectory in order to strengthen support. I expect the same process to emerge as the authors of the Federalist Papers had to deal with in 1787 and 1788: comments on the production of the Convention will come from all angles. Members of the Convention are expected to explain clearly and unambiguously the quality of their own thinking. The text must be available in all the languages of the current European Union.

6.8 Am I overly optimistic about the success of ratification?

Well, I want to draw some conclusions from the leading motive in this book: *'All sovereignty rests with the people'*. If you take this view, you have to accept that this adage goes hand in hand with another one, which is: *'All wisdom rests with the people'*. If you are not convinced that the people have the monopoly of wisdom, then you should not designate them as the owners of sovereignty. That is incongruent. You cannot claim that the people have sovereignty while, at the same time, hold the opinion that they lack the wisdom to take the right decisions at crucial moments.

The proposition that wisdom rests with the people does, of course, make them vulnerable. Contemporary Pied Pipers of Hamelin are always trying to mislead. Unfortunately, that is a fact of life. Nevertheless, this

has never prevented Switzerland from constitutionally establishing the wisdom of the people as the decisive criterion in its cantonal system.

In my practice as a consultant in public administration I have never experienced anything else: the wisdom of that specific part of society that I would involve in my assignments (i.e. solving political and social problems) always proved to be the key to the solution. It was therefore with great approval and pleasure that I became acquainted with James Surowiecki's book *'The Wisdom of the Crowds'* in 2004.

6.9 What will happen after the ratification?

The result of the ratification process is simply 'yes' or 'no'. In the event of a 'no' vote, we will dry our tears and continue. In the event of a 'yes', this will mark the start of a period of transformation. It will be exciting since it's by then still uncertain in what manner the EU's current intergovernmental operating system will be replaced by a federal form of government as 'the United States of Europe'. Indeed, there are several options.

If a majority of all inhabitants of the 28 or 27 Member States say 'yes' to the articles of the proposed Constitution, then that transformation will take place in accordance with the relevant articles of the Constitution.

If we succeed, we will experience a peaceful version of the Magna Carta of 1215, of the Placcard of Abandonment of 1581 and the Declaration of Independence of 1776. All these documents make it clear that governments derive their power from the people and that the people have an inalienable right to abolish a destructive government and to replace it with a superior one. It is possible to make different judgements as to whether the European Union's intergovernmental operating system is destructive and merely a sum of national interests, with the members of the European Council not taking ownership of common European interests. But with this book I think I have demonstrated that this is in fact the case. This conclusion lays the foundations for a fourth difficult lesson for politicians who are unaware of or ignore the foundations of the political office, the most important office in the world.

If fewer than 28 or 27 Member States say 'yes', we must return to Article 20 of the sub-treaty of the European Union and to Articles 326-334 of the sub-treaty on the Functioning of the European Union. These articles allow for nine Member States to establish a so-called form of enhanced cooperation without dictating what form of enhanced cooperation this would be. So, this type of cooperation can be a federal structure of nine Member States. Next, this structure can be integrated into the current EU system as a single Member State, just like Germany, Belgium and Austria are already doing.

6.10 In what respect does this approach differ from the Convention of Philadelphia?

I have motivated the choice of holding a proper Convention along the lines of the one held in Philadelphia by considering Philadelphia as the best practice. None of the fruitless attempts in Europe since 1800 resemble the process and the organization of this successful Convention.

In some respects, however, my proposal for the Citizens' Convention for a Federal Europe is different. First of all, the European Federalist Papers already exist. In America, they came into being only after the Convention had designed the federal constitution. Secondly, there is the designation of the fifty-six participants in the Convention. In America, the participants were appointed by the Confederate Congress and they came from the representative bodies of the thirteen states. Thus, each one had some sort of a political status, even though such a status was hardly developed at the time. Given the proven inability of European politicians to federalize properly, they are not welcome in our Convention unless they have specific knowledge of one of the three profiles as outlined earlier. Thirdly, the Convention will not be concerned with drafting a federal Constitution from scratch, but with improving the design that Herbert Tombeur and I have already produced. On the understanding that any improvements will always be confined to the current number of ten articles.

Would you like to be involved in this Convention project, can you contribute, do you have better ideas than mine? Please send an e-mail to leoklinkers@me.com.

7. Epilogue

7.1 Ten advantages of a European Federation

By opting for a federal form of government, America grew from thirteen to fifty states. What is the most important lesson to learn from this process? The success of the American Federation is based on the process taking place from the bottom-up: the federal Constitution was ratified by the people themselves. What, then, are the advantages of a European Federation?

1. A Federation guarantees the centuries-old need for popular sovereignty through the American invention (1787) of the concept of 'shared sovereignty': all sovereignty rests with the people, while those people share some competences with a federal body to ensure a limitative set of common interests are safeguarded.
2. In a Federation, therefore, the Member States retain their sovereignty while receiving something extra, namely a federal body that takes care of the interests that an individual state is no longer able to safeguard on its own, such as, for example, climate control, the economy, social security, security and defense, the reception of refugees, etc.
3. Unlike the EU, the federal body cannot take any top-down decisions on any other issues, let alone pass these through the parliaments of the Member States. The essence of a federal system coincides with the essence of the principle of subsidiarity.
4. In a Federation, the institutions of the Member States will continue to exist: their parliament, government, judiciary and all other institutions forming the foundation of the Member State, including, if applicable, the Monarchy.
5. In a Federation, the basis is a Constitution which – unlike the EU Treaty – does not provide for any opt-outs but is confined to a limited number of rules that are binding for each Member State.
6. In a Federation, Member States do not need to feed their survival by waging wars. The nation-state, on the other hand, with its closed borders and inward-looking sovereignty, has caused dozens of wars on the European continent.
7. In a Federation – unlike in the EU – there is no form of compulsory assimilation. In terms of language, identity, culture, customs and habits, countries remain as they are.
8. In a Federation, competition between Member States remains, for example by providing a better education system or lower taxes.
9. The proposition that a Federation is a Super-State that will take away the sovereignty of its Member States, and that a Federation needs a single people, with a single language and a single culture, is a deception bordering on guilty ignorance. For example, federal India constitutionally guarantees twenty-two official languages.
10. In order to give heterogeneous countries – that want and need to cooperate – a strong political foundation, a Federation is the most appropriate form. For this reason, 40% of the world's population already live within as many as twenty-seven federations.

7.2 An evolution towards a federal world government

Post-war democracies suffer from too much top-down administration and too little bottom-up representation of the people. The figures in the Netherlands speak for themselves. Approximately 2.5% of the electorate is a member of a political party. There are about 300,000 of these members. Together they divide amongst themselves 80% of the most important functions in politics, the civil service, advisory

bodies, science and business. A relatively closed system that suffers from cronyism while no longer deriving its existence from the adage *'All sovereignty rests with the people'*. European democracies in particular are at the end of their life cycle. So, they will have to reinvent themselves. The rescue will be to embark on the path of federalization. This will force us to reinvent the foundations of the political office.

It is certain that the world will have more federations. At what pace is still uncertain. It will depend on the seriousness of the crises that we are still encountering. It's also still uncertain how many federations will eventually come into being. Within federalist movements the ideas are ranging between 40 and 50. What is certain, however, is that this self-evident evolution will eventually lead to a federal world government. The movements 'Citoyens du Monde' and the 'World Federalist Movement' will take care of this evolution. And its first task will be to establish common interest number one: *'A Declaration of Planetary Rights & Responsibilities'* as designed by Peter John Tucker in 2018.

And then we will finally have achieved what the world of football has long ago achieved: federations on a country level, on a continent level and on a world level. So, those footballers can do it, to the delight of millions of citizens. But politicians are still failing. At least those of Europe. Should European politicians let us down once again by failing to create the United States of Europe, then we will simply create this structure ourselves. We have the knowledge and the courage. And enough women to lead a federal Europe.

8. Bibliography

A huge body of literature exists on the subject of federalism and related matters. Below is a list of the writings that formed the basis for this book and for the content to be found on my website:

<https://samenwereld.nl/federal-europe>.

- Aalberts, Chris, *Waar blijft de Europese journalistiek?*, De Nieuwe Reporter, 21 september 2012.
- Acemoglu, Daron & Robinson, James. A., *Why Nations Fail, The Origins of Power, Prosperity and Poverty*, Crown Publishing Group, 2012.
- Alen, A., Beaufays, J. & d' Alcantara, G., *Federalisme: staatkundig, politiek en economisch*, Maklu, 1994.
- Allen, Danielle, *Our Declaration, a Reading of the Declaration of Independence in Defense of Quality*, Liveright Publishing Company, 2014.
- Althusius, Johannes, *Politica methodice digesta, atque exemplis sacris et profanis illustrata*, 1603. English translation: <http://www.constitution.org/alth/alth.htm>.
- Ankersmit, Frank, *De representatieve democratie is een electieve aristocratie*, Afscheidsrede Universiteit van Groningen, April 2010.
- Ankersmit, Frank, *De Verenigde Staten van Europa*, in: De Verenigde Staten van Europa, Jaarboek Parlementaire geschiedenis 2012, Boom 2012.
- Ankersmit, F. & Klinkers, L.E.M., *De Reformatie van de Staat, parlement en regering*, Deelstudie bij het Eindrapport van de Nationale Conventie, Hart voor de publieke zaak, September 2006.
- Ankersmit, F., *De sublieme historische ervaring*, Historische Uitgeverij, 2007.
- Ankersmit, F. & Klinkers, L.E.M., *De tien plagen van de staat, De bedrijfsmatige overheid gewogen*, Van Genneep, 2008.
- Ash, Timothy Garton, *Is Europe Disintegrating?* The New York Review of Books, 19 January 2017.
- Aubert, J.-F., Müller J. P. & Thürer D. (eds.), *Verfassungsrecht der Schweiz – Droit constitutionnel suisse*, Schulthess Juristische Medien, 2001.
- Barker, Gavin, *Democracy needs informed debate: how do we get it?*, Open Democracy UK, 19 Augustus 2015.
- Barroso, José Manuel, *State of the Union 2012*, Brussel 2012.
- Baudet, Thierry, *De aanval op de natiestaat*, Bert Bakker, 2012.
- Berden, Koen en Marcel Canoy, *EU kikkert op van vrijhandel met de VS*, in: NRC Handelsblad 16 maart 2013.
- Berg, Caspar van den, *Transforming Europe. The reshaping of national bureaucracies in a system of multi-level governance*, Leiden University Press 2011.
- Bittner, Jochen, *So nicht Europa! Die drei grossen Fehler der EU*, DTV, 2010.
- Blair, Tony, *Parliament's duty on Brexit*, Institute for Global Change, 2018.
- Blindenbacher, R. & Ostien, A. (eds.), *Dialogues on constitutional Origins, Structure and Change in federal Countries*, Booklet Series, volume 1, MacGill-Queen's University Press, 2005.
- Blindenbacher, R. & Ostien, A. (eds.), *Dialogues on Distribution of Powers and Responsibilities in federal Countries*, Booklet Series, volume 2, MacGill-Queen's University Press, 2005.
- Bóka, Éva, *Rethinking the role of the federalist ideas in the construction of Europe*, Budapest.
- Bosco, Andrea, *June 1940. Great Britain and the First Attempt to Build a European Union*, Cambridge Scholars Publishing 2016.
- Bosco, Andrea, *The Round Table Movement and the Fall of the 'Second' British Empire*, Cambridge Scholars Publishing 2017.
- Bregman, Rutger, *Met de kennis van toen. Actuele problemen in het licht van de geschiedenis*, De Bezige Bij, 2012.
- Breznau, Nate, *Europe's aging society need immigration – And that means anti-immigration politics is her to stay*, in: Social Europe February 2018.
- Breznau, Nate, *Anti-Immigrant Parties and Western European Society: Analyzing the Role of Immigration and Forecasting Voting*, Mannheim Centre for European Social Research (MZES), 17 March 2018.
- Brill, Paul, *1600 Pennsylvania Avenue*, Balans, 2012.
- Burgess, Michael, *Federalism and Federation in Western Europe*, Croom Helm, 1986.
- Buruma, Ian, *Herkennen we de signalen voordat het te laat is?*, NRC Handelsblad, 2 augustus 2018.
- Carter, Miranda, *De ondergang van het oude Europa*, Balans, 2011.
- Cauwelaert, Rik van, *De Notionele Unie*, editoriaal in: weekblad Knack, 1 augustus 2012.
- Cohn-Bendit, D. & Verhofstadt G., *Voor Europa*, De Bezige Bij, 2012.
- Cole, David, *Trump's Inquisitor*, The New York Review of Books, 19 April 2018.

Colley, Linda, *It is easy to despair of our leaders, but Brexit has exposed Britain's rotten core*, The Guardian 10 July 2016.

Couwenhoven, Wim, *Editie van Civis Mundi*.

Crozier, M. & Friedberg, E., *L'acteur et le Systeme*, Editions du Seuil, 1977.

Darwin, John, *After Tamerlane, The Rise & Fall of Global Empires, 1400-2000*, Penguin, 2008.

Dasgupta, Rana, *The demise of the nation state*, in: The Guardian, 15 April 2018.

Davidson, Jason Dale en Reess-Mogg, Lord Willam, *The Sovereign Individual, Mastering The Transition To The Information Age*, Touchstone 1997.

De Nederlandse Bank, *Jaarverslag 2012*.

Delva, T., Ryckbost, I., Sterckx, D., Van Bossuyt, A. & Vermeersch, A., *Zo werkt Europa aan Lissabon*, UGA & Die Keure, 2010.

Deschouwer, Kris, *De consequenties van "multi level governance"*, in: Res Publica, 2001.

Devore, Chuck, *The Texas Model: Prosperity in the Lone Star and Lessons for America*, Texas Public Policy Foundation 2012.

Draft Treaty Establishing the European Union, Official Journal of the European Communities, No. C 77/33, 14 February 1984.

Duff, Andrew, *On Governing Europe*, Policy Network and ALDE, 2012.

Dugin, Alexander, *The fourth political theory*, Amazon, 2009.

Elazar, Daniel J., *Exploring Federalism*, Ed. University of Alabama, 1987.

European Union Institute for Security Studies ((EUISS), *Citizens in an Interconnected and Polycentric World, Global Trends 2030*, European Strategy and Policy Analysis System (ESPAS), April 2012.

FAEF, Conference Democracy and Federalism, Milan 21 September 2018, <https://www.samenwereld.nl/milan21sep2018>.

Falter, Rolf, *België-een geschiedenis zonder land*, De Bezige Bij, 2012.

Falter, Rolf, *De geboorte van Europa, Een geschiedenis zonder einde*, Polis, 2017.

Feldman Noah and Weisberg, Jacob, *What are Impeachable Offenses?*, The New York Review of Books, 28 September 2017.

Feldman, Noah, *Crooked Trump?*, The New York Review of Books, 24 May, 2018.

Freedland, Jonathan, *This mafia style of government makes Trump a role model for all autocrats*, The Guardian, 18 Augustus 2018.

Friedrich, Carl, *Trends of Federalism in Theory and Practice*, Praeger, 1968.

Gearty, Conor, *The Constitution*, London School of Economics, Institute of Public Affairs, 27 May 2015.

Giddens, Anthony, *Europe in the Global Age*, Polity Press, 2007.

Gilhuis, Pieter, *Het Referendum – een rechtsvergelijkende studie*, Samsom Uitgeverij, 1981.

Glucksmann, André, *Europa weet niet meer waarom het bestaat*, in: Knack, 20 augustus 2012.

Goldstone, Jack A. *The New Population Bomb. The Four Megatrends That Will Change The World*, Foreign Affairs January/February 2010.

Gow, David, *Brexit and Devolution: A New UK Settlement or the Break-up of Britain*, Social Europe, No. 1 May 2018.

Griffiths, Ann L. (ed.), *Handbook of federal Countries, Forum of Federations*, McGill-Queen's University Press, 2002.

Gruyter, Caroline de, *Wat is er mis met Europa, en wat doen we eraan?*, NRC Handelsblad 13 februari 2016.

Gruyter, Caroline de, *United by diversity – from polarization to pacification*, Europe Lecture, September 2017.

Gruyter, Caroline de, *Al je zonden zijn op Brussel geprojecteerd*, NRC Handelsblad 17 augustus 2018.

Gruyter, Caroline de, *Naties zijn egotrippers*, NRC Handelsblad 24 augustus 2018.

Habermas, Jürgen, *Zur Verfassung Europas – ein Essay*, Suhrkamp Verlag Berlin, 2011.

Hamilton A., Jay J. & Madison J., *The Federalist Papers*, New American Library, 1789.

Handvest van de Grondrechten van de Europese Unie. Hertenstein Programma, september 1946.

Heerikhuizen, Annemarie van, *Pioniers van een verenigd Europa*, DBNL, 2007.

Herbert, Bob, *Losing our way. An intimate portrait of a troubled America*, Amazon, 2014.

Hesse, J. & Wright, V., *Federalizing Europe? The Costs, Benefits and Preconditions of Federal Political Systems*, Oxford University Press Inc., 1996.

Hueglin, Thomas, *Covenant and Federalism in the Politics of Althusius*. In *The Covenant Connection: From Federal Theology to Modern Federalism*, ed. Daniel J. Elazar and John Kincaid, 31-54. Lanham, Maryland: Lexington Books, 2000.

Hugo, Ludolph, *De statu regorum Germania*, 1661.

Janse de Jonge, Eric, *Amerikaans Staatsrecht*, Wolf Legal Publishers, 2012.

Kaplan, Robert, Moesson, *De Indische Oceaan en de toekomstige wereldmachten*, Het Spectrum, 2011.

Kaplan, Robert D., *De wraak van de Geografie, Wat de wereldkaart ons voorspelt over komende conflicten en het gevecht tegen het onvermijdelijke*, Het Spectrum, 2012.

Kavalski, E. & Zolkos, M. (ed.), *Defunct Federalisms, Critical Perspectives on Federal Failure*, Serie Federalism Studies, Ashgate, 2008.

Kennedy, Charles, 'European "federalism" isn't what you've been told it is', The Guardian, 2 July 2014.

Kennedy, James, *Grootmacht drijft lui op de stroom*, in: NRC Handelsblad, 3 november 2012.

Kennes, W. & Roctus, D., *Samenwerking binnen de Lage Landen: een pleidooi*, in: Internationale Spectator, Mei 2011, Jaargang 65, nr. 5, p. 264 e.v.

Ketcham, Ralph, *The Anti-Federalist Papers and the Constitutional Convention Debates*, New American Library of World Literature, 1986.

Kettle, Martin, *Brexit vote paves way for a federal union to save UK, says all-party group*, The Guardian 10 juli 2016.

Kets de Vries, Manfred, *De Neurotische Organisatie*, 1984

Kets de Vries, Manfred, *Leiders, Narren en Bedriegers*, 2003.

Kets de Vries, Manfred, *Leiderschap ontraadseld*, Academic Service, 2007.

Kets de Vries, Manfred, *What can be done about bullies at work?*, INSEAD, May 16th 2016.

Kiljunen, Kimmo, *The European Constitution in the Making*, Centre for European Policy Studies (CEPS), 2004.

King, Preston, *Federalism and Federation*, Cass Ilford, 1999.

Kissinger, Henry, *Diplomacy*, Simon & Schuster Paperbacks, 1994.

Klijn, Hugo, *We the Peoples. Europa en de Amerikaanse Constitutie*. Paper op persoonlijke titel n.a.v. een verblijf aan Harvard University in het kader van een opleiding Master of Public Administration aan de Nederlandse School voor Openbaar Bestuur in Den Haag, november 2012.

Klinkers, Leo, *Beleid begint bij de samenleving. Een zoektocht naar de menselijke maat*, Lemma, 2002.

Klinkers, Leo, *Parlement en regering, rijp voor een nieuwe politieke levenscyclus?*, Deelstudie bij het Eindrapport van de Nationale Conventie, Hart voor de publieke zaak, september 2006.

Klinkers, Leo en Tombeur, Herbert, *European Federalist Papers*, www.europeanfederalistpapers.eu, 2013.

Kromhout, Bas, *Hoe de Amerikanen de Europese Unie pushten*, in: Historisch Nieuwsblad, november 2012, nr. 41.

Krugman, Paul, *The Slippery Slopes of Complicity*, The New York Times, 18 August 2018.

Levine, Robert, A., *What the EU Needs Is a Copy of 'The Federalist Papers'*, New York Times, 9 januari 1999.

Liptak, Adam, *When is an offense impeachable? Look to the Framers for the answer*, New York Times, 23 August 2018.

Lochem, Peter, van, *Rechtsrelativering. Een verkenning op het terrein van het overheidshandelen*. Boom 2013.

Logevall, Fredrik, *Embers of War: The Fall of an Empire and the Making of America's Vietnam*, Random House 2012.

Luykx, Theo, *Geschiedenis van de internationale betrekkingen sedert het Congres van Wenen*, Elsevier Sequoia, 1971.

Maas, Heiko, *Making plans for a new world order*, Handelsblatt, 22 August 2018.

Macron, Emmanuel, *Sorbonne-speech*, September 2017.

Macron, Emmanuel, *Initiative for Europe, A sovereign, united, democratic Europe*, September 2017.

Mak, Geert, *In Europa, Reizen door de twintigste eeuw*, Atlas, 2012.

Mak, Geert, *Reizen zonder John, Op zoek naar Amerika*, Atlas, 2014.

Malosse, Henri, *Un jour cette petite île étonnera l'Europe. Parlant de l'île de Corse dans le Contrat Social de J.-J. Rousseau, 1762*, Fédéchoses no. 178/Sauvons l'Europe.

Malosse, Henri, *Revive the desire for Europe / 'For a citizens' Europe'*, Stand Up for Europe, 17 juli 2017.

Marquand, David, *The End of the West. The Once and Future Europe*, Princeton University Press, 2011.

Mayer, Matthias M., *Mixed Migration*, Bertelsmann Stiftung.

Meerssche, Paul Van der, *Van Jalta tot Malta – politieke geschiedenis van Europa*, Standaard, 1990.

Middelaar, Luuk van, *De Passage Naar Europa*, Bezige Bij, 2009.

Miert, Karel van, *Waarom zwijgen we altijd over onze successen?*, in: Knack, 3 mei 2006.

Mist over het Kanaal – Britten en Europa, in: krant De Standaard, 10-15 december 1999.

Nationale Conventie, *Hart voor de publieke zaak*, Eindrapport, september 2006.

North Patterson, Richard, *America's Pre-Fascist President*, Huffington Post August 2nd, 2018.

Olthof Jelte, *Patchwork Republic, The Rhetoric of 'We the people' in the United States Constitutional Debates, 1765-1865*, Koninklijke Wöhrmann, 2014.

Owen, David, *An effective Common Foreign and Security Policy (CFSP) for the future*, in: How can Europe prevent conflicts?, Philip Morris Institute for Public Policy Research, 1997.

Paus Leo III, Encycliek *Rerum Novarum* 1891.

Peeters, Yvo, *De hoofdstedelijke functie in federale Staten*, De Nederlanden, 1983.

Pechtold, Alexander, *Optimist in de politiek*, Hollands Diep, 2016.

Plakkaat van Verlatinghe, 1581.

Plato, *Politeia*, De Driehoek, 2003.

Pinder, John, *Only a federal European Union can respond effectively to the existential challenges that confront the world*, Federal Union, December 15th, 2003.

Pride, Tom, *See 20 years of fake news about EU by UK press*. Vindictiveness, December 2017.

Rossiter, Clinton, *The Federalist Papers*, New American Library of World Literature, 1961.

Schuman, Robert, *Schuman Plan*, mei 1950.

Siedentop, Larry, *Democracy in Europe*, Penguin Books, 2000.

Siedentop, Larry, *Er is geen eenheid in Europa*, in: Knack, 4 januari 2006.

Siedentop, Larry, *Europa stuit op nationale grenzen*, in: Knack, 21 december 2011.

Snyder, Timothy, *The road to unfreedom, Russia, Europe, America*, The Bodley head London, 2010.

Snyder, Timothy, *On Tyranny, Twenty Lessons from the Twentieth Century*, Tim Dugan Books, 2017.

Spinelli, Altiero en Ernesto Rossi, *Manifest van Ventotene*, www.altierospinelli.org/manifesto/manifesto_it.html.

Stauffer, T., Töpperwien N. & Thalmann-Torres U., Switzerland – *Swiss Confederation, Handbook of Federal Countries*, 2005, Forum of Federations, www.forumfed.org.

Surowiecki, James, *The Wisdom of the Crowds*, Amazon 2004.

The Data Team, *Why Europe Needs More Immigrants*, The Economist, July 12th 2017.

The Scottish Government, *Scotland's Place in Europe*, Edinburgh 2016.

Timmermans, Frans, *Broederschap. Pleidooi voor verbondenheid*, Podium 2015.

Tombeur, Herbert, *De Europese Unie tussen instrumenten en symbolen*, in: Internationale Spectator, Instituut voor Internationale Betrekkingen 'Clingendael', september 2002.

Tombeur, Herbert, *Federalisme, federaties en Europese Unie*, in: Internationale Spectator, Instituut voor Internationale Betrekkingen 'Clingendael', september 2004.

Tucker, Peter John, *A Declaration of Planetary Rights & Responsibilities*, 2018.

Union of European Federalists: www.federalists.eu/timeline/.

URLs of the symptoms of Authoritarian, Narcistic and Psychopathic behavior:
<https://www.psychologytoday.com/us/blog/rethinking-mental-health/201711/what-you-can-expect-authoritarian>;
<https://www.mayoclinic.org/diseases-conditions/narcissistic-personality-disorder/symptoms-causes/syc-20366662>;
<https://www.healthyplace.com/personality-disorders/psychopath/psychopathy-definition-symptoms-signs-and-causes>.

Valaskakis, Kimon, *Long-term Trends in global Governance: from Westphalia to Seattle*, in: Governance of the 21st Century, Future Studies, OESO, 2001.

Velthoven, Paul van, *Franstaligen tegen Vlamingen. Hoe België als natie mislukte*, Aspekt, 2012.

Verhagen, Frans, *Alle Presidenten. Van George Washington tot Barack Obama*, Historisch Nieuwsblad, 2012.

Verhofstadt, Guy, *De Verenigde Staten van Europa*, Houtekiet, 2005.

Verhofstadt, Guy, e.a., *Eigenlijk bent u een Europeaan*, Uitgeverij Van Praag, 2007.

Verhofstadt, Guy, Mandeville Lezing 2009, *De Verenigde Staten van Europa*, 15de Mandeville Lezing, Erasmus Universiteit, 2009.

Verhofstadt, Guy, *De weg uit de crisis, Hoe Europa de wereld kan redden*, De Bezige Bij, 2009.

Verhofstadt, Guy, *Een New Age of Empires*, de Bezige Bij, 2009.

Verhofstadt, Guy, *De ziekte van Europa*, de Bezige Bij, 2015.

Verdrag van Westfalen, inclusief het Verdrag van Münster en het Verdrag van Osnabrück, 1648.

Visser, Martin, *De eurocrisis, onthullend verslag van politiek falen*, BC, 2012.

Wagt, Wim de, *Wij Europeanen*, Uitgeverij Bas Lubberhuizen, 2015.

Weil, Simone, *On the abolition of all political parties*, Amazon, 2017.

Weiner, Tim, *The 'Witch Hunters'*, The New York Review of Books, 16 August 21018

Weiner, Tim, *Trump is not a King*, The New York Times, 17 August 2018.

Wolff, Barbara, *Was Declaration of Independence inspired by Dutch?*, University Wisconsin-Madison News, June 29, 1998,
Wood, Gordon, *Revolutionary Characters, What made the Founders Different?*, Penguin Books 2006.
Wood, Gordon, *A different idea of our Declaration*, The New York Review of Books, August 14, 2014.

Music

I Muvrini, *Corsica A-Tè*.
Dulce Pontes & Waldemar Bastos, *Veilha Chica*.
Joseph Rheinberger, Phoenix Chorale, *Oster-Hymne (Opus 134)*.