The recovery plan agreed in July 2020 is a key step forward. However, it will need to be built on in the process of creating a political and federal union, in order to enable the EU to take back control of major transnational issues through a new European democratic sovereignty. This is the aim of the proposals made here to the Conference on the Future of Europe by Sandro Gozi, MEP, and visiting professor at the Centre of Excellence. Human rights and fundamental freedoms must be front and centre of the political integration project. On that basis, the focus of the new European transformation process should be on digital and ecological transition, which represents a crucial choice for society and for the future. The Union must also set itself the ambition of establishing itself as a new democratic power capable of rising to the key global and regional challenges. A strategy will need to be developed to counter foreign interference in our democratic processes, but also to promote a more humane and more effective migration policy, and to develop European strategic autonomy within a renewed transatlantic alliance. All this requires a rethink of the relationship between Europe and power. To this end, different political and institutional reform options are discussed, emphasizing the possibility of moving forward through a dynamic group of States and peoples in a continental area of variable density. The momentum needed to embark on this new democratic, transnational and humanist phase of European integration will also call for the mobilization of its citizens, European and national institutions, and representatives of organised civil society.

Launched in October 2016 as part of the *Global Studies Institute* at the University of Geneva, the *Dusan Sidjanski Centre of Excellence in European Studies* conducts academic research on leading-edge topics related to European integration. Its Steering Committee consists of Professors Nicolas Levrat (Chair), Dusan Sidjanski, René Schwok, and the General Secretary of the University, Dr Didier Raboud. The Advisory Board consists of Prof. Micheline Calmy-Rey, Prof. Christine Kaddous, Viviane Reding, Dimitris Avramopoulos, Dr Antoine Firmenich, Prof. Ronald Inglehart, Dr John Latsis, Prof. Fausto de Quadros, Jean Russotto, Jean-Pierre Roth, Prof. Paul Taylor, Jacques de Watteville and Prof. Charles Wyplosz. Affiliated researchers: Dr Frédéric Esposito, Dr Miroslav Jovanović, Dr Georges Kolyvas, Dr François Saint-Ouen. Dr Sandro Gozi is the visiting professor for 2020–2021.

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SANDRO GOZI | **PROMOTING EUROPE AS A SOVEREIGN AND DEMOCRATIC POWER**
CONTRIBUTION TO THE CONFERENCE ON THE FUTURE OF EUROPE

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AND DEMOCRATIC POWER**
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SANDRO GOZI

PROMOTING EUROPE AS A
SOVEREIGN AND DEMOCRATIC POWER

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SANDRO GOZI

PROMOTING EUROPE AS A SOVEREIGN AND DEMOCRATIC POWER

Contribution to the Conference on the Future of Europe

Preface and Postface by Dusan Sidjanski

English translation by IDEST Communication SA

Preface

A few lessons from history

This book, written by Sandro Gozi at the request of the *Centre of Excellence*, has been published in time to contribute towards the debates and conclusions of the *Conference on the Future of Europe*. It reflects the questions which have been haunting the Centre's team as it seeks answers that could form part of a multidimensional and global European project able to tackle new challenges and new threats. The bipolar world which characterised the post-war period, during which the current European project was created, no longer exists. It has been replaced by a multipolar world where new powers are emerging, many of which do not share our values and those of our European Union. A united Europe must retain its position and find its place in this new context. This is far from a foregone conclusion.

The spirit of Europe has been present in our different countries for a long time but it has never been powerful enough to truly lead to political action at the level of the European Union itself.

The *Conference on the Future of Europe* is now being organised. This event should reinvigorate the European Union project by involving Europeans themselves, and I thought it would be helpful to recall some of the initiatives which came before because this latest one is by no means the first. My hope is that it can open up new horizons.

Utopias and projects

The desire to assert European ambitions, utopias and projects is nothing new, as Denis de Rougemont wrote in his book *Vingt-huit siècles d'Europe* [28 Centuries of Europe].

Indeed, European ideas, dreams and projects date back to the time of Ancient Greece. They were inspired by mythology and took the form of religious alliances known as amphictyonies which, like European integration in the 20th century, sought to bring an end to civil wars. This ancient landscape was often recreated over the course of history without ever fully taking shape. The amphictyonies, for example, lacking in strength and solidarity, were shattered in Rome's push for expansion. This had a profound impact because the vanquished went on to conquer Rome through their culture, making a landmark step towards one of the pillars of European culture through recognition of the individual, Stoicism and the

example set by Athenian democracy at the time of Pericles. This cultural heritage, enriched by Christianity and Rome's institutional legacy and experiment in citizenship, would go on to inspire the Middle Ages and its complex pre-federal structure alongside the birth of great European visions, including Dante's *De Monarchia* which called for a supranational authority with a duty to respect the diversities of people and customs. Mention should also be made of Pierre du Bois' Christian Republic and a succession of projects for Confederations equipped with common institutions, assemblies and armies.

These great visions contributed to feeding the *European imagination* but never convinced those in power. This school of thought was perpetuated and grew thanks to the legacy of the Age of Enlightenment, the recognition of human rights and a slow process of democratisation and social evolution at a time of industrial progress. One example is Kant's concept of perpetual peace which rests on the essential principle of shared values within member states, prefiguring the ideal of a European Federation supported by philosophers, political leaders, writers and poets, such as Victor Hugo, Proudhon and Lamartine. It is to them we owe the vocabulary and ideas of a freely granted federal relationship as opposed to a union imposed by force à la Napoleon.

From guiding principles to political action

In the 20th century, during the period between Europe's two civil wars, which went on to become world wars, the European dream turned into political action with Coudenhove-Kalergi's Pan-European Union. Its Congress in Vienna, attended by 2,000 people from 24 States, approved the *Pan-European Manifesto* and defined the key features of a European Confederation: guaranteed equality, security and confederal sovereignty accompanied by a military alliance and, gradually, a customs union and a common currency, with respect for nations and minorities as part the framework of the League of Nations.

Shortly afterwards, Aristide Briand made a momentous speech in Geneva, calling on the people to form "*a kind of federal relationship*". Several elements of this speech have become a reality today, although in a different context of high technology and communication. Charged with clarifying his proposal, the French Government published a Memorandum on the organisation of a regime of European federal union in May 1930, just as Hitler was celebrating his first electoral victory. The death of Stresemann and Hitler's growing power in the midst of a socio-economic crisis and hyperinflation did not augur well for the future of this official project for a federal union. In the end, nothing came of it. However, the impact of the Memorandum was profound in terms of what it proposed and the

invention of a European vocabulary which is often to be found in the writings and speeches of Jean Monnet, such as the Schuman Declaration for example. This is hardly surprising as its main author, the Secretary General of the French Ministry of Foreign Affairs, Alexis Leger, was a great poet who wrote under the name Saint-John Perse.

Ideas such as a "*common market*", a "*customs union*", the "*movement of goods, capital and people*", giving prominence to less economically developed regions, "*de facto solidarity*", "*community of European peoples*" and "*continuous creation*" therefore appeared, contributing to the creation of a European narrative and establishing terminology to enlighten the various aspects of the European Project and its progress towards a European Federation with its own sovereignty, as called for by President Macron.

Plans for a Federal Union during the French Resistance

The march towards a federal, sovereign and democratic union continued within the core of the French resistance and was asserted in newspapers and manifestos, such as that of *Ventotene* Island written by Altiero Spinelli, a communist who had converted to democratic federalism, and Ernesto Rossi, both interned on that island. The manifesto, dating from 1941, inspired the European Federalist Movement (*Movimento Federalista Europeo* or MFE) which advocated for a European Federation with sovereign powers in areas of common interest. The Ventotene Manifesto sought to safeguard freedom in Europe and demanded European citizenship for every citizen in its member states. Meanwhile, Combat, a French newspaper also created in 1941, made history by circulating articles in support of the Union of Europe written by Henri Frenay, Georges Bidault, Albert Camus, Henri Teitgen, Edmond Michelet, Francois de Menthon and many others. These publications, targeting the same goal, prepared Europeans for a future of peace and freedom within a future Union.

The first meeting of members of the Resistance movement from nine countries, with the participation of a group of German anti-Nazi militants, was held in Geneva on 31 March 1944.[1] To my knowledge, this was the first political act of the federalist members of the Resistance, launching a call to coordinate resistance movements in their fight for liberation of their countries and a federal union of European peoples. Such a union required a government responsible to their people, an army acting under the orders of that government and a supreme court.

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[1] Raymond Silva, future Secretary General of the European Centre for Culture created following the Congress of Europe at the Hague in 1948 and led by Denis de Rougemont, acted as an intermediary between Resistance groups.

As for a democratic Germany, it would have to banish all traces of Nazism in its education of the young and integrate its heavy and chemical industry into the European industrial set-up.

The blossoming of European movements

As a consequence of these waves of resistance, large pro-European movements would go on to blossom during 1946 and 1947. It was these movements that would create a vast network supporting the official institutions and organisations: the Council of Europe, the ECSC and the EEC.

A few years ago, in its history of integration, the European Commission attributed the origins of the European Communities to the Schuman Declaration. I immediately wrote to the author to remind him of the distant past, of Ancient Greece and its amphictyonies, not forgetting Rome and Christianity... However, without reaching back to the dawn of time, it is important to underline that grassroots movements and the commitment of civilian figures in creating and operating these movements represented the foundation upon which the official initiatives of European governments built, having benefited from the support of these pro-European networks. Moreover, most of their projects and proposals have been used by the European institutions with the result that these movements found themselves overtaken by the work of the European institutions.

Nevertheless, the origins of European integration are to be found in the Pan-European Movement and the Briand Project, in the Resistance projects starting with the Ventotene Manifesto, in grassroots movements within towns, cities and regions, and two European Congresses: first the UEF Congress in Montreux in 1947 with a Manifesto for European Federalists in the form of federal principles presented by Denis de Rougemont, and supplemented by the outline of an Economic Federation drawn up by Maurice Allais, a future Nobel Prize winner.

This was the first step in preparing for the great Congress of Europe at the Hague. A thousand delegates, members of a variety of political committees and advocacy groups, attended this European meeting from 7 to 10 May 1948. Debates were presided over by Winston Churchill[2], supported by a group of European leaders, politicians from the Resistance and the discreet but significant presence of Adenauer. The split between British unionists and continental federalists was evident. However, the federalists, although united about the goal, would divide over the approach to be followed. After dismissing Paul Reynaud's suggestion of

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[2] In his speech in Zurich in 1946, he had advocated for a continental union under the patronage of the United States and the United Kingdom.

a constituent assembly elected by universal suffrage, the participants agreed to a "*European Manifesto*" without a specific project, asserting the fundamental values of Europe and resulting in the creation of the European Movement, the Council of Europe and its Court of Human Rights. Moreover, the Congress' cultural resolution led to the creation of the European Centre for Culture and the College of Europe in Bruges. The essentials were summarised in the "*Message to Europeans*" written by Denis de Rougemont, who would go on to be responsible for founding the European Centre for Culture with Raymond Silva in Geneva in 1950.

Although it set out the need for an economic and political union, the final resolution at the Hague fell short of the demands of the members of the Resistance and the federalist campaigners. However, it emphasised freedoms of thought, association and expression, as it did the right to form an opposition and human rights. This was at a time when East/West tension was intensifying. The Berlin crisis that same year marked the start of the Cold War! The European Movement, the Union of European Federalists (UEF) and frictions in Berlin precipitated the creation of the North Atlantic Treaty Organization (NATO), bringing Western Europe under the American umbrella. At the same time, the Marshall Plan was supporting reconstruction of this part of Europe and the creation of the Organisation for European Economic Cooperation (OEEC). Against this turbulent background of threats and challenges, Jean Monnet, the Commissioner-General of the French National Planning Board, and his team drafted the Schuman Declaration. The declaration confirmed the reversal of France's policy as regards Federal Germany and gave rise to adoption of the Treaty establishing the European Coal and Steel Community (ECSC).

This first community-level institution was closely followed by René Pleven's proposal for a European Defence Community (EDC), supported by the United States and aiming to strengthen Europe in the face of the Soviet threat. The EDC was supposed to be accompanied by a "*European Political Community*" responsible for democratic oversight of the use of what was called the future 'European army'. Paradoxically as it was originally a French initiative, the French Parliament archived the draft Treaty establishing the European Defence Community (EDC) in 1954 without comment and thus buried the project for a political community. Under the influence of the Communist party, General de Gaulle and Marshal Juin, France actually rejected its own EDC project. This rejection opened the way for American rearmament of Germany and its membership of NATO, simultaneously dashing all hope of a political union, a hope which has remained dormant to date.

It is what I have called the 'original sin' of the young Europe. The pernicious effects on Europe's journey can still be felt 66 years later!

A profound crisis then ensued, a veritable trauma, after so many dashed hopes! Integration was revived thanks to Jean Monnet's work with governments and parliaments, including the Bundestag, and with the support of the European Movement and widespread public support, bringing the six ECSC Member States to the negotiating table in Messina to draw up the Treaty of Rome, which was signed in March 1957, establishing the European Economic Community (EEC) and the European Atomic Energy Community (EAEC). The EEC rose to the challenge, applying Jean Monnet's strategy for sector-by-sector integration which, it was assumed, would lead, step-by-step, to a political union. Hypothetically, it would have the spill-over effect postulated by Ernst B. Haas whereby, applying the theory of functionalism, States and political parties, socio-economic players, interest groups and multinationals would all be pulled along in its wake, creating European loyalty. The process was far from smooth. It was a long march filled with crises and international conflict.

Jean Monnet had said and written: '*Europe will be forged in crises and will be the sum of the solutions adopted for those crises.*' This accurate and realistic observation has been interpreted in various ways, eventually resulting in the claim that Europe evolves and is strengthened through crises. This statement calls for a brief examination of the crises in question. An initial warning came from General de Gaulle's position in refusing the Anglo-Swiss proposal for a free trade area. According to him, it would prevent the introduction of a customs union. In the same spirit, de Gaulle insisted on compliance with the Treaty of Rome which France had ratified. The second act would play out at the start of 1963, when the French President used a speech to issue a categoric and prophetic *"non"* to membership of the United Kingdom.[3]

The 'empty chair crisis' and a compromise on the disagreement

The 'empty chair crisis' in 1965 had a serious impact on how the European institutions operated because it prevented the introduction of qualified majority voting for the common agricultural policy, provided for in the Treaty, and maintained unanimity. This was the first indication of the tension which still exists between the Community method and inter-governmental procedure. The Hallstein

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[3] Closeted in Jean-Pierre de Launoit's summer house with Valéry Giscard d'Estaing, the Finance Minister, and Jean-François Deniau, the main negotiator, I remember that we discussed the French President's position. Jean-François Deniau reminded us that approximately 50% of the problems were still unresolved while others evoked the insular nature of England, often accused of being America's Trojan horse, or drew attention to the agreement Macmillan had signed with Kennedy on the Skybolt rockets which was supposed to have precipitated President de Gaulle's "*non*".

Commission had proposed a package to ensure funding for the agricultural policy through the creation of a "common fund" financed by customs duties and agricultural levies. This budgetary autonomy was to be subject to oversight by the European Parliament whose powers were to be increased. At the end of June 1965, de Gaulle put forward his own analysis of the situation at a press conference: the Commission seemed to see itself as a future financial power or a future government with broad powers of initiative. I remember that the General was irritated by Hallstein's ambitions. He was always quick to roll out the symbolic red carpet when he received Heads of State as if he were their equal. That was more than enough to provoke a reaction in the name of a Europe of States or nations, the Europe which inspired General de Gaulle's thoughts and actions! After long negotiations, the crisis ended with an 'agreement to disagree' in Luxembourg in 1966.

Michel Debré's project versus the Fouchet Plan

Michel Debré's book *Projet de Pacte pour une Union d'États européens [*Draft Pact for a Union of European States]*,* published in 1950, was ahead of its time. It took inspiration from the presidential and federalist model. It recommended an adjudicator elected for five years by universal suffrage, a senate composed of ministers from member states and commissioners appointed by the adjudicator. In addition, there would be an assembly of parliamentarians elected by millions of citizens.

This revolutionary proposition returned to the European debate from time to time but did not find favour among the players in the European political community and even less when up against de Gaulle's Fouchet Plan at the start of the 1960s in the face of political questioning of common defence, foreign policy and countries in the East or as regards developing nations. This project crystallised opposition to two concepts: a supranational union, the credo of Spaak and Luns, and a union of States or nations, President de Gaulle's idea. The Fouchet Plan envisaged regular meetings of heads of State or government at least every four months. Foreign affairs ministers would hold sessions at intervals. The Council would hold decision-making powers and would be supported by three Commissions: political, defence and cultural. The Brussels Economic Commission, whose independence distinguished it from the three new Commissions, would be composed of representatives from member states. The role of the European Assembly would be limited to debating political issues and formulating advice and recommendations. This was a Europe based on intergovernmental cooperation versus a community with a federal vocation.

It should be remembered that the Fouchet Plan contained a *progressive clause* proposing that a review of any progress should take place after three years. Despite the need for a common foreign and defence policy in the midst of the Cold War, the five other members baulked at the influence that the council of member states and the political commission would have over the European Communities. Initiatives and posthumous regrets did not provide anything in the way of results but at subsequent conferences Paul-Henri Spaak was quick to express his regrets and present his project which, while retaining the key features of the Fouchet Plan, proposed an 'independent political commission'.

France and Germany: tested by the explosion of Yugoslavia

Much later, we witnessed the violent breakup of Yugoslavia and unilateral recognition of Slovenia and Croatia by Germany on 23 December 1991. This act, which took France and the United States by surprise, reminded us of the weight of the history of the Second World War in the Balkans. France and Germany were close to divorce but were saved by their need for solidarity and the assertion of a common trade policy during the negotiations under way within the framework of the General Agreement on Tariffs and Trade (GATT). Once again, senior officials felt the need for a political union. Hence the pillar of political cooperation in the Maastricht Treaty.

The immense geopolitical change marked by the decline of Communism occurred during peaceful disintegration of the Soviet Union. Today, new powers have emerged with the return of Russia, Brazil, India and, above all, China. The latter practices a form of totalitarian Communism involving control of its citizens while opening itself up to world markets. It attracts investments and stimulates its exports through very competitive prices while establishing its presence in Europe, the Americas and, most markedly, in Africa.

In our research with Jean Meynaud in the 1960s for *L'Europe des affaires*, we warned the European Commission of the risk of American multinationals having a stranglehold over European companies. These multinationals were private property though and their only aim was to maximise their profits in Europe. Today, on the other hand, China's giant corporations are under the control of the Communist Government and are therefore obliged to follow its policy of breaking into world markets, particularly into the European Union. This is worth remembering at a time when the Commission has just signed an agreement on investments with China.

The desire to commit to the path of a Union of Europe will be created from pressure from public opinion wanting peace, freedom, democracy and a federal political

union driven and expanded by free accessions, as demonstrated by the waves of accessions and applications.

The question which haunts me, as it does Sandro Gozi, is whether the nations of the European Union have made sustainable progress together, including on the path towards an unprecedented federation, despite the growing threats and challenges that the EU faces? And how can its power and efficacy be accelerated as a matter of urgency while still respecting its founding values and principles? Over to Sandro Gozi...

Prof. Dusan Sidjanski

Introduction

The world is experiencing what one might call a 'Darwinian' moment. The COVID-19 crisis is demonstrating that an ability to adapt and transform is the real key to success for our societies. However, it is not the principle of the survival of the fittest which will prevail. It is the ability to innovate and reinvent the path to be followed. This is even more true with regard to the European Union, which had already demonstrated a number of shortcomings during previous major crises, both financial and migratory.

Those crises point to the fragility of a 'crude and stripped-down' form of globalisation[1] where economic integration is exempt from any democratic oversight, where the definition of security is still too often confined to military variables alone and where the European Union is not a political player in its own right.

At the same time, this new awareness is accompanied by a requirement for better governance and stronger international cooperation to tackle new global challenges. As we confront a health crisis and a climate emergency, as we confront structural challenges such as the flows of people or the digital revolution, Europeans need to rediscover a capacity to take political action and take back control of events - and therefore a form of 'sovereignty' which ultimately only a union that was political and federal could provide.

Dusan Sidjanski has underlined to what extent threats and challenges have often been the causes of, or drivers for, political unions and communities. As he has written, even before the COVID-19 crisis we were '*facing a confluence of numerous threats and challenges which appear to be occurring at the same time and most of which concern citizens directly. They feel their growing distance from institutions and leaders even more strongly [...]. In this atmosphere of incomprehension and powerlessness, a crisis strikes which takes many forms and has serious consequences which short-sighted leaders have been unable to predict. They have been even less able to counteract its harmful effects through effective measures.*'[2]

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[1] Bertrand Badie (28 May 2020), "Penser un monde nouveau. Mondialisation humaniste.", *L'Humanité*. Text available at: https://www.humanite.fr/penser-un-monde-nouveau-mondialisation-humaniste-par-bertrand-badie-689597
[2] Dusan Sidjanski, 'Les crises et l'Europe en manque d'Union politique', introduction to Jean Marc Ayrault, Dusan Sidjanski, François Saint-Ouen (ed.), *L'Avenir de l'Union Européenne*

'Phase 2' of globalisation must begin with cooperation between States dedicated to management of major environmental and digital transitions and combating the real transnational threats which put humanity in danger: famine, viruses and greenhouse gases. The EU seems to have learnt the lessons from the start of a century that has been marked by systemic global crises: when faced with an extraordinary shock, responses which are capable of tackling the challenge must be provided quickly. However, unlike the financial and migratory crises, the COVID-19 health crisis has been symmetrical in that it has struck all European States, something which has triggered an unprecedented reaction by the EU, opening up new political perspectives for Europe.

This demonstrates that there is a capacity to react in Europe which can reveal a common interest thanks, in particular, to much greater public awareness of the growing interdependencies of the times in which we live.

Since 2008, the EU has actually been living in an '*existential crisis*', something Dusan Sidjanski has underlined: '*We are currently witnessing an existential crisis of the European Union, the visible cause of which is the fallout from the US subprime crisis and the profound crisis of rapidly changing societies and public opinion. It goes to show how permeable our European societies are and how much more intensely interdependent they are than we had imagined. This testing of the Union's capacity to resist a financial crisis revealed the Lisbon Treaty's serious shortcomings; on the brink of the galloping crisis, it was not equipped with the instruments needed to effectively fight back. But worst of all, the European treaties had constructed the euro on foundations lacking solidarity and political Union. They focused on the individual responsibility of Euro area States, establishing golden rules setting ceilings of 3% for budget deficit and 60% for public debt. Instead of providing for measures ensuring mutual aid, the treaties banned them. As for the role of the ECB, it is limited to the control of monetary stability. The single currency was launched with an optimistic view towards spillover sector by sector. However, in times of hardship, it's every man for himself, despite the dense structure of interdependence within the Euro area. In this context, Germany imposed austerity measures on its partners without measuring the destabilising effect they would have on the Euro are as well as on the Union, nor how devastating they would be for solidarity within individual countries and for the functioning of their democracies. On the other hand, Jacques Delors, supported by Tommaso Padoa-Schioppa, Jean-Claude Juncker and many others, proposed a European New Deal in order to finance large-scale projects in the field of*

– Défis et initiatives, Geneva, Dusan Sidjanski Centre of Excellence in European Studies, Geneva, 2018, pp. 12-13.

infrastructure and communication, research, and scientific and technological innovations. This process would have enabled Europe to rise to the numerous challenges posed by digitalisation, cyber security and the Big Five tech giants (GAFAM - Google (Alphabet), Apple, Facebook, Amazon, and Microsoft). But the multifarious crisis from which numerous Member States are suffering has evolved from being a purely economic to a social one, undermining the fabric of our societies and hitting citizens head on in their daily lives.'[3]

The time has come for transformation so as to adapt to the enormous impact of the COVID-19 crisis, whose long-term consequences on our societies in Europe and across the world we are yet to measure. The EU must rebuild politics and significantly reform certain policies.

We must develop a new shared vision, based above all on a new idea of 'human security' covering climate, health, digital, social and physical elements. Such human security necessarily requires adjustment and a new *transnational* approach at European and global level. This implies a new general political vision: political reconstruction, institutional reforms and identification of priority areas for political action. This is our goal: to propose how the EU should adapt at this 'Darwinian' moment in a way which is based on security and sustainability. The EU must evolve: it must transform its economic model, adapt the single market to the imperatives of the green and digital transition, equip itself with a new 'power' and help its democracy evolve in a transnational direction.

A transnational approach is the main theme in our proposal. Why 'transnational'? For us, the transnational idea appears to be most compatible with the EU's new political phase. It is about promoting a new dimension, a third way of doing politics, beyond the old 'national/international' combination which does not correspond to the reality in Europe, the goals of the EU treaties or the political project we are proposing. The European political system is a very unusual construct which over time has gradually moved away from the traditional international model. Although founded on the basis of an 'international' treaty (the Treaty of Rome), the European community has developed a new legal system, thanks to the work of the Court of Justice in particular but also through dialogue between the Court of Justice and national constitutional courts. Meanwhile, the Commission has worked on the basis of networks, forging horizontal relationships with professional bodies, social players, civil society, lobbyists and national administrative bodies via a new method of integration. Social partners play an important role. They have had a structure at European level for a long time and are even acknowledged in the

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[3] Dusan Sidjanski, *Europe's Existential Crisis. Facing the Threats and Challenges*, Geneva, Dusan Sidjanski Centre of Excellence in European Studies, 2018, p. 9..

treaties. However, the only 'human' activity which has remained prisoner of a strictly national rationale and dimension is politics. European political parties are just confederations of national parties without power or legitimacy. The democratic exercise of European elections is not enough to give the EU real democratic legitimacy, not least because of the absence of a transnational political space and transnational political movements which would go beyond the national/international division. The response to the crisis also requires integrated strategies and horizontal synergies between Member States, the regions and the EU through this new transnational method.

Such an approach should enable us to give a stronger shared foundation to the new political EU which must be the result of the *Conference on the Future of Europe,* particularly when addressing issues such as digital technology and the environment which go beyond the national/international split as they are, by their very nature, transnational. But the method we are proposing is also necessary for traditionally sovereign issues such as security and power which must be devised and implemented using a new method. This is also a different way to respond to the political crisis and have a place on the global stage. Without the ability (and desire) to shape itself on the basis of an existing political model, the European Union is becoming a laboratory for testing a new political dimension and is revealing the frailty of the old methods. The transnational option also represents a new phase in the Europeanisation of politics, which has already passed through several stages: creation of the political European institutions; infiltration of new rules and standards into national policy; and convergence of administrative and cultural practices and lifestyles. The transnational approach aims to strengthen the level of compatibility between the EU and States, stimulate political interaction between the various players to a greater degree and, above all, promote deep-rooted democracy at all levels of society.

This book seeks to address the main institutional reforms and new common policies to be instituted during the current European legislative period and to put forward the political options available in preparation for the *Conference on the Future of Europe*.

The European Union is suffering from the limitations imposed by its institutional structure, an imperfect division of its responsibilities and a decision-making process which is unsuitable for building a truly political and federal union. Far from representing a danger for Member States, this new political union should become the best guarantee of the existence of nations which would be regenerated by the construction of a sovereign and democratic Europe in transnational areas which now elude national 'power'. We must therefore get past the phony debate between national sovereignty on the one hand and European sovereignty on the other.

They are synergistic. Without a sovereign Europe, equipped with the capacity for real action, we run the risk of losing both Europe and nation states at the same time as people rage against the system and we witness the global rise of nationalism, populism and new imperial reasoning. The very idea of Europe and *power* must also be accepted since the existence of Europe since the end of the Second World War has been as an antidote to national powers.

This issue is not new. What is new is the political opportunity that we must seize during this phase. As has often been emphasised, of all Europe's ambitions, the construction of a political Europe able to shape the international landscape has remained the most conflictual of all since the end of the 1950s.[4] There are two principle recurrent questions: how to reconcile a continuation of the Atlantic alliance with the emergence of European strategic autonomy? And what should the balance be between large and small States, between East and West? Today, however, the idea of a group of European States coming together to merge their sovereignties and become a political player with the intention of constructing a new political partnership with the American superpower is no longer an historical aberration but a real political option. Nonetheless, in this new context, the very idea of power, and therefore sovereignty, must be reconsidered: defence policies remain important but they are neither exclusive nor central. The social fluidities of the current world disorder must encourage us to expand our notion of power and identify the sectors on which to build this new political union.

President Emmanuel Macron has explained perfectly why achieving strategic autonomy is necessary: '*I think it is vital that our Europe finds the ways and means to decide for itself, to rely on itself, not to depend on others, in every area, technological, as I said, but also health, geopolitics, and to be able to cooperate with whomever it chooses. Why? Because I think that we are a cohesive geographical space in terms of values, in terms of interests, and that it is good to defend it, in itself. We are an aggregation of different peoples and different cultures There is no such concentration of so many languages, cultures and diversity in any given geographical space. But something unites us. We know that we are European when we are outside of Europe. We feel our differences when we are among Europeans, but we feel nostalgia when we leave Europe.'* [5]

This shift would represent a major political adjustment by Europeans to how the world is changing. Moreover, Europeans have already demonstrated a great

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[4] See Nicole Gnesotto, *La puissance et l'Europe*, Paris, Presses de Sciences Po, 1998.
[5] *Groupe d'études géopolitiques*(16 November 2020). 'The Macron Doctrine: A Conversation with the French President' Available at: https://geopolitique.eu/en/macron-grand-continent/

capacity to adapt in a Darwinian manner throughout their history: from the Peace of Westphalia in 1648 to Newton's *Principia Mathematica*, the Treaty of Rome and the '30 Glorious Years' of post-war reconstruction, they have already demonstrated great creativity in the past and a political, scientific, economic and institutional ability to adapt, sometimes by transforming the legal and political system, sometimes through very courageous reforms. Just think of the industrial revolution or the introduction of the Welfare State.

Calls for *more Europe* are increasing in the public debate: a European health strategy, a European social strategy, a European defence strategy, etc. Europe is no longer criticised because it might do too much but instead because it is not doing enough. According to the Eurobarometer survey of 20 April 2020, 52% of people in France thought that Europe should ensure the supply of protective equipment, 57% of Germans thought that the EU should invest in research for a vaccine and 45% of Italians that the EU should provide financial support for Member States. More recently, in November 2020, 71% of Europeans agreed with the proposal that granting European funds should be conditional on compliance with the rule of law and Europe's fundamental values. Although this data cannot be considered completely conclusive because it is fragmented, it does indicate a new trend which should give European players food for thought.

Europeans also seem to be becoming more aware that they themselves must respond to the defence of their strategic interests, make a more significant contribution to global security and ensure their own autonomy in a new transatlantic partnership with Joe Biden's United States.[6] This requires a presumption of responsibility by at least a group of European States, after 70 years of 'strategic irresponsibility' thanks to the umbrella of NATO and the American superpower. Yes, we must move on from a Europe conceived as a voluntary enterprise diluting national power within the European project to a *Europe with power* which can revitalise Member States and enable the European Union in its current form to take its place on the global stage. This will force Europeans to ask once again what Europe is for and to develop a new concept of power, over and beyond the usual military issues. A new policy will also benefit European nations as it will be *transnational*. Such a transnational approach must be the basis of this new political union we would like to see. This means doing away with the dogma of the zero-sum-game between national sovereignty and European sovereignty: only a union able to take back control of transnational networks and issues can

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[6] Susi Dennison et al., "Together in trauma: Europeans and the world after Covid-19", in *ECFR*, 328, June 2020.

ensure real independence for European nations. The union must have national roots and transnational wings to become a real political player in the 21st century.

Above all, an admission must be made that in the past the European Union concentrated on regulatory issues because the necessary budgetary resources and political desire from national leaders were lacking. As has been correctly observed, *'this form of technocratic intervention has gradually tarnished Europe's image among the people who are already greatly exasperated by the excessive bureaucracy of their own national governments [...] Institutional Europe has created a gulf separating it from its citizens and has accentuated the feeling that there is a democratic deficit in how it operates. Whether we like it or not, Brussels must bear its share of the responsibility for the resurgence of nationalism and populism which are disrupting the continent's democracies".*[7]

We must therefore develop a new approach which is both European and national.

Some elements which would typically fall under the national remit - independence and autonomy, law, borders and security in its widest sense - have now partly broken away and require a new transnational approach.[8] This therefore begs the question of how, in which areas and with what legitimacy this transnational transformation of sovereignty and politics can be achieved. Can we do what we achieved with the single market in other areas in Europe? Which ones? Using which method? The European Union should develop a federal and transnational approach that avoids creating a political vacuum and keeps States onside. In this regard, it must be duly noted that States no longer have a monopoly over sovereignty and they must be open to an inclusive approach at European level, i.e. new forms of sharing and exercising sovereignty jointly.

In effect, Europe must now be conceived and presented as an instrument for recapturing European sovereignty in a globalised world, thereby increasing national power (or as a real solution to national 'powerlessness' in a globalised world). The question therefore arises of knowing in which areas to construct this new form of sovereignty and apply this federal approach. This form of European sovereignty first requires a green and digital transformation of the EU's economy. It also requires an economic and industrial policy which supplements the single currency and encourages social convergence within the EU and solidarity among its regions.

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[7] André Gattolin, Richard Werly, *Europe : rallumer les étoiles*, Bruxelles, Nevicata ("L'âme des peuples" collection), 2020, 130 p.
[8] Ulrich Beck, *Macht und Gegenmacht im globalen Zeitalter: Neue weltpolitische Ökonomie*, Frankfurt, Suhrkamp Verlag, 2002, 480 p.

An effective united foreign policy is also necessary to defend European interests beyond its borders and avoid attempts at division by overseas powers. Finally, a new migration and asylum policy must enable Europe to provide answers to a phenomenon which risks worsening because of instability in neighbouring countries and the consequences of climate change.

However, none of these reforms can be achieved without a leap forward in terms of political integration and strengthened supranational governance. If it is to have a truly transnational policy, Europe will need to create spaces where citizens can compare their ideas and interests, and reach a common consensus on the policies to be put in place. In the end, that is the foundation of democracy and Europe will either be democratic or it will not. The old functionalism method is very effective for a market but is severely limited when it comes to tackling sovereign power, building a military power, joint monitoring of borders and new policies to guarantee respect for the rule of law. That is why a new democratic and transnational approach must be developed in this new historic phase.

A federal European Union therefore requires a new transnational policy. Indeed, the European project is already very different from existing federal or confederal models. The overlap between national civil service departments and the European Commission, social partners, industries, civil society and lobby groups is already very advanced and has served to support and strengthen fulfilment of the single market and the most integrated policies, such as the Common Agricultural Policy for example. However, politics is the only human activity which has remained imprisoned by strictly national reasoning. The European elections still do not produce proper European debates; they are still overly influenced by partisan organisations and national reasoning. European political parties are just boxes devoid of political substance. European parties are not real parties but confederations of national parties. Their influence on national parties is still overly limited and they act more like forums for meetings of national leaders or political research foundations. Moreover, they lack visibility and legitimacy, particularly because they are not directly put to the vote by European citizens. Voting directly for European parties via transnational lists would be a necessary first step in the construction of the European political space we would like to see. The emergence of proper transnational movements and political parties would be essential in a political union to 'Europeanise' the debate and give European political movements real legitimacy.

Unlike other existing federal or confederal models, the issue of a new transnational policy (and therefore parties, movements and lists) is essential. Like power, democracy is also no longer something 'exclusive' to States. It must no longer be conceived on the basis of territory but seen through the lens of a different space

outside the strictly national one. Further, removing territory from the idea of democracy is the only way to make politics at all effective in some areas, and therefore it is an essential resource for forging a bond of trust between citizens and institutions, including national, regional and local ones. Far from representing a threat for States and national democracies, a political and democratic union becomes a means of renewing 'power'.

Our proposal for European sovereignty, democracy and power does not therefore mean building a 'European superstate'. On the contrary, to quote Ulrich Beck, it means that '*the Ptolemaic system of the world of nation states is open to the Copernic revolution*', in other words a new European political space which goes beyond national borders. The conditions for such a revolution have come together in Europe today. The *ability to act* or, to borrow an idea so dear to Brexiteers, *take back control* by freeing ourselves from our obsession with the national view and by building a new transnational space for political action must lie at the heart of our analysis, instead of national sovereignty or autonomy.

Over the decades, world leaders have acted either nationally or internationally following Westphalian ideas on the power of nation states when globalisation has actually gradually eroded their sovereignty.[9] Rather than recognise that national policies have become less effective in the face of international issues, particularly damage to our planet and increased social inequalities, Member States have continued to give priority to national approaches.

However, transnational challenges require a transnational effort. Otherwise, citizens will be the ones to pay the price for such a lack of vision. Commitment to sovereignty, European this time, is essential in areas where Europeans' vital interests can only be protected through joint action. It is the only way for politics to take back control over, for example, finance, the environment and the digital transition, and to find influence on the global stage.

The teachings of Denis de Rougemont on the proper attitude and fundamental principles of the idea of Federation also deserve another look: renunciation of any idea of organisational hegemony; renunciation of any 'system-based approach', seeking instead to 'come to an arrangement together', to form different realities such as nations, regions and political traditions; minorities no longer an issue of concern; protect diversity rather than erase it or merge nations into a single bloc; on the contrary, safeguard their own specific qualities; cultivate a 'love of

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[9] Bertrand Badie (23 September 2020), "Aujourd'hui, l'international est d'abord social", *Ideas 4 Development (ID4D)*. Available at: https://ideas4development.org/devaluation-politique-phenomene-social/

complexity' in contrast to the 'brutal simplism' which characterises the totalitarian spirit; political action to be 'step-by-step' by way of people and groups.[10] Dusan Sidjanski's teachings on the method for political action in Europe should also be followed: use promotion, inspiration and coordination; break rigid structures; promote independent participation; introduce multidimensional cooperation.[11]

The new transnational approach takes inspiration from all these structural and fundamental principles.

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The *Conference on the Future of Europe* will begin against this background. This democratic exercise, which is unprecedented in European history and supported by the French President, Emmanuel Macron, aims to promote a great public debate about the mission, goals, policies and institutions of the European Union. What should come out of this Conference has not yet been defined. Some political leaders and groups, such as Germany and the European People's Party, would like the Conference to look at sector-based issues and make proposals which can be achieved within the framework of the treaties. On the contrary, others, such as France, *Renew Europe*, the Greens and the Socialists at the European Parliament, would like the Conference to be given *carte blanche* in terms of the subjects to be tackled and the reforms it judges necessary.

In the following chapters, we will analyse the main challenges facing Europe, point out the shortcomings of the current EU system and propose a way forward to achieve the goal of European strategic autonomy in order to contribute to the Conference and help define its objective.

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[10] See Dusan Sidjanski, "La Fédération européenne est notre affaire", *in* François Saint-Ouen (éd.), *L'Europe de Denis de Rougemont*, Louvain-la-Neuve, Academia / L'Harmattan, 2014 (particularly pp. 139-140). The original text by Denis de Rougemont, called "L'attitude fédéraliste", dates from 1947.
[11] Dusan Sidjanski, *L'avenir fédéraliste de l'Europe : La Communauté européenne des origines au Traité de Maastricht*, Paris, Presses Universitaires de France, 1992.

Guaranteeing respect for the rule of law within the EU

'The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail.'

Article 2 of the Treaty on European Union.

Europe has been the cradle of democracy. European identity is inseparable from respect for fundamental freedoms, the rule of law and democratic governance. This common constitutional heritage has been developed over the last 70 years by national constitutional courts, the European Court of Justice in Luxembourg and the European Court of Human Rights in Strasbourg. This political and legal evolution also has its roots in our continent's painful history of wars and dictatorships over the last few centuries. The two world wars in the 20th century were real civil wars for Europeans. The democratic and ethical reconstruction which took place in the post-war period was also inspired by the legacy of the Enlightenment and our common Judeo-Christian heritage, the Resistance and the absolute tragedy that was the Holocaust.

Over and beyond a simple economic community, the European Union was seen as a shield protecting Europeans from any further potential authoritarian tendencies. As a supranational political structure, Member States can be embedded within a group of liberal democracies bound by economic matters and a foundation of shared values.

As Dusan Sidjanski explains, "*Europe's unprecedented federalism is inspired by common principles and a federal methodology, while still seeking to protect, even maximise, its rich diversity. The Federation requires respect for the values and principles which form the basis of the Union of Europe construct, including democratic principles, but it also guarantees wealth and a harmonious development of the identities of Member States, regions and collective bodies (see the case of Switzerland). [...] These principles of autonomy and participation sweep away French fears when confronted by the issues which periodically return to feed their national debate: the loss of France's identity in a federal union or doubts about the shared sovereignty symbolised by President Macron's*

'sovereign Europe'. Federalism's adaptability and creativity clearly sit well with the online communication revolution and the proliferation of horizontal networks which are restructuring the distribution of vertical powers and hierarchies, and they call for a new societal balance to be found...'[1]

François Saint-Ouen has shown how the assertion of fundamental values and the rule of law is an original feature of the European construct which distinguishes it from purely functional forms of integration. The EU wanted to be identified with transnational values and sought new legitimacy over the 'constitutional patriotism' method, particularly when it expanded for the first time.[2]

However, the institutional and political heritage on which we built the European construct after the Second World War must be strengthened to tackle the return of populism (in new forms) and increased illiberalism in certain European countries. The value-based European model is showing its limitations: the relative respect for these values before and the more recent challenging of them make the current system '*insufficient to serve as a truly efficient basis for the construction of a political Europe'*.[3]

The new union we are proposing must, above all, ensure much more effective internal protection and international promotion of the rule of law and civil liberties. It is quite simply impossible to build a new union without its bedrock of values. This is essential for any new European project. Indeed, no European State (and the European Union even less so) can be assimilated into the American federal experience. European States began the integration process with distinct national identities and the identity of any new political union could only be pluralist and plurinational. Only democracy and political liberalism can keep the diversity of European nations united and govern conflicts and tensions between States. That is why the rule of law and constitutional democracy constitute a *conditio sine qua non* for consolidation of a political and federal union. Respect for the rule of law is therefore a non-negotiable founding principle of this democratic European construct.

Take Kant's *Perpetual Peace*: '*It is, for example, a principle of moral politics that a people should unite into a state according to the only valid concepts of right, the*

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[1] Dusan Sidjanski, "La mise en œuvre des valeurs et principes fondateurs de l'Union européenne", *in* Dusan Sidjanski, François Saint-Ouen, Constantin Stephanou (éd.), *Union de Valeurs?,* Geneva, Dusan Sidjanski Centre of Excellence in European Studies, 2018, p. 200.
[2] François Saint-Ouen, "Valeur Communes et identité nationale", in Dusan Sidjanski, François Saint-Ouen, Constantin Stephanou (ed.), *Union de Valeurs?,* op.cit., pp. 35-49.
[3] Francois Saint Ouen, *ibid.*, p. 35.

ideas of freedom and equality; and this principle is not based on expediency, but upon duty. Political moralists, however, do not deserve a hearing, much and sophistically as they may reason about the existence, in a multitude of men forming a society, of certain natural tendencies which would weaken those principles and defeat their intention. They may endeavour to prove their assertion by giving instances of badly organised constitutions, chosen both from ancient and modern times, (as, for example, democracies without a representative system); but such arguments are to be treated with contempt, all the more, because a pernicious theory of this kind may perhaps even bring about the evil which it prophesies. For, in accordance with such reasoning, man is thrown into a class with all other living machines which only require the consciousness that they are not free creatures to make them in their own judgement the most miserable of all beings. This saying savours a little of boastfulness but is also true: fiat justitia, pereat mundus. *We may translate it thus: "Let justice rule on earth, although all the rogues in the world should go to the bottom." It is a good, honest principle of right cutting off all the crooked ways made by knavery or violence. It must not, however, be misunderstood as allowing anyone to exercise his own rights with the utmost severity, a course in contradiction to our moral duty; but we must take it to signify an obligation, binding upon rulers, to refrain from refusing to yield anyone his rights or from curtailing them, out of personal feeling or sympathy for others. For this end, in particular, we require, firstly, that a state should have an internal political constitution, established according to the pure principles of right; secondly, that a union should be formed between this state and neighbouring or distant nations for a legal settlement of their differences, after the analogy of the universal state.'*[4] Today, the rule of law represents one of the main challenges facing Europe: in terms of its evolution and the role played by the EU's institutions, beginning with the Court of Justice; in terms of 'constitutional' relations at national and European level; and in terms of prevention and sanctions policies in the event of serious violations by EU Member States.

As François Saint-Ouen emphasises, the solemn inclusion of values in the founding treaties is '*proof that European integration is not purely functional or utilitarian as many, if not all, other forms of regional integration across the world are. It aspires (if vaguely) to go beyond dimensionless prosaicness. Hence, what is happening in the European Union is testament to an approach which is ambitious and may be called federal [...] insofar it is seeking to bring different*

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[4] Immanuel Kant (1795), *Perpetual Peace, A Philosophical Essay*, Project Gutenberg, 2016.

peoples together [...] around a set of values that are to be collectively implemented...'[5]

European democracy and authoritarian oxymorons

The growth of populism and the authoritarian tendencies of governments in several Member States are some of the risks facing democracy which the EU has to overcome. We are witnessing a rise in political systems which define themselves as 'illiberal democracies'. This is a real authoritarian oxymoron because democracy and political liberalism are two inseparable concepts. An electoral majority must respect fundamental constitutional principles such as the separation of powers, protection of minorities, and freedom of expression, the press, and academia, etc. These new authoritarian regimes think that an electoral victory gives them absolute power - within their own country and as regards the European Union and other European and international organisations. This tendency also clearly demonstrates the limitations of the functionalism method: economic growth, even when significantly stimulated by the market and common European policies, does not in any way guarantee a strengthening of democracy or the expansion of rights. In Hungary and Poland, for example, it has been the total opposite: economic development has been accompanied by a serious step backwards in terms of democracy.

The incongruence of this oxymoron is also shared by François Saint-Ouen when he asserts that '*[...] the past few years have witnessed the emergence of the beginnings of a set of common values (remnants of the idea of constitutional patriotism) and fundamental rights specific to the EU... However, at the same time it is clear that these values are not fully respected either by the European Union or by certain States, and it is difficult to apply EU fundamental rights more widely through entities such as the Council of Europe, a problem which is still unresolved.'*[6]

The most alarming examples are the policies introduced by the Hungarian and Polish governments which have recently been theorising on a democratic illiberalism, whereby the electoral majority would have absolute power, and aim to systematically restrict the freedoms and arenas of the opposition and civil society.

This attitude was quickly denounced at European level, particularly by the Council of Europe and the European Court of Justice which, through a number of

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[5] François Saint-Ouen, *id*., p. 47.
[6] François Saint-Ouen, *ibid*.

judgements, has managed to prevent application of some of the most oppressive constitutional reforms promoted by Viktor Orban in Hungary and the dismantling of the judicial system sought by the Law and Justice (PiS) party currently in power in Poland.[7]

However, this has not been enough and the political institutions of the European Union find themselves powerless before the action of these two governments.[8]

If the government of a Member State violates the rule of law, all the EU can do currently is employ the procedure provided for in Article 7 of the Treaty on European Union (TEU). This procedure seeks to suspend the voting rights of the government concerned within the Council of Ministers. However, the rules applicable in this instance mean that a veto by a single Member State is enough to prevent this procedure from being triggered, something which makes it *de facto* inapplicable.

The policies of Orban and the Polish PiS party not only undermine democracy in their respective countries, they also eat away at the very foundations of the European Union. Moreover, while being among the largest beneficiaries of the solidarity between Member States, they are the first to run away from their responsibilities when it is their turn to help other States.

Real values at the heart of the budget

Until now, the proclamation and inclusion of fundamental values in the Treaty has only resulted in insignificant consequences at political level. Although these fundamental values are not currently sufficient to achieve a political union, nonetheless their absence and the powerlessness of the European institutions to protect them constitute a major obstacle to constructing such a union.

Back in 2018, the *Dusan Sidjanski Centre of Excellence in European Studies* in Geneva recommended four possible avenues for strengthening prevention and sanctions in the event of violation of the rule of law:

-   Be extremely vigilant about true respect for the values and do not hesitate to impose the political sanctions provided for in Article 7 of the TEU;

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[7] Sébastien Platon, "Coup de semonce de la Cour de justice au secours de l'état de droit en Pologne : la loi sur la Cour Suprême violait le droit de l'Union européenne", *Journal d'actualité des droits européens*, 30 October 2019
[8] K. Scheppele, R. Kelemen, "Defending Democracy in EU Member States: Beyond Article 7 TEU", In F. Bignami (ed.), *EU Law in Populist Times: Crises and Prospects*, Cambridge, Cambridge University Press, 2020, pp. 413-456.

- Extend procedures for infringement of Article 2 of the TEU and the Charter of Fundamental Rights to 'systemic' violations of national legal systems, beyond the areas covered by EU law;
- Authorise the Commission to suspend payment of European grants to States guilty of violating fundamental values and rights;
- Bolster assertion of the values as a desire to provide the EU with real political content conceived as application of the federal approach as evidenced by inclusion of shared values into the integration process.[9]

Respect for the rule of law and democratic principles cannot be fringe elements of European Union policies. On the contrary, they must lie at the heart of the EU's work and, consequently, become a key element in its budget. If the government of a Member State reaps the benefits of European funding and implements a political agenda which runs contrary to the values asserted in the Lisbon Treaty, the EU must be able to prevent such misappropriation.

However, it is essential that any countermeasures taken against a government do not affect the citizens, local authorities and firms to which funding is directed. A form of '*smart conditionality*' must therefore be established. Instead of simply freezing transfers to a Member State, it should be possible to circumvent a government recognised to be guilty of violating the rule of law and ensure that some of the funds are sent directly to certain groups of beneficiaries within the country.

At the European Council meeting in July 2020, during which the NextGenerationEU Recovery Plan was approved, the European Council also expressed support for a cross-compliance system which protects the EU's financial interests.[10]

This declaration of will is a first step. It shows the determination of a large group of Member States to move forward with protection of the rule of law.

On the one hand, in her State of the Union address in September 2020, President Ursula von der Leyen announced the introduction of a mechanism to '*ensure that money from our budget and NextGenerationEU is protected against any kind of*

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[9] François Saint-Ouen, *id*., p. 48.
[10] See points 22 and 33 of the Conclusions of the July 2020 Summit: 22. The Union's financial interests shall be protected in accordance with the general principles embedded in the Union Treaties, in particular the values of Article 2 of the TEU. The European Council will revert rapidly to the matter. General Secretariat of the Council, Special meeting of the European Council (17, 18, 19, 20 and 21 July 2020) – Conclusions, Brussels, 21 July 2020 (https://www.consilium.europa.eu/media/45125/210720-euco-final-conclusions-fr.pdf)

fraud, corruption and conflict of interest.'[11] The fact that the President of the European Commission did not explicitly refer to the rule of law and the fundamental principles of the European Union demonstrated the difficulty of adopting a firm political conditionality clause directly connected to the fundamental values set out in Article 2 of the TEU.

On the other hand, Budapest and Warsaw made explicit threats to block adoption of the Recovery Plan, the Multiannual Financial Framework and the decision on the system of own resources of the EU if the latter continued to attempt to introduce a [12]cross-compliance mechanism on respect for the rule of law.

This shows that, although the conclusions of the European Council provide for use of qualified majority voting, the unanimity required for adoption of the multiannual European budget and the introduction of new EU resources enables Hungary and Poland to block the rule of law mechanism. This only serves to reinforce the need for deep-rooted reform of the EU and particularly abolition of unanimity in decisions on the EU's finances.

The Renew Europe group at the European Parliament proposes the concept of "*smart conditionality*". This proposal uses mechanisms already present in the EU's financial regulations which provide for the European Commission to manage funds directly with certain third-State beneficiaries when their government has violated the rule of law. Such 'centralised' management is already established within the framework of several EU funds (for example the Instrument for Pre-accession Assistance received by candidate countries whereby the Commission can have a direct management relationship with civil society without the intervention of governments).[13]

Such smart conditionality would make it possible to protect political and civil pluralism in the country concerned. Indeed, the situation in Hungary and Poland demonstrates that oppressive policies often start with reduced financial support for civil society players, including the media and NGOs, as well as higher education establishments. Cross-compliance must target central government and

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[11] European Commission, State of the Union Address by President von der Leyen at the European Parliament Plenary, Brussels, 16 September 2020.
 (https://ec.europa.eu/commission/presscorner/detail/en/speech_20_1655)
[12] Lili Bayer and Zosia Wanat, "Poland joins Hungary in threatening to block EU's budget and coronavirus recovery package", *Politico*, November 16, 2020.
[13] *Renew Europe*, "Smart conditionality: how the European Commission could centrally manage EU funds through direct and indirect management", Brussels, 7 July 2020 (consulted on 20/07/2020 at:

https://reneweuropegroup.app.box.com/s/3kxy4ho6hotltezhkua80yes9wzgb7zb)

the oligarchs who control financial flows, but it must protect the prerogatives of independent beneficiaries, such as local authorities, associations, NGOs and independent research centres, which must be able to continue to receive EU funds and benefit from EU programmes.

This new strategy would also prevent the country's population becoming alienated after its government has been the subject of proceedings for violating the rule of law. Until now, governments have been able to claim victimisation of the population in order to justify their actions. If certain European funds were to be maintained through a direct channel between the Commission and citizens, at least for some programmes, this argument would be less effective. It would be a matter of planning for the possibility of direct management of funds by the Commission under exceptional circumstances, accompanied by proceedings against the governments targeted, and a very effective communication and information campaign in the country concerned to raise public awareness.

In November 2020, the European Parliament wrestled a new agreement on the rule of law and the budget out of the European Council thanks to the cohesion of the main political groups. This represents considerable progress which could become truly historic if the Commission and a majority of the Council show the courage needed to implement it. This agreement sets out that the Commission can suspend European funds intended for a Member State in the event of a risk of a serious breach of one of the principles of Article 2 of the TEU, particularly as regards independence of the justice system, misuse of power and corruption. The Council still has one month to approve the Commission's decision by qualified majority and this deadline can be extended to three months. In the event that European funds are frozen, the State sanctioned should also fulfil its obligations towards the beneficiaries of the 'frozen' European funds by using national funds. This is a transformation which would never have been possible in ordinary times and which confirms that the extraordinary times we are currently experiencing are highly opportune for pushing through an agenda for unprecedented political adjustment and transformation.

Securing values

Defending the rule of law is one of the most significant challenges facing the EU. The 'human security' we propose requires the securing of fundamental values above all. Securing such values is an essential basis for any future political union. That said, the EU must have real political power to defend democracy and the rule of law. As Viviane Reding herself has said, '*If a Member State no longer respects these values, this represents a challenge to the European Union itself; and if*

Europe allows its authority to be flouted by its own Member States, then it loses all credibility, including in economic terms as no company will invest in a State where the independence of the judiciary is not guaranteed or where private and commercial law is not applied.'[14] Without a Europe which is a power in its own right able to defend its values, the tendencies of certain countries will continue and it will be quite simply impossible to propose how real progress can be made in terms of European integration.

This is why, over and beyond the smart conditionality used for the budget, the EU must be able to speak out against all forms of violation of the rule of law and adopt an unequivocal position as soon as a Member State shows signs that its democracy is being damaged. The very credibility of its institutions and the project it embodies is at stake. We must encourage a return to democratic values in Member States and show unfailing determination in the battle to defend democracy.

Imminent reform of the mechanism for overseeing the rule of law and fundamental freedoms within the EU should focus on three principles: early detection of violations, progressive countermeasures and how the mechanism is applied.

With regard to early detection of violations, given that oppressive policies are usually accompanied by corrupt practices, the supervisory powers of the European institutions, as well as the European chief prosecutor, should be extended (on the basis of an agreement between the Parliament, the Commission and the Council).[15] This is a good example of how complex it can be to secure the values which are indispensable for a political union.

Like the European Semester (a mechanism for monitoring national budgets), a periodic assessment of the democratic health of Member States should be established. On 30 September 2020, the Commission published its first annual report on the rule of law in Europe.[16] It assesses the situation in Europe's various nations as regards the rule of law in the light of reports provided by governments,

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[14] Viviane Reding, "Les valeurs européennes en question. Comment garantir leur mise en oeuvre? " in *Union de valeurs?*, *op. cit*., p. 28.

[15] The first European Chief Prosecutor, Laura Codruța Kövesi, notes with regret that: *'Although the creation of a European chief prosecutor is an historic moment, the negotiations which preceded the advent of the role nonetheless reduced the level of ambition of the initial project.'* Laura Codruța Kövesi, "Le Parquet européen : espoirs et défis", in Fondation Robert Schuman, *Rapport Schuman sur l'Europe 2020 - l'Etat de l'Union*, pp. 35-38.

[16] https://ec.europa.eu/info/publications/2020-rule-law-report-communication-and-country-chapters_en

National Human Rights Institutions (NHRIs) and a public consultation process enabling NGOs in a particular country to contribute their observations. It includes four chapters on the judicial system, frameworks for combating corruption, freedom and pluralism of the media, and the balance of power between institutions.

It is crucial that this report be debated within the national parliaments of the 27 Member States and that the issue of 'securing values' as a whole be addressed within the framework of the *Conference on the Future of Europe*.

The Commission's report is an important first step for guaranteeing constant oversight. It means that open debate can be maintained and anti-democratic practices can be detected early on.

This first report also deserves credit for considering the body of European legislation on the rule of law. This includes components of the treaties (Article 2 of the TEU and the EU Charter of Fundamental Rights) and the jurisprudence of the European Court of Justice and the European Court of Human Rights (ECHR), as well as the work of the Venice Commission and the Group of States against Corruption (GRECO).

However, the report only focuses on certain aspects of the rule of law. It remains very sector-specific and its approach is sometimes too formalistic. For example, with regard to justice, it does not sufficiently analyse the crisis in the relationship between the judicial authorities and the political world, and does not allude to cases of judicial abuse which have been recurrent in several Member States, such as, for example, excessive use of pre-trial detention and inadequate compensation systems for victims of justice, or the issue of relations between the justice system and the media, and regular violations of the right of confidentiality of preliminary investigation proceedings.

The evidence of the last few years demonstrates that democracy and respect for the rule of law are not an established right in Europe. The risk of authoritarian tendencies is real, including within European societies, and it must be taken seriously. The European Union must rise to this challenge.

Although there is still a long way to go, the impetus of a group of States which are very committed to this issue and the European Parliament, as well as the drive for reform inspired by the COVID-19 crisis, provide a window of opportunity for implementing these reforms. Further, maybe hope will come from women who are increasingly committed to taking action to defend fundamental rights. Just look at the demonstrations by Polish women, the new campaigns against violence towards women and the work of women in key posts, such as Laura Codruţa

Kövesi in Romania, Zuzana Caputova in Slovakia, Helena Dalli from Malta and Vera Jourova from the Czech Republic in the European Commission. Above all, a new political and inclusive European Union must guarantee that its '*fundamental values are secured*.'[17]

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[17] See Jean-Marc Ayrault, Dusan Sidjanski, François Saint-Ouen (éd.), *L'avenir de l'Union européenne, op. cit*.

The new cold 'disinformation' war

A new policy on 'human security' is also essential for protecting our democracies. 'Securing our freedoms' also depends on our ability to combat disinformation, a new form of 'cold war' against democracies and particularly against the EU. Intentionally circulating fake news for economic or political gain is a serious threat to democratic societies. This then is another important priority for our future political union.

The Internet and social media were originally created to facilitate the circulation of information and to maintain interpersonal social relationships. However, over time, these platforms have become enormously powerful when it comes to structuring the democratic debate. As Emmanuel Macron has said: '*this remarkable creation [social media and the Internet], which was initially made to exchange knowledge and circulate it within an academic community, has become an extraordinary instrument for disseminating information. Nonetheless, it has also become two dangerous things : an instrument for the viralisation of emotions, whatever they may be – which means that each person sees themselves in the world and in the other's emotion, out of context, for better or for worse -, and a de-hierarchisation of all self-expression, and therefore of objection to any form of authority, be it political, academic or scientific, which helps shape life in democracy and society, simply because it is there, someone has said it, and it has the same value from wherever it is said. We have not yet sufficiently taken this on board. We have not organised a public order for this space. This virtual space over-determines our choices today, and at the same time it transforms our political life. And therefore, anthropologically, it disrupts democracies and our lives.*'[1]

Although propaganda and the use of misinformation have been part of the political game since the dawn of time, new information technology provides national and international groups, as well as overseas authorities, with a very significant lever for interfering with the political processes of European countries. European States must make these tools more transparent to protect the space for democratic debate and make the system less vulnerable to foreign interference, multinationals and various lobby groups.

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[1] *Le Grand Continent* (16 November 2020). 'The Macron Doctrine: A Conversation with the French President' Available at: https://geopolitique.eu/en/macron-grand-continent/

Over the last few years, several electoral processes in Europe and the United States have been the target of disinformation attempts from third countries. Russian interference in the Brexit referendum in 2016[2] and the scandal involving the British company Cambridge Analytica are well-documented and have been proven by an investigation by the UK House of Lords whose conclusions were published in July 2020. It is highly likely that Russia also attempted to influence the American elections[3] and the constitutional referendum in Italy in 2016. Christopher Wylie has analysed the highly sophisticated techniques and influences used by Cambridge Analytica to influence American and British elections in 2016. He has criticised shocking practices such as the fact that a company created an enormous database on citizens, some of the information contained therein being collected illegally; and that there is interaction with military clients, something which poses a serious risk and obscures the boundary between surveillance and marketing research. He has also shown how Cambridge Analytica exploited a number of conspiracy theories and then concentrated on groups more susceptible to believing conspiracy theories to create narratives reinforcing the cause of Republicans and alt-right candidates.[4] Further, Facebook sold more than 50 million pieces of data to Cambridge Analytica...

As well as electoral processes, foreign attacks have also sought to exploit moments of crisis to undermine the confidence citizens have in their institutions. According to a joint statement on 10 June 2020 from the Commission and the High Representative: 'Foreign actors and certain third countries, in particular Russia and China have engaged in targeted influence operations and disinformation campaigns around COVID-19 in the EU, its neighbourhood and globally, seeking to undermine democratic debate and exacerbate social polarisation, and improve their own image in the COVID-19 context.'[5]

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[2] House of Commons, *Report on Russia*, 21 July 2020.
(https://docs.google.com/a/independent.gov.uk/viewer?a=v&pid=sites&srcid=aW5kZXBlb
mRlbnQuZ292LnVrfGlzY3xneDo1Y2RhMGEyN2Y3NjM0OWFl)
[3] *Report of the 116-XX Selected Committee on intelligence*, United States Senate on Russia active measures, campaigns and interference in the 2016 U.S. election, Volume 2: Russia's use of social media with additional views
(https://www.intelligence.senate.gov/sites/default/files/documents/Report_Volume2.pdf)
[4] Christopher Wylie, *Mindfuck: le complot Cambridge Analytica pour s'emparer de nos cerveaux*, 2019. Paris, Grasset, 2020.
[5] Commission and High Representative, Joint Communication to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions, *Tackling COVID-19 disinformation - Getting the facts right,* 10 June 2020, Brussels.

The World Health Organisation (WHO) explains the vulnerability of democratic societies vis-à-vis disinformation through the concept of an 'infodemic'. An infodemic is an over-abundance of information which prevents the recipient from identifying a solution. According to the WHO, this situation encourages the circulation of misinformation and rumours about the health situation and can compromise the health response of authorities and create confusion and mistrust among the population.[6]

A study carried out by MEP Maite Pagazaurtundúa[7] demonstrates that online platforms directly connected to overseas governments have exploited the pandemic to feed dissatisfaction with the EU. In particular, the study revealed that between March and May 2020, 65 platforms based in Europe, Russia, Iran, China, Latin America and the United States published malicious anti-EU material on 311 occasions to weaken its legitimacy with European citizens.

As touched upon in the Statement by France, Lithuania and Latvia in September 2020[8], democracy rests on trust which itself builds on fairness and transparency. All necessary efforts should therefore be continued to ensure that these values are protected. This is essential for the construction of a new European 'power'. Without it, any project for a political union would be destined to fail.

In order to combat disinformation, the Commission had already adopted the Code of Practice on Disinformation in 2018[9] which proposed rules for online platforms to prevent fake news during the 2019 European Parliament elections. This Code of Practice was a good first step but it is not sufficient to protect democracy and individual rights in Europe. New legally binding European regulations are required.

In the first, instance, the European Union must establish common definitions of concepts surrounding disinformation, propaganda and fake news to be able to put in place specific countermeasures. Preventing the circulation of fake news is

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[6] World Health Organisation, *Coronavirus disease 2019 (COVID-19), Situation Report – 45*, 5 March 2020 (https://www.who.int/docs/default-source/coronaviruse/situation-reports/20200305-sitrep-45-covid-19.pdf?sfvrsn=ed2ba78b_4)

[7] M. Pagazaurtundúa, J. Lesaca (2020). "Narratives to Break Up Europe in the Covid 19 Crisis".

[8] Elysée Palace, 'Joint Statement by the Presidents of France and Lithuania and the Prime Minister of Latvia on the Protection of Democracies', 28 September 2020 (Consulted on 28/09/2020 at https://www.diplomatie.gouv.fr/en/country-files/lithuania/events/article/joint-statement-by-the-presidents-of-france-and-lithuania-and-the-prime)

[9] European Commission*, EU Code of Practice on Disinformation*, 2018 (https://ec.europa.eu/digital-single-market/en/news/code-practice-disinformation)

essential. In this respect, the European Union should coordinate the work of 'fact checkers'[10] and collate their conclusions, as well as fund them (without prejudicing their independence) to enable them to operate better and more efficiently.

At the same time, we must focus on digital education nationally and at European level. Digital education is not only an economic and social issue; it is above all a question of citizenship. We must urge and encourage citizens to confront these digital challenges with a critical frame of mind. This issue will be fully considered in the new European digital strategy, which will devote 20% of resources to digital challenges, and also as part of implementation of national recovery plans.

Further, it is important to prevent online platforms from benefiting financially from the circulation of factually fake content. On the contrary, the EU should encourage the creation of joint alert mechanisms so that users can filter any information circulated.[11] Transparency must be the guiding principle of a single strategy, particularly as regards online political communications, sponsored content and the withdrawal of illegal content.[12]

To protect the political pluralism which is the foundation of European democracies, it is crucial that the rules which are applied to the physical world be extended to the digital world. Firstly, the principle of reasonableness requires that the speaking time of parties participating in an election not be only calculated and limited within traditional media outlets, such as television and radio, but also on social media.

Rule 1141/2014[13] on funding European political parties must also be updated to ensure that it does not only prohibit direct forms of external financing but also indirect financing. Similar work should also be carried out at national level because forms of funding and support for political parties have changed significantly over the last few years and updated national legislation seems increasingly necessary.

Combating disinformation must also be strengthened and integrated into the scope of application of the Common Security and Defence Policy so that the

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[10] *Renew Europe* (2020). "Position Paper on Countering Disinformation". p. 7. Available at https://reneweuropegroup.eu/en/news/1618-position-paper-on-countering-disinformation/
[11] *Ibidem,* p. 5.
[12] Mariete Schaake, "How democracies can claim back power in the digital world". *MIT Technology Review*, 29 September 2020 (consulted on 30/09/2020 at: https://www.technologyreview.com/2020/09/29/1009088/democracies-power-digital-social-media-governance-tech-companies-opinion/)
[13] *Idem.*

European Union is able to neutralise external interference sponsored by third-State governments. This would enable the Commission and the European External Action Service to collect requests from Member States and promote them against a background of stronger cooperation in the field of disinformation and hybrid threats within international organisations, and particularly the Council of Europe.[14]

Further, the EU must introduce specific countermeasures against attacks from Russia and China seeking to influence electoral processes. European and western societies must ensure transparency on digital platforms to protect themselves from attempts sponsored by third States seeking to destabilise them and be prepared to respond through proportionate measures when such attacks occur.

The EU must lead a global democratic coalition aiming to define joint rules and standards based on democratic principles and respect for individual rights. This would offer a credible alternative to the authoritarian Chinese model or the ultraliberal option requiring comprehensive delegation to the private sector.[15]

A group representing the democratic powers could also push within the World Trade Organisation (WTO) (which itself needs significant reform) for the adoption of new rules to be applied to digital trade, while coordinating efforts to counter cybernetic attacks and hybrid threats.[16] However, in order to be able to play this global role, the EU must protect the rule of law and the democratic principle extremely effectively within its own space.

Here, then, is another area for strategic action for a European political union on the global stage.[17] The digital world and the world of information is changing at an

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[14] *Renew Europe*, "Position Paper on Countering Disinformation", 2020, p. 11. (Consulted on 30/09/2020 at
https://reneweuropegroup.app.box.com/s/b3i75mntpbbwu8la0m83qy7azzfh3c3a)
[15] M. Schaake (2020). "How democracies can claim back power in the digital world". *MIT Technology Review*. Available at:
https://www.technologyreview.com/2020/09/29/1009088/democracies-power-digital-social-media-governance-tech-companies-opinion/.
[16] *Idem.*
[17] Thierry Breton, 'The challenges underlying artificial intelligence: in which way is Europe's approach geopolitical?', in Fondation Robert Schuman, *Schuman Report on the Europe 2020 - State of the Union*, June 2020, pp. 77-81. Europe's economy produces the largest volume of industrial data in the world, a major asset in the development of European artificial intelligence. The ability of Europeans to establish themselves as leaders in the field of the Internet of Things will therefore depend on their ability to manage access to that data.

extraordinary rate, so successfully that it is often difficult for our democratic systems to adapt. Our institutions must introduce the necessary safeguards to protect space for democratic debate and our electoral processes.

European data regulations must therefore make it interoperable and enable it to be accessed, transferred and shared, while ensuring that personal data is processed in compliance with fundamental user freedoms. The construction of a European digital market therefore includes the creation of a safe space for data across the continent, enabling the avenue of European big data to be exploited.

Industrial transformation, and environmental and social reconciliation

'Climate security' and sustainable growth represent possibly the best way to establish an emotional connection between Europe's young people and the European project. The European Union is already deeply involved in this watershed moment for the environment. The Green New Deal and NextGenerationEU programmes are proof of that. The current crisis is creating a variety of economic and social challenges for Europeans and its real impact will only be revealed when the virus has been defeated.

The EU could turn this crisis into an opportunity to intensify the single market by accelerating the green and digital transition. Through such a transformation, Europe could become a world leader in sustainable innovation and growth, and promote more equitable trade relations with its global partners and competitors. Another element of 'European power' in a truly political union is 'green power'.

Firstly, the political union must be able to improve its industrial fabric. This aspect of industrial power also has an extraterritorial dimension: guaranteeing the conditions for fair competition at home as well as across the world.[1] Thinking that China or the United States will follow existing European competition rules appears increasingly naive. On the contrary, at a time when multilateralism seems to be yielding to an aggressive trade policy from the United States (we will see if that changes with the Biden administration) and China's neo-colonialist New Silk Road project (confirmed in the new Chinese Plan), a European competition policy which prevents the emergence of European leaders through the merging of national groups (see the case of Alstom-Siemens) constitutes an obstacle to the development of a European industrial power and therefore also a new political union. Reform of competition law is therefore necessary, particularly as regards new trade and digital matters.

We must push for a reform which provides solutions to the issue of State aid, from which many companies outside the EU benefit, a new definition of monopolies and

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[1] Economic and Monetary Affairs Commission of the European Parliament, *2019 Annual Report on competition policy (2019/2131(INI))*, rapporteur: Stéphanie Yon-Courtin, 25 February 2020.

new instruments to prevent abuse of a dominant position by non-European economic operators.[2]

A new political union must also establish itself as a leader in technological innovation. Although creating partnerships, taking risks and investing are activities carried out by the private sector, mobilisation of public and private energies could allow Europeans to make considerable qualitative technological progress. By creating a consensus on the strategic projects to be supported, Europe could co-finance and encourage transnational partnerships, referred to as *Important Projects of Common European Interest (IPCEIs)*[3]*,* better able to develop technology that will ensure European sovereignty, respect for the EU's climate commitments and the creation of jobs within its territory.

Europe already has many assets which can help it become the world's largest carbon neutral economy with sustainable agricultural systems which protect biodiversity. The recent reform of the Common Agricultural Policy is leaning in this direction and is establishing a strong link between agricultural requirements and environmental priorities. This transformation is an opportunity: it will help create jobs, wealth and investments, and improve quality of life. Supply chains have been completely transformed and new technologies developed since 2010.[4] Strategically, investing in this technology could be very attractive for Europe as it would enable the latter to balance recovery of the economy with creating jobs and combating climate change.

Further, investment in technological development would mean that achievement of the strategic autonomy the EU is looking for would be guaranteed. As Emmanuel Macron has said: '*Europe needs to build its own solutions in order not to depend on American or Chinese technologies. If we are dependent on them, for example in telecommunications, we cannot guarantee European citizens the secrecy of information and the security of their private data, because we do not have this technology. As a political power, Europe must be able to provide solutions in terms of cloud technology, otherwise your data is stored in a space*

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[2] *Idem*
[3] European Commission (2019). "Industrial policy: recommendations to support Europe's leadership in 6 strategic business areas."
[4] The cost of the transition has been greatly reduced, particularly in the fields of renewable energy, zero emission mobility, agro-ecology, energy efficiency, etc. Ten years ago, the profitability of home insulation renovation had not yet been demonstrated and zero emission cars were only prototypes. The average levelised cost of energy produced by onshore wind farms from 2010 to 2019 dropped by 31%, while that produced by solar photovoltaic systems fell by 131%. See IRENA, "Renewable Power Generation Costs in 2019" *International Renewable Energy Agency*, Abu Dhabi, 2020, p. 13.

that does not come under its jurisdiction – which is the current situation. So, when we talk about such concrete issues as this, we are actually talking about politics and citizens' rights. If Europe is a political space, then we have to build it so that our citizens have rights that we can politically guarantee.'[5]

Europe's institutions must also rise to the challenge by updating their economic tools. The European Semester must reflect the EU's ambitions as regards carbon neutrality. It must include regular reports on sustainability, including recommendations specific to each country, as well as rules making it possible to apply those recommendations. The EU's budgetary rules, which have been strengthened following the financial crisis, must reflect today's environmental priority. National investments in the infrastructure required to combat climate change must be exempt from the Stability and Growth Pact's deficit rules. The goal is to encourage governments to invest in sustainable growth and the EU's rules must not be an excuse for not doing so. Further, the EU Emissions Trading System (ETS), also called the '*greenhouse gas ceiling and trading scheme*", must be improved: it should cover all manufacturing operations, including in sectors such as aviation and marine transport, and we should abolish the system of free emissions allowances.[6] Expansion of the ETS would ensure fair distribution of the cost of global warming and it would also provide additional resources for investing in the energy transition.[7]

European trade policy must also be used for the strategic autonomy of the EU and this new European power. At multilateral level, the EU must fight for the survival of the WTO and a global trade system based on clear, fair and binding rules. The new Biden administration should share this goal to reform and revive the WTO. At the same time, the EU must defend itself against the aggressive policies of other States, starting with China. First, new defence instruments must be adopted to protect European companies from unfair competition from overseas companies established outside Europe that are massively subsidised by their governments. Secondly, the EU should make sure that access to public markets with non-EU States is reciprocal (parallel opening of public markets - the EU has often opened its markets without requiring reciprocity from its partners), as well as support European companies as regards calls for tender in strategic sectors, such as health, in order to strengthen European autonomy and sovereignty.

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[5] *Le Grand Continent* (16 November 2020). 'The Macron Doctrine: A Conversation with the French President' Available at: https://geopolitique.eu/en/macron-grand-continent/
[6] S. Frank, "The EU Emission Trading System – carbon pricing as an important tool to achieve the objectives of the Green Deal", *ECA Journal,* February 2020, p. 179.
[7] *Idem*.

Supply chains - and raw materials in particular - must continue to be diversified through an ambitious and balanced trade programme. The choice of overseas investments in strategic sectors must also be strengthened to reduce dependency on third States, and the (re)location of investments in Europe should be encouraged.[8]

Europeans must demonstrate their political desire to choose how to further intensify the single market to benefit companies and citizens. However, support for new activities and innovation must be supplemented with a review of forms of protection for workers which must become more efficient and be adapted to new categories of worker, particularly in the digital sector. Industrial and digital power must go hand-in-hand with 'social security' in this new union, where one of the key goals must also be to 'reconcile' societies which are increasingly being ripped apart because of growing inequalities and insecurities.

However, the current legal structure and division of responsibilities between the EU and Member States is a major obstacle to finding a balance between competition policy, social policy and industrial policy. While the Commission enjoys significant power as regards competition policy, the EU only has supporting competence in terms of industrial development and social protection. Reconstruction of Europe's industrial sovereignty and social reconciliation therefore require certain powers connected to industrial and social policies to be transferred to the EU. The construction of a political union equipped with the necessary industrial power and which is fairer socially necessitates a review of how responsibilities are divided between States and the EU in these areas, something which will require political initiatives by a group of countries for now and a review of the treaties in the long term.

This new European industrial power must also be environmentally friendly and sustainable.

By encouraging a circular economy and sustainable production and consumption, the EU can reduce its environmental footprint and streamline use of natural resources through innovation. The approach could be sector-specific and concentrate on those sectors that use the most resources and where there is strong potential for reuse, such as electronics and IT, batteries and vehicles, packaging, plastics, textiles, building and construction, and food and water.[9]

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[8] European Commission (2020). 'A New Industrial Strategy for Europe' COM (2020) 102 final.

[9] European Commission (2019), 'Industrial policy: recommendations to support Europe's leadership in 6 strategic business areas'

Significant work to raise awareness and mobilise citizens is required. Citizens must absolutely be made aware that the sustainability of our economies will never be a barrier to growth. In fact, the Commission anticipates that implementation of the circular economy goals will also lead to the creation of 700,000 new jobs.

Firstly, there has never been such strong youth support for transformation of the European economy to achieve sustainability goals and more social justice, in Europe and across the world. Secondly, the environmental transition itself offers Europeans the chance to reform their economy and enjoy growth and job creation again. What the EU needs is the political will to act.

Such a desire to act certainly involves risks and costs, but these could be significantly lower than sticking with the status quo. Europeans must act together now and leave inertia behind. This information and these issues should be the subject of debates and citizen consultations at the *Conference on the Future of Europe* and, subsequently, in-depth reforms.

The green movement and the digital sector: the coal and steel of the 21st century

The new European Union must also have new policies to revive the economy and conduct environmental transformation. 70 years after the Treaty of Paris establishing the European Coal and Steel Community (18 April 1951), the future political union must aim to become a true environmental and digital superpower. Green energy and the digital sector must become the EU's new coal and steel in the 21st century. They should play the same federating role in Europe and modernise national economies.

The health, social and economic repercussions of the COVID-19 crisis have been felt across Europe in every country, sector and socio-economic level. The crisis has tested the resilience of our societies and solidarity within the EU, and has forced governments and institutions to act. The European Recovery Plan, adopted on 21 July 2020 and endowed with 1,820 billion euros, is an unprecedented fundamental first step to tackle the economic and social consequences of the pandemic across Europe.

Although the health crisis is still ongoing, a clear choice in support of the generations of the future must absolutely be made. So, the market must be revived, social needs met and economic players given the confidence they need to invest and make Europe stronger by benefiting from the great economic potential of the green and digital transitions. These priorities for the European recovery were also shared by Emmanuel Macron when he said: '*There is a positive struggle, which is to make Europe the leading power in education, health, digital and green policies. These are the four major struggles, which mean that we will take up these four major challenges. So the dream is massive investment to do just that. I think that we have entirely the possibility to do so, that the recovery plan we have put in place is a step in this direction, as are our national policies. This is a dream for ourselves. It is a very rallying goal, which will change a lot of things. But I think that we can expect a global impact from it, because it will draw in China and the United States behind something very federative, which is also the condition required to live in harmony at home and with the rest of the world. I included education because I think it is one of the challenges that we have left behind, and it is a major one.*'[1]

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[1] *Le Grand Continent* (16 November 2020), 'The Macron Doctrine: A Conversation with the French President'. Op. cit..

The green and digital transitions represent areas where the advantages of our proposed transnational and European approach (with the EU acting as an engine for internal transformation and international negotiations) are perhaps the most obvious. We must build new forms of protection: a human security policy in these areas can be about both prevention and changing the direction of our collective choices, reversing the trend and turning the health emergency and the green transition into real opportunities for constructing new European autonomy in a win-win strategy. This new outlook opens up new possibilities for transnational sovereignty. However, thinking and acting in national terms is doomed to failure in the face of matters whose origins and causes are global, be they a microscopic virus or global warming.

European action rests on common goals implemented at different levels (EU, States, regions, local authorities, etc.) depending on the efficacy of the action concerned and the needs to be met, and on the basis of the principle of subsidiarity. However, in this historic phase, the new policies to be implemented require more intense horizontal and transactional interaction between the various players.

In her speech before the European Parliament Plenary in May 2020, President von der Leyen declared that '*sooner or later our scientists and researchers will develop a vaccine against coronavirus. For climate change, however, there is no vaccine.*'[2] That is exactly why investments must focus on a green recovery and new technology, putting sustainability at the heart of the European economic and social model.

The Green Deal is the EU's flagship tool for putting Europe on the path to carbon neutrality in accordance with the Paris Agreement. The goal is to become the world's first carbon neutral continent. By 2050, Europeans will not emit any more CO_2 than our countryside, forests and oceans are able to absorb.[3] The circular economy must also become automatic at European level: food waste reduced, non-reusable and non-recyclable plastic packaging banned, products made more sustainable and a right to redress created for consumers across the EU.

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[2] Speech by President von der Leyen at the European Parliament Plenary on the new MFF, own resources and the Recovery Plan, Brussels, 13 May 2020 (https://ec.europa.eu/commission/presscorner/detail/en/speech_20_877)

[3] European Commission (2020). 'A Farm to Fork Strategy for a fair, healthy and environmentally-friendly food system' COM (2020) 381 final, p. 6.

All the EU's economic mechanisms must be adjusted to guarantee adaptation by the whole of Europe in order to move to a carbon neutral economy. These economic mechanisms must respond to the need for the transnational level to take back control and provide the future political union with new instruments for action. Indeed, we must also exploit another modern opportunity: no European State can achieve these goals alone but all European States find themselves needing to build new transnational alliances to achieve them. This would create a concept of interdependency which could have a two-fold effect on integration: it would encourage the emergence of a more political union, and it would drive this union towards an 'extraterritorial' view of its goals, particularly in the environment and digital sectors. Such an approach could finally push towards a new form of 'power'.

So, we must follow a dual path: address immediate priorities with greater creativity, as we have done with the European Recovery Plan which establishes new instruments (European joint debt, own resources, recovery bonds, etc.), and, at the same time, begin a new phase of democratic and institutional reform of the European Union, particularly within the framework of the *Conference on the Future of Europe.*

A new green transnational strategy will also be based on national and European recovery plans. There is an increasingly clear political desire among a number of governments (France, Germany, the Benelux nations and Scandinavia in particular but also Italy and Spain more recently) to be involved in this strategy, which could turn Europe into a sustainable power. In fact, the Green New Deal was supported by 26 Members States at the European Council meeting in December 2019, with a withdrawal option for Poland. Moreover, in January 2020, the Commission's project also garnered broad support from the European Parliament, which voted for a resolution in favour of the agreement by 482 votes to 136 (with 95 abstentions), with requests for greater ambition.

A green recovery is the only option possible and we must act quickly. The situation is urgent as the reasons for a federal approach to combating climate change are increasingly evident. The EU must update all its policies to guarantee that the structure of the European economy is adapted to the new goals of the green transition. In particular, the EU must update its rules in terms of energy production, agriculture, sustainable investments, the circular economy, building renovation and biodiversity. The start of this process has been encouraging: the Parliament and the Council are in the process of negotiating the 'Climate Law' which will make the EU's commitment not to emit any greenhouse gases by 2050 legally binding. Final adoption is planned for the beginning of 2021.

The Green Deal will not only contribute to implementing an ambitious and responsible environmental policy. It will also encourage economic growth. The European Commission has estimated that implementation of the goals of the circular economy will contribute to the creation of 700,000 new jobs. The EU could establish itself as world leader in clean energy production through substantial investment in research and an adaptation of industry to levelized climate principles.

Implementation of the Green Deal and a 55% reduction in emissions compared to 1990 levels by 2030 will require annual investment of 229 billion euros. Although this figure seems exorbitant, it only represents 0.5% of European GDP. Thereafter, the final phase of implementation between 2030 and 2050 will require additional investment of 1 to 2% of GDP. As well as promoting growth, the Green Deal will ensure that the devastating recessive effects of environmental damage can be avoided.

In this regard, the climate could also be where Europe's young people and the new political union come together.

However, there will be no green transition if we do not involve and convince all our societies that this project will not compromise their well-being. In fact, as Emmanuel Macron remarked, '*[...] We have to bring everyone on board in this change. We have to show that everybody is a player, and we have to do it by giving everyone a place, that is to say, by massively developing new economic sectors to create new jobs faster than we destroy old ones. Because let there be no mistake: this change comes after one of the great changes we spoke about earlier, that of globalisation in an open capitalist system. The European and Western democracies' middle classes have experienced change as synonymous with sacrifice. When we said, "We are going to change things for the better" like trade, they lost their jobs. If we now tell them* "Climate transition is really good because your children will be able to breathe, but it's you who will pay the price yet again because we are going to change your jobs and your lives, but not the lives of the powerful, because they live in fancy neighbourhoods, don't drive a car anyway, and will still be able to fly to the other side of the world," it will not work.'[4]

All the measures described above are crucial but will never be enough on their own to transform our economies quickly enough. The EU must do more with

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[4] *Le Grand Continent* (16 November 2020), 'The Macron Doctrine: A Conversation with the French President' Op. cit.

regard to investments from the private sector, national budgets and the European budget.

The European Investment Bank (EIB) must lead by example at EU level by turning itself into a 'climate bank' to fund environmental projects across Europe. It must accelerate innovation in terms of clean energy, energy efficiency and renewable energy while ending the financing of fossil fuels. Impact assessments on climate change should therefore be introduced for all EIB investments, penalising projects which would contribute to climate change and supporting projects which combat it.[5]

Although the EU clearly has an enormous role to play in combating climate change, Member States have a role to play too. They should undertake to abolish grants for fossil fuels progressively in line with an agreed schedule and the EU's emissions goals. Such progressive abolition would ensure that disparities could be avoided in Europe and funds could be released for other essential measures, while still guaranteeing appropriate compensation for the social costs (such as a tax reduction for the lowest incomes).

President Macron and France's Minister for the Economy Bruno Le Maire have stated quite rightly that the recovery must not only be green but also rest on solidarity.[6] The energy transition will lead to changes for many people working in areas which must be progressively abandoned. If the transition is to receive sustainable support from the public across Europe, we must support the regions, companies and people most affected. The 'Just Transition Fund', which has been created recently within the framework of the new EU multiannual budget, aims to achieve precisely that goal: reduce the socio-economic impact of the transition on those regions which will have to contemplate major action (mining regions for example [7]) to move towards a sustainable economy and low CO_2 emissions. Investments in the new Just Transition Fund must support workers in carbon and oil intensive industries who need to be retrained in order for those regions to become climate neutral quickly. Just as with the EIB, all projects funded by the EU must comply with our climate goals. For example, funds for transport infrastructure which has a negative effect on climate change should be progressively abolished

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[5] Karlo Hainsch et al. (2020), "Make the European Green Deal real : Combining climate neutrality and economic recovery", *DIW Berlin*: *Politikberatung kompakt*, No. 153, p. 11, Deutsches Institut für Wirtschaftsforschung (DIW), Berlin.

[6] Elysée Palace, the President of the Republic's address to the nation, 14 June 2020 (https://www.elysee.fr/emmanuel-macron/2020/06/14/adresse-aux-francais-14-juin-2020)

[7] A. Widuto, P. Jourde, "Just Transition Fund", *European Parliamentary Research Service,* 2020, p. 3.

and we should instead give priority to investment in the infrastructure and technology required for the energy transition.

As well as public money, Europe must encourage private investment to make the economy more sustainable and the financial sector more environmentally friendly. That is why a common classification system (known as 'taxonomy') is important: it would define the types of investment and economic activities which are environmentally sustainable and those which are not. This would encourage private investment in sustainable growth. We must ensure that such a form of classification is applied fully and in all areas by the end of 2021. Sustainable finance should not be a niche sector. The financial sector should become more environmentally friendly overall. This should be our goal and we should ensure that sustainability is an essential part of any funding which seeks cleaner investment and the energy transition.

Here again, there must not be a political vacuum. Green finance is also about an evolution in global finance. In the past, economic and financial players justified their action and their 'self-regulation' (or, often, lack of regulation) by noting that there was no legislation covering their kind of transnational work and often by following a global 'private' competitive reasoning as compared to national 'public' action. That is why green finance can become one of the priority areas where the new transnational political approach proposed here can be applied. This reasoning has exploited the growing number of spaces not covered because of a purely national approach or, potentially, simply an international one and therefore split between various national regulatory spaces. Instead of reacting with a retreat into nationalism, or even a new form of national self-sufficiency (which the nationalist forces often seemed to be calling for during the COVID-19 crisis), we must rediscover our capacity for transnational European action which minimises competition between States and maximises the capacity for joint action to achieve the common goal of funding the green transition.

The political union should therefore become a sort of third way between unregulated (or insufficiently regulated) globalisation and the new protectionist trend to pull up the drawbridge in the post-COVID-19 era. This would be a new model balancing the need for economic efficiency with the primacy of policy around society's choice for the green and digital transition. But social acceptance of this project will depend, above all, on how efficiently and quickly Europe can implement its response to the health crisis, beginning with the EU Recovery Plan, and how it responds to Europeans' concerns and pain.

Beyond the European continent, it is important that the EU set an example in the world's battle against climate change by making its external action coherent with

its carbon neutral goals. In the short-term, the EU's foreign policy must be a spearhead for combating deforestation, defend climatic neutrality and put sustainable development goals at the heart of its action. In the middle and long-term, the European Union's trade policy should discourage energy trading which goes against the EU's sustainable development goals. If it does not, what is the point of urging Member States to adopt a low carbon economy? Similarly, our energy transition at European level will be useless if the EU's trade agreements do not include sections on sustainable development with measurable commitments in terms of climate change norms. In this regard, the return of the United States to the Paris Agreement will no doubt be a significant and powerful change which should encourage us to continue down this path.

The EU should collect a 'carbon border adjustment' tax for goods imported into the single market. The imposition of such a tax would guarantee that the CO_2 emissions of such goods are reflected in their price in order to neutralise the competitive advantage offered by more lax, or even non-existent, environmental standards in some countries outside Europe.[8] This approach has three advantages: first, it would encourage companies from other countries to manufacture goods in a more sustainable way; second, it would support European companies by ensuring that they are not penalised by European environmental standards; and thirdly, it would satisfy the need for Europe to have its own new tax resources.

The future political union should have the courage to draw up an 'extraterritorial' strategy for strategic areas such as the green transition. Here again, our transnational approach should ensure we stop reasoning on a purely bilateral diplomatic basis and also give more strength and coherency to the multilateral approach which is now in crisis following the unilateralism of the Trump era and new Chinese aggression. The EU will clearly have to demonstrate and negotiate the compatibility of this new mechanism with WTO obligations.

Further, the EU must use its world economic leadership in international negotiations to ensure that the provisions of COP21 are respected in order to guarantee compliance with existing agreements and ensure that protection of the environment is not simply an optional commitment.

The coronavirus crisis really is a game changer in the sense that it is having a significant effect on the world economy and risks changing power structures, particularly in favour of China. Europe and its economy must therefore

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[8] C. Remeur, "Carbon emissions pricing. Some points of reference", *European Parliamentary Research Service*, 2020.

demonstrate that they can tackle this watershed moment and adapt, putting the digital sector and green energy at the heart of European integration like steel and coal at the beginning of the 1950s. The European Union is facing an historic opportunity to come out of this stronger, to reinvent a more sustainable, fairer and more balanced society, and to target a green, inclusive, digital and competitive economy.

We have been encouraged to live more 'online' than 'offline' almost overnight. Work from home, online shopping and online dating are becoming the norm. Our lifestyle is following an irreversible digitalisation which requires new governance.

The digital sector offers Europe great potential for growth. However, such a digital transition is not just an economic issue. Europeans' sovereignty also depends on their ability to ensure their self-sufficiency in both industry and the protection of consumer rights and personal data. The European regulatory environment must be adapted to the digital era.

This is therefore another essential area: build European digital sovereignty in a political union using the adaptative approach proposed here but without forgetting that digitalisation alone does not put food on the table. With that in mind, some of the 750 billion Euros from the NextGenerationEU fund must be put aside for strategic industrial projects common to the 27 Member States or put forward by a group of the most interested countries. Among them, the promotion of European digital giants should be one of the major priorities of Europe's recovery.

The role of the internet has changed considerably over the course of the last two decades and the economy of platforms has shifted markedly, although the effect has been disparate across Europe. Online platforms have become an important part of the digital economy. Today, one million EU companies already sell goods and services via online platforms. In the digital economy, 60% of private consumption and 30% of public consumption of goods and services use online intermediaries. 82% of European SMEs use search engines to promote their activities and their services. More than 50% of SMEs using online marketplaces sell overseas.[9]

Online platforms are engines for innovation and growth in Europe. They facilitate the exchange of information and communication via the internet. They make digital

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[9] European Commission, "How do online platforms shape our lives and businesses?", 2019. (https://ec.europa.eu/digital-single-market/en/news/how-do-online-platforms-shape-our-lives-and-businesses-brochure)

trade possible, increase choice and convenience for consumers, and improve the competitiveness of the industry. The online landscape is constantly changing with new operators and commercial models, as well as the activities of GAFAM.

Artificial intelligence (AI) is already a part of everyday life for Europeans who use it every day to organise their schedules using their smartphones or to choose what music to listen to. AI is rapidly entering practically all sectors of the economy, from medicine to translation.

These evolutions are necessary and desirable. They are the engine for the digital transition and can strengthen Europe's industrial resilience and sovereignty. Inevitably, they also pose risks and regulatory challenges to which Europe must respond. If it wants to control these evolutions and take more benefit from them, the European Union cannot be content with trying to reproduce the blueprints created elsewhere. It must endow its digital strategies with new financial and legal resources and find its own path for a reliable digital economy which respects humanity. A sovereign Europe must promote its own model in the digital sector, not only within Europe itself but on the global stage to promote a European method and model. In effect, we must try to find a sovereign and democratic alternative, not only compared to the Chinese authoritarian and Statist system but also in the face of an American system which is too unbalanced in favour of global digital giants.

A large part of digital regulation is currently covered by the e-Commerce directive which dates back to June 2000, i.e. more than 20 years ago...and 20 years may as well be a century in digital terms! 20 years ago, Facebook, Twitter and Snapchat did not even exist. Today, they occupy a major place in our lives: be it to stay in touch with our friends and family or to find information. They must therefore be regulated because over time these platforms are themselves becoming 'powers' with their own rules and their own decisions.

GAFA have created their own ecosystem: they themselves govern the digital space, decide to delete content depending on their politics, sell personal data, etc. Their powers are competing with those of States and affect individuals' freedom of self-determination. However, States are starting to react and are attempting to take back control, manage all this technology and decide on their own technological trajectory for themselves.

Some countries have therefore decided to regulate this part of the internet which was starting to resemble a lawless space. So, Germany, through NetzDG in 2018, and France even more recently with the Avia Law in 2020 have decided to legislate (however, in France's case the Constitutional Council has intervened to limit and remove several elements of the law). However, the real problem is that the internet

is a space which does not recognise borders. Increasing the number of national laws is unfortunately neither effective nor in line with Europe's ambition to create a single digital market. In the face of the GAFA giants, action is certainly necessary but it will be most effective at European level by imposing the same rules on the 27 member countries where certain values (inclusion and dignity) and certain fundamental rights (private life and freedom of expression) will be better protected and promoted.

The EU has a significant advantage: European consumers are the leading economic market for the digital giants. Some rights have already been established at European level through the General Data Protection Regulation (GDPR) which came into force in 2018, and through the European Court of Justice (the right to erasure, data portability, consent, information and correction etc.). Finally, we must show our determination to establish real digital sovereignty if we are to be more globally competitive.

Successful online platforms benefit from a growing number of users and data accumulated over time. Currently, their value is concentrated around the seven largest companies which represent 69% of the market. Although there are more than 10,000 European platforms, most of them are start-ups and only represent 2% of the total value. It is clear that there is a considerable concentration of market power in the hands of large systemic platforms and the 'headquarters' of such power are far from the European Union. There is therefore a risk that they act as powerful 'gatekeepers' (systemic platforms) to information, content and market access, something which could lead to various forms of abuse.[10] These matters may appear sector-specific, even technical. On the contrary, they represent new social issues and today can finally be addressed through new legislative and political initiatives, particularly the Digital Market Act and Digital Services Act regulatory proposals from the European Commission.

The Commission has also put forward a new legislative package which will be a key issue for the current European Parliament: the Digital Services Act and the Digital Market Act, already referred to above, but also the Data Governance Act

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[10] Observatory on the Online Platform Economy, "Differentiated Treatment of Business Users by Online Platforms", March 2020.
(https://platformobservatory.eu/app/uploads/2020/09/Analytical-Paper-2-Differentiated-treatment_final.pdf).

to establish an internal data market which is open but sovereign and subject to European law, and a European Cyber Shield on cybersecurity.

Some of the practices used by online platforms vis-à-vis their business users such as misleading or aggressive advertising towards consumers, the inadequacy of means of redress, the circulation of illegal and prejudicial online content, the violation of fundamental rights in terms of data protection, abuse of market dominance, tax evasion and the circulation of fake news are just some of the issues facing Europeans.[11] The current regulatory framework already tackles these issues but additional measures are definitely required to oversee the role these platforms play in the new digital economy more specifically: greater responsibility by platforms for illegal content, effective mechanisms to remove illegal content ('take down and stay down'), more effective moderation of hateful and prejudicial content and disinformation, better information for consumers (the 'know your business' customer principle), strengthened regulations and cooperation on cybersecurity, a more efficient battle against forgery, combating terrorist content, and new *ex ante* regulations for systemic platforms to name just the principle measures which must be introduced within this term of office.

Consumer trust is vital for firms to be successful, be they online or offline. The current crisis has provided real proof of our vulnerability and the importance of responsible behaviour by online platforms, traders and advertisers. In March 2020, the Commission requested cooperation from online platforms within the framework of a wider effort by the EU to help platforms and other digital players become more responsible and combat disinformation linked to coronavirus and consumer fraud. Online platforms responded positively to the call for closer cooperation with national authorities and the Commission to highlight and combat illegal online practices. They have taken firm steps to remove illegal content which could cause physical and psychological harm, declassify content which, after verification, has proved to be false or misleading, and limit adverts promoting false products and services. They have also introduced specific checks on price increases and promotions, as well as content scanning. But this is not enough.

Education and training are essential. In particular, we must reflect on the type of education which should be provided in the digital era to those born between 2000 and 2010. We must help them become more discerning in light of the nature and

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[11] Wendy Li, Makoto Nirei, Yamana Kazufumi, "Value of Data: There's No Such Thing as a Free Lunch in the Digital Economy", *RIETI Discussion Paper Series* 19-E-022, March 2019. (https://www.rieti.go.jp/jp/publications/dp/19e022.pdf)

multiplication of content provided online, sharpen their critical spirit, know how to separate true from false, work on reasoning, a digital educational journey and digital judgement.

Nonetheless, the latest scanning has shown that dishonest traders continue to find new ways to exploit consumer vulnerability, bypass algorithmic checks and create new websites.

Online platforms and internet service providers must ensure that they monitor the voluntary commitments they have made. Meanwhile, political decision-makers should consider whether different and more binding provisions are necessary.[12]

Further, governments have tacitly delegated the establishment of online platforms to private companies. They, however, think in terms of profit, not protecting user rights.

This is therefore another area where we need to 'take back control' in order to ensure transparency and effective protection of consumer rights. In our opinion, a simple code of conduct is not sufficient. That is an important first step but now new European regulations are required which are legally binding and applicable uniformly across the European single market. New European technology which can truly guarantee our autonomy needs to be developed.[13]

This is the goal to be achieved in the digital arena if we are to rediscover a capacity for political action, and therefore sovereignty, as Europeans.

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[12] Observatory on the Online & Platform Economy, "COVID-19 and online platform economy", June 2020 (https://platformobservatory.eu/news/covid-19-and-online-platform-economy/)
[13] See the report of the French/Italian workshop for online experts held on 15 July 2020 and initiated by Sandro Gozi MEP and Stéphanie Yon-Courtin MEP (https://sandrogozi.eu/2020/07/15/regulation-des-services-numeriques-en-europe-table-ronde-franco-italienne/). In particular: Consider the efficacy of competition law in the digital era in order to promote innovation in favour of consumers; adopt the Digital Services Act which will improve accountability and security rules through targeted *ex ante* regulations for large systemic platforms; develop a trustworthy European regulatory system for artificial intelligence; develop a common approach to combat online disinformation; and introduce a digital tax within the new framework of own resources and, ideally, on the basis of the work of the OECD.

Summary Table
The Digital Services Act and the Digital Market Act (*source: European Commission, December 2020)*
In December 2020, the Commission proposed significant legislative reform of the digital space: **legislation on digital services** and **legislation on digital markets**.
According to the European Commission, the new rules should ensure that consumers and their fundamental rights are better protected online and should make digital markets fairer and more open. The new legislation should stimulate innovation, growth and competitiveness, and enable users to have access to new online services which are of better quality and reliable. The Commission is also seeking to encourage the expansion of smaller platforms, small and medium enterprises, and start-ups. Further, the new rules aim to prohibit online platforms which act, or might act in the future, as gatekeepers to the single market or impose unfair conditions.
Digital Services Act
By virtue of the Digital Services Act, binding EU requirements will be applied to all digital services which bring consumers into contact with suppliers of goods, services and content, including the introduction of new procedures aiming to remove illegal content more quickly and to fully protect the fundamental rights of online users. This new framework will rebalance the rights and responsibilities of users, intermediary platforms and public authorities, and it will be based on European values, particularly respect for human rights, freedom, democracy, equality and the rule of law. This proposal supplements the European Democracy Action Plan which seeks to make democracies more resilient.
Concretely, the Digital Services Act will introduce a series of new harmonised requirements for digital services throughout the EU which will be carefully adjusted depending on the size and impact of those services. For example:
• rules to remove illegal online goods, services and content;
• guarantees for users where a platform has removed content by mistake;
• new requirements for very large platforms to take risk-based measures to prevent misuse of their systems;
• wide-reaching transparency measures, particularly as regards online advertising and the algorithms used to recommend content for users;
• new remit to examine how platforms operate, particularly by facilitating researchers' access to key platform data;
• new rules on the traceability of business users on online marketplaces to find sellers of illegal goods or services more easily;
• innovative cooperation among public authorities to guarantee effective monitoring of application of the legislation throughout the single market.
Platforms which reach more than 10% of the EU's population (45 million users) are considered systemic in nature and will be subject not only to specific requirements to monitor their own risks but also a new oversight structure. This new accountability framework will include a committee of national digital services coordinators and will grant the Commission special powers as regards oversight of very large platforms, including the possibility of direct sanctions.

The Digital Market Act
The Digital Market Act tackles the negative consequences of some behaviour by platforms which act as 'gatekeepers' to digital markets. This involves platforms which have a powerful impact on the internal market, which constitute a significant access point for user companies in terms of reaching their clients and which hold, or will hold in the foreseeable future, a strong and lasting position. This situation enables them to act as private regulators and act as a bottleneck between companies and consumers. On occasion, these companies control the ecosystems of entire platforms. By using unfair business practices, a gatekeeper can prevent user companies and its competitors from providing consumers with precious and innovative services or slow down their efforts in that direction. An example of this is when data originating from companies operating on a platform is used in an unfair way or when users are locked into a given service and have little opportunity to choose another one.
The Digital Markets Act rests on the horizontal Platform-to-Business Regulation, the observations of the EU's Observatory on the Online Platform Economy and on the Commission's extensive experience in applying competition law to online markets. In particular, it establishes harmonised rules defining and prohibiting such unfair practices by gatekeepers and providing a monitoring mechanism for compliance with the rules based on market studies. The same mechanism will ensure the requirements provided for in the rules are updated to take into account the constantly evolving digital reality.
Concretely, the Digital Markets Act: • will only be applied to those essential service platforms most exposed to unfair practices, such as search engines, social networks and online intermediation services, which meet the objective criteria provided for in the legislation designating them as gatekeepers; • will define the quantitative thresholds which will serve as a basis for identifying presumed gatekeepers. The Commission will also be authorised to confirm that companies are acting as gatekeepers following a market survey; • will prohibit certain clearly unfair practices such as preventing users from uninstalling software or pre-installed applications; • will require gatekeepers to be proactive in introducing certain measures, such as targeted steps enabling software from third party suppliers to operate and to interact properly with their own services; • will impose sanctions in the event of non-compliance with provisions, particularly fines which could amount to up to 10% of the gatekeeper's global turnover, in order to guarantee the effectiveness of the new rules. In the case of repeat offenders, these sanctions may include the requirement to take structural action which could include the divestiture of certain activities if no measure of the same effectiveness is available to guarantee compliance; • will enable the Commission to carry out targeted market investigations to determine, where applicable, if it is necessary for new gatekeeper practices and new services to be integrated into the rules to keep up with the rapidly evolving digital markets.

'Good debt' and real resources

The NextGenerationEU recovery and transformation plan must not be limited to the effects of the COVID-19 crisis. It must be the start of a new generation of European budgets able to trigger a serious transformation of the European economy towards more sustainability and resilience.

Indeed, this Plan is based on major decisions which are moving precisely in the direction of a political and federal union: joint European debt and new European resources. The decision to issue common European bonds on a wide scale is very important politically. This is a political choice following federal reasoning: EU Member States and institutions are so convinced they are facing common challenges, they are prepared to take on debt together to release the necessary resources for economic reconstruction, social cohesion, digital transformation and a green transition. This debt will not be repaid through national contributions but rather through new EU own resources. The EU may issue joint debt guaranteed and repaid through new own resources in order to finance future investments. The Recovery Bonds which will finance the NextGenerationEU Recovery Plan, many of which are issued as Green Bonds, are a fundamental test for Europe. Joint European debt is not only a fundamental financial instrument for the Recovery Plan; it is a political decision which could finally change the very nature of the European Union. The federal reasoning is twofold: joint debt and European revenue.

But where will these new resources come from? Several proposals have been discussed.

The digital world has enabled many economic players to generate very high profits without being subject to the same tax rules as conventional companies or taxpayers. Numerous digital and financial companies avoid national taxes. Others find it more profitable to manufacture their goods on the other side of the world, even if that pollutes our air and our oceans.

Europe's scale provides an opportunity to rebalance EU societies and make online and finance giants, as well as the polluters, play their part in transforming the economy. The EU could therefore finance future investments with European money.

Here are a few examples where a European tax system could, on the one hand, re-establish a fiscal, social and environmental balance, and, on the other, provide the EU with tax revenue enabling it to finance the transformation of its economy:

- *Harmonisation of the corporation tax base*: Europe could avoid multinationals making States compete with one another and increase corporation tax revenue. Corporation tax should include a European portion paid directly into the EU's budget.
- A *European tax on digital giants* (often called GAFA), which make profits in Europe not subject to taxes, could frame the big data wealth production model.
- A *European tax on financial transactions* could promote more responsible finance for the common good, forcing unproductive and purely speculative financial transactions to contribute.
- A *carbon border adjustment tax*, already discussed earlier, would put European companies which are subject to strict environmental rules on the same footing as producers based in countries which do not comply with the same standards.
- A *European tax on single use plastics* would encourage the industry to use more environmentally friendly raw materials and would help implementation of Europe's new Circular Economy Action Plan.

If the EU had real own resources, unanimous adoption of the Multiannual Financial Framework by the Council would not be justified. The treaties already provide the European Council with the option of qualified majority voting. European leaders should seize this possibility and not lapse into the EU's usual paralysis during long and difficult negotiations. The conditions have now come together to make progress in this direction. Following the agreement between the Council and the Parliament in November 2020, the question is if and how the schedule for introducing these new resources, between 2021 and 2026, will be properly respected. The European Parliament, as the democratic and budgetary authority, must play a key role in this process.

Within the framework of the current treaties, each new own resource must then be ratified by all the EU's national parliaments, something which makes powerful fundamental reform difficult. Article 311 of the Treaty on the Functioning of the European Union (TFEU) must therefore be modified to enable the European Union to decide on its own resources through a democratic procedure. The EU's resources should result from a political agreement between the Council and the Parliament, ruling on a proposal from the Commission on the basis of absolute majority and in compliance with the principles of subsidiarity and proportionality.

Further, in order to fund a programme of policies which would truly reflect the will of Europeans and which would mobilise young people, the duration of the Multiannual Financial Framework should be reduced to five years instead of

seven, and its adoption should be one of the first tasks of the European Parliament after its election.

Moreover, in order to provide the EU with a real capacity to take action to absorb stresses which might only affect one part of the EU and not all of it, automatic European fiscal stabilisers should be introduced. Automatic stabilisers bring in money where it is required immediately as they are released when certain thresholds are reached. They ensure that temporary difficulties do not become structural problems.

We must also create a European Unemployment Reinsurance Scheme which would automatically transfer funds to national insurance funds in countries where unemployment might be increasing for cyclical reasons. The SURE system (Support to mitigate Unemployment Risks in an Emergency) [1] for unemployment reinsurance, introduced by the Commission to tackle the effects of COVID-19 on employment in the most affected countries, is actually moving in that direction. Now we must ensure that SURE becomes a permanent element of the EU's budget.

The real question for the European Recovery Plan is whether it will remain an extraordinary and temporary measure or if it will become permanent. Similarly, will the Stability and Growth Pact, suspended during the crisis, be modified and, if so, how? Whether or not the Recovery Plan becomes permanent will depend on how attractive it is to the financial markets and its effectiveness on the ground. On the first point, the pilot scheme currently under way using the Support to mitigate Unemployment Risks in an Emergency (SURE) mechanism, which is also based on issuing European bonds, is looking extremely positive: during the first issue, requests were 14 times greater than what was available, clearly indicating that the path chosen - issuing joint European debt - is not only a courageous and necessary institutional and economic choice, but also eagerly awaited and supported by the financial markets.

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[1] *The European instrument for temporary Support to mitigate Unemployment Risks in an Emergency (SURE)*: the SURE instrument will be available to Member States which have to mobilise significant financial resources to combat the negative economic and social consequences of the coronavirus epidemic in their country. It will provide financial assistance to Member States to tackle a sudden increase in public spending to protect employment. More specifically, the SURE instrument will constitute a second line of defence by supporting short-time work systems and similar measures to help Member Sates protect jobs and therefore protect employees and freelancers from the risk of unemployment and loss of income.

The Stability Pact will probably be reformed during the debate to begin in 2021 after the COVID-19 crisis for at least two very obvious reasons, among many others. Firstly, following the last crisis and suspension of the Pact and rules on State aid, the public debt of several Member States in the Euro are will exceed 100%, or even 150%, something which makes the parameter of 60% debt both obsolete and ineffective. Secondly, we must encourage investment in strategic areas, particularly the environment and the digital sector, something which requires a formal review of the Pact so as to adapt it to the new economic and budgetary reality of the Euro area and the European Union overall. This review should be part of a broader political relaunch of the European Union.

Euro area: greater efficacy and transparency

The euro is one of the greatest successes of European integration. 20 years after its arrival in portfolios, the single European currency is the world's second currency in international transactions and reserves across the world. Commenting on the data provided by the Central Bank in 2017, Jean-Claude Trichet reminded us that the single currency "*represents 31.3% of all the currencies used for global payments. This percentage is not far off the United States dollar (42.1%). Finally, in terms of global foreign exchange reserves, the Euro represents approximately 20%, i.e. about a third of foreign exchange reserves in dollars and five times more than reserves in yen*".[2]

The Euro has provided price stability which is unprecedented in Europe's recent history.

The European Central Bank (ECB), the only truly federal body in the EU, is one of the most credible monetary institutions in the world and has enormous power over the financial markets. We will never forget Mario Draghi's determination to do '*whatever it takes*' which managed to calm the panicking markets and save the Euro area from almost inevitable implosion in July 2021[3].

The 2008 financial crisis clearly highlighted the shortcomings of the construction of a single currency without an ambitious fiscal and economic policy and without a political union. In fact, '*instead of impetus based on the great European projects*

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[2] Jean-Claude Trichet, "L'euro et la zone euro : succès, défis et perspectives d'avenir", *in* Sandro Gozi, Dusan Sidjanski, François Saint-Ouen (éd.), *L'avenir de la Zone euro*, Geneva, Dusan Sidjanski Centre of Excellence in European Studies, 2019, pp. 95-111.
[3] Speech by Mario Draghi, President of the ECB at the 8th *ECB Conference on central, eastern and south-eastern European countries*, Frankfurt, 12 June 2019 (consulted on 15 September 2020)
https://www.ecb.europa.eu/press/key/date/2019/html/ecb.sp190612~3bc4b02961.en.html

and under pressure from a Germany obsessed with inflation and public debt, a blind choice was adopted in favour of austerity, without taking into account the social consequences and a whole series of damaging effects. This is what caused the impoverishment of the middle classes and the most fragile section of the population which has in turn brought about Eurosceptic and Europhobic movements and left- and right-wing extremists. This wave is a powerful reminder of the Panic of 1930 and its devastating consequences.'[4]

One of Europe's fundamental problems over the last few years has been its instinct to ask all countries to apply the same measures without taking their individual situation into consideration. Thus far, the EU has focused too closely on budgetary equilibrium alone. The resulting technocratic tendency has led us to the serious financial, economic and social crisis we have experienced: a path along which anti-European populism is hurtling at top speed. There are several reasons for this. Take the case of Greece during the financial crisis which also helps explain the attitudes of populists in other countries. Acceptance, a week after the 2015 Greek referendum rejecting the European Plan, of possibly even harsher conditions was perceived by Greeks, and others, as follows: you can change governments but you cannot change economic policy; '*policies without politics*' in Brussels and '*politics without policies*' in Member States is a good summary of what happened.

For many, the world 'democracy' quickly became synonymous with the powerlessness of citizens. And Brussels, instead of being a shared European home, came to represent unlimited market power and the destructive power of globalisation. It was a similar sentiment to that in Italy upon the election of Mario Monti who should have been in power for three months and remained for a year and a half. This is another fundamental reason for building this space for debate and transnational political action which lies at the heart of our proposal: we must feed the democratic debate at all levels and promote a new political dimension.

The issue of solidarity is even more crucial in the case of the Euro area and the financial crisis. In effect, in the past the only solidarity policies were back-up policies. It started with the CAP. Then the cohesion policy was introduced with a larger budget. But nothing had been provided for in terms of solidarity within the Economic and Monetary Union (EMU). That was fine in the good times. However, when crises came, we saw just how limited this approach was and decided to

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[4] Dusan Sidjanski, "Réflexions sur la Zone euro et l'évolution de l'UE", in *L'avenir de la Zone euro*, *op. cit.*, p. 13.

introduce new instruments such as the European Financial Stabilisation Mechanism (EFSM) created on the basis of Article 122 which allows for occasional solidarity operations. Then, when the crisis became systemic and reached Ireland, Spain and Portugal, the European Financial Stability Facility (EFSF) was created, able to raise up to 700 billion Euros on the financial markets and based on an international treaty in accordance with an intergovernmental method reformed at the end of 2020.

Essentially, the public debt crisis led to forced solidarity insofar as the members of the Euro are resorted to rescue systems for the victims of the crises and also developed prevention methods in order to avoid financial contagion and the destabilisation of their currency. However, the issues surrounding stability and governance of the Euro area remain unresolved. The Euro area therefore needs to be reconfigured to turn it into a real space for growth and solidarity.

With an appropriate budgetary provision, the European Commission could launch counter-cyclical economic policies, combat unemployment and initiate specific investments. In this regard, we should aim to make permanent the Recovery and Resilience Facility, created within the framework of the NextGenerationEU instrument to respond to the 2019 health crisis and based on issuing common European bonds financed by new EU own resources as explained above. This could be the basis for a common budget for the Euro area which also involves fiscal coordination and therefore the possibility of implementing joint fiscal policies. Harmonising taxes and - finally - dealing with the issue of tax competition.

The Eurogroup should also be amended. This group is a true democratic scandal which operates in institutional darkness. Its decisions are not subject to either democratic oversight by parliaments or judicial oversight by the Court of Justice. It is a technocratic body where ministers meet without transparency and have neither the strength nor the motivation to seriously consider the demands of the electorate for more social justice, social security and the common good when they are in conflict with the stability priorities. The gap between what is economically necessary and what is politically possible can only be bridged through politics and democracy.

We must learn two lessons from the financial crisis: a monetary union cannot be powerless when confronted by external stresses and adoption of a single currency is irreversible. We have already discussed changes to economic, industrial and budgetary policies. We must also review the political and institutional foundations of our joint currency so that its economic success matches its monetary success.

In particular, the Eurogroup must be turned into a configuration of the Council, subject to the same political, parliamentary and jurisdictional policies and the same transparency requirements as the others. It should also be presided over by a Commissioner, the vice-president of the Commission responsible for economic and monetary, along the lines of the Foreign Affairs Council presided over by the High Representative. It is quite simply no longer acceptable that a body which has been at the heart of management of the financial crisis and with considerable influence is just mentioned in an appendix to the Lisbon Treaty. This is the current position of the Eurogroup. The solution we propose here aims to improve the transparency of how the Eurogroup operates and its political responsibility, and to reduce the current institutional fragmentation - between the Commission, ECOFIN and the Eurogroup - which damages the system's visibility and efficiency. As Dusan Sidjanski has said: '*If the Eurogroup continues to play a fundamental role within the Euro area, and consequently the European Union, the latter will lose its essence of the rule of law and democracy* [5].'

The former Greek President, Prokopis Pavlópoulos, has also spoken on this issue: '*As it has already been outlined, if the quintessence of the European Rule of Law – and the rule of law in general – lies in the legal rules which set the boundaries for the organization, function, and competences of European bodies (as well as the legal consequences of exercising*

these competences), the following conclusion is more than obvious: the symptom of the Eurogroup's institutional 'obscurity', with its ensuing consequences, reveals an important vacuum in the European Rule of Law, which directly affects the smooth course towards European Unification. The prevalence of economic aspects over institutional ones

shows that what supports the European Rule of Law is unable to effectively deal with the potential – and already visible – perils arising from the interventions of an institutionally uncontrolled financial globalization. '[6]

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[5] *Id*. p. 16

[6] Prokópios Pavlópoulos, "Role of the Eurogroup in the Eurozone", *L'avenir de la Zone euro, op. cit*., p. 115.

Summary Table

1. The new European Multiannual Financial Framework (MFF)
➤ **Own resources**
The European Parliament has finally managed to obtain a work schedule and a binding interinstitutional agreement to introduce new own resources. Therefore, States will not be able to opt out of this requirement.
These own resources will ensure, for example, that the European Recovery Plan can be repaid in full, i.e. both the principal amount and the interest. The amount of revenue must reach a sufficient level to cover the loan. The need to achieve this through cuts to EU programmes from the ordinary budget or an increase in national contributions is therefore avoided.
As a reminder, here is the planned schedule for the new own resources: - 2021: Plastic contribution (6 billion Euros/year) - 2023: Revenue from the CO_2 Emissions Trading System (between 3 and 10 billion/year) - 2023: Carbon Border Adjustment Mechanism (between 5 and 14 billion/year) - 2023: Tax on digital giants (1.3 billion/year) - 2023 or 2026: Tax on financial transactions. If there is no agreement by 2022 under enhanced cooperation, the European Commission will put forward a new proposal before June 2024 with a view to its introduction on 1 January 2026.
➤ **Programme amounts**
The European multiannual budget is 1,074 billion Euros but it is reinforced with 16 billion Euros of fresh money. Parliament has never obtained such a large reinforcement during negotiations over the European budget. For example, in 2006 the Parliament only obtained 4 billion more and in 2013 there was no increase.
The following programmes have therefore been strengthened by 15 billion Euros:
- Research: 4 billion
- Erasmus+: 2.2 billion
- Health: 3.4 billion
- Borders: 1.5 billion
- Rights and Values: 0.8 billion (double the amount granted for 2014-2020)
- Creative Europe (cultural sector): 0.6 billion
- InvestEU (successor to the Juncker investment plan): 1.0 billion
- NDICI (development): 1.0 billion
- Humanitarian aid: 0.5 billion (+ extra 0.5 billion for emergency aid)
Moreover, 1 billion is added to a reserve for future mobilisation in case of need.
This money comes from revenue raised from EU competition policy fines and other mechanisms.

➢ **Horizontal matters**
30% of the European budget must be spent on combating global warming and 10% on protecting biodiversity from 2026.
The inclusion of the promotion of gender equality in MFF programmes, with impact studies and the creation of a monitoring methodology, should also be noted.
➢ **'Rule of law' mechanism**
This new mechanism makes European funds conditional on respect for the rule of law. Although it was increasingly probable that it would never see the light of day, the pressure exercised by Parliament was crucial in the Council eventually adopting it against a background of repeated violations of the rule of law in certain Member States.
At the last summit on 10 and 11 December 2020, the European Council 'clarified' the detailed rules and scope of the mechanism in its conclusions, on the basis of an agreement between the German, Polish and Hungarian governments. *Although aspects of these political conclusions are not compatible with the legal settlement, the latter remains unchanged and prevails in law.*
Key points
● The mechanism applies *to the MFF and the Recovery Plan from 1 January 2021.*
● *Definition of the rule of law based on Article 2 of the TEU:* principles of legality implying a transparent, responsible, democratic and pluralist legislative process*;* prohibition of arbitrary action by executive powers; effective legal protection, including access to justice, through independent and impartial courts, including as regards fundamental rights; separation of powers; non-discrimination and equality before the law.
● **Examples of violations of the rule of law:**
• Endangering judicial independence:
• Failure to avoid, prevent or sanction arbitrary or illegal decisions by public authorities or ensure the absence of conflicts of interest;
• Limiting the possibility of legal redress.
● **Implementation conditions:** steps may be taken if violations of the rule of law have an impact, or risk seriously having an impact, on proper financial management of the European budget or protection of the EU's financial interests sufficiently directly.
● **Types of measures**: suspension of payments; prohibition of new spending commitments; prohibition of establishing new loan agreements or other instruments guaranteed by the European budget; reduced pre-financing.
● **Protection of final recipients:** the Commission must ensure that payments reach the final recipients and that the national authorities respect their obligations in that respect; the recipients may themselves inform the Commission in the event of non-compliance.
● **Procedure:**
1. If the Commission considers that there has been a violation of the rule of law with an impact, or seriously risking an impact, on the European budget, it must send written notification thereof to the State concerned (and inform the Council and Parliament);

2.	The EP can invite the Commission to a structured dialogue further to these observations;
3.	The State concerned must provide the information required within three months and may propose steps to remedy the violations;
4.	The Commission must take this into account; if it still plans to submit a proposal for a decision, it must then inform the State which has another month to respond;
5.	If the Commission considers that the State's observations or its proposals to remedy the problem are inadequate, it can submit an implementing act to the Council within one month;
6.	The Council has one month (three in some exceptional circumstances) to decide upon the matter by qualified majority;
7.	The Commission must reassess the situation within one year or at the request of the State concerned.

> **The European Parliament's budgetary authority role**

European parliamentarians also have a veritable right of scrutiny over the allocation of external assigned revenue (i.e. money attributed directly to programmes and not stemming from its typical revenue). They will therefore be involved in monitoring and assessing such revenue.

2. An historic European Recovery Plan

As well as a new European budget for the next seven years, a new European Recovery Plan was adopted worth 750 billion Euros. This Recovery Plan is based on a new instrument called NextGenerationEU and the Member States have decided to take on debt together in order to finance it.

This Plan will therefore fund national programmes in all 27 Member States in the form of grants (390 billion Euros) and loans (360 billion Euros). Each country will therefore qualify for a partially predefined package based in particular on its population, its GDP/inhabitant and its unemployment rate before the start of the pandemic.

Chronology of the steps of the European Plan

15 Oct to 31 Dec 2020	**Discussions about the national recovery plans**
	Prior to formally submitting their national plans in 2021,
	Member States have been in discussions with European Commission departments since 15 October to ensure that they share a common approach. During this period, projects may be adapted to meet the criteria established by the European institutions.

1 Jan 2021	**Entry into force of a new tax on plastic.** This will help fund the Recovery Plan.
1 Jan to 30 April 2021	**Definitive plans passed to the Commission** Each Member State sends its definitive recovery programme to the European Commission. After the two months set aside for an initial assessment, it is submitted to the EU Council which approves them one by one by qualified majority.
By Sum-mer 2021	**First grants released?** The Commission may only raise a loan and release the first grants to Member States once national parliaments have authorised it to do so and the national plans have been approved by the Council. The European Court of Justice must also approve the rule of law mechanism.
2021-2022	**Release of 70% of the NextGenerationEU fund**
2023	**Release of the remaining 30%**
2028	**The European loan starts to be repaid.** It must be spread over 30 years, i.e. up to 2058.

3. Next stages

Although the difficult negotiations over the MFF have come to an end and the creation of the Recovery Plan has been a great success, it is now important to ensure ratification of the agreements and commitments made.

First, it is essential to ensure that the 'rule of law' regulations are actually applied from 1 January 2021.

Secondly, the schedule for own resources must be respected. This begins in 2021 with proposals by June 2021 for the ETS, the carbon border tax and the digital tax. We must also ensure that the national parliaments concerned ratify the decision on own resources as soon as possible.

Thirdly, if the crisis endures and it becomes necessary for the Commission to propose a second recovery plan via Article 122, the EP must be properly involved. Vigilance is therefore required because it is part of the MFF agreement with more control over external assigned revenue.

Finally, the MFF is not completely set in stone between now and 2027: the European Parliament must ensure that the Commission propose an intermediary assessment (a midterm review) in 2023 to adjust the MFF to new European priorities.

Political union and the new global disorder

'Europe must rethink itself politically and act politically to define common objectives that are more than merely delegating our future to the market' (Macron)[1].

In the last 30 years, the global context has fundamentally transformed. After a short grace period, when the Western model appeared to prevail after the fall of the Soviet bloc, old tensions resurfaced, and new phenomena erupted into our lives. The latter include climate change and the preservation of natural resources; safety in an increasingly unstable world that faces multiple threats and which is struggling to find a balance between emerging powers; the primacy of politics and democracy in the face of a globalized economy and the emergence of economic players whose power exceeds that of States. All these issues are playing out on the world stage, a stage on which it would be of great value for Europeans to speak with one voice.

States' foreign policy should no longer be guided only by the principles of national sovereignty and competition, but instead by the values of solidarity, social imperatives and norms. The outdated dogma of the realist school of international relations, where the zero-sum game is the only possible result of interaction among States, and between States and the European Union, must be abandoned. The failures of globalization have demonstrated the need for a new human-centred phase, in which the human being is placed at the heart of politics[2].

A new political union should therefore be, first and foremost, a 'humanist' union that also adopts the values of Article 2 of the TEU as the basis of its action on the world stage.

The need for a European foreign policy is even more pressing, given the crisis of the post-1945 world order, and the relativization of the values of freedom and human rights. In the words of Emmanuel Macron: *'We see that we have a crisis*

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[1] *Le Grand Continent* (16 November 2020). 'The Macron Doctrine: A Conversation with the French President' Op cit.

[2] Bertrand Badie (28 May 2020), "Penser un monde nouveau. Mondialisation humaniste' (Rethinking the world. Humanist Globalization), *L'Humanité*. Text available at: https://www.humanite.fr/penser-un-monde-nouveau-mondialisation-humaniste-par-bertrand-badie-689597

with the multilateral framework of 1945: a crisis in terms of its effectiveness, but, and it is even more serious, in my opinion, a crisis in terms of the universality of the values upheld by its structures. And this is for me – it was mentioned earlier today in the Paris Peace Forum – one of the most important points of what we have just seen recently. Elements such as the dignity of the human person, which were inviolable, and to which all the peoples of the United Nations, all the countries represented, fundamentally subscribed, are now being challenged, played down. There is a perspective emerging today, which is really a break, and which is the game of powers that are not comfortable with the United Nations' human rights framework. There is very clearly a Chinese game, a Russian game on this matter, which promotes playing down values and principles. There is also a game of acculturation that is trying to make these values part of a dialogue of civilizations, or a clash of civilizations, by objecting to them on the basis of religion, for instance. This is instrumental in fragmenting the universality of these values. If one accepts the challenge to these values, which are those of human rights, and therefore of universalism based on the dignity of the human person and of the free and reasonable individual, then it is very serious. Because the value scales are no longer the same, because our globalization has been built on this principle: there is nothing more important than human life' [3].

The European Union has so far shown itself unable to articulate a fully fledged foreign policy, and still less to assert principles and clauses relating to human rights or the rule of law, despite these being referred to in its international agreements. The short-term diverging interests of the Member States, and the predominance of unanimity in decision-making, have led it to limit its ambitions.

The fact remains that a truly effective European security and foreign policy is glaringly absent during this unstable period. The crisis Europe is experiencing brings it face to face with its reliance on a multilateral system in decline, and its solitude in the international arena[4].

We are acutely aware that, in the short term, the development of a genuine common policy still looks very challenging. But it remains a top priority in the medium to long term.

A genuine common foreign policy cannot get off the ground by relying on qualified majority voting alone. While it is true that meaningful and effective compromises will be impossible to achieve without decisions taken by majority, Europeans must

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[3] *Idem.*

[4] Ivan Krastev & Mark Leonard, 'Europe's pandemic politics: how the virus has changed the public's world view', *ECFR-326*, June 2020.

agree on the role they want to play in the world, the vital shared interests they want to defend and the risks they are willing to take together. It is through *'the pursuit of coalescent if not immediately shared interests'*[5] that Europe will be able to restart a foreign policy integration process, a process that has been at a standstill for too long.

By analysing Europe's greatest geostrategic challenges, we propose in this paper the bases for a renewed analysis of Europe's vital interests, which should serve as the starting point for this reflection.

'A Europe that protects', as President Emmanuel Macron described it in his speech at the Sorbonne, cannot exist without an effective foreign and defence policy that can also project to the outside world the values that make the European model of society so exceptional.

A political union that played a role on the world stage could provide new solutions to issues that have, until now, been addressed only from a statist and nationalist perspective. Examples include immigration, the environment, security, technological innovation and tax evasion. The majority of decisions are still predominantly adopted nationally, even though they are eminently transnational in nature. For a political union, it is a question of assessing risks, developing a common strategic culture, and developing strategies that ensure compliance with international obligations. This may also lead to a need to take decisions with extraterritorial impact, such as those we propose here for a carbon tax at EU borders, or the responsibility of digital platforms headquartered outside the EU but which also do business within the EU.

We must therefore move far beyond the conventional notion of a foreign policy. This should also, in the medium term, lead us to reflect on states of emergency that seek to guarantee our safety and security. Who should make decisions that have impacts, actions and outcomes at European level?

A new political union should enable us to revisit the concepts of alternative and choice: the most immediate meaning of sovereignty[6]. We must extricate ourselves from this spiral of technocracy (which relies on an alleged lack of alternatives) and populism (which is a pathology, rather than an alternative) in the face of a loss of legitimacy of institutions and of 'politics'. In the context *'of a challenging globalization, this populism returns to its favourite starting point: the return to the nation, faced with an environment presented as hostile'*[7]. But populism reduces

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[5] Jean-Dominique Giuliani, 'Is it possible to have a European foreign policy?' , 20/09/2020.
[6] Bertrand Badie, Dominique Vidal, *En quête d'alternatives*, Paris, La Découverte, 2019.
[7] Bertrand Badie, Domonique Vidal, *op. cit.*, p. 19.

the alternatives further, by galvanizing the 'people' in their unity and by speaking 'on behalf of the people' with a focus only on protest, or even on the destruction of existing institutions, starting with European integration and multilateralism. And yet, now that we all know that we are no longer witnessing the 'end of history', we must look elsewhere for alternatives to 'national-international' paradigms. How can we respond to the growing demand for common assets, human security and transnational solidarity? What is the relationship with civil society, which is also beginning to become globalized? What should be the response to the crisis of national political parties?

These are new challenges requiring action by the European Union, not just internally but also globally. They require a new 'humanist' doctrine for a new 'human security' in globalization. In the words of Edgar Morin: humanism is a solution to the problems of humanity. If one yields to obscurantism, globalization and the West risk selecting *'a process of techno-economic unification of the world'*, a driver in *'closing off cultures to preserve their originality'*[8]. This is fertile ground for the politics of neo-nationalism, economic autarchy, the departure from multilateralism, the politics of *'-exit'*.' According to Morin *'by creating dangers, globalization has also created a community of destinies for all humanity...The paradox is that, rather than provoking increased awareness of this community of destinies, the crisis of humanity instead leads to the closing off of that particular destiny...although each person's life is an individual adventure, we must understand that our society is also experiencing this adventure'*.

This is the starting point for new transnational action by the Union and for the development of a different idea of 'power in solidarity' on the world stage. Overcoming the egocentrism of European nations must be one of the objectives of the new political union. A new transnational policy must demonstrate the growing ties between societies, economies and global issues, and must help a sense of shared destiny to emerge.

Current national policy has only one objective: to survive and, if possible, to expand. This reflects a conservative perspective internally, and an imperialist perspective externally. National policy is seriously lacking in global vision and does not view the world from a global solidarity standpoint. This has also influenced the only transnational achievement that exists today – the European Union. The Union is not yet a political player with a global vision. It lacks 'power' and is *de facto* slow and timid, even absent, on the world stage for these reasons. What could be a new security strategy for the European continent? This question

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[8] Lecture by Edgar Morin at Toulouse-Capitole University, 4 May 2017.

requires us to rethink Europeans' role in NATO and to devise a new strategy, for example towards Russia. What action should be taken in the Mediterranean? What partnership should there be with Africa, and what strategy with respect to China?

To quote the analysis by Ulrich Beck, how can a political union position itself in relation to a world of States that, due to major disappointments, are now turning to nationalism, populism and ethnic or religious extremism?

A new European approach is therefore required, starting with some major geopolitical questions to be addressed as a matter of priority.

Renewing transatlantic ties

The Atlantic partnership between the United States and Europe provided the foundation for the post-war international order that centred on a shared commitment on both sides to freedom, democracy, human rights, the rule of law and free trade. Anchored in a network of transatlantic institutions, such as the North Atlantic Trade Organization (NATO), the Organisation for Economic Cooperation and Development (OECD), and the Organization for Security and Cooperation in Europe (OSCE), transatlantic relations have achieved a degree of political, military, economic and social interaction that is unequalled in the world.

Even if the transatlantic partnership is currently being tested, the interdependence of the two sides of the Atlantic Ocean runs very deep. Relations that Europeans have with the United States will, for a long time, remain one of the key pillars of their foreign policy.

While the Trump administration is undoubtedly responsible for an unprecedented deterioration in these relations, it would still be wrong to conclude that the change at the Oval Office with Biden's victory will return us to a situation comparable with that of the late twentieth century. The influence of the Bush Jr. administration had already proven a challenge to unity within the EU, while Barack Obama turned his gaze eastwards with the conclusion of the Trans-Pacific Partnership.

It is nonetheless true that in Biden's United States, Europeans will rediscover an actor favourable to reviving multilateralism. On the EU side, there are three prerequisites for renewing the transatlantic partnership. Firstly, there must be a more coherent and more prominent foreign policy. Secondly, Europe must end its excessive reliance on the United States on defence matters. Since the United States' strategic interests no longer lie in the old continent, there is little point in hoping that Europe can continue to outsource its defence without footing the bill.

Finally, there must be a renewed commitment to multilateralism, by renewing institutions and international rules so that they can once again become guarantors of the sovereignty and autonomy of States in a multipolar world.

A new European contribution to the transatlantic partnership first requires further integration of the package of European external action instruments: trade, development aid, humanitarian action, and cooperation between police and intelligence services. In recent years, the Union has announced new objectives: to strengthen its defence, cybersecurity and anti-terrorism systems; to make a genuine commitment to the mutual assistance clause; and to contribute to collective security. But it has also experienced several failures and difficulties. The enlargement process has largely lost its effectiveness and no longer ensures coherent democratic processes; the neighbourhood policy has been a partial failure; and the absence of action in Libya and Syria has been glaring. To contribute more effectively to a new partnership, Europeans must make progress in all these areas.

NATO should promote dialogue between Europeans and Americans on questions of security, and act as a link between Europe and the United States. This is the purpose of NATO as a political organization. However, in recent years, Europeans have been very slow to make progress towards these objectives; while the United States has taken unilateral decisions on Iran, Syria and Turkey. However, NATO is not based solely on mutual assistance (Article 5), but also on a consultation between the parties when 'the territorial integrity, political independence or the security of any of the Parties is threatened' (Article 4). However, this consultation has been seriously lacking in recent years, notably with the Trump administration. It is therefore clear that the partnership needs an update and a new equilibrium. President Emmanuel Macron has chosen to shake up public opinion, declaring in *The Economist* that NATO was becoming brain-dead.

Europeans must take charge of their destiny in the area of security, otherwise the Union will have no gravitas on the international stage and no influence in the transatlantic partnership. They must develop their military capacity within the European Union, through ongoing structured cooperation and the European defence fund, to address their security and thus better respond to the US demand for a review of contributions to NATO. Cybersecurity, in particular, is a sector in which a European contribution to NATO is increasingly urgent. There are growing dangers of our collective security systems being breached by digital means, with increasingly aggressive attacks. The Union must rapidly equip itself with a new digital defence infrastructure based on a rapid response cyber unit. Consensus does appear to be emerging on some sector-specific aspects.

However, all this requires a new, broader debate among Europeans about how we want to guarantee our security and contribute to our alliances in future. This should be discussed at the *Conference on the Future of Europe*. Just after Biden's victory, for example, we saw the German Minister of Defence Annegret Kramp-Karrenbauer hastily declare that Europeans should abandon their illusions of strategic autonomy because they will not be able to replace America's crucial role as security broker. It is clear that it is not a matter of replacing the transatlantic partnership, but of renewing it. However, this also points to political differences, notably between Paris and Berlin, on a matter that is essential to the new political union we are proposing.

A new security in Europe

A détente in relations between Europe and Russia is a *sine qua non* for restoring stability in the eastern neighbourhood and cultivating a partnership from which both sides will benefit. This is both very difficult and very important.

Russia is a power lacking in recognition. Since the fall of the Soviet bloc, Europe and the West have viewed Russia as a regional power, while Putin's policy seeks to restore the pride of the Russian people and their recognition as a world power.

It is therefore vital to establish updated relations with Russia, to reintegrate it into the European and international order. While Europeans rightly view the annexation of Crimea and the occupation of Donbass as unforgivable, they nevertheless fail to acknowledge their share of responsibility for the stalemate in the conflict in Ukraine. The prospect of NATO membership promised to Ukraine by the West has been seen as a major act of aggression by Russia within its area of influence (and historic influence), and as a violation of the tacit equilibrium established after the Cold War.

Bernard Guetta recently presented some very interesting proposals for a new relationship with Russia[9]. He noted, in particular, how Europeans may now exert much more influence on domestic Russian debate than they did in the past and should push for a constructive attitude from Russia in Belarus, an essential prerequisite for any attempt at improving our relations. Similarly, Russia should accept guarantees of independence for Ukraine, Belarus, Georgia and Moldova. But this is now possible and could pave the way for new ideas for this new relationship.

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[9] Bernard Guetta, 'La Russie et Nous', Brussels, October 2020.

One of the ideas that has emerged more recently is to grant some form of neutrality to Ukraine, to reshape the EU's Ostpolitik.

The parties should work towards a status of neutrality for Ukraine. This would ensure its territorial integrity and political independence. All parties could benefit from allowing Ukraine to reach partnership agreements both with the EU and the Eurasian Economic Community, and relations between the EU and Russia would be considerably improved. As a bridge between the East and the West, there could be major economic development potential for Ukraine, and an historic opportunity to forge a new national compact between the Ukrainian and Russian populations within its territory.

This approach could be replicated to replace the eastern partnership of the European Neighbourhood Policy, which should give way to a trilateral policy of the EU and Russia, on the one hand, as powers in the region, and the countries of the shared neighbourhood (Armenia, Azerbaijan, Belarus, Georgia, Moldova and Ukraine) on the other.

It is only within the framework of peaceful neighbourhood relations and on an equal footing that Europe can exert pressure on Russia in the area of human rights and restore respect for a regional and global order that is based on multilateralism.

China and the end of European naivety

China is probably the biggest challenge facing Europe on the international stage. It is no coincidence that it is mentioned repeatedly in the various chapters of this paper. After a period of ingenuousness regarding China's intentions, events in Hong Kong and the massacre of the Uighurs in the Xinjiang region create an obligation for European officials to open their eyes to what has, in reality, become a systemic rival. As part of its growth strategy, Beijing has the intent and capacity to impose a global and cultural order that is diametrically opposed to that championed by the EU. This is a protean challenge that aims to ensure China's control of raw materials and emerging markets, by transforming international rules (particularly those of the WTO), trade flows and political regimes.

A study by the *European Council for Foreign Relations* clearly identifies the new challenges in Sino-European relationship[10].

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[10] Andrew Small, 'The meaning of systemic rivalry: Europe and China beyond the pandemic'*, European Council for Foreign Relations*, Paris, 2020.

Firstly, it is becoming increasingly clear that *'Beijing's handling of the pandemic has changed long-standing European assumptions about its reliability as a crisis actor and its approach to the European project'*. Several European governments have already reassessed their vision of how their relations with China should look after the pandemic. As new the Biden administration takes office, the time has come to conduct this geopolitical and geo-economic stock-taking exercise in Europe and to engage in dialogue with Biden's United States to try to restore better cooperation with Washington in this area.

The Covid-19 crisis has also intensified *'demands from European parliaments, media outlets and citizens for Europe to put its China policy on a more open, accountable and values-based footing'.*
There can be no 'business as usual' approach to relations with Beijing.

Europe does, of course, have strong commercial and industrial links with China. French, German and Italian companies have relocated production there. China's stake in the port of Piraeus, seizing on the sovereign debt crisis of the 2010s, should be viewed as the purchase of China's first trading post in Europe. The first step towards implementing an effective policy on Beijing therefore requires an overhaul of the European economic model in order to rebuild the Union's industrial and economic sovereignty. This is another example of how the strategy of internal political union and the Union's external political role are closely interlinked.

It is only through a federal union and a new transnational policy that European States can resolve the internal and external dilemma of their autonomy and their industrial competitiveness. A political union should mobilize the broad range of resources at its disposal, while at the same time mobilizing global networks and building alliances of a new kind (and also with non-state actors such as large NGOs or organized opposition movements in totalitarian countries. Why not engage in much more dialogue with the opposition in Hong Kong, for example?). This participation, through the Union, in new global initiatives would also have the benefit of finding new 'political resources' for regeneration and lending States new legitimacy in their action on the national stage. Once again, a federal union would then become the best guarantee for Member States in a positive-sum game of cooperation and would highlight the hypocrisy of a traditional notion of sovereignty defined only along statist-nationalist lines.

Relations between the European Union and China have already entered a new phase. The Chinese market is no longer enough to justify everything, and it no

longer blinds Europeans. The time for compromises reached too quickly and too naively appears to be finally over.

Europeans seem to want to react to increasingly aggressive and underhand Chinese policy. It is true to say that China is now, first and foremost, a systemic rival of Europeans.

Europe's new policy towards China therefore needs to be firmer, an essential prerequisite for rebalancing relations, starting with human rights issues.

This firmness is also needed to rebalance trade relations, whether this means limiting technology transfers imposed on foreign firms in China, or transparency in Chinese public subsidies. Europe will, moreover, need to place more emphasis on achieving genuine reciprocity, which must become one of the pillars of its new strategy.

As has been rightly pointed out, *'on this as in other matters, one should not expect any Chinese goodwill. To improve its room for manoeuvre and its negotiating position, the EU must first strengthen its resilience and the capacity of its Member States to cooperate. It is only by ensuring the internal security of supply chains for essential products that the EU can make access to its internal market a powerful negotiating tool and avoid economic coercion from China. But beyond this common economic approach, the EU must adopt a clearer political and geo-strategic stance towards Beijing. If Europe is to carry weight with this power, it must see China as both as partner within global governance institutions, an economic competitor in globalization, and a geopolitical systemic rival. It must speak with one voice'.*[11]

The greatest tool at the EU's disposal regarding China is its internal market. To exercise a regulatory power equal to its market weight, the European Union must establish a new fiscal system and new industrial and competition policies, as already proposed here. These policies must encourage the relocation of production of essential goods and protect European companies from unfair competition by Chinese companies boosted by Beijing state aid and lax social and environmental regulations. In strategic sectors, Europe should not be afraid to establish the principle of European preference in its public procurement and control over foreign direct investment, from which strategic sectors should be excluded.

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[11] Ernst Stetter, 'La Chine et l'Europe : la fin de la naïveté ?' *Fondation Jean Jaurès*, Paris, 2020.

The upswing in momentum created by Germany's presidency of the EU – and in particular by Chancellor Angela Merkel – in December 2020 for the conclusion of an EU-China investment agreement therefore raises several questions. When the final draft of this publication was produced, the Commission had not provided the necessary guarantees on the inclusion of International Labour Organisation (ILO) standards in the agreement, or on the ratification by China of the key ILO conventions on forced labour. China must also be prevented from directly or indirectly investing in strategic and sensitive infrastructure within the EU. The conclusion of such an agreement at this stage also risks adding grist to China's incessant propaganda mill that seeks to deny and conceal serious human rights violations against the Uighurs; it also comes at a very critical phase for what remains of Hong Kong's autonomy. In conclusion, it is a strictly commercial approach that departs substantially from the role of democratic power that we recommend for the Union in this paper.

A new Europe in Africa

Africa has growth and development potential without parallel in the world and is coveted by most global powers. China mainly imposes its presence there through a development policy that is very attractive in the short term for African governments since, unlike European aid, it is not accompanied by any political or human rights conditions. However, it does come with arrangements aimed at increasing the beneficiary States' economic and financial dependence on Beijing.

Europe, and European countries, meanwhile, struggle to articulate a policy on Africa. Despite a long history of cooperation agreements between the EU and Africa, which began in 1963 with the Yaoundé Convention and continued with the Lomé and Cotonou agreements, the effectiveness of Europe's approach has only declined over the decades.

To restore it, the political union must abandon the 'donor/beneficiary' strategy.

Europe's former colonial powers also need to reckon with their past, to enable better coordination of external policies, and in particular the support provided by Europe for efforts to rebuild state structures in several African countries. The end of the CFA franc announced by Emmanuel Macron in December 2019, for example, is a positive development. The goal of a European approach towards Africa should be to ensure African countries are independent, by strengthening their governments, their collective security capacities and their food autonomy.

To achieve this, Nicolas Baverez has provided a good summary of what is possible and necessary, according to several observers. Firstly, we must propose the joint

management of population movements with assistance for accommodating refugees, in return for border control, the dismantling of illegal immigration networks and the readmission of rejected asylum seekers. The Union must also engage in negotiating an agreement between the large European market and the free trade area on the African continent, to promote trade and establish a protective framework for private investment with a transnational emphasis. In addition, Europe's response to China's Africa strategy also involves large-scale financing of water, energy, transport, finance and digital technology infrastructure. Assisting Africa's development also requires supporting education and vocational training, to improve the employability of the working population and competitiveness of its enterprises. Finally, we must enhance cooperation with African States in combating jihadism[12]. Finally, the political union should acknowledge that development cannot take place without security: the military partnership against Islamists in Mali is just one example of new initiatives that could be undertaken in the future.

We must undoubtedly make up for lost time. 2020 was to be the year of the rebooting of the Europe-Africa relationship. Very little has happened. In 2021, we must enter a new phase in relation to Africa. The relationship has never been truly equitable. Europeans have always behaved as mentors to Africans. This must change. But three key questions need to be addressed first.

The first concerns a new equilibrium in trade relations, which must evolve but is still based on African exports of raw materials and European exports of finished products. Africa may become a global leader in the fields of renewable energy and sustainable agriculture.

The second concerns cooperation on migration: a debate must begin on a new *'more-for-more'* strategy, whereby bilateral cooperation in trade and development aid can be stepped up in exchange for greater cooperation in managing migration flows. We must also have the courage to finally say 'no' to money to dictators, by distinguishing between development aid, which can help us to promote fundamental values, and humanitarian aid, which can never be conditional.

The third concerns the suspension, or even the restructuring, of African debt in the post-Covid-19 strategy to avoid another serious debt crisis. This requires a coordinated decision between the EU, the IMF, the World Bank and the G20.

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[12] Nicolas Baverez, 'Le regard de l'UE doit se trouver vers l'Afrique', *Le Point*, 29 November 2019 (accessed on 30/07/2020 https://www.lepoint.fr/editos-du-point/nicolas-baverez-le-regard-de-l-europe-doit-se-tourner-vers-l-afrique-29-11-2019-2350366_32.php)

These are very sensitive issues that could truly transform the relationship between Europe and Africa and should therefore be discussed at the *Conference on the Future of Europe*.

Return to the Mediterranean

The Mediterranean is not a uniform whole. It is a meeting point of three clearly differentiated geostrategic blocks, each defined by their access points: the European Union, including its candidate countries, the Middle East and North Africa. Added to this are the interests of non-Mediterranean countries that nevertheless have different and often divergent interests in the region, such as Russia, the United States and, more recently, China.

Many attempts have been made to unite the Mediterranean into a single political area. The Barcelona process, which began in 1995, followed by the Union for the Mediterranean (UfM), have only produced modest results, for example in the countries of North Africa. Europe is ultimately absent and, despite its geographical dependence, has only suffered the phenomena experienced on both sides of the Mediterranean by playing a humanitarian role at best.

Given the heterogeneous nature of the States bordering the Mediterranean Sea, it would be difficult to achieve a single policy that would address the region's economic, humanitarian and social challenges in the short to medium term.

A 'powerful' Europe must above all confront the main challenges in the short term. Russia is playing a role in Syria and in Libya. Turkey is fuelling and using tensions in Libya to its advantage, to access new ways of putting pressure on Europe and to manipulate the migration crisis as a geopolitical tool. China is also strengthening its presence. America's disengagement from the region leaves Europe standing alone. As with the challenges on its eastern flank, the EU as a whole must seize on its role in the Mediterranean in order to tackle it with one voice and with all the political, commercial and military power needed to defend its vital interests. In the Mediterranean, developing a new European power through a political union is becoming particularly urgent.

This also requires overcoming hypocrisies and ambiguities that are no longer constructive.

A very short-term example of this has been Turkey's Neo-Ottoman ambitions. The list is long and well known: intervention in Libya, including taking control of its coastguards, tensions with Cyprus and Greece, relations with ISIS-DAESH that are, according to several observers, somewhat ambiguous, the attack on the

Kurds in the campaign against Daesh, the 'tactical' management of migration flows, which it turns on and off as it pleases, and finally the insults and accusations of Islamophobia by President Erdoğan against President Macron.

The EU and Turkey must end the accession process and start again (in the future, with a new government in Ankara) on the basis of a new-generation partnership agreement. At a time when Erdoğan no longer has any intention of joining the EU, a stalled accession process gives him a free hand, since he benefits from candidate country status without actually being subject to any conditions from Brussels.

A Union of defence

This geographical and thematic tour of the main international challenges to which a new political union must provide responses demonstrates that the development of the European Union's military and defence resources is a key part of guaranteeing European sovereignty.

The international context for the EU's defence policy is totally unlike the situation we experienced in 1949 with the creation of NATO. The current debate and criticisms of NATO are, first and foremost, the consequence of a fatigued organization unable to reconcile the complexity of the entangled yet often contradictory security, economic and geopolitical interests.

Europeans must review the level of ambition of the Common Security and Defence Policy (CSDP), which was needlessly weakened when it was created, and continue to reflect on the complementarity between NATO and the European Union, which would find a broader and more autonomous role in defending European security interests. In the medium term, the transformation of the CDSP into a true defence policy, with an army and capabilities for combating hybrid threats in order to address new global challenges, is vital for genuine European strategic autonomy.

In the short term, the governments of Member States could produce a *European White Paper* through a dynamic process that seeks to build a global vision of risks and threats.

From an operational perspective, European countries urgently need to ensure greater consistency in defence spending, by increasing European cooperation and removing unnecessary duplications. Procurement, industry and defence policy must aim for greater interoperability, to ensure complementarity between armies. We must rapidly implement all the permanent structured cooperation projects

launched in December 2017 and draw maximum benefit from the European Defence Fund to lay the foundations for the next step in constructing a genuine common defence, which must aim to give the EU the means to carry out enforcement actions where its vital interests are at stake.

A dynamic group of States should take the Lisbon Treaty to its logical conclusion, since the Treaty authorizes a vanguard of countries to share part of their military capacity, intelligence and resources to achieve common defence and security objectives. Consideration could therefore be given to creating permanent EU military units on a voluntary basis. This would be perfectly possible now, without any amendment to the treaties.

Schengen and going beyond Dublin

The management of borders, asylum and visas has always been a sovereign function of the State, and therefore a favoured topic for an intergovernmental approach by the Union. This partly explains the many difficulties in finding solutions at European level and the almost instinctive resistance of governments.

However, it is clear that migration and asylum are key policies in the construction of an area of freedom of movement in Europe. Since 2015 and 2016, the increase in migration flows to Europe caused by growing instability in our neighbouring countries has put the Schengen area and political stability inside the EU under severe strain. The migration crisis has highlighted fundamental differences between Member States on this subject. Some Member States have almost opposing views on what role the European Union should play in this area. At a time when solidarity should have been high on the agenda, to enable a coherent, fair and humane handling of migration flows, the governments of certain countries of Central and Eastern Europe categorically refused to accept their share of responsibility. In addition to the already known divide between the countries of the north (net contributors to the EU budget) and of the south (which are net beneficiaries), a new division in Europe has emerged. This is between its western countries, under pressure from migration flows, and its eastern countries, which refuse to contribute to accommodating the migrants.

Catherine Wihtol de Wenden is rightly categorical on the need for action at European level: *'faced with the gap between European mechanisms for controlling migration flows and the realities that are emerging, the communitization of European decisions is a more effective instrument than State policies for responding to them, but it remains fraught with confusion and hypocrisy'*[1]. Once again, the hypocrisy of national sovereignty prevents the emergence of truly effective policies. Ultimately, behind the invocation of sovereign powers lies an admission of national powerlessness.

This is also a challenge of credibility for the EU. According to Dusan Sidjanski, *'This tragic display of a major economic power of 500 million inhabitants powerless in the face of a few million refugees and migrants will seriously damage its credibility. It will reinforce the memory of a Union which prefers to forget about*

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unfinished projects, as was the case with the Economic Union which was supposed to follow on from Monetary Union, or the agency Frontex which was intended to guard Europe's borders. These oversights, combined with a general sluggishness to make and implement decisions and with various internal divisions, represent the many growing pains from which the European Union is suffering, and which are brought to light in times of crisis.' [2]

It is only with genuine European policies that we can manage immigration. With national responses, we will continue to endure both immigration and cheap traffickers of populism, such as Marine Le Pen and Matteo Salvini, who speculate about these tragedies without offering any real solution. They exploit our fears, our lives and our freedoms. We cannot and must not let them do so, because we, as Europeans, have already paid too high an historical price for nationalism and populism.

And yet, during the crisis, Article 77 of the TEU, which establishes the principle of solidarity in asylum and immigration matters, has been flagrantly breached. It should also be recognized that the Union's absence and mistakes in the migration crisis of 2013, 2014 and 2015 have massively contributed to the rise of nationalist and populist movements in the countries most exposed to migration flows, such as Italy.

The history of Europe is a history of a people capable of taking to the sea to seek new paths within it, far from known lands. It is the sea that guided Ulysses on his journey home to Ithaca, a true myth emblematic of a community; a European community. And it was Ulysses that made travel a raison d'être. This is why we cannot simply stand by and watch a tragedy such as that of Lampedusa, it is why we cannot let the Mediterranean, Europe's sea, become the 'dead sea'; a cemetery for egoism, for the indifference of Europeans and the absence of Union. Who are these thousands of dead? They are, first and foremost, lives lost. Naked lives abandoned to a cruel fate simply because of their desire to regain hope, or more often merely to survive. Men, women, children fleeing their native land, driven by despair, hunger and war. We must all play our part.

The answer is very simple. We are the answer. We, Europe, Western society, founded on rights and on freedom, equality and acceptance. The migrants from the Libyan coast lift their eyes and look towards Europe. They look at us. They

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[2] Dusan Sidjanski, *Europe's Existential Crisis. Facing the Threats and Challenges*, *op. cit*., p. 24. Original text in English.

see who we are. And what we have become. For the same reasons, but with opposite reactions, migrants want to benefit from our freedom, while bloodthirsty Islamists (whether European or Middle Eastern) want to destroy it, in Aleppo, in Conflans and in Nice.

The 'de facto solidarities' that Robert Schuman spoke of can now be considered in other contexts. Immigration is undoubtedly the main one. If the European Union exists – and if it wants to continue to exist – it must show solidarity in the face of the true great urgency of our age, as emphasized by Sergio Mattarella, President of Italy: the migration question.

We must think about this carefully. It has not been easy for the French and the Germans to put aside their mutual hatred that existed for decades in order to work together in the name of solidarity. But it was through this process that Europe was born. This is why we need to *reframe the concept of solidarity* with an updated vision; a solidarity of rights and civic responsibility. A new concept of solidarity based on our awareness that the migration phenomenon can only be resolved together. We now need to reboot our history by showing solidarity towards each other, and above all by demonstrating a human response to what we see.

To save Schengen, to ensure the smooth operation of freedom of movement in the European area, it is vital to develop a new strategy for taking back control over immigration. To better manage the right to asylum, we need to go beyond the Dublin rules.

Since 2015, the EU has established numerous measures to address migration pressures. However, rather than creating a coherent asylum and migration policy, these measures offer a *patchwork* of partial, incomplete and sometimes contradictory solutions.

To safeguard political stability within the EU and guarantee the rights of migrants, it is vital that Europeans articulate a policy founded on three major pillars: overhauling the common European asylum system, closer cooperation with countries of origin and transit, and establishing a co-management of Europe's external borders between the Member States affected and the EU.

The EU has given major financial and operational support to the Member States most affected by the arrival of migrants[3], such as through the European budget, the deployment of staff and equipment, and the new emergency support

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[3] European Commission Factsheet: Migration: Solidarity within the EU
https://ec.europa.eu/commission/presscorner/detail/en/FS_19_6076

mechanism[4]. However, persistent failures in the reform of European asylum policy have highlighted a solidarity crisis that is difficult to resolve.

Progress also needs to be made in harmonizing the asylum systems of the 27 Member States. In addition to adopting new reforms at European level, national governments should also establish faster and more efficient asylum procedures. The existence of prolonged and diverse asylum procedures leads not only to the unequal treatment of similar asylum cases, but also to increasing the risk of fleeing the country of first arrival if prospects for asylum are seen as better in another EU country. Moreover, these overly complex and varied procedures may hinder the integration of people who need protection, and further delay the return to their country of origin of those without a valid legal residency application within the EU[5]. This too often leads to abuses, with economic migrants taking advantage of the complexity and slow pace of these procedures. With faster and more harmonized asylum rules and procedures, Europe would find it simpler to ensure that those eligible for international protection could continue to benefit from it.

Since the 2015 crisis, the European Parliament has repeatedly called for the creation of an automatic and legally binding mechanism for equitably distributing asylum seekers among all EU Member States[6]. What's more, MEPs have called for limiting access to European funds for uncooperative countries, such as in its report on the revision of the Dublin Regulation in October 2017[7].

Commission President Ursula von der Leyen clearly indicated in her first State of the Union address[8] that Member States that fulfilled their obligations on welcoming asylum seekers and those most at risk must be able to rely on the solidarity of the EU as a whole. In September 2019, she also emphasized that the new EU asylum system *'should include finding new forms of solidarity and should ensure that all Member States make meaningful contributions'*[9]. Commission Vice-President Margaritis Schinas also declared that the new Pact on Migration and Asylum would include a *'system of permanent, effective solidarity'* for distributing asylum seekers

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[4] European Parliament legislative train: Emergency support mechanism for the refugee crisis.   https://www.europarl.europa.eu/legislative-train/theme-towards-a-new-policy-on-migration/file-emergency-support-mechanism-for-the-refugee-crisis

[5] Jens Hainmueller, Dominik Hangartner, Duncan Lawrence, Duncan, 'When lives are put on hold: Lengthy asylum processes decrease employment among refugees'. *Science Advances*, 2016, 2.

[6] https://www.europarl.europa.eu/doceo/document/TA-8-2016-0102_EN.html

[7] https://www.europarl.europa.eu/doceo/document/A-8-2017-0345_EN.html

[8] https://ec.europa.eu/commission/presscorner/detail/ov/SPEECH_20_1655

[9] European Commission, Ylva Johansson Mission letter:
https://ec.europa.eu/commission/sites/beta-political/files/mission-letter-ylva-johansson_en.pdf

among EU countries[10]. The European Commission therefore published a new Pact on Migration and Asylum on 23 September 2020.

We are now conscious of the mistakes of the past: the desperation of coastal countries facing an influx of asylum seekers, the difficult and dangerous crossing of the Mediterranean faced by those asylum seekers, the absence of a common response to this humanitarian crisis. The *'Pact on Migration and Asylum'* is based on a triptych: more effective procedures, shared responsibilities and a more equitable solidarity between Member States, as well as closer cooperation with third countries. This does not go beyond Dublin, but it can make it smarter. Questions remain unanswered. It is better to be safe than sorry, and the devil is in the detail. This Pact has nevertheless emerged as a basis for developing a concrete policy that is more in tune with our needs and realities on the ground.

We can and must make a difference on the key points.

We should keep what has worked well. The Malta agreement of September 2019, interrupted due to the pandemic, provided for an automatic redistribution of people rescued at sea. For a few weeks, this agreement put us on the right path: let's take this solution further. There is also an important political knot that we must untangle around the issue of borders. Countries with external borders call for European support because, as they rightly say, they are shared external borders, not simply national borders. Other countries call for more responsibility from countries with external borders because they experience the secondary movements of illegal immigrants that benefit from freedom of movement.

We have identified the solution, but it requires overcoming hypocrisies and varying degrees of explicit resistance. If a border is shared, it should be managed through shared mechanisms: a truly federal European border police force must therefore be rapidly established, one that takes full charge of managing the EU's borders. This goes right to the roots of sovereignty and must confront the inertia of the countries most at risk, in which ministries of the interior put up passive resistance. How can their resistance be overcome? By giving them the assurance that they will not become large reception centres for illegal migrants who are not entitled to asylum and who have to be returned to their country of origin, or for asylum seekers who in fact wish to travel to other European countries. The establishment of a European police force should therefore go hand in hand with an automatic redistribution of illegal migrants and asylum seekers, and with much more effective

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[10] EU Observer, 'New EU migration pact to keep people in their country': https://euobserver.com/migration/149417

action for return and readmission to countries of origin. This is the necessary political basis for any reform. However, the latest proposals from the Commission do not offer clear and convincing responses.

We must be ambitious with countries of origin and enhance dialogue with those that do not cooperate fully on migration. We must, for example, more effectively strengthen the EU's funds for development and its visa policy by sharing responsibilities with countries of origin, such on the question of compulsory return.

Voluntary return is also necessary. The European Union will give an economic migrant who is turned away the option of returning to their country of origin in return for financial assistance to help them launch a new professional venture. There are already good practices from which we can learn. For example, pilot projects could be envisaged in the context of future cooperation plans between the EU and Africa. The best way of managing the migration phenomenon is to promote development. By involving State and non-State actors (NGOs, international institutions, national ministries), these programmes should promote investment in sustainable agriculture, entrepreneurship training and education in African countries. All this would create new opportunities for young people, reducing incentives for illegal migration to Europe.

Finally, we must take back control over economic migration with new legal routes and enhance external border management with the rapid deployment of the EU border force. This measure was already one of the main priorities of Italy's presidency of the EU in 2014 and should be one of the pillars of a revision of Schengen. Some countries, such as Hungary, the Czech Republic and Austria, have already made their opposition known. We know their arguments all too well, and they are far removed from the spirit and letter of the treaties. The principle of solidarity is not optional, it is a fundamental and binding principle for all subsequent EU treaties. Because of the egotism of some, and the myopia of several during the crisis, the Mediterranean has become a cemetery for European values. A new political union should ensure that it becomes the setting for our Renaissance.

Which treaties for which Union?

In this paper, we have identified priorities areas around which a political union should be constructed.

We have discussed priorities that can be addressed within the framework of the current treaties, at the political initiative of certain political forces and leaders, and a dynamic group of countries that share a common political vision and ambition. This is the case for the digital and sustainable single market, of green finance for Europe and more generally transnational legislative and political initiatives for implementing the European *Green New Deal*. These issues can be addressed by the 27, in most cases by following the ordinary legislative procedure.

Other priorities may lead to applying the specific 'flexibility' clauses that exist in the Treaty. This is the case for the 'passerelle' clauses that broaden the scope of the ordinary legislative procedure (and therefore reduce the possibilities of veto) and allow a group of at least nine countries to move forward in a closer Union that would remain open to the other Member States. This is the case, for example, for foreign or defence policy.

But the question arises as to whether the flexibility clauses can be widely used or if, to establish a genuine political Union, it would in fact be necessary to either revise the current treaties or to negotiate a new treaty under international law with direct effects on the European system between countries that share this objective.

The different legal options should therefore be reviewed.

A flexible political union

Since the Lisbon reform, the European treaties have provided for *passerelle clauses* of two kinds. The first kind makes it possible to move from a unanimous voting in the Council to qualified majority voting. The other kind of passerelle clause makes it possible to move from a special legislative procedure (which requires unanimity) to an ordinary legislative procedure. There are six sector-specific passerelle clauses, meaning that their activation only affects decisions taken in a specific area. A general passerelle clause enables the European Council to extend qualified majority voting and the ordinary legislative procedure to all legislative acts of the EU, with the exception of decisions on military matters. The activation of any passerelle clause requires a unanimous vote in the Council of Ministers or in the European Council.

Activation by the European Council of the general passerelle clause, in order to apply the ordinary legislative procedure to all EU acts, would be a major step towards greater efficiency and democracy. This would unlock important reforms and pave the way for new European policies, such as in the area of economic migration.

Interinstitutional agreements also offer the European Union the possibility of improving the operation of its institutions without amending the treaties. These are generally two-party agreements between Parliament and the Commission, or three-party agreements including the Council. They have often been used in the past, from the budgetary procedure to 'comitology'. They are founded, first and foremost, on the principle of sincere cooperation and according to which the institutions can improve the efficiency, transparency, speed and, ultimately, the legitimacy of how the European Union operates. The question of the European Parliament's right of initiative, for example, could be addressed by revising the 2010 framework agreement between the Commission and Parliament. If Parliament, by an absolute majority, requests that the Commission takes a legislative initiative and confirms this request after three months, the Commission undertakes to follow up Parliament's request with direct legislative action. This is only an illustration of the possibilities presented by interinstitutional agreements.

In the area of foreign policy, the treaties provide for mechanisms that seek to simplify decision-making. Under Article 31.2 of the TEU, the Council must act by a qualified majority in the following cases:

-   when adopting a decision defining a Union action or position on the basis of a decision of the European Council relating to the Union's strategic interests and objectives;
-   when adopting a decision defining a Union action or position, on a proposal which the High Representative of the Union for Foreign Affairs and Security Policy has presented following a specific request from the European Council, made on its own initiative or that of the High Representative;
-   when adopting any decision implementing a decision defining a Union action or position.

The clauses on 'flexibility' and 'differentiation' are also notable. They have so far only been used for very specific solutions, such as for the European patent and the European Public Prosecutor's Office. The question arises of whether the political union project may be based on systemic and widespread application of these clauses, which allow a small number of countries to move towards political integration. Of course, a solution of this kind would have the great advantage of

triggering a new federal and inclusive process within the European legal order, by using these clauses to support a new political vision for the Union, and without any formal revision of the treaties. But this is not a path that has ever really been followed. We must therefore analyse the political will, the legal limitations and the political potential of this approach.

Enhanced cooperation (Title IV of the TEU and Title III of the TFEU) provides for establishing ad hoc initiatives between subgroups of States under certain conditions. Firstly, this enhanced cooperation may only relate to competences that the Union shares with the Member States. Secondly, the cooperation must aim to further the objectives of the Union and must respect the unique institutional framework. Thirdly, at least nine Member States must participate in it. Finally, this enhanced cooperation cannot affect the rights and obligations of the non-participating Member States. Permanent structured cooperation (Article 46 of the TEU) is a very similar mechanism that applies only to military cooperation.

Enhanced cooperation may therefore, for example, be used to establish closer collaboration between a group of Member States in connection with the new European policy on asylum and migration, founded on the basis of the Malta Agreement for the distribution of asylum seekers. Other areas of application could be transport and the Trans-European networks, public health and energy.

There are, however, clear limitations on enhanced cooperation. Firstly, Article 327 of the Treaty on the Functioning of the European Union (TFEU) makes enhanced cooperation subject to respecting the competences, rights and obligations of those Member States not participating in it. The rather vague wording of this article offers those Member States a very broad framework for contesting the validity of widespread enhanced cooperation.[1] This is one of the barriers to achieving enhanced cooperation on the financial transactions tax, which after four years of negotiations remains at a standstill. Fiscal policy does not lend itself well to enhanced cooperation within a single market in which capital circulates freely.

Firstly, the obligation of being open to all Member States that may wish to participate (Article 328 of the TFEU) offers a weapon for Member States that have an interest in preventing it from functioning correctly. This is especially true in areas where unanimity is required – a Member State may wish to contribute to enhanced cooperation to force other Member States into a cheap compromise.[2] This second obstacle could, however, be overcome if a dynamic group of leaders

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[1] Giulia Rossolillo, 'Cooperazione rafforzata e Unione economica e monetaria: modelli di flessibilità a confronto', *Rivista di diritto internazionale*, 2014.

[2] *Idem.*

were to indicate, from the outset and in a sufficiently detailed manner, the political objectives sought, together with the necessary political and legislative initiatives and resources to be made available for this initiative.

A *White Paper on Political Union* based on enhanced cooperation would be entirely conceivable. It could help to overcome the main legal obstacles and would have the benefit of involving the EU's institutional system as a whole from the outset.

A series of sometimes tacit principles have enabled the Union to avoid the risk of break up. The single institutional framework is the first guarantee of EU cohesion. Differentiated integration should be governed by the same institutions, according to the legal principles and the EU acquis. In addition, the principle of openness to all Member States should be reconciled with that of sincere cooperation, to prevent the ambition of those that initiated cooperation from being watered down. Experience therefore shows that variable geometry may help to achieve the goals of the European project, even if not all Member States are yet ready or do not yet wish to take certain steps.

As Clément Beaune, the current French Secretary of State for European Affairs, emphasizes, three Europes are becoming increasingly clear within the current European Union.[3] First, a Europe of democratic values and the basis for Europe as a rule of law community, inherited from the 1957 treaties. Second, the Europe of the single market, with which the euro and the Schengen area are about to merge. Finally, an emerging Europe of defence, founded on the European Intervention Initiative launched in 2017 on the proposal of President Emmanuel Macron. This Europe of defence will need rethinking in the light of Brexit, since the United Kingdom's European foothold in this area is an important shared geostrategic interest.

A radical political and institutional reform should aim to reforge consensus around the EU's mission. It is, however, very unlikely that such radical reform can be achieved with all 27, or at least not through a proposal that would apply to all 27 in the same way. An increasingly differentiated integration will need to be accommodated more effectively, while avoiding break up. As Dusan Sidjanski observed, *'It's high time that we recognize that the EU is in urgent need of a*

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[3] Clément Beaune, 'L'Europe par-delà le COVID-19', in *Covid-19 : à bas la mondialisation, vive l'Europe ?,* Politique Etrangère, Paris, éd. IFRI (French Institute for International Relations), Autumn 2020.

dynamic core group within the Euro area, equipped with sovereign powers, if it is to be revitalised, with other Members following in its wake'.[4]

In the long term, the existence of a Europe of the single market should be linked to that of a European political community, while forming new partnerships with European third countries outside the EU, starting with the United Kingdom and Switzerland. This new institutional and political reform should also be an opportunity to rethink the continent's political architecture. The enlargement to the Western Balkans should be the last, and this should provide a clear answer to the question of the 'EU's borders'. At the same time, and looking ahead, we must form special partnerships with this Europe of the Council of Europe and with Member States that do not intend to become members of the Union, but with whom we must rethink our relationship, with a view not only to the continent's growth and security, but also to a new regional bloc on the world stage.

A genuine political union

Under the current framework, it is possible amend the treaties through two different procedures (Article 48 of the TEU):

The *simplified revision procedure*, which aims to amend the scope of internal policies and the means available to the EU for implementing them (Part Three of the TFEU). This procedure cannot be used to amend the competences of the EU and provides for a lighter mechanism for negotiation and signature.
The *ordinary revision procedure*, which aims to amend any aspects of the treaties, including the objectives and competences of the EU and its institutions, its types of legal acts and decision-making methods. The ordinary revision procedure must involve the convening of a convention composed of heads of state or government, and the representatives of national parliaments, of the European Parliament and of the Commission.

Since the entry into force of the Lisbon Treaty in 2009, the simplified revision procedure has been used once to allow the creation of the European Stability Mechanism, through an amendment to Article 136 of the TFEU.

A reform of the treaties through the simplified procedure could be useful for implementing some of the policies mentioned in this text. The following non-exhaustive list provides such examples. In the field of immigration policy: the

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[4] Dusan Sidjanski, 'Why is the Union in urgent need of a political core?', *Europe's Existential Crisis. Facing the Threats and Challenges, op. cit*., p. 56.

prohibition on establishing entry quotas for economic migrants could be removed at EU level (Article 79 of the TFEU), which could lead to an EU-wide policy on economic immigration. In the field of energy policy, the prohibition on adopting acts that limit a *'Member State's right to determine the conditions for exploiting its energy resources, its choice between different energy sources and the general structure of its energy supply'* other than for environmental reasons (Article 194 of the TFEU) could be overcome. This would facilitate a policy aimed at guaranteeing the EU's energy autonomy. In the field of public health, the EU's action could be enhanced in combating major cross-border health scourges, which are currently limited to recommendations and incentive measures, excluding the harmonization of national legislation (Article 168.5 of the TFEU), which would make it possible to develop 'European health sovereignty'. And any decisions with fiscal implications, regardless of the field, that are now blocked by the required unanimity rule.

These examples show that the simplified revision procedure may offer a useful tool for acting on some of the proposals recommended here. This method would, however, only provide a partial response to the needs of Europeans: it would not remedy the gaps in competences in order to offer a European response to global challenges, nor would it make it possible to bridge the shortcomings in the Union's democratic governance structure. This makes it important to consider the advisability of launching a process of reform that would, while requiring enormous political and diplomatic efforts, set aside one essential principle in order to make progress in certain areas.

If we want to give the political union new formal powers, an ordinary revision of the treaties would offer the only possible way forward.

The current treaties provide a very rigid framework for establishing European policies.

This first step would create a new constitutional framework that would simplify the treaties.[5] These should only define the essential elements of the Union, namely:

- The fundamental values of the Union;
- The objectives of the Union;
- The principles governing relations between the Union and the Member States;
- The competences of the Union (exclusive to the Union);
- The powers and institutions of the Union;
- The legal acts of the Union and their hierarchy;

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[5] The Spinelli Group, *Manifesto for the Future of Europe: a Shared Destiny*, Brussels, 2018.

- The public finances of the Union;
- The process of constitutional reform of the Union;
- European initiatives and referenda.

The leap towards political union would involve adopting a fundamental law comparable in length to the current Treaty on European Union, with around 50 articles. This would then be supplemented by the EU's Charter of Fundamental Rights.

The European Union could then adopt 'organic laws' that would establish more clearly defined legal frameworks for how the institutions operate, the creation of agencies, the adoption of the budget, and the implementation of the Union's policies.[6] These organic laws could be adopted by the European Parliament and the Council by enhanced majority.

The new ordinary revision of the European treaties should allow the obstacle of unanimity to be overcome when it comes to national ratifications. This would be the only possible way of guaranteeing that a significant majority of Member States and peoples can move towards a political union, in the absence of unanimity on the new treaty. For example, a revision of the values, objectives and guiding principles of the federal link between the Union and the Member States, regions and local powers should come into effect after obtaining a broad consensus, which could be defined as ratification by four fifths of Member States representing three quarters of the EU's population. The other aspects of the new constitution could be reformed by enhanced double majority of the Union's citizens and of the Member States in a pan-European referendum. This would also have the benefit of fostering a European debate and allowing a European area of democratic participation to emerge. A pan-European referendum that would fully respect the democratic choice of all: those who wish to move forward on the path towards political union without forcing others that do not wish to participate in this project to follow them, while at the same time not preventing others from doing so.

A. A treaty within the treaty?

As has been proposed by several political and scientific figures, one form of innovation could be to aim for the ratification of two overlapping treaties.

The first 'confederal' treaty would be adopted and ratified according to the ordinary revision procedure established in Article 48 of the TEU. This treaty would introduce changes to the current treaties deemed essential to enabling the single

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[6] *Idem.*

market to operate correctly, and to enabling new European policies to be developed on which a sufficiently broad consensus can exist, such as the single digital market or the *Green New Deal.*

This first treaty could pave the way for a group of Member States to continue their integration through a denser political and federal treaty within the 'confederal' EU. To achieve this, the 'confederal' treaty must stipulate that the political and federal treaty will come into effect according to a procedure different to that of ratification by unanimity. In other words, an initial treaty adopted unanimously could enable a group of Member States to adopt a second treaty by majority.

This new procedure could involve allowing the entry into force of the federal treaty after its ratification by four fifths of the signatory States, representing three quarters of their total population. After these conditions had been met, the federal treaty would only come into effect for those Member States that had ratified it, in keeping with the idea of a Europe of free political choice.

B. Or, a treaty outside the treaties?

Due to the problems encountered in amending the EU's treaties, the Member States have in recent years explored, increasingly frequently, other options for reforming the EU. To overcome the disagreements that characterize an increasingly heterogeneous EU, and to avoid the impasse that results from the unanimity rule, coalitions of Member States have increasingly concluded intergovernmental agreements outside the EU's legal order but closely linked to the functioning of the EU.

This method comes up against two major constraints. Firstly, an intergovernmental agreement concluded between the Member States cannot contain rules that are contrary to EU law itself and must not derogate from primary or secondary law. The Court of Justice of the European Union (CJEU) has not hesitated in annulling bilateral agreements between Member States where it has found them to be incompatible with EU law.

The second constraint concerns the way in which Member States can call upon the EU's institutions under agreements concluded outside the EU's legal order. As the CJEU ruled in the *Pringle* case (2012), in areas that do not fall under the exclusive competence of the EU, Member States are only entitled to entrust tasks to the EU institutions, outside of the framework of the EU, on the condition that those tasks do not alter the essential character of the powers conferred upon those

institutions by the EU treaties.[7] The court upheld the argument that the constituent undertaking envisaged at EU level is so atypical that it allows one to consider the *'dissociation between the holder of the constituent power and the purpose theoretically reserved for them'*.[8] According to the Court, the constitutionalization of the EU *'thus finally distanced itself from the conventional constituent model'*.[9]

Despite these constraints, Member States have therefore successfully overcome the obstacle of unanimity to establish new instruments and new rules for economic and monetary union through the Budgetary Pact, the Treaty establishing the European Stability Mechanism and the Single Resolution Fund. These intergovernmental agreements provide for entry into force after ratification by a small number of States.

A study by the *Policy Department for Citizens' Rights and Constitutional Affairs* at the European Parliament argues that this method could be used to overcome the obstacle of unanimity to conclude a *political compact*. According to this study, such a political compact could:

- Enhance the role of the EU's supranational institutions, which have proven themselves to be the only institutions capable of acting effectively in times of crisis. The role of the CJEU in the political compact would necessarily have to be maintained, because of Articles 273 and 344 of the TFEU, which gives the CJEU exclusive jurisdiction in settling disputes between Member States on matters related to EU law.
- Transfer new competences to the EU institutions, for instance in the field of migration and external border management, as well as in the field of health policy.
- Enhance supranational enforcement powers, by amending the decision-making process on rule of law matters, as mentioned above, but also imposing harsher financial penalties for violations of EU norms.
- Re-allocate new resources at supranational level, including the power to introduce direct taxes, which are crucial for a fiscal capacity.

The *political compact* could come into force after ratification by a sufficient majority of countries but would not apply to countries that had not ratified it.

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[7] Court of Justice of the European Union, Judgement of the Court (Full Court) in Case C-370/12 Thomas Pringle vs Government of Ireland and Others, Reference for a preliminary ruling from the Supreme Court, 27 November 2012, Luxembourg.
[8] G. Marti, *Le pouvoir constituant européen*, Brussels, Bruylant, 2011, p. 722.
[9] F. Giorgi, 'Le pouvoir constituant européen, "l'Arlésienne"' *in* V. Kronenberger, M.T. D'Alessio, V. Placco, *De Rome à Lisbonne : les juridictions de l'Union européenne à la croisée des chemins*, Brussels, Bruylant, 2013.

As the European Parliament study indicates, this method carries a risk of weakening the Community method in the new policies created by this treaty, or even abandoning it in favour of the intergovernmental method. To avoid this pitfall, this treaty should reflect a broad deliberative process led by the European Parliament, within the framework of the *Conference on the Future of Europe*. In addition, the political compact could be subject to approval by the European Parliament before launching the national ratification process.

We must, of course, analyse and exploit the full political potential of the existing treaties and ascertain whether the existing provisions can be deployed for a new political project led by a dynamic group of States and peoples. However, past experience has shown that there are sometimes obstacles that are difficult to overcome, as the problems in ratifying and implementing of the *Next Generation EU* recovery plan have clearly shown.

It therefore seems necessary to also consider the need for either a 'treaty outside the treaty', or a revision of the treaties. The simplified revision procedure could give the European Union new instruments for developing the policies already delegated. It would not, however, rebalance the distribution of competences between the EU and the Member States, optimize decision-making processes or guarantee the EU's fiscal autonomy.

In our view, the *Conference on the Future of Europe* should lead to a treaty revision procedure initiated under the ordinary procedure. But if this were to encounter insurmountable opposition during negotiations, national vetoes within the European Council or rejections during ratification in one country or another, a new treaty 'outside the treaty' would have to be adopted with the countries and peoples that were committed to reshaping the Union – a Europe of free choice in which no State and no people can be compelled to take this path but, at the same time, no person can block peoples and States that would like to opt for political union.

European democracy and transnational politics

'Unprecedented European federalism is inspired by common principles and by the federal method, while seeking to preserve or even maximize Europe's rich diversity. While it demands respect for the values and principles that are the bedrock of Europe's union, such as democratic principles, federation guarantees the richness and harmonious development of the identities of Member States, of regions and collective bodies, as well as their participation in governance of the federation.[1]

The European 'power' and 'sovereignty' that we propose in this paper must be 'democratic'. Referring to Kant and Karl. W Deutsch, Dusan Sidjanski argues: *'Do we remember Kant's small work on universal peace, in which one of the conditions is harmony and cohesion between the member republics? In federal states, the federal executive is responsible for ensuring respect for human rights and democratic norms, while preserving 'unity in diversity' and national and regional European identities. At the same time, I must emphasize the 'leitmotiv' of Karl W. Deutsch: unions and federations that have succeeded have benefited from the momentum of a 'political unifying core' . In another form, this was President Macron's call for a sovereign, united and democratic Europe, a sovereign Europe 'en marche''.*[2]

While European sovereignty has become the main objective of European leaders since the coronavirus crisis broke, the EU is still a long way from having completed construction of a genuine transnational democracy. To this end, a genuine transnational political life must be promoted in the European area, with transnational political movements and parties. In the European system, we have witnessed the emergence of transnational administrative networks between the Commission and the national administrations; civil society is organized on a European scale; the role of social partners is recognized in the treaties; political

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[1] Dusan Sidjanski, 'La mise en œuvre des valeurs et principes fondateurs de l'Union européenne', *in* Dusan Sidjanski, François Saint-Ouen, Constantin Stephanou (ed.), *Union de valeurs ?, op.cit.*, p. 200 .

[2] Dusan Sidjanski, 'Réflexions ouvertes sur l'avenir de la Zone euro', *in* Sandro Gozi, Dusan Sidjanski, François Saint-Ouen (ed.), *L'avenir de la Zone euro*, *op. cit.*, p. 157.

groupings are key players in the European Parliament; and European leaders meet according to their political affiliation before each European Council. In short, the European system is growing transnationally everywhere except... in the domain of political life. We do not have any genuine European political movements. Europe's political parties lack direct political legitimacy; they appear more as bureaucratic apparatus and remain little known, and are therefore not recognized, by citizens. The comparison with other federal and confederal models is not very helpful here, due to the specific features of the European model that require innovative solutions.

To quote the words of President Emmanuel Macron: *'If there were European sovereignty, there would be a fully established European political power in place. We are not there yet. There is a European Parliament that defends European citizen representation, but I consider that these forms of representation are not totally satisfactory. That is why I strongly defended the idea of transnational lists, that is to say the emergence of a true European* demos *that can take shape, not in each country and each political family within it, but in a more cross-cutting way. I hope that the next election will allow us to do this. If we wanted European sovereignty, we would undoubtedly need European leaders fully elected by the European people. This sovereignty is therefore, if I may say so, transitive. But between what the Commission is doing, the Council, on which leaders elected by their people sit, and the European Parliament, a new form of sovereignty is emerging, which is not national, but European'.*[3]

The aim is therefore the construction of a political area where European citizens can compare, evolve and converge their positions, to take decisions that will determine their future. It is only within a European political area that the citizens of the Union will be able to shape and evolve European integration.

The emergence of transnational political movements and the adoption of transnational lists for elections to the European Parliament are therefore sorely needed.

We must encourage the emergence of genuinely European political parties. European parties have been defined since the Maastricht Treaty as *'a factor for integration within the Union'* and they are referred to in Articles 10 of the TEU and 224 of the TFEU as players that must contribute to *'expressing the will of the citizens'*. However, this is not yet the case today. European parties were originally conceived not as 'associations of citizens' but as 'confederations of national

[3] *Le Grand Continent* (16 November 2020). 'The Macron Doctrine: A Conversation with the French President' Op. cit.

political parties', while the Lisbon Treaty establishes a direct link between citizens of the Union and European parties, by outlining a deliberately transnational objective and overcoming (finally!) the old divide between national politics and international confederations of parties. We must therefore now build genuine European parties endowed with a new direct democratic legitimacy, through a new transnational approach.

Introducing *transnational lists* could have a doubly positive effect. It could 'europeanise' national political parties and debates, and provide a better structure for (new and existing) movements and (new) European political alliances,

It would also involve refuting two false assumptions: according to the first, politics can only take shape within a national space; according to the second, transnational movements would become competitors of national movements. Both assumptions are linked to a binary approach – national/international – that we must decisively move beyond within the European political area. A new transnational dimension is, however, necessary to enhance the legitimacy of *'sovereign'* Europe, and could highlight growing political, economic, cultural and military interdependencies.

This approach would also have the effect of fostering or accelerating the breakup and reconstruction of national political forces, overcoming traditional left/right divides and shining a light on the new divisions emerging between and within political forces. The protectionist left, for example, will tend to insist on the national framework as the ideal terrain for policies of protection and closing off from the Union, but also from globalization. A more liberal left and the more 'centrist' forces will tend to push for new balances and a sovereignty 'shared' between Members States and Europe. The right and the more 'ethnic' extreme right will push even further for dual political and cultural isolation, identifying the Union and multilateralism as their main adversaries. But a more transnational right could also be encouraged to make its voice heard more loudly by moving beyond the current ambiguity, in the tradition of Europeans such as Schuman, Adenauer or Gasperi. In addition, there are the new green political forces, which appear very open to the new transnational dimension, and new movements that could be encouraged to operate more effectively within this new democratic space (such as, for example, the new VOLT movement). In short, a transnational approach may favour political pluralism, not only because it adds a new dimension to debate and political action (a European dimension), but also because of the accelerating effect that this new dimension would have at national level.

Transnational lists and European debate

Too often, the problem in European democratic debate is that it is not... 'European'. In the EU, there is one debate on Europe, alongside 27 national debates. Each European election is simply the result of adding together 27 debates, 27 electoral campaigns, and 27 national results.

It is above all to resolve this problem that the idea of creating a pan-European constituency with transnational lists emerged. I would encourage a truly European debate through the emergence of transnational political movements presenting common and alternative visions and programmes on the Union, and directly subject to citizens' votes.

The idea of transnational lists was proposed for the first time in 1998 by the MEP Georgios Anastassopoulos in his report on 'A proposal for an electoral procedure incorporating common principles for the election of Members of the European Parliament'.[4] It was proposed again in two reports by the UK's Andrew Duff in 2011 and 2012 and taken up again in 2015 by the Hübner-Leinen report. In his 2017 State of the Union address to the European Parliament, President Jean-Claude Juncker also supported transnational lists, noting that they would help create a European political area. But it was with the departure of 73 British MEPs after Brexit that the idea began to gain traction: the number of MEPs was reduced from 751 to 705, and it was now possible to add 'transnational' MEPs without reducing the total number of MEPs.

Italy was the first Member State to recommend the creation of transnational lists during the informal conference of European Affairs Ministers in Bratislava in July 2016, and to submit this proposal to a meeting of the General Affairs Council in April 2017.[5] Then, during his electoral campaign and in his major speech at the Sorbonne in September of the same year, President Emmanuel Macron also supported the idea; he was joined in 2018 by the Cypriot, Greek, Maltese, Portuguese and Spanish governments at the Summit of the Southern European Union Countries in Rome.[6] But the lists were subsequently rejected on 7 February

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[4] Report on a proposal for an electoral procedure incorporating common principles for the election of Members of the European Parliament - Committee on Institutional Affairs - A4-0212/1998
[5] Christine Verger, 'Transnational lists: a political opportunity for Europe with obstacles to overcome', *Notre Europe*, Institute Jacques Delors, Policy Paper 216, 7 February 2018, page 8.
[6] Declaration of 10 January 2018 adopted at the Summit of the Southern European Union Countries:

2018 in the European Parliament following opposition by a large proportion of the European People's Party (EPP), the extreme left and the extreme right.

However, we are now in a new era for the Union. Until now, the voting method has confined pre-electoral debates to national borders. But transnational lists would create a new area for a truly European political discussion and exchange of ideas. It would enable Europeans to understand each other better, to build consensus around ideas that seek to defend the general interests of the Union's citizens, to present truly European political programmes and, above all, to contribute to the birth of a truly European democratic area. If, in each polling station in May 2024, each citizen had two ballot papers to complete – one for the national list and the other for the transnational list – this would fundamentally change the nature of the European elections. This dual power of democratic choice entrusted to each voter in Europe would consist of a conventional ballot for the national list, and a second for the transnational list.

It might be argued that thirty-odd MEPs elected from a transnational list would not make a big difference to how the European Parliament works. But it would introduce a decisively transnational dimension to the nature of European election campaigns and debates, helping to forge pan-European consensus on key questions about the EU's future. This first reform should be introduced for the 2024 elections.[7] In the future, half of MEPs should be elected from transnational lists in a single continental constituency or in several macro-regional constituencies.[8] This new transnational political area would be a key factor contributing to the democratic legitimacy needed for *'sovereign'* Europe and for the European *'power'* proposed in this paper.

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www.governo.it/sites/governo.it/files/documenti/documenti/Notizie-allegati/governo/DeclarationIVEUSouthSummit.pdf

[7] Article 14(2) of the TEU states that the number of seats at the European Parliament may not exceed 751. This total must therefore be respected by any decision that creates one or more common constituencies for elections – unless the treaties are amended, of course. Following the United Kingdom's withdrawal from the Union and the departure of its MEPs, the Parliament currently consists of 705 members, resulting in a maximum of 46 seats to be filled (i.e., around 6% of all MEPs).
The 46 free seats could therefore be assigned to transnational MEPs. This would mean that the number of MEPs elected from national lists would need to be reduced if a new Member State was to join the EU in subsequent enlargements. Another option would be to have 27 MEPs, i.e., one MEP per Member State. This option would seem the most logical and align with the proposals of the two Duff reports, but would have the drawback of continuing the national approach: the transnational list would simply add 27 national candidates.
[8] For an analysis of the open lists systems used in the EU Member States, see the Venice Commission, 'Report on Proportional Electoral Systems: the Allocation of Seats inside the Lists (open/closed lists)', CDL-AD (2015)001-e, 2º, 21 March 2015.

The treaties would not require amendment, since Article 14(2) of the TEU does not require all MEPs to be elected on a national basis, while Article 223 of the TFEU makes no reference to the seats allocated to each Member State, only to the electoral procedure applicable to European elections.

However, European electoral law must be adopted unanimously in the Council and must then be implemented in accordance with the respective constitutional rules of the 27 Member States.[9] It is therefore clear that the process of introducing transnational lists will take time, and that this discussion about its arrangements needs to begin as soon as possible.

No lead candidates without candidate lists!

A stronger link between executive power and citizens is another important factor in Europe's democratic legitimacy. In 2014, European political parties used the process known as *'Spitzenkandidaten'* (lead candidate), by indicating the name of their candidate for President of the Commission. It was as a result of this process, and thanks to political cohesion between the main political groups in the European Parliament, that Jean-Claude Juncker was elected President of the Commission. During his 2014–2019 presidential term, the introduction of transnational lists was proposed, but did not obtain majority support in the Parliament. In 2019, some European political parties therefore took the decision to stop indicating their candidate for President of the Commission (the *Spitzenkandidaten* process) in the absence of transnational lists, where the candidate would have been the lead candidate.

The debate remains open, and both the Commission and the Parliament are committed to addressing this question during the current legislature. Combined with this *Spitzenkandidat*en process, transnational lists could achieve the dual objective referred to above. Meanwhile, in 2014, the designation of a candidate for President of the Commission was merely indirect, if not hypothetical (a 'lead candidate' without an actual candidate list!). If the candidate was number one on a genuine list, citizens would have a dual direct choice: to vote directly for their European political party, and to also vote for their candidate for President of the Commission. If transnational lists did come into effect, European political parties

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[9] In addition, it would entail a constitutional reform in Austria (since, under its constitution, the federal territory constitutes a single electoral body for the European elections), as well as changes in national laws in 15 Member States. See EPRS (European Parliamentary Research Service), 'Transnational lists: proposals and implementation', to be published shortly.

would designate the person to be their lead candidate on their transnational list through their own procedures (primaries, congresses, etc.). The person who is in first place on the transnational lists would be the party's candidate for President of the European Commission (the *'Spitzenkandidat'* process). By giving their transnational vote to one list over another, Europeans could then clearly express their choice for the Presidency of the European executive.

Furthermore, there should not be any automatic link between a list that obtains a relative majority and the election of the President of the Commission: in a parliament elected on a proportional basis, the President of the Commission should be elected from among the 'lead candidates'; i.e., the candidate who obtains the strongest absolute majority in the European Parliament. This approach would avoid a party that only has a limited majority from being able to automatically win the Presidency of the Commission.

Looking ahead, there could also be coalitions between different lists, with a shared candidate for President of the Commission indicated at the start of the electoral process.

This election system could also be used to select a genuine 'President of the Union' by combining the duties of the President of the Commission and of the President of the European Council in a single figure. This merger would already be possible today, without any amendment to the treaties, because while the role of the President of the European Council is incompatible with any national mandate, it is not incompatible with a European mandate: nothing in the treaties prevents this.

In the longer term, direct election of the President of the Union could also be envisaged, with an amendment of the treaties.

Towards the Conference on the Future of Europe

The time has come, we hope, for a sovereign and democratic Europe.

We are called upon to demonstrate a new capacity to adapt, as in other moments in history. For Europe, the question is if, and how, it can safeguard its identity, endow itself a new 'power' and promote a policy of transnational solidarity and 'human security'. This is a genuine civilizational challenge: either Europeans successfully reshape their union and enhance their presence on the world stage, or they will become the spectators of a new world order that emerges and is far removed from their fundamental values and vital interests. In the words of Dusan Sidjanski: *'In addition to its "soft power"* [*The European Union*] *must rapidly become a sovereign and united Europe'* .[1]

Europe's political union should move beyond the idea of an association between States that has characterized much of European integration: 'strength through unity' is no longer enough. We must encourage a transition to a political community of solidarity. This requires a clear choice of a new transnational approach. To this end, the same ideas of 'sovereignty' and 'power' must be completely overhauled. What we call 'taking back control' poses a fundamental political challenge: it is regularly invoked by neo-nationalist forces for *'-exit'* strategies – whether from the EU or from multilateral bodies.

However, the need to assert a European control ultimately gives us an opportunity to release notions of sovereignty and power from a strictly statist-nationalist context. Taking back control over major transnational issues at the centre of societal debate requires a new transnational policy that could enable us to regain the necessary capacity for action at European level. There are two fundamental conditions: a new political vision promoted by a dynamic group of political forces and leaders, and mobilization through new forms of participation at various levels, together with citizen debates, as indicated by the European Parliament in its resolution of January 2020.

Against this backdrop, the *Conference on the Future of Europe* offers an extremely important opportunity to promote and enhance this process.

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[1] Dusan Sidjanski, 'Les crises et l'Europe en manque d'Union politique', *in* Jean-Marc Ayrault, Dusan Sidjanski, François Saint-Ouen (éd.), *L'avenir de l'Union européenne*, *op.cit.*, p. 14.

In 2022, France's presidency of the European Union should follow up on the Conference's conclusions and launch the necessary political and legislative initiatives.

As an institution representing European citizens, the European Parliament plays a decisive role in the Conference. It could also make the commitment to propose a draft revision of the treaties, under the Article 48 of the TEU procedure, to revisit the Conference's proposals.

At the European elections in 2024, citizens could then express their views on this new political project.

Postface

The Union in a state of emergency

The role of European leaders

The leading role played by the EU's founding fathers such as Schuman, Spaak, De Gasperi and Adenauer, and the contribution of its designer and architect, Jean Monnet, are recognized. Then there is the powerful shadow cast by de Gaulle and by the first President of the European Commission, Hallstein. However, the buzz of the first years was followed by a duller period without visionary leaders. This was until the arrival of Jacques Delors, who heralded a period of revival that led to the single market, followed by the creation of the single currency, the European Central Bank's euro and the euro area. It was inspired by Jean Monnet's strategy of integrating sector after sector, tinged with determinism, giving rise to the idea of a 'vanguard' and a vision of the future with *spillover effects*. This impetus benefited from the support of Mitterand and Kohl in France and Germany, continuing the legacy of Giscard d'Estaing and Schmidt.

However, too confident in the success of the integration process that he had restarted, Jacques Delors[1] left the economic and governance aspects of the euro are unfinished. In addition, the Maastricht Treaty provided for a straitjacket of counter-inflationary measures and the limitation of public debt in the form of sanctions, without any further stimulus. It is invoking these rules that led Chancellor Merkel to reject the proposal of a group of economists inspired by Jacques Delors and Tommaso Padoa-Schioppa to use *Eurobonds* in order to develop infrastructure, research and innovation and education, as a united response to the financial crisis imported from the United States in 2008.

Merkel's rejection was based on legal arguments. Yet the vanguard was entrusted with *informal governance* through the *Eurogroup* at the very heart of the euro area. In the name of financial efficiency, the Eurogroup continues to play its central role in the euro are, to the great detriment of democracy and respect for values. With no legal status, it is acting in an arbitrary manner by bypassing the democratic procedure that the European Union prides itself on, and which it seeks to impose on Member States which, like Hungary and Poland, are quick to follow authoritarian paths!

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[1] Jacques Delors certainly expressed his enthusiasm for including the term 'federal' in the statutes of the ECB!

Do we have the right to claim to cultivate democracy in the European Union while tolerating the *virus* at the heart of the vanguard? There is an urgent need to assign a legal status to this informal and irresponsible decision-making core!

The Convention tasked with developing the draft constitution for Europe.

This consisted of 105 members, including three representatives per Member State and candidate country[2], each designating two MEPs or senators and the government choosing the third person, 16 MEPs, two members of the European Commission.[3] Their work was chaired by Valery Giscard d'Estaing, assisted by two vice-chairs, Giuliano Amato and Jean-Luc Dehaene. The constitutional treaty was adopted by an intergovernmental conference in Rome in October 2004. It must be conceded that this Treaty had nothing to do with a constitution. In fact, it was a hodgepodge of over 300 pages that were difficult to understand, even for European leaders and specialists[4].

The result was that the 'no' outcomes of the referenda in France and the Netherlands prevented the treaty from coming into effect. Public debate at all levels raised several questions, and above all that of the requirement for it to be ratified unanimously. This was a barrier to the progress essential for the union's adaptation and advancement. This barrier was inherited from the beginning of the confederations of the past.

Moreover, with ratification by some States by referendum, the fate of the treaties lies with marginal minorities of European citizens! A European constitution would gain legitimacy if it was approved by a *European referendum,* as proposed by President de Gaulle in his time.

Deficiencies and distortions in the Lisbon Treaty

The entry into force of the Lisbon Treaty roughly coincided with the financial crisis in the United States. I remember that, travelling to New York for the United Nations assembly and meetings, the Commission President declared to journalists that it was a *'cyclical'* crisis. It is true that, at the start, its ramifications did not seem to

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[2] There were 15 member countries and 13 candidate countries at the time.
[3] Michel Barnier and António Vitorino.
[4] As special advisor to the President of the Commission, I wrote my report drawing attention to the fact that the text lacked readability for European citizens. In an interview with Valéry Giscard d'Estaing at the European Movement Conference in Athens, I expressed my criticisms and proposed a text that would only cover the main institutional provisions and fundamental rights, but this was in vain.

threaten the functioning of the Euro area.[5] It is interesting, above all, to note that no article of the Lisbon Treaty provided for any economic and investment stimulus measures to avoid recession. However (probably under German pressure) it did provide for a whole series of penalties, depending on the gaps identified in budgetary orthodoxy.

The negotiators had agreed on a reduction in the number of members of the Commission. But a first backwards step was to maintain a Commission in which all Member States were represented in order to facilitate Ireland's acceptance by referendum, at the expense of a breakthrough with the intergovernmental approach within an independent institution acting in principle in the general European interest.

A second innovation, introduced by the Treaty, was a citizen initiative that was quickly stripped of any significant impact because, unlike that of Switzerland, it was only advisory in nature. It seemed as if every effort had been made to ensure the Commission had the upper hand in the process and could alone decide whether or not to accept citizens' initiatives. This will certainly be an issue to take up again at the *Conference on the Future of Europe*.

Finally, a third obstacle that remains, due to Member States as a whole failing to agree to remove it, is the unanimity that is still essential for bringing a new treaty into force. And yet more and more international organizations have protected themselves by providing for a qualified majority that automatically ensures the entry into force of an agreement between those that have agreed it. This issue also calls for reflection and proposals by the *Conference on the Future of Europe.* On the other hand, as highlighted by Jacques Delors, under the European treaties, nine member countries have the possibility of using *enhanced cooperation* after overcoming the obstacle of unanimous prior agreement as the starting point.

Perhaps the most serious distortion is that of the *Eurogroup*, responsible for most of the decision-making process within the euro area, as has already been commented on briefly above. This distortion of a text adopted by all is a sign of difficulties in the Union's progress along the federal path.

Taking into account the lessons learned from the very first negotiations on the ECSC Treaty, would it not be desirable to uphold an experimental rule consisting first of defining objectives, developing the substantive aspects of the future treaty,

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[5] Christakis Georgiou, 'Adjusting to the corporate consensus: Corporate power and the resolution of the Eurozone crisis', Université de Genève, Global Studies Institute, Working Paper, 2019.

and only latterly asking the question of which institutions would make it possible to achieve the objectives enshrined in the treaty?

After this reminder of the excesses of the Lisbon Treaty, one might wonder what the best approach to achieving political union both quickly and securely would be. A cursory look at the profound changes that have taken place, most often by surprise and sometimes accompanied by threats of conflict, suggests that time is increasingly short for addressing the nature of the threats, added to the challenges posed to the organization and functioning of our societies by artificial intelligence, which nevertheless also has positive applications, such as in medicine.

The Union urgently needs a political core

After the failure of the Fouchet Plan, other attempts have met a similar fate: the Tindemans Report in 1975, the result of an aborted mission, and the European Parliament's project known as the Spinelli Project in 1984. Each of these projects contained proposals that responded to the concerns of the time, and sometimes left unanswered questions. All these contributions shed light on certain aspects and draw attention to aspects that form leitmotifs for the evolution of ideas towards political union.

A glimpse at the different fields covered in this book is clear enough to persuade us that most of the important issues can only be addressed through political power. This explains the proposal, instead of the ambition, of mobilizing all member countries around this objective, to initially limit itself to creating a *political core*. Creating this nucleus of political authority is in fact the most pressing issue. We should remember that, while it entails a responsibility regarding European citizens, the euro also entails another responsibility regarding global financial stability, as the second international currency after the dollar.

We have said that future political union is the key to the success of monetary union. This was the claim of the Bundesbank in 1992[6]. Two years later, Lamers and Schäuble proposed a 'hard core' Europe that provided for a government and a legislature. While I prefer the term 'federal core', I nonetheless reiterate that there has been no lasting single currency in history that did not also have sovereign power. The euro is, however, part of an integrated economic system devoid of a political framework. The study by Karl W. Deutsch's team also

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[6] *Monthly Report of the Deutsche Bundesbank*, February 1992.

concluded that successful federations were formed under the impetus of a federal core.[7]

Reading Sandro Gozi's book provides a broad overview of the threats and challenges facing Europe. The shadow of GAFAM looms large over markets and over States and political communities.[8] Their ambition is to dominate minds and create the digital human. And how can Europe, the world's largest market, address these vital questions with no political power and only one voice on the global stage? This is the key problem to be addressed at the *Conference on the Future of Europe.* Clearly, the sector-specific method has reached its limits, as interaction and integration necessarily require a global vision and approach. The financial crisis and its austerity cure have paved the way for nationalists and populists, and have resurrected extremist movements on the left and right. But the pandemic has sounded a wake-up call, under the influence of France and of Germany, the latter having reversed its austerity policies. Last summer's European Council ratified the €750 billion economic recovery plan after five days of haggling. These huge sums will come from markets, for the first time, in the form of a European debt!

My closing comments relate to research and education, key fields for Europe's future. European research programmes and innovations have been tested by an unseen virus. In other words, beyond joint research, it is wise to support small teams mainly dedicated to research, and to simplify application procedures. Is this where European venture capital could come in? In education, the Union's contribution mainly covers higher-level education, rather than European schools. Should additional study in European civic education and history be envisaged from infant and primary school upwards, together with an experimental introduction to scientific thought, such as France's *Main à la pâte[9]science education scheme*? This issue should be high on the agenda at the *Conference on the Future of Europe*. These are the questions on which the future of our culture and the survival of our civilization depend.

It is time to recognize that the EU urgently needs a dynamic federal core with sovereign powers, to restore vital momentum that could lead other members to follow in its footsteps and join it. The *enhanced cooperation* set out in the Lisbon Treaty would enable the creation of this vanguard core capable of responding to

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[7] K.W. Deutsch et al., *Political Community and North Atlantic Area,* Princeton University Press, 1957.
[8] Jérôme Duberry, *Global Environmental Governance in the Information Age: Civil Society Organizations and Digital Media*, Routledge, 2019.
[9] Speech by Dusan Sidjanski at the ceremony in tribute to and memory of Georges Charpak, Institut de France, Académie des sciences, Paris, 1 March 2011.

the array of threats and ensuring the survival and reform of the euro area, as well as consolidation of the euro.

Integrated into the Union, this core would use the same structures limited to the size of its members forming part of the euro area: a European Council, a Council of Ministers and above all an Executive and the ECB, the European Parliament reduced to the number of MEPs[10] and a specialist chamber of the Court of Justice. This core would have sovereign powers and its decisions would be taken applying the Community method by qualified majority in the monetary and economic fields, as well as in its external relations, security and defence, its power projection to the outside world and migration flows.[11] This decisive act would ensure the euro's survival and would allow for common strategies and the allocation of resources, since it would have its own budget. The details still need to be fine-tuned, but the key is to enhance cooperation in an integrated democratic structure within the Union.

The momentum generated by this federal core would give impetus to all 27 Member States, by intensifying their 'unity in diversity' according to a federal vision. This initiative is incumbent on France and Germany, together with Italy and other euro area countries that have the courage to make the commitment. It is time to remedy the teething troubles of the Union, which since the failure of the EDC has not been able to acquire political power, whereas politics has now taken the place of economic and social aspects. Thanks to this 'political leap', the European Union could restore its role as a beacon of democracy in our globally destabilized world. I am convinced that the survival of our civilization depends on it.

To this end, I propose proceeding in two phases:

1) immediate action by a federal core at the heart of the euro area able to give fresh impetus to the European Union;

2) a strategy to reshape the Union in the medium term.

If a State wanted, from the outset, to veto the launch of such an enhanced cooperation initiative, I believe that the only way would be to create this political

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[10] The idea of a separate parliament would threaten not only to reinforce the west-east split but, more importantly, to cause a split within the European Union itself.

[11] Migration and European migration policy are very important points that the Centre of Excellence proposes to address at a forthcoming colloquium that will be followed by a publication.

core outside of the Lisbon Treaty, while providing a time line for its integration into the Union's institutions.

The pandemic has made us conscious of the importance of a political authority when it comes to saving lives, and at the same time of enhancing the democracy and the strengths of our European Union.

Prof. Dusan Sidjanski

Résumé

En 2020, la pandémie de Covid-19 a frappé de plein fouet nos sociétés : nous vivons un moment historique "darwinien" qui requiert une très grande capacité d'adaptation. Confrontée à une crise sans précédent, et après quelques balbutiements initiaux, l'Europe a fait preuve d'une capacité inattendue de réaction et de relance. En juillet 2020, les 27 États membres sont parvenus à un accord sur un plan de relance européen de 750 milliards d'euros. Un Plan dont les ingrédients, avec une dette commune et des ressources propres de l'Union, peuvent représenter une étape très importante vers la création d'une Union politique et fédérative, capable de reprendre le contrôle sur les grandes questions transnationales à travers une nouvelle souveraineté démocratique européenne.

Il faut placer les droits de l'homme et les libertés fondamentales au centre du projet d'intégration politique. Sur cette base, le nouveau processus de transformation européenne devra miser sur les transitions numériques et écologiques, qui représentent un véritable choix de société et d'avenir. L'Union devra aussi avoir l'ambition de s'ériger en nouvelle puissance démocratique, capable de relever les principaux défis géopolitiques globaux et régionaux. Il faudra élaborer une stratégie contre les interférences étrangères dans nos processus démocratiques, mais aussi promouvoir une politique migratoire plus humaine et plus efficace, et développer une autonomie stratégique européenne au sein d'une alliance transatlantique renouvelée. Tout cela implique de repenser la relation entre Europe et puissance.

Ce texte se veut une contribution au débat en vue de la *Conférence sur l'avenir de l'Europe*. À cette fin, les différentes options de réforme politique et institutionnelle sont évoquées, en privilégiant la possibilité d'avancer à travers un groupe dynamique de peuples et d'États, dans un espace continental à densité variable. L'élan nécessaire pour entamer cette nouvelle phase démocratique, transnationale et humaniste de la construction européenne passera aussi par une mobilisation des citoyens, des institutions européennes, nationales et des représentants de la société civile organisée.

Summary

Since 2020, global society has been struggling with the crippling effects of the Covid-19 pandemic. We are living through a "Darwinian" historic moment that requires an exceptional capacity to adapt. Faced with an unprecedented crisis, and after an initial period of hesitation, Europe has demonstrated an unexpected capacity for reaction and recovery. In July 2020, the 27 Member States reached an agreement on a €750 billion European recovery plan. This plan, consisting of pooled debt and the Union's own resources, may represent a highly significant step towards the creation of a political and federative Union, enabling it to take back control of major transnational issues through its newfound democratic sovereignty.

Human rights and fundamental freedoms should be at the centre of the political integration project. On this basis, the European transformation process will have to invest in the ecological and digital transition which represent a real social choice for the future. The Union must also aspire to establish itself as a new democratic power, capable of meeting the main global and regional geopolitical challenges. A strategy should be developed to counter foreign interference in our democratic processes, but also to promote a more humane and effective migration policy and develop European strategic autonomy within a renewed transatlantic alliance. All of this implies Europe rethinking its role as a major power.

This text is intended to enrich the debate in preparation for the *Conference on the future of Europe*. To this end, the various options for political and institutional reform are discussed, with a focus on the possibility of moving forward through a dynamic group of peoples and states, in a continental space of varying density. The impetus needed to launch this new democratic, transnational and humanist phase of European construction will also involve mobilising citizens, European and national institutions and representatives of organised civil society.

About the authors

Sandro Gozi

Elected to the European Parliament in 2019 as part of the *Renew Europe* group, where he is a member of the Committee on Constitutional Affairs and the Committee on the Internal Market and Consumer Protection. A visiting professor at the Dusan Sidjanski Centre of Excellence in European Studies since 2018, he has taught at several universities in Europe and in the United States. He has also been President of the *Union of European Federalists (UEF),* since November 2018, and recently established the EU-India Association.

Former Italian Secretary of State for European Affairs (2014–2018), he was then appointed advisor to former Prime Minister Édouard Philippe in 2019. With a doctorate in public law from the University of Bologna, with a thesis on comitology (1996), a DEA (pre-PhD postgraduate qualification) in international relations from the Institut d'Études Politiques in Paris (1995) and a master's degree in international relations from Université Libre de Bruxelles (1998). He was a member of the European Commission President Romando Prodi's cabinet between 2000 and 2004. In 2006, he was appointed advisor on European affairs to the President of the Italian Chamber of Deputies and, between 2008 and 2013, he was leader of the Democratic Party group in the Parliamentary Committee on European Union Policies and responsible at national level for European Union policies for the Democratic Party. In August 2013, he was elected Vice-president of the Parliamentary Assembly of the Council of Europe and, from January to July 2014, he was Vice-president of the Socialist Group in the Council of Europe Assembly.

He has published several books, such as *Génération Erasmus. Ils sont déjà au pouvoir* (Plon, Paris, 2016), *L'urgence européenne* (with Marielle de Sarnez, Thaddée, Paris, 2014), *Non ! ce n'est pas la faute à Bruxelles* (Le Manuscrit, Paris, 2007). In September 2020, he published a book retracing the difficulties of his 'transnational' career, under the title *La cible* (éditions Saint-Simon, Paris).

Dusan Sidjanski

Founder of the Department of Political Science at the University of Geneva, he is Professor Emeritus at the University of Geneva and of the European institute, which he cofounded with Denis de Rougemont. He worked closely with Denis de

Rougemont at the European Cultural Centre for three decades, and chaired the Centre from 2003 to 2008, and is now its Co-chairperson. He was also special advisor to the President of the European Commission from 2004 to 2014. In his honour, the University of Geneva created the *'Dusan Sidjanski Centre of Excellence in European Studies'*.

In this collection, he has published a series of texts entitled *Europe's Existential Crisis* (2018) and co-edited the books *Union de valeurs ?* (2018), *L'avenir de l'Union européenne* (2018), *L'avenir de la zone euro* (2019) et *L'Union européenne et les nationalismes régionaux* (2020). He is author of publications and articles on European federalism, regional integration and international relations, including *L'Avenir fédéraliste de l'Europe,* Paris, PUF, 1992, 1993; *The Federal Future of Europe*, Ann Arbor, foreword by Jacques Delors, preface by Harold K. Jacobson, University of Michigan Press, 2000; *L'approche fédérative de l'Union européenne*, Notre Europe, Paris, 2001; 'Le Traité de Lisbonne sur la voie fédéraliste?', *L'Europe en formation*, No 362, 2011; 'La Fédération européenne est notre affaire' in *L'Europe de Denis de Rougemont*, L'Harmattan/Academia, 2014; 'Europe Put to the Test by Influx of Migrants' and 'Why is the Union in Urgent Need of a Political Core?', *The Federalist Debate*, July 2016 and 2017; *The Future of Europe: The Reform of the Eurozone and the Deepening of Political Union* (co-direction with Fausto de Quadros), Lisbon, AAFDL Editoria, 2017; 'L'Europe de la souveraineté du Président Macron', *Revue de l'Union européenne*, February 2018. 'Preface' and 'Il faut un projet européen' in the volume Hommages au Prof. Carlos Molina del Pozo, Valencia, Tirant lo Blanch, December 2020.

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