

Federalism, the model, and Federations, the practice

The Greek public debt, culminating into a manipulative referendum (July 2015), and the present migration influx, culminating in the breakdown of the Schengen Treaty, point at the failure of the European Union. These crises are the strongest incentives to write this paper.

In 2015, Marco Marazzi, chairman of the European Federalist Party in Italy, commented my message in the Facebook group 'Greeks in Belgium pro Yes', as follows: '*Yes, Mr. Tombeur, we all want a federation but we have to decide what model we adopt. If it is the US model which you and Klinkers suggest and I totally support, well the US States have balanced budgets in their constitutions.*'. I thank him for his reply, giving me the opportunity to reflect on the notions *federalism* and *federations* and to share with you my observations.

The question '*what kind of federal model*' refers to a workable and working *federation*. It is the second issue to be addressed. The first issue to tackle is whether *federalism as such* is an acceptable organization model for the European citizens. Indeed, *federalism is a system, not an ideology*. Both issues, adopting federalism and building a federation, should be handled separately and in that order.

First of all, I point at a precondition of federalisation: the citizens should be convinced of the fact – to meet their need to internalize – that they have layered identities. A number of flexible identities lives inside of us, in a layered way and activated according to time and place: being an individual, a family member, a local citizen, a regional (sub-state) one, a national (state) citizen and, for instance, a European citizen. The last identity holds at least these features: civil freedoms and civil rights (the citizens are the share holders of state sovereignty), the rule of law made by mankind, legal equality, government's monopoly over violence. As soon as this precondition for federalization is fulfilled, the initiation of the two issues mentioned above starts, one by one. Now, I describe these two stages.

The first stage of the federalization process is adopting the basic rules of federalism. This is quite simple, as federalism entails only two rules linked at each other:

- 1° clearly separating the public powers between (at least) two layers of government, namely the layer of the federated units and the layer of the federal governance, no matter what kind of federalist model, called *federation*, putting federalism into practice,
- 2° these sovereign layers of governance function independently from each other, therefore no power hierarchy nor an accumulation of their representative mandates.

This system requires the drafting a common basic act, often called *a constitution*, which describes the federal powers, guarantees them and organizes the federal working.

Powers distributed in this federalist way cannot be withdrawn, diminished nor extended, in any way, without the consent of all governments constituting the federation. These public powers are all *sovereign*: they are the highest in their policy domains and the shared sovereignty is inalienable against the will of each power holder. The federalism kernel holds 'sovereignty sharing' by the federal whole and its federated units. All are equal in this respect. These rules should be permanently observed. If not: no federalism, no federation.

In other words: the federalist organisation model constitutes a vertical division of policy domains. Combined with the horizontal division between the three government branches, first described by Charles-Louis de Montesquieu (the '*trias politica*', in: '*De l' esprit des lois*', 1748), federalism provides an extra dimension to democracy.

For a European Federation, this means that the Federal Governance and its Member States would be both sovereign within their competences. The Federal Government and the State Governments involved would work independently from each other under their constitutions. In 2012, Mario Draghi, chairman of the European Central Bank, put it this way – my translation: “Many Governments are still not aware of the fact that they lost their national sovereignty long ago. (...) It sounds paradoxically, but it is true: only when the Euro-countries are ready to share their sovereignty with the European level, they will gain sovereignty.” (source: magazine '*Knack*', © *Der Spiegel*, 2012).

If the federalist system is accepted by a majority of the citizens, the second stage of the practical shaping of a federation follows. Each federation shows its particularities, yet all true federations exist under the two basic rules of federalism, described above.

Now, not earlier, the citizens involved and their representatives establish their common identity features and interests. These are the fundament of the vertical division of power. Subsequently, the process of federalisation ends with the drafting and the approving of a federal founding document. This constitutional act holds the precise competence list of the federation, its functioning, its institutions, its resources, etc. In this way, each federation obtains its own specific features.

When one studies federations, one can classify them according to one or more criteria. Whether more power portions are situated on the federal level or on the federated level, is only one criterium in this respect. May I confine myself here referring to the European Federalist Papers (EFP) nos. 2-8, about federalism and federations, written by Leo Klinkers and me (2013). In particular, EFP no. 5 mentions four criteria to distinct types of federations: the over all structure (institutional federations or functional ones), the resources setting (degree of solidarity), the way of power distribution (exclusive or competitive) and the internal cooperation modes.

What shall determine the choice of the federation features? The federating citizens and their governances shall at least take into account their respective history, their group identity(-ies), internal governance systems, geopolitical position and socio-economic development. Moreover, they shall assess their new situation and ambition in this multipolar world, those of the new federation too.

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*“And the message of The Federalist reads: No happiness without liberty,
no liberty without self-government, no self-government without constitutionality
and no constitutionality without morality ...”*

Clinton Rossiter, The (American) Federalist Papers, Introduction, edition 1961