

The 'Europe of the citizens'

Leo Klinkers, 6 June 2019

Federal Alliance of European Federalists (FAEF)

Introduction

The recent election of the new European Parliament has been described in the media as a cry from 'the Europe of the citizens'. This applies both to the citizens who care about Europe and to those who reject it. But both parties want to develop their own version of 'the Europe of the citizens' in a different way. The opponents are seeking the path of a radical dismantling of the European Union, back to the nation-state anarchy of previous centuries with their inevitable wars. The supporters advocate a radical renewal of European cooperation with improved sovereignty, security and solidarity.

This article offers Europe's supporters a perspective in the form of a Preamble to a federal constitution for a European federation. It gives their version of 'the Europe of the citizens' a soul and a heart.

The Preamble

We, the citizens of the states [enumeration of participating member states],

- I. Considering:
 - a. that the federation of the United States of Europe, which we hereby establish, has the mission and duty to support us as citizens in our quest for happiness in freedom;
 - b. that the federation should base the support of our quest for happiness
 - on working restlessly to preserve the diversity of all forms of life on Earth,
 - on unconditional respect for the diversity of sciences, cultures, ethnicities and beliefs of the citizens within the federation,
 - and on human compassion for citizens from outside the federation who want to find their happiness within the United States of Europe;
 - c. that in the execution thereof it should bear witness to wisdom, knowledge, humanity, righteousness and integrity, in full consciousness that it derives its powers from the people, that all men on earth are equal, and that no one is above the law.
- II. Considering furthermore:
 - a. that this federal constitution is based on the wealth of ideas, considerations and wishes of European philosophers - and of European political leaders after the Second World War - to unite Europe in a federal form of government;
 - b. that the federal system is based on a vertical separation of powers between the Member States and the federal body through which the Member States and the federal body share sovereignty;

c. that the horizontal separation of the legislative, executive and judicial powers (trias politica) both at the level of the federal body and at the level of the Member States is guaranteed by a tight system of checks and balances;

- III. Finally, without prejudice to our right to adjust the political composition of the federal body in elections, we have the inalienable right to remove the authorities from the federation if, in our view, they violate the provisions under I and II,

Establish the following articles for the constitution of the United States of Europe,

Article 1

Article 2

And so on.

The Explanatory Memorandum of the Preamble

Preliminary

The opening words 'We, the citizens of the states' show that this constitution is being ratified by the citizens themselves. It therefore belongs by, for and of the citizens of the United States of Europe, in accordance with the adage 'All sovereignty rests with the people'.

The United States of Europe consists of the citizens, the member states and the federal body.

It is a constitution and not a treaty. If countries or regions want to live together in peace and have to cooperate through historically defined borders, but nevertheless want to retain their autonomy and sovereignty, a federation is the only form of state that can guarantee this. This is not possible with a treaty. A treaty is an instrument for administrators to cooperate in policy areas without being fully-fledged democratically accountable for their decisions.

The fact that this constitution is first ratified by the citizens and only then by the parliaments of the member states shows that, in accordance with the basic aspects of federalism, formulated by Johannes Althusius around 1600, it is based from the bottom up and not imposed from the top down.

This federal constitution guarantees the common interests of the citizens of the United States of Europe and leaves to the citizens of the member states and to the member states themselves the powers to serve their own interests.

That is why this federal constitution consists of a limited number of rules of a general binding nature. It has no exceptions - driven by national interests - to these generally binding rules.

Explanatory note to Consideration Ia

The obvious 'quest for happiness in freedom' of the citizens and the mission and task of governments to support the citizens in this is a cornerstone of the Declaration of Independence (1776) and of the subsequent American Constitution (1787-1789), the first federal constitution in the world. This was the model for the federations that were set up afterwards and that currently house 40% of the world's population. The pursuit of happiness is therefore also a cornerstone of the federal constitution of the United States of Europe. The quest for happiness includes values such as peace, security and social security.

Explanatory note to Consideration Ib

In the first place, this consideration gives the federation the task to work restlessly to preserve the diversity of all forms of life on Earth. Unsuccessful preservation of the diversity of all forms of life threatens the life of mankind on Earth. This task requires maximum cooperation, expertise and reliability from the federation's authorities.

Secondly, the federation offers maximum respect for diversity in social life. Where it disappears, monarchies develop, which destroy those parts of society by inbreeding. Diversity of sciences, cultures, ethnicities and beliefs creates new sciences, cultures, ethnicities and beliefs. This constitution therefore rejects any action aimed at protecting the so-called 'own people first' and will use all legal means to combat such action.

Thirdly, as a consequence of the foregoing, this Preamble explicitly states that there is no room for a slogan such as 'Europe first'. The federation of the United States of Europe shares its place on Earth with all other peoples and does not shut itself up behind the walls of a 'fortress Europe'. Closing the external borders for the purpose of protecting one's own people is not listed as a crime against humanity, but it is punishable by a serious penalty: the eventual disappearance – by demographic decay - of what one wishes to preserve. In other words: there will be open external borders, no closed borders. That creates obligations:

- a. the design and implementation of plans such as the Marshall Plan (1948-1952) to support poor countries in their economic development in order to eliminate the need for seeking refuge in Europe;
- b. with immediate effect offering a human existence to the approximately sixty million war refugees;
- c. to strengthen Europe's demographic and geopolitical position by providing - through wisdom, knowledge, humanity, justice and integrity - immigrants with a secure life within the federation;
- d. to consider the implementation of a-c as one of the federation's common interests.

This constitution is therefore a task and an opportunity for fundamental political renewal now that the post-war democracies have reached the end of a 70-year life cycle and have led to the exclusion of citizens in favour of treaty-based government, which by its very nature has become increasingly oligarchic and protectionist.

Explanatory note to Consideration Ic

The end of the political life cycle of the post-war democracies, mentioned above, places those countries that consider democracy to be of great importance on a tour de force, similar to the revolution of the Enlightenment. Democracy and the representation of the people must be reinvented on the basis of the principle of 'All sovereignty rests with the people'.

The Treaty of Lisbon is giving way to a constitution based on the representation of citizens. This implies, among other things, the abolition of the European Council of Heads of Government and State, the creation of a European Parliament on the basis of proportional representation within one electoral district - the territory of the federation - and a government under the leadership of a President, elected by the citizens. So, equipped with a democratic mandate.

This can only be achieved with wisdom, knowledge, humanity, justice and integrity. With just two certainties: if it succeeds, it will be a crucial revolution for the preservation of Europe. If it fails, by the end of this century, after the last tribal war in Europe initiated by nation-state anarchy, someone will turn off the lights in Europe.

Democracies cannot prevent elections from leading to groups within the democratic institutions that wish to use their power against democracy. This constitution enables the institutions of democracy, as far as possible, to deal with the abuse of democratic procedures by building in defence mechanisms. The task is therefore a fundamental reorientation of the concept of 'democracy' in 21st century Europe. With a task for political parties to reflect on their own responsibility to design instruments to defend democracy against parties that (would like to) abuse the procedures of democracy in order to destroy that democracy. Probably more than any other organisation within a democratic system, political parties will have to consider wisdom, knowledge, humanity, justice and integrity in order to guarantee the viability of a federally united Europe.

Explanatory note to Consideration IIa

The 'building blocks' of federalism as a form of state stem from the 'Political Method' of Johannes Althusius (1603). The 'cement' to connect these 'building blocks' indissolubly was provided in the writings of European political philosophers such as Aristotle, Montesquieu, Rousseau and Locke with their views on popular sovereignty and the doctrine of the trias politica. The American federal constitution is based on these writings, while Europe has condemned itself to wars for centuries.

It was not only philosophers who provided the 'cement' for the building blocks of federalism. Also political and social leaders - in the Interbellum period for example the British Philip Kerr, better known as Lord Lothian - and after the Second World War the Italian Altiero Spinelli who, with his Ventotene Manifesto (1942), laid the foundation for the post-war pursuit of federalism. A goal that between 1945 and 1950 was led by a large number of conferences and plans led by statesmen, scientists, culture bearers and civil movements, but which in 1950 radically ceased to exist with the Schuman Declaration. Although this declaration demanded the creation of a federal Europe in its entirety, it put its implementation in the hands of government leaders. In this way - unintentionally, but through guilty ignorance of

the way in which a federation should be created - the Treaty-based intergovernmentalism that has brought the European Union to the end of its current political life cycle was created.

Explanatory note to Consideration IIb

The thirteen former colonies in America at the end of the 18th century solved the dilemma of 'never again a ruler versus the need for representation of the people'. They applied the system of shared sovereignty devised by Althusius by inventing the vertical separation of powers between the sovereign member states and a federal body. Without transferring the integral member state's sovereignty, they asked a federal body to take care of a limitative number of common interests, to execute with the powers of the member states.

Contrary to the claim that in a federation member states transfer all or part of their sovereignty in the sense of 'giving it away and thus losing it', this is not the case. Parents who hand over their child to a teacher do not lose anything of their parenting but give the teacher the power to teach the child knowledge that the parents themselves cannot realise. That is why another popular view is also wrong. Namely the view that a federation is a superstate that destroys the sovereignty of the member states.

The vertical separation of powers, leading to shared sovereignty, also solves another problem. Namely, the principle of subsidiarity. This principle in the Treaty of Lisbon states: 'The institutions of the European Union should leave to the member states what the member states can do better themselves'. Since Article 352 of the Treaty allows the European Council to take any decision that the Council considers serving the objectives of the Union, the Council can ignore this principle of subsidiarity. In a federal state, the principle of subsidiarity coincides with the vertical separation of powers and therefore does not need to be mentioned as such in the articles of the Constitution.

A final aspect of this Consideration IIb implies that, due to the exhaustive range of competences of the federal body, all other competences remain with the citizens and the member states. This means, among other things, that the member states retain their own constitution, parliament, government and judiciary, including their own policy areas insofar as these have not been laid down in the exhaustive list of interests that the federal body must represent on behalf of the member states by means of the vertical division of powers. Monarchies are also preserved.

Explanatory note to Consideration IIc

The horizontal separation of the three powers - the legislative, the executive and the judiciary - is not a specific feature of a federal form of state alone but is the adage of any state that wants to prevent domination by one power. Within a federation, however, there are two particularities.

Firstly, from the first federal state - that of the United States of America - the trias politica must be established both at the level of the federal body and at that of the individual member states. Secondly, in addition to the invention of the vertical

separation of powers mentioned above, the federal constitution of the United States of America has introduced a second innovation: the checks and balances. To say that a self-respecting state considers the trias politica to be a very important aspect is only a declaration of its value. But values can only be monitored and preserved through norms. That is why the American Constitution - and also this European Constitution - contains articles that prevent the inevitable action of the three powers in the field of another power from slipping into the supremacy of one power over the other. That is the purpose of the checks and balances. They are the indispensable countervailing powers to limit the ever-present striving of the three powers to expand their complex of powers, at the expense of the powers of the others.

Explanatory note to Consideration III

The citizens derive from the English Magna Carta of 1215, the Dutch Plakkaat of Abandonment of 1581, the American Declaration of Independence of 1776 and the French Revolution of 1789 the inalienable right to expel governments from the federal body if they violate the provisions under I and/or II.

In accordance with the adage 'All sovereignty rests with the people', the citizens of the United States of Europe are the alpha and omega of the federation. Alpha in the sense of: they ratify the federal constitution and thus establish a system of representation of the people, of executive administration on the basis of political decision-making by the representative body and of justice for the resolution of disputes. Omega in the sense of the inalienable right to dismiss those who abuse the federal system, for example by (attempted) establishment of an autocratic system.

Final

This Preamble contains the complex of values of the constitution of the United States of Europe. It shows what the United States of Europe stands for.

Then follow the constitution's articles.