

Brexit. A Postscript

The European Union is facing today a major challenge since its creation. Brexit could mean not only the reversal of the steady enlargement of its dimensions – from 6 to 28 member-states – but also the beginning of an inexorable decline leading to its disintegration. However, few today seem to recollect that it was precisely the British who were the first to elaborate the political culture which has inspired the European construction – democracy and federalism – and first who tried to realize – in June 1940 – a European federation on the basis of the Anglo-French Union.

Following the entry of the United Kingdom, the European Community was never the same again. The actual political phase of the process of European integration was inaugurated, and enlargement reinforced the feeling in European citizens of being part of a functioning European political system. The British brought to the Community citadel the specific values of their political tradition, such as representative democracy and federalism. It was therefore no coincidence that the Paris summit of December 9–10, 1974 – the official entry of the United Kingdom took place on January 22, 1972 – decided the direct elections of the European Parliament in 1979, and the creation of the European Council that it would have to meet at least three times a year.

The foundations of the fundamental structure of the federal government were thus laid down. A legislative power divided into two chambers – the low, representing the citizens on the basis of a proportional criterion, and the high, representing the states on the basis of the equal principle, regardless of their size – a government (the Commission), and a Court of Justice, which had already defined a new legal order of the European one above that of the member states, and a constituent process through constitutionalizing the rules laid down in the treaties. Since the 1960s, the Court in fact developed and supported an intense tradition of democratic constitutionalism, generating institutional changes with major consequences for civil society and public policy reform throughout Europe.

The British taught Continental Europeans that the creation of the constitutional organs characteristic of a federation cannot be achieved – as the functionalists and the theologians of spill over imagined – by means of a gradual transfer of powers from the states to the Union, but by a revolutionary leap. The fact is that the transition from a mainly intergovernmental decisional level to a real governmental one could not be automatic or painless.

The functionalist strategy of promoting spillover from one economic sector to another has failed to achieve a steady progress towards a federal union, as Monnet and other functionalists had hoped. On the other hand, the unanticipated results of ‘integration through law’ have included over-regulation and an institutional framework which is too rigid to allow significant policy and institutional innovations. Thus, integration by spillover has produced sub-optimal policies and a steady loss of legitimacy by the supranational institutions. Both the functionalist approach and the classic Community method became obsolete. These methods failed, not just due to a lack of popular support, but because they proved unable to deliver the public goods which Europeans expect to receive from a fully-fledged government.

The completion of the process of European integration towards a democratic political union seems to be no longer just one problem among many others, but the fundamental question of our time, on which depends the realization of democracy beyond the nation state or its defeat. Without a democratic reform of its institutions, the European Union would remain little more than a free-trade zone. The European

institutions, conceived as a unity of a future democratic state, do not yet have a fully democratic character. In reality, the decisions on which the fate of the European peoples depends are fundamentally taken by the European Council.

Within the European Union, the Council embodies the confederal principle, while the Parliament embodies the federal one. In fact, the European Parliament seems to have historically played the role of the democratic transformation factor of the Union, developing the tendency to affirm a new principle of legitimacy – international democracy – together with the old legitimacy, which is based on established powers. In this regard, it is possible to compare the process of the democratization of the European Union to the historical transition from absolute monarchy to parliamentary and constitutional monarchy, which took place in Europe from the eighteenth to the nineteenth centuries. The role of Spinelli – who much owed to British political culture – within the European Parliament was precisely that of balancing the powers between the Council and Parliament. The day a constitutional treaty ratifies the full co-decision between the Council and Parliament, and within the Council the decisions are taken by a simple majority, the European federation will be born, regardless of the number and weight of the competences that will be transferred to it. Once a permanent institutional framework has been defined, both exclusive and concurring competences can be added progressively.

Yet, Europe that the United Kingdom left on 31 January 2020 is not the same. The introduction of the Recovery Fund will produce fundamental changes in its constitutional character. Also, the Atlantic system that is emerging from the present epochal crisis and from the end of the Trump parenthesis might debunk the future global strategic role of the United Kingdom. In view of the possible secession of Scotland (which could join at a later stage the European Union) and Ulster (which could come to form an Irish federation with the Republic of Ireland), England alone might end up as the nut in a nutcracker, and disappear from the world map of power. In view of the resumption of negotiations between the new Biden Administration and the European Union for the creation of a ‘more perfect’ Atlantic Union – in accordance with the Kennedy’s and Obama’s designs – and the creation of an Atlantic single market on the model of the European one, the only possible active international role for the United Kingdom is within the European Union, as facilitator. This has been the historical role played by Great Britain since 1973, in view also of the fact that from the Suez Crisis there has not been an independent (from Washington) British foreign policy. The fact is that American Administrations allowed European States to play an independent international role – as the Helsinki Conference exemplifies – only within a European context.

The paradox is that, in order to save its economy from progressive international marginalization and preserve the constitutional integrity of the country, the United Kingdom might be forced to re-join not just the Union as such but its federal nucleus, which is consolidating within it, and will be constituted by France, Germany, and a number of other member states.

It is inevitable that this might happen through a second referendum, since in the absence of a written constitution (therefore rigid), a dramatic change in the British ‘material’ constitution (flexible) cannot be done by a mere parliamentary majority, but only by a popular majority. This may happen on the pressure exercised by the secessionist will of the Scottish and Northern Irish people. A transversal parliamentary majority might then be able to force the Government to call for a second referendum on the contents of

the trade and political agreements signed with the European Union, or an early general election, fought on the constitutional issue.

Brexit is not over. It is just a (necessary) stage in the process of creation of the European Federation. In which the British people are playing a vital and major role.

For an analysis, see: Paul J. J. Welfens, *An Accidental Brexit: New EU and Transatlantic Economic Perspectives* (London: Palgrave Macmillan, 2017); Philip B. B. Whyman, *The Economics of Brexit: A Cost-Benefit Analysis of the UK's Economic Relationship with the EU* (London: Palgrave Macmillan, 2017); Francis B. Jacobs, *The EU after Brexit: Institutional and Policy Implications* (New York: Palgrave Pivot, 2018); Andrea Bosco, *Democracy, Federalism, the European Revolution and Global Governance* (Cambridge: Cambridge Scholars Publishing, 2020).