

FOREWORD



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For about two years we have been thinking about, and talking in this research group about the future of the EU and its federalisation as one of the possible ways forward. This analysis and prediction may be based on different points of view. We will attempt to project the conditions, problems to be solved and challenges of federalisation onto a large historical background which is not very detailed, but focuses on the major character of centuries behind us.

For about 2000 years the architecture of public or social power was influenced by the imperial heritage of Rome (even if its Western component fell at about the middle of this bi-millennial epoch) from the republican transformation of Rome until peace was made in Westphalia. As is typical for any empire, Western imperial Rome was:

- great;
- heterogeneous: different tribes, ethnicity, languages, religions, cultures were kept together;
- liberal, in the sense that the imperial norms of power and life did not cover everything, only the most important behavioural rules were general, the rest – and this ‘rest’ practically covered everyday life - was left to the local communities;
- non-nationalistic: the different local communities were not forced to accept a first class or more precious nationality above them, neither were they melted into a single and uniform society;
- instead of national (or better: ethnical) unity and interest more general principles were compulsory: laws, the empire and its leader, religion and its values;
- however, the role of regions and their peoples was different, later it was described by the central/peripheric dichotomy; the central regions and their

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- populations were predominant, in that they could decide on general politic, including peace or wars, taxes, and generally applicable laws;
- an important feature was separation of the public and the spiritual authority: the magistrates, and later on the emperor and the pontifex maximus were interdependent but autonomous.

This double, autonomous but interdependent power was kept even after the Christian transformation. Not accidentally, Roman imperial heritage gave the factual, social and physical root of the Christian Church, but its other root, the spiritual one, the Jewish legacy also accepted the double power of the King and of the High Priest. Thus, the Church took forward the whole previous architecture, and the only change was the common religion.

Even after the fall of the Western Roman Empire, the ideal of organising public affairs remained the same. There were permanent attempts to re-establish the empire. Under Charlemagne and later by the Holy Roman Empire these attempts were successful for longer or shorter periods. It is not exaggeration to say that willingness to create an empire is one of the genetical determinations of Europe. In Eastern parts of Europe, where the imperial establishment was present for this whole period it is even stronger.

This Roman heritage was broken finally by Westphalia. However, Westphalia itself was a consequence of a longer process started by the double and later triple papacy. From 1378 two popes reigned from Rome and Avignon with two papal courts, separate boards of cardinals, and finally separate successors. Different European regions and monarchs accepted either one or the other. This was an ecclesiastical and social reality for some generations, which lead to a loss of confidence in the spiritual authority of the Pope and Church. How could the papacy have been the final authority if there were two popes? The uncertainty became even greater when the Emperor Sigismund of Luxembourg, and the King of Hungary tried to convince the two popes to renounce their thrones and elect a generally accepted new pope. The outcome was ugly. As well as the popes in Rome and Avignon, there appeared a third pope in Pisa. By all means, this scandalous situation was solved by the Emperor, who forced all the three popes to resign and electing a new and commonly accepted pope. The process was approved by the Sinod of Konstanz.

The scandal was solved, but the broken architecture could not be restored. The unity of the papacy was reconstructed, but its spiritual authority was not the same. How could it be, when peace within the Church was established only by the Emperor? The Church had been a spiritual authority equal to the emperor's, but this twin authority was now lost. The Church became subordinated to the Monarch. What came next is common knowledge, reformation and as fulfilment Westphalia.

Since then the former double authority was forgotten and the single authority of the sovereign became the essence of the new architecture. Many centuries came and went and the genetical willingness of Europe to create an empire was combined

with the long experience of personal, and later institutional and then finally national sovereignty.

The predominance of Westphalia came to a quite quick but bloody end with the two World Wars, with the foundation of the United Nations Organisation, the Council of Europe and the European Communities, actually the European Union a special recombination of the past is on stake.

Even today sovereignty belongs to the States of Europe. This is in continuity with Westphalia. The inter- and supranational institutions or systems of institution are the subjects of international law, however this institutional legal position does not entail sovereignty.

Nevertheless, on the other hand the inter- and supranational institutions have extended without limits their range of influence. This is explicit in the case of the European Communities and their actual status as the European Union. The guiding principle of 'ever closer union', the principle of particular, and later the general primacy of European law, the judicial practice that hollows out the regulation of the treaties stating that every competence that does not belong to the Union remains with the member states, recalls the imperial heritage of Rome. If it is concluded to a federation, we will realise all the imperial features: greatness, heterogeneity, the liberal organisation of every-day life, the non-nationalistic *raison d'état*, have some common values.

What is missing is the double authority of public (state) and spiritual power. Furthermore, a spiritual authority is missing because there is no reminiscence of common spirituality in Europe. However we are Western people, and we keep the memory that we need something more than the mere physical power of the state. We need something to fill the space that remained after common spirituality. And what do we have? What could we invent? Nothing more than the legal and the normative notion of values and list of extremely abstract values, beginning with Rule of Law.

At a first glance it is a perfect substitution of spirituality. The values within Art. 2 of the TEU are common, elevated, abstract, and human. We can continue the long list of laudatory adjectives. Almost everything is done.

We will have a federation which reflects the old imperial past (I just repeat: non-nationalistic, liberal etc.). We may keep the member states with their relics (language, colours, anthem, coat of arms) which reflect Westphalia. Naturally this reflection does not contain sovereignty, but the sun still rises every day whether a state is sovereign or not. We will have an abstract cloud of values to make the memory of the past more realistic.

However, the question remains: how can the spiritual authority be replaced? Or in a more concrete manner: who decides on the values? And at this point we face a strong danger: the authority of values is the same authority of public power. The two authorities are united. We will have an empire with a single final authority.

This is no longer Rome – there is no double authority with interdependence but autonomy. And this is no longer the system of Westphalia where the equal sovereigns had the power to control each other.

The new imperial order would combine what is more efficient in Rome and Westphalia. The only doubt is that an uncontrolled empire does not belong to the Roman heritage. This would be something else completely. Strong, efficient, uncontrolled, frightening.