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Europese Vereniging voor Defensie

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European Society for Defence

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President of the European Society for Defence INPA

A federal constitution for the United States of Europe

Why and how?

Preface by André Flahaut

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Preface

« A federal constitution for the United States of Europe. Why and how? » recalls why Europe needs federal governance, then answers two of the questions most asked of the author in his 180 presentations since 2015: " What will the United States of Europe consist of?" and "How could it be made a reality?".

This is the third book written by Jean Marsia. His doctoral dissertation, " La clé d'une défense européenne, celle des Etats-Unis d'Europe » (The key to European defence, that of the United States of Europe), was published in 2015 by Academic & Scientific Publishers. The Royal Academy published "The United States of Europe, for our security and our defence" in 2017.

These three works are the fruit of his professional experience, particularly that acquired in the context of his last positions. When I was Minister of Defence, he was Attaché in my Administrative and Technical Secretariat, from 1999 to 2003. He notably contributed to the launch of the A400M transport aircraft program. He became colonel military administrator and director of Academic Education of the Royal Military School (RMS) from 2003 to 2010, responsible for adapting it "to the Bologna process ", he had it positioned in the European Area of Higher Education and Research, then in the Erasmus program. He then focused it on European Security and Defence Policy. He also obtained accreditation for the diplomas which the RMS awards.

Activist for the European cause, in 2004 Jean Marsia participated in the creation of the financing mechanism for the European Union (EU) military operation "Athena"; in 2005, in the foundation of the European Security and Defence College (ESDC); in 2008, in the development of the military Erasmus program and, from 2004 to 2009, in the development of the concept of the "EU Battle Group" (EUBG), inspired by Operation Artemis, carried out in 2003 by the EU in the Democratic Republic of Congo.

In 2012, he suggested to the President of the European Council Herman Van Rompuy that the topic Defence be put on the agenda of European Council meetings. To prepare for this, the Prime Minister Elio Di Rupo appointed Jean Marsia as Defence Counsellor in January 2013. He remained in office until October 2014, which gave him the opportunity to attend the December 2013 European Council and the 2014 Atlantic Council.

The disappointing outcome of these two meetings, the inability of the European leaders to unite Europe in an "ever closer" way, to provide it with a credible defence and to ensure that it is respected on the international stage, their deficiency in the fight against global warming and pollution, and on the other hand, the success of our two federal institutions, the Court of Justice of the EU and the European Central Bank, have forged a conviction: there is no salvation without the United States of Europe.

As set out in Article 2 of the EU Treaty humanism, progressivism and universalism are the bedrock of the European values that unite us. These values form the basis of our moral strengths, but they were not enough to prevent Brexit. We must acknowledge the failure and the loss of substance for the EU: it lost 66 million British citizens, who produced 2.549 billion € of added value in 2019. The Europe of 27 has only 447 million inhabitants and its gross domestic product (GDP) is reduced to 13.500 billion €. The 2021-2027 EU budget will no longer benefit from the British contribution of some €15 billion, at a period when the EU will need to invest massively in order to revive the economy and reduce social tensions, achieve a successful energy transition, and ensure both our security and our defence.

The deterioration of the international environment and the disintegration of the EU must encourage European citizens to relaunch the political union of Europe. Only by that can we achieve the capacity to calm relations with our neighbors and partners: this requires a powerful and therefore united Europe. That is what European citizens want. They value their differences, because they know they enrich them, but, over

chaos and helplessness, they prefer unity in diversity and coherence.

To this day, federal Europe remains a utopia. Let us remember that by publishing *De Optimo Reipublicae Statu, deque nova Insula Utopia*, in Louvain in 1516, Thomas More gave the first glimpse of a republican government. May the new work by Jean Marsia help to amplify an increasingly visible movement of opinion. We must quickly convince the leaders of at least two of the EU and NATO member-States to create the United States of Europe and a real, efficient, credible and respected European defence. This would, sooner or later, prompt other countries to join.

This is the aim of the international non-profit association (INPO) European Society for Defence (SED) - <https://www-seurod.eu>. It brings together those who share European values and who want to contribute to the creation of the United States of Europe and European defence. It deserves your support!

André Flahaut
Minister of State
Minister of Defence
(12/7/1999-21/12/2007)
President of the House of Representatives
(20/7/2010-30/6/2014)
Member of the SED Honorary Committee

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« *Un jour viendra où l'on verra ces deux groupes immenses, les États-Unis d'Amérique, les États-Unis d'Europe, placés en face l'un de l'autre, se tendant la main par-dessus les mers* ». ¹

« [With] unity achieved, Europe could build adequate security and, at the same time, continue the march of human betterment that has characterized western civilization. [...] The establishment a workable European federation would go far to create confidence among people everywhere that Europe was doing its full and vital share in giving this cooperation. [...] If, with our moral and material assistance, the free European nations could attain a similar integration, our friends could be strengthened, our own economies improved and the laborious NATO machinery of mutual defence vastly simplified. » ²

¹ Victor Hugo, *Discours au Congrès de la paix*, Paris, Assemblée nationale, 21/8/1849. "The day will come when we will see these two immense groups, the United States of America, the United States of Europe, facing each other, reaching out their hands over the seas".

² Dwight D. Eisenhower, *Address at The English-Speaking Union Dinner At Grosvenor House, Park Lane, London*, 3/7/1951.

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Introduction

“The construction of Europe must be continued. Through its particular history, through its cornerstone of peace-building, through its commitment to building unity in diversity, the EU remains a point of reference for all of humanity. Citizens must be able to count on a European Parliament and European bodies which, over and above economic or technocratic measures, roll out a genuine political project showing the ability to open up to others, to dialogue with all and to generate new models for living together”.³

The position taken by the bishops of Belgium on the occasion of the elections of 26 May 2019 can only be welcomed by all Europeans of good will, provided that they are committed to the pursuit of European construction, the peacekeeping, the search for unity in diversity, the ever-closer union of the European peoples, to transparency, to democracy, in short to the values enshrined in Article 2 of the Treaty on European Union (TEU).

However, these bishops are wrong to assert that citizens must be able to count on the European Parliament, Commission and Council: these institutions are not capable of formulating a political project "testifying to the capacity to open up to others, to dialogue with all, to generate new models of living together", because transparency and democracy are almost absent in the

³ Les évêques de Belgique, « Aux chrétiens catholiques au seuil des élections » in *La Libre Belgique*, <https://www.lalibre.be/debats/opinions/voici-la-lettre-des-eveques-avant-les-elections-5cc2c2c8d8ad586a5ad4322c>, 26/4/2019. « La construction européenne doit être poursuivie. Par son histoire particulière, par sa pierre angulaire qu'est la construction de la paix, par son engagement à construire l'unité dans la diversité, l'UE demeure un point de référence pour toute l'humanité. Les citoyens doivent pouvoir compter sur un Parlement européen et des instances européennes qui, au-delà de mesures à caractère économique ou technocratique, déploient un vrai projet politique témoignant de la capacité de s'ouvrir aux autres, de dialoguer avec tous, d'engendrer de nouveaux modèles de vivre ensemble. »

EU and the European Economic Area (EEA) as they were built from 1950 until present.⁴

In 1979, the direct election of the European Parliament was a short-lived success. Nothing has been done since, and in particular during the 2014–2019 legislature, to make it a branch of an authentic European legislative power, that has, in the framework of a European federal State, of the USE, the right of legislative initiative, the right to levy taxes, to vote a budget, to designate and control a real federal executive power, to develop a European judicial power which is currently still too embryonic, and to pass the bill defining the federal army quota from member-States.

Developing a European federal defence within the North Atlantic Treaty Organization (NATO) is not an end in itself.

The priority task of the USE will be to fill the gaps in the EU, in particular in the fields of security, defence, coast and border guard, protection of the natural environment and public health. European citizens must be better protected, and so must our businesses.

Defence is a tool to protect our interests, our well-being, our way of life, our civilization, our culture, and from this foundation stone, to promote European values, which have a universal vocation.

Creating a effective army requires federal governance.⁵ George Washington and the vicissitudes of the American War of Independence demonstrated this and led to the replacement of the Confederal Constitution of 1776 by the Federal Constitution of 1787.

⁴ The inclusion of the EEA means that regions, cantons and *Länder* are on an equal footing.

⁵ The concept of "governance" refers to the rules, processes and behaviors that influence the exercise of powers at European level, particularly from the points of view of openness, participation, responsibility, efficiency and consistency. Commission des Communauté européennes, *Gouvernance européenne, un livre blanc*, Bruxelles, 2001, COM(2001) 428 final, p. 9, note 1.

In order to substantially improve the current state of affairs in Europe, from the 2019-2024 legislature, we therefore propose a federal constitution for the USE. Our aim is not to have our text tabled and adopted, but to encourage European elected representatives to get to work as constituents.

Before trying to understand why we are in the current deplorable situation, which will be developed in chapters 2 to 7, and before proposing, in chapters 8 and 9, the texts allowing us to get out of it, we must first answer the question of whether this effort makes sense and whether promoting USE is relevant. This is the subject of the first chapter.

1. The foundations of the USE

Europe may appear to be just a conglomeration of about 30 States with populations of different origins, cultures and traditions. The EU's 24 official languages separate us, but they enrich us. Brussels is the city of translation, interpretation and dialogue, in and between these languages. 120 nationalities coexist there, despite their different ways or lifestyles, very different neighborhoods, varied traditions and personal views on life. They become aware of the existence of a European civilization, not just a way of life, stemming from a common history.

The empire of Charlemagne is made up of very diverse people, but all identified as European, as opposed to the Muslim people of the south and the Slavic populations of the east. By setting up an academy in his palace in Aachen, where he brought together the best scholars and artists of his time, Franks, Italians and English, by spreading throughout the empire the use of Latin and Carolingian calligraphy, by promulgating in 789 the *Admonitio generalis*, which instituted an education based on the seven liberal arts, the emperor sparked the Carolingian renaissance. He collected and transmitted the heritage of ancient Greece across Europe, which means science and technology, philosophy, republic and democracy, and Roman law. By spreading the Christian faith, he bequeathed to us the notions of human dignity and the separation of churches and State. He founded Roman Europe.

It is on the Carolingian foundations that the humanists of the Renaissance, the philosophers of modern times and those of the Age of Enlightenment have built scientific and technological research, while sketching a common vision of society and its fundamental values.

The dualization of society after the end of the Cold War and the poorly controlled migratory movements have unfortunately fostered the rise of populist and nationalist parties, based on fear and exclusion. Nationalism excludes others, it exploits fear and it builds a confrontational society, divided inside and aggressive

towards the outside, always in search of scapegoats. Nation-States have been built around a uniform culture imposed by a common language, education, the media and even force. The United States of America has promoted its values through the mass media, particularly the cinema, which has helped to strengthen its cohesion and promote its image in the world.

Europe should promote patriotism, which encourages inclusion on the basis of shared values. When they are on another continent, European citizens meet, recognize each other and share common ground. From abroad, there is a better perception of what we have in common in Europe, whether it is freedom of expression, gender equality or respect for human rights.

Europe is based on common but cross-cultural values. It was built on the desire for peace and cooperation, democracy, freedom of thought and freedom of association, the balance between the individual and the group, between freedom and organization, between protection and the freedom to experiment.

Our values have been defined in Article 2 TEU to govern the individual and collective behavior of European citizens. They are common to Europeans, British included and are intended to be universal.

They can be summed up in three principles: universalism, progressivism and humanism.

Europe must continue to make them shine throughout the world, by being strong, by speaking with one voice, by being a reliable partner for our allies. It will then be able to better defend our interests and protect our intangible heritage, our values, our history and our culture, which are the subject of the first chapter of this book. If it refrains from doing so, it will facilitate the resurgence of various forms of barbarity.

Promoting a common European culture will contribute to the ever-closer union between the peoples of Europe, an objective set out in Article 1 TEU. How can we cope with global challenges such as climate change or technological upheavals if the European States do not make their efforts to converge?

1.1 European values

Since the Treaty of Lisbon, the values of the EU have been enshrined in Article 2 TEU, which declares: “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”.⁶

However, this comprehensive and balanced text is, however, difficult to understand for twelve-year-old’s who are starting to acquire citizenship, and also for an uneducated recruit who enlists in the security services or the army. Yet the shared values in our society underpin the moral strength of the soldiers, policemen or firemen. This is why it is useful to summarize them in a few words: humanism, which is based on tolerance and ethics, progressivism and universalism. Europe values the spirit of openness and free discovery, which leads to pluralism. This implies the separation of the State and religions as philosophical conceptions. Everyone has the right to autonomy, dignity and the esteem of others; he also has duties. It is neither consumerism nor fundamentalism that can link the members of our society together. Europe is multi-ethnic, multicultural, multi-religious, tolerant and secular. This implies that its citizens work for progress, cultivate benevolence and even brotherhood between them, reject violence and combat barbarity.

The disenchantment of the Western world described by Max Weber has two consequences. On the one hand, religious influences are no longer preponderant in public opinion: atheists

⁶ These values were first affirmed by the treaty of Maastricht in 1992. With the treaty of Lisbon, the Charter has become binding on the member-States (Article 6 TEU). The rights set out can therefore be invoked by European citizens against an act of the EU which is contrary to them. See Direction de l’Information légale et administrative, Vie publique, “Quelles valeurs l’Union européenne défend-elle ?” <http://www.vie-publique.fr/decouverte-institutions/union-europeenne/ue-citoyennete/definition/quelles-valeurs-union-europeenne-defend-elle.html>, consulted on 19/7/2014.

(40%) and "believers without religion" (30%) are now largely in the majority in Europe.⁷ On the other hand, according to Marcel Gauchet, religion no longer structures society. It is therefore preferable for citizens to deal with the metaphysical questions they legitimately ask themselves in their private sphere.⁸ Neutrality should therefore be substituted for communitarianism, which juxtaposes different metaphysical conceptions.

The "Greek miracle" produced a "secular spirituality" which is a quest and a definition of good, successful, wise living. It makes no reference to metaphysics or religious faith.⁹ Since antiquity, the wise man is defined as the one who achieves a good life, to be himself, who accepts human finitude, aging and death. He knows himself; he adopts moral rules and ethics. He develops a vision of the world and he gives meaning to his life.¹⁰ He seeks the truth. He manages to reveal and overcome contradictions between opinions on a given subject. He is able to face fears, whether psychic or social, and to live the present as if it were eternity, without nostalgia for the past and without hope: he does good for the sake of good itself, and not for a hypothetical reward.

Such wisdom is by no means antinomic to the various metaphysical convictions, including agnosticism and atheism,

⁷ According to the 2010 Eurobarometer and 2012 WIN/Gallup International surveys. See Leila Marchand, " Plus de la moitié des Français ne se réclament d'aucune religion " in *Le Monde*, http://www.lemonde.fr/les-decodeurs/article/2015/05/07/une-grande-majorite-de-francais-ne-se-reclament-d-aucune-religion_4629612_4355770.html, 7/5/2015.

⁸ See Marcel Gauchet, Marie-Claude Blais, Dominique Ottavi, *Conditions de l'éducation*, Paris, Stock, 2008.

⁹ See Paul Danblon, Lambros Couloubaritsis (dir.), *Humanisme ou barbarie, actes du colloque Europe, Terre d'humanisme*, Bruxelles, Éditions Espace de libertés, 1997.

¹⁰ This meaning can be of religious origin, and this conception in no way prevents a metaphysical reflection, for example on what exists before and after human life.

but complementary.¹¹ It corresponds to scientific practice in the philosophical world.¹²

It is addressed to, and respects, all human beings, of all convictions, each individual being considered capable of choosing in conscience his conception of the good.¹³

¹¹ The cardinal values of humanism were born from the confrontation of the Greco-Roman tradition with Judeo-Christianity, without neglecting the contribution of Islam and Buddhism: freedom of expression, thought and conscience, the supreme degrees of human freedom; immanence, which postulates that history follows the natural course of events, without outside intervention; the moral of progress, the search for the least evil in place of the absolute good; human rights, equality and respect for the dignity of the human person; tolerance; social protection; creativity and responsibility which, together with freedom, constitute the presuppositions of democracy. This system of values is combined with a set of methods: free inquiry, applied to all fields of human activity; the scientific or experimental method; democracy, as a means of managing the public affairs; and technology, considered as the application of science. At the foundation of democracy are principles such as equality of right, dignity and treatment for all citizens, exclusion of all forms of racism and xenophobia, rejection of all discrimination based on social origin, ethnicity or religion, and of course freedom, understood at the same time as responsibility, free enjoyment of one's rights, protection against all forms of arbitrariness or exploitation, and participation in political life. See Jean Marsia, « La spécificité de la fonction militaire », in André Flahaut, Luk Sanders, Hervé Broquet (éd.), *Citoyenneté, Pour devenir citoyen du monde*, Bruxelles, École royale militaire, syllabus LM 199/999–21, 2003, p. 3.

¹² According to Renan, quoted by Paul Robert, « Abstraction » in *Dictionnaire alphabétique et analogique de la langue française*, Paris, Société du nouveau Littré, 3^e éd., 1977, p. 8, « Le principe essentiel de la science, c'est de faire abstraction du surnaturel » - The essential principle of science is to disregard the supernatural. Hélié de Saint-Marc said : « Under the uniform, I ask you neither your name nor your religion... but only what is your courage. » Hélié de Saint-Marc, *Les sentinelles du soir*, Paris, Les Arènes, 1999, quoted by Henri Bentégeat, *Aimer l'armée, une passion à partager*, Paris, Du Mesnil, 2012, p. 140.

¹³ By analogy with the political conception of justice developed by Rawls: individuals with conflicting opinions, but reasonable and reconcilable by compromise, agree to regulate the basic structures of society. See John Rawls, *Libéralisme politique*, trad. Catherine Audard, Paris, PUF, 1995.

1.2 A common history

From the year -800 onwards, Greek thinking developed. The founding work of Western wisdom is Homer's *Odyssey*: it presents Ulysses in search of the good life, going from chaos to harmony, finding his right place in the cosmos, overcoming the fears that make us withdraw into ourselves, that prevent us from thinking freely and opening ourselves to others. Following him, many philosophers, among whom Socrates shines, give depth to this wisdom. Heraclitus of Ephesus shows a universe in perpetual becoming (Everything flows, nothing remains) and founds dialectical thinking (The opposite is useful, and from different things is born the most beautiful harmony; all things are generated by discord). Protagoras develops the critical spirit and makes man the measure of all things. Thales, Euclid, Pythagoras and many others formulated their theorems. Hipparchus invents trigonometry. They founded universal scientific thought. In medicine, Hippocrates remains a moral reference, while Herophilus of Chalcedon discovers the circulation of blood. Eratosthenes estimates the earth's circumference at 39,375 km, current measurements give 40,075 km. Hecate is the first known geographer and historian, his successor Herodotus conducts extensive investigations and visits the then known world. Archimedes is as brilliant as mathematician and physicist as engineer.

By killing him, the Romans put a brake on science and technology development but they raised the law to a remarkable level. Caesar implements a mode of governance that inspired many rulers, even *Kaisers* and Tsars. In -27, Augustus became the first Roman emperor, with the support of the army and the people, but he maintained the Senate of the *Res Publica*. Considering that the empire is not his property and that his function is not hereditary, he develops the notion of the State. Vitruvius writes the ten books entitled *De architectura*, the bible for architectural engineers up to the invention of artillery, and even beyond for civil engineering. Then Latin culture narrows to the seven liberal arts: grammar, rhetoric, dialectics, arithmetic, geometry, astronomy and music. The emperors Titus, in 70, and Hadrian, in 135, amplified the Jewish diaspora.

Their successors are undergoing the rise of Christian thought, which speaks to us of love, equality and humanity. In the fourth century A.D., the Roman Empire split in an East-West direction. The East is Greek and survives for a millennium. The West, Latin, succumbs to the great invasions. Three centuries later, the Arabs cut Europe off from the southern shores of the Mediterranean, but the Muslim world preserves Greek culture, it links us to Persia, India and China.

Charlemagne created the Carolingian Renaissance. He allied with the pope, he restored the Western empire and founded Europe by force of arms. With Armenian architects, he prepares the Romanesque style. He begins the *Reconquista* of Spain. Like the imperial court, the feudal courts, cathedrals and monasteries are the conservatories of Greco-Latin culture.

In 1054, the three Eastern Christian patriarchs became Orthodox, that of Rome, Catholic. On the border between Croatia and Serbia, this caesura is still sensitive.

In the 12th and 13th centuries, the University of Bologna is born from of local law schools, that of Montpellier is founded by Jewish doctors expelled from Spain by the Almoravid sultans; the Paris *studium generale* is the first to be called *universitas*. Within them, the faculties of the arts teach the liberal arts and following a decision by Pope Nicholas IV (1230-1292), award the *licentia docendi*, a diploma allowing teaching throughout Catholic Christendom, which gives universities a pan-European character. After the arts, students can study theology, law or medicine.

In the 14th century, Turkish invasions drive Muslim Tatars from Crimea to Poland and Lithuania. In the first half of the 15th century, the Portuguese, under the impulse of Henry the Navigator, explore the coasts of Africa. The Ottomans overthrow the Eastern Empire in 1453. Gutenberg perfects the letterpress between 1454 and 1468; it allows mass printing, the enormous fall in the price of books and the dissemination of knowledge throughout Europe. Copernicus revolutionizes astronomy. In 1492, Queen Isabella of Castile and her husband King Ferdinand of Aragon complete the *Reconquista*, expelling

Muslims and Jews from Spain; they move to Constantinople, Sarajevo and Morocco; Christopher Columbus discovers America and opens the colonial era.

In 1516, Thomas More publishes *Utopia*, an innovative political community project. October 31, 1517 is the advent of Protestantism, whose ethics support the development of modern capitalism. Erasmus, the colleges of ancient languages of Leuven, Alcalá de Henares and Vienna develop classical philology. Vesalius creates anatomy, Mercator renews geography. The treaties of Westphalia put an end to the wars of religion in 1648 and founded the nation States, which gradually democratized. Descartes begins the decline of magical thinking. The failures of the sieges of Vienna in 1529 and 1683 starts the ebb of the Ottoman Empire.

The Glorious Revolution in England marks the beginning of political liberalism. Locke, Hobbes, Newton, Leibnitz and Montesquieu found thought, science and modern law.

Peter the Great ties Russia up with Europe. Kant uses the expression of the Latin poet Horace *Sapere aude*, "Dare to know! ", to give its motto to the Enlightenment: "Have the courage to use your intelligence!". He also founds critical, republican and humanist thinking, by going beyond communitarianism. The independence of the United States of America, the American constitutions of 1776 and 1787, inspire the leaders of the French Revolution, who adopt the Declaration of the Rights of Man and of the Citizen, before sinking into the Terror, then the Napoleonic dictatorship. This puts Europe at war, but it leaves us the Civil Code, which gives social, family and heritage relations common to many European peoples.

The Treaty of Vienna and the Restoration open the 19th century, meaning Romanticism, the rise of nationalism, the first industrial revolution, coal and railway. Tocqueville theorizes democracy. Germany and Italy unify. Then come the rise of socialism, trade unionism and Christian democracy, which reinforce the efforts of the liberals to obtain from the conservatives the humanization of the economic rise, in particular by the establishment of universal suffrage or by

access to accommodation, like at Grand Hornu, Bois du Luc or Guise.

Naive pacifism fails to stop the First World War. During this time, medicine and surgery try to limit somewhat the appalling loss of life, caused in particular by the rise of chemistry. The end of the Russian, German, Austro-Hungarian and Turkish empires, the excesses of the Treaty of Versailles, favor the rise of totalitarianisms and brings the Second World War into their midst. The promoters of the USE, Coudenhove-Kalergi, Churchill, Briand and Stresemann fail to establish them.

Charles de Gaulle helped conceive the tactics that enable Guderian and Rommel to break through the French lines in 1940. The cowardice of the democratic leaders vis-a-vis the Nazis, at the time of the militarization of Rhineland, of the occupation of the Sudetenland and then of Austria, the von Ribbentrop - Molotov pact, lead to the conflict. This paves the way for the second industrial revolution, that of oil, jet engines, antibiotics, radio, radar and the atom.

At the end of the Cold War, begins the third industrial revolution, that of telecommunications and data processing. The fall of the Soviet empire frees millions of Europeans. The Chinese renaissance, while lifting hundreds of millions of Chinese out of poverty, prolongs the reign of communist totalitarianism. China, a rising power,¹⁴ and the American hegemon, a declining power, are caught in Thucydides' trap. Confrontation is likely in the decade to come.

1.3 One fatherland, one common culture

Geographically, Europe is bounded by its coasts to the north, to the west, to the south. To the east, geographers established the border with the Urals and the Caspian Sea, which includes the western part of Russia. To the southeast, the continent stops at

¹⁴ Becoming a power depends on demography, technical and scientific innovation, the economy, international trade and military capabilities.

the Bosphorus Strait and the Black Sea.¹⁵ But this continent has no other political expression than the EU, which is not a State.¹⁶

The EU is criticized for expanding so rapidly to the east during the implosion of the Soviet Union, but there were many reasons for doing so: historical, economic, security and above all geopolitical. It should be noted that the EU was able to avoid the disproportionate size of the Council of Europe, enlarged by the addition of the Russian Federation, including Siberia, and Turkey, while most of the Russian and Turkish territories are in Asia.

A few former Yugoslav States are candidates for accession. Switzerland, with 26 cantons with four different ethnic groups, and Norway, whose inhabitants use three different languages, have a strong cohesion and vision of their future which has led them to turn down EU membership, at least formally, because they are in the EEA. In practice, these two countries, their citizens and their businesses have the rights and duties of Europeans, except that citizens do not vote in elections to the European Parliament or in local elections in another member-State and governments do not sit in the European Council. They nevertheless apply European law, pay their share of the EU budget, participate in the European Defence Agency and their contribution to European culture is undeniable.

Plato, in *The Republic*, taught us that "the perversion of the city begins with the perversion of words". So, let's start by defining

¹⁵ This continent received the name of the princess of Tyre kidnapped by Zeus, whose name, of Semitic origin (*ereb*) refers to the sunset.

¹⁶ Let us remember that the French departments of Algeria were part of the ECSC, the EEC and Euratom until Algeria gained independence in 1962; a Moroccan candidacy justified by this fact had to be rejected. Greenland, the Canary Islands, the Azores, Madeira and the French Overseas Departments or Territories are, for various reasons, partly European, whether in a geographical, political or cultural sense. Finally, Malta and Cyprus are in the EU, although geographers locate them in Africa and Asia respectively.

culture, figuratively speaking, according to the work of Renaud Denuit.¹⁷

In common parlance, culture is the set of values, traditions and works of art specific to a broad social group.¹⁸ Throughout life, in the family, through primary, secondary and higher, basic and continuing, continuous education, through reading and through the "fine arts", culture develops in close connection with aesthetics, innovation, artistic creation, imagination, while scientific and technological development is conceived in terms of the accumulation of knowledge and experience. Public authorities stimulate the development of literature, the arts, sciences and technology.

The public who considers himself cultivated and the professionals of culture have a more restricted perception of it: they are only concerned with literature in all its forms, but above all novel or fiction, and with the arts which generate the largest turnover and the greatest number of jobs: cinema, radio, television and the written press.

Social anthropology, on the other hand, has a much broader concept of culture: it is the set of means used by a community to ensure its existence. These are gestures, language, norms regulating to group life, including sexual relations, clothing, knowledge, including cooking, education, myths, religious traditions, means of transport, leisure, sports activities, armaments, etc. These elements give this community its identity.

Culture, in its broadest sense, is regarded as the set of distinctive spiritual, material, intellectual and emotional features that characterize a society or social group. In addition to the arts and

¹⁷ See Renaud Denuit, *Politique culturelle européenne*, Bruxelles, Bruylant, 2016 ; Renaud Denuit, *Capitales européennes de la culture, un rêve de Melina*, Bruxelles, Académie royale de Belgique, 2018.

¹⁸ In Germany, *Kultur* designates the constitutive elements of a people's identity, its specific genius, its *Geist*, what the French express by "civilization".

letters, it encompasses ways of life, fundamental human rights, value systems, traditions and beliefs.¹⁹

Cultures are therefore as numerous as human groups of a certain size. But not all of them integrate the fundamental rights set out in the Universal Declaration of Human Rights of 1948 in the same way, when these should be the same for all humans, since there is only one only human race.

Philosophically and legally, fundamental human rights cannot vary from one culture to another, especially when it comes to respect for the human person. But many cultures, depending on their more or less patriarchal conception of the family, religion or dominant political and religious orientation, tolerate discrimination, particularly on the basis of gender and sexual orientation. Yet cultural diversity cannot be used as an argument for transgressing fundamental human rights.

Europe is made up of peoples with very diverse traditions, languages, religions and political systems. Since the end of Charlemagne's empire, they have opposed each other, fortunately by less belligerent means since 1945, with the tragic exception of the tearing apart of the former Yugoslavia. China and India, however, have a history as tumultuous as ours; they have a cultural diversity comparable to ours. The United States of America, Russia and Brazil have not always been federated; they are as vast and diverse as Europe, if not more. This did not prevent them from gradually developing a common culture.

By travelling outside Europe, we get a better sense of the European *habitus*.²⁰ We have similarities with the United States of America, Canada, Australia, New Zealand, Argentina, Chile

¹⁹ « La culture, dans son sens le plus large, est considérée comme l'ensemble des traits distinctifs, spirituels et matériels, intellectuels et affectifs, qui caractérisent une société ou un groupe social. Elle englobe, outre les arts et les lettres, les modes de vie, les droits fondamentaux de l'être humain, les systèmes de valeurs, les traditions et les croyances. » UNESCO, *Déclaration de Mexico sur les politiques culturelles*, Mexico City, Conférence mondiale sur les politiques culturelles, 26 juillet - 6 août 1982.

²⁰ The word *habitus* means, in sociology, the way of being of an individual, linked to a social group, a disposition of mind, expressed through clothing, speaking, gestures, codes, hierarchy of values, etc.

and Israel, which are overwhelmingly populated by European immigrants, but we have more in common with Europeans. In the United States of America, there is a noticeable lack of ancient history, the architecture is more functional, the town planning too: there are hardly any winding alleys there, charming little squares, nor places dedicated to gastronomy. In Japan, China, India, Africa, we are clearly foreigners. A European, on the other hand, can feel at home, from Palermo to St. Petersburg and from Edinburgh to Athens.

The whole world understands what it means to "dress European". The existence of this culture first came to prominence under Charlemagne, who ruled over a large part of the continent and achieved the first renaissance, known as the Carolingian Renaissance. It is not only the supporters of the project of a unified Europe who participate in the development of our culture, but all citizens do so, each in his or her own way. We are not just from this family, this neighbourhood, this city, this province, this region; our passport, both national and European, characterizes us only partially, because our identities are multiple.

European's relationships with nature, the city, the State, and authority are, if not identical, at least very similar. From the Greeks they inherited philosophical and scientific thought, from the Romans, the art of war, the organization of the State and the law, and from the Judeo-Christian religion, a particular conception of the world, including the separation of Churches and State. The Enlightenment, the experimental scientific spirit and the industrial revolution were added to this cultural heritage. However, it does not protect against confrontations: the links forged between us unfortunately also stem from the eleven centuries of internal conflict that ravaged Europe between the Treaty of Verdun of 843 and 1945.

Since the extension of the EU towards the East, according to the biannual Eurobarometer, there is a growing convergence between the cultures of the peoples of East and West. We are witnessing the emergence of an increasingly common habitus, a "European society" that shares the same values, the same

indignations, the same dreams. For the younger generations, the European fact is obvious. The removal of border controls and all kinds of barriers to freedom of movement and the right of establishment is a major factor. The possibility of travel stimulates intellectual curiosity for other peoples; business, friendships and families are becoming increasingly transnational.

The Bologna Process is bringing higher education systems together. The abolition of the death penalty, social security, compulsory basic education and solidarity are common to all EU countries and are part of our European culture.

Cathedral builders, painters, musicians, philosophers have travelled from all times; they have been inspired by each other. The cross-fertilization of intellectual currents, the mixing of ideas, the sharing of techniques, cross-reading and nomadism gave our culture a European character, long before the project of a political Europe was born. It is not for nothing that Europe is the first tourist destination in the world. Leonardo da Vinci, Erasmus, Mozart, Nietzsche, Schiller, Beethoven and Victor Hugo are above all Europeans.

Since 1949, the Council of Europe, our Human Rights Convention, since 1954 the European Cultural Convention, which has helped to safeguard and promote Europe's cultural heritage, are both part of our culture. The European Heritage Days, the European Cultural Routes, the European Audiovisual Observatory, the Eurimages Fund,²¹ which subsidizes cinema, are too.

The European Commission has been forced to take an interest in the audio-visual sector regarding standards and technology. Since 1985, 55 cities have been European Capitals of Culture. In 1989, the "television without frontiers" directive was adopted. The MEDIA program supports the production of European films. A "Culture" article appears in the Maastricht

²¹ Eurimages est depuis 1989 le Fonds culturel du Conseil de l'Europe. Eurimages is since 1989 the Cultural Fund of the Council of Europe. See <https://www.coe.int/fr/web/eurimages>, 25/2/2020.

Treaty. For Americans, culture is only one aspect of the entertainment industry, for Europeans, cultural products must be protected. Copyright is another major issue for European culture, if we want to protect ourselves against American cultural imperialism.

European integration cannot be compared to either the formation of Switzerland nor the United States of America, nor the Federal Republic of Germany. While European nation States have tried in the past to erase their regions, the EU protects the diversity of cultures within the member-States: budgets are earmarked for the preservation of minority languages and cultures.

Europe's diverse languages and cultures are in no way an obstacle to its unification, nor are the constituent parts of the landscape in conflict with its aesthetic unity. Our greatness is best expressed by our multiculturalism. Trying to replace the 24 official EU languages with bad English makes no sense. On this point, let's not imitate the United States of America, which now has only one official language at the federal level, while it was still running its presidential campaigns in 16 languages in 1912.

The Ancient Greek language withered and died having been adopted and then emptied of its meaning because, in the Empire of Alexander, poor quality Greek became the common language. This does not contradict the observation that it is futile to prevent a language from evolving.²²

Chapter 2 will remind that, despite the pleas of Victor Hugo, Richard Coudenhove-Kalergi, Winston Churchill, Charles de Gaulle, Dwight D. Eisenhower, among others, Europeans have failed to unify Europe, politically and militarily. This has cost us millions of deaths and international downgrading. We must do better in this 21st century!

²² Andrea Marcolongo, *La lingua geniale. 9 ragioni per amare il greco*, Gius, Laterza & Figli, 2016, trad. Béatrice Robert-Boissier, *La langue géniale, 9 bonnes raisons d'aimer le grec*, Paris, Les belles lettres, p. 234.

2. Prehistory of USE

The prehistory of European integration could be traced back to Charlemagne, but what is at stake in this book is the realization of the concept of the USE, first stated by Victor Hugo.²³ Having established in the first chapter the existence of values, history, culture and patriotism common to Europeans, and knowing what the single market, open borders and a common currency have brought to our well-being, we have a footing on which to build a democratic and transparent, federal Europe that is truly capable of protecting. Unfortunately, for various historical and legal reasons, we cannot rely on the EU institutions to implement this long-standing project. A brief overview of the history of the political unification of Europe will show this, looking back successively at three periods: the pre-First World War, the inter-war and then from the end of the Second World War to the eve of Schuman's speech: the signature of the Washington Treaty.

2.1 Before the First World War

On 21 August 1849, in Paris, in his speech to the Congress of Friends of Universal Peace, Victor Hugo called for the creation of the USE: " The day will come when we will see these two immense groups, the United States of America,²⁴ the United

²³ Lucien de Sainte Lorette, in *L'idée d'union fédérale européenne*, Paris, Librairie Armand Collin, 1955, p. 9-20, shows that since the 14th century, the precursors of Hugo, Pierre Dubois, Georges Podiebrad, Erasmus, Henri IV and Sully, William Penn, the abbot of Saint-Pierre, Montesquieu and Immanuel Kant only envisaged confederations. That is why this story begins in 1849.

²⁴ Hugo like others tends to blur the differences between American States. Massachusetts was Puritan, Rhode Island, Libertarian, Virginia, aristocratic and Episcopalian, Maryland, Catholic, New York, Calvinist of Dutch origin, Pennsylvania, Quaker. Nevertheless, a Continental Congress met as early as 1754 in Albany. In 1786, one year before the adoption of the American federal constitution, however, « Josiah Tucker argued that any notion that the United States could produce a "rising Empire" was "one of the idlest, most visionary Notions, that ever was conceived even by writers of Romance." This was because no nationalist bond could coalesce such "mutual Antipathies, and clashing Interests, "and the nation could never "be

States of Europe (USE), facing each other, reaching out their hands over the seas ".²⁵ Neither the text of this magnificent speech, published two days later by the newspaper *Le Siècle*, nor the calls for peace by Jean Jaurès, will prevent the wars of the end of the 19th century and the First World War.

2.2 The inter-war

After this terrible massacre, the idea of the USE was taken up again in 1923 by Richard Coudenhove-Kalergi (1894-1972), when he saw in 1922 that the United States of America did not join the League of Nations. He created the Pan-European Movement. He wanted a confederation of States, a community, which would pursue common foreign, economic and defence policies.²⁶ In 1923, he published *Pan Europa*, a title that expresses the political concept of Europe as opposed to the geographical concept. The work is prefaced by Winston Churchill. Coudenhove-Kalergi notes Europe's decline: "If Europe does not learn from history, it will suffer the same fate as the Roman Empire of the Germanic nation. Politically and militarily, it will become the chessboard of the world, the object of the world politics of which it was once the subject. It will be forgotten in the sharing of markets and raw material-producing countries. As yesterday in China or Turkey, Europe will tomorrow be divided into spheres of influence".²⁷ He has the support of many European personalities: Economists and businessmen, diplomats and writers, politicians too, such as Edvard Beneš, Paul Painlevé, Edouard Herriot, Gustav Stresemann, who in 1925 got the idea adopted by the congress

united into one compact Empire, under any Species of Governments whatever." The American fate, he concluded, was to be a disunited people, till the End of Time." Benjamin E. Park, *American Nationalisms, Imagining Union in the Age of Revolutions, 1783-1833*, Cambridge, Cambridge University Press, 2018, p. 35.

²⁵ Victor Hugo, *Discours au Congrès de la paix*, op. cit.

²⁶ Erich Schenk, "Interview mit Richard Coudenhove- Kalergi", Wien, Österreichische Mediathek,

<https://www.mediathek.at/frauenstimmen/suche/detail/atom/15E9DB6C-003-000AC-00000EBC-15E91EC7/pool/BWEB/>, 19/11/1971.

²⁷ Richard Coudenhove-Kalergi, *Pan-Europa*, Verlag, 1923, p. 25-26.

of the German socialist party held in Heidelberg and finally Aristide Briand, who in 1929 introduced his intention to "make the United States of Europe" into the program of his government, then before the assembly of the League of Nations in Geneva, where he was received with enthusiasm.

Nothing came of it, except a memorandum, a White Paper from the Quai d'Orsay and a Study Commission for the European Union chaired by Briand himself. The commission met several times until the death of its president and was buried at the same time as him. Unfortunately, all the European States then considered that their union should maintain the sovereignty and independence²⁸ of the participating States, with the exception of the Netherlands.

In 1938, Winston Churchill pleaded in the American press in favor of Coudenhove-Kalergi's theses, specifying what Britain's role should be: « The attitude of Great Britain towards European unification or "federal links" would, in the first instance, be determined by her dominant conception of a united British Empire. Every step that tends to make Europe more prosperous and more peaceful is conducive to British interests. (...) We rejoice at every diminution of the internal tariffs and the martial armaments of Europe. We see nothing but good and hope in a richer, freer, more contented European commonalty. But we have our own dream and our own task. We are with Europe, but not of it. We are linked, but not comprised. We are interested and associated, but not absorbed. »²⁹

²⁸ Arthur Salter, *The United States of Europe, and other papers*, New York, Reynal and Hitchcock Inc., 1933. Sovereignty is only the theoretical freedom to do what one wants, even to attack one's neighbors. Independence allows one to develop freely, hence the Declaration of Independence of July 4, 1776, signed by all the delegates to the Congress.

²⁹ Winston Churchill, "Why not 'The United States of Europe'?" in *The Saturday Evening Post* and in *The News of the World*, 9/5/1938. Une version abrégée, "A Great Big Idea," a paru dans *John Bull* le même jour. An abridged version, "A Great Big Idea," appeared in *John Bull* the same day. See <https://winstonchurchill.org/publications/finest-hour/finest-hour-130/the-united-states-of-europe/>, 11/5/2019.

2.3 From the end of the Second World War to the Washington Treaty

We know what it has cost Europe to maintain absolute sovereignty and political independence of States, in terms of millions of dead, millions of wounded, destruction of cultural and material heritage and downgrading on the international stage, in particular.

Americans generally believe that their Constitution allows people from all over the world to live together, recognizing themselves as nationals of a universal power. John Foster Dulles is one of those who, aware of Europe's diversity and multiculturalism, want to transpose the American model there. After Roosevelt and Churchill signed the Atlantic Charter on 14 August 1941, this jurist, who was Secretary of State to President Eisenhower from 1953 to 1959, supported a European federalism, because he deplored the fact that Articles 2 and 3 of the Charter, sought to re-establish the division of the European continent and to guarantee the security of the United Kingdom by means of a balance of power.³⁰ Dulles considered that "the cost of this old policy of human misery and economic waste has now become prohibitive".³¹ He feared, like Alexander Hamilton (1757-1804), one of the founding fathers of the United States of America, that "to seek the pursuit of harmony between a number of independent and unrelated sovereignties in the same neighbourhood would be to disregard the uniform course of human events and to defy the accumulated experience of past centuries. "Dulles could have quoted the observation and

³⁰ "To look for a continuation of harmony between a number of independent unconnected sovereignties, situated in the same neighbourhood, would be to disregard the uniform course of human events, and to set at defiance the accumulated experience of ages." Alexander Hamilton, "Concerning Dangers from Dissensions Between the States" in *The Independent Journal* (Federalist Papers No. 6), al. 2, http://avalon.law.yale.edu/18th_century/fed06.asp.

³¹ "There is abundant evidence that the English people realize that the cost of this old policy in human misery and economic waste has now become prohibitive." John Foster Dulles, « Peace Without Platitudes » in *Fortune*, vol. XXV, n° 1, Jan. 1942.

solution of Abbot Gabriel Bonnot de Mably: "Neighboring nations are naturally enemies of each other, unless their common weakness obliges them to join a confederal³² republic and their constitution prevents neighbourhood quarrels, extinguishing the secret jealousy that disposes all States to enlarge at the expense of their neighbors".³³

For Charles de Gaulle, the construction of Europe was a major objective, which he set himself during the Second World War. On 11 November 1942, on the anniversary of the armistice of 1918, when the *Wehrmacht*, by occupying the southern zone, erased the last vestiges of French sovereignty on the European continent, de Gaulle declared in London: "From now on, France wishes to do everything possible to ensure that in Europe those whose interests, concern for their defence and the needs of their development are combined with her own, unite with France as she with them, like herself to them, in a practical and lasting way. "Feeling the Liberation approaching, in March 1944, from Algiers, he called for "a Western grouping [of which] the English Channel, the Rhine, the Mediterranean [would be] the arteries". In October 1945, in Koblenz, during his first visit to the French zone of occupation in Germany, he invited the Rhinelander "to mutual understanding, [because] we are Europeans and Westerners".

The Paris Federalist Conference, organized from March 22 to 25, 1945 by Altiero Spinelli and chaired by Albert Camus, tried unsuccessfully to influence the decision-makers who, following the Yalta conference the previous month, were considering the political reorganization of the continent.

On 19 September 1946, in Zurich, Churchill developed his wish of 1938: « We must build a kind of United States of Europe.

³² The United States of America, Switzerland and Germany have gone from a confederation to a federation.

³³ Gabriel Bonnot de Mably (1709-1785), *Des principes des négociations pour servir au Droit public fondé sur les traités*, The Hague, 1757, <https://gallica.bnf.fr/ark:/12148/bpt6k93799c.image>, quoted by Alexander Hamilton, "Concerning Dangers from Dissensions Between the States", op. cit.

(...) There is no reason why a regional organisation of Europe should in any way conflict with the world organisation of the United Nations. (...) And why should there not be a European group which could give a sense of enlarged patriotism and common citizenship to the distracted peoples of this mighty continent? (...) In order that this may be accomplished there must be an act of faith in which the millions of families speaking many languages must consciously take part. (...) Let there be justice, mercy and freedom. The peoples have only to will it and all will achieve their heart's desire. Our constant aim must be to build and fortify the United Nations Organisation. Under and within that world concept we must re-create the European family in a regional structure called, it may be, the United States of Europe, and the first practical step will be to form a Council of Europe. If at first all the States of Europe are not willing or able to join a union we must nevertheless proceed to assemble and combine those who will and who can. The salvation of the common people of every race and every land from war and servitude must be established on solid foundations, and must be created by the readiness of all men and women to die rather than to submit to tyranny. In this urgent work France and Germany must take the lead together. Great Britain, the British Commonwealth of Nations, mighty America - and, I trust, Soviet Russia, for then indeed all would be well - must be the friends and sponsors of the new Europe and must champion its right to live. Therefore, I say to you: "Let Europe arise! ».³⁴

In 1948, the Americans, in return for the Marshall Plan, obtained the creation of the Organization for European Economic Cooperation (OEEC). On March 14, the Western Union treaty between Belgium, the Netherlands and Luxemburg (BENELUX), France and the United Kingdom was signed in Brussels to promote the values of democracy and the rule of law and to defend fundamental freedoms. At the Congress of Europe in The Hague, five types of federalists clashed. The political professionals advocated parliamentarianism. The "philosophical" or "integral" federalists had Henri Bruggmans

³⁴ Winston Churchill, *Speech delivered at the University of Zurich, 19/9/1946*, <https://rm.coe.int/16806981f3>.

and Alexandre Marc as spokespersons;³⁵ with the technocrats inspired by Monnet,³⁶ they wanted to entrust power to economic, trade union and intellectual elites, by rejecting democracy and universal suffrage.³⁷ The democrats, led by Spinelli,³⁸ said they wanted an American- or Swiss-type

³⁵ Philosophical or integral federalist thought is close to personalism, Christian-inspired and anti-communist. It is a guarantee of solidarity, a dispenser of the presence of men; it manifests itself by associating free efforts, by combining wills: only in this way can peace be assured and organized. See Henri Brugmans, *Panorama de la pensée fédéraliste*, Paris, La colombe, 1956, p. 10 ; Robert Aron, Alexandre Marc, *Principes du fédéralisme*, Paris, Le portulan, 1947, p. 146-147.

³⁶ For various researchers, Monnet wanted to keep people out of the decision-making process as much as possible. He was never elected, but merchant and banker, civil servant in France and internationally. He distrusted politics, democracy and especially the people, whom he considered versatile. Wanting the end of the nation states, which were too warlike, he practiced the method of small steps, binding them together by treaty, to take away their powers, sector by sector, to limit sovereignty almost irreversibly. He reduced politics to the application by supranational institutions of the rules laid down by the treaties on which they were founded, or established by themselves. See Coralie Delaume, *Europe, les États Désunis*, Paris, Michalon, 2014. <http://blogdenico.fr/entretien-avec-coralie-delaume-sur-leurope-de-monnet-a-draghi/>.

³⁷ In France, the term "federalism" can refer to the Girondins, to the principles of Proudhon, Littré, Le Fur and Scelle, or even to the federates of the Paris Commune. In the 1950s, "La Fédération", a monarchist movement, close to the French Social Party, La Cagoule, Pétainists and Catholic employers spread the ideas of the conservative revolution of the 1930s and of the National Revolution of the Vichy regime. See Antonin Cohen, *De Vichy à la Communauté européenne*, Paris, PUF, 2012, p. 291 et 293-298 ; Denis de Rougemont (dir.), François Saint-Ouen (éd.), *Dictionnaire international du fédéralisme*, Bruxelles, Bruylant, 1994, p. 67-91.

³⁸ Spinelli is not a federalist in the sense of the Federalist Papers, the contributions of Alexander Hamilton, John Jay and James Madison to the Federal Convention that drafted the constitution adopted on September 17, 1787. The American federalists replied to Montesquieu, who spoke out in Book XI of *L'Esprit des Lois*, Chapter 4, against the risk of corruption and despotic drift inherent in the republic and democracy. He posited that, in order not to be abused, power must be stopped by the disposition of things, which for him implied a monarchy *à l'anglaise*. The Federal Convention founded a republic that dissociates the sovereign source of political authority, the people, from the power to make laws, given to its representatives at the various levels of power: local, regional, national, federal.

constitution. The “intergovernmentalists” were led by Churchill who, at that time, no longer envisaged the USE, but mere intergovernmental committees; he did not want a constitution, on the grounds that the United Kingdom does not have one.

The Congress of Europe has failed to bring together a constituent assembly; it has only been able to agree on the pooling of certain sovereign rights of the States, on the urgency of a political and economic union, on the integration of Germany and on the establishment of a European Court, responsible for drafting a European Charter of Human Rights.

In 1949, on 4 April, with the Treaty of Washington, Western Europe becomes subservient to the United States of America, in exchange for its protection from the Soviet Union. On 5 May, the Council of Europe is created by the Treaty of London. On 23 May, the *Grundgesetz* of the Federal Republic of Germany³⁹ is published. Articles 23 and 24 do not provide for the Federal Republic of Germany to become part of a European (con)federal State, to avoid any return to the Holy Roman Empire of the German nation. Great Britain rejects a European federation and, on 18 September, confirms its lack of solidarity by devaluing the pound sterling by 30.5%. In his press conference on 14 November, General de Gaulle castigates the fact that a member country of the Council of Europe devalues without any consultation, causing serious prejudice to the other members of this institution and demonstrating its complete lack of solidarity. The equally shocked Americans urged Paul-Henri Spaak to take the unification of Europe from Churchill's hands.

After prehistory comes the ancient history of European unification, that of the years 1950 to 1958. This is the subject of Chapter 3.

³⁹ Constitution of the Federal Republic of Germany, <https://www.bmi.bund.de/EN/topics/constitution/constitutional-issues/constitutional-issues.html>.

3. The ancient history of European unification

The ancient history of European unification goes from 1950 to 1958. It covers the beginnings of the European Coal and Steel Community (ECSC). It explains the failure of the European Defence Community (EDC) and the first draft constitutional treaty, which should have founded the European Political Community (EPC). Then comes the new avenues of integration opened up by the Treaties of Rome on the European Economic Community (EEC) and the European Atomic Energy Community (EAEC or Euratom).

3.1 The Six, the failure of the first draft constitutional treaty

On 9 May 1950, five years to the day after Germany's capitulation to Russia, prompted by Jean Monnet, the French Foreign Minister, Robert Schuman proposed a Europe of six, without the British: the ECSC which, in accordance with their political conceptions,⁴⁰ would be an independent, functionalist,

⁴⁰ For Antonin Cohen, Monnet thinks the High Authority project according to the corporatist conception of the Vichy regime. Schuman, who voted full powers to Pétain in 1940, nowhere mentions the creation of any assembly, although it is to achieve "the first concrete foundations of a European Federation essential to the preservation of peace". See Antonin Cohen, *De Vichy à la Communauté européenne*, op. cit., p. 112. The Community model of the ECSC is based on five logics of legitimization: that, functional, of a technocratic body, that, classic international, of an intergovernmental body, that, democratic, of a transnational Assembly, that, formalist, of a Court and that, corporatist, of the Consultative Committee. This makes the originality of the project. The balance on the national / supranational axis is also unprecedented. The undertaking is based on a cardinal value, peace, and on the substitution of cooperative attitudes for the traditional rivalries it induces. This can be seen in the institutional balance, which is based on modes of legitimacy specific to a Community of States. For example, the Council is not a simple classic intergovernmental body, since it sometimes decides otherwise than unanimously, showing a form of nascent "collegiality". See Paul Magnette, *L'Europe, l'État et la démocratie, Le Souverain apprivoisé*, Bruxelles, Éditions Complexe, 2000, p. 49-50. See also R. Mossé, « La démocratie dans l'élaboration des décisions » in *Actes officiels du Congrès*

technocratic and supranational⁴¹ legal entity. The ECSC Treaty of Paris of 18 April 1951 provides that, in the long term only, the Parliamentary Assembly will be elected. Truman supports the initiative, just as Roosevelt supported Vichy. More clear-sighted, General de Gaulle, at his press conference on 9 August, declared: "The only practical solution that presents itself to us is that of the federation."⁴² The Korean War puts European defence back on the agenda, as well as the acceptance of Germany and Italy in the Western camp. The French government proposed a communal army, the EDC, on 24 October.

On 7 January 1951, de Gaulle challenges the EDC, because an army "fights above all for its country, under the authority of its government and under the orders of its chiefs." In May, in Rome, General Eisenhower, who is leaving the role of the Atlantic Alliance's commander in chief (SACEUR) to run for

internationale d'études sur la CECA, vol. V, Les Interventions de la Haute Autorité, Milan, Giuffrè, 1957, p. 185-195. Mixing the two orders of legitimization, Mossé asserts that the "democracy" proper to the ECSC lies in the combination of five values: collegiality, legality, multiplicity of bodies, publicity and technicality.

⁴¹ Jean Monnet asserts supranational means federal. He reduces the common market to free competition, the abolition of quotas, customs duties, producer cartels, the equalization of transport tariffs, measures to benefit of workers, notably by protecting employment, free movement and access to housing, and consumers, in particular by raising the standard of living, the fall in prices as a result of the rationalization of production, and of businesses, through increased productivity and lower interest rates, thanks to a \$100 million loan placed by the ECSC in the United States at a very favorable rate and amortization terms, which makes possible to finance the investments of companies on better terms than those on the European financial markets. See Jean Monnet, *Les États-Unis d'Europe ont commencé*, Paris, Robert Laffont, 1955, p. 80-82.

⁴² « L'Europe, en tant qu'entité responsable et souveraine, n'existe absolument pas, faute que l'on ait, d'ailleurs, fait ce qu'il faut pour qu'elle existe. [Il affirme que c'est] seulement dans le cadre, les liens, les obligations, d'une Europe confédérée que nous appelons de nos vœux, que les diverses armées du continent, y compris celle de l'Allemagne, pourraient être, dans de bonnes conditions, non confondues, mais conjuguées. » Charles de Gaulle, press conference of 9 August 1950, quoted by Bertrand Vayssière, *Vers une Europe fédérale ? Les espoirs et les actions fédéralistes au sortir de la Seconde Guerre mondiale*, Bruxelles, Lang, 2007, p. 269.

the presidency of the United States of America, affirmed his support for a European Constituent Assembly. On July 3, 1951, he considers that « [With] unity achieved, Europe could build adequate security and, at the same time, continue the march of human betterment that has characterized western civilization. [...] The establishment a workable European federation would go far to create confidence among people everywhere that Europe was doing its full and vital share in giving this cooperation. [...] If, with our moral and material assistance, the free European nations could attain a similar integration, our friends could be strengthened, our own economies improved and the laborious NATO machinery of mutual defence vastly simplified. »⁴³ On 25 November De Gaulle denounces the fact that "Europe, as a responsible and sovereign entity, does not exist at all, for want of having done what is necessary for it to exist. He states that it is only within the framework, the links, the obligations, of a confederated Europe, that we are calling for, that the various armies of the continent, including that of Germany, could be, under good conditions, not confused, but combined. »⁴⁴

The aim of the EDC Treaty was to establish a supranational organization, entrusting it with the exclusive responsibility for the defence of the European territories of the member-States, for arms production and for having it participate on their behalf in NATO. The EDC armies were not to be coalition forces, but units of homogeneous nationality, unable, however, to conduct operations alone. The SACEUR, by definition an American general, would have had the power (art. 18) to ensure that the armies had been organized, equipped, instructed and prepared in a satisfactory way, to recommend how the forces have to be stationed and deployed .The treaty required unanimity among member-States to recruit forces, decide on their size and nature, raise the necessary funds, command them, or decide where and

⁴³ See Dwight D. Eisenhower, *Address at The English-Speaking Union Dinner At Grosvenor House, Park Lane, London, 3/7/1951*, op. cit.

⁴⁴ For an in-depth analysis of Charles de Gaulle's European thought, see Edmond Jouve, *Le général De Gaulle et la construction de l'Europe 1940-1966*, t. I et II, Paris, R. Pichon & R. Durand-Auzias, 1967.

when to be stationed. The EDC could not have acted to ensure the safety of the troops in the event of disturbances, or in the event of disaster or calamity, such as floods. The EDC would have had to implement an arms and equipment production program, but with significant budgetary and legal constraints: it could not have spent less than 85% or more than 115% of a State's financial contribution in the currency area of that State. The EDC could not have established a code of military justice, but it could have prohibited the production, import and export of war material as well as any research of military interest in the member-States (art.107).

On 13 September 1952, the ECSC Assembly set up an ad hoc Assembly in Paris, under the chairmanship of Spaak, to work out the political Europe and to draw up the draft European Constitution evoked by Article 38 of the draft EDC Treaty. The American jurists Carl J. Friedrich and Robert R. Bowie, together with 37 Harvard researchers funded by the Ford Foundation, conduct a comparative study of the American, Swiss, Canadian and Australian constitutions, but do not consider that of Austria, nor the very recent one from Germany. On the basis of this study, a group led by Spinelli formulates a series of resolutions, a sort of specification on the basis of which Spaak and the Study Committee for the European Constitution, in which Friedrich and Bowie are consultants, draw up not a draft constitution but a draft treaty establishing the EPC.⁴⁵ This text provided for a Parliament composed of a House of Peoples, elected by universal suffrage, and a Senate, designated by the national parliaments, whereas for the ECSC and the EPC, legislative power was exercised by a European College and the Council of National Ministers. The EPC Parliament would have exercised control over the executive, represented by a European Executive Council and a Council of National Ministers. The EPC should have absorbed, in the long term, the ECSC and the

⁴⁵ We suppose after having noted the impossibility of federating the colonial empires of France, Belgium and the Netherlands.

CED, coordinate monetary and financial policies and establish the Common Market at six.⁴⁶

On 25 February 1953, de Gaulle repeats: "For there to be the European army, that is to say the army of Europe, Europe must first of all exist as a political, economic, financial, administrative and, above all, a moral entity, which must be sufficiently living, established, recognized, to obtain the congenial loyalty of its subjects, to have a policy of its own and, if necessary, to obtain that millions of men want to die for it. "He opposes the intention to subordinate the EDC "to the (SACEUR), that is to say, without playing on words, to the (SACEUR), which makes it one of the instruments of American strategy,"⁴⁷ referring to the nine articles of the treaty of Paris of 27 May 1952 on the EDC which, in Title I, Chapter II, deal with "European defence forces", imposing ten times the agreement of the (SACEUR).⁴⁸ Gaullian Europe must be freed from the American protectorate, which has "the defence and hence the policy and even the territory of its allies".⁴⁹

On 5 March, Stalin dies. On 9 March, Spaak submits to the French government the project for a EPC approved by the *ad hoc* Assembly. Spinelli criticizes the fact that this EPC, like the previous Communities, includes a Council of National Ministers, which could alter its supranational form.

In November, de Gaulle proposed European institutions: a "periodic and organic Council of Heads of Government, deliberating by a simple majority and having common services

⁴⁶ See Bertrand Vayssière, *Vers une Europe fédérale ? Les espoirs et les actions fédéralistes au sortir de la Seconde Guerre mondiale*, op. cit., p. 310.

⁴⁷ Laurent de Boissieu, *La querelle de la Communauté européenne de défense (C.E.D.)*, Centre d'information sur le Gaullisme, Une certaine idée de l'Europe <http://www.gaullisme.net/communaute-europeenne-de-defense.html>, 20/5/2011.

⁴⁸ Maurice Delarue, « Europe européenne et Europe des États » in *De Gaulle en son siècle, Tome V, L'Europe*, Actes des Journées internationales tenues à l'Unesco Paris les 19-24 novembre 1990 par l'Institut Charles De Gaulle, Paris, La Documentation française – Plon, 1992, p. 88 et note 2.

⁴⁹ Charles de Gaulle, *Mémoires d'espoir*, t. 1, *Le renouveau (1958-1962)*, Paris, Plon, 1970, p. 217 et 254-255.

to prepare their decisions in the areas of : political, economic, cultural, military; a deliberative Assembly, proceeding by universal suffrage, endowed with the power of co-decision; an "act of democratic sovereignty" via a referendum organized in all countries in order to involve the people in the concept and give the confederation the explicit decision of a huge mass of Europeans; an Assembly representing the regions⁵⁰ and the economic and social forces of the member-States; a European Court of Justice.⁵¹ This concept is inspired by both the structure of the Federal Republic of Germany and that of the Fifth Republic. It is a long-term objective, which is rather vague both geographically and legally: de Gaulle uses the terms "confederation" (18 April 1948, 1 May and 10 July 1950, 22 June 1951) or "federation" (12 February 1949, 21 December 1951 and 6 July 1952) interchangeably.⁵²

On 30 August 1954, the Gaullists, supported in particular by the Communists and half of the Socialists,⁵³ ensured, for very different reasons,⁵⁴ that the French National Assembly refused

⁵⁰ The status of European regions, their organization, funding and powers differ greatly.

⁵¹ Laurent de Boissieu, *Conférence de presse tenue à l'hôtel Continental, 12 novembre 1953*, Centre d'information sur le Gaullisme, Une certaine idée de l'Europe, <http://www.gaullisme.net/europe-federale.html>, 11/6/2011.

⁵² Switzerland misleads by having since 1848 a federal constitution of the Swiss Confederation.

⁵³ Pierre Mendès France does not like the EDC: Article 107 of the treaty, which prohibits any party from producing more than 500 grams of fuel per year, is incompatible with the pursuit of the French nuclear program which he has encouraged.

See Jean-Michel Sterkendries, *La Belgique et la sécurité de l'Europe occidentale, 1944-1955*, ULB, doctoral thesis, 2003, p. 295 and Georges-Henri Soutou, « La politique nucléaire de Pierre Mendès France » in Maurice Vaisse (dir.), *La France et l'atome. Études d'histoire nucléaires*, Bruxelles, Bruylant, 1994, p. 83-100.

⁵⁴ For Marie-Thérèse Bitsch, *Histoire de la construction européenne de 1945 à nos jours*, Bruxelles, Éditions Complexe, 1996, 2001 edition updated, p. 94, « The debate begins in the National Assembly at the end of August, more than two years after the signing of the treaty. Convinced that the treaty would be rejected for lack of new guarantees, but personally not very much in favor of a supranational Community without the English, Mr. Mendès France does not intend to raise the question of confidence that would break up his government, which is divided between pro and anti-EDC. On 30

to take into consideration the ratification of the treaty establishing the EDC. The absurd idea of creating a European army before having defined a European security policy is abandoned. This failure led to rearm Germany and Italy within the framework of both the Washington Treaty, modified to create the North Atlantic Treaty Organization (NATO), and the modified Brussels Treaty to create the Western European Union (WEU).⁵⁵ The latter is endowed with permanent institutions⁵⁶

August, the EDC is set aside, without any substantive debate, on the vote on a preliminary question adopted (by 319 votes to 264) by a coalition of national sentiment, anti-Americanism, mistrust of Germany and hostility to supranational Europe. After the vote, while the MRP deputies left the session to protest against the "crime of 30 August", Communists and Gaullists sing the Marseillaise. This foreseeable, even inevitable refusal, as the passions had been unleashed, thwarted a project that France had invented itself in 1950. Doubtless not very credible from the outset, imagined as a lesser evil, to limit the disadvantages of a necessary German rearmament, this plan seems premature, in the opinion even of its promoters. Touching on a sensitive point - the army, the symbol of national sovereignty and independence - it was quickly felt to be unacceptable in a France engaged in the Indochina war which does not want to see its freedom of action limited."

⁵⁵ By the addition to the Brussels Treaty of a new article IV: "In the execution of the treaty, the High Contracting Parties and all bodies created by them within the framework of the treaty shall cooperate closely with the Atlantic Treaty Organization North. In order to avoid any duplication with the NATO headquarters, the Council and the Agency shall seek information and advice on military matters from the appropriate NATO military authorities. See Alfred Cahen, «L'Union de l'Europe occidentale et la mise en œuvre de la future défense commune de l'Union européenne» in *Revue du Marché commun et de L'Union européenne*, janvier 1996, p. 23-27, <http://www.cvce.eu/viewer/-/content/34ed220e-bc07-49f9-89fd-a287269bd8e6/fr>, 1/9/2012. For Marie-Thérèse Bitsch, *Histoire de la construction européenne de 1945 à nos jours*, op. cit., p. 96, « WEU will remain in the shadow of NATO, while its cultural and social activities are transferred to the Council of Europe in 1960. Its modest role is reflected in numerous press articles which punctuate the twentieth, twenty-fifth and thirtieth anniversary of the organization and deplore the failure of various attempts to reactivate it. ».

⁵⁶ Its Parliamentary Assembly, which sits in Paris, is composed of the delegates of the member-States to the Consultative Assembly of the Council of Europe, which sits in Strasbourg, is supported by the Institute for Security Studies. The Military Committee, responsible for drawing up defence plans, inventorying assets and coordinating the military, is in London. The Joint

to make the public believe that a European pillar balances the North American pillar within NATO, which is politically desirable in Europe, whereas NATO is given, in law (new Article IV of the treaty) and in fact, a monopoly on the means of military action.⁵⁷

NATO is a classic alliance of national armies, funded from national budgets and administered by national headquarters. Efficiency is not its primary goal. It formulates Western security policy, usually by endorsing US decisions.

The WEU only had a vegetative existence until 1987. Its Council of Foreign Ministers met in London, its Parliamentary Assembly in Paris. The latter gives opinions to the Council and the national parliaments. A WEU agency monitors the stocks of arms of the member-States and their production; a commission promotes cooperative production.⁵⁸

3.2 From Messina to Rome

In 1955, on 26 January, Moscow ends the state of war with Germany; on 15 May, it signs a peace treaty with Austria and withdraw its troops, provided it remained neutral. Mr. Monnet founds the Action Committee for the USE and publishes *Les États-Unis d'Europe ont commencé*, "The United States of Europe has begun",⁵⁹ while the ECSC is just a supranational organization. He only envisages reviving the construction of Europe through sectoral economic integration,⁶⁰ but fortunately Mr. Beyen, Dutch Foreign Minister, proposes to his colleagues in the BENELUX on 10 March a horizontal integration on a supranational basis: economic union, via a free trade area and

Staff, headed by Marshal Montgomery, is in Fontainebleau. It had only one Belgian, four British and four French divisions.

⁵⁷ See Alfred Cahen, "The Western European Union and NATO. Building a European Defence Identity within the Context of Atlantic Solidarity", Brasseys's, *Atlantic Commentary* n° 2, London, 1989.

⁵⁸ See Jean-Michel Sterkendries, *La Belgique et la sécurité de l'Europe occidentale, 1944-1955*, op. cit., p. 296-303.

⁵⁹ Jean Monnet, *Les États-Unis d'Europe ont commencé*, op. cit., p. 22.

⁶⁰ This businessman very close to the Anglo-Saxons puts Marxist theory into practice; he got married in Moscow...

then a customs union. Belgium, for its part, proposes a European authority for the industrial applications of atomic energy. On 2 June, at the Messina conference, the Six accept both Euratom and the common market; they instruct the Spaak Committee to prepare draft treaties to be submitted to the Six and to Great Britain.

On 26 February 1956, Mr. Macmillan, Chancellor of the Exchequer, declares "the common market will kill our trade and we will fight it". The British propose a free trade zone with the Six, the United Kingdom, Switzerland and the Scandinavians. On 5 November, the Russian atomic ultimatum against the Franco-British military operation on the Suez Canal and Eisenhower's decision not to support his allies, left them with a humiliating feeling of powerlessness and reinforced the federalists' conviction that only union could bring "prestige, independence and progress".⁶¹ On 11 December, Mr. Spaak is elected Secretary General of NATO.

In 1957, the draft treaties establishing the EEC and Euratom were tabled on 10 January, signed in Rome in March and ratified in July.⁶² They amputate the legislative power of the European Council of the right of initiative, which is reserved for the Commission, not elected but appointed. On the other hand,

⁶¹ See Jean Monnet, *Mémoires*, Paris, Librairie Arthème Fayard, 1976, p. 623-624.

⁶² Walter Hallstein, in *Der unvollendeter Bundesstaat*, Düsseldorf, Econ Verlag, 1969, Trad. Pierre Degon, *L'Europe inachevée*, Paris, Ed. Robert Laffont, 1970, p. 45-46, asserts that: "The EEC is a part of the construction leading to the Federation", what is impossible according to the letter of the treaty. He writes: " It is already federal by virtue of its constitutional structure." On the other hand, p. 52-66, he recognizes that the Community is neither a federation, because it is not a state, nor a confederation, because it exercises public power directly over the citizen. It is obvious to us that the EEC does not have a constitution and that its legislative, executive and jurisdictional powers are very imperfect. The "Founding Fathers" led Europeans to believe that they were establishing the USE when it was a Community, a *Gemeinschaft*, inspired by the ideology common to the Nazis and the Vichy regime, technocratic, undemocratic and unparliamentary. They wanted to create a large market, neglecting the development of European culture. Hallstein could not ignore what a European federal constitution could have been in 1950, one year after the adoption of the first federal constitution in German history. He knew that it prohibited the Federal Republic to become a federated state.

it establishes a control by the European Council of the use of the financial resources of the ECSC by the High Authority.

The EEC and Euratom institutions move to Brussels. The British then created the European Free Trade Association and the United States of America joined the OEEC, which became the Organization for Economic Co-operation and Development (OECD).⁶³

For Spaak, "the men of the West, this time, did not lack audacity and did not act too late. (...) They did a great thing and they did it, which is remarkable and perhaps unique, by repudiating all use of force, all coercion, all threats. That is the only appeal to intelligence, wisdom and solidarity that gives our work its true meaning."⁶⁴

Together with Konrad Adenauer, we can safely say that Paul-Henri Spaak has performed well for Europe.⁶⁵

However, it is worth mentioning some weaknesses in the founding treaties of the current European institutions.

The first indented line of the preamble to the Treaty of Rome of 25 March 1957 on the EEC expresses the political will to achieve "an ever-closer union" among the peoples of Europe. What the High Contracting Parties have legally established among themselves does not meet this objective. The EEC is not a democratic federal State, it is a supranational and technocratic Community, which at the time does not even have a directly elected parliamentary assembly. It can create a customs union and a common market, but not a union between peoples: it is only a Europe of merchants.

⁶³ See Jean Monnet, *Mémoires*, op. cit., p. 629 et 644.

⁶⁴ Michel Dumoulin, *Spaak*, 2^{ème} éd., Bruxelles, Racine, 1999, p. 526-527.

⁶⁵ Konrad Adenauer, *Mémoires, 1956 - 1963*, Paris, Hachette, 1969, p. 94. Spaak is backed by the Americans, who "strongly support the Common Market against the Free Trade Area, seen in Washington as an instrument invented by the British government to curb integration." See Marie-Thérèse Bitsch, *Histoire de la construction européenne de 1945 à nos jours*, op. cit., p. 128.

Professor-Senator Fernand Dehousse wrongly asserted that fundamental European treaties are acts of international constitutional law, subject to ratification by national parliaments,⁶⁶ despite the fact that the terms "treaty" and "constitutional" are incompatible: the first is an act external to the State, the other refers to the highest internal act in the hierarchy of norms.

At the end of 1957, the three Communities existed in law, but the Customs Union had to be put into concrete form.

As early as the fall of 1958, de Gaulle and Adenauer set to work.

Their work is the subject of Chapter 4.

⁶⁶ See Comité d'étude pour la Constitution européenne, *Projet de statut de la Communauté politique européenne. Travaux préparatoires*. Bruxelles, Mouvement européen, novembre 1952, p. 203.

4. Adenauer and de Gaulle, the real founders of the united Europe

The eleven years of power of Charles de Gaulle led to the creation of the Customs Union and then the Common Market and its extension to agriculture, the establishment of freedom of movement for workers, the affirmation of a common commercial policy, the merger of the three European Commissions, the reorientation of European integration in an intergovernmental rather than supranational direction and the creation of a political Europe, but it remained limited to the regular meeting of Foreign Affairs Ministers.

On 1 June 1958, General de Gaulle returns to power. He considers national independence to be the only valid position for France, while waiting for Europe to become a (con) federation of States. His European policy is based on the postulate of German reunification, which he enunciates on 25 March 1959. He considers probable the implosion of the "totalitarian Eastern bloc", which he announces in 1964. On the basis of the Common Market, he projects a defence solidarity between Europeans. He wants to strengthen the cohesion of the Six, both economically and politically.⁶⁷ He invites Adenauer to Colombey-les-Deux-Églises, from 14 to 15 September, to tell him the following:⁶⁸

1. « Europe must become a reality on the political, economic and cultural levels.
2. The implementation of the Common Market and Euratom treaties will be continued; on this basis, cooperation could be developed in a broader framework than that of the Six, while avoiding, however, that the development would cause serious difficulties in this or that country.

⁶⁷ Marie-Thérèse Bitsch, *Histoire de la construction européenne de 1945 à nos jours*, op. cit., p. 129.

⁶⁸ According to Raymond Cartier, *Les 19 Europes*, Paris, Plon, 1960, p. 654, Adenauer said he went to this first interview (in) a state of anxiety, convinced that his European dream was about to be shattered. (He) was reassured within minutes.

3. European cooperation must also assert itself outside Europe, with regard to major world problems such as, for example, that of the Middle East. This cooperation may manifest itself in the political and economic fields.
4. To achieve the above-mentioned objectives, regular consultations will take place between the governments concerned. This consultation mechanism may take on a somewhat organic character as it develops."⁶⁹

Charles de Gaulle assesses that it is a matter of "making all of Europe, or there will be no Europe".⁷⁰ He explained "the prime interest of the union of Europe, a union which requires above all the cooperation of Paris and Bonn", in order to promote peace and progress. He] proposes that the Six should consult each other regularly on all political questions; he asked for and obtained Germany's support on two points: to enlarge the EEC to include agriculture and to reject Great Britain's candidacy as long as it "remains economically and politically what it is". He announces the future end of France's participation in the military component of the Atlantic Alliance. The two countries then "establish direct and preferential relations in all areas".⁷¹

On 26 November, de Gaulle reminds the Chancellor of the need to have a European organization in order to create a new policy of peace, strength, power and influence, which would not be an American policy and which would not be hostile to Eastern Europe either, in the secret hope of one day attracting it towards

⁶⁹ Charles de Gaulle, « Note pour les Affaires étrangères, 13 août 1958 » in *Lettres, Notes et Carnets*, juin 1958-décembre 1960, Paris, Plon, 1985, p. 73, quoted by Raymond Poidevin, « De Gaulle et l'Europe en 1958 » in *De Gaulle en son siècle, Tome V, L'Europe*, Actes des Journées internationales tenues à l'Unesco Paris les 19-24 novembre 1990 par l'Institut Charles De Gaulle, Paris, La Documentation française – Plon, 1992, p. 83.

⁷⁰ Entretiens franco-allemands, 14 septembre 1958 (AE, Secrétariat général 26, C. 58) quoted by Raymond Poidevin, « De Gaulle et l'Europe en 1958 » op. cit., p. 83.

⁷¹ See Charles de Gaulle, *Mémoires d'espoir*, t. 1, *Le renouveau (1958-1962)*, op. cit., p. 223-227. France and Germany then launch production of the Transall C-160, a medium-range military transport aircraft.

us. Between a dangerous Russia, against which we must not disarm, and an America that is another world, anxious to play its game and nothing else, de Gaulle thus imagines a third force.⁷² This meeting makes it possible to bury the British project of a free trade area.⁷³ On 1 January 1959, France applies the first measure provided for in the Treaty of Rome: a 10% reduction in customs duties. While France is protectionist, de Gaulle declares that "something positive has been done, [the EEC]; little by little, the customs barriers between the Six are disappearing. »⁷⁴

General de Gaulle considers that the Atlantic Alliance is merely the military and political subordination of Western Europe to the United States of America. He considers it "rather improbable that on the Soviet side, one undertakes to conquer the West". As "the Soviets have acquired what it takes to destroy America", Western Europe is no longer protected by NATO. Nevertheless, de Gaulle keeps France in the Alliance, but he either wants an American-French-British triumvirate to lead it, or he wants to take his army out of the American command. He wants an autonomous atomic deterrent force and to undertake détente, then agreement, then cooperation with Russia, then cooperation with China. As early as 14 September 1958, he addresses a memorandum to the American and British governments to this effect and receives only an evasive reply. Despite the tension in Berlin and the fact that the French "A" bomb is not yet available,⁷⁵ in 1959 he withdraws the

⁷² sn, « Entretiens du 26 novembre 1958 » (AE, Secrétariat général 46, C. 58), quoted by Raymond Poidevin, « De Gaulle et l'Europe en 1958 » op. cit., p. 83.

⁷³ Edmond Jouve, *Le général de Gaulle et la construction de l'Europe, Tome premier*, op. cit., p. 457.

⁷⁴ The Customs Union existed on 1 July 1968, a year and a half before the planned date, thanks to the hard work put into its implementation from 1958 onwards. However, Adenauer was only able to work on it for five years, while de Gaulle continued the effort for a decade. See Paul Magnette, *L'Europe, l'État et la démocratie*, op. cit., p. 50.

⁷⁵ General de Gaulle created the Atomic Energy Commission on October 8, 1945, for civil and military purposes. See André Martel (dir.), Claude Carlier, Jacques Frémeaux, Claude Hesse d'Alzon, Philippe Masson,

Mediterranean fleet from NATO and expels American atomic weapons from France. The air force and air traffic control become national again. On 3 November, he announces the creation of the "strike force" to the École de Guerre (War College).⁷⁶ The École militaire's strategic studies services receive new directives concerning the security of the country, which must defend itself.⁷⁷

In 1960, on 31 May, he envisions "organized cooperation of (EEC member) States, while awaiting perhaps an imposing confederation". On 5 September, at a press conference at the Élysée Palace, he envisages as "possible and desirable the regular cooperation of Western Europe" in the fields of politics, economics, culture and defence. He provides for "a regular concert of responsible governments", specialized bodies in each of the four fields and subordinate to the governments, a deliberative Assembly consisting of delegates from the national parliaments. Finally, a solemn European referendum should bring broad popular support.⁷⁸

In 1961, on July 18, political Europe was born in Bad-Godesberg: henceforth, the Foreign Ministers met regularly to consult each other.⁷⁹ At the end of the year, following the launch of the first Soviet intercontinental rocket, Kennedy replaced

Histoire militaire de la France, tome IV – De 1940 à nos jours, Paris, PUF, 1994, p. 240.

⁷⁶ The first French nuclear test took place on 13 February 1960 in what is now Algeria.

⁷⁷ See Charles de Gaulle, *Mémoires d'espoir*, t. 1, *Le renouveau (1958-1962)*, op. cit., p. 211-212 et 255-260 ; Michel Dumoulin, *Spaak*, op. cit., p. 633 ; Tony Mortier, *Het plan Pleven: een geïntegreerd Europees leger*, afstudeerwerk, Brussel, Koninklijke Militaire School, 1987, p. 102-103.

⁷⁸ Charles de Gaulle, *Discours et messages, Volume III : Avec le renouveau (1958-1962)*, Paris, Plon, 1970, p. 244-246.

⁷⁹ See Jean Monnet, *Mémoires*, op. cit., p. 641 ; Tony Mortier, *De Frans-Brits-Duitse troika, vooruitgang of stagnatie voor een Europese Defensiegemeenschap*, eindverhandeling, Brussel, Vrije Universiteit Brussel, 1992, p. 64.

Massive Retaliation's strategy with Flexible Response, limiting the use of nuclear weapons to a response to an atomic attack.⁸⁰

In 1962, General de Gaulle unsuccessfully proposed intergovernmental political cooperation to six.

For the British, the Suez disaster of 1956 shows that they have no other way out than the special relationship⁸¹ with the Americans. In December 1962, they accept Kennedy's offer to equip the Royal Navy's ballistic missile submarines with American Polaris rockets carrying the British A-bomb. This makes it impossible to set up an independent European atomic force and de Gaulle therefore halts negotiations to extend the Common Market to the United Kingdom.⁸² He signs the Franco-German Élysée treaty with Adenauer, but when it is ratified, the Bundestag adds a preamble to it, not negotiated with France, making it subordinate to the 1949 Washington Treaty. De Gaulle comes into conflict with the European Commission chaired by Hallstein, which aims to strengthen its powers and those of the European Parliament, and with the new Chancellor Erhard, who hardly applies the Élysée treaty.

In 1965, Mr. Hallstein fails in his attempt to manage the proceeds of customs duties under the sole control of the Parliamentary Assembly: de Gaulle blocks the European Council and the Commission, but obtains the merger of the High Authority of the ECSC, the Commission of the EEC and that of Euratom, to enable a single Commission to represent the Six, define a common policy on energy, industry or transport,

⁸⁰ The new strategy shows its relevance during the Cuban crisis in 1962, it becomes the doctrine of NATO in 1967. See Luc De Vos et Jean-Michel Sterkendries, *Les grands problèmes géopolitiques après la Deuxième Guerre Mondiale*, Bruxelles, École royale militaire, cours HI005, s.d., p. 62 et 168.

⁸¹ This one could be described as a love-hate relationship.

⁸² See Jacques-Henri Pirenne, « L'évolution des relations internationales de la Belgique de 1914 à nos jours » in Henri Pirenne, *Histoire de Belgique des origines à nos jours*, t. *, 1914-1970, Bruxelles, La Renaissance du Livre, 1975, p. 244-245 ; Charles de Gaulle, *Mémoires d'espoir*, t. 1, *Le renouveau (1958-1962)*, op. cit., p. 276 ; Jean Monnet, *Mémoires*, op. cit., p. 645 ; Tony Mortier, *Het plan Pleven: een geïntegreerd Europees leger*, op.cit, p. 99-106.

facilitate the grouping of companies or closer cooperation in the field of scientific research.⁸³

In 1966, the Luxembourg arrangement⁸⁴ limited the supranational aspects of European integration and redirected it in an intergovernmental sense: when, even in the case of decisions likely to be taken by majority on a proposal from the Commission, very vested interests important to one or more partners are at stake, the members of the Council will endeavor, within a reasonable time, to arrive at solutions which can be adopted unanimously.⁸⁵

On 20 June 1967, Hallstein has to resign, and is replaced by Jean Rey, the Commissioner for External Relations. On 27 November 1967, de Gaulle again blocks Britain's entry into the EEC to protect it from an internal enemy led by the Americans. He knows that it is thanks to the EEC, and above all to Rey, that the trade agreement resulting from the Kennedy Round puts Europe on par with the Americans. In 1968 the EEC can also point to having financed the common agricultural policy, completed the customs union and the common agricultural market, freed the movement of workers and founded the common commercial policy.⁸⁶ In 1969, de Gaulle resigns. France and Europe turn a corner.

Chapter 5 takes us from Pompidou to Chirac.

⁸³ Edmond Jouve, *Le général de Gaulle et la construction de l'Europe*, t. I, op.cit., p. 389.

⁸⁴ Maurice Couve de Murville, who was the negotiator, recalls in his book, *Le Monde en face* (Paris, Plon, 1989), that there was no compromise, but the assertion that disagreement on the decision-making procedure should not prevent the Community from functioning. See Maurice Delarue, « Europe européenne et Europe des États » in *De Gaulle en son siècle*, Tome V, *L'Europe*, op. cit., p. 92, note 1.

⁸⁵ See Laurent de Boissieu, *L'Europe des intérêts nationaux : 1958-1969*, Centre d'information sur le Gaullisme, Une certaine idée de l'Europe, <http://www.gaullisme.net/traite-de-rome.html>, 22/5/2011 ; Michel Dumoulin, *Spaak*, op. cit., p. 645-664.

⁸⁶ See Walter Hallstein, *Der unvollendeter Bundesstaat*, op.cit., p. 113.

5. From Pompidou to Chirac

Elected president in June 1969, Georges Pompidou, a former Rothschild banker, wants to enlarge the EEC, in order to be able to trade in a larger market and create a European defence within the Atlantic Alliance, through Franco-British cooperation. In December 1969, at the summit in The Hague, with Willy Brandt he unblocks the negotiations between the United Kingdom and the EEC. In 1970, he signs the Franco-British agreements relating to the Jaguar aircraft, the Martel air-surface missile, the Lynx, Gazelle and Puma helicopters.⁸⁷

5.1 From the Davignon report to the failure of the 2nd constitutional treaty

In 1970, the Davignon Report, adopted on 27 October by the foreign ministers of the Six,⁸⁸ relaunches European political cooperation with the aim of harmonizing positions, specifying the appropriate consultations and joint actions, as well as the procedures: semi-annual meetings of the Ministers of Foreign Affairs and quarterly of the directors of the Politics, who form the Political Committee.⁸⁹

Great Britain enters the Common Market on 1 January 1973, together with Ireland and Denmark. Prime Minister E. Heath notes the lack of a focus of authority and, with Monnet, draws

⁸⁷ See Alice de Lyrot, « Pompidou, la « bombe anglaise » et le Brexit » in *The conversation*, <http://theconversation.com/pompidou-la-bombe-anglaise-et-le-brexit-126381>, 22/1/2020.

⁸⁸ See *Le rapport Davignon*, Luxembourg, Office des publications officielles des Communautés européennes, Bulletin de la Communauté économique européenne, novembre 1970, n° 11, p. 9-14, http://www.cvce.eu/content/publication/1999/4/22/4176efc3-c734-41e5-bb90-d34c4d17bbb5/publishable_fr.pdf.

⁸⁹ See Geneva Centre for Security Policy, European Security and Defence College, *History and Context of the European Security and Defence Policy*, *Autonomous Knowledge Unit n° 1*, http://adlunap.ro/esdc/ilias.php?baseClass=iLSAHSPresentationGUI&ref_id=841, 13/9/2011.

up a proposal for a Council of Heads of Government⁹⁰ to succeed the occasional summit. In the spring, Henry Kissinger, adviser to President Nixon (before heading the State Department between September 1973 and January 1977) declares the year of Europe open. He believes that changes in the international situation since 1949 require a new form of cooperation, including Japan alongside the United States of America and Europe. It stresses the need for the Allies to share the burden, particularly financial, which has become too much for the Americans to bear, while preserving their leadership. Europe welcomes these views with reservation, even hostility. In October, during the Yom Kippur war, the Americans support Israel, the Europeans stay out of the conflict to safeguard their oil supply.⁹¹

Pompidou dies on 2 April 1974, before the Alliance recognizes "the contribution of French and British nuclear forces to the common defence" in the Ottawa Declaration of 19 June 1974. Chancellor Schmidt and President Giscard convene the first Council of Heads of State and Government (joined by the President of the European Commission). The latter decides that unanimity is no longer required for all matters and that the European Parliament is to be elected by universal suffrage from 1979 onwards. It instructs the Belgian Prime Minister, Leo Tindemans, to write a report on the state of the EU, which asserts that the EU "will remain incomplete as long as it lacks a common defence policy".

Mr. Genscher, German Minister for Foreign Affairs, responds with a draft Single Act, unifying the Communities and adding to European powers the maintenance of European independence as well as the protection of its vital interests and its security.

⁹⁰ See Jean Monnet, *Mémoires*, op. cit., p. 757-778. Monnet considers (p. 778) that his method of delegating sovereignty to common institutions is the only good one, while the Council concretizes the Europe of States advocated by de Gaulle to from the failure of the Fouchet plans.

⁹¹ See Marie-Thérèse Bitsch, *Histoire de la construction européenne de 1945 à nos jours*, op. cit, p. 200-201.

In 1984, on 14 February, Spinelli had his draft Treaty on European Union approved by the European Parliament by 237 votes to 31, with 43 abstentions, and then by the European Commission. The text was then rejected by the European Council, but the latter and the Commission extracted enough to complete the draft Single Act. The EU wants to play a role on the international scene which corresponds to its economic importance and its political ambitions. The WEU is charged with contributing to this ambition by taking charge of the military aspects of the common security policy. The Rome Declaration of 27 October by the WEU Foreign and Defence Ministers leads to the creation of a European security identity. Subsequent WEU interventions in the Arab Persian Gulf and the former Yugoslavia will show the extent of its possibilities and limitations.⁹²

5.2 From the activation of WEU to the creation of the Eurocorps

In 1985, the Schengen Convention extends the opening of the internal borders carried out for ten years within the BENELUX to France and Germany.⁹³ Unfortunately, these countries don't set up a corps of border guards and coastguards to control the external borders of the Schengen area. Jacques Delors becomes President of the European Commission. With the support of President Mitterrand, Chancellor Kohl and industrialists, he achieves the single European market, including the free movement of capital. He begins preparations for a single currency.

In 1986, the Single European Act is signed, requiring majority decision-making in order to complete the single market before the deadline. The Belgian diplomat Alfred Cahen, Secretary-General of WEU, assigns to his organization a dual role in the

⁹² See Alfred Cahen, « L'Union de l'Europe occidentale fait partie de la construction européenne » in *La Libre Belgique*, 2/2/1993.

⁹³ This agreement was supplemented in 1990 by an implementing convention and did not enter into force until 1995. In 1997, the Treaty of Amsterdam incorporated it into the EU's common policies. Today, 26 States, including 4 non-EU member-States, are part of the Schengen area.

federalist magazine *L'Europe en formation* (Europe in the making),⁹⁴ that of an element of European construction and that of the European pillar of the Alliance Atlantic. He gained permission to move his services from London to Brussels. In 1987 and 1988, Operation Cleansweep, the first example of a concerted operation within the WEU, made it possible, to clear mines in the Persian Gulf in order to restore the freedom of navigation that had been disrupted by the war between Iran and Iraq.

In 1987, Chancellor Kohl suggests to President Mitterrand the creation of a Franco-German brigade on the occasion of 25th anniversary of the Élysée Treaty, and furthermore that France and Germany undertake to defend any European State that is attacked, including with French nuclear weapons.

From 1989 onwards, the end of the Cold War leads to increasing insecurity due to the failure of multiple States and various terrorist movements. The ill-considered and uncoordinated elimination of military capabilities reduces the efficacy of defence spending in Europe: multiple capability gaps come to light, but still without reducing duplication. Moreover, equipment is acquired, within NATO and the EU, on the basis of national considerations, justified by prestige, history, budget limitations, industrial or local political interests. In operations, the fragmentation of expeditionary forces into micro-detachments from multiple States increases the cost of logistic support.

From 25 June 1991, Yugoslavia tears itself apart. Slovenia, Croatia and then Bosnia- Herzegovina proclaim their independence and are recognized indiscriminately and without consultation by the EU member-States. This results in hard fighting, abuses against civilians, war crimes and crimes against humanity. Several European observers are killed, as well as soldiers from EU and NATO member-States.

⁹⁴ See Alfred Cahen, « Un rôle nouveau pour l'UEO ? » in *L'Europe en formation*, 1986, p. 53-66, <http://www.ena.lu/> 13/02/2011.

On 19 June 1992, these tragic events prompt the WEU Council of Ministers to adopt the Petersberg Declaration.⁹⁵ This defines several tasks as European: humanitarian and rescue, conflict prevention and peacekeeping, combat forces in crisis management, including peacemaking. Due to a lack of military capabilities though, the WEU could still not manage these tasks correctly despite the Declaration. Declaration did not enable WEU to manage such crises for lack of sufficient military capabilities, but it creates new requirements in terms of satellite imagery.⁹⁶ Education and training must open the minds of the military to Europe. In 1994, under a United Nations (UN) mandate and with the intervention of American forces, NATO intervenes militarily for the first time,⁹⁷ leading to the Dayton Peace Accords in 1995.

The Treaty, negotiated in 1991 and signed in Maastricht on 7 February 1992, enters into force in 1993. It launches the establishment of a European Monetary Union in 1999, but accepts that not all EU member-States should be part of it from the outset. It reaffirms the existence of common values. It structures the EU into three pillars: Community Affairs; Common Foreign and Security Policy (CFSP);⁹⁸ Justice and Interior. The CFSP must lead to a common defence, based on the WEU,⁹⁹ responsible for drawing up and implementing EU

⁹⁵ The WEU Council met in Bonn at the Petersberg Hotel.

⁹⁶ The WEU Satellite Center was founded in 1992, it became an EU agency in 2002. See EU Satellite Centre, <https://www.satcen.europa.eu>.

⁹⁷ See Luc De Vos et Jean-Michel Sterkendries, *Les grands problèmes géopolitiques après la Deuxième Guerre Mondiale*, op. cit., p. 282-292.

⁹⁸ The CFSP does not constitute the entire EU external relations policy, which includes trade, development or humanitarian policy, but also the external aspects of internal Community policies (agriculture, environment, transport) as well as judicial and police cooperation in criminal matters. All of these components of the EU's foreign policy have their own way of working.

⁹⁹ See Article J.4. § 2 of the Maastricht treaty of 7 February 1992: "The EU requests the WEU, which is an integral part of the development of the EU, to elaborate and implement decisions and actions of the EU which have defence implications. The European Council, in agreement with the WEU institutions, adopts the necessary practical arrangements." "Article J.4.4 states that the EU policy "shall respect the obligations of certain member-

decisions having defence implications. Mission impossible: Mr. Mitterrand refused political Union. Mr. Kohl explained to him, but to no avail, that federalism is the only relevant form of supranational political integration. "This would have closed our internal rifts, brought us a shared destiny, a fate that implies common responsibilities for defence and security."¹⁰⁰

In 1993, the seat of the WEU is transferred to Brussels. France, Germany and Belgium form the Eurocorps headquarters, which signs a cooperation agreement with SACEUR. Spain joins the Eurocorps in 1994, which reached full operational capability in 1995, both for so-called "Article V" defence operations under the Atlantic Pact and for European missions.

5.3 From the European Security and Defence Identity to the concept of Battle group

In 1994, NATO and WEU define the European Security and Defence Identity (ESDI):¹⁰¹ the EU and WEU would henceforth be able to draw on NATO assets. France assigns the 42nd Signal Regiment and the 10th Engineer Regiment, the 1st Armored Division, the 6th Materiel Regiment to the Eurocorps, Germany the 10th *Panzer Division*, comprising the 12th Mechanized Brigade and the 30th Armored Brigade, Belgium the 1st Mechanized Division with three brigades (1, 7 and 17), Spain a division, incomplete until 1998, Luxembourg a reconnaissance company.

States under the North Atlantic Treaty and be compatible with the common security and defence policy established within that framework."

¹⁰⁰ See Henri Bentégeat, « Quelles aspirations pour la défense européenne ? » in Álvaro de Vasconcelos (dir.), *Quelle défense européenne en 2020 ?*, Paris, IESUE, 3^e éd., mars 2010, p. 105.

¹⁰¹ « According to the Final Communiqué of the Ministerial Meeting of the North Atlantic Council held in Berlin [in 1996], the ESDI would "permit the creation of militarily coherent and effective forces capable of operating under the political control and strategic direction of the WEU. » Geneva Centre for Security Policy, European Security and Defence College, *History and Context of the European Security and Defence Policy, Autonomous Knowledge Unit n° 1*, op. cit.

In June 1996, the NATO Ministerial Conference confirmed the WEU as an essential element of the ESDI.

The treaty of Amsterdam of 22 July 1997 provides that the EU may call on the WEU for the execution of Petersberg tasks. The WEU Declaration of 22 July 1997 annexed to the Amsterdam treaty harmonizes the respective presidencies and secretariats; it includes a security agreement. NATO makes its command structure available to the WEU.¹⁰²

In 1998, on 4 December, in Saint-Malo, Great Britain finally agreed that the EU "must have an autonomous capacity for action, backed up by credible military forces".¹⁰³

In 1999, on 23 March, Javier Solana, Secretary General of NATO, in order to put an end to the repression of the Albanian majority (85%) in Kosovo by the Serbian government since 1989, and which was becoming more and more bloodier, orders air strikes against Serbia, without a UN mandate. After 78 days of bombing, the Kosovo Force was able to settle there.¹⁰⁴

On 1 May, the entry into force of the Treaty of Amsterdam improves the functioning of the EU.¹⁰⁵ The Cologne European

¹⁰² See André Dumoulin, Éric Remacle, *L'Union de l'Europe occidentale, Phénix de la défense européenne*, Bruxelles, Bruylant, 1998.

¹⁰³ See Jacques Chirac, Lionel Jospin et Tony Blair, conférence de presse conjointe, XXI^e sommet franco-britannique de Saint-Malo, 4/12/1998, <http://www.diplomatie.gouv.fr/actial/evenements/stmalo.html>, 12/12/2005. European defence then seemed to take shape: "battlegroups, a European gendarmerie force, a European defence and armaments agency, a planning and command cell, as well as joint programs: the A400M, the Meteor missile, Galileo, the NH90 transport helicopter, the Tiger combat helicopter and [unmanned aerial combat vehicles] demonstrators. See Michèle Alliot-Marie, *Le chêne qu'on relève*, Paris, Odile Jacob, 2005, p. 77-78.

¹⁰⁴ On 17 February 2008, Kosovo proclaims its independence. Some of the EU member-States follow the United States of America and recognize it, others do not.

¹⁰⁵ « In the area of decision-making, the Amsterdam Treaty introduced the concept of constructive abstention. This mechanism makes it possible for an EU member-State to abstain in a CFSP-related vote in the Council without blocking a unanimous decision. The Amsterdam Treaty also introduced a new legal instrument to enhance coherence in the Union's external action: the Common Strategy. These may be used to specify a political objective and the resources needed to achieve the objective(s). To date, a limited number

Council of 3 and 4 June takes over the Petersberg tasks from the WEU. The European Security and Defence Policy (ESDP) was born. In October, Javier Solana becomes Secretary-General of the EU Council and High Representative for the CFSP until the end of 2009. He is assisted by a European Policy Planning and Early Warning Unit, consisting of specialists from the member-States, the Secretariat of the EU Council of Ministers, the Commission or those taken from the WEU. The Helsinki European Council in December sets up the Political and Security Committee (CoPS) and the Military Committee (EUMC), composed of the Chiefs of Defence of the member-States, and defines the Headline Goal 2003, i.e. an autonomous defence capability of 50 000 to 60 000 troops, available within 60 days and for at least one year, capable of carrying out Petersberg tasks; it decides to make the Eurocorps a Rapid Reaction Force Headquarters.

In June 2000, in Santa Maria da Feira, the European Council took over command of the Kosovo Force from NATO. On 21 November, the Defence Ministers presented a plan to deploy in 2003 a force of 100,000 men, 400 combat aircraft and 100 ships, capable of sustaining a mission of 60,000 men over a period of one year.¹⁰⁶ In Nice, in December, the European Council adopts the EU Charter of Fundamental Rights, which sets out European values.¹⁰⁷ It transforms the Headline Goal into a "catalogue of forces"¹⁰⁸ and integrates into the EU the Institute for Security

of Common Strategies have been formulated, including one on Russia (1999), Ukraine (1999) and the Mediterranean (2000). » Geneva Centre for Security Policy, European Security and Defence College, *History and Context of the European Security and Defence Policy, Autonomous Knowledge Unit n° 1*, op. cit.

¹⁰⁶ See Henry Kissinger, *La nouvelle puissance américaine*, New York, 2001, trad. Odile Demange, Paris, Arthème Fayard, 2003, p. 60.

¹⁰⁷ The Lisbon Treaty makes the Charter legally binding and incorporates it into the TEU.

¹⁰⁸ See Sven Biscop, Jo Coelmont, *Europe, Strategy and Armed Forces, The making of a distinctive power*, London and New York, Routledge, 2012, p. 57-60 ; Fabien Terpan, *La politique étrangère, de sécurité et de défense de l'Union européenne*, Paris, La documentation française, 2010, p. 55-60.

Studies (EUISS),¹⁰⁹ the Torrejon Satellite Centre (SatCen) and the WEU Military Staff, which becomes the EU Military Staff (EUMS), comprising an Operations Centre (OPCEN) supported by a Situation Centre (SitCen) for intelligence, analysis and warning and by the SatCen for space-based imagery.¹¹⁰

In 2001, on 28 January, the Convention on the « Organisation conjointe de coopération en matière d'armement » (OCCAR - Joint Organisation for Armament Cooperation) enters into force. It aims to make the management of certain current and future joint armaments programs¹¹¹ more effective and efficient, from the acquisition phase to the in-service support of equipment. At the end of the year, the Laeken European Council adopts the Declaration on the Future of the European Union, for greater democracy, transparency and efficiency and convenes the Convention on the Future of Europe to resolve questions of competence, simplification of the treaties and institutional architecture. It declares the ESDP operational, believing that the EU is capable of conducting crisis management operations. It institutes informal meetings of European defence ministers.

¹⁰⁹ The EUISS is the EU's Agency analyzing foreign, security and defence policy issues. Its core mission is to assist the EU and its member-States in the implementation of the CFSP, including the CSDP as well as other external action of the Union. See EUISS, *About us*, <https://www.iss.europa.eu/about-us>.

¹¹⁰ « The Treaty of Nice [extended the use of qualified majority voting;] formalised European Security and Defence Policy (ESDP) by bringing it into the EU's institutional structure [;] tasked the PSC to "monitor the international situation in the areas covered by the common foreign and security policy and contribute to the definition of policies by delivering opinions to the Council" [and] to "exercise, under the responsibility of the Council, political control and strategic direction of crisis management operations.» Geneva Centre for Security Policy, European Security and Defence College, *History and Context of the European Security and Defence Policy, Autonomous Knowledge Unit n° 1*, op. cit. The WEU SitCen has 5 people responsible for open source analysis.

¹¹¹ For example, the A400M transport aircraft; the Boxer armored vehicle; the FREMM frigate; the Tiger combat helicopter; the FSAF ground or sea/air missile; the MUSIS program (aimed at pooling earth observation satellites and ground operating systems at EDA level); the COBRA counter-battery radar.

In 2002, the EU and NATO conclude a "Strategic Partnership Agreement" supplemented on 11 March 2003 by the "Berlin Plus" agreement,¹¹² which extends the EU's access to planning capabilities and the means of NATO. European command of operations is entrusted to the British deputy of SACEUR. The exchange of classified information is regulated.

In 2003, the Treaty of Nice comes into force, renewing the architecture of the EU institutions, making decision-making more flexible and stipulating in Article 17 that: "The CFSP shall include all questions relating to the security of the Union, including the progressive framing of a common defence policy, which might lead to a common defence, should the Council so decide".¹¹³ On 29 April, Belgian Prime Minister Guy Verhofstadt, French President Jacques Chirac, Chancellor Gerhard Schröder and Luxembourg Prime Minister Jean-Claude Juncker propose the creation of a European operational headquarters, the placing of all existing multinational corps under an integrated command, the creation of a European Armaments Agency and a solidarity clause between EU member-States. The British reject the operational headquarters and gradually paralyze the ESDP. NATO member-States are divided over the invasion of Iraq. At the end of the year, the European Council adopts the European Security Strategy, "A secure Europe in a better world",¹¹⁴

¹¹² The agreement is neither public nor ratified by national parliaments. The detailed implementing arrangements date from 11 March 2003. See *Assemblée de l'UEO, 1999-2009, dix ans de politique de sécurité et de défense commune (PSDC)*, op. cit. The content of the agreements is summarized in the press release « EU-NATO: The Framework for permanent relations and Berlin Plus ». Voir *Assemblée de l'UEO, Les accords « Berlin Plus » UE-OTAN*, Paris, novembre 2009, p. 1-2.

¹¹³ See *Assemblée de l'UEO, 1999-2009, dix ans de politique de sécurité et de défense commune (PSDC)*, Paris, December 2009, p. 1-2.

¹¹⁴ European Council, *European Security Strategy, A Secure Europe in a Better World*, adopted on 3/12/2003, <https://www.consilium.europa.eu/media/30823/qc7809568enc.pdf>, 6/4/6/2020. The European strategy defines the main threats and the strategic objectives for addressing them, including the strategy against the proliferation of weapons of mass destruction.

the Headline Goal 2010 and the concept for the use of the Battle Groups (EUBG).¹¹⁵

In 2004, Javier Solana set up the Athena mechanism for the common financing of EU military operations.¹¹⁶ The European Defence Agency (EDA) is created.

5.4 From the failure of the 3rd draft Constitutional Treaty to the Lisbon Treaty

In 2005, the referendum to approve the 3rd draft Constitutional Treaty failed in France, as did the popular consultation in the Netherlands.¹¹⁷ The European Security and Defence College (ESDC) was established.¹¹⁸

In 2006, the current president of the *Bundestag*, Mr. Schäuble,¹¹⁹ draws a parallel between the governance of the EU and that of the Holy Roman Empire of the German nation, as described around 1667 by Samuel Pufendorf. Neither an absolute monarchy nor a federation of States, but something in between, the Holy Roman Empire of the German nation was

¹¹⁵ The GT1500 or EU Battle Groups - EUBGs consist of 1,500 troops, deployable in less than 10 days for a period of up to 120 days. Since 2007, one or two EUBGs have been operational, but have never been implemented.

¹¹⁶ The Council Decision 2011/871/CFSP of 19/12/2011 (OJEU L 343/35 of 23/12/2011), establishing a mechanism to administer the financing of the common costs of EU operations having military or defence implications (Athena), replaces the Council Decision 2004/197/CFSP of 23/2/2004 of the same name, as amended in 2005 and 2007. For other costs, the EU applies the principle of costs lie where they fall from NATO: each State pays for the personnel and equipment it deploys.

¹¹⁷ This project had been approved by 18 member-States, including Germany.

¹¹⁸ The ESDC waited until 2020 to see its budget reach €1.893 million. See Bruxelles2, « Carnet 08/11/2019 » in *Bruxelles 2*, <https://club.bruxelles2.eu/2019/11/carnet-08-11-2019-confidentiels-cops-pts-de-la-bei-a-la-turquie-budget-esdc-operations-missions-onu-darfour-sahara-et-soudan-defense-budget-defense-pays-bas-diplomatie-irak-deplorabl/>, 8/11/2019.

¹¹⁹ See Wolfgang Schäuble, *Speech given by Federal Minister Dr Wolfgang Schäuble on 4 December 2006 at the German Historical Museum in Berlin as part of a lecture series organized in conjunction with the exhibition Holy Roman Empire of the German Nation 962-1806*, archives Jean Marsia.

doomed to collapse. It dispersed its institutions to Vienna, Frankfurt am Main, Wetzlar and Regensburg. The EU shares its own between Brussels, Luxembourg and Strasbourg. The Imperial Diet, comparable to the European Council, was increasingly paralyzed by its disunited members, who preferred their sovereignty. The slowness of the development of imperial law was similar to that of the European legislative process.¹²⁰ The treaties that found the EU have become almost as complex and inconsistent as those of the Empire; they have led to a lack of efficiency, transparency and democratic legitimacy. They are proving insufficient to allow the EU to defend our interests in the context of globalization. For Mr. Schäuble, we must therefore consider our sovereignty differently: in Europe, economic, fiscal, employment, environment, migration and security policies, both external and internal, can only be effective at the supranational level.

Mr. Schäuble then compares law enforcement in the Empire and the EU. In contrast to imperial law, Community law prevails over national law, as long as it remains within the limits of the transferred sovereign rights. But like the Empire, the EU is faced with a backlog of court cases and lengthy proceedings. However, the EU benefits from the firm interpretation of Community law by the EU Court of Justice (EUCJ), and from the application of the principle of subsidiarity.¹²¹

Finally, Mr. Schäuble notes that Europe's collective self-image was the result of its diversity, and that the Empire also respected

¹²⁰ The world is changing much faster than it used to. Remember where China was 40 years ago...

¹²¹ In areas which do not fall within the exclusive competence of the EU, the EU can only act when measures taken by member-States are ineffective. Solving a problem at the lowest possible level is generally more appropriate to local conditions and avoids excessive bureaucracy. On the other hand, working or studying anywhere in Europe requires mutual recognition of diplomas and therefore European norms or standards. Sovereignty is distributed among different levels of regulation, which requires a balance between the need for proximity, which is growing with globalization, and calls for European solutions to common problems, difficult to find due to the lack of an effective, transparent and democratically legitimate European decision-making mechanism.

diversity, which would explain why it had lasted almost a thousand years.

In conclusion, Mr. Schäuble proposes to establish the foundations of belonging to Europe, of our European identity, which would for him go through accepting the State's monopoly on the use of force and the principle of the majority. He believes that without the will to show solidarity, patriotism, there cannot be a stable liberal order at European level. He judges that Hegel's claim in 1801 that the Empire lacked a supreme figure, the co-operation of principalities and patriotism, which requires having a say in it and being able to contribute to it, can apply to the EU, which lacks political identity. Mr. Schäuble sees a European public opinion emerging with the help of telecommunications, he stresses the need for an awareness of our European politico-historic identity, which does not contradict national identity, but complements it.

Time passed and Mr. Schäuble's vision could not be realized. There is even a degradation of democracy: if, in nation States, sovereignty has gradually gone from sovereign to people, within the EU, it is the opposite: the European Council has become the focus of most of the power.

In 2008, the European Council fails to update the 2003 strategy and only adopted a "Report on the Implementation of the European Security Strategy - Providing Security in a Changing World". The proposed attitude to Russia after the war in Georgia divides the member States: those of the East seeing it as a threat and those of the West as a partner. This makes it difficult to define threat priorities, showing the EU as "hesitant and reactive, uncertain of its role on the world stage, internally divided and riddled by institutional blockages."¹²² The Council approves the Erasmus military program for non-academic exchanges between military schools.

¹²² See Sven Biscop, « Old Couple or Dynamic Duo? The EU and Strategy in times of Crisis » in *European Foreign Affairs Review*, 2009, n° 14(3), p. 367-384.

In 2009, Sarkozy once again puts his armies under the NATO chain of command, partly renouncing an autonomous strategy vis-à-vis the United States of America. The renunciation of France continues to grow. Due to a lack of sufficient investment, it is less and less sovereign and more and more dependent on its major ally, particularly its telecommunications, its intelligence acquired by satellites or drones and its strategic means of transport. The Treaty of Strasbourg comes into force five years after its signature. Finally, it gives Eurocorps legal status; it gives the commanding general the possibility to purchase goods and services, hire staff, deal with all matters relating to the environment, human resources and the operational area.¹²³

After a few twists and turns, the Treaty of Lisbon comes into force on 1 December. It renames the ESDP "Common Security and Defence Policy" (CSDP) and gives it some legal tools, such as permanent structured cooperation (PSC), which the European Council will only use, and in a minimalist way, at the end of 2017. It strengthens the role of the EU High Representative for Foreign Affairs and CFSP (HR), a task for which he or she is assisted by the European External Action Service (EEAS), made up of staff from the General Secretariat of the European Council, the European Commission and national diplomatic services. It makes the HR a Vice-President of the European Commission, who chairs the Foreign Affairs Council and the Management Board of the European Defence Agency.

Integrated into the EU, the SitCen analyzes the terrorist threat. After the London bombings in 2004 and Madrid in 2005, it has a staff of around 100. The British and Mr. Sarkozy use the Treaty of Lisbon to amend Article 4 TEU (The Union shall respect the essential functions of the State, in particular those designed to ensure its territorial integrity, maintain law and order and safeguard national security. In particular, national

¹²³ See s.n. *Corps européen, une force pour l'Union européenne et l'Alliance atlantique*, http://www.eurocorps.org/home_page/news/news.php?lang_default=FRA&i_d_news=787 14/2/2011 ; Grzegorz Holdanowicz, « Poland to be the sixth pillar of Eurocorps », in *Jane's Defence Weekly*, 21/12/2011, p. 15.

security remains the sole responsibility of each member State) and Article 73 of the Treaty on the Functioning of the European Union (TFEU) (member States may organize between themselves and under their responsibility forms of cooperation and coordination which they consider appropriate between the competent departments of their administrations responsible for ensuring national security).¹²⁴ This reduction in staff creates a body that then failed to predict terrorist attacks in Paris, Brussels, Nice, Berlin, ... The Intelligence Directorate of the EUMS¹²⁵ deals with CSDP issues, in particular countries where missions and operations are deployed or planned, and comprises some 40 staff. The two services are grouped together in the Single Intelligence Analysis Capacity.¹²⁶

That said, despite having greater powers and resources than Mr. Solana had at his disposal, Messrs. Ashton and Mogherini managed to produce significantly poorer results.

With its text being largely incomprehensible, the Treaty of Lisbon has disappointed the hopes it raised.

There is a political upsurge in 2013, but it will be short-lived. This is the subject of Chapter 6.

¹²⁴ The SitCen is replaced by the Intelligence Center (IntCen) within the EEAS in 2012. Its staff is reduced to 70 people, who provide strategic, geographic and thematic analysis and open source analysis. See Julie Prin-Lombardo, *Le renseignement à l'épreuve de l'Union européenne*, Paris, Éditions Nouveau Monde, 2019.

¹²⁵ The EUMS is the source of military expertise within the EEAS. The EUMS role is to provide early warning, situation assessment, strategic planning, Communications and Information Systems, concept development, training & education, and support of partnerships. See The European Union Military Staff (EUMS), [https://eeas.europa.eu/headquarters/headquarters-homepage_en/5436/The%20European%20Union%20Military%20Staff%20\(EUMS\)](https://eeas.europa.eu/headquarters/headquarters-homepage_en/5436/The%20European%20Union%20Military%20Staff%20(EUMS)).

¹²⁶ See Nicolas Gros-Verheyde, "L'IntCen (ex – Sitcen) le centre de renseignements de l'UE. D'où vient-il ? Que fait-il ? Avec qui ? Sur quelle base ?" in *Bruxelles2*, <http://club.bruxelles2.eu/2015/01/qui-est-lintcen-ex-sitcen-le-centre-de-renseignements-de-lue-combien-de-personnes-y-travaillent-avec-qui-pour-qui/>, 22/1/2015.

6. From the upsurge of 2013 to the 2020 pandemic

6.1 The upsurge of the European Council in December 2013

In March 2012, with the help of his entourage,¹²⁷ I was able to convince the President of the European Council Herman Van Rompuy that it would be inappropriate for him to end his term of office without having put the CSDP on the agenda of a next meeting of its Council. He decided to revisit the issue in December 2013. He invited the High Representative, as well as the Commission, to draw up new proposals and actions to strengthen the development of defence capabilities and to strengthen the European defence industry.¹²⁸ This has sparked intense political-military thinking within the EU and hundreds of publications and non-papers, from official, academic, journalistic and think tank circles.

The European Council held a thematic debate on 19/12/2013 and identified a number of priority defence actions, which revolve around three axes:

- Making the EU's comprehensive approach even more effective and efficient, including in its delivery of crisis management.
- Intensifying cooperation with global, transatlantic and regional partners.
- Improving the EU's rapid reaction capacities, in particular by making Battlegroups more flexible and deployable or by improving the system for funding EU missions and operations, as part of the review of the Athena mechanism.

In 2014 this European Council called in particular for the definition of an EU action framework in the area of cyber

¹²⁷ Particularly his chief of staff Ambassador Frans van Daele and his collaborator Luuk van Middelaar.

¹²⁸ See Conseil européen, *Conclusions du Conseil européen des 13 et 14 décembre 2012*, n° EUCO 205/12 du 14/12/2012, <http://www.european-council.europa.eu/council-meetings/conclusions.aspx?lang=fr>, 22/1/2013.

defence; the development of an EU strategy on maritime security by June 2014;¹²⁹ ; and enhanced cooperation to address energy security challenges.¹³⁰ It invited member States to increase their investment in cooperative research programs, in particular joint investments, to develop synergies between research at national and EU level, and to further stimulate research on dual-use applications, both civil and military. There was no mention of integration of European militaries and defence industries. The most important take away is the decision of the European Council to assess in June 2015 the progress made on all these issues and to provide further guidance, based on contributions from the Commission, the HR and the EDA.¹³¹

6.2 The Juncker Commission imposes on Europe "the Echternach march"¹³²

In 2014, the Juncker Commission's legislative program stated: "We need a stronger Europe in foreign policy".¹³³ Its shortcomings have produced the opposite. In particular, it was unable to convince a majority of Britons to vote in favor of Remain on 23 June 2016. London, Scotland and Northern Ireland did so, but the north and south-east of England as well as Wales voted for Leave.

The European Council, wanting to give the impression that the EU remains united and is progressing towards a Defence Union, plans as early as November 2015 a coordinated annual defence review (CARD) to strengthen the rapid intervention capacity of

¹²⁹ Considering the actions of pirates towards the Horn of Africa or the Gulf of Guinea, trafficking in drugs, human beings and weapons in the Mediterranean and in the Atlantic.

¹³⁰ Particularly to escape Russian blackmail on gas.

¹³¹ See Conseil européen, *Conclusions*, <http://www.european-council.europa.eu/council-meetings/conclusions.aspx?lang=fr>, 22/12/2013.

¹³² The dancing pilgrims of Echternach advance three steps, then two back.

¹³³ Jean-Claude Juncker, *Un nouvel élan pour l'Europe : mon programme pour l'emploi, la croissance, l'équité et le changement démocratique, orientations politiques pour la prochaine Commission européenne*, discours au Parlement européen, Strasbourg, 15/7/2014, point 9, p. 11-12, https://ec.europa.eu/commission/priorities/docs/pg_fr.pdf, 20/7/2014.

the EU, in particular through the use of EUBGs, and the launch of permanent structured cooperation (PESCO). On 15 December 2016, the European Council approves an EU Global Strategy (EUGS), which is some more complete than that of 2003: it includes the list of threats, but it does not set priorities, nor define military capabilities capable of countering them. From a joint coordinating agency, Frontex becomes a European Border and Coast Guard Agency.

EU leaders are unable to sketch out, in an intergovernmental way, the outlines of a European army, to collectively answer to the question of whether or not Europe needs nuclear deterrence, heavy bombers, aircraft carriers, attack submarines, armored divisions, special forces, etc., or only troops suitable for peacekeeping and humanitarian action. This is because the perception of threats is not the same for all Europeans. From Lisbon, Russian tanks are invisible. For the residents of Tallinn, Daesh and Al-Qaida are concepts foreign to everyday life. African or Levantine migrants are not numerous in Scandinavia.

In 2017, Defence Ministers order to begin the CARD in conjunction with the EU Capacity Development Plan (CDP) and the NATO Defence Planning Process (NDPP). The Commission announces the creation of a European Defence Fund (EDF) of € 13 billion, which it proposes to include in the financial framework 2021-2027. A "Preparatory Action for Research" of € 90 million over 3 years from 2017 should help the defence industry to develop new military capabilities.¹³⁴ €

¹³⁴ This European funding is not enough to bring about structural change, a significant increase in the efficiency of defence spending. Given the slowness of its implementation and the duration of research and development programs, it will have only limited effects, and only around 2030. The introduction of specific rules on intellectual property rights is envisaged only after having learnt the lessons of the current Preparatory Action. However, the Prodi Commission has already carried out a Preparatory Action under the leadership of Research Commissioner Philippe Busquin, and the European Parliament has learned the lessons from it. See the report of Philippe Busquin & Bogdan Adam Klich « sur la recherche sur la sécurité – les prochaines étapes », Parlement européen, 2004/2171(INI), <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+REPORT+A6-2005-0103+0+DOC+XML+V0//FR>.

500 million is to finance, from 2017 to 2019, 20% of multinational scientific and technological defence research (S&TDR) programs, meeting a recognized capability requirement.¹³⁵

The PESCO is too inclusive, with 25 members States, and not ambitious.¹³⁶ It is just another bureaucratic construction, incapable of quickly filling the capability gaps of the European pillar of NATO. Since the launch of the PESCO in November 2017, the member States have ordered or purchased € 21 billion in US equipment, such as Reaper drones, C-130 J or E-2 Hawkeye transport aircraft.

In 2018, the HR proposes, unsuccessfully, to replace the Athena mechanism with a "European Peace Facility" that would finance the common costs of EU military operations and missions and strengthen partner States. On 13 November, by Regulation (EU) 2018/1092, the EU sets up the European defence industrial development program (EDIDP), which aims to support the competitiveness and innovative capacity of the Union's defence industry. On 19 November, the European Council approves military specifications for mobility in Europe.¹³⁷ The Commission provides for €6.5 billion, within the financial framework 2021-2027. The ministers specify that "all decisions on infrastructure investment remain sovereign national decisions and will be taken on a case-by-case basis". Moving 74.5-ton tanks smoothly across the EU will remain impossible. On 20 November, the European Council approves the

¹³⁵ For an individual or a company, these amounts are considerable, but they are derisory compared to the turnover of our defence industrial and technological base. Over the period 2017-2027, member-States will spend €2 trillion on our defence, in a very inefficient way.

¹³⁶ PESCO is established by Article 46 TEU. In Berlin in 2000, Joschka Fischer proposed that as many States as possible should progress along the path of political integration, without going so far as to federate; Jacques Chirac replied that he wanted a Europe-power, made up of just a few countries. Article 46 TEU therefore remained a dead letter, until Mr. Macron bowed to Mrs. Merkel and accepted a very unambitious PESCO.

¹³⁷ They describe roads, ports, container management capacities, truck loading and access to road and rail networks, train management, tunnels and bridges, airports, multimodal connections, etc.

framework of the Military Planning and Conduct Capability (MPCC), which replaces the OPCEN, with 60 permanent staff, to which up to 94 reinforcements could be added. It empowers it to conduct "executive" (combat) military operations of up to 2,500 soldiers.¹³⁸ The Commission approves the first EDIDP, which co-finances joint industrial projects in the defence field, in 2019 and 2020.

On 17 April 2019 the HR declares: "We have laid the foundations for a strong European Security and Defence Policy. We have used all the instruments of the Treaty. The European Defence Fund, the defence budget review, the joint command center, the pact for civilian missions. [...] This is a game changer. The EU is now seen as a full player in the area of security and peace".

This is clearly not true.

From 2014 to 2019, only three missions and operations were launched: in the Mediterranean (2015), the Central African Republic (2016) and Iraq (2017). 10 civilian missions and 6 operations are under way in Africa, the Middle East, the Mediterranean, the Indian Ocean, the Balkans and Eastern Europe.¹³⁹ What is the outcome? The EU has not reduced tensions between Russia and Georgia or Ukraine, Israel and Palestine, the United States of America and Iran, Libya, Syria, the Sahel, the Horn of Africa, Central Africa, Venezuela or Colombia. The EU's insignificance on the international scene and the helplessness of European diplomacy are obvious.

Mr. Juncker admitted on 30 April 2019 that since 2014, he had been unable to re-baseline the EU. He did not try to convince a majority of Britons to reject Brexit. He did not solve the migration crisis, nor calm down trade relations with the Trump administration, nor finalize the Banking Union. It has allowed

¹³⁸ Until then, the MPCC could only supervise training missions.

¹³⁹ EUTM Mali, EUTM Somalia, EUTM RCA, EUNAVFOR MED Sophia, EUNAVFOR Atalanta, EUFOR Althea (Bosnia-Herzegovina). See André Dumoulin & Nicolas Gros-Verheyde, *La Politique européenne de sécurité et de défense commune*, Le Dévoluy, Éditions du Villard, 2017, updated in 2019.

the European austerity policy to continue, despite the economic and social devastation it is causing. It has failed to reunify Cyprus and to win Turkey's respect. It has damaged relations between the EU and Switzerland: the draft framework agreement, which was supposed to include all 120 bilateral agreements, is merely an attempt to impose the automatic adaptation of Swiss legislation to the evolution of European law.¹⁴⁰ It has failed to provide the EU with an environmental policy or to put an end to fiscal and social dumping. The European army he announced in 2014 does not exist. The European Defence Fund will remain devoid of any money until at least 2021. The scandalous inefficiency of our defence spending is denounced even by the European Court of Auditors. Its analysis¹⁴¹ of the PESCO, CARD and the EDF shows that after 20 years of ESDP-CSDP, there is no planning process worthy of the name within the EU, which can serve as a basis for developing military capabilities. It also shows that there is a gap between these and what the member States felt they should do.

The Court of Auditors notes that the member States have different threat perceptions and understanding of the EU's role in defence: they have different rules of engagement and very different concepts of the use of military force. It recommends making the EU's planning process as effective as that of NATO in determining European capability requirements, while ensuring that European initiatives are coherent and complementary to those of NATO, so as to avoid duplication and overlapping functions. It calls for efficient governance,

¹⁴⁰ This attempt is in vain, because the Swiss refuse to allow the EU to limit protective measures against dumping, expulsion of criminals and revocation of residence permits for those who threaten public security. See Armando Mombelli, « Accord-cadre Suisse-UE: où en sommes-nous ? » in *Swissinfo.ch*, https://www.swissinfo.ch/fre/négociations-entre-berne-et-bruxelles_accord-cadre-suisse-ue--où-en-sommes-nous-/45026344, 12/6/2019.

¹⁴¹ See sn, *La défense européenne*, Cour des comptes européenne, document d'analyse n° 9, https://www.eca.europa.eu/Lists/ECADocuments/REW19_09/REW_EU-defence_FR.pdf, 12/9/2019.

including parliamentary scrutiny equivalent to that exercised in other areas, as well as accountability, because today CSDP bodies, missions and operations are not subject to the same audit and discharge provisions. In particular, the military missions of the EDA and the EU are not subject to control by the European Parliament, they are governed by specific audit provisions and they do not fall within the Court's audit mandate. It concludes: "Contributing to improving defence capabilities in Europe requires going beyond rhetoric and requires the effective implementation of concrete initiatives, the aim being to encourage the competitiveness of the European defence industry and to strengthen the military capabilities of the member States, in full complementarity with NATO. Ultimately, the success and future of the EU in the field of defence depends entirely on the political will of the member States."¹⁴²

6.3 Some attempts to improve defence capabilities in Europe

The willingness of the member States to create a European defence does not yet exist, but certain political figures wish to speak about it because they know that public opinion is very favorable to it.

On September 26, 2017, at the Sorbonne, Mr. Macron declares: "There is a European sovereignty to build. [...] At the start of the next decade, Europe will need a common intervention force, a common defence budget and a common doctrine for action" without realizing that this presupposes federal governance. Instead of going down this path, he proposes "a European intervention initiative (EII) that would make it possible to better integrate our armed forces at all stages". The EII is a group of "militarily capable and politically willing" countries that envisage joint training, exercises and planning, to create a common strategic culture, to prepare for rapid intervention when needed, whether for high-intensity military operations,

¹⁴² sn, *La défense européenne*, Cour des comptes européenne, op. cit., § 142-144 p. 69.

such as Serval in Mali in 2013, or for humanitarian intervention following man-made or natural disasters, as was the case in the West Indies after a hurricane in 2017.¹⁴³

On 22 June 2018, in Meseberg, France and Germany agree on further integration in the fields of diplomacy, crisis management or armaments programs, the possibility of moving to qualified majority in matters of CFSP and the establishment of an EU Security Council.

On 6 November, Mr. Macron noted: "We will not protect Europeans if we do not decide to have a real European army. In the face of Russia, which is at our borders and (knows) how to be threatening, we must have a Europe that defends itself more alone, without depending solely on the United States and in a more sovereign way. »

On 11 November, when asked¹⁴⁴ if his remarks about the European army angered Mr. Trump, Mr. Macron replied that "President Trump agrees with that. (He) is in favor of better

¹⁴³ The EII is not a joint intervention force. The EU has the Franco-German brigade since 1989, but it was only deployed in 2018, in Mali and separately: 1,000 French in Operation Barkhane, 800 Germans in MINUSMA and EUTM-Mali. The EU created EUBGs in 2005; they were never sent in operation. The Franco-British Lancaster House Treaty of 2010 created a Combined Joint Expeditionary Force which has not yet been used. The Framework Nation Concept proposed by Germany in 2014 has been implemented within NATO as a concept. The Lancaster House agreements of 2015 and 2017 between the British, the Baltics, the Scandinavians and the Dutch established an equally theoretical Joint Expeditionary Force. A European Union Force - Crisis Response Operation Core is being developed as part of the PSC. Long-standing military cooperation within BENELUX and the Baltic States survives, despite their inability to develop a common defence policy. within them. All these initiatives do not give the image of great coherence, neither among themselves nor with the SEAS. They increase the inefficiency of defence spending by dispersing efforts.

¹⁴⁴ Fareed Zakaria for CNN on 11/11/2018, *Interview of President Emmanuel Macron*,

<https://edition.cnn.com/videos/world/2018/11/10/emmanuel-macron-fareed-zakaria-trump-tweet-sot-gps-vpx.cnn> and Fareed Zakaria for CNN on

11/11/2018 *Interview of President Donald Trump*,

<https://edition.cnn.com/videos/world/2018/11/10/trump-macron-bilateral-meeting-bts-vpx.cnn/video/playlists/intl-latest-world-videos/>.

burden sharing within NATO. I agree with that. And I think to have better burden sharing, we all need more Europe." Mr. Trump agrees: "I appreciated what you said about burden-sharing. We want a stronger, more efficient Europe". On the same day, Mr. Putin said that this project is a positive development in a multipolar world. For him, "Europe is a powerful economic alliance and (it) is completely natural that these countries wish to be independent and sovereign in the field of security and defence".¹⁴⁵ Mr. Trump and Mr. Putin prefer a strong Europe to division, nationalism and the resurgence of conflict, but not our leaders.

On 12 November, Mr. Stoltenberg, the Secretary General of NATO, speaks out against a European project " that would compete with the Atlantic Alliance". On 13 November, Mrs. Merkel replies that the European army would complement NATO, because the days when we could count on others are over. In the European Parliament, she declares that: "We must develop a vision which will one day allow us to arrive at a real European army. [...] An army would show the world that between European countries there would be no more war. It will be an army that will complement NATO in a useful way, without calling into question this link with NATO. "

On 18 November, whilst in the Bundestag commemorating the centenary of the end of the First World War, Mr. Macron advocates "to share, to pool the decision-making capacity, the foreign policy, to build a common defence, so as not to become the toy of the powers".¹⁴⁶ On 20 November, in Louvain-la-Neuve, he pleaded for the EU to allow a few countries to move faster on the road to integration. He seems to ignore that this was decided in 1992 and had been applied ever since.

¹⁴⁵ sn, « Vladimir Poutine répond en exclusivité aux questions de RT France », 11/11/2018, <https://francais.rt.com/international/55305-vladimir-poutine-repond-exclusivite-questions-rt-france-video>.

¹⁴⁶ sn, « Transcription du discours du Président de la République au Bundestag à Berlin, cérémonie commémorative du 18 novembre 2018 », <https://www.elysee.fr/emmanuel-macron/2018/11/18/le-president-de-la-republique-a-berlin-pour-la-commemoration-du-18-novembre>, 19/11/2018.

In 2019, on 16 January, in front of the European deputies, the Spanish Prime Minister Pedro Sanchez told them that he wants to go beyond intergovernmental relations, to move towards a federal Europe and to create a European army, to have the capacity to project forces beyond of our borders, to be credible.

On 22 January, the Treaty of Aachen on Franco-German cooperation and integration supplements that of the Élysée Palace in 1963: it envisages joint deployments, it guarantees aid and assistance in the event of an armed attack on their territories, it strengthens cooperation between the armed forces with a view to establishing a common culture, it promotes joint defence programs and joint investments to fill capacity gaps, it encourages the definition of a common approach to arms exports, it creates a Franco-German Defence and Security Council.

On 4 March, in a letter sent to European citizens as part of the European election campaign, Mr. Macron proposes a defence and security treaty, which defines our obligations, in relation to NATO and our European allies: increased military spending, a mutual defence clause, a European Security Council involving the United Kingdom in collective decisions. On 21 May, he declares that he wants a European Convention,¹⁴⁷ so that the Heads of State and Government, the European Commission, the European Parliament and the citizens of Europe could take the time to define Europe's strategy for the next five years and the changes to the treaties.

In his address to the armies on 13 July 2019, he defines Europe of Defence: a strategic culture, common capabilities and operations. This does not tell us who will determine this culture, define what capabilities we need and for what to do, let alone lead operations and assume political, legal and financial responsibility for them. He would undoubtedly like the Europeans to acquire European weapons, use special forces in operations against Islamist terrorism and finance the French force of nuclear deterrence, whose cost represents 10% of the

¹⁴⁷ This Convention has since been called the "Conference on the Future of Europe".

hexagon's defence budget. He is unlikely to be heard on the latter point. At the Munich security conference on 15 February 2020, NATO Secretary General Stoltenberg rejected the call to place France's nuclear deterrent at the center of European defence strategy, saying that the United States and Britain have for decades provided the ultimate security guarantee for Europe and that it is effective.¹⁴⁸

Mr. Macron "appreciates what it brings to him in his international responsibilities to be the leader of a powerful, efficient and complete army," said the chief of the Joint Chiefs of Staff.¹⁴⁹ He should deduce from this what Europe needs: a political union, federal governance, a European defence and a European army. That is not what he and his colleagues are proposing. Rather than governing, they are preaching. Having spoken, they believe they have saved the world. They are thus disappointing the vast majority of EU citizens, many of whom end up voting for populists, not out of conviction but out of spite.

Europeans are aware of geopolitical upheavals and the insecurity they cause. To cope with them, they want Europe to be the master of its own destiny. They no longer trust the United States of America to guarantee their security. They understand that challenges such as climate change or poorly controlled migration require effective action at a European level, not that of the EU, which has shown its limits, but that of a more efficient structure, which unites all or part of the European

¹⁴⁸ Radio Free Europe/Radio Liberty, "NATO Chief Rejects Macron Call to Put French Nukes at Center of European Strategy" in *defense-aerospace*, <https://www.defense-aerospace.com/article-view/release/209729/nato-chief-rejects-macron-call-to-put-french-nukes-at-center-of-european-strategy.html>, 16/2/2020.

¹⁴⁹ General François Lecointre, Chief of Staff of the French Armed Forces, "Interview with Nathalie Guibert", in *Le Monde*, 13 July 2019, p. 4. France has an autonomous deterrent capacity of 300 weapons, "fundamentally political. It is the supreme responsibility of the President of the Republic to constantly assess the nature of our vital interests and the attacks that could be carried out against them. See François Hollande, *Discours sur la dissuasion nucléaire*, prononcé à Istres le 19 février 2015, <https://www.dailymotion.com/video/x2hlivt>.

States.¹⁵⁰ They know that Europe should exist politically, economically and militarily, not to confront other powers, but to engage in dialogue with them on an equal footing.

6.4 Who will make the EU strong, sovereign, autonomous and independent?

Mrs. von der Leyen does not walk in the footsteps of Charles de Gaulle. He was able to make the EU strong, sovereign, autonomous and independent. However, she is right when she says that soft power alone is no longer enough if we want to assert ourselves in the world. Europe, she says, must "learn the language of force".¹⁵¹ On the other hand, she says she is no longer a federalist, which is contradictory. Its assessment of its first 100 days of action is very disappointing and inconsistent in the field of security and defence.

Mr. Borrell asserts that "EU member States as a whole spend 1.4% of their GDP on defence, or some 250 billion euros. (...) The problem is that these sums are badly spent, scattered, without economies of scale and a multiplication of equipment competing with each other. There can be no European defence or strategic will without a European industrial capacity. (There is a lack of) a shared vision of the world and its risks. (...) The member States do not have the same strategic approach to the world, based in particular on their history. We need to build this common strategic culture with regard to common risks. Is the Sahel a risk for the Baltics? Yes, but it is the countries of the South who perceive it as such. Syria? It is a risk for all of us, but we have been unable to respond to it in any way, and we have suffered the consequences of this crisis in our immediate neighbourhood. (...) My priorities will be the Balkans, (the) eastern borders - we must help Ukraine - and the threat of

¹⁵⁰ This is confirmed by the opinion poll of 10 September 2019 carried out on 60,000 people in 14 countries by the YouGov Institute at the request of the European Council on Foreign Relations.

¹⁵¹ See Ursula von der Leyen, „Europa muss auch die Sprache der Macht lernen“ in *Frankfurter Allgemeine Zeitung*, <https://www.faz.net/aktuell/politik/ausland/rede-von-ursula-von-der-leyen-europa-muss-auch-die-sprache-der-macht-lernen-16475803.html>, 8/11/2019.

Islamist terrorism, a battle that is not won, as France sees in the Sahel. The situation in some Latin American countries must be another of our concerns".¹⁵² Mr. Borrell's priorities are unfortunately not federal Europe and European defence. Will he become a worthy successor to Javier Solana?

Mr. Breton, the European Commissioner for the Internal Market and the Military Industry, heads, since 1 January 2020, a Directorate General for the Defence and Space Industry (DEFIS). His first priority is the approval of the regulation establishing the EDF and its financing. He believes that the "three companies from three European countries" rule makes it possible to integrate small European countries and SMEs into the European defence industrial and technological base (DI&TB), while targeting the necessary technologies. His second priority is the setting up of the new Directorate General DEFIS. His third is to concentrate resources on projects contributing to the security of Europe, in particular PESCO projects, those responding to NATO or EU capacity plans. His fourth is the participation of SMEs in EDF. His fifth is the development of disruptive innovation, to ensure Europe's leadership in strategic technology. His sixth is to maximize synergies between the EDF, the EU space program and the digital program for Europe. Mr. Breton also believes that creating strong and competitive European players will require an assessment and review of European competition rules. He considers that defence is a key issue, that Europe must acquire its own defence means and have autonomous access to space, that Copernicus and Galileo, as good examples of dual-use technology, must be reinforced.¹⁵³ Let us wish Mr. Breton every success

The President of the European Parliament's Defence Subcommittee, Mrs. Loiseau, announced her intentions: to

¹⁵² Sylvie Kauffmann, Sandrine Morel et Jean-Pierre Stroobants, "Josep Borrell : « La désunion nous paralyse » in *Le Monde*, 9/11/2019, p. 2.

¹⁵³ See sn, « Thierry Breton veut développer "une industrie européenne de défense" » in *La Tribune*, <https://www.latribune.fr/entreprises-finance/industrie/aeronautique-defense/thierry-breton-veut-developper-une-industrie-europeenne-de-defense-834459.html>, 2/12/2019.

listen to the operation commanders of the CSDP; see the European Parliament give its opinion before a CSDP operation is launched as well as on the respect of the commitments made by the member States within the framework of permanent structured cooperation; draft a European defence white paper containing a joint threat assessment and specifying in what context and for what purposes European military capabilities would be used.

Mrs. Loiseau doesn't seem to be aware of the vacuity of CSDP. She certainly does not answer the question asked by her fellow citizens before the European elections: "When is European defence due?" nor their demand: "Make it happen!".¹⁵⁴

It remains to find, before the elections of 2024, those who will be the future bearers of future for Europe, because for the EU, the Covid-19 coronavirus pandemic, is probably the crisis too far.

¹⁵⁴ See Nicolas Gros-Verheyde, « Nous ne sommes plus en paix. Il faut rapidement s'engager vers un Livre blanc (Nathalie Loiseau) » in *Bruxelles2*, <https://club.bruxelles2.eu/2019/09/nous-ne-sommes-plus-en-paix-il-faut-rapidement-sengager-vers-un-livre-blanc-nathalie-loiseau/>, 24/9/2019.

6.5 The Covid-19 crisis, one too many for the EU?

By early January 2020 at the latest,¹⁵⁵ Western leaders¹⁵⁶ had known that something serious was happening in China,¹⁵⁷ although the latter masked the reality and the extent of the epidemic, in particular by arresting of the first doctor who, as early as December 2019, exposed the danger of the virus,¹⁵⁸ so

¹⁵⁵ At the end of 2019, European and American intelligence services knew via the Internet and earth observation satellites, which monitor CO2 emissions in particular, that economic activity was coming to a halt in Wuhan. According to ABC News, as early as the end of November 2019, the National Center for Medical Intelligence warned the Defense Intelligence Agency, the Pentagon and the White House that a contagion was spreading in the Wuhan region of China, changing lifestyles and businesses and posing a threat to the population. ABC News believes that the U.S. government could have stepped up its mitigation and containment efforts much earlier. On April 8, the Pentagon denied the existence of such a report. See Josh Margolin, James Gordon Meek, "Intelligence report warned of coronavirus crisis as early as November: Sources" in *ABC News*, <https://abcnews.go.com/Politics/intelligence-report-warned-coronavirus-crisis-early-november-sources/story?id=70031273>, 9/4/2020.

¹⁵⁶ The American authorities have long underestimated the danger of the virus to themselves and the situation among some of their allies. See K. M. Cambell et R. Doshi, « The Coronavirus Could Reshape Global Order », *Foreign Affairs*, www.foreignaffairs.com, 18/3/2020.

¹⁵⁷ "On 3 January Robert Redfield, director of the US Centers for Disease Control and Prevention (CDC), spoke with his Chinese counterpart, George Gao, and was alerted to the newly emerging disease, becoming concerned enough for the CDC to establish an incident management structure for the new coronavirus on 7 January and activating its emergency response structure two weeks later, on 21 January. Despite that move by the CDC, a day later Trump was insisting the situation was under control. The World Health Organization warned the US and other countries about the risk of human-to-human transmission of Covid-19 as early as 10 January, and urged precautions even though initial Chinese studies at that point had found no clear evidence of that route of infection (...): there was a threat of catching the disease through water droplets and contaminated surfaces, based on the experience of earlier coronavirus outbreaks, such as SARS and MERS. The WHO declared a "public health emergency of international concern" on 30 January." Peter Beaumont, Julian Borger, "WHO warned of transmission risk in January, despite Trump claims" in *The Guardian*, <https://www.theguardian.com/world/2020/apr/09/who-cited-human-transmission-risk-in-january-despite-trump-claims>, 9/4/2020.

¹⁵⁸ According to the Hong Kong South China Morning Post (See <https://www.scmp.com>), the 1st infected person came to the hospital on 17

that 4 to 5 weeks were lost to contain its spread. Instead of being content, for the most part, to affirm flippantly, even cynically: "It's not serious, and we are ready", our leaders should have taken the appropriate precautionary measures, taking inspiration from previous pandemics and good practices, particularly those in use in Taiwan, which reconcile the fight against the virus, support for the economy and the safeguard of individual freedoms.

Despite its competence in health matters,¹⁵⁹ the European Commission has failed to take the lead in coordinating the

November 2019. Two doctors, Li Wenliang and Ai Fen launched the alert. The first died quickly, the authorities erased the traces of his existence before rehabilitating him. See Simon Leplâtre, "Coronavirus: le 1^{er} médecin à avoir lancé l'alerte en Chine réhabilité à titre posthume" in *Radio France International*, <http://www.rfi.fr/fr/asia-pacifique/20200320-coronavirus-1er-m%C3%A9decin-avoir-lanc%C3%A9-alerte-chine-%C3%A9habilit%C3%A9-li-wenliang>, 20/3/2020. The second has been strongly reprimanded by the police. See Hannah Devlin, "Has Covid-19 mutated into a more deadly strain? Busting the coronavirus myths" in *The Guardian*, <https://www.theguardian.com/world/2020/mar/05/has-covid-19-mutated-into-a-more-deadly-strain-busting-the-coronavirus-myths> and Brice Pedroletti, « Coronavirus : l'urgentiste chinois Ai Fen révèle les pressions subies pour cacher la gravité de l'épidémie » in *Le Monde*, https://www.lemonde.fr/international/article/2020/03/13/l-urgentiste-ai-fen-revele-les-pressions-subies-pour-cacher-la-gravite-de-l-epidemie_6032920_3210.html, 13/3/2020. Some virologists suspect that the Wuhan National Biosafety Laboratory, the Biosafety Level 4 (BSL4) biological containment laboratory of the Chinese Academy of Sciences in Wuhan, has modified the virus' genome to make it more aggressive, so that it is more easily transmitted and reproduces more rapidly inside the body: an assembly of 7 or 8 different coronavirus gene sequences in the same genome has an extremely low probability of natural construction. The virus was identified as early as 7/1/2020, its genome sequenced on 10/1, 13/1, an RT-PCR test allowed its detection. This rapidity pleads for a leakage of the BSL4 virus: the first cases of AIDS were described in June 1981, the HIV virus was only identified in 1983. BSL4 was disclosed by Xia H, Huang Y, Ma H, Liu B, Xie W, Song D, et al., « Biosafety Level 4 laboratory user training program, China » in *Emerging Infectious Diseases Journal*, nr 5, May 2019, <https://doi.org/10.3201/eid2505.180220> or https://wwwnc.cdc.gov/eid/article/25/5/18-0220_article.

¹⁵⁹ The treaties confer various health powers on the Commission, starting with Article 46 of the ECSC Treaty (living and working conditions of the workforce) and Chapter III of the Euratom Treaty (protection of the health of

response to the pandemic and defining common standards. The EU and its member States have once again shown themselves to be incapable of managing crises. They have belatedly realized their utter dependence on external supplies of medicines, protective and testing equipment, respirators and reagents. Member States did not coordinate their protective measures and adopted a national withdrawal attitude, symbolized by the initial refusal by Paris and Berlin to export protective masks and clothing to Italy, or the various control measures introduced at the borders between member States.

The mismanagement of recent years, the lack of consideration for the intelligence services, the unpreparedness for crisis management, the poor appreciation of the scale of the phenomenon, the late and flawed decisions of most of our leaders are undeniable. In view of the large difference between the death rates in the member States and in the regions,¹⁶⁰ ministers are at risk of legal action. The Court of Justice of the French Republic received at least 6 complaints before 11 April. A collective complaint against the Belgian State, with the constitution of a civil party, for failure to assist a person in danger and a danger to public health, is in preparation.

As in economic and social terms, Mr. Costa and his team have a good health record: Portugal has relatively few deaths. This government took quickly containment measures. Belgium, although it has 9 health ministers, adding the regional to the federal ones, let the army and Doctors Without Borders intervene there in retirement homes, which lack personnel, equipment and tests. It has many more victims, like France, which maintained the first round of municipal elections on 15 March, Spain and Italy, which confined belatedly.

workers and the general public against the dangers arising from ionizing radiation). See Title XIV, article 168, Public Health, of the Treaty on the Functioning of the EU.

¹⁶⁰ See Angela Giuffrida, "Why was Lombardy hit harder than Italy's other regions?" in *The Guardian*, <https://www.theguardian.com/world/2020/may/29/why-was-lombardy-hit-harder-covid-19-than-italys-other-regions>, 29/5/2020.

Many of today's leaders are responding to the pandemic with containment, lock down: a simple measure, which they can understand, learned in the fight against terrorism. Nuanced approaches are not their strong point. Neither the art of persuasion: they prefer to impose, via the police, except and fortunately of course when it comes to being re-elected, but some fear that it is in the process of changing in Hungary and Poland. They are shutting down so much economic activity that they risk causing a recession, which could do more human damage than the Covid-19. The austerity imposed on Greece in the late 2000s caused 90,000 more deaths there than in previous years. I obviously do not advocate the slack practices that have been costly in terms of human lives and observed in some Anglo-Saxon countries, but rather that we draw inspiration from good practices. Some Asian and European States reconcile the flattening of the infection curve, a much higher activity rate and as few deaths as possible, because they test much more than in Belgium, for example.

On 23 March, Germany and Austria activated the European solidarity clause to deal with the pandemic.¹⁶¹ Couldn't these States and the others have sent their civil protection and military medical service units to Italy and then to Spain as early as the end of February? Finally, realizing that the containment measures could lead to a recession of 20-30% of GDP, at the end of March the European Commission relaxed its budgetary rules and made €37 billion available for the labor market, SMEs and health care, including €10 billion for Italy. On 6 April, the European Defence Ministers, under the presidency of Mr. Borrell,¹⁶² rejected the implementation of the solidarity clause.

¹⁶¹ Article 222(1) of the Treaty on the Functioning of the EU states that: « The Union and its member States shall act jointly in a spirit of solidarity if a member-State is the object of a terrorist attack or the victim of a natural or man-made disaster. The Union shall mobilize all the instruments at its disposal, including the military resources made available by the member-States... ».

¹⁶² Aurélie Pugnet, "Une task force à l'état-major de l'UE pour coordonner les efforts dans la lutte contre le Covid-19" in *Bruxelles2*, <https://club.bruxelles2.eu/2020/04/une-task-force-a-letat-major-de-lue-pour-mieux-coordonner-les-efforts-dans-la-lutte-contre-le-covid->

Instead, they noted the need to explore how to use military expertise at EU level and to share information and good practice. They set up a light coordination mechanism, external to the European Commission's emergency response center, which is civilian. Do they know that the coronavirus attacks both civilians and the military?

On 7 April, one month after the Italian request made on 26 February through the European Civil Protection Mechanism, the European Commission announced the dispatch to Bergamo and Milan of two teams of ten Romanian doctors and five nurses and 20 Norwegian doctors, nurses and support staff, as well as 3,000 liters of disinfectants from Austria.¹⁶³

On 9 April, the Netherlands, Germany, Finland, Austria, Estonia, Sweden and Denmark finally accepted loans from the European Stability Mechanism for medical expenses, as well an aid package based on three pillars: the Commission finances unemployment systems in the member States to the tune of € 100 billion; the European Investment Bank borrows € 200 billion to support SMEs; the European Emergency Fund makes up to €240 billion of credit lines available to member States, for a total of €577 billion. For a crisis of this magnitude, and in relation to the GDP of the EU-27 (€13,500 billion), this remains paltry. Fortunately, the European Central Bank has once again launched a program to buy up public and private national debts, amounting to €800 billion.

Faced with the 18,586 Americans who died from Covid-19 and the number of unemployed people, which rose from 282,000 on 14 March to 6.61 million on 9 April, a \$2 trillion support and recovery plan was passed by Congress in the form of aid to households, massive aid to businesses and extension of the

[19/?utm_source=mailpoet&utm_medium=email&utm_campaign=b2pro-or-newsletter-post-title_2](https://club.bruxelles2.eu/2020/04/deux-equipes-medicales-europeennes-envoyees-dans-le-nord-de-litalie-avec-un-petit-mea-culpa/?utm_source=mailpoet&utm_medium=email&utm_campaign=b2pro-or-newsletter-post-title_2), 6/4/2020.

¹⁶³ Aurélie Pignet, "Deux équipes médicales européennes envoyées dans le Nord de l'Italie. Avec un petit mea culpa" in *Bruxelles2*, https://club.bruxelles2.eu/2020/04/deux-equipes-medicales-europeennes-envoyees-dans-le-nord-de-litalie-avec-un-petit-mea-culpa/?utm_source=mailpoet&utm_medium=email&utm_campaign=b2pro-or-newsletter-post-title_2, 7/2/2020.

rights of the unemployed. Up to now, poor governance in Europe has impoverished us and relegated us to a low position on the international stage. Today, it is helping the infectious agent to kill.

This was understood by Professor Ferrari, president of the European Research Council (ERC) since 1 January 2020. He resigned on 7 April, extremely disappointed by the European reaction to Covid-19. He deplored the total lack of coordination of health policies between member States, the recurrent opposition to coherent financial support initiatives, the unilateral closures of borders in the EU. Having arrived at the ERC as a fervent defender of the EU, he completely changed his point of view, although he continues to enthusiastically support the ideals of international collaboration,¹⁶⁴ but unfortunately not our federal project, the USE!

A federal Europe would have been better able to impose the conservation of European production capacities, for example within the framework of a Federal Military Health Service, responsible for acquiring, storing and distributing stocks of protective equipment, test material and disinfectant products, and to quickly send doctors and nurses where and when they are most needed. Planes marked with the blue star flag would have landed in Brescia, Bergamo, Milan or Madrid before Chinese, Russian, Cuban, Norwegian and even Albanian planes.

¹⁶⁴ See Clive Cookson, Michael Peel, « EU science chief resigns with blast at coronavirus response » in *Financial Times*, <https://www.ft.com/content/f94725c8-e038-4841-a5f6-2e046ae78e95>, 8/4/2020.

7. The EU, out of breath, is despised in a world of bullies.

The sovereignty of the member States and the EU's intergovernmental mode of governance led it to paralysis,¹⁶⁵ financial mismanagement, operational impotence and a lack of political credibility. European defence has made little progress since 2005, while respect for the rule of law and the Schengen area is regressing. As in the 1930s, more and more of its member States are turning to authoritarianism, mainly due to the inability of the Democrats to offer a reasonable alternative. Everyone knows the terrible consequences of some very bad electoral choices made at that time. Avoid these kinds of scenarios. If it had the right institutions, Europe could convince the great powers to adapt, their behavior to the general interest, as should itself. It has the size and the economic and demographic weight necessary to do this, which its member States do not have alone.

This is why Europeans are calling for a revival of the political unification of Europe, in a humanist and democratic sense, in order to be able in particular to develop European security and defence forces. They are overwhelmingly aware that only Europe can cope with today's major challenges, such as pandemics, economic recessions and currency fluctuations, global warming, marine pollution, trade wars, Islamist terrorism, uncontrolled migration and the revival of the arms race by old and emerging powers. They perceive that Europe's internal situation is not improving and that its geopolitical position is worsening, without necessarily perceiving the nature of the problems posed.

So, after positioning the EU, this chapter therefore considers, after positioning the EU, some of the foreseeable consequences of Brexit, then takes note of the disunity of NATO and finally

¹⁶⁵ Hungary, Greece and Slovenia have prevented or gutted proposals for European Council decisions against China, notably on territorial disputes in the South China Sea or on human rights.

takes stock of the United States of America, the Sahel, Russia, Turkey, Iran, Afghanistan, Kashmir and China.

7.1 European integration within the framework of the EU has shown its limits

Europe is increasingly penalized by the inefficient and opaque functioning of the EU's illegitimate, technocratic, undemocratic institutions.

The € zone needs a budgetary policy, its own taxation, a borrowing capacity, which made it possible in particular to support growth and its currency, to finance the ecological transition, to develop social justice and to improve the efficiency of security and defence spending. However, without a Political Union, it is impossible.

Almost 30 years after the signing of the Maastricht Treaty, it is time to admit that the CFSP is a costly failure and that the € remains fragile because the EU is too divided to be effective and therefore credible.

The incompleteness of the EU is at odds with Schuman's project, the wish of the Treaty of Rome and the ambition of the Laeken Council in 2001, which was an ever-closer union.

Instead of moving towards an ever-closer union, the EU has become increasingly fractured, weakened and incapacitated, which is a betrayal of government.¹⁶⁶

Exemptions from participating in defence policy, the € or Schengen granted to get the Maastricht treaty accepted, have hacked the EU: member States are no longer equal in rights and

¹⁶⁶ See François-René de Chateaubriand, « Polémique » in *Œuvres complètes du vicomte de Chateaubriand*, volume 4, Paris, Furne, 1834, p. 685,

https://books.google.be/books?id=gm4_AAAAcAAJ&pg=PA685&lpg=PA685&dq=une+trahison+en+fait+de+gouvernement+Chateaubriand&source=bl&ots=aoN-NQrQob&sig=ACfU3U3wk6Pp1w6Io9wVuV2UXEeI-3SMLw&hl=fr&sa=X&ved=2ahUKewi7l5fjm-foAhWMqaQKHbnLC38Q6AEwAHoECAwQLA#v=onepage&q=une%20trahison%20en%20fait%20de%20gouvernement%20Chateaubriand&f=false

duties. Rebates on certain contributions to the EU budget make this worse.

Enlargement towards Central and Eastern Europe has not been accompanied, as it was the case earlier for the South and then East Germany, by massive economic aid, at least at the beginning, creating among these Europeans a feeling of second-class citizenship, regardless of the current financial flows. This feeling was reinforced by the hostility that their influx aroused, particularly in France, Italy and the United Kingdom, because, lacking aid and prospects for the future, many migrated, impoverishing their countries of origin.

During the invasion of Iraq in 2003, the hardline American protectorates distanced themselves from those that were able to free themselves from it: France, Germany, Belgium and Luxembourg. It is worth remembering that Mrs. Merkel took a stand at that time in favor of the American intervention, against the Schröder Government, but also against her own party, in opposition.

The rejection of the "treaty establishing a constitution for Europe" in 2005 isolated France and the Netherlands from the 18 member States, including Germany, which had approved it.

In 2008, the subprime crisis, poorly managed by Mrs. Merkel, Mr. Schäuble and Mr. Dijsselbloem,¹⁶⁷ led to a financial crisis and then a ten-year depression, particularly acute in Greece, Italy, Spain and Portugal. The Grexit proposal made by Mr. Schäuble in 2010 has left its mark not only on the Greek people, but also on all those who could have suffered the same fate. The Russian invasion in Georgia elicited little reaction from the EU, divided between those who see Russia as their historical occupier and others who only aspire to develop trade relations with the Russians. This prompted Mr. Poutine to reoffend in Crimea and then in Donbass, in 2014.

The "Arab Spring", which began in Tunisia at the end of 2010, spread in 2011 to Egypt, Yemen, Bahrain, Syria, Algeria,

¹⁶⁷ It took the EU a decade to emerge from the 2008 crisis, while the United States of America and the United Kingdom did so in one year.

Jordan, Saudi Arabia, Morocco and Oman, triggering either reforms or more or less brutal repression. These have led to a migratory movement towards Europe, which peaked in 2015, at the height of the civil war in Syria and Iraq. While Mrs. Merkel said, at least for a few months, she was ready to take in the refugees; the Eastern Europeans, but also those of the South, who were already facing massive migration, did not want them at any price.

Outside the many divisions, it was the aversion to the use of the force that has confined the EU in a role of soft power. She is incapable of ensuring our security, of securing its external borders, of stabilizing its neighborhood, of guaranteeing the maintenance of peace. Without military power, the EU is as inadequate against terrorists and autocrats as the League of Nations against totalitarianism. It is unable to cope with an increasingly unstable multipolar world, where nationalist, xenophobic, intolerant, authoritarian forces are on the rise, where the major powers have turned their backs on multilateralism and now consider only the balance of power. Compared to the United States of America, Russia and China, the EU does not count, except in commercial matters, the only area of competence which the member States have completely renounced since the Treaty of Rome in 1957.

The EU cannot become a State, neither under the current, ill-conceived treaties, nor by amending them, nor by adding one more treaty. However, without a State, without an executive power capable of assuming a military engagement politically, legally and financially, with its possible human and material losses, its technical and human hazards and its possible strategic errors, no one can establish and implement a European defence, a European army.

We came under a government of assembly, by definition ineffective: as a result of an abuse of power, that is what the European Council has become, while, for lack of a vision of the future, it is failing in its duty, set by the treaties, which is to give the EU broad, medium- and long-term guidelines. The Commission subordinated itself to the Council. She perfectly

masters doublespeak and prevarication, she is the champion of running on the spot. By announcing that something is going to happen, she makes us believe that it is done. The European Parliament is deprived of the essential rights of a legislative power: to vote for taxes and the budget, to invest the government, to take the legislative initiative. Although apparently elected by universal suffrage, it is illegitimate.

On 30 June 2009, the Constitutional Court in Karlsruhe ruled that: "The representation of citizens in the European Parliament is linked not to the equality of citizens of the Union (Article 9 TEU), but to nationality, which is a criterion of distinction absolutely prohibited in (the EU). The Union is in contradiction with its idea that it is itself a Union of citizens, and this contradiction can only be explained by the quality of the EU as an association of sovereign States." and that "Even after the entry into force of the Lisbon Treaty, the EU, under the requirements of a constitutional State, lacks a political decision-making body constituted on the basis of an election by universal suffrage and bearing the capacity of unitary representation of the will of the people."

Despite this, in May 2019, Europeans voted in greater numbers than usual and elected rather moderate political figures: neither extremists, populists nor Eurosceptics achieved the strong breakthrough announced by the media, except for local circumstances. After those elections, our heads of State and government did not show the same civic spirit: as every five years, they engaged in endless palaver and haggling to assign the functions of the European Commission, Council and Parliament, as well as the European Central Bank (ECB).

The short sightedness of European leaders is unfortunately not new. Neither Victor Hugo nor Jean Jaurès were followed before 1914, nor Richard Coudenhove-Kalergi in the interwar period, nor Churchill, de Gaulle and Eisenhower after the Second World War, resulting in tens of millions of dead and traumatized, gigantic material and cultural damage and the downgrading of Europe on the international scene. The failure of the federalists in the 1950s and that of the Fouchet plans did

not allow Europe to regain its place among the great powers. The Cold War and the occupation of the eastern countries by the Soviets therefore lasted until 1989. In the 1990s, the EU was unable to prevent or put an end to the tragedy that took place in the former Yugoslavia. Three times in one century it was the American military intervention that put an end to the atrocities.

Our leaders communicate full time, but they remain silent when it comes to rationally fixing, in accordance with the principle of subsidiarity, the powers of the European authorities, those of the member States, those of the regions and those of the local authorities, so that everyone can act effectively, without fear of excessive power.

The United States of America has started a fight for first place with China.¹⁶⁸ If the American authorities someday opt for armed confrontation with it, NATO and therefore Europe may have to follow their ally,¹⁶⁹ whereas in 2003 France, Germany, Belgium and Luxembourg were able to resist the pressure and refused to illegally invade Iraq. Since then, our autonomy and independence have diminished considerably.

One of the causes is our addiction to technology, both American and Chinese. Europe launched GSM¹⁷⁰ and the World Wide Web, but it imported the Internet, smartphones, e-commerce, cybernetics, mass digital data processing,¹⁷¹ artificial

¹⁶⁸ See US Department of Defense, " Addressing China Threats Requires Unity of U.S., World Effort, Esper Says " in *defence-aerospace*, <https://www.defence-aerospace.com/article-view/release/209173/pentagon-chief-calls-for-united-us%2C-world-effort-to-address-china-‘threat’.html>, 24/1/2020.

¹⁶⁹ See sn, "America urges Europe to join forces against China" in *The Economist*, https://www.economist.com/europe/2020/02/16/america-urges-europe-to-join-forces-against-china?utm_campaign=the-economist-today&utm_medium=newsletter&utm_source=salesforce-marketing-cloud&utm_term=2020-02-17&utm_content=article-link-2, 16/2/2020.

¹⁷⁰ GSM originally means the "Groupe spécial mobile", the Mobile Task Force established in 1982 by the European Conference of Postal and Telecommunications Administrations to define standards for mobile telephony.

¹⁷¹ Lacking sufficient databases, European researchers are missing the artificial intelligence train.

intelligence, 5th generation combat aircraft and drones.¹⁷² The Galileo navigation system competed with GPS 10 years too late. The EU did not allow the creation of any other European champion other than Airbus.¹⁷³ Companies such as Google, Amazon, Facebook, Apple, Microsoft, Baidu, Alibaba, Huawei, Tencent and Xiaomi have no European equivalents. They plunder our data with impunity, they sell it to us and their profits in Europe are tax-exempt.

It is clear that only two European institutions shine in the exercise of their mission, because they are federal: the CJEU and the ECB! The ECB has been very much alone in saving the

¹⁷² The observation drones flying at high altitude and long endurance are American and Chinese. NATO has successfully adapted five American Global Hawks to fly in Europe. UAVs that operate at medium altitude with long endurance can be used for intelligence or fire support. The Israeli Heron and the American Reaper have been purchased by nine European countries. For small, mini and nano-drones, the European industrial offer includes more than 120 devices. In the United States of America, the number of drones increased by 4,400% between 2001 and 2013; in 2012, they represented a third of military aircraft. In 2017, the global military drone market reached \$ 2.8 billion. It could reach 9.4 billion in 2025. The United States of America funds 77% of research and development in this area.

¹⁷³ Airbus and its customers suffer from the negligence of its Spanish branch, the arrogance of its Franco-German senior management, the irresponsibility of political decision-makers and national military staffs which have led to insufficient consolidation of demand, as well as weaknesses of OCCAR. This has cost billions of € since the signing of the agreement between buyer countries in December 2002, resulting in very long delivery delays, additional costs for customers and significant operational shortcomings. The new charge for the A400M amounts to € 1.2 billion for 2019. Over the period 2015-2018, Airbus has provisioned € 5.5 billion due to the A400M. See AFP, Reuters, « Plombé par les amendes et l'A400M, Airbus annonce une perte nette de 1,36 milliard d'euros en 2019 » in *Ouest France*, <https://www.ouest-france.fr/economie/entreprises/airbus/plombe-par-les-amendes-et-l-a400m-airbus-annonce-une-perte-nette-de-1-36-milliard-d-euros-en-2019-6735109>, 13/2/2020. Shareholders are not the only ones affected: Airbus announced on 19 February 2020 its intention to cut 2,362 jobs out of 34,000 by 2021 in its Defence and Space division. Germany would lose 829 positions, Spain 630, France 404, the United Kingdom 357 and other countries 142. See Isabelle Chaperon, « Airbus supprime 2 362 postes dans sa division défense-espace » in *Le Monde*, https://www.lemonde.fr/economie/article/2020/02/20/airbus-a-la-peine-dans-la-defense-et-le-spatial-supprime-2-362-postes_6030207_3234.html, 20/2/2020. It was before the pandemics...

€, because the Economic and Monetary Union (EMU) is incomplete, not very legitimate, not very popular and not very democratic: only the 19 governors of the central banks of the € zone have the voting rights in its board. The Council of the € area or Eurogroup is composed only of the Finance Ministers of the 19 States that have adopted the € as their currency.¹⁷⁴ The President of the Eurogroup does not report on decisions to the MEPs from those member States.

This lack of legitimacy is problematic because money is based first and foremost on the confidence of the people and of the financial markets. The EMU lacks a federal government that conducts economic and budgetary policies, a substantial federal budget and huge own resources, as well as a significant and autonomous borrowing capacity to make transfers between member States in the event of asymmetric economic shocks. Neither the European Council nor the Eurogroup can complete EMU and the Banking Union. This makes the sustainability of the € uncertain and reinforces the dominance of the \$.

The absence of a federal government has deprived Europe of an immigration and refugee policy. Faced with their uncontrolled influx in 2015, member States reduced the free movement of people and then abolished it in the face of the covid-19 pandemic. Will the single market resist it, which is only sketched out in the energy, telecommunications, digital, financial services, security and defence sectors?

Since the 1980s and under the influence of the conservatives, the EU has de facto renounced the social market economy and drifted towards deregulated free competition, within the framework of a naively open market.

All over Europe, the State has been reduced to the bare minimum for the last 30 years. Until the crash of 2008, a certain balance had been maintained between capital and labor, including wages, employment stability and solidarity. Then it

¹⁷⁴ Austria, Belgium, Cyprus, Estonia, Finland, France, Germany, Greece, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Portugal, Slovakia, Slovenia and Spain.

was the law of the jungle. The conservatives, who often camouflaged themselves under the terms "ultra" or "neo" liberals, or "New Labour", were both naïve and incompetent. They come for the most part from the private economy, which maximizes profit, most often in the short term, as the financier has gradually supplanted the industrialist. They bear witness to a genetic inability to plan for the long term and to govern. They have only mastered the techniques of marketing and communication, which enables them to come to power and sometimes to stay there for a long time. Having won power by relying on the middle classes, the conservatives are essentially working for billionaires. The unbearable growth of inequality around the world is evidence of this. As they succeed in confusing the democratic opposition, the media and public opinion, the voter has no alternative but the populists, who are even more harmful than the conservatives.

Their too long period in power has led the EU and the member States to lose the ability to fulfil one of their priority missions after external and internal security: managing the collective future. Privatization has indiscriminately affected the judiciary, the prisons, the police, the army, education, the public and military health services, the services managing infrastructure for transporting water, gas, electricity and rail. The remnants of public service have been reduced to the bare minimum, in terms of budgets and people employed, by the austerity policy. The EMU budgetary rules impose fiscal and budgetary policies on the member States that are incompatible with the state of the single market: although established by European law, it remains *de facto* fragmented and non-homogeneous. This has not prevented the European Commission from monitoring its application, fortunately in a more flexible way since the Covid-19 pandemic.

Initially active in coal, steel and atomic energy, then in agriculture and space activities, the EU did not accompany the establishment of the single market with a multisectoral industrial policy. Mr. Busquin, European Commissioner for Research from 2000 to 2004 helped the security and defence industrial sector by funding dual research. The Juncker

Commission resumed this aid in 2020 and 2021, to the tune of half a billion euros.

The intergovernmental method does not allow for the consolidation of demand and supply in this sector. Demand is that of the member States. It is scattered and weak: only the United Kingdom and France have voted substantial investment budgets since the end of the Cold War. Supply, the DI&TB, is fragmented between the UK, France, Germany, Italy, Sweden, Spain and small producers.¹⁷⁵ It is far from the efficiency of the military-industrial complexes of the United States of America, Russia and China. Too weak in the face of international competition, our companies are disappearing or being bought out by foreign competitors such as General Dynamics, Europe's largest manufacturer of armored vehicles, which is based in Finland, Austria, Switzerland, Spain, etc. DI&TB is essential for equipping the security and defence forces without resorting to imports, in order to secure the supply chain¹⁷⁶ and develop S&TDR, innovation, economic growth and employment.

The fragmentation of DI&TB makes the equipment of European armed forces excessively disparate. The EDA count 154 types of weapon systems in Europe; there are only 27 in the United States of America. During Operation Harmattan in Libya, 75% of the air-to-air refueling of European aircraft was carried out by the Americans, as Europe had only 42 tanker aircraft of ten different types and the Americans 650 of only four models. In 2016, EU member States had 20 models of fighter aircraft

¹⁷⁵ The need for structural change has long been recognized: « To address the growing and diversifying security challenge, Europe needs to harness the combined and relatively untapped strengths of relevant industry and coordinates the research community in order effectively and innovatively to address existing and future security challenges, enhance the protection of the citizen and play an efficient role in peace-keeping activities. The threat to security which now exists can only be effectively addressed at European scale ». Communication from the Commission: Security Research - the next steps, COM(2004) 590, <https://ec.europa.eu/transparency/regdoc/rep/1/2004/EN/1-2004-590-EN-F1-1.Pdf>, 7/9/2004, p. 3.

¹⁷⁶ The Covid-19 pandemic highlighted the countries that had provided this security, and those that had neglected it.

(compared to 6), 29 classes of frigates (compared to 4) and 20 types of armored infantry vehicles (compared to 2). Although we spent €250 billion on defence in 2019, a third of the Pentagon's budget, our defence capabilities fall short of 6% of the US budget, as the pay of the 1.5 million European military personnel, 98% of whom cannot be used in high-intensity external operations,¹⁷⁷ absorbs the bulk of the budgets. What remains for training and education, re-equipment, intelligence,¹⁷⁸ cyber defence and equipment maintenance is completely insufficient.

The result: many weapon systems are inoperable and factories out of work. At the end of 2019, Airbus Group began negotiating job cuts with German trade unions, particularly in Manching. This factory has already lost 1,010 jobs when production of the Eurofighter came to an end.¹⁷⁹ It is supposed to participate in the replacement of 4th generation combat aircraft, around 2040, by the Franco-Hispano-German Air

¹⁷⁷ According to the former diplomatic adviser to Mr. Hollande, "Our projection capacities are extremely limited. That of the EU, all forces combined, is less than 20,000 men, half of which for France and most of them moreover for the United Kingdom." Christophe Ayad et Marc Semo, Jacques Audibert, « La France est encore une puissance d'action et non pas simplement d'influence » in *Le Monde*, https://www.lemonde.fr/international/article/2017/05/26/jacques-audibert-la-france-est-encore-une-puissance-d-action-et-non-pas-simplement-d-influence_5134254_3210.html, 26/5/2017.

¹⁷⁸ Each State buys its military equipment, it is an additional cost of 13 billion € per year according to the Juncker Commission.

¹⁷⁹ Michel Cabriol, « Airbus Group coupe dans ses effectifs de défense et de sécurité » in *La Tribune*, <https://www.latribune.fr/entreprises-finance/industrie/aeronautique-defense/20140127trib000812048/airbus-groupe-coupe-dans-ses-effectifs-des-activites-de-defense-et-d-espace.html>, 27/1/2014. The Eurofighter is an example of inefficiency: the Luftwaffe received on 18 December 2019 in Manching its 143rd and last aircraft since 2003. The factory only produces parts for that of Warton, which delivered on 27 September 2019 160th aircraft produced for the RAF. It still assembles planes for export. Factories in Italy and Spain suffered the same fate as Manching. In contrast, Fort Worth produced 3,500 of the 4,500 F-16s manufactured around the world. See Gareth Jennings, "Germany receives final Eurofighter under current PoR" in *Jane's Defence Weekly*, <https://emagazines.janes.com/webviewer/#janesdefenceweekly1january2020/germany-receives-final-eurofighter-under-current-por>, 18/12/2019.

Combat System of the Future. Italian-British governments and industrialists are working on Tempest. Further dispersion of effort.

On the other hand, Lockheed Martin delivered the 500th F-35 fighter on March 5, 2020. These aircraft, which are still not 100 % operational, operate from 23 bases around the world and have 270,000 flight hours. More than 985 pilots and 8,890 maintenance technicians have been trained.¹⁸⁰

To finance the investments required to develop high-tech weapons systems, manufacturers need financial resources. In 2018 the American *Research & Development* budget amounted to \$ 176.8 billion, including \$ 88.3 billion for defence, up 22% compared to 2017. The 27 member States of the EDA spent the equivalent of \$ 8.7 billion on *Research & Development* in 2017, the main contributors being France, Germany and the United Kingdom, which often carry out the same research separately.

After a decade of pooling and sharing of military equipment between EU member States and smart defence, its counterpart in NATO, the results are poor: member States have mostly gone it alone or opted for a limited partnership to re-equip their armies. Improved cooperation between NATO and the EU is bogus. Our defence spending is still very inefficient.

Although the European Council has repeatedly expressed its desire to increase its influence on the world stage, defence remains intergovernmental, hence the current difficulties of force generation for crisis-management operations. However, these only require a few hundred soldiers. EUFOR Chad had more than 3 000 troops, but that was in 2007. The CSDP suffers from a decision-making process that makes difficult to achieve a rapid military response in a crisis situation. In 21 years, it has only led to the creation of politico-military institutions which are almost devoid of human and material resources, and totally of military capabilities.

¹⁸⁰ See Lockheed Martin, <https://www.lockheedmartin.com/en-us/products/f-35.html>.

Indecisive, lacking of vision, courage, ambition and unity of political view, unable to solve our concrete problems, the EU is satisfied with fragile compromises and misleading texts,¹⁸¹ drafted by obscure committees, in places conducive to negotiations, computations, concessions, renunciations and even betrayals. Compromises between member States rarely lead to an ambitious common policy, very often to the lowest common denominator

In vain the EU promises security, prosperity, protection and power. The absence of security and defence forces, the uncontrolled arrivals of refugees and migrants, the fragility of the € zone and the banking sector, the non-implementation of climate agreements, the persistence of social dumping are developing populist, extremist and authoritarian movements. More and more Europeans want the return of national borders, believing that nation States provide better protection, particularly against uncontrolled migration flows, unfair competition and diseases. This is one of the reasons for the success of Brexit.

Mr. Macron says he wants to get Europe out of the doldrums with a Conference on the Future of Europe. Mrs. Merkel, the Christian Democrat and Social Democrat groups in the European Parliament are reluctant: they rightly believe that this Conference will only give rise to sterile chatter. Moreover, it will hinder any progress towards federalism for two years, at a time when Europe needs effective governance and efficient security and defence.

This additional disagreement confirms that the Franco-German understanding only really existed from 1958 to 1963, when de Gaulle and Adenauer were in business, and then when Mitterrand and Kohl came to an understanding. These four prominent personalities have significant achievements to their

¹⁸¹ The International Monetary Fund ruled on 06/29/2018 that the Greek debt relief agreement only improved its sustainability in the medium term, not in the long term.

credit, the other leaders have limited themselves to communication capable to keep the myth alive.

Mr. Macron, a reformer, and Ms. Merkel, a conservative, invariably disagree on most issues, Ukraine and Iran being the exceptions. They maintain their duumvirate, while competing for pre-eminence. Ms. Merkel is aware of her overwhelming economic superiority. Mr. Macron highlights his status as a permanent member of the UN Security Council and the strength of his armies, but France no longer has the financial and human resources for an independent defence policy.¹⁸² They differ on the 2021-2027 budget of the EU,¹⁸³ the Parliament and the budget of the euro zone, the future of the Schengen zone, the enlargement of the EU to the Western Balkans, the opening of trade negotiations with the United States of America, the taxation of multinational digital companies, NATO, the desirable level of defence spending, European defence, Russia, Turkey, the Sahel, Afghanistan, economic policy, global warming climate change, arms exports¹⁸⁴ and work sharing on future air and land combat systems. The Franco-German treaty of Aachen of 22 January 2019 is now only a memory.

¹⁸² The French capacity gaps were identified during the first Gulf War in 1990-1991.

¹⁸³ The EU budget is currently funded mainly by contributions from the member-States. It is equivalent to 1% of European GDP. This is very insufficient to combat climate change, build a digital Europe, protect our borders, support external operations under a UN mandate, finance Erasmus and European research, without forgetting the major traditional policies, agriculture and territorial cohesion. That is why Mr. Verhofstadt proposes to restore own resources by substituting a carbon tax or a tax on digital platforms for customs duties and border taxes from the 1950s. See Guy Verhofstadt, « Budget européen : pourquoi c'est un échec et comment le réformer » in *L'Opinion*, <https://www.lopinion.fr/edition/international/budget-europeen-pourquoi-c-est-echec-comment-reformer-213454>, 4/3/2020.

¹⁸⁴ Germany's ban on France and the United Kingdom from exporting to Saudi Arabia and other countries arms containing German-made components does not comply with either EU law on arms exports nor the 1971 Schmidt-Debré Agreement. In order to fulfil a contract for the delivery of French armored vehicles to Saudi Arabia, German gearboxes had to be replaced by American gearboxes, while it appears that German manufacturers are selling to Saudi Arabia through subsidiaries and joint ventures, based in particular in South Africa.

Unlike their fellow citizens, many European leaders still argue that only national capability allows action, at the right time, and wisely, to respond to threats and ensure security. This is why they only want cooperation, established by specific treaties with other States. For example, at the 56th Security Conference, held from 13 to 17 February 2020 in Munich, Mr. Maas, the German Minister for Foreign Affairs, dared to affirm that Germany is ready to become more involved, including militarily, that it is in favor of building a European security and defence union as a solid European pillar of NATO.¹⁸⁵ This purely verbal voluntarism is not credible: for 14 years, the German governments have destroyed the *Bundeswehr*, have done little to combat Islamist terrorists and done nothing for European defence.

Mr. Macron's European army, which Mrs. Merkel calls an army of Europeans, would be nothing more than a conglomerate of national armed forces, impossible to equip and train uniformly. If, by some miracle, it was one day ready to be sent into operation, who would take the decision? Would the European Council decide unanimously? It is inconceivable, at the present stage of European construction, that the lives of soldiers from national armies would be exposed on such a basis. Furthermore, how can the administrative and financial status of military personnel, their rights and duties, the objectives of their training, operational doctrines, etc. be determined? Despite the 1963 Elysée Treaty, the French and German legal systems remain totally opposed, particularly with regard to the individual, political and trade union rights of soldiers. Launching military operations is a prerogative of the Head of State in France. It is subject to authorization by the *Bundestag* in Germany.

In short! “Real European defence, the one that consists of preparing a defence tool capable of reacting to threats of various

¹⁸⁵ Patrick Wintour, “Macron sets out 10-year vision for EU with call for more integration ” in *The Guardian*, <https://www.theguardian.com/world/2020/feb/15/emmanuel-macron-sets-out-10-year-vision-for-eu-with-call-for-more-integration>, 15/2/2020.

kinds, ranging from hybrid actions to high intensity conflict, is not formed around big theoretical ideas, or under the umbrella of some great pioneer country."¹⁸⁶

7.2 Brexit, British defence and defence industry

The British separated from the EU because the EU could not convince them that staying was in their material interest, but also for lack of a discourse inspiring any form of European patriotism.

The Brexit delays granted in May and then in October 2019 by Mr. Macron to Mrs. Merkel allowed Mr. Johnson to renegotiate the exit agreement from the EU and to obtain, during the elections of 12 December, a large majority in the House of Commons. This allowed the EU exit bill to pass into law on 31 January 2020 and limited the transitional period during which relations with the EU are maintained to 31 December 2020.

The economic downturn caused by the Brexit will reduce British military capabilities that are already severely diminished. They continue to pay for the enormous human and financial cost of interventions in Afghanistan and Iraq. The Royal Navy has only a dozen frigates and some nuclear submarines, four of which are ballistic missile launchers¹⁸⁷ and six of which are intended for attack, and also various support ships. The aircraft carrier Queen Elizabeth will be able to deploy 15 F-35 B fighter aircraft by 2025 at the earliest. The Royal Air Force operates about 100 Eurofighters, as well as helicopters and transport, training and reconnaissance aircraft of some 20 different types, making maintenance of the aircraft and pilot training very expensive. It takes part in missions in Estonia, Romania, the Falklands, Iraq and Syria, but within the framework of NATO or international partnerships, not that of the CSDP. The British Army has a single division, comprising

¹⁸⁶ See Ronan Le Gleut et Hélène Conway-Mouret, *Europe de la défense, le défi de l'autonomie stratégique*, Rapport d'information du Sénat de France, <https://www.senat.fr/notice-rapport/2018/r18-626-notice.html>, 3/7/2019.

¹⁸⁷ Great-Britain is said to have around 200 strategic weapons, linked to NATO since 1962.

one armored brigade and two armored infantry brigades, as well as a logistics brigade. The British Special Forces have around 5,000 highly professional soldiers. The United Kingdom contributes to NATO's nuclear deterrence. Secretary of State for Defence Mr. Wallace announced in parliament on 25 February 2020 that his services are preparing the production of new warheads, tailored to current threats, like the American W93 / Mk7 weapons to replace the current Trident missiles.¹⁸⁸

At the Tory party congress on 30 September 2019, Mr. Wallace made no secret of the dilapidated state of the British forces. He said he wanted to put an end to personnel shortages, inoperable weapons systems and low stockpiles. In his view, the 2015 strategic defence and security review led to several purchases of prestigious equipment, such as the two aircraft carriers, while for the past 20 to 30 years the British forces, in particular the army, have been drained of their substance by insufficient funding, due to a series of short-term decisions or a lack of decisions on many issues.¹⁸⁹ Because of America's increasingly isolationist foreign policy, Mr. Wallace wants to prepare his armies to act autonomously, although they are highly dependent on American air cover and intelligence, surveillance and reconnaissance assets.¹⁹⁰

According to the National Audit Office, he will not have the budgetary means for his policy before 2025, which will result in the loss of capabilities: early warning aircraft, mine-hunting ships or helicopter carriers, Harpoon anti-ship missiles, satellites and cybersecurity tools.¹⁹¹

¹⁸⁸ See Nicholas Fiorenza, "UK admits to nuclear replacement warhead programme" in *Jane's Defence Weekly*, 27/2/2020.

¹⁸⁹ Tim Ripley, Fenella McGerty, "UK defence secretary wants to end 'hollow force'" in *Jane's Defence Weekly*, <https://www.janes.com/article/91684/uk-defence-secretary-wants-to-end-hollow-force>, 3/10/2019.

¹⁹⁰ Tim Shipman, "Ben Wallace Interview: We Can't Rely on US (excerpt)" in *The Sunday Times*, <https://www.thetimes.co.uk/article/ben-wallace-interview-we-cant-rely-on-us-pmwcgv398>, 12/1/2020.

¹⁹¹ See Tim Ripley, "NAO calls for action on UK defence budget 'black hole'" in *Jane's Defence Weekly*, 27/2/2020.

Mr. Blair agreed in St Malo in 1998 that the EU should acquire an "autonomous capacity for action (...) in order to respond to international crises", but the United Kingdom shunned EU operations, limited the resources of the EDA, SatCen and ESDC and delayed the development of Galileo.

Before Brexit, Europe was an economic power comparable to that of the United States of America, a military dwarf and a political lightweight. Brexit will, on both sides of the Channel, accelerate downgrading, amplify social tensions and accentuate internal divisions. From 1 January 2021, it will change the economic terms of trade between the EU and Great Britain, including for the defence industry. The UK appears prepared to trade under WTO terms, which means high tariffs on goods, rather than accepting that British companies remain subject to EU environmental, social and labour standards, State aid and competition rules and the EUCJ.

On the other hand, Brexit does not mean a disengagement of the United Kingdom from the security and defence of Europe. It does not question its nuclear and operational cooperation with France. Its defence industry remains considerable and its S&TDR is of the highest order.

7.3 NATO, disunited as never before

On 4 December 2019 in London, the Atlantic Council reaffirmed the transatlantic link and the commitment enshrined in Article 5 of the Washington Treaty: an attack on one Ally is considered an attack on all.¹⁹² This hardly hides the reality. NATO is heterogeneous: an increasingly authoritarian but

¹⁹² This reaffirmation was necessary. The United States' commitment to defend Europe has remained credible from Mr. Truman to Mr. Reagan. We shared common values, including freedom, they saw us as partners. Trump undermined that credibility before he was even elected, by declaring NATO obsolete. Once in the White House, he doubted whether article 5 could apply to Montenegro and to the States which do not devote 2% of their GDP to the defence effort. He sees the EU as a commercial enemy. After a phone call from Mr. Erdogan, of whom he calls himself a big fan, he abandoned our Kurdish allies in the fight against Daesh in a sad fate, facilitating the escape of many terrorists.

unstable and isolated United States of America, a Canada unhappy with its neighbor to the south, a United Kingdom that has moved away from Europe but has not yet crossed the Atlantic, a highly inconsistent group of 22 European States, and a Turkey that has one foot inside and one foot outside.

Since 1989, the Alliance has enabled Europe to reduce its defence effort from 3 to 1% of GDP. In September 2014, at the Atlantic Council, Mr. Obama obtained a commitment from the allies to increase their defence budget to 2% of GDP and the share allocated to re-equipment to 20%. The increase in imports resulting from the purchase of new American equipment will reduce our GDP by the same amount. While between 2014 and 2016 the EU exported to the United States of America \$7.3 billion worth of defence-related goods and services, mainly raw materials and basic services, it imported \$63 billion worth of high-tech goods and services.¹⁹³ The American budget for S&TDR and equipment procurement is €160 billion per year, that of the EU-27 is €40 billion per year, of which 10 for France and 20 for the other 26 countries; that of the United Kingdom is also €10 billion.¹⁹⁴

NATO wants to counter terrorism. It wants to protect itself from cyber-attacks and hybrid operations from Russia, while remaining open to dialogue with it. It is aware that China presents both opportunities and challenges. It considers that space has become an area of operations.¹⁹⁵ It wants to keep Turkey on board, despite the establishment of a security zone in north-eastern Syria, the sending of troops to Libya and the disputes with Greece and Cyprus.

¹⁹³ Daniel Fiott, *The Poison Pill: EU defence on US terms?*, EUISS, <https://www.iss.europa.eu/content/poison-pill-eu-defence-us-terms>, 14/6/2019.

¹⁹⁴ See Ronan Le Gleut et Hélène Conway-Mouret, *Europe de la défense, le défi de l'autonomie stratégique*, op. cit.

¹⁹⁵ The United States of America created a military space command in 2019 and a "Space Force" in 2020, which will bring together 16,000 military and civilian personnel. The Forces are responsible for recruiting, training and managing, the military commands for operations.

In December 2019, the Atlantic Council found that defence spending by the Allies (excluding the United States of America) increased between 2017 and 2019 by 5% per year, especially in the countries closest geographically to Russia. The target of 20% investment in major equipment is achieved by only 16 Allies out of 29. Instead of sticking to these figures, Mr. Trump and Mr. Stoltenberg have fueled the regrettable confusion between NATO defence spending and NATO spending.

NATO's defence spending is the sum of the defence budgets of the member States, around €1,000 billion a year, including \$738 billion in 2020 for the Americans alone.¹⁹⁶ However, they allocate only \$35.8 billion to the defence of Europe, slightly less than France's defence budget. They now station only 68,000 military personnel in Europe, most of them non-combatants, including about 35,000 in Germany.¹⁹⁷ It's symbolic, but it perpetuates the protectorate status of our States. Since 2014, an initial budget of \$1 billion, growing to \$6.5 billion by 2019 but halved in 2020, finances the rotational presence of about 3,000 additional American soldiers in Europe, but also military exercises, the improvement of pre-positioned infrastructure and equipment, as well as the strengthening of partner countries' capabilities, mainly in order to reassure mainly Estonia, Latvia, Lithuania, Poland, Bulgaria and Romania.

NATO expenditure in 2019 was €2 345 million, including €1 395 million for the integrated command structure,¹⁹⁸ €700 million for common military capabilities: early warning and air control aircraft, reconnaissance drones, heavy transport aircraft; €250.5 million for the politico-military seat in Brussels. The

¹⁹⁶ See sn, "House approves \$738bn military bill with money for Trump's Space Force" in *The Guardian*, <https://www.theguardian.com/us-news/2019/dec/11/house-approves-space-force-military-bill>, 12/12/2019.

¹⁹⁷ In the 1960s, there were 400,000 U.S. military personnel in Europe, and 200,000 in the 1980s.

¹⁹⁸ These include the Military Committee and the International Military Staff in Brussels; the Strategic Commands, including SHAPE in Mons, and their command, control and information systems; the Alliance's agencies, operations and missions; the NATO Defence College in Rome; the NATO Science and Technology Organization and the Centre for Maritime Research and Experimentation in La Spezia.

United States of America's share of this expenditure is not 90%, as Mr. Trump said, but only 23.1%, whereas according to the official distribution key, GDP, it should be around 50%.

NATO bases its deterrence capability on conventional forces, but also on strategic nuclear weapons, American and British, as well as tactical. The US Air Force is said to have 40 B61 bombs at Aviano in Italy and Incirlik in Turkey. It seems that in 2019, the Americans were storing 140 B61 bombs in Europe,¹⁹⁹, fitted with the double key, one for the American support unit, one for Germany, Belgium or the Netherlands. Germany assigns to this mission the 33rd fighter squadron Tornado PA-200, plane which also equips the 6th Italian *Stormo*; Belgium equipped the 10th Wing with F-16, just like the 312th and 313rd squadrons of the Netherlands.²⁰⁰ Unless you give up participating in the nuclear deterrence, the replacement of these aircrafts can only be envisaged by aircrafts deemed B61-compatibles by the Americans, for example the F-35 or the F-18.

The threats have indeed not disappeared: North Korean missiles, which can carry nuclear weapons, can strike almost our entire continent: only Portugal and western Spain are out of range. In response to the Iranian threat, NATO is deploying a ballistic missile defence system that includes a radar in Turkey, sites in Romania and Poland, and four Aegis missile frigates in Spain. This system has damaged our relations with Russia, which considers it prohibited by the 1988 treaty on intermediate-range nuclear forces, from 500 to 5,500 km. In response, but in contradiction to that same treaty, according to the North Atlantic Council, Russia has produced 9M729 missiles. Russians and Americans finally denounced this treaty. They are modernizing and increasing their arsenals, as are China, India, Pakistan and Israel.

¹⁹⁹ During the Cold War, the United Kingdom and Greece were also host countries. The number of weapons, going from the mid-range missile to shells, is said to have exceeded 7,000.

²⁰⁰ See Emmanuelle Maitre, « Forces aériennes européennes et mission nucléaire de l'OTAN », Paris, *Défense & Industries*, n°13, juin 2019.

This could encourage Europeans to buy American missile defence systems, to the detriment of European armaments programs.²⁰¹ They should consider that the systems installed in Iraq by the Americans did not intercept any of the 16 Iranian missiles launched on 8 January 2020 towards their bases. As it stands, NATO no longer guarantees our security and defence.

7.4 The United States of America

Trump aims to be re-elected in late 2020 by defending the political and economic interests of his country, which he wants to keep at the top of the military, technological and economic front. To do this, the USA reject the constraints of international law. It is forcing the EU, other American States, and the Pacific States to reduce their trade surpluses and to purchase American weapons systems.²⁰²

His 2016 promise to defeat the terrorists was a boast: he wants to withdraw from Iraq, Afghanistan and Africa. On the other hand, as Israel fears Iran, and because he supports Israel in order to obtain the Jewish vote and that of fundamentalist evangelicals, in 2018 he denounced the Vienna agreement of 2015 on the Iranian nuclear issue (The Joint Comprehensive Plan of Action - JCPOA). He tightened economic sanctions against Iran. In 2019, he included the Guardians of the Islamic Revolution in the list of terrorist organizations. He responded militarily to the acts of war by the Iranians and their allies, the Houthis, Hezbollah and the Iraqi Shiite militias, such as the bombing of Saudi refineries, the attack on oil tankers near

²⁰¹ See Michel Cabirol, « Pourquoi les Etats-Unis sont sortis du Traité sur les forces nucléaires à portée intermédiaire » in *La Tribune*, <https://www.latribune.fr/entreprises-finance/industrie/aeronautique-defense/pourquoi-les-etats-unis-sont-sortis-du-traite-sur-les-forces-nucleaires-a-portee-intermediaire-826048.html>, 23/08/2019.

²⁰² In addition, on February 14, our “ally” increased customs duties from 10 to 25% on Airbus aircraft. Wine, cheese, coffee and olives have been taxed at 25% since October 2019. We console ourselves by thinking that it mistreats South Korea just as much. See Reuters, “US to put 9,000 South Korea workers on leave as military funding row deepens” in *The Guardian*, <https://www.theguardian.com/world/2020/jan/29/us-to-put-9000-south-korea-workers-on-leave-as-military-funding-row-deepens>, 29/1/2020.

Hormuz and the bombing of a US military base in Iraq. On the other hand, on 6 October 2019, he tolerated the Turkish offensive against the Kurds, our allies.²⁰³

Since 29 August 2019, an 11th US military space command, Spacecom, has been responsible for ensuring that US dominance in space is never challenged or threatened by China and Russia. China and Russia are capable of jamming communications and GPS satellites, and have been able to destroy a satellite with a ground-to-air missile since 2007.

Mr. Trump increased the influence of Russia and Turkey in the Middle East. He damaged the relations between the United States of America and their allies and partners. He is destroying his country's "soft power" by undermining the credibility of its traditional values, in particular by pardoning war criminals and by not closing Guantanamo. He challenged the Iranian nuclear deal and denounced the mid-range nuclear missile deal with Russia. He restored the "balance of power" from before 1914-1918, the law of the strongest, the instability of alliances and the arms race. He increased the risk of armed confrontation. He has made the world a much less secure place. We cannot count on him.

7.5 The Sahel

Since the disastrous NATO operation in 2011, Libya has been plagued by civil war, which has fueled insecurity throughout the region.²⁰⁴

²⁰³ Michel Cabriol, « Syrie : "Les Américains ont renoncé à assurer la sécurité collective" (Jean-Yves Le Drian) » in *La Tribune*, <https://www.latribune.fr/economie/international/syrie-les-americains-ont-renonce-a-assurer-la-securite-collective-jean-yves-le-drian-831238.html>, 22/10/2019.

²⁰⁴ Our parliamentarians know the cost, in euros and in human lives, of interventions by national armies under NATO or EU flags or in ad hoc coalitions, but do they perceive what they bring to our (in)security? The EU has been in Bosnia since 1992. NATO has been in Afghanistan since 2001. Can we say that European actions in Kosovo, Somalia, the Democratic Republic of Congo, Côte d'Ivoire and Aceh have been successful?

France, Europe, the West and the UN must urgently rethink their action in the Sahel. After more than five years of war, the jihadists are getting stronger, they have the initiative, they choose the time, the place and the form of the confrontations. In 2013, the French were welcomed as liberators in Bamako, now demonstrators are demanding their departure there. Having forgotten the lessons of Gallieni, Lyautey, Galula and copied the tactical procedures of the Americans, including "surgical strikes" by planes or drones, the French army has been treated to the same rejection of their presence. Like them, it has neither a strategy nor an exit scenario for the crisis. However, "If the strategy be wrong, the skill of the general on the battlefield, the valor of the soldier, the brilliancy of the victory, however otherwise decisive, fail from their effect".²⁰⁵

Despite the presence in the Sahel of the 5,100 French soldiers of Operation Barkhane, the 13,000 men of the United Nations (MINUSMA) and, temporarily, American forces,²⁰⁶ terrorist attacks are increasingly frequent and deadly, because the means available are totally insufficient compared to the vastness of the territory. The territory is conducive to terrorist and criminal networks that are closely intertwined. Even for an action concentrated on the three borders, on the borders of Mali, Burkina Faso and Niger, this measure one million km², meaning Barkhane remains a paltry force. Islamist terrorists are thought to number only 100 to 300, but they exploit centuries-old ethnic tensions and frustrations due to poor governance. Groups of a dozen Islamists easily recruit 60 to 80 locals, for a fee, fed by various traffics, and then carry out blitzkrieg style attacks.

²⁰⁵ Rear Admiral Alfred T. Mahan.

²⁰⁶ See AFP, « Lutte antidjihadiste au Sahel : Washington réclame à la région d'en faire plus » in *Le Monde*, https://www.lemonde.fr/afrique/article/2019/12/17/lutte-antidjihadiste-au-sahel-washington-reclame-a-la-region-d-en-faire-plus_6023144_3212.html, 17/12/2019 et voir AFP, « Les Etats-Unis envisagent de se retirer militairement d'Afrique de l'Ouest » in *Le Monde*, https://www.lemonde.fr/afrique/article/2019/12/24/les-etats-unis-envisagent-de-se-retirer-militairement-d-afrique-de-l-ouest_6023985_3212.html, 24/12/2019.

Neither the local security forces, nor the G5 Sahel force, the alliance formed in early 2014 by Burkina Faso, Chad, Mali, Mauritania and Niger, or MINUSMA are militarily effective. The G5 Sahel has formed five battalions, but none of them has carried out any significant operations.

The French military are very effective, but they no longer perceive where their political leaders are leading them. They note daily the mismatch between the level of ambition displayed and the means available: the French army is engaged in Iraq, in the Arab-Persian Gulf, in the Central African Republic and in the Sahel. Its allies, with the exception of the Americans, are absent from combat actions: they limit themselves to giving training. The UN's action there, which costs \$1 billion a year,²⁰⁷ is as ineffective as it is almost everywhere. The EU does not take enough care of the equipment and field support for local soldiers it has trained, of the management of human resources of local armies, of the control of the financial flows of terrorist-traffickers. Its member States do not provide enough special forces, logistical support or intelligence.

The foreign military presence is increasingly unbearable for the Sahelian people and security forces, who are subjected to atrocious and endless violence, corruption, ineffectiveness and irresponsibility of local governments. Villagers owe their precarious security only to local militias. Peace in the Sahel depends on the countries that make it up, but how can their governance be upgraded, politically, security, economically and socially? The fight against corruption and bad governance is struggling to bring about the emergence of a responsible political class. Aid to local forces in terms of training, equipment, means of transport, logistical support and intelligence remains insufficient. The army, the police and the territorial administration are not sufficiently supported to be able to take their place and play their role. The economy is stagnating. The value created is not redistributed, but captured

²⁰⁷ See Jason Burke, « Sahel faces surge in violence from terror attacks » in *The Guardian*, <https://www.theguardian.com/world/2020/jan/22/sahel-faces-surge-in-violence-from-terror-attacks>, 22/1/2020.

by a few. Under these conditions, there will be no stabilization of the Sahel and Islamist terrorism will have a solid base for attacking Europe.

The latter, because of its divisions and its ineffective intergovernmental method, dramatically lacks the military and security capacities necessary to confront this threat. M. Borrell counted 1,500 soldiers lost by the G5 Sahel countries in 2019, the highest number since 2012. He also deplors the death of 2,500 civilians. In the absence of telecommunications equipment and qualified operators, the Sahelian forces take too long to warn in the event of an attack. Losses are therefore heavy before air support and reinforcements arrive. The presence of European advisers would encourage local armies, but would increase the risk of the return of “body bags”.²⁰⁸ However, after the repatriation of around 90 dead and 700 wounded, France had to leave Afghanistan.²⁰⁹ In the Sahel, it has already lost 45 soldiers, including 24 accidentally, and had around 400 injured. The bill for this after all limited intervention exceeds 5 billion €. After the UN Secretary General, the G7 noted in Biarritz on 26 August 2019 the extension of the threat to the whole of West Africa, up to the Gulf of Guinea and Cameroon.

7.6 Russia

Mrs. Kaljulaid, the President of the Republic of Estonia, clearly expressed²¹⁰ what the objective of European diplomacy towards Russia should be: "to ensure peaceful coexistence with a

²⁰⁸ See Jean-Dominique Merchet et Yvan Guichaoua, « Au Sahel, les djihadistes imposent leur tempo » in *Secret Défense*, <https://www.lopinion.fr/blog/secret-defense/sahel-djihadistes-imposent-leur-tempo-206519>, 18/12/2019.

²⁰⁹ Environ 60.000 militaires français ont été engagés en Afghanistan de 2001 à 2014. About 60,000 French soldiers were engaged in Afghanistan from 2001 to 2014. See AFP, « Treize ans de présence militaire française en Afghanistan » in *La Libre Belgique*, <https://www.lalibre.be/dernieres-depeches/afp/treize-ans-de-presence-militaire-francaise-en-afghanistan-5b7801b455324d3f14049019>, 18/8/2018.

²¹⁰ Anne-Françoise Hivert, « N’oublions pas que la Crimée est toujours occupée » in *Le Monde*, 17-18/11/2019, p. 6.

neighbor who does not respect international law or its commitments". She considers that having "regular contact [with Moscow] is necessary. But we cannot forget that Crimea is still occupied, as well as part of Georgia, and that a conflict is still going on in eastern Ukraine". She also considers that "the aspirations of the Eastern countries for enhanced cooperation with the EU should be supported".

Indeed, the conflicts frozen by Russia in Transnistria, Nagorno-Karabakh, Abkhazia and South Ossetia are still there, in some case now for over 30 years, which does not prevent them from multiplying, feeding insecurity from northern Norway to Greece, via Ukraine.

The Organization for Security and Cooperation in Europe (OSCE) has 57 member States, in North America, Central Asia and Europe. Prior to 2014, it has not been able to end the frozen conflicts. It has been unable to calm the relations between Russia and Ukraine since the annexation of Crimea on 18 March 2014 and the Russian-backed rebellion in eastern Donbass:²¹¹ the ceasefire agreements between Ukraine and the rebels are regularly violated.

Russia combines disinformation, electronic warfare, cyber warfare, denial of access by anti-aircraft and anti-ship batteries, artillery shelling, tank and infantry fighting... Its aggression has caused the death of 13,000 people on the ground, plus the passengers of flight MH-17. Recently, Mr. Putin announced his intention to annex Belarus. He creates a strong feeling of insecurity in the Baltic States. According to the Rand Corporation, it would only take 36 hours for the Russian army to take control of it. This partly explains the strong emigration of young Baltics: they fear that the surface-to-air, anti-ship and surface-to-surface missile systems²¹² deployed in the enclave of

²¹¹ A Buk anti-aircraft missile, supplied to the rebels by Russia, shot down Malaysian Airlines' Boeing MH17 on 17 July 2014, killing 298 people, including 193 Dutch (1 with dual Belgian nationality), 10 British, 5 Belgians, 4 Germans and 1 Romanian.

²¹² About this capacity « anti-access and area denial » (A2AD), see Robbie Gramer, « This interactive Map Shows the High Stakes Missile Stand-Off

Kaliningrad (former East Prussia) and in western Russia make a NATO counterattack very difficult. The current deployment of NATO troops should make it possible in the event of a Russian attack to alert the Alliance without delay and to immediately involve the Western countries. Russia perceives this presence of troops as a provocation on the part of NATO²¹³ and considers it to be in contradiction to the Founding Act on Mutual Relations, Cooperation and Security between NATO and the Russian Federation, signed in Paris in 1997, which is obsolete.²¹⁴

However, following the election of Mr. Zelensky as President of Ukraine on 20 May 2019, a dialogue began between him and Mr. Putin, which led to an exchange of 200 prisoners on 29 December, 20 years after Mr. Putin came to power.²¹⁵ Among them, the Russian suspected of having ordered the firing of the Buk missile on the MH-17, who thus escapes any trial. Russia and Ukraine signed a five-year contract on 30 December for the transit of Russian gas to Europe. It covers at least 65 billion m³ in 2020 and then at least 40 billion per year from 2021 to 2024. Kiev will receive more than \$7 billion in five years.²¹⁶

Between NATO and Russia" in *Foreign Policy*,

<https://foreignpolicy.com/2017/01/12/nato-russia-missile-defense-stand-off-deterrence-anti-access-area-denial/>, 12/1/2017.

²¹³ Cindy Régnier, « La pointe avancée de l'OTAN dans les pays baltes : une épine pour Moscou » in *La Tribune*,

<https://www.latribune.fr/opinions/tribunes/la-pointe-avancee-de-l-otan-dans-les-pays-baltes-une-epine-pour-moscou-824758.html>, 1/8/2019.

²¹⁴ See OTAN, Acte fondateur sur les relations, la coopération et la sécurité mutuelles entre l'OTAN et la Fédération de Russie, signé à Paris, France, https://www.nato.int/cps/fr/natolive/official_texts_25468.htm. NATO, Founding Act on Mutual Relations, Cooperation and Security between NATO and the Russian Federation, signed in Paris, France, https://www.nato.int/cps/fr/natolive/official_texts_25468.htm, 27/5/1997.

²¹⁵ See AFP, "L'Ukraine et les séparatistes prorusses ont échangé 200 prisonniers : un événement marquant dans la désescalade du conflit" in *La Libre Belgique*, <https://www.lalibre.be/international/europe/1-ukraine-et-les-separatistes-prorusses-ont-echange-200-prisonniers-un-evenement-marquant-dans-la-desescalade-du-conflit-5e08bb4bd8ad58130d09733a>, 29/12/2019.

²¹⁶ See AFP, "L'Ukraine et la Russie finalisent leur accord sur le transit du gaz" in *La Libre Belgique*, <https://www.lalibre.be/international/europe/1->

In 2007, Mr. Putin, who was invited to speak at the Munich Security Conference, said that he opposes the Western "model", he wages hybrid warfare against us. Propaganda, major maneuvers more or less close to our borders, incursions of ships or aircraft into our areas of sovereignty, cyber-attacks, dissemination of "fake news", data looting, of State or non-State origin, regularly target Europe, its institutions and companies. Denial of access systems are deployed in Crimea, in Donbass, on the Baltic border and in Syria.

According to SIPRI, in 2017, Russia spent for defence \$66.3 billion, 15% more than France, while its GDP is between that of Spain and Italy. Compared to European countries, it has the advantage of unity of command. The Russian military excels in artillery, missiles of all kinds, space, cyberspace and submarines. It maintains a considerable nuclear force.²¹⁷ It has a first regiment equipped with the hypersonic Avangard missile, which would carry a bomb of 2 megatons 6,000 km away.²¹⁸ Thanks to composite materials resistant to 2,000 ° C, its speed would go from Mach 20 to Mach 27, or more than 33,000 kilometers per hour. It would be able to change course and altitude to thwart missile defence systems, including the one deployed by the Americans in Europe, whose effectiveness was already in doubt. The Americans will not have equivalent weapons until 2022.²¹⁹

[ukraine-et-la-russie-finalisent-leur-accord-sur-le-transit-du-gaz-5e0aec359978e272f9820dac](https://www.faz.net/aktuell/wirtschaft/gazprom-russland-und-ukraine-unterzeichnen-gastransitvertrag-fuer-europa-16559852.html), 31/12/2019 and home/dpa, "Russland und Ukraine unterzeichnen Gastransitvertrag für Europa" in *Frankfurter Allgemeine Zeitung*, <https://www.faz.net/aktuell/wirtschaft/gazprom-russland-und-ukraine-unterzeichnen-gastransitvertrag-fuer-europa-16559852.html>, 31/12/2019.

²¹⁷ See Ronan Le Gleut et Hélène Conway-Mouret, *Europe de la défense, le défi de l'autonomie stratégique*, op. cit.

²¹⁸ Voir AFP, « Moscou déploie son "arme absolue", le missile hypersonique Avangard » in *La Libre Belgique*, <https://www.lalibre.be/international/europe/moscou-deploie-son-arme-absolue-le-missile-hypersonique-avangard-5e060bc5d8ad58130d0168b0>, 27/12/2019.

²¹⁹ See sn, "Russia deploys first hypersonic missiles" in *The Guardian*, <https://www.theguardian.com/world/2019/dec/27/russia-deploys-first-hypersonic-missiles-nuclear-capable>, 27/12/2019.

Despite this arms race and their opposition on many issues, Washington passed on information to Moscow that foiled two attempted Islamist attacks in St. Petersburg in December 2017 and 2019.

7.7 Turkey

Turkey has been a candidate for EU membership, unofficially since the 1960s and officially since 1987. The EU did not grant it candidate status until 1999. Since Mr. Erdogan came to power in 2003 and Cyprus joined the EU, relations between Turkey and the EU deteriorated. The regime, originally described by some leaders of the European People's Party as "Muslim-democratic", is increasingly intolerant, authoritarian and imperialist. The worsening repression of Kurds since the early 2010s and of opponents since 2013, the purges and arbitrary imprisonments after the attempted coup in July 2016, the military intervention in Syria in 2019, the refusal to recognize the Republic of Cyprus, the drilling in Cypriot waters, bad governance, the use of Syrian refugee flows and illegal migratory movements, have considerably delayed any prospect of Turkey joining the EU.

The 2016 agreement, which made it possible to greatly limit the arrival of migrants in Greece following a payment of € 3 billion in 2016 and 3 others in 2018, is badly applied. The EU paid € 2.5 billion from the first tranche and € 760 million from the second tranche: the heavy municipal and government bureaucracies in Turkey, those of the World Food Program, the World Organization for Migration and the EU, are slowing tender procedures.²²⁰

Furthermore, Mr. Erdogan does not respect international law. He challenges the sovereignty and integrity of Bulgaria, Greece and Cyprus. He calls into question our successes in the fight

²²⁰ See Leonor Hubaut, "Où sont passés les six-milliards promis par l'Europe à la Turquie ?" in *Bruxelles2*, https://www.bruxelles2.eu/2020/03/ou-sont-passes-les-six-milliards-promis-par-leurope-a-la-turquie/?utm_source=mailpoet&utm_medium=email&utm_campaign=les-newsletter-total-derniers-articles-de-notre-blog_2, 17/3/2020.

against Daesh, by his action against the Kurds in the North-East of Syria. As a result, the negotiation of the modernization of the customs union and its extension to services, as well as the accession negotiations, have been frozen by the EU.²²¹

The Americans have sanctioned the purchase of Russian S-400 missiles: they will withdraw from Turkey, in 2020, the production of 900 pieces of the F-35, including the central part of the fuselage.

7.8 Iran, Afghanistan and Kashmir

Freedom of navigation is threatened in the Strait of Hormuz, where 20% of our hydrocarbon supplies pass through. Iran has boarded oil tankers there, and the United States of America, France and the United Kingdom have been forced to deploy escort vessels there.

In Afghanistan, more than 20,000 troops are participating in a NATO-led mission with the support of about 14,000 American soldiers, to train and assist local forces fighting against Daesh, Al-Qaida and the Taliban. Nevertheless, the Taliban now control more ground than at any time since 2001. This is the result of troop withdrawals by Mr. Trump, who is negotiating with the Taliban to increase his chances of re-election. This is reminiscent of the discussions and promises of peace that preceded the American withdrawal from South Vietnam, shortly before the fall of Saigon.

In Kashmir, partially occupied by Pakistan since 1948 and by China since 1962, tensions are exacerbated by the Indian government's decision to revoke its partial autonomy.

7.9 China

If China is working to reduce poverty and pollution, it wants to quickly erase the humiliation it has suffered since the first Opium War (1839-1842). So, Mr. Xi is no longer satisfied with

²²¹ One chapter, on financial and budgetary provisions, had been opened, as provided for in the Migration Pact.

equality with the West. He wants to be at the forefront, economically, strategically and ideologically. He sees Chinese socialist ideology ousting the Western model. An internal challenge to the Chinese Communist Party in the face of the risks this entails is unlikely: the leaders are consolidating their power by exacerbating nationalism. Since Confucius, the rights of the community have taken precedence over those of the individuals within it, while our social life is based on the balance between individual human rights and duties towards the community. This debate is not only cultural, it also concerns the economic and social field, China challenging the International Labor Organization for the universality and legitimacy of basic social standards.

On 24 July 2019, China published a new White Paper on Defence, which highlights the great progress made to develop mechanized and networkable forces, but considers that computerization is still insufficient to reach the level of the Americans. It announces a defence budget of \$173 billion in 2019, up 7.5% from 2018. This growth is, however, less than what has been observed in the recent past: from 2012 to 2017, it was 56%. China builds on recent successes in drones, command, control, communications, computing, intelligence, surveillance and reconnaissance (C4ISR), electromagnetic propulsion, cybernetics and space. It intends to fill its gaps in aircraft and navigational aids through private sector involvement and civil-military integration. It wants to complete mechanization and computerization by 2020 and then, by 2035, operate a general modernization of its armed forces in order to be dominant around 2050 at the global level, both militarily and economically.²²² It has become innovative, although it continues to transfer technology, copy Western products and engage in industrial espionage. It develops hypersonic missiles,

²²² See Jon Grevatt, "China's White Paper urges faster advancement in technology » in *Jane's Defence Weekly*, 30/7/2019.

builds fifth generation aircraft and deploys radars²²³ designed to detect and track the stealthiest American aircraft.

The Western dogma that economic liberalization leads to political openness is contradicted: improving the standard of living of the Chinese middle class does not necessarily entail a strong demand for freedom. This middle class can use social media, under surveillance: it is forbidden to make political use of it. They can travel abroad and do not take the opportunity to stay there. The free competition of non-political ideas is a fact.

To support its territorial claims in the South China Sea, facing Vietnam, the Philippines, Malaysia, Brunei, Taiwan and Japan, the Chinese navy continues to gain strength. Since 2014, China has built the equivalent of the British and French navies: 35 frigates, 37 corvettes, 13 submarines, 4 amphibious landing ships, particularly threatening for Taiwan, and 8 tankers which allow long-distance operations from Chinese ports, particularly in the Gulf of Aden. The Marine Corps has grown from two to six brigades and its numbers have grown from 10,000 to 40,000 soldiers. The second ski jump aircraft carrier was commissioned on 17 December 2020. A third aircraft carrier is under construction. Its catapult system will increase the amount of fuel and equipment that planes can carry on takeoff. The Chinese fleet is still far from that of the United States, which has 11 aircraft carriers and 450 ships, but it outperforms those of Russia, France, India and the United Kingdom.²²⁴ 80% of Chinese missiles carrying nuclear warheads are at intermediate range, 20% at intercontinental range; they can launch hypersonic glide vehicles (HGV), comparable to the Russian Avangard.²²⁵

²²³ These "metre-wave sparse-array synthetic impulse and aperture radars" emit in the VHF band, between 30 and 300 MHz.

²²⁴ According to the "Military Balance" of the International Institute for Strategic Studies, quoted by AFP, "La marine chinoise met en service son second porte-avions" in *Le Monde*, https://www.lemonde.fr/international/article/2019/12/17/la-marine-chinoise-met-en-service-son-second-porte-avions_6023173_3210.html, 17/12/2019.

²²⁵ See Andrew Tate, « China testing intercontinental-range HGV says USNORTHCOM commander » in *Jane's Defence Weekly*, 18/2/2020.

China's rise to power is coalescing pushback from countries such as India (with whom it has been in conflict with in Kashmir since 1962) and countries bordering the Pacific, including Japan and the United States of America. Japan's 2020 defence budget is expected to reach \$50.3 billion, to finance the purchase of F-35 aircraft and missile defence systems.

The conditions are ripe for escalation. The Americans want to remain the only superpower. In Washington, some politicians want a trade war, to force the Chinese to respect the intellectual property, to stop illegal technology transfers, to limit State subsidies to companies, to guarantee the military status quo. Others want to cut China off from the financial markets, to limit the access of its companies to financial centers, to restrict bank credits, as is the case with Venezuela and Iran, in order to prevent China from rising further. Still other Americans aim to block the silk routes and Chinese territorial claims in the South China Sea, including through naval operations and by prohibiting American and allied firms from helping Chinese technological development.

Rather than keeping a potentially suicidal revengeful attitude like the Kaiser William II, the Chinese leaders should reinforce the precepts of Deng Hsiao-Ping (individual freedoms within the framework of the socialist market economy inside and peaceful relations with the rest of the world) and to supplement them with an evolution towards political and economic democracy. They would thus make China a developed, liberalized and open country. If, on the other hand, it closes itself off, it will reduce its foreign trade, increase protectionism, develop domestic demand and repress the partisans of political liberalism, as it does in Hong Kong.²²⁶

²²⁶ Kevin Rudd, « Sur la Chine, les Américains n'ont pas de stratégie » in *Le Monde*, 11-12/8/2019, p. 2.

7.10 Europe should finally take the right road, the road to the USE!

Let us conclude this overview with the observation that only Islamist terrorism constitutes a clear, precise and present external threat to Western Europe. It is rife from the east of Afghanistan to the coast of Mauritania. It cooperates with traffickers in arms, drugs and human beings, who thrive in failed States. These "associates" are at odds with European values, be it interests, conceptions of the State, law, culture, way of life, sexuality, the place of women in the society and family, understanding of the world, vision of the future and sharing of wealth. Unfortunately, the EU is unable to counter them without US support, which is increasingly unreliable and quick to disengage.

The strategic, political, economic, technological, energy and military balances are being called into question. Over the past twenty years, the entire security architecture in Europe has been deconstructed. Russia, America and then China have relaunched the arms race. They, but also India, Pakistan, Iran, Saudi Arabia and Turkey are using their military capabilities to impose their views on the international stage. More or less frozen conflicts and areas of high tension and even friction between them are multiplying in the Arctic, Eastern Europe, the Mediterranean, the Arab-Persian Gulf and the China Seas. On land, under the sea, in the air, in space and in cyberspace, their armies gauge the balance of forces and test their defences. Their interventions in inter-State conflicts and civil wars bring them face to face, risking escalation.

Various countries adopt opaque, aggressive behaviors or practice blackmail, including in the nuclear field. Missiles are pointed at Europe, South Korea and Japan. Chemical weapons were used in Syria, Malaysia and Great Britain. Our continent is once again the battlefield of the powers, the legal order and international institutions are breaking up, whereas, on the contrary, there is a need for more cooperation and solidarity in the face of increased risks, particularly of pandemics or terrorist acts. Biotechnology, robotics, nanotechnology, artificial

intelligence or quantum computers open up opportunities but are also sources of risks and instabilities, as the Covid-19 pandemic shows. As yet, there is no international military power that can intervene, because the UN Security Council is powerless whenever the interests of one of its permanent members are at stake.

Faced with these findings and NATO's disunity, Mrs. Merkel and Mr. Macron have repeatedly expressed the view that Europe should take charge of its own defence and security, but they are unable to agree on how to do it. Over more than 70 years, the many attempts to form a European defence within the Alliance have all failed, for various reasons. The 20-year record of ESDP-CSDP is distressing, disheartening, heartbreaking, deplorable and even pitiful.

This realistic examination of the situation in Europe should not lead to pessimism, but rather to voluntarism on the part of Europe's citizens.

They value their freedoms, solidarity, justice, democracy and the rule of law. They reject the use of force except in self-defence. They would like to see more protection for the natural environment and public health.²²⁷ They aspire, like the vast majority of the member States of the United Nations, to an international order ensuring security and peace based on multilateralism and the rule of law. They continue to regard respect for human rights and international commitments as essential. They consider international humanitarian law, nuclear

²²⁷ Europeans want less congested and less polluted cities. They want to spend less on fuel and heating. They want to end the threat to biodiversity. They want an ecological transition that will improve their daily lives, give them access to new qualified jobs, purify the air and stabilize the climate. They know, however, that global warming requires a global, worldwide response. The same applies to the saturation of space close to earth. By deploying hundreds, even thousands of small satellites, dedicated to broadband internet for all, we are bottling up space as we have done for some roads, on land, at sea and in the air. Since 1957, 5,250 satellites have been put into orbit. About 1,200 remain in service. There are 23,000 space debris of at least 10 cm, 750,000 of at least 1 cm and 166 millions of at least 1 mm.

non-proliferation treaties, the Law of the Sea convention and the Outer Space Treaty to be useful. They can no longer tolerate Europe and the international community remaining passive when fanatics or criminals commit atrocities.

They understand the necessity of a security-defence continuum, of the type seen during the fight against Islamist terrorism, the asymmetric wars in Asia or the Sahel, as well as hybrid conflicts, like in Georgia or in Ukraine, that it is no longer possible to distinguish between times of peace, crisis or war: hostile acts begin with attempts to influence opinion, intimidate leaders, disrupt telecommunications and can easily escalate into open conflict.

They perceive that our standards cannot be under American control, our infrastructure, our ports and airports under Chinese capital and our digital networks under Russian pressure. They know that unilateral disarmament would be tantamount to exposing us and delivering our partners to violence and blackmail. They understand that relying on others to ensure our security is no longer an option and that to reduce the risks associated with new technologies, we must control them, not leave them to others, which requires, in particular an autonomous and competitive DI&TB and a massive and targeted effort in innovation and S&TDR.

They note that, after decades of budgetary restrictions, the armed forces of the European States no longer have the material and human resources to adapt to future operational environments, which are likely to be much harder and more complex than those of the post-Cold War era, as American control of the air and the seas will be challenged.

That is why at least three-quarters of European citizens want a European defence.

They have not yet mobilized to obtain it, because they remain disunited, having no common agreement which project to support.

Europe must move from the disunity of the EU to federal union, to the USE. It is imperative to reverse the logic of the EU, which

drives each member State to seek its own advantage, to the detriment of the common interest. The solution to an acute crisis like that which will follow the Covid-19 pandemic, because it will be economic, then social, then security, can only be found in a project of high political value: a European security and defence.

The ambition of this work is to instigate this movement of opinion, by defining a clear objective, by proposing a politically adequate method, by envisaging a modest number of pioneer countries and a small number of capabilities to be transferred to the USE, as well as by presenting drafts of the constitution and basic law, to encourage MEPs to begin the work.

The aim is to re-establish Europe, to transfer to the USE those matters which the member States can no longer manage properly due to a lack of human and financial resources, democratically and in accordance with the principle of subsidiarity. This is particularly the case with security and defence.

Europe is familiar with the method of the expandable core. BENELUX abolished its internal borders in 1975. Ten years later, in Schengen, France and Germany joined the initiative. 26 States are members of this zone in 2020. The € zone has 19 member States, 9 of which are founders.

The European citizens should overcome the opposition of political parties and diplomats, who are reluctant to make further transfers of sovereignty to the European level, so as not to lose a crumb of power or their jobs. They should force their leaders to federate, in a cooperative sense,²²⁸ a few States to form a core. Even Mr. Védrine understood this: "Given the seriousness of the moment, we must convince its peoples that if it does not become a power, Europe will be powerless and

²²⁸ Swiss federalism is cooperative: Article 3 of the constitution provides that the cantons are sovereign as long as their sovereignty is not limited by the federal constitution. In Germany, federalism is dual: in 1949, the *Länder* lost their sovereignty in favor of the *Bund* by accepting, formally or tacitly, the *Grundgesetz*.

dependent on others, incapable of defending its way of life, its civilization".²²⁹

Brexit is a fact. No doubt, for a long time, its Grundgesetz will prevent Germany from being part of the USE. France will only join the USE in the medium term, but should support the initiative, to improve governance within the EU and NATO, to start consolidating the European DI&TB on the demand side. Thus, small States, the least sovereign, would constitute the nucleus. As members of NATO, the EU and the € area, they should be the most motivated to create the USE and the European army, as they will achieve the greatest efficiency gains in defence spending.

The main areas of competence of the USE would be part of international relations, security and defence, in application of the principle of subsidiarity. The USE would assume the political, military and industrial aspects of defence, acting on all levels, from defence planning to armaments programs, including their financing and the development of human resources, up to operational readiness.

As it is urgent to counter the centrifugal forces that make Europe incapable of defending our interests, of spreading our values, of asserting ourselves, Europeans should remember that there is no need to hope in order to undertake, nor to succeed to persevere. Like Raymond Aron, each of them should say "I ignore the future, I fight my best, by pen or by word, so that it resembles, as much as possible, our expectations",²³⁰ also said "We fight misconceptions with true ideas".²³¹ The great historian Marc Bloch, after having relentlessly analyzed the "strange defeat" of 1940, joined the Resistance.

Like them, let's get involved. Let us denounce the fact that, since 1949, European governments no longer believe themselves

²²⁹ Interview by Alain Salles and Marc Semo : Hubert Védrine, « Soyons déterminés face aux puissances indifférentes ou hostiles à nos valeurs » in *Le Monde*, 30-31/12/2019, p. 14.

²³⁰ Raymond Aron, *Plaidoyer pour l'Europe décadente*, Paris, Éditions Robert Laffont, 1977, p. 28.

²³¹ *Idem*, p. 17.

capable of defending us. They look to the United States of America to ensure our security. As a result, they work not only to lower us, in terms of balance of power, but more serious, to our decadence, that is to say a regression that is difficult to reverse, because it goes hand in hand with moral debasement.²³² Only France, and just from 1958 to 1969, thanks to Charles de Gaulle, was able to emancipate itself from NATO, while remaining a reliable ally. The strategy pursued by Messrs. Pompidou, Giscard, Chirac, Sarkozy and Hollande failed: in 2020, there is no European defence within the Atlantic Alliance. Mr. Mitterrand's dream of a Eurasian empire quickly faded away.²³³ How could we want to found a new European empire? Those who wanted to do it after Charlemagne left only graves and ruins behind.

We want to reunify Europe to keep the peace. There can be no question of a centralizing European constitution, but of federal, efficient, legitimate and transparent institutions. The process of setting up the USE requires the composition of a Constituent Assembly²³⁴ by some European governments wanting to be part of the core of the USE. Impossible is not French. It may be that Mr. Sánchez can convince the Portuguese Prime Minister; that the Baltic States adopt the Belgian motto: "Unity is strength"; that the Czechs and the Slovaks remember the good sides of Czechoslovakia, that Denmark or Sweden unify Scandinavia,

²³² Idem, p. 23-24.

²³³ At the 1991 Prague Conference, Mr. Mitterrand proposed a confederal Europe, including Russia and cut off from the Atlantic Alliance. "Vaclav Havel, who chaired the opening meeting, (exclaimed):" This Europe, never! We don't want it. " Simone Veil, « Une Vie », Paris, Éditions Stock, 2007, p. 256.

²³⁴ On 20 June 1789, Mirabeau declared to the 300 deputies to the States-General that they formed the National Assembly and that they would not leave the Jeu de Paume, in Versailles, except by the power of the bayonets; they took an oath never to separate, and to assemble wherever circumstances require, until the constitution is established and strengthened on solid foundations. See Auriane de Viry, « 20 juin 1789 : Proclamation du Serment du Jeu de paume » in *Revue des deux mondes*, <https://www.revedesdeuxmondes.fr/20-juin-1789-proclamation-serment-jeu-de-paume/n>.

that Austria-Hungary is resuscitated or that the BENELUX wants to revive the splendor of the 17 Burgundian Provinces...

The governments of the core would mandate the MEPs elected in these States to draft and adopt a federal constitution, meeting the needs of the USE, which implies that it shares, as did the fundamental law (*Grundgesetz*) of the Federal Republic of Germany in 1949, articles 70 and following, the competences between the European federation, the member States, regions and the European people, composed of the peoples of these member States. Those governments and the parliaments of these member States would have to ratify this constitution and obtain the consent of their citizens, by referendum, for it to have indisputable legitimacy. European senators would represent the member States. The establishment of European executive and judicial powers would follow.

The other heads of government, who still believe themselves to be sovereign, would sooner or later follow. They know that Europeans are tired of waiting for concrete answers to important questions: how to guarantee the protection of our coasts and borders, our security against Islamist terrorism, our defence against aggressive autocrats, our international influence to counter a dehumanized globalization that is disrespectful of the environment, unable to protect our health in the event of a pandemic.²³⁵ They know that without these answers, their re-election will be problematic.

From the outset, the USE would substitute a representative and legitimate democracy, because it is based on elections in accordance with the European constitution and fundamental law, for the technocratic governance of the EU, too long in the hands of the European Council, diplomats and eurocrats.

They would ensure a peaceful life for their inhabitants and a promising future for future generations of Europeans. They

²³⁵ The Covid-19 pandemic is more difficult to combat in Europe than in China, Taiwan, South Korea or Singapore: at least 32 different public health policies apply in the EU, with 9 ministers sharing this competence in Belgium.

would promote a secularized, tolerant society, ensuring respect for the individuals who make it up and for their differences. They would live in harmony with their immediate neighborhood as well as with China and the United States of America. They would help to calm the Western Balkans, Eastern Ukraine, the Sahel, the Middle East, reduce tensions between the United States, China and Russia, or between Arabia, Turkey and Iran.

By giving themselves security and defence as priority missions, and establishing efficient and credible European army and security forces in particular, the USE would not have a militaristic approach. They would simply achieve the politico-military unity of command required for efficient defence spending, providing Europe, at a reasonable cost to the taxpayer, with tools, together with the forces of the member States, capable of keeping the peace, supporting the rule of law, protecting our freedoms, guaranteeing our well-being, our security, our defence, our autonomy, our independence and our sovereignty, and protecting our vital interests. These include the security of our supplies, the protection of our coasts and borders, the control of migration flows and various forms of trafficking.

This hard power is essential to stabilize our neighborhood, by eradicating Islamist terrorism, by stimulating good governance, respect for the State of law and economic and social development, aiming, as within the USE, to make society more egalitarian and solidary, within the framework of a social market economy.

This hard power is just as essential for rebalancing the transatlantic link, for finally restoring Europe's place in international relations, in order to contribute to the solution of global problems of a security, migration, economic, monetary and environmental nature. This requires the preservation of important treaties, in particular trade agreements and that on the reduction of strategic nuclear weapons. The USE would negotiate a new treaty on intermediate-range nuclear weapons in Europe. They could be able to encourage other powers to adopt a global cosmopolitan, multilateral governance, based on international law, in accordance with Kant's hope in a world internal policy.

A major transfer to the USE of defence competences and the corresponding considerable spending would bring substantial relief to the member States: the sum of the defence budgets, for the EU-28, amounted to € 250 billion in 2019.

The USE would be financed by own revenues, including taxes, loans and miscellaneous income. The base, the rate and the methods of collection of the taxes of the USE by the member States would be fixed by the fundamental law of the USE. Taxes would be levied in proportion to consumption, pollution, income and heritage. A percentage of VAT would be paid by the member States. A tax would be levied on greenhouse gas emissions, in particular in the transport sector. A tax on multinationals, particularly those in the information, telecommunications and computer sector, which operate in Europe but evade taxation by member States, would end this abusive tax exemption. A Tobin tax would be levied on stock exchange transactions. A wealth tax would be inspired by the Swiss model. Among the miscellaneous products, contributions would be paid by the member States according to their gross domestic product, in order to establish solidarity between them.

The European defence budget would, like in the United States of America, support the less favored regions, reduce the gaps in competitiveness and unemployment between them, inter alia through the recruitment and training of military personnel. It would stimulate innovation, economic growth and full employment, through better coordinated and targeted dual scientific and technological research, for example in communication and information technologies, but also through the improvement of trans-European transport infrastructures for troops and military equipment.

The USE would give Europeans the best chances of enjoying material well-being, through a high-performance and innovative economy, creating high-quality jobs and guaranteeing the sustainability of effective social protection systems, which for a century have blurred social divides more than anywhere else in the world. They would consolidate the €, protect our companies against fiscal or social dumping, as well as unfair economic and

technological competition from American, Chinese or Indian companies.

To benefit from all this, let us finally become aware of the "original sin" committed by Europe: the recommendation made in 1950 by Eisenhower to constitute a federal Europe, without internal borders, to facilitate the movements of troops, was not followed. The result is disastrous. It is from the beginning that we must resume work.

It is "the ever-closer union" that we must aim for: to move from the disunity of the EU to the federation, to the USE. It is imperative to reverse what has become, because of Mrs. Thatcher and the weakness of the other leaders of the time, the logic of the EU: each member State seeks its own advantage, to the detriment of the common interest. The solution to the acute crisis that will follow the pandemic can only be found in a project of high political value.

Calling for federalism in these critical hours when the pandemic kills thousands and when European governments are giving in to the temptation to protect themselves by closing borders and confining Europeans is undoubtedly utopian, but the utopia is less deadly than inaction, conformism, selfishness and narcissism of these governments. We know that viruses and totalitarian ideologies know no borders and thrive as soon as the terrain is favorable.

Europe's future will depend on how it uses existing financial assistance mechanisms and how it coordinates economic recovery strategies, so as not to let an economic, social, political and security crisis succeed the health crisis. The Eurogroup finance ministers have declared their willingness to do whatever is necessary to stabilise the situation, by temporarily relaxing the constraints on public aid and budget deficits. However, between words and deeds, there can be a long delay and a wide gap.

Only de Gaulle was able to rehabilitate France in 1940, and to set it up right again, from 1958 to 1969. What would Germany have become in 1945 without Adenauer? What personality will

restore dignity to Europe by federating it? These are two unanswered questions, the first for eternity, but for the second, candidates could declare themselves after learning of the existence of a draft solution, which the next two chapters will present to you.

8. The constitution of the USE

8.1 Explanatory memorandum

War has been our past for eleven centuries, let's make sure it won't be our future again. Therefore, Europe should be powerful, sovereign, independent and peaceful. It is only for lack of political courage that it has no federal governance, that we don't have a European defence, that essential elements of our strategy are missing, that our security and military capabilities are woefully inadequate and that we remain vulnerable to terrorist attacks, cyberattacks and pandemics. There is no lack of human and financial resources, but they are very poorly used.

When a State is unwilling or unable to defend itself, it is conquered or protected. In both cases, this has an economic, but also a political cost. We urgently need effective security and defence, not to wage war on Russia or China, but to maintain peace, to stabilize our neighborhood, to respond to security, health, migration, climate and environmental challenges, to weigh on the international stage. By refusing to give more sovereignty to Europe in matters of international relations, security and defence in particular, our heads of State and governments are making it impossible to set up efficient European army, civil protection and security forces. They render us powerless, they unbalance the Atlantic Alliance and they demotivate the Americans to remain our allies. The European NATO States have not been valid partners of the United States of America since 1949, but protectorates, militarily²³⁶ and politically, but also economically.²³⁷ This is

²³⁶ The Americans have much greater capabilities than we do for strategic transport, intelligence, surveillance and reconnaissance by satellites or drones, and air-to-air refueling. According to the President of the Munich Security Conference, "We are blind, deaf and incapable without our American partner. ». Wolfgang Ischinger, « Interview » in *Ouest France*, 9/2/2019.

²³⁷ The privileged status of the dollar in the international monetary system penalizes our importers and exporters: Airbus pays its workers in €, but sells

unworthy of European economic power and civilization. Europe must regain its rightful place on the international stage, without aiming for world supremacy as China and the United States of America do.

On 23 September 2001, Louis Michel, then Belgian Minister for Foreign Affairs, declared: "The EU has taken a major step towards its mission as a major global player in the settlement of the Israeli-Palestinian conflict".²³⁸ In reality, in 2020 as in 2001, the EU is non-existent on the international scene. Chancellor Gerhard Schröder wanted the EU to become a federal State as early as 2010.²³⁹ In December 2001, the Laeken European Council convened the Convention on the Future of Europe. He asked it to bring the citizens closer to the European project and institutions, to structure European political life and to make the Union a factor of stability in the world. He even asked whether the way should not be paved for the adoption of a constitutional text.

Unfortunately, in 2003, Mr. Giscard, Mr. Amato and Mr. Dehaene led this Convention and 18 EU member States to adopt, not a constitution, but a third draft "Treaty establishing a Constitution for Europe", which was rejected in 2005 by a referendum in France and by popular consultation in the Netherlands.

Europe must stop sticking to the path of the constitutional treaty. Without credibility, it is incapable of winning the support of the electorate. Three vain attempts make Mr. Verhofstadt's proposal to make a fourth one irrelevant. As a jurist, he should know that a "constitutional treaty" is an oxymoron, a *contradictio in terminis*: a treaty is external to the State and multilateral in nature, while a constitution is an act of internal, unilateral public law, which aims to establish the fundamental rights of citizens,

its planes in dollars. Former U.S. Treasury Secretary John Connally said in 1971: "The \$ is our currency, but it's your problem.

²³⁸ See François de Teyssier, Gilles Baudier, *La construction de l'Europe*, Paris, PUF, Que Sais-je ? n° 3535, édition de 2001, p. 123.

²³⁹ *Idem*, p. 62.

the fundamental principles on which the legitimacy of political power and the general architecture of institutions are based.

The constitution is at the top of the hierarchy of legal norms of the State.²⁴⁰ This is not the case with a treaty.

It is on another basis that Europe can assert itself as the homeland of human rights and sustainable development, security, defence and multilateral foreign policy. It could thus take greater account than it does today of migration, social, health and cultural issues... Four paths are possible: integration, cooperation, confederation and federation.

- Integration is achieved by States which agree to submit to the rules laid down by supranational institutions, such as the ECSC, the EEC or Euratom, which they found and whose decisions are directly applicable. A change in the EU institutions, such as the extension of the powers of the European Parliament, would have only a marginal effect. The creation of technocratic bodies does not make it possible to build a policy and a sovereignty. An undemocratic federal institution, on the model of EMU, would not be appropriate: in order to satisfy their thirst for well-being, freedom, progress, justice and happiness, the citizens must exercise continuous and effective control over those in power.
- Cooperation is about States taking joint decisions. This was the case within the framework of the OEEC, which became the OECD in 1960, or within that of NATO. General de Gaulle envisaged on 31 May 1960 an "organized cooperation of (EEC member) States, pending the possibility of an imposing confederation". On the following 5 September he specified that this cooperation of governments would cover the political, economic, cultural and defence fields and that it would be controlled by a deliberative Assembly, made up of delegates from the

²⁴⁰ See Jean-Louis Quermonne, « L'Union européenne en quête d'institutions légitimes et efficaces » in *L'Union européenne dans le temps long*, Paris, Presses de Sciences Po, 2008, <https://www.cairn.info/Union-europeenne-dans-le-temps-long--9782724610765.htm>, p. 143 à 157.

national parliaments, after having received popular support through a European referendum.²⁴¹ Intensified cooperation between EU member States, their military, their magistrates, their intelligence and law enforcement services, as well as with our international partners, would be useful, but not enough to achieve a European State.

- The confederation is an association of States which pool certain political and economic means while retaining their sovereignty. History shows that confederations either transform themselves into federations or dissolve. The Swiss Confederation, founded in 1291, became federal in 1848 after the *Sonderbund* civil war. The United States of America in 1787 replaced the articles of Confederation of 1776 with a federal constitution, having experienced inadequate governance during the War of Independence. Germany became federal in 1949, having finally learned from its bloody past and the centuries-old agony of the Holy Roman Empire of the German nation. As for the Confederation of Independent States, conceived by Mr. Gorbachev in 1990 as the successor to the highly centralized Union of Soviet Socialist Republics, it became very quickly dysfunctional and then broke up.
- In order to influence the world, to face up to the current threats and challenges, the only route for Europe is federalism. This is a union of States, which transfer to it or share with it a portion of sovereignty by drafting a constitution. To finally obtain efficient and democratic governance, the European federal constitution that we are proposing is inspired in particular by the constitution of the United States of America, the federal constitution of the Swiss Confederation and the fundamental law of the Federal Republic of Germany, but also the constitution of the French Fifth Republic, for its exemplary chain of political-military command.²⁴² Federal Republic of Europe

²⁴¹ See Charles de Gaulle, *Discours et messages, Volume III : Avec le renouveau (1958-1962)*, Paris, Plon, 1970, p. 244-246,

²⁴² The USE Constitution which appears below is based in particular on the work of Robert R. Bowie and Carl J. Friedrich, "Introduction" to volume II

or United States of Europe (USE), it will be up to the Constituent Assembly to choose the name and define the areas of competence transferred. It should be at least part of external relations, security and defence, as well as currency. The proposed federal constitution maintains the sovereignty of the people and establishes the delegation of powers emanating from it, as well as the balance between the federation and local authorities.

Only a federal Europe is capable of making Europe a power, by substantially improving the efficiency of defence spending, by achieving unity of command, and thus giving us an area of security and peace, while reconciling security with the guarantee of fundamental rights and freedoms. It would conduct the budgetary policy essential to the sustainability of the € and would effectively advocate at the global level for the safeguarding of the natural environment.

Political will is the key, because creating a State is a political act. The Declaration of Independence of 4 July 1776 gave birth to the United States of America. The Republic of Yemen was declared on 22 May 1990, without the need for a treaty between North and South Yemen. The Republic of Southern Sudan came into being on 9 July 2011, by proclamation of the speaker of its Parliament. Free France was born from the appeal made by Charles de Gaulle in London on 18 June 1940. For half a century, we have been missing this great man, his determination, his courage, his lucidity, his probity, his concern for the general interest, his breadth of vision and his vast culture. His deep knowledge of history enabled him to project himself into the future, in the medium and the long term, to develop a valid project for France and for Europe. He knew how to respond to the challenges identified within the framework of our humanist and progressive conceptions. He knew how to make

of Studies on federalism, Brussels, European Federalist Movement, January 1953 and on the comparative study on the place of the public force in the federal structures of the United States of America, Switzerland and Germany, carried out at the Center of public and constitutional law of the University of Liège, with the financial support of the French Community of Belgium, the “Fédération Wallonie-Bruxelles”.

our values radiate universally, through his talent as a speaker and author.

Like Charles de Gaulle, let's set goals ²⁴³ and describe the processes to achieve them. Like him, let us be both visionary and realistic. Let's anticipate changes in our environment, so that we can deal with them before it's too late. Let us not wait for the next pandemic, as the EU and its member States are doing. Let us work tirelessly for the greatness, sovereignty, influence, independence, security and defence of Europe.

To every social group organized by institutions corresponds a legal order composed of norms, which set rules of conduct with or without sanctions.²⁴⁴ As soon as several European States have taken the political decision to federate, a new social group will *de facto* exist. This group will tend to organize itself, to install institutions. Its representatives will provide it with norms, starting with a constitution that meets the specific needs of this group. A legal order will come to life.

To be legitimate, a European government will need the confidence of a democratically elected European legislative power. This one will be bicameral: on the one hand, a true European Parliament,²⁴⁵ finally endowed with all the prerogatives of a people's chamber: to raise taxes, to vote the budget, to fix the contingent of the army, to take legislative initiatives; on the other hand, a Chamber of States, a European Senate, which would replace the European Council and express the point of view of the member States. European justice would be more substantial than the current Court of Justice and the EU Court of First Instance in Luxembourg.

The realization of this ambitious project, which would substantially contribute to the desire for ever closer union

²⁴³ Let us remember the Fifth Republic, the decolonization, the Common Market, the Common Agricultural Policy, the Strike Force...

²⁴⁴ See Santi Romano, *L'Ordinamento Giuridico* (1918), *L'Ordre juridique*, trad. Pierre Gothot et Lucien François, Paris, Dalloz, 2002, p. 36-37.

²⁴⁵ The European Parliament costs us €2 billion a year, including €250 million for the monthly Brussels-Strasbourg transhumance and return, for a very meagre contribution to our well-being.

among the peoples of Europe, expressed in 1957 by the signatories of the Treaty of Rome establishing the EEC, requires that we stop considering the politics as the art of the possible only, which corresponds to a level of ambition close to zero. The international context and the state of the EU require a Constituent Assembly to do what is perfectly possible, absolutely necessary and very urgent: to endow the part of Europe that would choose for itself with a full legal personality, this of the USE, to allow it to assume the destiny it would have chosen for itself.

A constitution is a social contract, it initiates a process of unification of peoples, of progressive formation of a civic spirit and a common culture, because the existence of a central political power is necessary for the foundation of the "city", of the State.

Following the Continental Congress in June 1776, Thomas Jefferson, along with John Adams and Benjamin Franklin, was given the mission to draft a Declaration of Independence, intended on expressing the essential notions, the feelings common to the greatest number of his fellow citizens, to give substance to the nascent American spirit and to strengthen the union of the 13 colonies. He let mankind know that the principles of the American people are those of the Enlightenment: men are born equal; they enjoy inalienable rights: life, liberty and the pursuit of happiness. He showed that these rights give the American people the freedom to separate from the British Crown, which was opposed to them.²⁴⁶

Our approach being thus motivated in law and in fact, we hereby propose a federal constitution for Europe. This text contains only twelve articles, as concise as possible, in order to make it

²⁴⁶ In drafting the Declaration, Thomas Jefferson drew inspiration from the constitution of the Persian Emperor Cyrus II, who abolished slavery in his States 2,500 years ago, but the Second Continental Congress did not follow him on this point, as well as the Act of The Hague, by which the States-General of the Netherlands proclaimed the independence of the seven United Provinces on 26 July 1581, and also the *Two Treatises of Government* of John Locke (1690), but replacing the right of ownership with the right to seek happiness.

accessible to all Europeans from the age of twelve. It is supplemented by a draft fundamental law, which lays down the other standards that are indispensable for a State organization.

More and more, Europeans reject party politics, even if it means supporting populists, for lack of anything better. The priority objective of the USE will be to mobilize hearts and minds, to fire their citizens with enthusiasm, by highlighting the values that we share, the objectives that we pursue and the processes that must lead to their achievement, otherwise they will fail as the EU does. The EU is based only on an unfulfilled promise of ever closer union, a single market and a currency. It contributes to well-being, but it does not utter dreams. In order to gain popular support, the USE will have to constitute a public space and to create a strong sense of solidarity among Europeans, so that they perceive better than today that they are part of the same people, of a same *demos*.

8.2 Preamble

United in diversity, we, representatives of the peoples (of the Republic ..., of the Kingdom ..., of the Grand Duchy ...), elected by them to the European Parliament in May 2019;

Mandated by our respective governments, through their representatives, with full powers recognized in due form and meeting in a Constituent Assembly in the city of Brussels;

Determined to live together our diversity, with respect for others and equity;

Considering that international relations are once again dominated by the balance of power;

Conscious of the achievements made in common since 1950, but also of the shortcomings of the European Union, particularly in the fields of security and defence, as well as of our duty to assume our responsibilities towards future generations;

Convinced that a militarily powerful federal Europe could better contribute to the influence of our civilization and our values, to the defence of our essential interests, to the keeping of peace and freedom, to the restoration of our autonomy, our independence and our sovereignty, to the progress of the fight against climate change and the degradation of the natural environment, to the upholding of democracy, of the social market economy and of social concertation;

Assured that by combining their manpower, natural resources and scientific and industrial capabilities, member States would be more efficient in the use of defence resources, would more easily fill capability gaps and avoid duplication noted today;

Determined to replace our age-old rivalries with a collective defence of our essential interests, by establishing federal institutions based on democracy, parliamentary representation, solidarity and the rule of law, capable of assuming the common destiny we have chosen and of ensuring Europeans peace, sovereignty, independence, freedom and lasting prosperity, in a spirit of solidarity and openness to the world;

Determined to eventually welcome, into this federation, the other European peoples who are animated by the same ideal;

Propose for ratification by the parliaments and governments of our respective States, and by other European States when they wish to join them, the present Federal Constitution of the United States of Europe (USE) and the fundamental law which supplements it, that we approved in plenary session this XX / XX / 202X.

Article 1. The fundamental dispositions

1.1. The founding declaration of the USE

Explanatory memorandum

The principles which flow from the declaration of the founding declaration of the USE are on the one hand the cooperative sharing of sovereignty between the people, the member States and the regions,²⁴⁷ as well as republicanism, federalism, representative democracy and presidential rule.

Provision

The USE are a federal, democratic, independent and presidential republic whose people, member States and regions remain sovereign as long as their sovereignty is not limited by this constitution and exercise all rights not delegated to the USE by this constitution.

1.2. The values and goals of the USE

Explanatory memorandum

The values of the USE are those set out in article 2 of the Treaty on European Union (EU). These values can be summed up in three words: humanism, progressivism and universalism. Humanism is based on ethics, pluralism and tolerance. Progressivism stimulates and values the spirit of openness and free discovery, because progressives are driven by three strong

²⁴⁷ "Region" means "Land" in Germany and "canton" in Switzerland.

ideas: freedom against the arbitrary powers and for the security of persons; rational organization as a substitute for the weight of tradition and anarchy; equality as a substitute for the privilege of birth or wealth. Universalism has been a component of European culture since ancient Greece: Stoics proclaimed the unity, universality and dignity of human nature. The aims of the USE are the keeping of peace, security and defence, as well as the protection of Europeans, their interests and the natural environment.

Provision

The USEs are based 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 characterized by pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men.

The primary aims of the USE are to uphold and promote these values, to prevent war, to maintain peace and to control borders and coastlines. The USE will not wage any war for the sake of conquest and will never use their forces against the freedom of any people. They protect themselves and all member States and regions from any form of aggression or the threat of aggression. They provide security and defence for their inhabitants; they protect European interests and, as much as possible, their expatriate citizens. They protect the natural environment and fight particularly against global warming and pollution.

1.3. Modes of expression of the will of the people

Explanatory memorandum

The modes of expression of the will of the people are defined by the constitution and by the fundamental law. They include representative democracy, the popular initiative voting and the referendum on a proposal emanate from the head of State. Charles de Gaulle considered it insufficient that the European

Parliament and the national parliaments vote the European federal constitution: the universal suffrage of the citizens of Europe is necessary to make it legitimate.

Provision

Sovereignty belongs to the people, who exercise it through their representatives, by referendum or by voting. Suffrage is universal, equal and secret. It can be direct or indirect, compulsory or optional.

The fundamental law determines the modalities of the referendum and the voting.

1.4. The accession of new States

Explanatory memorandum

The criteria and procedure for accession are laid down in the Constitution and the fundamental law of the USE, which also determine the legal consequences of accession.

Provision

Any European State which meets the criteria defined by this constitution and by the fundamental law may apply to join the USE. A candidate country must share the values as well as the legal, social and economic principles of the USE: it has a constitutional, democratic and parliamentary regime based on free elections; it respects the rule of law, human rights and public freedoms; it applies the principles of the social market economy and social concertation. Accession may not disturb security, peaceful international relations, or the political, cultural and religious balance existing within the USE. No derogation from this Constitution, the fundamental law and the laws of the USE is granted to the candidate country; prior to accession, it must meet all the accession criteria. The legislation of the USE is fully applicable in the candidate State upon accession.

The fundamental law specifies the conditions for the accession of new States and fixes the partnerships that the USE, their

member States and the regions may establish with the countries that are geographically, culturally or economically close.

1.5. The modification of the external or internal borders

Explanatory memorandum

The consent of the populations concerned, given by referendum, is required for a cession, exchange or addition of territory. Any modification of border between member States requires the agreement of the legislative authorities of the USE and those States.

Provision

No cession, exchange or addition of territory is valid without the consent of the populations concerned, given by referendum.

No change of border between member States may take place without the concordant decision of the legislative authorities of the USE and those of these States, by simple majority.

1.6. The overseas territories

Explanatory memorandum

Equality of USE citizens is guaranteed in the overseas territories.

Provision

USE citizens residing in their overseas territories have the same rights and duties as those in Europe.

The fundamental law fixes, considering the provisions of the treaty on the EU and of the treaty on the functioning of the EU, compensatory measures for the inconveniences due to the remoteness of Europe and the insularity. It fixes the extent to which the member States remain responsible for the overseas territories, their defence, their administration and their development.

1.7. The permanence of the USE

Explanatory memorandum

In accordance with the general principles of international law, the USE are indissoluble and their powers are irrevocable; the right of secession from USE does not exist.²⁴⁸ Member States and regions are subject to the law of the USE. They bring disputes before the Supreme Court of the USE.

The sustainability, the cultural identity, the constitutional order, the internal cohesion, the natural environment and the internal

²⁴⁸ No federation has opened the right to secession to its member-States. A right of secession would give each State a right of veto within the federation. The constitution of the USE does not prohibit it, because it is a principle of law. Article 1 § 2 of the UN Charter mentions among the purposes of the United Nations that of "developing friendly relations among nations based on respect for the equal rights and self-determination of peoples...", the Charter does not, however, define what a people is, nor determine the content of the right to self-determination. However, the International Court of Justice (of the United Nations) has classified the right to self-determination as one of the general principles of international law, which States must respect, including by refraining from recognizing violations. The question is still to know under what conditions can this right to self-determination be exercised. In the jurisprudence of the International Court of Justice (and UN resolutions), this right has only ever been recognized for colonized peoples (or peoples settled, for example, in territories declared non-autonomous by the United Nations, such as Western Sahara or "peoples subject to alien subjugation, domination or exploitation"). ICJ Advisory Opinion on Kosovo, § 82. In the same opinion, the Court did not consider it necessary to decide whether "a right of secession - remedy" existed in the case of Kosovo. That said, it should be recalled that the Western military intervention in Serbia twenty years ago was notably due to the ethnic cleansing carried out by the Serbs in Kosovo, which justified the indictment of Serb leaders before the International Criminal Tribunal for the former Yugoslavia. It can therefore be concluded that this right to self-determination currently exists legally in international law only in very specific circumstances, which have been found only in countries or territories that have been colonized or subjected to foreign subjugation, domination or exploitation and which are obviously not found in our democratic States. May I add that from the right to reality, there may be time? Indeed, the right to self-determination of the Saharawi people has still not been able to be exercised, although recognized by the International Court of Justice in 1975. See Melchior Wathelet, "Existe-t-il un droit à l'indépendance et à l'autodétermination ? " in *La Libre Belgique*, 17/10/2019, p. 40-41.

and external security of the member States and regions are guaranteed by the USE. They can intervene in a member State, in a region and vis-à-vis their authorities if they fail to fulfil their obligations.

Provision

The powers of the USE are irrevocable. The creation of the USE entails a permanent commitment, within the framework of this constitution, which subjects the member States to the law of USE. Member States, regions, natural and legal persons may not contest the legitimacy of the laws of the USE, except by means of an appeal to the Supreme Court of the USE.

The USE guarantee the sustainability of the member States and the regions. While promoting the spontaneous, never imposed, development of European culture, they maintain their cultural diversity, their constitutional order. They safeguard their internal cohesion. They protect their natural environment. They ensure their internal and external security, in particular within the framework of the North Atlantic Treaty.

The government of the USE may intervene in a member State, in a region, and vis-à-vis their authorities, if they fail to fulfil their obligations, in accordance with the arrangements laid down in the fundamental law.

1.8. The cultural policy of the USE

Explanatory memorandum

Even if it is powerless to guarantee peace, the eleven centuries of wars in Europe, from the Treaty of Verdun from 843 to 1945, bear witness to this fact, "Culture can constitute the cement of the European continent".²⁴⁹

To arm themselves morally against the threats hanging over them from the outside, and to counter its internal disintegration,

²⁴⁹ Peter de Caluwe, director of La Monnaie in Brussels, in the program "De Afspraak" in *Canvas* sur la VRT, <https://www.vrt.be/vrtnws/nl/2019/09/16/de-munt-directeur-peter-de-caluwe-europees-commissaris-voor-de/>, 16/9/2019.

the USE develop and deepen the multicultural model, drawing inspiration from the Erasmus exchange program, the Bologna process and the European Research Area, much more effective in promoting our values than the European External Action Service of the EU.

Furthermore, "The true school of command [is] general culture. [...] No illustrious captain who did not have the taste and the feeling of the heritage of the human spirit. At the bottom of Alexander's victories, we always find Aristotle."²⁵⁰

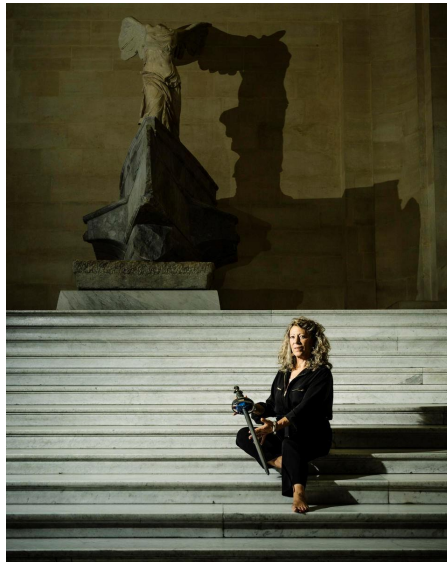
Unlike the Salafists, who see the 7th century AD as the golden age, the USE act for a better world, in accordance with their values, especially in the fields of culture and education. Culture, for the EU, is a budget of 150 million euros per year, it is derisive. The cultural policy of the USE involves the development of European public opinion and awareness, through the Europeanization of the mass media (press, radio and television), as well as social networks. It encourages them to cover transnationally the elections to the European Parliament and to monitor its work, to organize citizens' debates and to distribute monthly special pages on the implementation of the European budget: citizens have the right to quality European information.

The USE will encourage artists and craftsmen to create a composite European style, expressing, through its symbols and forms, on the one hand the cultural diversity of Europe, rich in peoples different by language, religion, customs and habitat and, on the other hand, the unifying force of their constitution.

They can draw inspiration from the sword of a new genre made by Pierre Giner to symbolize the work of the French academician Barbara Cassin: she is a philosopher, philologist, poet and painter. The pommel reproduces a Hittite female statuette which dates from the third millennium BC, it is pre-Homeric and barbaric. The guard evokes the digital era: it consists of a flexible and connected screen, which contains

²⁵⁰ Charles de Gaulle, *Vers l'armée de métier*, Paris, (Librairie Berger-Levrault, 1934), Plon, 1971, p. 151.

virtually all the texts and all the images of the world. The luminous polymer blade, inspired by Star Wars, is non-lethal. Fiber optics make it possible to read Ms. Cassin's motto: "More than one language". It means that there is no universal language, no unique *logos*, that, if there were a language of Europe, even of the world, it would be the translation.²⁵¹



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Provision

The USE are inspired by their humanist, universalist and progress-oriented values. They contribute to scientific and technological research and to the dissemination of knowledge. They encourage the exercise of the scientific research method. They promote access to culture and cultural and intellectual exchanges between its citizens, as well as with the rest of the world.

²⁵¹ See Barbara Cassin, « Discours de réception à l'Académie française, le 17/10/2019 » in *Le Monde*, 19/10/2019, p. 25.

²⁵² Photo Frédéric Stucin pour *Libération*, https://www.liberation.fr/debats/2019/10/15/barbara-cassin-armee-pour-l-academie-francaise_1757808, 15/10/2019.

They encourage artists and craftsmen to create a composite European style, expressing, through its symbols and forms, on the one hand the cultural diversity of Europe, rich in peoples different by language, religion, customs and habitat and, on the other hand, the unifying force of their constitution. They promote the development of European public opinion and conscience.

In accordance with the principle of subsidiarity, the USE contribute to ensuring that children have the right to free and compulsory primary and secondary education and that young adults have equal opportunities to access higher education or vocational training. Learning and practical skills are valued.

The fundamental law lays down compulsory education and the conditions of access to learning.

1.9. Neutrality and impartiality of the USE

Explanatory memorandum

The impartiality of public powers, the founding principle of democracy, an essential element of peaceful coexistence, has its rightful place at the heart of the fundamental norms: this principle is, together with that of the separation of executive, legislative and judicial powers, one of the principles of State organization essential to the development of a democratic political system. This principle is not an option or an opinion among others, but rather the condition which makes possible the life in common in the respect of all.

The impartiality of the public authorities postulates the capacity of human beings for autonomy.

It leads to the non-recognition by the State of philosophical and religious communities, as the State knows only citizens.

It assures to every human being the exercise of fundamental rights and freedoms, irrespective of origin, convictions, beliefs or any other distinction.

It provides a societal framework conducive to the exercise of free examination in all matters, which allows decisions to be made independently.

It conditions the exercise of freedoms and contributes to the fight against discrimination, for equality and for the implementation of solidarity policies, which ensure social cohesion and the emancipation of citizens, in particular through access to knowledge and freedom of information.

Europe, like the whole world, faces threats such as Islamist or neo-fascist terrorism, challenges such as autocratic regimes, abuses of power by digital multinationals and uncontrolled migration caused by socio-economic or climatic disorders. Europe is witnessing the questioning by fundamentalists and extremists, driven by religious, philosophical or political motives, of the progress made over the past half-century on the levels of ethics and law.

Because it provides answers of universal scope, independent of particularisms, the impartial State is best able to establish and protect the values of freedom, equality and solidarity; to guarantee human rights and fundamental freedoms, to make possible the peaceful coexistence of philosophical or religious opinions and conceptions; to ensure respect for gender equality, to establish and protect the freedom to believe, the freedom to disbelieve and the freedom to change of belief.

Consequently, the USE are neutral and impartial with regard to philosophical and religious conceptions. They recognize citizens, not communities. They separate, at all levels, the public powers from philosophical and religious conceptions.²⁵³ They

²⁵³ Separation, neutrality, impartiality rather than “laïcité”, an ambiguous and untranslatable French term. Robert Schuman, a fervent Catholic, recalled in 1950 that: “For a century, public law has been secular.” Quoted by the Comité d’étude pour la Constitution européenne, *Projet de statut de la Communauté politique européenne. Travaux préparatoires*. Bruxelles, Mouvement européen, novembre 1952, p. 203. One of the contributions of Christianity is the adage “Give to God what is God’s and to Caesar what is Caesar’s.”

ensure freedom of worship for believers as well as freedom not to believe.

Provision

In accordance with their values, the UES are neutral and impartial with regard to philosophical and religious conceptions. They recognize citizens, not communities. They ensure freedom of worship for believers as well as freedom not to believe.



The fundamental law separates, within the USE, at all levels, the public powers from philosophical and religious conceptions.


Article 2. The symbols of the USE

Explanatory memorandum

People, and even more so members of security forces and armies, need symbols: these help them to perceive the world as much as they do themselves and to know why they are risking their lives and their health, and why, if necessary, they are fighting.

The first symbol is the name of our continent: Europe.²⁵⁴ Its representation can be inspired by the abduction of Europe by

Zeus, as seen by the potter Asteas,  inspired by a Spartan mosaic, or the € of Cyprus .

Inspired by Richard Coudenhove-Kalergi's proposals,²⁵⁵ the Council of Europe adopted the blue flag with twelve golden stars in 1953,²⁵⁶  then in 1972 the European anthem, Beethoven's Ode to Joy, in its instrumental version. The Milan

²⁵⁴ Leaving from the Levant towards the west, Europe symbolized the course of the sun, the search for light, knowledge, wisdom, but also, since the 18th century and the abbot of Saint-Pierre, the Enlightenment, the *Aufklärung* and peace.

²⁵⁵ Richard Coudenhove-Kalergi, *Panuropa*, Vienne, Verlag, 1923.

²⁵⁶ The number twelve is a very ancient symbol of perfection, of plenitude, present in the zodiac, in mythology (the works of Hercules), in Christianity (the apostles), etc.

European Council in 1985 appropriated these symbols, adding to them the motto "United in diversity". Article I-8 of the third draft constitutional treaty was to add the € and Europe Day on 9 May, the anniversary of Mr. Schuman's founding speech, voluntarily held five years after the capitulation of Nazi Germany. As this article was not included in the Lisbon treaty, a declaration was annexed to the EU treaty in which 16 member States confirmed their attachment to these symbols; France joined this group after the election of Mr. Macron in 2017.

The USE adopt these symbols and complete the list with weapons and a seal. They complete the hymn with Schiller's text, as modified by Beethoven. The Ode to Joy, the 4th movement of the 9th symphony, was composed with chorus. As early as 1792, Ludwig van Beethoven (1770-1827) considered setting to music part of the poem composed in 1785 by Friedrich von Schiller (1759-1805). In 1803, he retained the first 36 verses of the poem and had them reworked by its author. It was only in 1823 and 1824 that Beethoven composed the 9th symphony. Schiller had written: "Freude, schöner Götterfunken, Tochter aus Elysium, wir betreten feuertrunken, Himmlische, dein Heiligtum! Deine Zauber binden wieder, was der Mode Schwert geteilt. Bettler werden Fürstenbrüder wo dein sanfter Flügel weilt. (Joy, beautiful divine lightning, daughter of the Elysium, we enter, drunk with fire, Blessed One, into your kingdom! Thy magic power unites again what the sword of fashion separates. Beggars become brothers with princes, where your gentle wing dwells). ». Beethoven humanizes and universalizes Schiller's idea. He replaces: "was die Mode Schwert geteilt" (what the sword of fashion separates) by "was die Mode streng geteilt" (what rigid customs divide) and "Bettler werden Fürstenbrüder" (Beggars become brothers with princes) by "alle Menschen werden Brüder" (All humans become brothers). Its text is more consistent than the original with the values of USE, it expresses the very essence of European cultural identity.

Bringing together the voices of men and women, the chorus symbolizes all of humanity. After the masterful signal from the orchestra, the soloist unveils the theme, the European anthem.

Then, around the 7th minute, the chorus takes up the theme sung with enthusiasm, with the breadth, fervour and power that suit this message of peace, explicitly egalitarian, humanist and internationalist. The Ode to Joy overcomes personal and social divisions; it generates a fraternity called to become universal.

With the chorus, the work is at its peak. It calls upon the resources of aesthetics and ethics to reach the sublime and stir the crowds, so that the Enlightenment triumphs, so that the world may finally be the one we dream of: a globalization with a human face.²⁵⁷

It contrasts with poems, bucolic or martial, of questionable quality, national anthems, which are designed to venerate a monarch, like *God Save the Queen* or the *Marcha Real*, or to make patriots ready to spill their blood, such as the *Marseillaise*, *Fratelli d'Italia* or *Bella Ciao*, or to stimulate nationalism.²⁵⁸ Charles de Gaulle distinguished nationalism, which is hatred of others, from patriotism, which is the love of the fatherland, of the land of his parents.

Article 2 of the USE constitution finally endows Europe with a single capital, Brussels, which does not prevent deconcentrating of certain institutions, but the executive and legislative powers must be brought together to facilitate the control of the one by the other.

The ultimate symbol of the USE will be the Head of State, whose powers are set out in Article 5.1.

Provision

The symbols of the USE are:

The flag and the colors: twelve golden stars in a circle on a blue background.

²⁵⁷ A good interpretation of the Ode, for example by the orchestra and choir of the Vienna Philharmonic conducted by Leonard Bernstein, will probably convince you.

²⁵⁸ See Renaud Denuit, « Symboles : rendons ses paroles à l'hymne européen ! » in Agence Europe, *Repères*, <https://agenceurope.eu/fr/bulletin/article/12246/1>, 3/5/2019.

The hymn: Ode to Joy, 4th movement of the 9th symphony, with chorus, text by Schiller and Beethoven; music by Beethoven.

The motto: "United in diversity".

Europe Day, 9 May.

The currency, the €, the USE being members of the European Monetary Union.

Weapons and seals: the abduction of Europe by Zeus.

The capital of the USE is Brussels.

The fundamental law determines the formulae for the various forms of swearing in.

***Article 3. Souveraineté, subsidiarité et répartition des compétences* Sovereignty, subsidiarity and allocation of competences**

Explanatory memorandum

The division of powers between the USE, the member States and the regions is largely based on the Federal Republic of Germany's *Grundgesetz* of 1949 and by the system of arbitration of internal conflicts it establishes.

Respect for the principle of subsidiarity²⁵⁹ gives rise to cooperative federalism,²⁶⁰ which shares sovereignty between the member States, regions and people of the USE, with for

²⁵⁹ The German jurist Johannes Althusius (1557-1638) initiated reflections on the articulation of levels of power; they were continued by Montesquieu and Proudhon. Subsidiarity became the basis of the federal link. According to the principle of subsidiarity, each political problem must be resolved at the relevant level, the higher authority intervening only if it proves to be more effective. See sn, *Les origines de l'idée européenne*, <http://www.touteleurope.eu/fr/histoire/dates-cles/les-origines-de-l-idee-europeenne.html> et Alain de Benoist, *Johannes Althusius (1557-1638)*, <http://www.alaindebenoist.com/pdf/althusius.pdf>, 24/11/2010.

²⁶⁰ Article 3 of the Swiss Federal Constitution states that the cantons are sovereign as long as their sovereignty is not limited by the constitution. In Germany, federalism is not cooperative, but dual: the *Länder* lost their sovereignty to the *Bund* by accepting, formally or tacitly, the fundamental law of 1949.

them the constitution of the USE and that of the member State to which they belong as limits.

The USE have international legal personality and enjoy the legal capacity necessary for the exercise of their functions and the achievement of the goals set out in this Constitution. Member States and regions retain their legal personality to the extent necessary to enable them to maintain, with foreign States and regions to which they are close geographically, economically or culturally, as well as international organizations, relations which do not go beyond this constitution.²⁶¹

Within the exclusive competence of the USE, the member State and the region have the power to legislate only insofar as they are expressly authorized to do so by a law of the USE and only in the sense indicated by that law.

In the field of concurrent legislation, the USE have the right to legislate insofar as there is a need, motivated by the impossibility of effectively settling an issue by the legislation of the member State or because the protection of the natural or moral person beyond the borders of a member State requires it; the member State and the region have legislative competence as long as, and insofar as, the USE have not made use of their right to legislate.

Within the limits of the competence of the USE, in the event of conflict, the law of the USE shall take precedence over the law of the member States. Within the limits of the competence of the member States, the law of the member States takes precedence over the law of the regions.

Fall within the exclusive competence of the USE: legislation relating to the defence industry, the production of war materiel, its import and export, and the training, instruction, training and deployment of the armed forces.

²⁶¹ « The member States are sovereign, in so far as their sovereignty is not limited by the USE constitution, and exercise all those rights which have not been transferred to USE institutions.” David McKay, *Designing Europe. Comparative Lessons from the Federal Experience*, Oxford, Oxford University Press, 2001, p. 148.

Provision

The USE have a federal structure of the cooperative type, which gives them the international legal personality and the legal capacity necessary for the exercise of their functions and for the achievement of the goals set by this constitution, without depriving the member States and the regions of their own legal personality, so as to be able to maintain the necessary relations with foreign States and international organizations.

In accordance with the principle of subsidiarity, the member States, regions and people of the USE are sovereign as long as their sovereignty is not limited by the constitution of the USE or by that of the member State to which they belong.

Within the exclusive competence of the USE, the member State and the region have the power to legislate only insofar as they are expressly authorized to do so by a law of the USE and only in the sense indicated by that law.

In the field of concurrent legislation, the USE have the right to legislate insofar as there is a need motivated by the impossibility of effectively settling an issue by the legislation of the member State or because the protection of the natural or moral person beyond the borders of a member State requires it; the member State and the region have legislative competence as long as, and insofar as, the USE have not made use of their right to legislate.

Within the limits of the competence of the USE, in the event of conflict, the law of the USE shall take precedence over the law of the member States. Within the limits of the competence of the member States, the law of the member States takes precedence over the law of the regions.

Falling within the exclusive competence of the USE: legislation relating to the defence industry, the production of war materiel, its import and export, and the training, instruction, training and deployment of the armed forces.

The fundamental law allocates competences and lays down the system for the arbitration of disputes within the USE, as well as the sanctions necessary to maintain the unity of the USE.

Article 4. The social contract

4.1. Citizenship, rights and duties

Explanatory memorandum

This article defines citizenship of USE; it confers on their citizens political and other rights as well as the customary freedoms in Europe; it prescribes their duties; it establishes equal rights and treatment between the citizens of the different member States, regions and municipalities; it opens a right of appeal to the courts of the USE. It requires the USE to ensure equality, solidarity and the emancipation of their citizens; to ensure respect for democratic principles, the impartiality of the legislative, executive and judicial powers, the primacy of the civilian over the military; to respect the rule of law, fundamental freedoms and human rights; to apply the Convention for the Protection of Human Rights and Fundamental Freedoms, as well as Additional Protocols; to proscribe all discrimination, all forms of forced labor and abuse.

It prohibits a citizen of the USE from being forced against his or her conscience to serve as an armed combatant.

The USE law promotes equal access of women and men to electoral mandates and elective functions, as well as to professional and social responsibilities, without establishing positive discrimination.

This article gives citizens of USE the right to bring a complaint before the Defender of Rights. The mission of the Defender of Rights is limited by the fundamental law to the conciliation of disputes between the administration and a citizen. If he considers the complaint unfounded or in case of non-conciliation, he terminates his mission and notifies the complainant. No appeal can be brought against this decision. Under no circumstances may the Defender of Rights intervene in cases pending before or decided by the courts or the Council of State.

Provision

The citizens of the USE member States are citizens of the USE; they enjoy the political and other rights established by this constitution and by the fundamental law of the USE; they fulfill the duties prescribed therein. The citizen of the USE is a citizen and voter of the municipality where he or she resides, as well as of the region and the member State of which this municipality is a part. Citizens have the freedom to move, work, train, reside and settle anywhere in the USE. Anyone who settles in another municipality enjoys all the rights of the citizens of that municipality. Member States, regions and municipalities grant all citizens the same treatment as their nationals. Disputes between citizens of different member States may be brought before the courts of the EU once all remedies have been exhausted at local level. Citizenship of the USE entails freedom of movement and establishment, the right to work, to have social protection and to enjoy civil and political rights throughout the USE.

The USE ensure equal rights, solidarity and emancipation of their citizens. They ensure respect for democratic principles, the impartiality of the legislative, executive and judicial powers and the primacy of the civilian over the military. They respect the rule of law, fundamental freedoms and human rights. The USE, their member States and the regions apply the Convention for the Protection of Human Rights and Fundamental Freedoms, signed in Rome on 4 November 1950, and its Additional Protocols. Within the USE, no one should be discriminated based on origin, sex, age, language, social status, lifestyle, religious, philosophical or political convictions, or physical, mental or psychological disability. USE shall combat all forms of forced labor and abuse.

No citizen of the USE should be forced against his or her conscience to serve as an armed combatant.

USE law takes precedence over religious rules; it promotes equal access of women and men to electoral mandates and elective functions, as well as to professional and social

responsibilities, without establishing so-called positive discrimination.

Any USE citizen has the right to address a complaint to the USE Defender of the rights, concerning a competence of the USE.

The fundamental law states:

- the rights of USE citizens, including political, individual and diplomatic protection abroad, as well as their duties, in particular fiscal, and possible national service, whether civilian or military;
- the conditions to take up of residence, nationality, status and capacity of persons, matrimonial regimes, inheritance and gifts;
- civil rights and the fundamental guarantees granted to citizens for the exercise of public freedoms; the freedom, pluralism and independence of the media; the constraints imposed by the defence on citizens in their person and in their goods;
- the status and powers of the USE Defender of the rights.

4.2. Freedom of association

Explanatory memorandum

Freedom of association is guaranteed, in particular to promote the development of European culture and citizen action.

Provision

Political parties and groups contribute to democratic life and the expression of suffrage. They form and exercise their activity freely. The law of the USE guarantees the pluralist expression of opinions and the equitable participation of parties, trade union and cultural, political or economic groups in democratic life.

Any person may defend his or her rights and interests through trade union action and may join the trade union of his or her choice. The right to strike is exercised under the laws that regulate it. Every worker participates, through his delegates, in the collective determination of working conditions and, to the extent fixed by law, in the co-management of his or her firm.

The fundamental law of the USE fixes the status of political parties, unions, associations and companies.

4.3. The use of languages

Explanatory memorandum

Local traditions and the use of the various European languages are protected, but French is the priority working language for legal or conceptual issues, while English is the priority working language for operational issues.

Like Barbara Cassin, the USE resist the use of the Globish, Global English, which reduces language to communication for trade. They reject linguistic nationalism, which affirms the superiority of an idiom and participates in the development of hatred of others. "German is not an authentic language, rooted in a people and a race, as Heidegger said. French is not more, by a unique privilege, naturally universal, all reason, as Rivarol said. (...) The singularity of a language, the strength of its genius, the richness of its works does not lead to the closure on itself of this language or of the people who speak it. Like Umberto Eco, we must argue that the language of Europe - and perhaps the language of the world - is translation."²⁶²

Provision

The USE, the member States and the regions preserve local traditions and the use of the various European languages, official and non-official.

The working languages of the USE institutions are French, which has priority for legal or conceptual matters, and English, which has priority for operational matters.

The fundamental law fixes the use of languages in administrative matters, in the courts, in health care, in diplomacy and in the military.

²⁶² Barbara Cassin, « Discours de réception à l'Académie française, le 17/10/2019 » op. cit., p. 25.

4.4. Nationality and naturalization

Explanatory memorandum

The nationality of the USE is acquired exclusively at birth, or by naturalization.

Any person residing in the USE may apply to become a citizen of the USE if he or she undertakes to respect its laws and promote its values.

Provision

Nationality is a set of rights and duties which bind a natural or legal person to the public authorities.

The nationality of the USE is acquired at birth, or by naturalization.

The fundamental law sets the conditions for access to naturalization.

Article 5. The Executive power

Explanatory memorandum

The organization of executive power stems from the desire to ensure for the USE a balance between unity and diversity, as well as between coordination and decentralization. A transnational presidential election by universal suffrage provides a strong symbol for the USE. It avoids local candidacies and strengthens the political authority of the head of State.

In defence matters, following the model of the Fifth French Republic, the President commands the armies and decides in the fields of defence and international relations. To this end, he relies on the Prime Minister, who manages interdepartmental matters, on the Minister for Foreign Affairs and on the Minister for Defence, respectively, for matters falling within their ministries.

In the event that the Government and the parliamentary majority do not have the same political orientation as the President, the

latter must deal with the Prime Minister and his majority. The government does not have a free hand since it cannot commit forces, sign or ratify international agreements, or appoint military personnel or ambassadors without the signature of the President.

The President's decisions on defence matters are taken in the Defence Council or the Restricted Defence and Security Council. The first meets once or twice a year and to discuss the military programming bill, which gives the general guidelines and budget forecasts over 5 years and to determine the structural reforms of the armies. The second provides weekly updates on planned or ongoing operations and topical thematic issues.

These councils, chaired by the Head of State, bring together the Prime Minister, the ministers concerned, intelligence officials and the Chief of the Defence Staff.

The Parliament is informed within 48 hours of the launch of an operation, but does not pronounce on its appropriateness. The government is required to report regularly to the Defence Committees of Parliament and the Senate on the progress of operations. If an operation continues beyond 4 months, the Parliament votes for or against any extension.

Provision

The executive power of the USE ensures a balance between unity and diversity, as well as between coordination and decentralization.

5.1. The President

Explanatory memorandum

The President is the head of State; he or she presides over the executive power and is commander in chief of the armies. He or she guarantees compliance with the treaties and ensures compliance with the constitution of USE. He is or she elected for a seven-year term in accordance with a procedure similar to that used in France for the election of the President of the Republic.

The election of the President by universal, direct and simultaneous suffrage in all the USE has two advantages for democracy: it achieves equality of suffrage and respects the equal treatment of citizens, without discrimination according to nationality; it responds to the need for direct democracy felt by the populations. Furthermore, it gives the President an indisputable legitimacy and credibility on the international stage.

To avoid coinciding his election with the elections for the Parliament, which have the same single electoral college, the newly elected President calls the election for the Parliament within 40 to 80 days, if possible without pairing it with national and/or regional elections: Europe deserves a debate in its own right.

Provision

The President is elected for seven years by direct universal suffrage in two-rounds election from among eligible USE citizens in accordance with the rules laid down by the fundamental law. He or she takes an oath of obedience to the constitution and the laws of the USE when taking office.

He or she embodies and represents the USE, is their spokesperson and ensures its cohesion.

He or she is the commander-in-chief of the armed forces, guarantees the independence of the USE and the integrity of their territory as well as the supremacy of civilian over military power. He or she embodies the principle of unity of command. He or she chairs the Defence Council, the Restricted Defence and Security Council and the Higher Defence Committees.

He or she decides on policy and its implementation in the fields of defence and international relations, within the framework of the budget adopted by the government and voted by the Parliament. He or she relies on the Prime Minister, who manages inter-ministerial issues, and on the Minister for Foreign Affairs and the Minister for Defence, for matters within their respective ministries.

He or she is the guarantor of the respect of the treaties which bind the USE.

He or she ensures the respect of this constitution.

The newly elected President calls elections for the Parliament within 40 to 80 days.

The fundamental law specifies and supplements the constitutional rules relating to the President, in particular by the measures to be taken in the event of the death, resignation or incapacity of the President to perform his duties.

5.2. The government and the Prime minister

Explanatory memorandum

This article sets out the responsibilities of the government as well as the status and powers of the Prime minister and the seven ministers. It determines certain aspects of the relations between the executive and legislative powers. It lays the foundations for the status of the civil service in the broadest sense. It regulates the interactions between the executives of the USE, the member States, the regions and the municipalities.

Provision

The government consists of seven ministers, appointed by the President from among the eligible citizens. These appointments are subject to the assent of the Parliament by a simple majority vote of confidence. No one may be appointed Prime Minister, Minister for Foreign Affairs, Minister for Defence or Minister for Internal Security unless he or she has applied for and obtained a security clearance of the highest level.

The Prime Minister directs the government's action. He or she is accountable to the President and to the legislative power for the implementation of the government's decisions on defence. He or she ensures the execution of laws. He or she exercises regulatory power and appoints civil and military posts, with the exception of those filled by the President. He or she may delegate some of their powers to ministers.

The government determines and conducts the policy of the USE. It has at its disposal the administration and, upon express delegation by the President, of the armed force. In times of crisis or in a state of defence, the government ensures the coordination of military defence and civil defence.

The government is accountable to the Parliament, which can force it to resign by passing a censure motion.

The composition of government reflects the social and geographic diversity of USE and strives for gender balance.

The members of the government are independent of the member States. They do not exercise any other activity, paid or not.

The fundamental law clarifies and supplements the constitutional rules on the Prime minister and the government. It determines the arrangements for replacing members of the Parliament and the Senate appointed as ministers of the USE government or of the member States.

Article 6. The Legislative power

Explanatory memorandum

The legislative power is bicameral, but the existence of Parliament and the Senate does not deprive the people of the right of legislative and constitutional initiative. The two assemblies are equal, but specialized: Parliament deals primarily with domestic policy, the Senate primarily with international relations.

This article determines certain aspects of the relations between the executive and legislative branches, as well as the basis of the status of parliamentarians and the legislative procedure.

Provision

The legislative power includes the Parliament, the Senate and the people of the USE, which have, like the government, the right of legislative and constitutional initiative. The two assemblies vote confidence in the executive, ordinary, budgetary or fiscal laws or set the army contingent. They

monitor the application of laws. They authorize the President to declare war and ratify a treaty. They have the right to give advice to the government. They work in coordination. They are equal, but specialized.

The President can veto a law passed by the Parliament and the Senate, which together can override the veto by a two-thirds majority.

On taking office, members of Parliament and senators swear allegiance to the constitution of USE. They have immunity. They vote individually, according to their conscience, without receiving any instruction from anyone.

The Parliament and the Senate each draw up their own rules, which may authorize the delegation of votes, but no one may receive more than one proxy.

The fundamental law specifies the rights and duties of members of Parliament and senators; it determines the parliamentary and senatorial committees, their competences and the rights of the groups formed within the two assemblies; it sets the rules for the presentation of draft laws and proposals before the Parliament or the Senate.

6.1. The Parliament

Explanatory memorandum

The purpose of this article is to put an end to the painful observation that elections to the European Parliament have never respected democratic principles or the provisions of the fundamental treaties. Article 21(3) of the ECSC Treaty of 1950, and subsequently Article 138(3) of the EEC Treaty of 1957, provided that their Parliamentary Assembly "shall draw up plans for elections by direct universal suffrage in accordance with a uniform procedure in all member States". This not having been done, the governments adopted in 1976 the act allowing the first election of the European Parliament by universal suffrage in 1979, regulating the representation of citizens in a degressively proportional way, with a minimum threshold of six members per member State and a ceiling of 96 seats. This

provision became Article 14, (2), TEU. This article, in contradiction with the values, in particular that of equality, which appear since 1999 in article 2 TEU, perpetuates the fact that the electoral weight of a Maltese or a Luxembourgger is twelve times higher than that of a German, if at least they are old enough to vote.

Indeed, eligibility is acquired at 18 years in 14 member States; at 21 in 10 others; at 23 in Romania and at 25 in Italy and Greece. European citizenship (Art. 20 para. 2b TFEU) allows to vote in the country of residence, if it is part of the EU, in accordance with the rules in force in that country (Council Directive 93/109/EC). Nationals residing abroad can vote in their own country, by post and/or at the embassy, or even electronically, but Bulgarians, Greeks and Italians can only do so from a EU member State and it's forbidden for Czechs, Slovaks, Irish and Maltese. In Belgium, Bulgaria, Luxembourg, Greece and Cyprus, voting is compulsory, elsewhere, no. The right to vote is acquired everywhere at 18, except in Austria where it is 16.

Article 14(2) TEU does not provide for an electoral threshold, which 12 member States apply, but others do not, without being penalized: Cyprus has a threshold of 1.8%, Greece 3%, Italy, Austria and Sweden 4%; 10 countries have a threshold of 5%. Unfortunately, only the Karlsruhe Constitutional Court issued on 30 June 2009 that article 14(2) TEU contradicts article 9 TEU, which provides: "In all its activities, the Union respects the principle of equality of its citizens, who receive equal attention from its institutions, bodies, offices and agencies. A citizen of the Union is any person having the nationality of a member State. Union citizenship is in addition to and does not replace it. "

In most member States, but not in France, Germany, Spain, Hungary, Romania and Portugal, lists drawn up by the different parties are in competition and voters have to vote for a single candidate. In Luxembourg, on the other hand, voting for several candidates from competing lists is allowed. In Belgium, Ireland, Italy and Poland, the electoral college is divided into

constituencies. Ireland, Northern Ireland, Scotland and Malta practice a single transferable vote in multi-member constituency elections.²⁶³

So far, members of the European Parliament have been elected as members of parties in the member States. Even when they have ties that bind them to the large political families, these parties differ greatly from one member State to another. They hardly get along except to weigh within this assembly, in particular to distribute the functions within the Bureau or in the committees.

Mathematics shows that classifying candidates collectively by aggregation of their ranking of candidates by voters depends essentially on the chosen method of aggregation. Neither the work of the French mathematicians Borda and Condorcet, nor that of the American Arrow have given an optimal solution to the question: "How to decide together?". This is fortunate, because "what would be a world entirely managed by algorithms, including to deal with situations as imprinted with human dimension as the decision-making by a community of individuals?"²⁶⁴ Fortunately, voters have their share of free will, they act more or less reasonably. If there are sometimes many who listen to populists of all stripes, it is because they have been disappointed by more moderate but overly ineffective or corrupt politicians. Many remain those who, when voting, are inspired by European values and tend to promote the general interest.

In the virtual absence of a truly European political party with candidates in all member States,²⁶⁵ suitable electoral procedures have to be proposed for the presidential and parliamentary elections in the USE. The single transferable ballot, in multi-member constituency elections, as practiced in Ireland, Northern Ireland, Scotland and Malta, is the most appropriate

²⁶³ See Renaud Denuit, « De quelques inconfortables vérités relatives à l'élection du Parlement », janvier 2019, inédit, archives Jean Marsia.

²⁶⁴ Philippe Vincke, *Discours du Recteur prononcé à l'occasion de la séance de rentrée*, Bruxelles, ULB, 15 septembre 2006.

²⁶⁵ On 26 May, 2019, Volt, the only party claiming to be pan-European, won only one seat, in Germany.

for elections to the Parliament, as it guarantees proportional and independent representation. It gives the voter the certainty that his or her vote will not go to a candidate he or she rejects. It allows the voter to express a secondary preference for a candidate from a different party from the first choice and thus to influence the formation of coalitions.²⁶⁶

The election of the Parliament by universal, direct and simultaneous suffrage of all citizens of the USE achieves equality of suffrage and respects the equal treatment of citizens, without discrimination according to nationality. It gives it undisputable legitimacy.

The Parliament represents the people. Its main responsibility is internal policy: it is it which provides the USEs with own resources, by voting on revenue, taxes and duties, which authorizes the expenditure and the investments, which fixes the contingent of the USE army. This is in line with the principle of "no representation without taxation", "no legislative assembly without fiscal power". It is the corollary of the fundamental principle of representative democracy which justified the creation of the United States of America: "no taxation without representation", no tax without the consent of a parliament.

With the support of the Court of Auditors, the Parliament controls the action of the government, it evaluates the public

²⁶⁶ The voter must indicate on his ballot an order of preference between the candidates. After counting all the ballots, the quotient, called Droop, required for the election of a candidate is determined by dividing the number of valid votes by the number of seats to be filled plus one. Candidates who have obtained a number of first choice votes greater than or equal to the Droop quotient are elected. The votes obtained by these candidates beyond the quota are distributed among the unelected candidates who had been positioned in second choice. The distribution is done according to a mechanism that may vary from country to country. If no candidate has reached the quotient, then the candidate with the fewest first choice votes is eliminated. His votes are then redistributed to the candidates who had been positioned as second choice by his voters. The process continues until all seats are filled. This voting system was developed in the 19th century by Thomas Hare (1808-1891) in Great Britain, as well as by Carl Andrae (1812-1893) in Denmark. Outside Europe, it is used in Australia, New Zealand and Tasmania.

policies and it formulates useful recommendations. It approves the revenues and spending account for the past financial year and the balance sheet of the USE.

The Parliament fixes the status of military personnel and veterans. In the event of disagreement with the executive on its defence decisions, it can reduce the funding of the armed forces or refuse the additional funding required by armed conflict.

The Parliament expresses its mistrust of the government only through a vote of confidence in a new government. It votes his distrust of a minister by a simple majority vote.

It may, by a two-thirds majority, propose to the Senate the dismissal of a member of the executive power, including the President, of a civil servant or of a judge of the USE for violation of the constitution or of the law of the USE.

The electoral threshold of 5% aims to improve political stability in the USE.

Provision

Parliament represents the people. It deals with domestic policy. It controls the action of the government. It evaluates public policies.

The committees of the two assemblies have autonomous powers of investigation in all fields, including intelligence.

With the support of the Court of Auditors, the Parliament controls the action of the government, it evaluates the public policies and it formulates useful recommendations. After receiving the opinion of the Court of Auditors, it approves the revenue and spending account for the past financial year and the balance sheet of the USE.

If the resources and expenditure budget for a financial year is not tabled in time to be promulgated before the beginning of that year, the government urgently presents to the Parliament a finance law authorizing it to collect taxes and opening the necessary appropriations during the course of the financial year,

at the rate of one twelfth of the budget of the previous year per month.

The Parliament annually fixes the contingent of the armed forces. It determines the status of military personnel and veterans, which may not be inferior to that of civil servants, particularly in monetary terms.

In the event of disagreement with the executive on its defence decisions, the Parliament may reduce the financing of the armed forces or refuse the additional financing that an armed conflict requires.

It expresses its distrust of the government by a vote of confidence in a new government. He votes his distrust of a minister by a simple majority vote.

It may, by a two-thirds majority, propose to the Senate the dismissal of a member of the executive, including the President, a Minister, a senior civil servant or a judge of the USE, for violation of the constitution or USE law.

The fundamental law organizes the election of the Parliament by direct universal suffrage, by single transferable ballot, within multi-member constituencies, with an electoral threshold of 5%.

6.2. The Senate

Explanatory memorandum

The Senate is responsible for international relations, the representation of the member States, the safeguard of their interests and those of the regions against any discrimination on the part of the government of the USE.

Senators may not hold any other office, mandate or function; they are appointed by each member State from among its eligible citizens and in accordance with the legislation of that State.

The bills approving the treaties and those having for main object the organization of the territorial collectivities are tabled by the government in the Senate, which discusses them, approves them

or not then transmits them to the Parliament, which discusses them and approves them or not. If Parliament amends a text, it is subject to a second reading by the Senate, which has the final say.

The Senate approves or rejects any appointment to the senior public, civil and military service, proposed by the President of the USE.

On the proposal of the Parliament, the Senate may, by a two-thirds majority, dismiss a member of the executive branch, including the President, a civil servant or a judge of the USE, for violation of the constitution or the law of the USE. Dismissal results in ineligibility for ten years.

Provision

The Senate represents the member States and deals with international relations. It ensures that the government of the USE does not injure a member State or a region in the exercise of its powers.

The members of the Senate are appointed by each member State from among its eligible citizens and according to the law of that State. Senators may not hold any other office, mandate or function.

The fundamental law fixes the number of senators per member State.

The bills approving the treaties and those having for main object the organization of the territorial collectivities are tabled by the government in the Senate, which discusses them, approves them or not then transmits them to the Parliament, which discusses them and approves them or not. If Parliament amends a text, it is subject to a second reading by the Senate, which has the final say.

The Senate approves or rejects any appointment to the senior public, civil and military service, proposed by the President of the USE.

On the proposal of the Parliament, the Senate may, by a two-thirds majority, dismiss a member of the executive power, including the President, a civil servant or a judge of the USE for violation of the constitution or the law of the USE. Removal from office entails ineligibility for ten years.

6.3. The voting and the petition

Explanatory memorandum

Revisions of the constitution, as well as membership of collective security organizations or supranational organizations are subject to a vote by the people, the regions and the member States.

The right to address a petition to the Parliament, on a matter falling within a field of competence of the USE is open to all USE citizen enjoying civil and political rights.

Provision

The revisions of the constitution, as well as membership of collective security organizations or supranational organizations, are subject to a vote by the people, the regions and the member States.

Any EU citizen enjoying civil and political rights has the right to address a petition to the Parliament, on a matter falling within a field of competence of the USE.

The fundamental law sets the rules for voting and petitions.

6.4. The delegate to the armed forces

Explanatory memorandum

The Delegate for the armed forces has a twofold mission: on the one hand, to annually, or on request, inform Parliament and the Senate on the state of the armed forces and, on the other hand, to protect the fundamental rights of the military.

Provision

The delegate to the armed forces reports annually to Parliament

and the Senate on the state of the armed forces. It protects the fundamental rights of the military. In addition, the Defence Committees of the Parliament and the Senate may instruct him or her to investigate certain events or findings.

The fundamental law fixes the status of the Delegate for the armed forces.

6.5. The advisory bodies

Explanatory memorandum

The main consultative bodies of the USE are the Council of the Regions and the Economic, Social and Environmental Council.

Provision

The fundamental law fixes the attributions, the composition and the operating rules of the Council of the regions as well as of the Economic, social and environmental Council; it may make some of their opinions binding.

Article 7. The Judiciary power

Explanatory memorandum

This article organizes the independence of the judicial power, in particular through the irremovability of judges, and fixes the essential standards of criminal justice: imposition of habeas corpus, rejection of the death penalty, execution of sentences in conformity with human rights, detention that protects society while contributing to the social reinsertion of convicted persons, in particular through the development of their skills and employability.

It provides that the judicial power of the USE is competent in matters of public services, including the armed forces, to hear disciplinary disputes and appeals from persons linked to the USE by a service and loyalty report under public law, as well as crimes and offenses related to the security and defence of USE.

It establishes the composition of the Supreme Court of the USE, its attributions and its field of competence.

It states that the President has no right to grant pardons to individuals for crimes and offences committed against USE laws and punished by USE courts and tribunals.

Provision

The President guarantees the independence of the judicial authority. He is assisted by the Judiciary Council.

The magistrates of the Bench are irremovable.

In criminal justice, no one can be arbitrarily detained, nor sentenced to the death penalty. The execution of sentences, and particularly sentences of deprivation of liberty, respect human rights. Detention is organized so that it protects society by preventing those who are in danger from being harmed. It also aims to contribute to the social reintegration of convicts, in particular by developing their skills and employability.

The judiciary power of the USE is competent in matters of public services, including the armed forces. Courts and tribunals take cognizance of crimes and offences related to the security and defence of the USE.

The Supreme Court of the USE consists of the Constitutional Court, the Court of Cassation and the Council of State of the USE.

The Constitutional Court judges the compatibility with the constitution and the fundamental law of the laws of the USE, those of the member States and those of the regions.

The Council of State hears acts of the executive powers of the USE, the member States and the regions with regard to the constitution, the fundamental law and the laws of the USE.

The control of the conformity of the laws of the member States and of the regions with regard to the constitution, the fundamental law and the laws of the State concerned, belongs to the courts of the member States.

The Constitutional Court hears violations, by the authorities of the USE or by the member States, of the Convention for the Protection of Human Rights and Fundamental Freedoms, signed

in Rome on 4 November 1950, and its Additional Protocols. It repeals any law of the USE, member States or regions, as well as any decision of the governments of the USE, member States or regions that violates these standards.

It is competent in the event of violation of diplomatic prerogatives and immunities by the government of the USE, or those of the member States, or those of the regions. It is competent in the fields of civil, criminal and public law, including military law, falling within the competence of the USE.

It checks the respect of the constitutional and legal provisions relating to the armed forces, in particular the conformity of the laws of the USE and the decrees of the government of the USE with the present constitution and the fundamental law, as well as confirming the respect of the rights of the Parliament in this matter by the executive power.

The fundamental law defines the federal crimes and offences and the penalties applicable to them, the federal criminal procedure and amnesty; it establishes the right of natural and legal persons, as well as institutions, to act before the Supreme Court; it fixes the attributions of the Council of State; it fixes the administrative and financial status of the magistrates of the USE; it may establish other courts and it organizes the Council of the Judiciary. It organizes the Federal Courts and Tribunals which hear disciplinary disputes and appeals from persons linked to the USE by a public law relationship of service and loyalty, and the Courts and Tribunals hear crimes and offences relating to the security and defence of the USE.

Article 8. International relations

Explanatory memorandum

The USE apply the principle of subsidiarity, apply a comprehensive approach and respect the principles and objectives set out in Article 21 TEU, as well as those of the United Nations Charter and international law in their relations with foreign States and international organizations.

Provision

The USE conduct relations with foreign States and international organizations by applying the principle of subsidiarity, by practicing a global approach and by respecting the following principles and objectives: democracy, the rule of law, the universality and indivisibility of human rights and fundamental freedoms, respect for human dignity, equality, solidarity, those of the United Nations Charter and international law, and the fundamental law.

8.1. Foreign Affairs

Explanatory memorandum

The security of the USE depends on good relations with our neighbourhood, in all compass directions, through credible and respected European security and defence capabilities, much more than on the transatlantic link.

As in all matters in the USE, the principle of subsidiarity governs the allocation of powers in the field of foreign policy. The President, the Prime Minister and the Foreign Minister of the USE ensure the coherence of the international relations of the USE, their member States and their regions with the foreign States, regions, cantons or Länder, as well as with international organizations.

Provision

The President of the USE determines, in accordance with the principle of subsidiarity, the foreign policy of the UES, in all their fields of competence. The member States and regions do the same in their areas of competence. The Prime Minister and the Minister of Foreign Affairs of the USE ensure, in accordance with the fundamental law, the coherence of the international relations of the USE, of their member-States and their regions with the foreign States and regions as well as with international organizations.

8.2. Diplomatic protection abroad

Explanatory memorandum

The USE provide diplomatic protection abroad for their nationals.

Provision

The fundamental law organizes the diplomatic protection abroad of natural and legal persons who are nationals of the USE.

8.3. The external trade

Explanatory memorandum

The European Union has exclusive competence over external trade of the USE.

Provision

External trade of the USE belongs to the exclusive competence of the EU.

8.4. Development cooperation

Explanatory memorandum

The development cooperation and humanitarian aid policy of the USE is in line with their values.

Provision

The fundamental law organizes development cooperation and humanitarian aid. The aim of humanitarian aid is to contribute, by means of preventive or relief measures, to the safeguarding of human life when it is threatened and to the alleviation of suffering; in particular, it is intended for populations that are victims of natural or man-made disasters.

8.5. Migrants, refugees and asylum seekers

Explanatory memorandum

The reception of refugees and asylum seekers, as well as the immigration policy of the USE are in line with their values.

Provision

The fundamental law fixes, in accordance with humanitarian principles, the reception of refugees and asylum seekers and immigration policy.

Article 9. Security and defence

Explanatory memorandum

The art of war, from Sun Tzu to de Gaulle, via Thucydides, Jomini, Clausewitz and Mahan, but also total war and revolutionary war, Mr. Solana's comprehensive approach, Mr. Putin's hybrid war, the recent fight against Islamist terrorism, have shown the artificial nature of the distinction between the internal and external security of the State, which has become classic since the treaties of Westphalia of 1648. Nevertheless, this article maintains this distinction, because the different aspects of maintaining or restoring security and peace belong to different professions and means.

9.1. Homeland security

Explanatory memorandum

The responsibility for policing is allocated between the USE, the member States and the regions, in accordance with the principle of subsidiarity.

In order to guarantee security, the USE collect data and information necessary for the prevention and prosecution of crimes and offenses.

Provision

The services involved in policing in the broad sense include the police forces of the USE, those of the member States, those of

the regions and those of the local authorities. Police forces operate primarily within the USE, against crime and other internal threats, including terrorism.

The member States are responsible for maintaining internal order, but the USE may intervene in the event of a threat against the constitutional order in a member State, in the event of a threat which targets the USE themselves, or several member States or which requires the deployment of technical or human resources beyond the capabilities of the member States concerned.

The USE ensure personal, economic, environmental, food, physical, political, community and cyberspace security. To this end, the USE collect, in accordance with the fundamental law, data and information necessary for the prevention and prosecution of crimes and offences.

9.2. Defence

Explanatory memorandum

"Sometimes nations agree to respect the law, but just saying it is not enough to impose it. Whatever direction the world takes, it won't take it without arms. Without denying any hope, where can we see that the passions and interests, from which armed conflicts emerge, silence their demands, that someone willingly renounces what he wants, and that men, at last, cease to be men?"²⁶⁷

The USE are concerned about their external security, because threats will continue to reappear. The army of the USE does not diminish the sovereignty of the member States, it strengthens it by filling their capacity gaps. It gets Europe out of the status of protectorate. It makes the USE a power capable of better contributing to the influence of our civilization and our values, to the defence of our essential interests, to the peacekeeping, to

²⁶⁷ Charles de Gaulle, *Le Fil de l'épée*, Paris, (Berger-Levrault, 1932), Plon, 1973, avant-propos, p. 10.

the maintenance of security and freedom, to the restoration of our autonomy, independence and sovereignty.

The USE are composed of NATO and EU member States. European military activities, envisaged in the framework of the Petersberg tasks, are complementary to those of NATO: the USE, like the EU, are intended to intervene when NATO is unable or unwilling to do so. From the outset, the USE meet the three Ds (non-duplication, non-unbundling, non-discrimination) requirement formulated by Madeleine Albright in 1998.

The USE have the full range of sovereign functions at their disposal. They are able to finance, recruit, train and, having established (in self-defence) or rendered (in an alliance) legitimate the use of force, employ their army. They assume the risks, the political, legal and economic responsibility for possible human and material losses, as well as for collateral damage to their action. They report to public opinion for the failure or success of operations.

The army of the USE, like those of the member States, works in an integrated manner within NATO. It uses common procedures, has interoperable telecommunications resources and knows how to operate together. The language issue is not a problem: English has gradually established itself in multinational operations as the main working language. The BENELUX has only one admiralty, common schools and naval logistics chains; its air defence is only coordinated, while the USE allow a complete integration of the defence effort, which guarantees greater efficiency.

This article sets out the missions of the armed forces of the USE, within them or in external operations. It specifies the duties of the member States in the field of defence.

Provision

The armed forces of the USE, together with the armed forces of the member States, ensure the defence of the USE against external threats They contribute to border and coast guards. They contribute to the influence of our civilization and our

values, to the success of the foreign policy of the UES, particularly to the prevention of armed conflicts, as well as to peacekeeping and peacemaking. In times of crisis or in a state of defence, the government of the USE ensures the coordination of military and civil defence.

To support or protect humanitarian action, to combat terrorism, to maintain or restore peace, elements of the armed forces of the USE may be sent abroad by the President.

Member States don't affect the competence of the USE in the field of defence, but facilitate their task, in particular in the case of the establishment of military installations on their territory.

The fundamental law fixes the additional and complementary missions of the army; it determines under what circumstances the armed forces can and must act on national territory; it fixes in general terms only, in order to preserve military secrecy, the organization of the Ministry of Defence of the USE and their armed forces, whose missions it determines.

It authorizes the USE Defence to own and the minister of Defence of UES to acquire, build and manage the infrastructure necessary for his department.

It organizes cooperation between the armed forces and other security services; it authorizes the intervention of USE army in support of other USE services, member States and regions in a situation of internal crisis; it fixes the rules relating to the state of war, serious crisis, tension or defence and the safety of USE armed forces; it fixes possible derogations in such cases from the ordinary rules, in particular in legislative, judicial or internal and external security matters; it organizes the intervention of the army in the event of a particularly serious disaster, of natural origin or caused by man.

It organizes a national, military or civil service to which all citizens are possibly required.

Within the framework of the applicable international conventions, it fixes legal, financial, logistical and administrative questions arising from the temporary dispatch of

USE military personnel abroad or the temporary stay of foreign military personnel in the USE, in particular as regards responsibility for case of damage, without derogating from the rights of USE citizens.

It allocates competence for the prosecution of penal or disciplinary infractions.

It regulates the import and export of military equipment and goods, as well as essential materials and consumables, including food, medicines, health care equipment, combustibles and motor fuels.

9.3. The industrial and technological base, scientific and technological defence research

Explanatory memorandum

This article sets out the attributions of the minister of Defence of the USE with regard to the manufacture, transport and sale of armaments, as well as in the development of the industrial and technological base of European defence, in particular its technological and industrial capacities; to this end, it entrusts him with the protection of the essential security interests of the USE in the event of the importation or exportation of military equipment.

Provision

The Minister of Defence of the USE authorizes the manufacture, transport and sale of armaments, in the USE and for export, in particular within the context of State-to-State contracts with allied countries. He strengthens the European defence technological and industrial base, so that it enables the USE to determine their own defence policy, guarantee the technological level of the armaments of the USE and enhance the credibility of their armed force. He ensures that the European defence industry is able to carry out the technical activities necessary for the defence of USE and their member States. He facilitates access by the European defence technological and industrial base to funding for its activities, research and investment. He encourages and coordinates the

efforts of the member States in the field of defence scientific and technological research, in order to maintain and increase the European technological and industrial capacities. He ensures industrial and technological return in the event of the importation of weapons systems, considering the essential security interests of the USE.

Article 10. Home, Economic, Social and Environmental Affairs

10.1. Home Affairs, Civil Defence

Explanatory memorandum

In the field of civil defence, the government of the USE coordinates the action of the member States and provides advice and financial assistance.

Provision

Civil defence is the responsibility of the member States. If necessary, the government of the USE coordinates the measures taken or to be taken and provides advice and financial assistance. In times of crisis or in a state of defence, the government of the USE also ensures the coordination of military defence and civil defence.

10.2. Economic Affairs

Explanatory memorandum

Almost everywhere in Europe, for the past 30 years, public services have been reduced to a bare minimum, industry dismantled, borders open with little control, especially to China. Ports or airports, water, gas and electricity supply networks have become its property. Too much of the manufacture of pharmaceuticals and medical equipment, and even of goods necessary for security and defence, has been entrusted to China, without guarantees of an adequate supply, in quantity as in quality.

The Covid-19 pandemic brought to light some of the most catastrophic results of this policy in the health field. Almost everywhere in Europe, protective equipment, respirators, medicines were lacking. There has been a shortage of reagents to test caregivers, people with challenging symptoms, and the general population. However, it is necessary to separate the sick from uninjured people, especially those at risk, to avoid contagion, but also to identify the recovered, , potentially immunized people, so that they can reinforce the services which fight against the disease, or can take charge of the revival of public services and economic activity. All these products have become scarce and expensive: China has made the crisis it triggered pay for itself. In addition, their quality is only guaranteed on paper. Europe's strategic autonomy will have to start with the security of our sources of supply.

It was also noted that there was a lack of beds in the emergency and intensive care units in certain regions. This is why the USE redistributes economic resources between the member States, to ensure solidarity, equity and inclusion. They guarantee security of supply, they encourage circular economy and fair trade.

Following the example of the Swiss constitution, this article makes it possible to penalize the abuse of economic power.

Provision

Economic matters, agriculture, trade and transport are the responsibility of the European Union and the member States.

In accordance with the principle of subsidiarity and within the framework of the social market economy, the USE redistribute economic resources between the member States, to improve their social standards, based on solidarity, equity and inclusion; they encourage the circular economy and fair trade.

The fundamental law fixes the rules governing the regime of property, real rights and civil and commercial obligations. It fixes the rules concerning the creation of categories of public establishments, the nationalization of enterprises and the transfer of ownership of enterprises from the public to the private sector.

The law of the USE penalizes the abuse of economic power. Any property or firm, the exploitation of which has or acquires the characteristics of a national public service or a de facto monopoly, becomes the property of the community, in accordance with the rules of transfer of property fixed by the fundamental law.

10.2. Social Affairs

Explanatory memorandum

This article requires USE to ensure the harmonization of social rights, in order to provide citizens of USE and residents with a minimum income and health insurance.

Provision

The USE ensure the harmonization of social rights. USE citizens and permanent residents are entitled to a minimum income and to health insurance. The USE ensure that citizens and permanent residents have access to medical treatment, social security and social protection, as well as access to decent housing.

The fundamental law organizes the sustainable development of the well-being of the population, through the expansion of the economy and employment, through greater social justice.

10.3. Labour law, social security, social mobility and social dialogue

Explanatory memorandum

Labour law, social security, social mobility and social dialogue concretize the values of USE.

Dispositif Provision

The fundamental law fixes the rules on labour law, social security, social mobility and social consultation.

10.4. The preservation of the environment

Explanatory memorandum

The EU has so far been unable to respond to this concern of European citizens: to effectively preserve the environment and the public health, because it lacks powers and resources. It can only formulate intentions. Only a federal, united, democratic and sovereign Europe could mobilize the resources necessary for the conversion of the economy and society, for its protection against pandemics. This requires investments in scientific and technological research, in industry, in housing, in hospitals, etc. Only a federal Europe would have the credibility needed to convince the world to commit itself to saving the planet, to overcome the resistance of the powers currently reluctant.

A European policy on climate change could play the same role as the Coal and Steel Community: to contribute to the progressive elimination of fossil fuels, in particular by ending the subsidies granted to this industry, by setting standards reducing emissions and introducing a carbon tax. Public and private investment in renewable energy and green jobs must also be supported, in particular by the creation of a European Climate Bank or a European Fund to support the ecological transition in Europe.

Provision

The USE are part of a proactive international approach to the protection of the natural environment and humankind. The fundamental law fixes the rules for the preservation of the environment and public health.

Article 11. Public finances and the budget

Explanatory memorandum

In the absence of a political Union, the € zone could not be supported, before the foundation of the USE, by a budgetary policy, by its own taxation system and by a borrowing capacity, making it possible in particular to support growth and the €, to

finance the ecological transition, to develop social justice and to improve the efficiency of security and defence spending.

A major transfer to the USE of defence competences and the corresponding considerable spending would bring substantial relief to the member States: the sum of the defence budgets, for the EU-28, amounted to € 250 billion in 2019.

The European defence budget would, like the United States of America, support the less favored regions, reduce the gaps in competitiveness and unemployment between them, inter alia through the recruitment and training of military personnel. It would stimulate innovation, economic growth and full employment, through better coordinated and targeted dual scientific and technological research, for example in communication and information technologies, but also through the improvement of trans-European transport infrastructures for troops and military equipment.

In order to be able to fulfil the tasks entrusted to them, the USE establish and collect, or get collected by the member States, taxes, levied in proportion to consumption, pollution, income and assets.

USE taxes focus primarily on greenhouse gas emissions, particularly in the area of transport, on stock exchange transactions and on multinational companies in the information, computer and telecommunications sector. The wealth tax is inspired by the Swiss model. Customs duties are a competence of the European Union.

When the circumstances warrant it, the USE provide themselves with the necessary extraordinary resources, especially through borrowing.

Provision

The resources of the USE come from own revenue, which includes taxes, loans and miscellaneous incomes; contributions paid by the member States according to their gross domestic product, in order to establish solidarity between them; from

payment by member States of a percentage of VAT and from a wealth tax.

The USE may buy, own and sell movable and immovable property, this does not limit the right of member States to do the same.

The accounts of the public administrations of the USE are regular and accurate. They give a true and fair picture of the results of their management, their assets and their financial situation.

The USE and the member States coordinate their tax policy, before the establishment of a new tax. The tax legislation of the USE cannot establish any discrimination between the citizens of the different member States.

The USE Minister of Finance is responsible for taxation, debt service and the budget. He or she may instruct member States and their tax administrations to levy and collect taxes voted by the USE legislature.

The laws on the financing of social security determine the general conditions for its financial equilibrium and, considering revenue forecasts, set spending limits.

The fundamental law fixes the rules concerning the basis, the rate and the methods of collection of all kinds of taxes, as well as the rules relating to investments, subsidies and asset accounts. It fixes the budgetary principles to be observed, contains the provisions necessary to balance the current expenditure budget, as well as the rules relating to the execution and control of the budget. It establishes administrative and budgetary control within the administrations of the USE.

11.1. The Court of Auditors of the USE

Explanatory memorandum

The Court of Auditors assists the Parliament for the control of the action of the government. Through its public reports, it contributes to inform citizens, parliamentarians, senators and members of the public service.

Provision

The Court of Auditors audits the accounts of the administrations of the USE, monitors the implementation of the budget, finance laws and social security financing laws. It assesses public policies.

The fundamental law fixes the composition, the organization and the attributions of the Court of Auditors.

11.2. Transitional financial measures

Explanatory memorandum

To allow the establishment of embryonic administration, diplomacy and defence, during the decade following the founding of the USE, an annual law of the USE requires the transfer by the member States of part of income tax and VAT, as well as a fixed contribution, to be paid by each member State. The sum of this transfer and this contribution tends for each member-State to equal 1% of its gross domestic product. During this ten-year period, UES may also finance themselves through direct and indirect taxes and borrowing.

Provision

During the ten years following the foundation of the USE, the USE law annually imposes the transfer by the member States of a part, which it determines, of the income tax and VAT, as well as a fixed contribution, to be paid by each member State.

Article 12. Entry in to Force, modification of the Constitution and the fundamental law

Explanatory memorandum

This article regulates the entry into force of the constitution and the fundamental law, as well as the rules for their amendment.

Provision

The constitution comes into force once ratified by two member States.

The initiative to amend the constitution belongs concurrently to the President, on the proposal of the Prime Minister, to members of Parliament, to senators and to the people of the USE. The governmental draft or the proposition of amendment, or the amendment approved by voting, is discussed and possibly amended in Parliament and the Senate and then voted on by a two-thirds majority in each assembly. The text shuttles between the two assemblies until it is adopted by the two assemblies in identical terms. The President of the USE submits it to a referendum, which decides by simple majority of valid votes.

No procedure for amending the constitution may be initiated or continued when the integrity of the territory is affected.

The republican form of the government of the USE may not be modified.

The fundamental law completes the constitution; it is adopted and modified by two-thirds of the votes cast in Parliament and in the Senate.

9. The fundamental law of the USE

The will to draft a brief constitution, so that it is accessible to all citizens, requires to refer many important provisions which, given their importance, cannot be included in a simple law, to a fundamental law.²⁶⁸

Below are some examples of provisions that could be included in the fundamental law.

Article 1^{er}. Article 1. The fundamental dispositions

1.4. The accession of new States

Provision

The fundamental law specifies the conditions for the accession of new States and fixes the partnerships that the USE, their member States and the regions may establish with the countries that are geographically, culturally or economically close.

Considered as European States, within the framework of the constitution and of this fundamental law: Andorra, Armenia, Austria, Belgium, Belarus, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, the Czech Republic, Denmark, including Greenland, Estonia, Finland, Georgia, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Kosovo, Liechtenstein, Lithuania, Latvia, Luxembourg, Malta, Moldova, Monaco, Montenegro, the Netherlands, Northern Macedonia, Norway, Poland, Portugal, Romania, San Marino, Serbia, Slovakia, Slovenia, Spain, Sweden, Switzerland, Ukraine, the United Kingdom, and the Vatican.

The government judges whether the candidacy is admissible according to the criteria of adhesion defined by the constitution and the fundamental law. The executive of the candidate State negotiates the terms of an accession agreement with the government of the USE; this regulates in particular the modalities of participation and representation of this State. The Parliament and the Senate decide on this request for membership by a majority of two thirds of the votes, after hearing the report of the government of the USE on the said request.

²⁶⁸ For a better understanding, the excerpt of the text of each article of the Constitution appears at the head of the chapter in normal type 11, the text of the fundamental law follows in *italics* 9.

Article 3. Sovereignty, subsidiarity and allocation of competences

The fundamental law allocates competences and lays down the system for the arbitration of disputes within the USE, as well as the sanctions necessary to maintain the unity of the USE.

Provision²⁶⁹

*The EU member States have exclusive*²⁷⁰ *competence in:*

1. *Foreign affairs and defence, including protection of the civilian population;*
2. *Citizenship;*
3. *Freedom of movement, passports, residency registration and identity cards, immigration, emigration and extradition;*
4. *Currency, money and coinage, weights and measures, and the determination of standards of time;*
5. *Customs, trade, transportation by road and railroads, maritime and waterways, space and cyberspace free circulation of goods, international commercial and currency exchanges, postal and telecommunications services*
9. *Industrial property rights, copyrights and publishing;*
- 9a. *Protection by the Federal Criminal Police Office against the dangers of international terrorism when a threat transcends the boundary of one region, when responsibility is not clearly assignable to the police authorities of any particular region or when the highest authority of an individual region requests the assumption of federal responsibility;*
10. *Cooperation between the Federation and the regions regarding:*
 - a) *Criminal police;*
 - b) *Protection of the free democratic basic order, existence and security of the USE or of a member State or a region, and*
 - c) *Protection against activities, within the federal territory, which, by the preparations for or the use of force, endanger the external interests of the USE;*
11. *Statistics for USE purposes;*
12. *The law on weapons and explosives, on the production and utilization of nuclear energy for peaceful purposes, the construction and operation of facilities serving such purposes, protection against hazards arising from the release of nuclear energy or from ionizing radiation, and the disposal of radioactive substances;*
18. *Higher education, science and disease control;*

²⁶⁹ These provisions are based on articles 70 to 74 of the *Grundgesetz*.

²⁷⁰ Considering the competences transferred by the member-States to the European Union, Economic and Monetary Union, the European Solidarity Mechanism and the European Central Bank.

19. Measures to control human and animal diseases dangerous to the public or which are transmissible, admission to the medical profession and to paramedic professions or occupations, as well as pharmacy law, on medicines, medical products, drugs, narcotics and poisons;

21. Maritime and coastal shipping, as well as navigational aids, inland navigation, meteorological services, sea routes and inland waterways used for general traffic;

22. Road traffic, motor transport, construction and maintenance of long-distance highways, as well as the collection of tolls for the use of public highways by vehicles and the allocation of the revenue;

23. Railways

24. The protection of nature.

The member State has exclusive legislative competence in:

5a. Safeguarding cultural assets against removal from the country;

6a The operation of railways entirely or predominantly owned by the Federation (federal railways), the construction, maintenance and operation of railway lines belonging to federal railways and the levying of charges for the use of these lines

8. The legal status of persons employed by the member State and by corporations under public law of the member State;

10. Cooperation between the member State and the regions concerning:

a) Criminal police,

b) Protection of the free democratic basic order, existence and security of the member State or of a region (protection of the constitution), and

c) Protection against activities within the territory of the member State which, by the use of force or preparations for the use of force, endanger the external interests of the member State, as well as the establishment of a Criminal Police Office and international action to combat crime;

11. Statistics for member State purposes;

13. Benefits for persons disabled by war and for dependents of deceased war victims as well as assistance to former prisoners of war.

The member State has concurrent legislative competence in the following field:

1. Civil law, criminal law, court organization and procedure (except for the law governing pre-trial detention), the legal profession, notaries and the provision of legal advice;

2. Registration of births, deaths and marriages;

3. The law of association;

4. The law relating to residence and establishment of foreigners;

5. Matters concerning refugees and expellees;

6. Public welfare (except for the law on social care homes);

7. War damage and reparations;

10. War graves and graves of other victims of war or despotism;

11. The law relating to economic matters (mining, industry, energy, crafts, trades, commerce, banking, stock exchanges and private insurance), except

- for the law on shop closing hours, restaurants, amusement arcades, display of persons, trade fairs, exhibitions and markets;*
- 12. Labour law, including the organization of enterprises, occupational health and safety and employment agencies, as well as social security, including unemployment insurance;*
- 13. The regulation of educational and training grants and the promotion of research;*
- 14. The law regarding expropriation, to the extent relevant to the competences of the USE or to the competing competences;*
- 15. The transfer of land, natural resources and means of production to public ownership or other forms of public enterprise;*
- 16. Prevention of the abuse of economic power;*
- 17. The promotion of agricultural production and forestry (except for the law on land consolidation), ensuring the adequacy of food supply, the importation and exportation of agricultural and forestry products, deep-sea and coastal fishing and coastal preservation;*
- 18. Urban real estate transactions, land law (except for laws regarding development fees), and the law on rental subsidies, homebuilding loan premiums;*
- 19a. The economic viability of hospitals and the regulation of hospital charges;*
- 20. The law on food products including animals used in their production, the law on alcohol and tobacco, essential commodities and feedstuffs as well as protective measures in connection with the marketing of agricultural and forest seeds and seedlings, the protection of plants against diseases and pests, as well as the protection of animals;*
- 24. Waste disposal, air pollution control, and noise abatement (except for the protection from noise associated with human activity);*
- 25. State liability;*
- 26. Medically assisted generation of human life, analysis and modification of genetic information as well as the regulation of organ, tissue and cell transplantation;*
- 27. The statutory rights and duties of civil servants of the regions, the municipalities and other corporations established under public law as well as of the judges in the regions, except for their career regulations, remuneration and pensions;*
- 28. Hunting*
- 29. The protection of nature and landscape management*
- 30. Land distribution*
- 31. Regional planning*
- 32. Management of water resources*
- 33. Admission to institutions of higher education.*

Competing legislative competence of the region

(1) On matters within the concurrent legislative power, the regions shall have power to legislate so long as and to the extent that the Federation has not exercised its legislative power by enacting a law.

(2) *The member States have the right to legislate, if and to the extent that the establishment of equivalent living conditions throughout the federal territory or the maintenance of legal or economic unity doesn't render federal regulation necessary in the national interest, on civil law, criminal law, court organization and procedure (except for the law governing pre-trial detention), the legal profession, notaries and the provision of legal advice; citizenship, the law of association, labor law, including the organization of enterprises, occupational health and safety and employment agencies, as well as social security, including unemployment insurance; the regulation of educational and training grants and the promotion of research; measures to combat human and animal diseases which pose a danger to the public or are communicable, admission to the medical profession and to ancillary professions or occupations, as well as the law on pharmacies, medicines, medical products, drugs, narcotics and poisons; the economic viability of hospitals and the regulation of hospital charges, the law on food products including animals used in their production, the law on alcohol and tobacco, essential commodities and feedstuffs as well as protective measures in connection with the marketing of agricultural and forest seeds and seedlings, the protection of plants against diseases and pests, as well as the protection of animals ; road traffic, motor transport, construction and maintenance of long-distance highways, as well as the collection of tolls for the use of public highways by vehicles and the allocation of the revenue; State liability; medically assisted generation of human life, analysis and modification of genetic information as well as the regulation of organ, tissue and cell transplantation.*

(3) *If the member State has made use of its power to legislate, the regions may enact laws at variance with this legislation with respect to:*

- *Hunting;*
- *Protection of nature and landscape management;*
- *Land distribution;*
- *Regional planning;*
- *Management of water resources;*
- *Admission to institutions of higher education and requirements for graduation in such institutions.*

(4) *A member State may decide that one of its laws is no longer necessary and may be replaced by regional law.*

Article 4. The social contract

4.1. Citizenship, rights and duties

The fundamental law states:

- the rights of USE citizens, including political, individual and diplomatic protection abroad, as well as their duties, in

particular fiscal, and possible national service, whether civilian or military;

- the status and powers of the USE Defender of the rights.

Provision

Every citizen is obliged to render personal services to the USE, the member State, the region and the municipality in which he or she resides and to contribute to public charges, to the extent laid down by their respective legislation.

The Defender of Rights ensures that rights and freedoms are respected by the administrations of the USE, the member States, regions, local authorities, public institutions and anybody with a public service mission or with regard to which the fundamental law attributes powers to it.

He may be seized, under the conditions provided for by law, by any person claiming to be injured by the operation of a public service or of an organization referred to above. He can seize office.

The law defines the attributions and the methods of intervention of the Defender of Rights. It determines the conditions under which he or she may be assisted by a college in the exercise of some of his or her powers.

The Defender of Rights is appointed by the President of the USE for a non-renewable five-year term. His or her functions are incompatible with those of a member of the government, of the Parliament or of the Senate of the UES. The other incompatibilities are fixed by the fundamental law.

The Defender of Rights reports annually on his or her activity to the President, to the Parliament and to the Senate of the USE.

4.3. The use of languages

The fundamental law fixes the use of languages in administrative matters, in the courts, in health care, in diplomacy and in the military.

Provision

EU official languages and Russian are used for relations with USE citizens, especially for the publication of legislation and other essential elements of information. The USE use furthermore the Ukrainian, Georgian, Armenian, Turkish and Arabic to communicate with its neighborhood.

4.4. Nationality and naturalization

The fundamental law sets the conditions for access to naturalization.

Provision

The nationality of USE acquired by birth and that acquired by naturalization have the same effect. The nationality of the USE may be lost, under the law of the USE.

Upon the formation of the USE, any citizen of a founding member State acquires the nationality of the USE. The same will apply when a new member State joins.

Article 5. The Executive power

5.1. The President

The President is elected for seven years by direct universal suffrage in two rounds of voting from among eligible USE citizens in accordance with the rules laid down by the fundamental law.

The fundamental law specifies and supplements the constitutional rules relating to the President, in particular by the measures to be taken in the event of the death, resignation or incapacity of the President to perform his duties.

Provision

The President is elected by an absolute majority of the votes cast. If this is not obtained on the first ballot, a second round is held on the fourteenth day following, in which only the two candidates obtaining the largest number of votes in the first ballot may stand. The poll is opened when convened by the government. The election of the President takes place at least twenty days and at most thirty-five days before the expiration of the powers of the President in office.

In case of vacancy of the presidency for any reason whatsoever, or if the government, acting by an absolute majority of its members, finds that he or she is unable to perform his or her duties, the functions of the President, with the exception of the organization of a referendum and of the dissolution of Parliament, are temporarily exercised by the government. In the event of a vacancy or when the impediment is declared permanent by the government, the election of the new President takes place, except in cases of circumstances outside one's control, at least twenty days and at most thirty-five days after the opening of the vacancy or the declaration of the definitive nature of the impediment.

If, within the seven days preceding the deadline for the submission of nominations, one of the persons who, less than thirty days before this date, has publicly announced his decision to be a candidate dies or is prevented

from doing so, the government may decide to postpone the election. If, before the first ballot, one of the candidates dies or is prevented, the government declares the postponement of the election. In the event of the death or incapacity of one of the two most favored candidates in the first round, the government declares that all the electoral operations must be carried out again; the same applies in the event of the death or incapacity of one of the two candidates who remained in the presence for the second round.²⁷¹ If the election must be postponed to a date after the expiry of the powers of the incumbent President, he or she remains in office until the proclamation of the successor.

No person may serve more than two consecutive terms as President.

No one may stand for election as President unless he or she has applied for and obtained a security clearance of the highest level.

The President is independent of the member States and does not carry out any other activity, whether remunerated or not.

The President presides over the government; through its arbitration, it ensures the proper functioning of public authorities as well as the continuity of USE. The President alone signs acts relating to the appointment and dismissal of the Prime minister, the organization of a referendum, the dissolution of the Parliament, the preservation of the independence of the USE, the integrity of their territory or the fulfilment of their international commitments, the referral to the Supreme Court, the appointment of the members of the Supreme Court, as well as the messages to the Parliament and to the Senate.

The President and the Prime minister appoint and dismiss ministers; they jointly sign the acts deliberated in the council of ministers. The President, the Prime minister and the responsible minister(s) sign acts not deliberated in the council of ministers.

The President promulgates the laws within fifteen days following the transmission to the government of the law finally adopted. He or she may, before the expiration of this period, request Parliament to reconsider the law or some of its articles. This new deliberation cannot be refused.

As head of the administration, the President oversees the enforcement of laws.

The President communicates with the Parliament and the Senate by messages which he or she causes to be read and which do not give rise to any debate, or by addressing the Parliament and the Senate meeting for that purpose, even out of session. His or her statement does not give rise to a debate or a vote.

He or she negotiates treaties and ratifies them, after obtaining the agreement of two thirds of the deputies and the senators. He or she is informed by the

²⁷¹ An alternative could be inspired by the XXVth amendment to the American constitution.

minister of Foreign Affairs of any negotiation leading to the conclusion of an international agreement not subject to ratification. He or she appoints consuls, ministers plenipotentiaries and, with the consent of the Senate, ambassadors. He or she accredits ambassadors and extraordinary envoys to foreign powers; foreign ambassadors and extraordinary envoys are accredited to him. He or she requests a foreign State to recall a representative who has become persona non grata. He or she asks foreign States to admit consuls appointed to exercise their functions. He or she admits and dismisses foreign consuls.

The decisions of the President in matters of defence are taken either in the defence council, which meets once or twice a year and relate to the military programming laws, which fix the general orientations and the five-year budgetary forecasts, and to the reforms of the structure of the armies, or in the weekly restricted defence and security council which deals with planned or ongoing operations, thematic issues or topical matters. These councils are chaired by the head of State. They bring together the Prime minister, the ministers concerned, intelligence officials and the chief of the Defence staff.

The President appoints and dismisses to civil and military posts determined by USE law. For general officers, senior civil servants and senior magistrates, its choice is subject to the approval of the Senate. Junior positions are assigned by merit by the government.

He or she informs the Parliament within 48 hours of the launch of a military operation, but the Parliament does not vote on its opportuneness. If the operation continues beyond 4 months, the Parliament votes to approve or refuses its extension. The minister of Defence regularly informs the defence commissions of both assemblies. These commissions have investigative powers in all areas, including intelligence.

With the authorization of the Parliament, he or she may engage USE troops abroad. If the USE are attacked or under imminent threat of attack, he or she alone may engage the troops alone but must inform the Parliament within 48 hours. If the commitment of armed troops lasts for more than 60 days, formal authorization from the Parliament is required.

In wartime, he or she commands the armed forces of the member States and may, if necessary, order the minister of Defence to requisition or take control of any company producing directly or indirectly material essential to the defence effort. He or she mobilizes the armed forces, gives them the order to fight and authorizes the signing of the armistice.

In the event of serious tension within a member State or between two or more member States, he or she may intervene to maintain law and order there and take command of the armed forces of that member State or of the member States concerned.

The President may submit to a referendum any bill relating to the organization of public powers, to reforms relating to the economic, social or environmental

policy and to the public services which contribute thereto, or tending to authorize the ratification of a treaty which, without being contrary to the constitution, would affect the functioning of the institutions. If the referendum is not adopted, no new proposal for a referendum on the same subject may be presented before the expiration of two years following the date of the poll.

The President may pronounce the dissolution of the Parliament. General elections take place at least twenty days and at most forty days after the dissolution. Parliament meets as of right on the second Thursday following its election. If this meeting takes place outside the period provided for the ordinary session, a session is automatically opened for a period of fifteen days. A new dissolution may not take place within one year of these elections.

Article 6. The Legislative power

The fundamental law specifies the rights and duties of parliamentarians and senators; it determines the parliamentary and senatorial committees, their competences and the rights of the groups formed within the two assemblies; it sets the rules for the presentation of draft laws and proposals before the Parliament or the Senate.

Provision

The President of Parliament and the President of the Senate are elected for the duration of the legislature. The plenary sessions of both assemblies are public. The full record of the debates is published in the Official Journal. The Parliament and the Senate as well as their commissions may sit in secret committee at the request of the Prime minister or of one tenth of its members.

The draft laws are deliberated in the council of ministers after consulting the Council of State, then deposited on the office of one of the two assemblies.

The committees collect the relevant information to carry out their monitoring and evaluation tasks.

Under the conditions provided by law, the president of an assembly can submit for an opinion to the Council of State, before its examination in committee, a draft law presented by one of the members of this assembly.

The discussion of draft laws and proposals for legislation take place in plenary session, at first reading, on the text adopted by the competent committee, and at second reading on the text transmitted by the other assembly.

Members of Parliament, of the Senate and of the government have the right of amendment. This right is exercised in plenary session or in commission according to the conditions fixed by the rules of the assemblies.

The government may oppose the examination of any amendment which has not been submitted to the competent commission.

Any draft laws and proposal for legislation is examined successively in the two assemblies.

The Parliament and the Senate may vote on resolutions. Motions for resolutions which the government considers to be of a nature to jeopardize its responsibility or to be containing injunctions against it are inadmissible and may not be placed on the agenda.

Parliamentary commissions have the power to investigate the executive and its agents, as well as the activities of any body of the USE. The person heard in commission testifies under oath and in public; he or she must answer all questions, failing which he or she may be accused of contempt of the legislative power, incurring a fine of up to € 10,000 and one year in prison.

No member of the Parliament or of the Senate may be prosecuted, sought, arrested, detained or judged on the basis of opinions or votes expressed by him or her in the exercising of his or her functions. No member of the Parliament or of the Senate may be the subject, in criminal or correctional matters, of an arrest or any other measure depriving or restricting liberty without the authorization of the office of the assembly whose is part. This authorization is not required in the event of a crime or of flagrante delicto or of final conviction. The detention, deprivation or restriction of liberty or the prosecution of a member of Parliament or of the Senate are suspended for the duration of the session if the assembly of which he or she is a member so requires. The latter meets as of right to allow a decision on such a request.

The Parliament and the Senate, as well as the parliamentarians, the senators and their families are protected and the commissions are assisted by a police service which has exclusive jurisdiction in the buildings of the Parliament and the Senate and which can intervene and investigate the of the whole of the USE.

6.1. The Parliament

The fundamental law organizes the election of the Parliament by direct universal suffrage, by single transferable ballot, within multi-member constituencies, with an electoral threshold of 5%. It contains the necessary provisions for balancing the current expenditure budget. It provides the USE with their own resources.

Provision

The Parliament is composed of eligible USE citizens, aged at least 25 years old and elected every five years by universal, direct, compulsory and secret suffrage, with one deputy per constituency. These have between one and two

million inhabitants. However, each member State has at least two deputies. The constituencies are determined by the member States, in accordance with the electoral law of the USE and on the basis of the latest census. The Parliament is endowed with the prerogatives of a people's chamber: to levy the tax, to vote the budget, to fix the contingent of the army, to take legislative initiatives. Members of Parliament cannot belong to the executive, legislative or judicial power of a member-State, or be a member of the executive or judicial power or of the Senate of the USE.

The Parliament meets as of right in an ordinary session which begins on the first working day of October and ends on the last working day of June. It freely organizes its sittings, by a majority of its members but the Prime minister may decide to hold additional days of sittings. The days and times of the sessions are determined by the rules of the assembly.

The Parliament is convened in extraordinary session at the request of the Prime minister or a majority of the parliamentarians, on a specific agenda. Where the extraordinary session is held at the request of parliamentarians, the decree closing the session is issued as soon as Parliament has exhausted the agenda for which it was convened and no later than twelve days after its meeting. Only the Prime Minister may request a new session before the expiry of the month following the closing decree. Except in cases where Parliament meets as of right, extraordinary sessions are opened and closed by decree of the President of the USE.

The draft laws relating to the budget for incomes, expenses and investments, as well as the draft laws establishing the contingent of the army of the USE are tabled by the government in the Parliament, which discusses them, amends them if necessary and votes on them. transmits them to the Senate, which discusses them, possibly amends them and votes on them. If the Senate amends a text, it is submitted to a second reading by Parliament, which has the final say.

6.2. The Senate

The fundamental law fixes the number of senators per member-State.

Provision

There are 3 possibilities:

1. *Each member-State is represented in the Senate by its head of State or government, or by its representative, minister or ambassador, permanent representative to the USE (cf. the European Council).*
2. *Each member State is represented in the Senate by a man and a woman (cf. the American Senate + gender equality).*

3. *The fundamental law* fixes the number of senators elected by each member State in proportion to the number of its citizens (cf. the Grundgesetz).

6.3. The voting and the petition

The fundamental law sets the rules for voting and petitions.

Provision

If a quarter of the member-States and 2% of citizens of the USE with the right to vote so request, the vote of the people, regions and member States shall be held within 100 days of the official publication of the act. The act submitted to the vote may be a law of the USE, a decree of the government of the USE or an international treaty. The latter has to be of indefinite duration, not subject to denunciation, providing for membership of an international organization and entailing an amendment to the legislation of the USE. The act submitted to vote is accepted when the majority of voters, the majority of regions and the majority of member States approve them.

Petitions are examined by the Committee on Petitions of the Parliament, which decides on their admissibility and is responsible for processing them.

6.5. The advisory bodies

The fundamental law fixes the attributions, the composition and the operating rules of the Council of the regions as well as of the Economic, social and environmental Council; it may make some of their opinions binding.

Provision

The Economic, Social and Environmental Council provides the government, Parliament and the Senate with opinions on draft laws, ordinances or decrees, as well as on legislative proposals submitted to it. A member of this Council may be appointed by it to present an opinion of the Council to the Parliament or the Senate, or to one of their commissions. The Council may be seized by way of petition under the conditions fixed by the fundamental law. After examining the petition, it informs the government, the Parliament and the Senate of the action it proposes to take.

Article 7. The Judiciary power

The fundamental law establishes the right of natural and legal persons, as well as institutions, to act before the Supreme Court; it fixes the attributions of the Council of State; it fixes the administrative and financial status of the magistrates of the

USE; it may establish other courts and it organizes the Council of the Judiciary. It organizes the Federal Courts and Tribunals which hear disciplinary disputes and appeals from persons linked to the USE by a public law relationship of service and loyalty, and the Courts and Tribunals hear crimes and offences relating to the security and defence of the USE.

Provision

The Council of the Judiciary comprises a section with jurisdiction over judges and a section with jurisdiction over prosecutors.

The section with jurisdiction over judges shall be presided over by the first president of the Court of Cassation. It also comprises five judges and one prosecutor, a State counselor designated by the Council of State, a lawyer and six qualified persons who belong neither to the Parliament, nor to the judicial order, nor to the administrative authorities. The President, the President of Parliament and the President of the Senate each appoint two qualified persons. It makes proposals for the appointment of judges to the Court of Cassation, for those of the first president of the Court of Appeal and for those of the president of the Court of First Instance. The other judges are appointed with the assent of the Senate. It rules as a disciplinary council for judges. It then includes, in addition to the above-mentioned members, the judge belonging to the section with jurisdiction over public prosecutors.

The section with jurisdiction over public prosecutors shall be presided over by the Public Prosecutor at the Court of Cassation. It also comprises five members of the Department of Public Prosecutions and one member of the judiciary, as well as the as the State counselor, the lawyer and the six qualified members of the section with jurisdiction over judges. It gives its opinion on appointments concerning prosecutors. It shall give its opinion on disciplinary measures affecting them. In addition to the above-mentioned members, it then comprises the public prosecutor belonging to the section with jurisdiction over judges.

The Council of the Judiciary meets in plenary session to respond to requests for opinions formulated by the President or the minister of Justice on the functioning of justice or to rule on questions relating to the ethics of judges. The plenary session is chaired by the First President of the Court of Cassation. His deputy is the public prosecutor at this court.

The Council of the Judiciary may be seized by a litigant under the conditions fixed by the USE law.

Article 8. International relations

The USE conduct relations with foreign States and international organizations by applying the principle of subsidiarity, by

practicing a global approach and by respecting the following principles and objectives: democracy, the rule of law, the universality and indivisibility of human rights and fundamental freedoms, respect for human dignity, equality, solidarity, those of the United Nations Charter and international law, and the fundamental law.

Provision

The USE promote fair and peaceful global governance, which ensures the maintenance of freedom of navigation in international waters, space and cyberspace, as well as the sustainable conservation of natural resources. The USE law sets the priorities in the international relations of the USE by placing in top of the list the maintenance of security in our neighborhood to the east and in the Mediterranean, then the calming of relations with Russia and China and then the mutual development of Africa and Europe. The USE and their member-States are part of the Atlantic Alliance, the European Union, the Schengen area, the European Monetary Union and the European Stability Mechanism.

8.1. Foreign Affairs

The President of the USE determines, in accordance with the principle of subsidiarity, the foreign policy of the USE, in all their fields of competence. The member-States and regions do the same in their areas of competence. The Prime Minister and the Minister of Foreign Affairs of the USE ensure, in accordance with the fundamental law, the coherence of the international relations of the USE, of their member-States and their regions with the foreign States and regions as well as with international organizations.²⁷²

Provision

Relations with third countries or international organizations, concerning the competences transferred to USE, are the responsibility of these. The USE take the place of the member States within NATO. In particular, the USE have the power to make treaties, to declare war, to conclude peace, to participate in agreements or to join international organizations with defensive purposes. They have the right of legation, both active and passive.

²⁷² This attribution of competences in international relations is inspired by the constitution and the practice of Switzerland and not by the *Grundgesetz* and German practice.

The international treaties binding the USE are negotiated by the minister of Foreign Affairs of the USE. They are subject to the approval of the Senate under the same conditions as the laws, then they are ratified by the President of the USE.

Member-States retain their international relations, including the right of legation, both active and passive, in respect of all matters within their competence. They have the right to delegate quality to USE to conclude, on their behalf, treaties relating to these matters. Member-States may not sign or ratify treaties which are in contradiction with the general policy of the USE, if the latter informs the member-State concerned of its reasoned opposition. The USE and the member-States coordinate their participation in international organizations and their diplomatic services. The treaties or parts of treaties concluded between member-States and third States, concerning the competences transferred to the USE, remain in force, in accordance with international law. However, they cannot be renewed or extended. Member-States are required to make their co-contracting parties aware of their status as members of the USE and to request them to repeal or revise such treaties by common accord. On the other hand, if the USE make a treaty with a third State, within its area of competence, the member-States accept that all the treaties relating to these matters, concluded with that State, are automatically abrogated.

The international personality of the USE, member-States and regions derives from their right to establish or maintain, within the limits of their competence, relations with foreign States and international organizations, to have a diplomatic and consular service and to receive foreign diplomatic and consular agents, and to conclude and ratify treaties, diplomatic instruments and other international agreements. However, all consuls are placed under the control of the government of the USE. However, all consuls are under the control of the government of the USE. No new consulate may be established by the member-States. The consuls of the USE exercise for the benefit of all the member-States. Once the consular service of the USE is in a position to represent the interests of all, member-States' consulates shall be gradually abolished.

Peace treaties, trade treaties, treaties or agreements relating to international organization, those which engage the public finances of USE, those which modify provisions of a legislative nature, those which relate to the status of persons, those which involve cession, exchange or addition of territory, can only be ratified or approved under a law of the USE. They do not take effect until they have been ratified and approved.

If the Supreme Court of the USE, seized in accordance with the fundamental law, judges that an international engagement contains a clause contrary to the constitution, the approval or the ratification of the international engagement in question cannot intervene, under penalty of nullity, only after revision of the constitution or clause. The government must immediately propose the revision of the constitution. The same is true if such a judgment

is made in connection with ratified international engagement. In any case, if the revision is not adopted, the government must immediately inform the other parties to the project of its withdrawal, or denounce the treaty.

8.5. Migrants, refugees and asylum seekers

The fundamental law fixes, in accordance with humanitarian principles, the welcoming of refugees and asylum seekers and immigration policy.

Provision

The USE, the member-States, the regions and the municipalities facilitate the integration of asylum seekers and immigrants in accordance with the principle of subsidiarity. Member-States may regulate the residence and establishment of foreigners according to local circumstances and respect for the principle of equality before the law of the USE. The government of the USE and those of the member-States may expel foreigners who compromise the external or internal security from the territory of the USE or from that of the member-State.

The USE may conclude agreements with European States which are bound by commitments identical to its own on asylum and the protection of human rights and fundamental freedoms, determining their respective competences for the examination of requests for asylum submitted to them.

However, even if the request does not fall within their competence under these agreements, the diplomatic, administrative or military authorities of the USE have the right to give asylum to any foreigner because he or she is in danger of death or inhuman treatment or because he or she is persecuted because of his or her action in favor of freedom.

The government can suspend or terminate any agreement or treaty that is not, or is inadequately, applied by the other party.

Article 9. Security and defence

9.1. Homeland security

The USE ensure personal, economic, environmental, food, physical, political, community and cyberspace security. To this end, the USE collect, in accordance with the fundamental law, data and information necessary for the prevention and prosecution of crimes and offences.

Provision

Member-States shall share information with the USE to ensure the prevention and prosecution of crime while respecting USE values and privacy.

The USE and the member-States provide a right to be forgotten online in order to ensure upon request the deletion of data after a certain time.

The USE establish a European Intelligence Service and a European Cyber Protection Agency. This protects the personal data of natural and legal persons, prevents the publication of false information and protects democracy.

The USE set up a European Police Service. It is supported by the European Intelligence Service and the European Cyber Protection Agency.

The ministers of the Interior of the member-States are responsible for calling conscripts to military or civil service.

9.2. Defence

The fundamental law fixes the additional and complementary missions of the army; it determines under what circumstances the armed forces can and must act on national territory; it fixes in general terms only, in order to preserve military secrecy, the organization of the Ministry of Defence of the USE and their armed forces, whose missions it determines.

It authorizes the USE Defence to own and the minister of Defence of USE to acquire, build and manage the infrastructure necessary for his department.

It organizes cooperation between the armed forces and other security services; it authorizes the intervention of USE army in support of other USE services, member-States and regions in a situation of internal crisis; it fixes the rules relating to the state of war, serious crisis, tension or defence and the safety of USE armed forces; it fixes possible derogations in such cases from the ordinary rules, in particular in legislative, judicial or internal and external security matters; it organizes the intervention of the army in the event of a particularly serious disaster, of natural origin or caused by man.

It organizes a national, military or civil service to which all citizens are possibly required.

Within the framework of the applicable international conventions, it fixes legal, financial, logistical and administrative questions arising from the temporary dispatch of USE military personnel abroad or the temporary stay of foreign military personnel in the USE, in particular as regards responsibility for case of damage, without derogating from the rights of USE citizens.

It allocates competence for the prosecution of penal or disciplinary infractions.

It regulates the import and export of military equipment and goods, as well as essential materials and consumables, including food, medicines, health care equipment, combustibles and motor fuels.

Provision

Defence policy includes defence diplomacy, the security and defence aspects of foreign affairs, the raising of armed forces, the determination of their composition and organization, the definition of the military capabilities necessary to face the threats and challenges, the administration, command, supply and equipment of the forces, the decision to place them on a state of readiness and to use them, the financing of defence preparations and armed operations, the acquisition of buildings, movable property, consumable goods and services necessary for Defence. The member-States participate in the definition of the defence policy of the USE through the Senate's contribution to the drafting of legislation, the vote on the budget and the vote on the contingent.

The armed forces of the USE include the land, sea, air, space and cyberspace armies, as well as border guards, coastguards and the gendarmerie. Each army includes reserve troops. In addition to the forces organized by, and under the responsibility of the USE, there are also armed forces, possibly organized by the member-States. The member-State which organizes it takes over the cost of it.

The minister of Defence of the USE fixes the detailed organization of the armed forces and determines the mission of each body or unit, as well as the human and material resources assigned to them. He or she acquires, lets construct or arrange the infrastructure and facilities for the Defence of USE, which include in particular headquarters, barracks, military ports, airfields, firing ranges, arsenals, depots and exercise grounds. He or she recruits, administers, hosts, equips, arms, supplies, trains, instructs and trains active and reserve military personnel of the USE. He or she fixes the rules on the training, equipment and intervention of reservists who may carry weapons and are specially trained to supplement the security system that faces

terrorism, to strengthen collective resilience in the event of crisis, particularly in the event of an attack and to reinforce the bond of trust between the USE and their citizens. He or she prepares and deploys the active and reserve armed forces. He or she acquires equipment and armaments for the armed forces of the member-States, aligns the standards, procedures, training and other processes of these forces with those of the USE, controls their preparation and their interoperability with those of the USE; if this is the case, he or she may pay for all or part of the costs of the member-State which organizes armed forces.

Public services, including Defence, provide mutual assistance. This may involve intervention in the context of fire-fighting, provision of equipment or infrastructure, cybersecurity, surveillance of airspace, assistance in the context of rescue services, support to civil authorities facing a migration crisis, etc. Mutual assistance does not intervene spontaneously, but supposes a request in this sense for another service. The service that has been requested is obliged to provide the requested assistance.

As the world has become increasingly uncertain and dangerous since 2001, the executive, legislative and judicial powers of the USE are preparing for any eventuality, from enhanced maintaining public order to the state of defence. During these exceptional circumstances, the courts and tribunals control in priority the action of the government and the military authorities, in order to pronounce their decisions if possible during these exceptional circumstances and not afterwards.

Within the USE and the member-States, the armed forces may be placed at the service of the civil authorities in order to reinforce the maintenance or restoration of public order; they only intervene in this case when the police force is no longer sufficient and when the civil authority requests the support of the army to, in particular, protect people and property or help the population in the event of a natural or man-made disaster; they provide support to civil authorities when they face a serious threat to internal security or other exceptional situations.

The state of tension refers to a period of international tension, a war involving the USE, a major terrorist action against the USE, which can, with a high probability, lead to the promulgation of the state of defence and which requires measures to increase defence capabilities.

A state of crisis is the extraordinary, unforeseen, urgent and critical danger engendered by armed conflict, natural or man-made disaster, or an imminent risk of such circumstances, which threatens the existence or the constitutional order of the USE, of a member-State or a region. In response, the government of the USE may involve all available forces, from the USE, from the member-States and from the regions, first of all the police and security forces, as well as armed forces as a last resort. It immediately informs Parliament.

The declaration of a state of tension or crisis by the President of the USE enables Parliament, on the proposal of the President of the USE, to pass

emergency legislation, which is not necessarily based on the constitution and which is not likely to be subject to voting. Such legislation is only applicable for one year.

The state of defence is declared by the President when the USE are subject to armed aggression of a certain scale or when such an aggression is imminent. The declaration of the state of defence allows the armed forces to intervene on the national territory. It allows the President and the government to intervene in all matters within the competence of the member-States or regions, under the control of the Parliament and the judiciary of the USE, in order to prevent unjustified infringements of individual, personal, civil and economic freedoms such as freedom of movement, of opinion, of expression, of the press and of political or syndical organizations. The freedoms of trade, industry and the use of property may be restricted, either by the President in cases of extreme urgency, or by the government, if the need arises for defence purposes.

When the institutions of the USE, their independence, their territorial integrity or the fulfillment of their international commitments are under very serious threat, the state of siege may be declared by the council of ministers, for a period of thirty days at most. Its extension beyond thirty days can only be authorized by Parliament. The state of siege entails the surrender to the military authorities of all powers, except that of the President, the power of oversight of the Parliament and the judiciary. In particular, the army maintains order in place of or in cooperation with the police. It ensures the control of subversive groups which may disrupt the execution of the missions of the armed forces or aid the enemy and, if necessary, put such groups out of action. It primarily ensures its security and that of defence or vital installations. The Parliament meets as of right as soon as the state of siege is proclaimed; it cannot be dissolved during the state of siege.

When the institutions of the UES, their independence, their territorial integrity or the fulfillment of their international commitments are threatened in such a serious and immediate way that the regular functioning of the public authorities is interrupted, the President proclaims the state of siege for thirty days. If necessary, he or she takes alone the measures required by these circumstances, he or she directly informs European citizens and, if possible, Parliament.

The measures taken during the state of siege must be inspired by the will to return to constitutional public authorities, as soon as possible, the means to accomplish their mission. After thirty days of state of siege, the Supreme Court of the USE can be seized by the president of the Parliament, the president of the Senate, a quarter of the deputies or a quarter of the senators, for the purpose of examining if the institutions of the USE, their independence, the integrity of their territory or the execution of their international commitments are still under serious and immediate threat and whether the regular functioning of the constitutional public authorities is still interrupted. The Supreme Court decides in the shortest possible time by a public notice. It

automatically carries out this examination and decides again under the same conditions at the end of sixty days of state of siege and at any time of its choice beyond this period.

If the above circumstances prevent the convocation of the Parliament, the government adopts the necessary ordinances to safeguard the country, even without a constitutional basis or the consent of Parliament. These ordinances apply if the USE are in such grave danger that it would be impossible to deal with them in accordance with legislative procedures. In the event that the government is no longer able to meet, the competence to adopt such ordinances lies with the President, and failing that, with the governments of the member-States. These ordinances end as soon as the normal functioning of the institutions, and in particular the legislative procedure, is restored.

From the state of tension and beyond, the government may authorize the minister of Defence or his delegate to mobilize the economy, the companies and the workforce, in particular in the defence industrial and technological base; to use or requisition what the USE need to be able to cope with the situation, including member-State officials and civil transport infrastructure such as motorways, roads, railways, airports, pipelines, telecommunications, etc., as well as to prepare for states of crisis, tension or defence, in particular by awarding deferred contracts. The USE government protects the economy from inflation; it can also set prices and wages, allocate personnel, housing, materials and equipment, give priority to government orders and run the economy. To reconvert the economy after those circumstances, it may take measures of economic control and adjustment and to this end requisition civil servants of member-States. All measures taken under this paragraph are supervised by the courts and tribunals.

Article 10. Home, Economic, Social and Environmental Affairs

10.3. Labour law, social security, social mobility and social dialogue

The fundamental law fixes the rules on labour law, social security, social mobility and social consultation.

Provision

Public authorities, employers' associations and trade unions interact, from the local level to the USE. These, in accordance with the principle of subsidiarity, guarantee freedom of association, establish institutions and procedures to settle labor disputes, fix wages, hours and other working conditions, organize labor inspection, social conciliation, arbitration procedures and labour courts. The USE promote the widest possible dissemination of information on job vacancies and requests, on staff training

and on vocational guidance. Labour services must be as efficient as possible. Social insurance covers sickness, accidents, old age, descendants, disability and unemployment.

The USE ensure the right of access to decent working conditions and protect the right of workers and employers to organize in unions and in transnational trade unions; they promote consultation between them in accordance with the method used by the International Labour Organization. The USE promote social mobility.

Article 11. Public finances and the budget

The fundamental law fixes the rules concerning the basis, the rate and the methods of collection of all kinds of taxes, as well as the rules relating to investments, subsidies and asset accounts. It fixes the budgetary principles to be observed, contains the provisions necessary to balance the current expenditure budget, as well as the rules relating to the execution and control of the budget. It establishes administrative and budgetary control within the administrations of the USE.

Provision

The USE budget considers the economic policy of the USE. It must be balanced for current expenditure. Investments that are expected to generate higher tax revenues can be financed through borrowing.

The own resources of the USE comprise tax revenue, which the member-States collect for the USE and which is calculated on the basis of the common tax base for the various taxes of the member-States, while avoiding double taxation.²⁷³

Taxes on consumption are levied at the place of consumption. Taxes on labour income and on pollution are levied at the place of production. For other incomes, they are levied at the taxpayer's place of residence. Taxes on real estate assets are levied at the place where the property is located. Taxes on movable assets are levied at the taxpayer's place of residence.

During the first two parliamentary terms, the budget for current expenditure of USE is balanced by levying a contribution from the member-States, the amount of which varies according to their contributory capacity and is

²⁷³ Avoiding double taxation should not lead to excessive centralization of power, which would be the antithesis of the federal principle. To prevent States from lowering the tax rate in order to attract wealthy taxpayers, the United States Congress established in 1926 a tax on inheritance tax at a higher rate than that of the States, with the duties collected by the States being deducted from the federal tax, thus eliminating fiscal dumping.

calculated in proportion to the respective amounts of gross domestic product of these States.

The USE may grant subsidies to promote the achievement of their goals, in particular to their member-States. Subsidies granted by the government of the USE to the member-States may consist of free donations, avoiding discrimination between the various member-States, or payments for services rendered.

List of abbreviations and acronyms

AISBL	<i>Association internationale sans but lucrative</i> - International non-profit association
Athena	Financing mechanism for European Union (EU) military operations
BENELUX	Belgium, the Netherlands, Luxemburg
BSL4	Biosafety Level 4 laboratory
CARD	Coordinated annual defense review
CDP	EU Capacity Development Plan
CFSP	Common Foreign and Security Policy
CSDP	Common Security and Defence Policy
DI&TB	Defense industrial and technological base
ECB	European Central Bank
ECSC	European Coal and Steel Community
EDA	European Defence Agency
EDC	European Defence Community
EDF	European Defence Fund
EDIDP	European defence industrial development programme
EEA	European Economic Area
EEAS	European External Action Service
EEC	European Economic Community
EII	European intervention initiative
EMU	Economic and Monetary Union
EPC	European Political Community
ESDC	European Security and Defence College
ESDI	European Security and Defence Identity
ESDP	European security and defense policy
EU	European Union
EUBG	EU Battle groups
EUCJ	European Court of Justice
EUGS	European Union Global Strategy
EUISS	EU Institute for Security Studies
EUMC	EU Military Committee
EUMS	European Military Staff
Euratom	European Atomic Energy Community
€	euro

FEDef	European Defense Fund
GDP	Gross domestic product
GPS	Global Positioning System
GSM	<i>Groupe spéciale mobile</i> , originally means the Mobile Task Force established in 1982 by the European Conference of Postal and Telecommunications Administrations to define standards for mobile telephony.
HGV	Hypersonic glide vehicle
IntCen	Intelligence Center of the EEAS
INPA	International non-profit association
JCPOA	The Joint Comprehensive Plan of Action - the Vienna agreement of 2015 on the Iranian nuclear issue
MPCC	Military Planning and Conduct Capability
NATO	North Atlantic Treaty Organization
NDPP	NATO Defence Planning Process
OCCAr	<i>Organisation conjointe de coopération en matière d'armement</i> - Joint Organisation for Armament Cooperation
OECD	Organization for Economic Co-operation and Development
OEEC	Organization for European Economic Cooperation
OPCEN	EU Operations Centre
PESCO	Permanent structured cooperation
RMS	Royal Military School - École royale militaire (ERM), Brussels, Belgium
SACEUR	Supreme Allied Commander Europe
SatCen	Satellite Centre of the EU
S€D	European Society for Defence INPO – Société européenne de défense AISBL
SitCen	Situation Centre
S&TDR	Scientific and technological defense research
TFEU	Treaty on the Functioning of the European Union
TEU	Treaty on European Union
USA	United States of America

USE
UNESCO

United States of Europe
United Nations Educational, Scientific and
Cultural Organization

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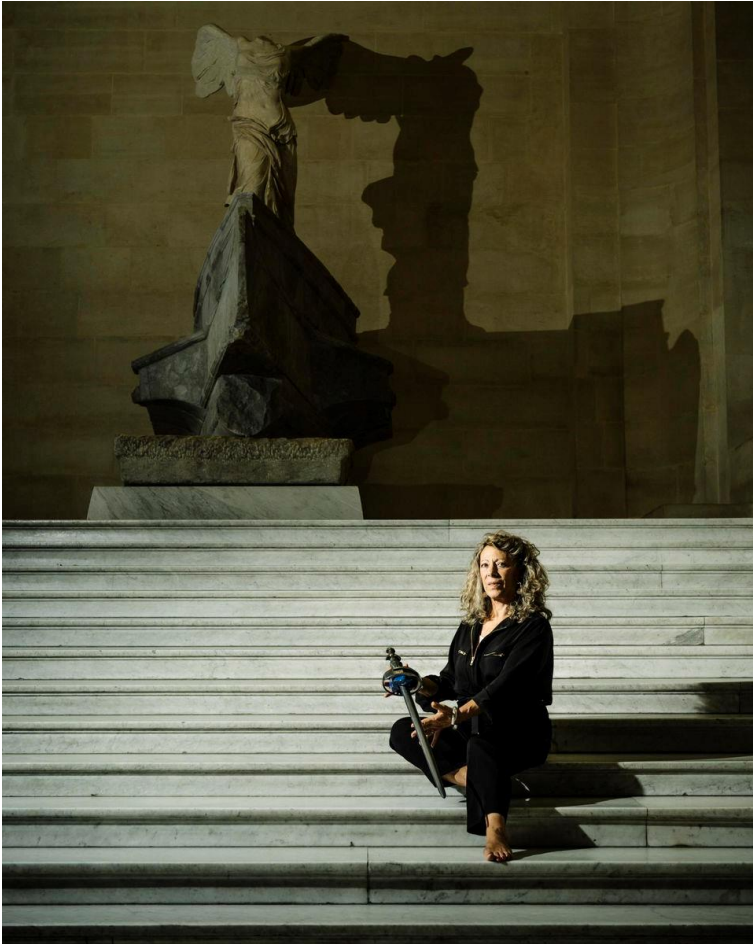
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The abduction of Europe by Zeus, as seen by the potter Asteas



or inspired by a Spartan mosaic, such as  the € of Cyprus.

The blue flag with twelve golden stars  of the Council of Europe.

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