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On December 1st, 2010 the Lisbon Treaty, at the end of eight long and extremely difficult years of proposals, rejections and defeats, finally came into force. Ultimately, however, the outcome of this tortured process is commensurate neither with the initial expectations of the Treaty, nor with the considerable effort that has been expended on it. The 27-member EU may have equipped itself with a more rational framework for managing its ordinary affairs, but it has also shown that it now has no leeway for further revisions, to say nothing of ambitious political projects. Thus, Europe has seemingly entered a new chapter, but only to show that, in the wake of the creation of the single currency, German reunification and EU enlargement, the European project has ground to a halt in a market-based cooperation and integration agreement between heterogeneous states that have no wish to relinquish their sovereignty and still hope that globalisation can be tackled using instruments of national power and intergovernmental institutions.

In the political framework of the 27-member Union, there is no real will among the governments to propose ambitious objectives, even though this is what the economic and political situation is crying out for. And this means that it is no longer possible to trust in the possibility of a federal evolution of the EU – the same possibility that the founding fathers of the first Communities set such great store by, and which underlay the philosophy of advancing by small steps. Unfortunately, those who hope the Lisbon Treaty offers a chance of developing new policies that will give Europe fresh impetus, are deluding themselves. This was made quite clear by the German Constitutional Court last July, when it presented, with stark clarity, the choice now facing us: either to maintain the current structure, which (albeit in many areas outstanding for the level of integration reached) remains basically intergovernmental in character, or to re-start the European project along lines that will lead, through an explicit constituent act, to the creation of a true federal state (a process, we would add, that must obviously be initiated by a small core group of countries).

The *Bundesverfassungsgericht* was particularly categorical on one point, which should provide food for thought for anyone who really cares about Europe's future and believes in the need to breathe fresh life into the project for European political unity. The Court made it very clear that the EU can no longer be transformed gradually, simply attributing it with the key political competences on which a state's sovereignty is built yet without radically altering its very nature. More precisely, the Court recalled the fact that the current institutional balance of the EU – in which the member states, in the absence of a level of sovereign European power legitimised and controlled by the citizens, remain "masters of the Treaties" – precludes the "communitisation" of fundamental areas (such as defence, for example). All competences related to the key areas of political life must remain in the hands of the national governments, and at European level can only be coordinated within the purely intergovernmental framework, through application of the unanimity rule. In other words, it is not acceptable, in these areas, to introduce majority voting within the Council, thereby sidestepping the need for explicit consultation of the member states, and of their parliaments in particular: indeed, to do this would undermine the citizens' right to participate, directly or through their legitimate representatives, in the process of making the choices that really affect their future and would be an intolerable violation of democratic principles. Indeed, as recalled indirectly by the German Constitutional Court, in a confederal framework the states' right of veto is a structural prerogative; it would take the creation of a federal state equipped with a bicameral parliament to overcome it.

Both the functioning of the European Union and its scope for transformation are thus decisively conditioned and restricted by the fact that the EU is, basically, an international organisation effectively governed by the European Council and by the Council of Ministers, which hold executive and legislative powers but are not subject to the control of any other European institutions (and indeed actually prevent both the Commission and the European Parliament from exercising genuinely political functions). While this does not make the European federal state an impossible objective, it does mean that its creation will demand a deliberate and explicit break with the existing rules.

The European federation is not a project that can be decided by the representatives of the member states within the EU institutions, or by the states acting under the ordinary Treaty revision procedure; it is, instead, one that will have to be adopted by the citizens outside the framework of the mechanisms provided for by current national and Community law, through an explicit founding act. Indeed, the will to create an entirely new European political system will have to emerge – a will that cannot be considered implicit in the erosions of national sovereignty that the European citizens have accepted through their national parliaments' ratifications of the various Treaties during the course of the European unification process. The founding of a new power, which is what is called for now, will instead require that the citizens take back their constituent power, in order to exercise it in a new framework. This, in the Court's view, is the only solution capable of avoiding a "suspension" of the democratic rules.

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In the light of the Lisbon Treaty's traumatic birth, it is practically impossible to underestimate, or ignore, the warning issued by the German Constitutional Court, whose ruling provides a reminder not just of the constitutional restrictions to which Germany is subject in the sphere of European policy, but also, and above all, of the very real problem that is the nature of the process of European integration: for too long now both the eurosceptics and the champions of European unity, for opposing reasons, have exaggerated the supranational traits and potential of the current EU; but the hope that the erosions of sovereignty thus far agreed between the European states has already nudged them in the direction of a federation is, unfortunately, an unfounded one. It will take a strong act of political will to change the destiny of the Europeans and the responsibility for accomplishing this act clearly rests with Europe's founding member states, particularly France, Germany and Italy, which must share the blame for not wanting to take this step before now.

"While the Europeans are busy meeting and debating, the rest of the world is getting on with the business of growing, investing, innovating and trading, and is gradually overtaking Europe. This does not have to be Europe's destiny, but unless there is a profound change in Europe, it is its most likely one". This view, recently expressed by Venezuelan economist Moisés Naim, among the many we could have cited, accurately sums up our continent's prospects. Anyone who manages to avoid being blinded by empty nationalistic sentiments can see that the profound change Europe needs is to become a federation. Today, without the excuse of having to make the entry into force of the new Treaty a priority, and following the German Court's warning, there can be no more pretending not to know how to go about achieving this.

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