

The European Confederation – New Legitimacy and new narrative by an explicit Confederal Pact

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ABSTRACT: Currently the essence of European integration is in crisis : the idea of an open and continuous process in the economy and in the politics. Restart the debate on the basic political model of integration and its democratic modes of articulation is also recovering the very essential aims of the integration process, and the story of the European project.

It is proposed in this paper to explicitly discuss a new model of legitimacy to Europe, through a Confederal Pact between States and citizens. The European Confederation could be a new International format for Europe, and at the same time a sound democratic new rebuilding of the EU.

The major problem in my opinion with the integration project at present is the loss of the defining element of the project: the idea of process, dynamism, and progress of an ongoing project, open to economic changes and political progress, and open to citizens and peoples of Europe. There are alarming signs that there are States that are beginning to consider that it has passed the time of an “ever closer Union” among Europeans – what amounts to put into question the European project itself.

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In this historical moment for the European project, it is required a major political gamble. In my opinion, in the current historical moment what to search is not a *constitutional format* for the EU, but an *international format* to legitimize the European project and to preserve and safeguard the achievements of the integration process. This format or model can be in my opinion the one of the international Confederation of States.

Federation and Confederation are theoretical models known since the 19th century, but have found in international reality varied applications. Examples of international practice shows that in a Confederal model can fit very different designs and structures. The conceptual approach: as opposed to the Federation, the Confederation assumes the will of survival of States and their sovereignty. Thus, a Confederation can be defined as "a governmental entity created by independent sovereign States that join together to perform some governmental functions under common authority". The requirements that seem necessary to constitute an International Confederation of States are:

- A) an international treaty
- B) a minimal institutional structure
- C) attribution of competences, particularly in external matters

In my opinion, European integration is in need of an express political option on a model or an International Law format that constitutes the comprehensible reference of the political nature of European integration for the citizens of Europe, with clear unity and visibility for the world.

If the concept and *federal model* has hovered since its origins to the European project, I believe that at present is unworkable in practice its formal consecration.

On the other hand, the *confederal option* suppose to give a recognizable political and legal drawing to the current reality of the European integration. The President of the Commission has in 2012 renewed the Jacques Delors's proposal that the EU become a *Federation of Nation States*. In fact, I understand that what was proposed is –with other words– a Confederation of States, which is the international law model that best fits the reality of the European 60 years *acquis*. This Confederal option can have a peculiar shape in the European scenario.

Therefore what we aim in these lines is not so much the confirmation or transformation of the EU into a different or a new international entity. This kind of conversion of the current EU into a Federation or a Confederation would have huge and complex institutional consequences. On the contrary, the aim is to respect the current EU, by expressly incorporating the Confederate political model as the superior and upper reference for the European project.

This Confederation choice should need an explicit Confederal Pact between the States of the EU.

If we set the Confederal Pact as an objective of governance in Europe, the explicit assumption of the Confederal model for all or part of the Member States of the EU, could take place through different ways (Treaty or Declaration). In my opinion, as the foundation of a new political model for the European project, the right way should be an international treaty with superior force to the TEU and TFEU, so that it is clear the upper hierarchical relationship above the EU Law.

In my opinion the minimum essential contents of the Confederal Pact or Covenant could be:

- A) The creation of the European Confederation, political entity that does not have to become an independent new international organization.
- B) The reference to the European Union as the means of political and economic integration.
- C) An institution or a simple institutional structure, recognizable and eligible by the European citizens, and that in practice working as the Supreme European Government (Diet).
- D) An attribution of competences mainly : for representation in foreign affairs, and for taking the major political and economic guideline decisions in Europe.

The Confederal Pact can be done with a Treaty drawn up in the most simple form possible, without modifying the TEU and the TFEU or perhaps just changing the first Article of each in order to make reference to the Confederation as the top political framework in Europe. In this way, the European Confederation could be the Supreme political entity that exemplifies the political links between the States, peoples and citizens of Europe. At the same time, the Confederation would

have to the EU as the international organization for the implementation, development and progress of the economic, legal and political issues of the integration in Europe.

Of course that this approach is very far from the initial European federal dreams, the possible United States of Europe or the European Political Union. However, the European Confederation can have significant advantages in the current historical moment without being itself a setback in the process of integration, since:

- a.– It can provide a simple top legal framework of reference for integration, and settle the European construction for the future.
- b.– It allows to create an entity controlled by citizens and States, who can give supreme guidelines and major political decisions to the EU.
- c.– It permits to separate the complex model of the EU and their technical and institutional ramifications from the ‘pure’ political union structures.
- d.– Gives recognition, visibility and democratic control by the citizens.
- e.– Allows a clear perception of the compatibility States-European project, since the Confederation guarantees the formal sovereignty that remains within the national framework of the States.
- f.– Gives external visibility as a United Europe.
- g.– Reinforce the European foreign policy and the European external actions as reflection of a single European Global Actor.

Finally, the Confederal Pact should have a simple and clear relationship with both the European Union and national Constitutions.

As regards the European Union, when articulated with the Confederal institution, the public perception would be a radical simplification, since the current EU would be erected as the International Organization to carry out the policies, actions and achievements of the integration through the EU law, and whose major decisions would be taken by the Confederation.

The functionalist theory of integration seems to have already fulfilled its mission of economic planning. It was a theory of economic construction as a means to achieve political union; but it was not its very original purpose to define this final political model. As we can

read in the The Schuman Declaration 1950 : “L'Europe ne se fera pas d'un coup, *ni dans une construction d'ensemble* : elle se fera par des réalisations concrètes créant d'abord une solidarité de fait”

So, we are at the point where political will is certainly necessary, but also to consider explicitly a decision for changing the supreme model of European organisation; providing a model or political archetype suitable to the historical moment, which respects the survival of States and the democratic control by the european citizens.

This model of the European Confederation of States corresponds well with the recurrent pattern in the Union to go to the refuge of international law in times of crisis. The Confederal model on the other hand is a recognizable element in the constitutional memory of some countries, particularly the United States, Switzerland and the German Federal Republic , where periods and Confederal formats were the prelude to the later federalization and establishment as States, single subjects of international law.

Therefore confederation is a theoretical and practical landmark in the historical construction of some Nation-States, which at present can meet two essential functions: consolidate the achievements of integration, and confirm the formal persistence of European nation States in which the peoples of the States remain the custodians of national sovereignty. Confederal model can also let keep to the European Union as international organization, and the comfortable survival of articulation with national constitutions and the constitutional courts of the members States, whenever the sovereignty of the States in this new European organization structure is formally guaranteed.

Actually, despite the simplicity of placing a “hat” on the top of the EU through this confederal Pact we propose, the Confederal model assumes a recasting of the European integration project. This consensual reform between States and citizens can bring a political model clear and simplified for European integration and the citizens, respecting States but consolidating the path of the European project and its impressive achievements made through the EC/EU, and leaving expedited the way for future developments. At the same time, allows to locate a democratically controllable headquarters where the major political, economic and regulatory decisions that Europe needs should be taken. In such a way to override the technical integration era developed with closed doors and distance from the citizens.

Therefore the proposal is to carry out a new and explicit Pact between Europeans, a new model of legitimacy for Europe, through discussion and agreement on the new political model for Europe, which respects the EU and its achievements. It's a change of approach, rather than pursue the improvement and effectiveness of procedures through greater leadership and political will, without amending the existing treaties architecture.

On the other hand, the Confederal proposal is linked to the political and sociological necessity that the European project has a recognizable story, comprehensible by citizens. If we understand by "story" an explanation and a cultural and political vision of the common values of the European project and its future, we find that the traditional European story is exhausted and in addition the crisis has had a very negative impact in narratives of the European project. The need for a new and convincing story has many aspects as the need to incorporate new narratives of shared vision of history and culture in Europe.

In this sense, the Confederal Pact can be an important piece in the construction of the new narratives that Europe needs, since it implies and assumes that Europe has a political dimension of greater significance than the EU: there has been a process with the EC / EU of great political and economic achievements, but the European "civilization process under moral principles" needs now a new pan-European model of legitimacy, a new social Pact of States and citizens offering a political future project so that European citizens can decide its model of organization and coordination with other European citizens.

But above all the European Confederation proposal allows safeguarding the soul of the European project: the idea of *open process*, in which the main aspirations and projects for Europe are something more than the current European Union. In this way the Confederal Pact and the European Confederation can allow rebuild and recover the European story, by proposing a clear political model, recognizable and democratically controllable by the citizens; a model more focused on the construction of a public space that enhances a project of shared cultural and identity values as a real project for the European citizens. In any case, a narrative that assumes that the debate on the European process must be permanent and open.

KEYWORDS: Integration process, European Union, Model of Legitimacy, European Federation, Confederal Pact, Confederation, European story, New European Narrative.

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The Reform of the Eurozone and The Deepening of Political Union

Coordinators
Fausto de Quadros and Dusan Sidjanski



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