



The Case for a Federal Europe

**FEDERICO OTTAVIO REHO
AND DALIBOR ROHAC**

MAY 2017

Executive Summary

While conservatives frequently offer trenchant criticisms of the European Union (EU), they are short on constructive suggestions about how the European project should be reformed. The tradition of international federalism, which exists in free-market thought, can be a source of such a reform agenda. Understood properly, a federalization of the EU does not mean an unqualified transfer of powers to European institutions. Instead, federalism provides a framework through assigning authority to different levels of government. In practice, that would mean strengthening the EU in a limited number of areas to provide

essential Europe-wide services—foreign policy and defense, economic governance within the eurozone and the single market, and border protection and asylum policy—while repatriating a long list of powers back to member states. A federalist approach thus offers substantial promise in addressing the EU’s central policy challenges and relieving the tensions brought about by the block’s protracted crises. Conservatives and classical liberals should embrace international federalism as a way to constrain the power and size of government. That could provide a new focal point for a reinvigoration of center-right political platforms across Europe.

The Case for a Federal Europe

FEDERICO OTTAVIO REHO AND DALIBOR ROHAC

Most conservatives in the English-speaking world look at the EU with a deep-seated suspicion. Former US Ambassador to the United Nations and American Enterprise Institute Senior Fellow John Bolton writes:

Since the 1957 Treaty of Rome, EU institutions and their unelected bureaucrats have grown steadily in power. Many of the EU's earliest advocates always sought full Western European political integration, with the "common market" merely a way station toward "ever closer union," meaning, ultimately, a superstate.¹

"The present EU philosophical framework is, ultimately, incompatible with liberal democracy," writes the Hudson Institute's John Fonte.² And according to the libertarian Member of European Parliament Daniel Hannan, the EU is simply "a corporatist racket."³

The EU's critics are less vocal on the question of *how exactly* the EU should be reformed. At most, they claim that nation-states that reclaim their sovereignty from Brussels would still be committed to free trade and willing to cooperate on other matters of mutual interest. However, successful international cooperation does not take place on an ad hoc basis in an institutional vacuum. Democratic governments frequently develop intricate institutional structures to sustain cooperation and joint decision-making over time.

The calls for dismantling the EU and returning to a system of nation-states also rub against the grain of conservative instincts. Whatever one thinks of the EU, Europe is currently living through the longest sustained period of peace in its history. The continent has become more economically integrated and more democratic than ever before. Euroskeptics will certainly argue that those achievements have little to do

with the process of European integration—or perhaps that they have materialized in spite of it. They may have a point: Adjudicating such complex questions is notoriously difficult in history and social sciences. But that is exactly what leads conservatives in other contexts to exercise restraint in the character and scale of policy shifts they advocate. Advocating abrupt, almost revolutionary, changes to an international political order that seems to have served Europe quite well cannot therefore be a congruent part of a truly conservative agenda.

To address such shortcomings of the contemporary conservative and libertarian discussions of the EU, this paper outlines an alternative intellectual framework for the center-right,⁴ one that relies on an explicit account of institutional governance, which was once commonplace among classical liberal and conservative thinkers: *international federalism*,⁵ or the division of political power among different levels of government—local, national, and supranational—within an encompassing system of constitutional rules. Given that federalism as a political system is a quintessentially American creation, the misunderstandings and mistrust that its European version inspires on the American side of the Atlantic—most notably among small-government conservatives—are perplexing. After all, the most committed Europeans believe that they are trying to forge among their states a "union in diversity" inspired by the one created by the American Founding Fathers in 1789.

To be sure, in the European context, "federalism" has taken on a connotation that is distinct from its original American meaning. More often than not, self-identified European federalists make unqualified calls for the transfer of political authority to Brussels. Partly as a consequence, in recent years the EU has been mired in a crisis of trust of unusual

length and scope. The legitimacy of its institutions is being questioned, and anti-EU forces are on the rise in many countries. That makes a reappraisal of the European project from the perspective of traditional federalism all the more important. A centralized European superstate is utopian, as many conservatives rightly point out. At the same time, an unqualified rejection of the European project and a return to a continent of nation-states that do not pool their sovereignty in any form risks undoing some of the EU's real achievements.

In contrast to the United States, there was no big federalizing moment at the beginning of European integration, when the founders had to fully articulate their political vision of an integrated Europe and agree on a stable constitutional settlement.

This essay outlines an alternative path. It does not call for simply preserving the status quo, which departs from the federalist vision in a number of important respects. Rather, it calls for a profound institutional reform that would repatriate substantial powers to member states while simultaneously empowering the common European institutions to

deliver a small number of critical Europe-wide public goods, including a truly competitive single market, a coherent foreign and security policy, and border protection and asylum policy.

The Meaning of Federalism

In contrast to the United States, there was no big federalizing moment at the beginning of European integration, when the founders had to fully articulate their political vision of an integrated Europe and agree on a stable constitutional settlement.⁶ The European project instead developed as a “process” for which “ever closer union” and federalism were nothing more than regulative ideals, not precise constitutional blueprints. Sixty years later, that ambiguity seems less and less tenable because it leaves all pro-Europeans open to the accusation that their ultimate goal is to unify the continent within a state-like polity similar to those that unified the various European nations in past centuries. Although many self-styled European federalists would recognize that accusation as faithfully reflecting their ultimate political aim, that is emphatically *not* the proper or historical meaning of federalism.

While the modern state posits itself as a Leviathan—a sovereign with ultimate and supreme power over everything—the most striking feature of a federal polity is the dissolution of sovereignty within “a regime that enables people to be first their own governors” and where “minimal emphasis is placed upon command and control” by public powers.⁷ As one of the foremost scholars of American federalism poignantly states, in its deepest sense a federal system of governance means that the government does not govern, but “society governs itself for itself.”⁸ At an institutional level, that is accomplished by fragmenting powers among multiple units of government, each acting autonomously in its respective sphere of authority so that none has ultimate and supreme power. It is reinforced by the principle that all public powers should be exercised as closely as possible to the individuals who bear their consequences to ensure not only wide participation and accountability,

but also wide regulatory competition among the different centers of power.⁹

Most importantly, in a properly federal system the role of public powers is only residual, because the preferred instrument of collective action is not coercive government intervention, but voluntary agreements among free individuals and groups. In other words, federalism entails an insistence on individual freedom and responsibility. It is in favor of voluntary cooperation in solving collective problems and against coercive state intervention. No contemporary federal state fully follows those principles in its institutional practice. During the 19th and 20th centuries all federal states experienced a secular trend toward centralization that strengthened the federal level at the expense of the federated entities. In the United States, that trend was accelerated, if not triggered, in the 1860s by the Civil War.¹⁰ Constructed as a model of “competitive federalism,” in which autonomous units of government competed and disciplined each other, the United States evolved toward a form of “collusive or cartel federalism” promoted and guaranteed from Washington.¹¹ Today’s United States that resulted from such creeping centralization is surely the wrong model for a federal Europe. A more authentic, decentralized, and competitive federalism seems a more promising way ahead.

If construed as a federation, the EU would be in position to create a supranational order in which the exclusionary powers of national political authorities are held in check and the self-governing potential of individuals and communities is again allowed to flourish. The fear playing into the hands of the EU’s enemies is, of course, that its institutions may want to develop their own exclusionary powers regardless of local sensitivities and traditions. Indeed, the ideas of many European “federalists” do sound worryingly centralist: They seemingly focus much more on transferring powers from the national to the European level than on returning powers to individuals, families, and local communities within a continental federal polity.¹² In a truly federal EU, the common institutions would uphold the shared values of Europe’s civilization; strengthen the integrity of the common market; oversee the federation’s monetary, foreign, and

defense policy; take over the few security and welfare obligations necessary to ensure the free movement of people; and protect the equal rights of all citizens. All other functions would flow back to the member states, harmonization would be kept to a minimum, decentralization of power would be encouraged at all levels, and the widest regulatory competition among different administrative units in the integrated continental space defended as a distinctive component of Europe’s constitutional identity.

The Economic Constitution of a Federal Polity

A federal polity would naturally encourage market openness, economic freedom, and competition among individuals and firms. That is largely confirmed by the historical experience of federations, which have long been incapable of enacting wide-ranging regulations and economic controls at either the central or the state level. When they managed to do so, they either undermined their federalist fabric toward a more unitary and less polycentric economic order or damaged the economic integrity of the federation with discriminatory controls and regulations at the level of the individual member states.¹³ In other words, the economic unity of federations is not a form of unity guaranteed primarily by harmonized central regulations. On the contrary, it is the unity of a large market for regulations where multiple standards for products and public services compete for consumers’ and citizens’ endorsement. Excessive reliance on harmonization destroys the diversity of the federated entities, which is the main substantive feature of federalism. On the other hand, tolerance of protective measures by the federated entities that restrict competition within the federation destroys the unity of the polity and prepares its fragmentation and downfall.

Since the Treaty of Rome, the clear commitment to the free movement of goods, services, capital, and people has created conditions for the development of a distinctively federalist economic constitution for the European project. Such a constitution was made effective by conferring on the European Commission

robust powers in competition policy and by enshrining the principle of mutual recognition in European law by the European Court of Justice.¹⁴ Indeed, it can be argued that the widest possible use of mutual recognition is the instrument best suited for a federation to open up its markets. It allows multiple standards to coexist and compete in the continental market where consumers, not regulators, select the best among them. It is therefore in keeping with the polycentricity of a federalist economic order and its insistence on the freedoms of individuals and lower administrative units.

The goal of too many legislative efforts at the European level is an unnecessary “leveling of the playing field,” which is a serious departure from a federalist method.

Regrettably, the EU departs from a federalist vision in a number of respects. Its single market, for example, does not rely uniquely or predominantly on mutual recognition of regulatory and technical standards. Instead, the EU has often harmonized rules or created new ones. Before the advent of the so-called New Approach in the 1980s, such harmonization was extremely heavy-handed, resulting in detailed, highly technical regulations adopted at the European level. The New Approach, in contrast, has attempted to strengthen the reliance on the mutual recognition and to limit the extent of the centrally adopted EU rules. In practice, that means that EU legislation, in the form of regulations and directives, is meant to consist of general requirements (e.g., pertaining to health, safety, or effects on the environment). The specifics

of compliance, however, are left to the private sector. It can be achieved by meeting voluntary European standards¹⁵—often through self-certification—or by testing and approval of a government-appointed certification body in any individual member state.

Still, the goal of too many legislative efforts at the European level is an unnecessary “leveling of the playing field,” which is a serious departure from a federalist method. Federalism would require taming the EU penchant for overregulation with appropriate constitutional brakes.¹⁶ More importantly, the EU is active in a long list of policy areas where it “shares” its competencies with member states, muddying the distinction between different layers of governance. In many of these areas, there is little basis for joint policy action.¹⁷

The most formidable challenges to a federalist vision, however, lie at the national level, where the size and scope of government inherited from the economic paradigm of the 20th-century welfare state seem singularly ill-suited to a federal setting. While most Central and Eastern European countries came out of their economic transitions with slim public budgets and free-market policies, many Western and Southern European countries still must cope with heavily regulated economies and high levels of public debt accumulated after World War II, when more and more personal and social responsibilities, in areas such as health care and pensions, were gradually taken away from individuals and handed over to state bureaucracies. In 1960, total government spending in the pre-enlargement EU-15 averaged 29 percent of gross domestic product (GDP). By 1990, it had grown to 50 percent of GDP.¹⁸

The economic crisis that almost destroyed the euro in 2010–13 dramatically showed that such high levels of public debt are incompatible with a smoothly functioning decentralized monetary union. Especially, but not exclusively, among left-leaning politicians and economic pundits, it is fashionable to contend that pooling national debts and harmonizing the national welfare systems at the EU level would rescue “the European social model,” now threatened by a “fragile” and decentralized monetary union. However, more than rescuing the European social model, it would

impose on the whole continent what they construe as the European social model—a model adopted, in subtly different varieties, by only a subgroup of EU member states.¹⁹ Apart from being politically impracticable, such a move would be at odds with the very essence of a federalist order, which is variety, decentralization, and the utmost respect for national and regional traditions under a continental framework of openness.

Although there are good reasons to believe that such decentralized openness requires a drastic reduction in public debt and the size of government, it need not force states accustomed to the far-reaching provision of public services to discontinue it altogether.²⁰ Nor would anything prevent a federal EU from administering some minimal social security functions at the supranational level. Indeed, there could be a need for it in the field of social benefits paid by an EU member state to citizens of another, particularly from the poorest member states. The issue has given rise to accusations of “welfare tourism” and inspired proposals that could limit the free movement of people.²¹ In the future, some of those benefits could be paid through the EU budget to prevent dangerous challenges to the four freedoms.

Notwithstanding those caveats, the central message is clear: If they wish to be part of a federal European order, governments and electorates in member states must be clear about what that means and stand ready to reorganize their economic and social systems accordingly. In the words of Friedrich Hayek—the doyen of 20th century classical liberalism and one of the earliest students of the economic conditions of supranational federations—the readiness to accept definite limits to the economic powers of the state “will be the acid test of whether we are intellectually mature for the achievement of suprastate organization.”²²

Federalism and Contemporary Policy Challenges

Federalism is not a silver bullet to solve the many policy challenges currently facing Europe. However, if it can inspire a way to frame and pursue reform,

this doctrine can contribute to solving many of Europe’s ongoing crises. Its first contribution would be toward a more substantive debate on the EU’s future, more specifically on what it actually means to be pro-European. Vague formulas such as “ever closer union” and “more Europe” would be given a more precise constitutional meaning and a meaning better capable of fending off the attacks of euroskeptics against alleged attempts to create a “European superstate” with tentacular regulatory powers. Furthermore, this vision—which need not be specifically associated with any political force—seems closer in spirit to the values of the pro-European right than to those of the pro-European left, with a more state-like vision of harmonization and centralization of the EU. It can thus help the European center-right articulate a European federalism of its own and contribute to reframing the European debate as a contest between competing visions of European unity, instead of as a fight between a relatively undifferentiated pro-European mainstream on the one hand and anti-European forces on the other.

The creation of a proper federal setup is the best way to ensure the widest possible “repatriation” of powers from the EU to its states and regions. Therefore, it could meet some of the demands of the more euroskeptical countries without reneging on the supranational and federalist destiny of Europe. Indeed, the EU is in many regards more centralized than most federations in history, and a federalist reform could well reduce its authority in many fields. For example, no federation has ever controlled the budgets and economic policies of its constituent units as tightly as the EU does.²³ Under a truly federal framework, those and other powers could be exercised at the state and local level without undermining the stability of the whole, as they do in the present EU.

While a federalized EU would be a much leaner structure than the current meandering organization that does not face the discipline of a simple set of constitutional rules, it would also be better equipped to deal with challenges that warrant common European policies. One of the relevant policy issues that require action at the EU level is creation of a coherent border protection, immigration, and asylum policy. As the

refugee crisis of 2015 showed, the Schengen area of passportless travel is compatible neither with the existence of widely differing approaches toward asylum policy nor with border protection exclusively in the hands of individual states. Further efforts are needed to complete the EU's single market, where member states have pushed back against efforts to liberalize the service sectors, leaving European institutions helpless. As explained, economic federalism would warrant a profound "de-bureaucratization" and "flexibilization" of European economies and would boost regulatory competition. That could free the wealth of resources now employed in bureaucratic activities, giving Europe a more flexible and resilient economic constitution for the 21st century.

A quarrelsome breakup of the European project would be an unmitigated strategic disaster, creating instability and opening Europe to the influence of non-Western powers potentially hostile to the United States.

Most fundamentally, the EU ought to become an active geopolitical player. Europe finds itself in an unstable neighborhood and faces an aggressive revisionist power in Russia. If the election of Donald Trump indicates a deeper shift in American public

opinion and foreign policy, Europeans should not assume that the United States will continue to play a predominant role in providing peace and security in Europe. Even if the US does, a more effective and coherent voice from Europe would only reinvigorate and help the transatlantic partnership. One fundamental goal of European integration is preserving the autonomy of the Old Continent against external influence and domination, for example, by Russia or China. Only by upgrading its Common Security and Defence Policy with real supranational structures can the EU hope to achieve that. Europe's success in completing this transition should be a priority for the Trump administration: Regardless of occasional transatlantic disagreements, Europe remains the closest, most like-minded, and most reliable partner of the United States. Neither Russia, China, nor any other power is in a position to replace the transatlantic community of shared values and interests. A quarrelsome breakup of the European project would be an unmitigated strategic disaster, creating instability and opening Europe to the influence of non-Western powers potentially hostile to the United States.

In the post-World War II period, the European project would not have started and succeeded without the benign encouragement and firm support of Americans. Statesmen such as Harry Truman, George Marshall, and John Foster Dulles understood that the integration of Europe along federal lines was in the interest of the United States and that federalism was the best gift the New World could give to the Old World. The current American administration should not turn its back on its long tradition of support given to the European project, and it should encourage attempts to relaunch it along authentic federal lines. European integration has stalled because many European federalists do not understand the real meaning and limits of federalism. Transatlantic dialogue among policymakers and scholars can make a real difference on these topics. The United States, the fatherland of federalism, has always understood it best and defended its most authentic, competitive, and decentralized variety.

Conclusion

The discussion presented in this paper raises another question: How exactly should European leaders pursue federalizing constitutional reform? For all the real achievements of the EU, the past 70 years suggest that an effective federal structure is unlikely to emerge through the gradualist route set by the founders of the European project. That might not be an accident. As the historian Brendan Simms argues,

The historical record shows that successful unions have resulted not from gradual processes of convergence in relatively benign circumstances, but through sharp ruptures in periods of extreme crisis. They come about not through evolution but with a “big bang.”²⁴

Only democratically elected leaders with a mandate can decide to make such a big bang of overarching constitutional changes to Europe’s political architecture. The EU’s Convention on the Future of Europe, established by the European Council in 2001 to draft an EU constitution, was anathema to a genuine federalizing moment. Its members were administratively appointed and the document they produced, the 2004 Treaty Establishing a Constitution for Europe, lacked the clarity, logic, and federalist character of the constitution Europe needed. The fiasco brought about by its ratification, however, should not mean that pro-European forces on the center-right should shy away from any discussion about the EU’s political future or, worse yet, nurture the fantasy of a Europe

of sovereign nation-states cooperating through fragile international institutions. Instead, Europe’s conservatives, Christian Democrats, and classical liberals need to embrace a clearly articulated federalist vision that would enable the EU to simultaneously address the policy challenges it faces and respond to the genuine concerns about its overreach. Their American friends ought to be sympathetic to such efforts. Their own country, after all, has deeply federalist roots, as do many of its political traditions. Strengthening the framework that binds Europe’s nations together is keenly in America’s interest. It would not only help prevent a recurrence of the geopolitical disasters that dragged the United States into global conflicts twice in the 20th century, but also provide America with a formidable new ally and partner equipped to deal with the economic and strategic challenges of the 21st century.

About the Authors

Federico Ottavio Reho is a research officer at the Wilfried Martens Centre for European Studies in Brussels. He previously worked in the EU Institutions and Fora Division of the European Central Bank. **Dalibor Rohac** is a research fellow at the American Enterprise Institute, where he studies European political and economic trends. He is concurrently a visiting fellow at the Max Beloff Centre for the Study of Liberty at the University of Buckingham in the UK and a fellow at the Institute of Economic Affairs in London.

© 2017 by the American Enterprise Institute. All rights reserved.

The American Enterprise Institute (AEI) is a nonpartisan, nonprofit, 501(c)(3) educational organization and does not take institutional positions on any issues. The views expressed here are those of the author(s).

Notes

1. John Bolton, "Britain's EU Exit Conundrum," *Washington Times*, January 5, 2016, <http://www.washingtontimes.com/news/2016/jan/5/john-bolton-britains-eu-exit-conundrum/>.
2. John Fonte, "Beyond the Nation State," *Claremont Review of Books*, July 28, 2008, <http://www.claremont.org/crb/article/beyond-the-nation-state/>.
3. Daniel Hannan, "Brussels Is a Corporate Racket," *CapX*, June 10, 2015, <https://capx.co/brussels-is-a-corporatist-racket/>.
4. This paper expands on the ideas originally developed in Federico Ottavio Reho, "Did We Get It Wrong? The True Meaning of European Federalism," *European View* 14, no. 1 (June 2015): 85–92, <https://link.springer.com/article/10.1007/s12290-015-0342-x>.
5. See Friedrich Hayek, "The Economic Conditions of Interstate Federalism," in *Individualism and Economic Order* (Chicago: University of Chicago Press, 1948); Ludwig von Mises, *Omnipotent Government: The Rise of the Total State and Total War* (New Haven, CT: Yale University Press, 1944); Wilhelm Röpke, *International Economic Disintegration* (London: William Hodge and Company, 1942); and Lionel Robbins, *Economic Planning and International Order* (London: Macmillan, 1937).
6. The various reasons why Europe did not have such a federalizing moment go beyond the scope of this paper. However, it is enough to mention that, while American unity was the product of a war of independence that "federated" the 13 colonies against the motherland, the project of European unity developed in the aftermath of the most savage war ever fought on the Old Continent. The psychological and political scars of that war made it impossible for the founding fathers of the European project to envisage anything more than a circumscribed and gradual rapprochement between their peoples.
7. Vincent Ostrom, *The Meaning of American Federalism: Constituting a Self-Governing Society* (San Francisco: Institute for Contemporary Studies Press, 1994).
8. Here Ostrom is quoting a profound remark of Alexis de Tocqueville. Ostrom, *The Meaning of American Federalism: Constituting a Self-Governing Society*; and Alexis de Tocqueville, *Democracy in America* (New York: Vintage Books, 1945).
9. EU law recognizes a "weak" version of this principle (the so-called principle of subsidiarity), whereby action at the EU level is justified when its objectives cannot be sufficiently achieved at the state, regional, or local level, but can rather be better achieved at Union level. See Treaty on European Union, art. 5.
10. Many traits of federalism as described here were already identified by Alexis de Tocqueville, the first systematic student of American democracy. Tocqueville visited America in the early 1830s, well before the Civil War. Tocqueville, *Democracy in America*.
11. Michael S. Greve, *The Upside-Down Constitution* (Cambridge, MA: Harvard University Press, 2012).
12. Interestingly, those who tend to identify federalization and state-making in Europe also tend to favor wide-ranging government intervention in economic and social life, even at the cost of significant coercion. For example, Altiero Spinelli was a communist long before becoming a European federalist, and his daughter Barbara Spinelli, another committed federalist, was elected a member of the European Parliament in Italy with the radical left movement that supported Tsipras as president of the European Commission. Jean Monnet himself was a technocrat and the "commissioner-general" of the French National Planning Board. Most recently, the French economist Piketty wrote in favor of a continental federation to harmonize social legislation and prevent tax competition. Thomas Piketty, *Capital in the Twenty-First Century* (Cambridge, MA: Harvard University Press, 2014).
13. Hayek, "The Economic Conditions of Interstate Federalism"; and Barry R. Weingast, "The Economic Role of Political Institutions: Market-Preserving Federalism and Economic Development," *Journal of Law, Economics, and Organization* 11, no. 1 (April 1995): 1–31.
14. The milestone case in this regard was the *Cassis de Dijon* decision of the European Court of Justice in 1979. The court stated that Germany's refusal to admit a French liqueur into the German market due to its insufficient alcohol content was equivalent to quantitative restrictions on imports and, as a consequence, violated the Treaty of Rome. The Commission subsequently worded the meaning of the judgment as follows: "Any product lawfully produced and marketed in one Member State must, in principle, be admitted to the market of any other Member State."

15. Those are developed by three regional bodies, European Committee for Standardization (CEN), the European Committee for Electrotechnical Standardization (CENELEC), and the European Telecommunications Standards Institute (ETSI).

16. The appointment of Frans Timmermans as first vice-president of the Commission in charge of better regulation is welcome news, but a more structural solution is needed in the long run. Admittedly, the Juncker Commission largely fulfilled its promise of significantly reducing the regulatory output of the EU institutions. The numbers of proposed Commission regulations has significantly dropped under its tenure.

17. Alesina argues that common action is justified when (a) policies present significant cross-border externalities and (b) the degree of heterogeneity of preferences across countries is low. Many areas of EU policy, they show, fail that test. Alberto Alesina et al., “What Does the European Union Do?,” National Bureau of Economic Research, December 2001, <http://www.nber.org/papers/w8647>.

18. Alberto Alesina and Francesco Giavazzi, *The Future of Europe: Reform or Decline* (Cambridge, MA: MIT Press, 2008).

19. Interestingly and more in tune with my understanding of European federalism, some authors went as far as to identify Europe’s social model as “competing institutional variety.” Michael Wohlgemuth, “The European Social Model of State-Market Relations: The Ethics of Competition from a ‘Neo-liberal’ Perspective,” Walter Eucken Institut, 2008, <https://www.econstor.eu/bitstream/10419/36453/1/587720018.pdf>.

20. The exact impact of a federalist economic order on the provision of public services will need to be assessed in each specific institutional context. Systems of public service provision other than direct state provision may need to be explored (e.g., school vouchers for the provision of education, as opposed to the direct ownership of schools and the direct hiring of teachers by the state). For an early perspective on more competitive ways of providing public services see Milton Friedman, *Capitalism and Freedom* (Chicago: University of Chicago Press, 1962).

21. Federico Ottavio Reho, “‘Theory Checking’: Is Unconditional Free Movement in the EU Beneficial?,” Wilfried Martens Centre for European Studies, June 5, 2014, <https://www.martenscentre.eu/blog/%E2%80%99theory-checking%E2%80%99-unconditional-free-movement-eu-beneficial>.

22. Hayek, “The Economic Conditions of Interstate Federalism.”

23. In the United States, which has moved far away from a proper federalist setup toward centralization, it is still unthinkable (and unconstitutional) for the federal government in Washington to inspect the draft budgetary plans of states and pressure them into adopting “sound” economic policy measures, as the European Commission does under the new governance of our Economic and Monetary Union. Some states are fiscally responsible; others are virtually bankrupt. Tax harmonization is equally inconceivable, and tax competition is the rule.

24. Brendan Simms, “Towards a Mighty Union: How to Create a Democratic European Superpower,” *International Affairs* 88, no. 1 (January 2012): 50, <http://onlinelibrary.wiley.com/doi/10.1111/j.1468-2346.2012.01056.x/abstract>.