

GERMAN PERCEPTIONS OF EUROPE BEFORE AND AFTER 1989/90

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DOI:10.24193/subbeuropaea.2018.1.01

Published Online: 2018-07-01

Published Print: 2018-07-15

Abstract:

This article is discussing the German perceptions of Europe before and after German unification (1945-2018). It reflects and comments the complex transformations of Germany in Europe from the end of the Second World War, the foundation of two states in Germany, the dilemma of the Federal Republic of Germany working for European unity and reuniting the German nation and the restoration of German unity in 1990. After 1990 the greater Germany has to deal with the double task of domestic integration, i.e. the integration of the two Germanys into one nation, and at the same time promoting the process of the European unity project. At the European level since 2000/2001 the "new German question" returned to the agenda. How will the strongest European economic power deal with economic and financial crises and institutional reforms of the EU. Long-term phenomena and features of the history of the Germanys and more recent developments come into focus. For understanding German perceptions of Europe we have to take into account the historical traditions of Germany federalism over the centuries as well as the German experience of three hyper inflations in the 20th

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century (1923/24 – 1948 – 1970s). Until 1995 Germany was the only federation in the EC/EU. Therefore between 1950 und 1993 the triad Federation-Lander-Europe play an important role, i.e. the rights and obligations of the Lander and the Federation in European affairs. In the period before 1989/90 Germany's neighbours had to deal with the German problem, i.e. how to contain and integrate West Germany into the European integration process of the European democracies. Across all party lines the German political elites after the experience of National Socialist Germany opted for some kind of federal system for a united Europe. Examples for their ideas on Europe are given – the social democrats Hoegner, Schmid, Erler, the communists Grotewohl and Hanstein, the Christian democrats Ehard, Adenauer and von Weizsäcker, the Free Democrats Genscher and Scheel and the role of German members to the Consultative Assembly of the Council of Europe and to the European Parliament. Special sections are dedicated to the differing views of Walter Hallstein the long-term president of the European Commission and Franz Josef Strauß long-term member of the German Bundestag, Minister of Defence and Prime Minister of Bavaria. After the mid-1990s the finality of Europe is discussed. Quite valuable are the speeches of the German presidents to the European Parliament and the active cooperation of the German members to establish a Human Charter and a European Constitution. In the debates on how to deal with the Euro crises and Greece after 2008/9 the new German question returned and the stereotype image of the “ugly” German with a swastika and Angela Merkel with a Hitler-moustache. What kind of responsibility can and should Germany assume? Should it, being the strongest economic power in the EU, take on the role of the “leader”? Some observers speak for German leadership, others fear a “German Europe”. The majority of the Germans are prepared to support necessary institutional reforms.

Keywords: The triad Federation – Lander (States) – Europe, Federalism vs. Centralism, German question – German problem, The new German question, Federative nation

1. Preliminary Remarks and basic considerations

More than twenty-eight years after the fall of the Berlin Wall on 9 November 1989 and German unification on 3 October 1990, visible and less visible transformations have taken place in the political, constitutional, social, intellectual, economic and historical environment of the new Federal

Republic of Germany, the so-called Berlin Republic.¹ Billions of Deutschmark and Euros from public funds and from the private sector were transferred from the German government to the “new Lander”. The quality of life in the Eastern parts of Germany and the infrastructure was improved. Nevertheless, the aim of “dual integration”, i.e. the internal integration of Germany and Germany’s efforts for European integration so far was only partially achieved. This has an impact on the perception of Europe by the people in the western and eastern Lander of the country.

In a special survey of Eurobarometer in the autumn of 1990 on “The European Community and United Germany” the report states, that the favour for European unification and the European Community “in East Germany is higher than anywhere else”. 88% of the citizens of the ex-GDR support the “efforts being made to unify Western Europe” whereas 81% of the West Germans showed “a positive attitude toward European unification”.² A second Eurobarometer poll in the five “new Lander” in spring 1991 showed that the “Euro-enthusiasm’ encountered in previous GDR and ex-GDR polls” was “now tempered”.³ Despite clearly decreased support for European unity “its level is still superior to the EC average”.⁴

¹ Cf. Heinrich-August Winkler, *Germany. The Long Road to the West 1933-1990 (Der lange Weg nach Westen*. Bd. II. München: C.H. Beck ²2001) Oxford: Oxford UP 2007, p. 563ff. – Winkler, Heinrich-August, *Geschichte des Westens. Die Zeit der Gegenwart*. München: C.H. Beck ³2016, p. 19ff. – Winkler, Heinrich-August, *Part of the West? German Leftists have not understood Putin*. Interview Spiegel Online June 27, 2014 (<http://www.spiegel.de/international/Germany/interview-with-historian-heinrich-winkler-about-Germany-and-the-a-977649.htm>) (consulted 28.12.17) – Gehler, Michael, *Deutschland. Von der Teilung zur Einigung, 1945 bis heute*. Wien Köln Weimar: Böhlau 2010, p. 363ff. – Gruner, Wolf D., *Deutschland in Europa 1750 bis 2007. Vom deutschen Mitteleuropa zum europäischen Deutschland*. Cluj-Napoca: Presa Universitară Clujeană 2009, p. 381ff. – Gruner, Wolf D., “Is the German Question – is the German Problem back? The Role of Germany in Europe from a Historical Perspective”, in: *Rivista di Studi Politici Internazionali* 84/3 (2017), pp. 341-373 – Gunlicks, Arthur (Ed.), *German Public Policy and Federalism*. New York Oxford: Berghahn ²2004 (2003) – Habermas, Jürgen, *Die Normalität einer Berliner Republik*. Berlin: Suhrkamp 1995.

² The European Commission in 1974 established a standard Eurobarometer for Public Opinion survey (<http://www.ec.europa.eu/commfrontoffice/publicopinion/index/cfm> (consulted 15 January 2018): Cf. *Special Report Eurobarometer*. survey No. 34 (The European Community and United Germany. Public Opinion in East and West Germany. Brussels March 1991, p. 9.

³ Eurobarometer survey No. 35 (The European Community and United Germany in Spring 1991. Development of Public Opinion in East and West Germany. Brussels April 1991, p. 1f.

⁴ *Ibidem*, p. 2

In the latest survey on the Future of Europe of October 2016 the most important assets of the EU for the Germans in East and West were

- “The EU’s ability to promote peace and democracy outside its borders” and
- the respect of the EU “for democracy, human rights and the rule of law”.⁵

Democracy, Human Rights and the Rule of Law are guiding concepts in German documents and speeches on Europe since the beginning of the 1950s.

The following reflections and comments will undertake to approach these complex transformations and will deal with the German perceptions and ideas on Europe covering the period between the end of the Second World War in 1945 and the return of the “new German Question” since 2000/2001. Long-term phenomena and features of the history of the Germanys will have to be taken into account as well as more recent developments. We will have to ask questions such as: What are the German and European implications of this process of transformation in Germany and Europe? What does a “greater Germany” mean for its European neighbours, what does it mean for the process of European integration and reform? Will the German debate on the legal codification of the role of the German federal states (Länder) and the decisions of the federal government on reforming the federal system (Föderalismusreform) concerning rights and obligations of the Länder in the process of EU integration, constitution making, and institutional reform have a positive influence on considerations to establish a functioning third level in the institutional system of the European Union between Maastricht, Amsterdam, Nice and the Treaty of Lisbon and beyond? Many of the phenomena, aspects and developments that interest the historian of German, European, and European integration history cannot be discussed at length. Therefore, the following considerations will discuss briefly the historical framework for the German debate on Europe, indicating some historical dimensions and traditions of German statehood and the perception of Europe. The given format demands to concentrate on some basic phenomena, which, from my

⁵ Eurobarometer Special Survey No. 451. October 2016. Brussels December 2016: Table QB1T: main asset peace 22% (EU 28 average 17) – main asset Democracy, human rights rule of law 45% (EU 28 average 33).

point of view, are still prevailing. This naturally provokes the question of whether the Federal Republic and the new Germany have arrived in “the West,” i.e., if the model of the German federation (Deutscher Bundesstaat) guarantees unity and freedom at the same time, combining national unity and a liberal political system. The phrase of the American senator and Foreign Secretary Daniel Webster, “Liberty and Union, now and forever, one and inseparable,”⁶ can definitely be applied to today’s Germany. The Federal Republic has arrived “in the West”, integrating “Western traditions” and German constitutional and historical traditions.⁷ Recently Germany’s tight link to the West has been questioned in some political quarters. They pleaded to “strive for equidistance between the West and Russia”.⁸ Heinrich August Winkler was asked in an interview if there still is a tight link to the West which had been “a solid pillar of the Country’s foreign policy for decades”? The answer was: “There is at least cause for doubt. A strong minority is questioning vital elements of our Western orientation, namely our membership in NATO and the European Union. I find that unsettling”.⁹ Despite this strong anti-Europe and anti-NATO minority Germany’s political orientations to and the values of the West are still dominant. Among German democratic parties “there is an overwhelming consensus when it comes to the Western bond. Today, that consensus is being attacked by the fringes on both the left and the right side of our political spectrum”.¹⁰ The concept that after “several detours and mistakes Germany is finally firmly embedded in the West” is, at least in the Western parts of Germany accepted, despite the fact that in an overall survey for Germany of 2014 a majority of 49% would prefer that Germany would take up an “intermediary position” whereas 45% were convinced that Germany should be “firmly anchored in the West”.

⁶ Cf. Maurice C. Baxter. *One and Inseparable: Daniel Webster and the Union*. Cambridge / Mass.: Cambridge UP 1984 – the phrase “Liberty and Union now and forever one and inseparable” is written on the Daniel Webster Monument in Central Park New York.

⁷ Cf. Wolf D Gruner, “Historical Dimensions of German Statehood: From the Old Reich to the New Germany”, in Gunlicks, Arthur (Ed.), *German Public Policy and Federalism* (note 1), pp. 15-46, pp. 222-238.

⁸ Cf. Heinrich August Winkler, *Part of the West?*, Interview 27 June 2014 (note 1).

⁹ *Ibidem*.

¹⁰ *Ibidem*.

The following remarks will pick up some major aspects of the German debate on the structure and institutional order of Europe after World War II. As far as Germany or the Germanys (1949-1990) are concerned there will be a preponderance of the discourse and the concepts on Europe in the Western zones of occupation in Germany, after 1949 in the Federal Republic of Germany and since 1990 in United Germany. Perceptions or reactions in the GDR will be touched occasionally.

In dealing with the debate on and perception of Europe in Germany between the Second World War and post-unification Germany after 1990, we will always have to keep in mind the historical framework and the historical traditions influencing the perceptions of a "German Europe" or a "European Germany" or of "Germany in Europe", i.e. the national and domestic and the European and international conditions for post war Germany. Carlo Schmid in his essay to be a "Good European" pointed out that after Germany's defeat in 1945 "there were only Europeans in Germany". People were quoting Nietzsche's phrase of the "good European". The Germans believed they could pay off the historical German guilt by just passing over to Europe. Thus, Europe became a substitute for Germany's lost great power status. This was considered as being smart.¹¹

Within this historical framework since the late 18th century we need to keep a consistent focus on Germany's historical background for understanding German views and concepts for Europe and Germany's position in Europe after the Second World War. There are several factors which must be taken into account:

1. The *German question*– or the *German problem* – and the options for solving it after the Second World War. They played an important role for the Germans and their European neighbours. Therefore, the issue on the agenda has been: How could Germany become an integral part of the new European order? And what role should be assigned to Post-war Germany?¹²

¹¹ Cf. Carlo Schmid, „Ein guter Europäer“, in: Schmid, Carlo, *Europa und die Macht des Geistes. Gesammelte Werke in Einzelausgaben*. Bern München: Scherz 1973, pp. 428-434, p. 428.

¹² I have discussed this topic widely in several studies: Cf. Gruner, Wolf D., *Die deutsche Frage in Europa*, München Zürich: Piper 1993 – Gruner, Wolf D., „Die deutsche Frage als Thema der europäischen Politik im 19. und 20. Jahrhundert“, in: Elvert, Jürgen / Krüger, Friederike (Eds.), *Deutschland 1949-1989. Von der Zweistaatlichkeit zur Einheit*. Stuttgart: Steiner 1999, pp. 17-55 – Gruner, Wolf D., „L'image de l'autre: Das Deutschlandbild als zentrales Element der deutschen Frage in Geschichte und Gegenwart“, in: Trautmann, Günter (Ed.), *Die häßlichen Deutschen? Deutschland im Spiegelbild der westlichen und östlichen Nachbarn*. Darmstadt: WBG 1991, pp. 29-59 – Gruner, Wolf D., *Deutschland mitten in Europa*. Hamburg: Kraemer 1992 – Gruner, Wolf D., *Deutschland in Europa 1750 bis 2007* (note 1).

2. *Would a German nation state be re-established after the total defeat of 1945?* Hitler's grip for world power and European hegemony had totally failed. Germany had gambled away its great power status regained after 1919. Therefore: Which Germany would emerge from the War? Germany divided permanently by the victors, a Germany ruled and controlled by the victorious allies? And could Germany become a member of a uniting Europe?

3. Additionally, especially in the early 1950s, we have to take into account the domestic tensions and conflicts between the concepts of the SPD on the one hand demanding "German unification first" and the CDU/CSU dominated coalition governments of chancellor Konrad Adenauer on the other hand working for "German unification through integration into the camp of European democracies".

4. *Federalism* has a long standing historical tradition in Germany.¹³ A federal system had been the natural political structure for the bond of the German nation. The nature of German federalism had different historical and political roots compared e.g. to American federalism.¹⁴ Referring to federalism James Madison stated that federalism was considered as the "best guardian [...] of the liberty, safety and happiness of man".¹⁵ German federalism did not originate from democracy and liberty, but from the historical landscapes, the territories of the Holy Roman Empire of the German

¹³ Cf. Ernst Deuerlein, *Föderalismus. Die historischen und philosophischen Grundlagen des föderativen Prinzips*. München: List Bonn: Bundeszentrale für Politische Bildung 1972 – Funk, Albert, *Föderalismus in Deutschland. Vom Fürstenbund zur Bundesrepublik*. Bonn: Bundeszentrale für Politische Bildung 2010 – Umbach, Maiken (Ed.), *German Federalism – Past – Present – and Future*. Basingstoke: Palgrave 2002 – Héraud, Guy, *Les principes du fédéralisme et la Fédération Européenne*. Paris: Presses d'Europe 1968, p. 69ff. – Gunlicks, Arthur (Ed.), *German Public Policy and Federalism* (note 1) – Brecht, Arnold, *Federalism and Regionalism in Germany and the Division of Prussia*. New York London Toronto: Oxford UP 1945 – Gruner, Wolf D., „Deutschland und Europa in Geschichte und Gegenwart: Überlegungen zu bündischen Formen deutscher Staatlichkeit“, in Gruner, Wolf D., *Deutschland mitten in Europa*. Hamburg: Kraemer 1992, pp. 287-332.

¹⁴ Cf. Ernst Deuerlein, *Föderalismus* (note 13), p. 66ff. – Umbach, *German Federalism* (note 13) – Brecht, *Federalism and Regionalism* (note 13), p. 3ff. There is also a German translation: Brecht, Arnold, *Föderalismus, Regionalismus und die Teilung Preussens*. Bonn: Ferd. Dümmlers Verlag 1949, p. 11ff.

¹⁵ James Madison, *The Writings of James Madison*, edited by Gaillard Hunt. 9 vols. New York: G.P.Putnam's Sons 1910, vol. 9, p. 136 – also accessible at <http://oll.libertyfund.org/titles/madison-the-writings-of-james-madison-9-vols> (consulted 28 December 2017).

Nation and its political traditions, its successor the German Confederation¹⁶ and European thought. Whereas the French after the Revolution of 1789 we speak about the “one and inseparable nation”. in Germany we refer to the “federative nation” (“föderative Nation”).¹⁷ Despite the polarization between the idea of a Unitarian state and the Federal state as the best means for the togetherness of the German nation, German statehood since the 19th century was organised on a federal basis. The Federal Republic of Germany is a federal state. For many decades Germany was the only federal state among the European democracies in the EC/EU.¹⁸

5. In the German federal state, the German Lander demand to participate in the construction of European. Therefore, in the German case, we have to deal with the *triad between the German Federation, the German Lander and Europe*. Besides the interests of the government of the Federal Republic of Germany the Lander had their own regional interests as far as Europe was concerned. This became obvious when West-Germany became of member of the Council of Europe in 1950,¹⁹ signed the treaty for the ECSC in 1951, the treaties of Rome in 1957 and moved on in the 1980s to the European Single Act and Delors’ “Europe92”.

6. Ever since the beginning of a closer cooperation of the European democracies in the early 1950s any German federal government was facing the *dilemma of working for European integration and at the same time keeping the national question open*.²⁰ This turned out to become a major blocking stone

¹⁶ Cf. Wolf D. Gruner, *Der Deutsche Bund 1815-1866*. München: C.H. Beck 2012 –Müller, Jürgen, *Der Deutsche Bund 1815-1866*. München: Oldenbourg 2006.

¹⁷ Dieter Langewiesche, *Reich, Nation, Föderation. Deutschland und Europa*. München: Oldenbourg 2008 – Langewiesche, Dieter / Schmidt, Georg (Eds.), *Föderative Nation. Deutschlandkonzepte von der Reformation bis zum Ersten Weltkrieg*. München: Oldenbourg 2000.

¹⁸ Cf. Wolf D. Gruner, *Historical Dimensions of German Statehood: From the Old Reich to the New Germany* (note 7), pp. 15-46, pp. 221-239.

¹⁹ Cf. Wolf D Gruner, “Der Europarat wird fünfzig – ‚Vater‘ der europäischen Integration: Gründungsvorstellungen, Wirkungen, Leistungen und Perspektiven nach 50 Jahren”, in: Gruner, Wolf D. (Ed.), *Jubiläumsjahre – Historische Erinnerung – Historische Forschungen. Festgabe für Kersten Krüger zum 60. Geburtstag*. Rostock: Universitätsdruckerei 1999, pp. 117-234 – Wolf D. Gruner, „Les Länder allemands et la création de la CECA“, in Bitsch, Marie-Thérèse (Ed.), *Le Couple France-Allemagne et les institutions européennes*. Bruxelles: Émile Bruylant 2001, pp. 35-61.

²⁰ Preamble of the Basic Law of 8 May 1949

(https://www.cvce.eu/content/publication/1999/1/7fa618bb-t604e-4980-b667-76bf0cd0dd9b/publishable_en.pdf (consulted 19 December 2017).

since the mid-1980s when European integration was speeding up Draft Constitution for a European Union 1984 – Single European Act 1986 – Delors' programme "Europe 92").²¹

7. When *German unification* came about in 1989/90 and the EC was functioning as a midwife. United Germany had to face the challenge of dual integration, i.e. to work successfully for domestic integration of the old Federal Republic and the former GDR – creating blooming landscapes – and at the same time to take on the role as a promoter of European integration and European unification.

8. From the perspective of transformation and reform, we should take into account the debate on co-operative and competitive federalism and its impact on considerations and debates for establishing a "third level" within the institutional system of the EU which would assign to the Committee of the Regions of the EU legislative rights and an equal institutional status similar to the other organs of the EU, and finally

9. We must ask whether the *federal system of the Federal Republic of Germany*, as many German contributions to the debate on the reform of the institutions of the EU have suggested, *might serve as a model for a federalization of the EU*. Could a nineteenth century model in German constitutional history, which was briefly discussed again in 1989 as a possible means of uniting the two states in Germany²² be used at a European level? It was brought up again in connection with the task force for the Intergovernmental Conference of the EU in 1996. The idea of adopting a closer and wider federation under a common community framework might be useful and productive in dealing successfully with further EU-enlargements and institutional reforms.

²¹ European Parliament, *Draft Treaty establishing the European Union. Official Journal of the European Communities No C 77/33* (14 February 1984) – European Communities, *The Single European Act (Luxembourg 17 February 1986) Official Journal L 169 of 29 June 1987 (also in German, French, Italian and Dutch)* – Cecchini Paolo (Ed.), *The European Challenge 1992. The Benefits of a Single Market*. Aldershot: Gower 1988 – German version: Cecchini, Paolo (Vorsitz), *Europa'92. Der Vorteil des Binnenmarkts*. Baden-Baden: Nomos 1988 – Delors, Jacques, „Europa im Umbruch. Vom Binnenmarkt zur Europäischen Union“, in *Europäische Gespräche* Heft 9/1992, pp. 5-15, Bonn: Druck- und Werbegesellschaft.

²² Cf. Wolf D. Gruner, „Die süddeutschen Staaten, das Ende des Deutschen Bundes und der steinige Weg in das deutsche Kaiserreich (1864-1871)“, in Heinemann, Winfried / Höbelt, Lothar / Lappenküper, Ulrich (Eds.), *Der Preussisch-Österreichische Krieg 1866*. Paderborn: Schöningh 2018, pp. 241-301, p. 257.

In discussing the German discourse on Europe and how European unity should or might be achieved between the end of the Second World War and the global and Euro crises of the 2000s we always have to keep in mind the historical framework for the German ideas, concepts and perceptions on Europe. In order to prove my case, I have decided partly on a chronological, partly on a structural approach:

1. The debate on Germany and Europe between the 1940s and 1989/90,
2. the German Lander and their understanding and perception of their rights and their role to participate in the European process,
3. Walter Hallstein's belief since the 1950s to realize a European Federal State, despite the division of Germany²³ and Franz Josef Strauß' differing European vision.²⁴ There are also other protagonists with perceptions on the future of Europe and a European Germany.²⁵

²³ Cf. Walter Hallstein, *Europe in the Making*. New York: Norton 1969. The German title is more precise: Hallstein, Walter, *Der unvollendete Bundesstaat*. Düsseldorf: Econ 1969 – Hallstein, Walter, *Europäische Reden*. Stuttgart: DVA 1983 – For Hallstein's view from a retrospective cf. Hallstein, Walter, *Die Europäischen Gemeinschaft*. Düsseldorf: Econ 1973 – Loth, Wilfried, *Walter Hallstein – der vergessene Europäer?* Bonn 1995 – Loth, Wilfried / Wallace, William / Wessels, Wolfgang / Ruppert, Bryan (Eds.), *Walter Hallstein. The Forgotten European*. London: Palgrave Macmillan 1998 – Piela, Ingrid, *Walter Hallstein (1901-1982). Leben und Wirken eines Juristen und Europäers der ersten Stunde*. Hagener Online-Beiträge zu den Europäischen Verfassungswissenschaften. Fern Universität Hagen IEV-Online 2019 Nr. 1. – Schönwald, Matthias, *Walter Hallstein: Ein Wegbereiter Europas*. Stuttgart: Kohlhammer 2017.

²⁴ Cf. Franz Josef Strauß, *Die Erinnerungen*. Berlin: Siedler 1989 – Strauß, Franz Josef, *Entwurf für Europa*. Stuttgart: Seewald 1966 – Strauß, Franz Josef, *Herausforderung und Antwort. Ein Programm für Europa*. Stuttgart: Seewald 1968 – Carstens, Karl / Goppel, Alfons– Kissinger, Henry– Mann, Golo (Eds.), *Franz Josef Strauß. Erkenntnisse – Standpunkte – Ausblicke*. München: Bruckmann 1985 – Strauß, Franz Josef, *Grundfragen Europas*, in Huber, Ludwig (Ed.), *Bayern, Deutschland, Europa. Festschrift für Alfons Goppel*. Passau: Passavia 1975, pp. 101-113.

²⁵ Cf. inter alia Koch, Roland / Kroll, Lothar (Eds.), *Heinrich von Brentano. Ein Wegbereiter der europäischen Integration*. München: Oldenbourg 2004, pp. 159-181. (esp. Elvert, Jürgen, *Heinrich von Brentano, Vordenker einer Konstitutionalisierung Europas*) – Brentano, Heinrich von, *Deutschland, Europa und die Welt*. Ed. by Ernst Böhm. Bonn Wien Zürich: Sieglar 1962 – Ulrich, Laura Christine, *Wege nach Europa. Heinrich Aigner und die Anfänge des Europäischen Rechnungshofes*. St. Ottilien: EOS 2015 – Ulrich, Laura Christine, *Roads to Europe. Heinrich Aigner and the genesis of the European Court of Auditors*. Luxembourg: Publication Office of the European Union 2016 – The valuable and interesting Aigner Papers are stored in. *Hanns Seidel Stiftung Archiv der Christlich Sozialen Politik* (in der following ACSP) Munich – Aigner, Heinrich, *Europa. Schicksalsfrage unseres Jahrhunderts*. Würzburg: Naumann 1978 –

4. The growing dilemma of the Federal Republic of Germany's to integrate into a European framework and to keep the national question open at the same time. This was a question any government had to deal with²⁶ and last but not least

5. United Germany and Europe since 1990 and the finality of the European process.

Broadly speaking these aspects, especially the *German question*, the *perspectives for a national state of the Germans* after the war and *federalism* as well as *democracy and the Rule of Law* to a large extent influenced and shaped the German debate among politicians, writers and citizens at all levels from the local communities and the Lander to the Federation (Bund), citizens and intellectuals. Because of the experience of the Third Reich and the uncertainty of the restitution of a German nation state in post-war Europe the large majority of concepts and considerations concerning

Aigner, *The Case for a European Audit Office (also in German)*. Luxembourg: Office for Official Publications of the European Communities 1973 – Aigner, “Finanzkontrolle der Europäischen Gemeinschaften, Entwicklung und Perspektiven“, in *Zeitschrift für Parlamentsfragen* 2/1978, pp. 186-192 – Schmidt, Helmut, *A Grand Strategy for the West*. New Haven London: Yale UP 1985 – Schmidt, Helmut, *Mein Europa*. Hamburg: Hoffmann & Campe 2013 – Herzog, Roman, *Lessons from the Past. Visions for the Future* (German Issues 18). Washington D.C.: AICGS 1998 – Herzog, Roman, *Europa neu erfinden. Vom Überstaat zur Bürgerdemokratie*. München: Siedler 2014 – Herzog, Roman / Hobe, Stephan (Eds.), *Die Europäische Union auf dem Weg zum verfassten Staatenverbund. Perspektiven der europäischen Verfassungsordnung*. München: C. H. Beck 2004 – Weizsäcker, Richard von, Reden (<http://www.bundespraesident.de/DE/Die-Bundespraesidenten/Richard-von-Weizsaecker/reden-node.html>) (consulted 2 February 2018) – Steinmeier, Frank Walter, „Europa war nie ein Spaziergang. Speech to the European Parliament“ (<http://www.zeit.de/politik/ausland/2017-04/frank-walter-steinmeier-europaparlament-rede-bundespraesident>) (consulted 2 February 2018) – Rau, Johannes, *Ein Politikerleben in Briefen, Reden und Bildern*. Bonn: Dietz 2011 – Rau, Johannes, „Plädoyer für eine Europäische Verfassung“. Speech to the European Parliament 4 April 2001. (http://www.bundespraesident.de/SharedDocs/Reden/DE/Johannes-Rau-Reden/2001/04/20010404_Rede.html) (consulted 2 February 2018) – März, Stefan, *Alfons Goppel. Landesvater zwischen Tradition und Moderne*. Regensburg: Friedrich Pustet 2016, p. 132ff. – Cf. also ACSP München Goppel Papers – Gruner, Wolf D., „Les Europe des Européens‘. The Perception of Europe in the Debates of the Consultative Assembly of the Council of Europe 1949-1951“, in Bitsch, Marie-Therèse / Loth, Wilfried / Poidevin, Raymond (Eds.), *Institutions européennes et identités européennes*. Bruxelles: Émile Bruylant 1998, pp. 82-122.

²⁶ Cf. inter alia: *Wiedervereinigungsgebot und Vertragsentwurf zur Europäischen Union* [1985/6] (ACSP München Aigner Papers 40).

“Germany in Europe” and “Germany and Europe” followed along federal lines, despite changing historical environments. This was true for the period between 1945 and 1949, for the formative period of the European construction between 1949 and 1957 as well as for the 1960s and 1970s and the new attempts since the late 1980s. German unity in 1990, added a new dimension to the necessity to proceed towards the ‘finality’ of the European construction. One aspect which came up over and over again between 1949 and 1990 was the security of the Federal Republic, the fear of the military power of the Soviet Union and a strong anti-communism. In a press conference in Paris in 1953 Federal Chancellor Konrad Adenauer argued that from his view the only chance against Russian conquest of Europe will be the European integration of the democracies. Statesmen and politicians of the European states have to decide now whether to safeguard their freedom through European integration or stay alone and a Russian satellite state today or tomorrow. In order to prevent this European integration is in the interest of the free world. Any European integration demands from all members to give up sovereign rights. This resides in the character of integration. The “European Defence Community is a prerequisite for European Integration”. No partner in the community will wage war against another member. There will no longer be national armies. There will be a European army only.²⁷

The process of the integration of the European democracies since the early 1950 created two additional problems which have to be kept in mind and which came to the fore during the ratification debates in the German Federal Diet and the German Federal Council on the Paris Treaty creating the European Coal and Steel Community (1951), the failed Treaty on the foundation of a European Defence Community (EDC) and a European Political Community (EPG) in 1952, combined with the Germany Treaty or General Treaty (1952) and the Treaties of Rome (1957) establishing the European Economic Community and the European Atomic Community, namely,

²⁷ Speech of Konrad Adenauer to the Association de la Presse Diplomatique in Paris on 11 December 1953 (Brochure of the Press- and Information Office of the Federal Government. Copy in ACSP München Goppel Papers 693).

- the wish of the German Lander to safeguard their rights and interests directly in community affairs²⁸
- and the growing dilemma of the federal governments to ensure the obligation to work for German unity and at the same time to promote the process of economic and political integration according to the European "Community idea".

The dilemma German unity versus / and European integration since the mid-1980s provoked debates in the Federal Republic to eliminate the German unity clause from the preamble of the West German Basic Law.

The Federal Republic has to decide for European integration or German unification. It was Jürgen Schmude who in a speech at the Friedrich Ebert Foundation argued that there was no chance for German unification.²⁹ The unity clause of the Basic Law may also be interpreted as "dual statehood". The political priority of the Federal Republic should be to promote West European integration. German "unity in division" is capable of improvement. West German political reality is that the process of integrating the European democracies politically and economically is irreversible. Unity in division offers many chances for the future. Unity should be perceived in the "sense of a trans-border-crossing special togetherness" of the Germans.³⁰ Schmude's statement and views indicate that in many West German quarters the idea of the nation had changed, i.e. was the national question still a central issue or had it degenerated to Sunday speeches?

2. A new Germany in a united Europe 1945-1989/90

At the end of the Second World War there was a totally different situation for Germany compared to 1813-1815 or 1848/49, 1870/71 and 1918/19. During the Second World War the allies of the anti-Hitler coalition were discussing the future role and political system of post-war Germany.

²⁸ Cf. Wolf D. Gruner, "Les Länder allemandes et la création de la CECA, in Bitsch, Marie-Therèse (Ed.), *Le couple France-Allemagne et les institutions européennes. Un posterité pour le Plan Schuman?* Bruxelles: Émile Bruylant 2001, pp. 35-61 – Gruner, Wolf D., „Das Verhältnis Bund – Länder – Europa in der Geschichte der Bundesrepublik“, in Gruner, Wolf D. / Woyke, Wichard, *Europa-Lexikon. Länder – Politik – Institutionen*. München: C.H.Beck 2007, pp. 73-79.

²⁹ Jürgen Schmude, „Keine Chance für die Einheit?“ in *Vorwärts* 10/11.3.1989, pp. 27-29.

³⁰ *Ibidem*, p. 129.

They wanted to eliminate the Prussian problem in German political and constitutional history. The authors of a memorandum on Germany pleaded in favour of dismemberment of Prussia and not for a dismemberment of Germany. This was considered as a prerequisite for establishing a functioning federal and democratic state in Germany.³¹ The Yalta Conference published a declaration on the future of a democratic and liberated Europe.³² It stated that the wartime allies would have a say in the affairs of Europe. European economy and European politics were re-established at a national level.³³ Wartime plans of the governments in Exile, of emigrants and of the Resistance for a united Europe replacing the nation state were taken off the political and economic agenda. This left almost no room for European ideas and concepts. Nevertheless, between the end of the war and the foundation of two states in Germany there was a public exchange on the future constitution of a German state as well as on a constitution for Europe and on Germany's role and contribution for United States of Europe to be established.

As far as a united Europe was concerned it was quite clear that it should have some kind of federal organizational structure. Which model would suit best? Would the German, Swiss, American or other European traditions prevail in reconstructing post-war Germany in a European framework?

³¹ Cf. National Archives London – Public Record Office (in the following PRO), Foreign Office (in the following F.O.) 371/39080 “Confederation, Federation and Decentralization of the German state, and the Dismemberment of Prussia” (November 27, 1944) – Cf. also Gruner, Wolf D., *Die deutsche Frage in Europa* (note 8), p. 204ff. with more details and comments on sources and literature.

³² Department of State (Ed.), *Foreign Relations of the United States. Diplomatic Papers. Conferences at Malta and Yalta, 1945*. Washington DC: US Government Printing Office 1945, Communiqué issued at the end of the conference February 11, 1945 Doc. 500 (Report of the Crimea Conference), part IV: Declaration on Liberated Europe, p. 972: The pressing political and economic problems should be solved “by democratic means. The establishment of order in Europe and the building of national economic life must be achieved by processes which will enable the liberated peoples [...] to create democratic institutions of their own choice” – cf. also PRO CAB 119/11: Outward telegramme to the Dominions on the Results of the Yalta Conference (Argonaut) 12 February 1945.

³³ Cf. Michel Dumoulin, (Ed.), *Plans de temps de guerre pour l'Europe d'après guerre 1940-1947*. Bruxelles: Émile Bruylant 1995 – Laqueur, Walter, *Europe in our Time*. Washington D.C.: Viking 1992, p.7ff. – Mammarella, Giuseppe, *Storia d'Europa dal 1945 a oggi*. Milano: Editori Laterza 2019, p. 3ff.

Politicians, experts in exile and in the resistance movement had developed ideas for a new Germany, the “other Germany” in a new Europe after the war. In all German zones of occupied they were discussing the best constitutional framework for “the other Germany”, for a new and democratic Germany and how to integrate it into a united Europe. They all had their political and scholarly roots in Weimar Germany and in Imperial Germany. Against the background of their experience of National Socialism at home or in exile they were fighting old battles whether or not federalism or a central state would be the best form for German statehood. The federalists were pleading for a reformed and democratic ‘German Confederation’ which would become an integral member of a ‘Federation of European States’.³⁴ The supporters of a unitary political system, like Otto Grotewohl, chairman of the Socialist Unity Party (SED), and Wolfram von Hanstein argued that the only solution for the German constitutional question would be a ‘unitary German state’.³⁵ This was inter alia called into question in an article on “Unity of Freedom? Strong Criticism of the draft constitution of the Socialist Unity Party”.³⁶

The majority of the Social Democratic Party (SPD) also was in favour of some kind of unitary German Reich being part of a united European Federation of states. In 1925 the SPD was the first German party which wrote into its party programme the objective “to establish United States of Europe”.³⁷ It was asking for the creation of “European Economic

³⁴ Cf. e.g. Institut für Zeitgeschichte München, (in the following IFZ), Hoegner Papers ED 120/127 Richtlinie (August 1944), Züricher Erklärung (April 1945) – Doberer, Kurt Karl, *Die Vereinigten Staaten von Deutschland*. München: Willi Weismann Verlag 1947 (Original: *United States of Germany*. London: Lindsay Drummond 1944).

³⁵ Cf. Otto Grotewohl, *Deutsche Verfassungspläne*, Berlin: Dietz Verlag 1947 – Grotewohl, Otto, *Reden und Aufsätze. Vom Einigungsparteitag im April 1946 bis zum 1. März 1947*. Berlin: Neues Deutschland 1947 – Hanstein, Wolfram von, *Deutschland oder deutsche Länder: Eine geschichtliche Betrachtung*. Dresden: Sächsischer Volksverlag 1947 – I have discussed these aspects in more detail in: Gruner, Wolf D., „Deutschlandpolitische Grundsatzpositionen und Zielvorstellungen in den westdeutschen Besatzungszonen 1945-1949, in, Deutscher Bundestag (Ed.), *Materialien der Enquetekommission <Aufarbeitung von Geschichte und Folgen der SED-Diktatur in Deutschland>*, vol. V/2 *Deutschlandpolitik*. Baden-Baden: Nomos 1995, pp. 1404-1488.

³⁶ Richard Jaeger, „Einheit oder Freiheit? Kritik am Verfassungsentwurf der SED“, in *Bayerische Rundschau* 1947, p. 106f. (ACSP München Jaeger Papers P 23).

³⁷ Parteivorstand der Sozialdemokratischen Partei Deutschlands (Ed.), *Das Heidelberger Programm. Grundsätze und Forderungen der Sozialdemokratie*. Berlin: Auer&Co Hamburg 1925, Abschnitt Internationale Politik, pp. 65-70, p. 70. – Schönhoven, Klaus, *Der Heidelberger*

Unity" in order to overcome the economic post-war problems and to achieve the solidarity of interests of all peoples and continents. The constitutional committee of the SPD in spring 1947 prepared guidelines for the organisation of a German republic. Germany should not be transformed into a federation of states. A federation of states (Staatenbund) "would hamper externally the future development toward European unity and would internally mean an unnecessary dismemberment [...] A disintegration of Germany into independent states would be nonviable".³⁸

This vote for a decentralized unitary state met with strong resistance at the Party Conventions of 1947 and 1948. Senior and influential Social Democrats like the mayors of Bremen and Hamburg, Wilhelm Kaisen³⁹ and Max Brauer⁴⁰ or the South German Prime Ministers Wilhelm Hoegner (Bavaria)⁴¹ and Carlo Schmid⁴² (Württemberg-Hohenzollern) instead were favouring a federal structure for the future German Reich in a united Europe. When the SPD was founded in Süd Württemberg in February 1946 Carlo Schmid was convinced he could imagine a future for the European peoples in some kind of "United States of Europe" only. "Building as new Europe" he said "can only be realized by a European Confederation. May be the will for a confederation can be encouraged when the German people finds its own political unity based on federalism".

Programmparteitag von 1925: Sozialdemokratische Standortbestimmung in der Weimarer Republik. Heidelberg: Stiftung Reichspräsident-Ebert-Gedenkstätte 1995 – Winkler, Heinrich August, „Klassenbewegung oder Volkspartei? Zur sozialdemokratischen Programmdebatte 1920-1925“, in *Geschichte und Gesellschaft* 1/1982, pp. 9-54.

³⁸ „Richtlinien für den Aufbau einer deutschen Republik“ (13,14 March 1947), printed in: Benz, Wolfgang et al. (Eds.), *Bewegt von der Hoffnung aller Deutschen*. München: Dtv 1979, pp. 359-367, p. 359f. (Translation WDG).

³⁹ Cf. Wilhelm Kaisen, *Meine Arbeit, mein Leben*. München: List 1967 – Sommer, Karl-Ludwig, Wilhelm Kaisen. Eine politische Biographie. Bonn: Dietz 2000, p. 248ff.

⁴⁰ Erich Lüth, Max Brauer. Glasbläser, Bürgermeister, Staatsmann. Hamburg: Christians 1972 – Schildt, Axel, Max Brauer. Hamburg: Ellert & Richter 2014 – Fladhammer, Christa / Wildt, Michael (Eds.), Max Brauer im Exil. Briefe und Reden aus den Jahren 1933-1946. Hamburg: Christians 1998.

⁴¹ Wilhelm Hoegner, Der schwierige Außenseiter. Erinnerungen eines Abgeordneten, Emigranten und Ministerpräsidenten. München: Isar Verlag 1959 – IFZ Hoegner Papers ED 120/127– Kritzer, Peter, Wilhelm Hoegner. Politische Biographie eines bayerischen Sozialdemokraten. München: Süddeutscher Verlag 1979.

⁴² Cf. Friedrich Ebert Stiftung - Archiv der sozialen Demokratie (in der Folge: FES-AdSD) Private Papers Carlo Schmid (in the following NL C.S.) 1/CAAA002130 (1948).

Federalism would provide the natural unity of the people based on the laws. All members would keep their specific and beloved characteristics. If necessary, however, they would be enabled to act as a unity. Germany needs “healthy and strong Lander”. They should be “united in new German federation. The administration should get the necessary authority for tackling community tasks”.⁴³

Because of the opposition of people like Hoegner and Schmid the 1947 Party Convention of the SPD in Nurnberg voted in favour of a federative political system for Germany.⁴⁴ A German federation with strong Unitarian elements should join a European Federation of States.⁴⁵

The mainstream CDU, especially in the north of Germany, generally supported a unitary state. On 6 September 1946 the American Secretary of State James F. Byrnes delivered his Stuttgart “Speech of Hope”. He proposed a federal system for all Germany. The United States, he said, were favouring a provisional German government. A German National Council should be formed “composed of democratically responsible minister presidents or other chief officials of the several states or provinces which have been established in the four zones”.⁴⁶ The National Council should be “charged with the preparation of a draft of a federal constitution for Germany which [...] should insure the democratic character of the new Germany and the human rights and fundamental freedoms of all its inhabitants”.⁴⁷ The German resources must be used “to rebuild a free,

⁴³ Carlo Schmid, „Rede anlässlich der Gründung der SPD in Südwürttemberg. Reutlingen 20.2.1946“, in: Schmid, Carlo, *Die Forderung des Tages – Reden und Aufsätze*. Stuttgart: Klett 1946, p. 73f. (Translation WDG).

⁴⁴ SPD (Ed.), *Protokolle der Verhandlungen des Parteitagess der Sozialdemokratischen Partei Deutschlands*. Hamburg, 1947, p. 225 – cf. also Rogosch, Detlef, *Europavorstellungen in sozialdemokratischen und sozialistischen Parteien in Deutschland und Belgien 1945-1957*. Hamburg: Kraemer Verlag 1995, p. 50ff.

⁴⁵ Protokoll der Verhandlungen des Parteitagess der Sozialdemokratischen Partei Deutschlands vom 28. Juni bis 2. Juli 1947 in Nürnberg. Hamburg: Auer Druck 1947, Deutschland und Europa, S. 224f., p. 225 cf. also Gruner, Wolf D., *Deutschlandpolitische Grundsatzpositionen* (note 31), p. 1449ff.

⁴⁶ James F. Byrnes, “Restatement of Policy on Germany” (September 6, 1946), in: Oppen, Beate Ruhm van (Ed.), *Documents on Germany under Occupation, 1945-1954*. London New York: Oxford UP 1955, pp. 52-60.

⁴⁷ *Ibidem*.

peaceful Germany and a free, peaceful Europe".⁴⁸ Byrne's speech underlined the importance of Germany for the economic reconstruction of Europe. He considered the return of Germany in the society of European democracies as a necessary development. Byrnes' speech set up a debate on a German national representation, on the future political system of Germany and its role in a new Europe. It was the chairman of the CDU in the Soviet Zone of Occupation, Jakob Kaiser, who wrote an article on "The German Way". His guiding idea was that Germany should become "the bridge between East and West for the sake of Germany and Europe".⁴⁹ The geographical position of Germany as the heartland of Europe does not allow a separation between Eastern and Western Europe. The foundation of United States of Western Europe would create a demarcation line in Germany and Europe. Kaiser proposed that Germany should take on the role of a bridge, a mediator between East and West. In 1947, less than two years after the war this was unrealistic. It was too early to serve as a mediator. At that point Europe was not in a position to play an independent role, let alone a non-aligned Germany taking on the role of a mediator. It was Kaiser's hope that his idea might be an option to save German unity. In the present miserable state of Germany Kaiser was convinced that it was not the right moment to call for United States of Europe. He confessed that he was not "a man of federalism". Like other German politicians of the time his priority was "Germany first and then Europe".⁵⁰ We first have to master our own destiny. This is the common task for all Germans living in the southern, western, eastern zones of occupation and in Berlin. "We cannot wish that the commitment for a European Community is proclaimed as a way out from German despair [...] the strong will for United States of Europe should not be an escape from German despair, but the readiness to work for the creation of an ever closer European Community from a healthy and purified self-confidence".⁵¹

⁴⁸ *Ibidem*.

⁴⁹ Jakob Kaiser, "Deutscher Weg 1947" (Translation WDG), in: *Neue Zeit* 1 January 1947 – also printed in: Mayer, Tilmann (Ed.), Jakob Kaiser. *Gewerkschafter und Patriot*. Köln: Bund-Verlag 1988, pp. 272-276.

⁵⁰ Jakob Kaiser, „Um Deutschlands Schicksal“, in Mayer, Tilmann (Ed.), *Jakob Kaiser. Gewerkschafter und Patriot*, pp. 250-264, pp. 259-261 (note 149),(Translation WDG).

⁵¹ *Ibidem*, p. 261 (Translation WDG).

The Christian Democrats in the Southwest and the Christian Social Union (CSU) in Bavaria favoured a German federal republic.⁵² There was a South-German federal tradition ever since the early 19th century. After the First World War the south German Lander had to fight against unitary tendencies in Weimar Germany which became visible during the debates on the reform of the Weimar Constitution and the future character of the Weimar Republic during the “Lander Conferences” of 1928, “Unitarism or Federalism”, a Federation of German Lander, a decentralised Republic or a centralised German Reich.⁵³ After the Second World War politicians and historians like the Bavarian Prime Minister Hans Ehard and his speechwriter, the historian Ernst Deuerlein,⁵⁴ argued that a real federal structure of the constitution of Weimar Germany would have avoided the rise of National Socialism. Therefore, Ehard stated after the war, that a federal system of checks and balances would be the key for a democratic reconstruction of Germany.⁵⁵ As far as European unity was concerned he

⁵² Cf. Hans Ehard, *Freiheit und Föderalismus*. München: Bayerische Staatskanzlei 1947 – Ehard, Hans, *Die europäische Lage und der deutsche Föderalismus. Speech on 3 April 1948*. München: Staatskanzlei 1948 (accessible in: ACSP Franz Elsen Papers 10.1.1 – Further Information on Literature and Sources cf.: Gruner, Wolf D., „Deutschlandpolitische Grundsatzpositionen und Zielvorstellungen in den westdeutschen Besatzungszonen“ (note 24), p. 1449ff. – Gruner, Wolf D., „Der Föderalismus als Gestaltungsprinzip: Historische, philosophische und aktuelle Deutungen an deutschen Beispielen seit dem 18. Jahrhundert“, in Timmermann, Heiner (Ed.), *Subsidiarität und Föderalismus in der Europäischen Union*, Berlin: Duncker & Humblot 1998, pp. 51-76.– Benz, Wolfgang, „Föderalistische Politik in der CDU/CSU. Die Verfassungsdiskussion im Ellwanger Kreis“, in *Vierteljahrshefte für Zeitgeschichte* 25/1977, pp. 776-820 – Ley, Richard, *Föderalismusdiskussion innerhalb der CDU/CSU: Von der Parteigründung bis zur Verabschiedung des Grundgesetzes*. Mainz: Zabern 1978 – On German Europe Policy of Christian Democrats cf. also: Küsters, Hanns-Jürgen (Ed.), *Deutsche Europapolitik Christlicher Demokraten. Von Konrad Adenauer bis Angela Merkel (1945-2013)*. Düsseldorf: Droste 2013.

⁵³ Cf. Bayerisches Hauptstaatsarchiv München (in the following BHStAM) MA 103351 Reich und Länder – *Ibidem.*, MA 99520 Protocol Council of Ministers 1926 – Bayerische Volkspartei (Ed.), *Unitarismus oder Föderalismus? Materialien zu dem Kampf um bundesstaatliche Gliederung des Deutschen Reiches*. München: Verlag des Generalsekretariats der Bayerischen Volkspartei 1928 – John Anke, *Der Weimarer Bundestaat. Perspektiven einer föderalen Ordnung (1918-1933)*. Köln Weimar Wien: Böhlau 2012, p. 169ff. – Gelberg, Karl-Ulrich, „Föderalismus“, in *Historisches Lexikon Bayerns* (<http://www.historisches-lexikon-bayerns.de/Lexikon/Föderalismus> consulted 10 January 2018).

⁵⁴ Cf. Alexander Wegmaier, „Karl Schwend und Ernst Deuerlein – Steuermänner im Schatten Ehard“, in *Zeitschrift für bayerische Landesgeschichte* 76/2013, pp. 563-602 – Deuerlein’s papers are stored in the Bayerische Staatsbibliothek München.

⁵⁵ Cf. Hans Ehard, *Föderalismus* (note 45), p. 20 – Deuerlein, Ernst, *Föderalismus* (note 13) p. 231ff.

underlined the indispensable importance of federalism for the construction of Europe.⁵⁶ In a lecture in 1954, written by Ernst Deuerlein, Ehard argued that federalism was an ideal model for a united Europe.⁵⁷

The two major groups in the German debate – the federalists on one hand fighting for a federation of the German Lander (“Bund Deutscher Länder”) and the protagonists of a German unitary state being understood as the best means to safeguard German interests in a European Federation – brought back into German politics an old conflict in German history ever since the mid-19th century which has not yet been solved.⁵⁸ Thus the passing of the German Basic Law in early May of 1949 by the Parliamentary Council (“Parlamentarischer Rat”) was a compromise between a federation of states and a unitary state.⁵⁹ Hans-Joachim von Merkatz described the struggle between federalists and centralists in the Parliamentary Council:

The outcome was a Basic Law which contained “centralist as well as real federalist tendencies and thus allowed for further developments”.⁶⁰

The first constitution of the GDR, published on March 18, 1948, followed the ideas of a unitary state, but included, for all-German reasons, federal elements. There was no reference to Europe.⁶¹

⁵⁶ Hans Ehard, *Die europäische Lage und der deutsche Föderalismus* (note 36), p. 25.

⁵⁷ Hans Ehard, „Die geistigen Grundlagen des Föderalismus“, in Gelberg, Karl-Ulrich (Ed.), *Quellen zur politischen Geschichte Bayerns in der Nachkriegszeit*. Vol. 1 (1944-1957), München: Bayerische Landeszentrale für politische Bildungsarbeit 2002, p. 529-538 – Gelberg, Karl-Ulrich, *Hans Ehard. Die föderalistische Politik des bayerischen Ministerpräsidenten, 1946-1954*. Düsseldorf: Droste 1992 – ACSP München Franz Elsen Papers 9.3.18: Die geistigen Grundlagen des Föderalismus (3 June 1954).

⁵⁸ Cf. Wolf D. Gruner, *Historical Dimensions*, p.15ff. (note 7) and further literature on this topic.

⁵⁹ Cf. BHStAM St.K. 10001/1,2 – 10012 Constitutional Convention on Herrenchiemsee – Grundgesetz für die Bundesrepublik Deutschland May 8, 1949, facsimile print in: Limbach, Jutta / Herzog, Roman / Grimm, Dieter (Eds.), *Die deutschen Verfassungen. Reproduktion der Verfassungsoriginale von 1849, 1871, 1919 sowie des Grundgesetzes von 1949*. München: C.H. Beck 1999.

⁶⁰ Hans-Joachim Merkatz, *Föderalismus ohne Mißdeutung und Mißbrauch*. Lecture April 1957, in IFZ Nachlass ED 132/74.

⁶¹ Cf. Verfassung der Deutschen Demokratischen Republik. Mit einer Einführung von Otto Gothewohl. Berlin 1949. – Constitution of the German Democratic Republic of 7 October 1949 (https://www.cvce.eu/content/publication/1999/1/1/33cc8de2-3cff-4102-b524-c1648_72a838/pubklishable_en.pdf (consulted 16 January 2018) – Zur Einschätzung und Bewertung vgl. auch Gruner, Wolf D., „1849 – 1919 – 1949: Deutsche Verfassungstraditionen zwischen der Paulskirchenverfassung und dem Bonner Grundgesetz“ and Müller, Werner, „Vom Volksrat zur Volkskammer. Der Weg zur ersten Verfassung der DDR 1948/49“, in Gruner, Wolf D. (Ed.), *Jubiläumsjahre – Historische Erinnerung – Historische Forschungen. Festschrift für Kersten Krüger zu 60. Geburtstag*. Rostock: Universitätsdruckerei 1999, 2000, pp. 271-340, pp. 327ff. and pp. 235-270.

On 13 June 1949 Carlo Schmid, a prominent Social Democrat and one of the most influential members of the Parliamentary Council gave a speech at the founding convention of the German Council for the European Movement (Deutscher Rat der Europäischen Bewegung) in Wiesbaden. Six weeks after the ratification of the Basic Law he spoke on "Germany and the Council of Europe in Strasbourg".⁶² Schmid was arguing that by founding the Council of Europe we have not yet established the United States of Europe. In order to function, Europe needs unity in the political, economic, cultural and constitutional sphere, i.e. we need a transfer of sovereignty to a European authority. In the future we will have to give up the dogma that sovereignty is inseparable. "Sovereignty is as separable as anything invented by Men in this world, and I believe, that we should make righteous and ample use of the possibilities offered by this new idea".⁶³

What Europe needs is a real and functioning government. When we talk about Europe, Carlo Schmid pointed out, we should not think in terms of the present "Little Europe" ("Klein-Europa"), "but we should remember the good old continental Europe which equally belongs to the East and to the West, this refers not only to the East of Germany but also to the East of the Continent!"⁶⁴ The Europeans should abandon the idea of a hegemonic Europe which will no longer be possible. They should work, however, for a Europe which will be a "European Federation" and not just a "Confederation of sovereign states"! Integrated Europe must be a place where people would love to live in. The European Federation must guarantee political and individual freedom and the rule of law as well as social justice according to the laws in force.⁶⁵

⁶² Carlo Schmid, *Deutschland und der Europa-Rat in Straßburg*. Köln: Liga Verlag 1949 – printed also in, Lipgens, Walter (Ed.), *45 Jahre Ringen um die Europäische Verfassung. Dokumente 1939-1984. Von den Schriften der Widerstandsbewegung bis zum Vertragsentwurf des Europäischen Parlaments*. Bonn: Europa Union Verlag 1986, Doc. 60, pp. 271-273. For Carlo Schmid a „homme de lettre“ cf. Weber, Petra, *Carlo Schmid 1896-1979. Eine Biographie*. München: C.H. Beck 1996 – On the debate concerning the role of the Länder within the federation during the sittings of the Parliamentary Council cf. Schmid, Carlo, *Erinnerungen*. Bern München: Scherz 1979, p.376ff.

⁶³ Schmid, *Deutschland und der Europa-Rat*, p. 13 (Translation WDG).

⁶⁴ Schmid, *Deutschland und der Europa-Rat*, p. 15f. (Translation WDG).

⁶⁵ Schmid, *Deutschland und der Europa-Rat* (note 62), pp. 14-16 (Translation WDG).

Carlo Schmid throughout his political and intellectual life supported the unification of the European continent.⁶⁶ He was member of the German Bundestag and of the Consultative Assembly of the Council of Europe. In a speech to the assembly of the Council of Europe he justified his party's the rejection of the project for a European Army: "The German Socialist Party [...] refuses to agree to any plan for German rearmament in the present state of European organization, or rather, disorganization. It will refuse to agree so long as Europe, that is to say, a European supranational authority, has not come into being. Once this has been achieved, however, we shall re-examine the problem, if Europe is still interested". A European Army should be under the responsible control of a European government and of a responsible European parliament. His demand that in a Europe of solidarity the principle of an equality of rights, an equality of duties and an equality of financial responsibility should prevail faced strong resistance.⁶⁷ Europe for him as for other delegates of the Consultative Assembly was more than just Western Europe. It was the European continent, Europe East and West.⁶⁸ In an article "Europe as a National Task" Schmid justified the position of his party to reject the "Western Treaties". All attempts for a practical Europe policy starting with the Marshall Plan and the OEEC failed since it did not create a European economic space but sixteen national economies. The chances for a Political Authority of the Council of Europe which would have promoted the way to Europe were gambled away. The SPD therefore voted against West-German membership in the Council of Europe. The idea of the Schuman Plan to place European key industries under a common international authority for the benefit of all nations was abused in the treaty. The Schuman Plan would put major obstacles for the restoration of the unity of Germany. The same is true for the General Treaty and the Treaty for a European Defence Community.

⁶⁶ FES-AdSD NL C.S. 1/CSAA002129-CASA002131 (1948-1949) – *Ibidem*, 1/CSAA002132b – *Ibidem*, 1/CSAA0022128 (1948)

⁶⁷ Council of Europe (in the following CoE) Consultative Assembly (in the following CA) Debates 1950, 10th sitting 10 August 1950, p. 154 – the German version in: FES-AdSD NL C.S. 1/CSAA002132b.

⁶⁸ Cf. Wolf D. Gruner, *Der Europarat wird fünfzig* (note 15), p. 130ff. – Gruner, Wolf D., „Les Europe des Européens“. The Perception of Europe in the Debates of the Consultative Assembly of the Council of Europe 1949-1951", in Bitsch, Marie-Thérèse / Loth, Wilfried / Poidevin, Raymond (Eds.), *Institutions Européennes et Identités Européennes*. Bruxelles: Émile Bruylant 1998, pp. 89-122.

German Europe policy must avoid any steps which would prevent the reunion of Germany. "The road to Europe must go through all Germany. Europe cannot be built in one day. We shall accomplish this aim through preliminary stages only".⁶⁹ We have to revise the present European treaties. We have to find appropriate means which would "enable all states, which belong to Europe, to want to be in Europe".⁷⁰ Therefore it is necessary for the governments to find out to what extent the European nations are prepared to integrate with their neighbours and to enter into a cooperative community. The Social Democrats are "federalists", Schmid argued. They hope that it will be possible someday to realize "United States of Europe with a European government to pursue a European policy and a responsible elected European parliament".⁷¹

Fritz Erler, founding member of the German Council of the European Movement and member of the presidium of the SPD, in August 1949 wrote an article for the "Schwäbische Tagblatt" concerning the foundation of a European Federation. "Today's Utopia is the reality of tomorrow". He believed that a united Europe cannot be built without Germany. Europe used to be the battlefield of the world. Every twenty to thirty years there was a murderous war in Europe. The only chance for Europe to survive will be to take the first step toward European unity. "It must be a real unity [... i.e.], that the dream of complete sovereignty and independence of every single European people has come to an end. All European peoples, not only the defeated of the last war, must give up parts of their sovereignty and transfer this part to an all-European state".⁷² In the long run there will be a "European economic unity" as a first step of a European federation. The federation will have real federal institutions, i.e. an all-European parliament and an all-European government. "The European parliament must be elected by the peoples of Europe in relation to its strength with directly elected members. They then should form groups according to political beliefs and not according to the peoples of the

⁶⁹ Carlo Schmid, „Europa als nationale Aufgabe (1952)“, in Schmid, Carlo, *Europa und die Macht des Geistes* (note 9), pp. 32-45.

⁷⁰ *Ibidem*, pp. 38-41, p. 43 (Translation WDG).

⁷¹ *Ibidem*, p. 43f., p. 44 (Translation WDG).

⁷² Fritz Erler, „Bundesstaat Europa“, in Gaebler, Wolfgang (Ed.), *Fritz Erler. Politik für Deutschland. Eine Dokumentation*. Stuttgart: Seewald 1968, pp. 427-431, pp. 427-429 (Translation WDG).

members”.⁷³ Erler was convinced that “the way toward Europe does not lead via a loose German Confederation but via a strong German federation which will be on equal terms with the other European States”.⁷⁴

The German delegates to the Consultative Assembly of the Council of Europe, with the exception of the German Social Democrats, supported the idea of a European army.

The Committee of Ministers of the Council of Europe was in favour of West Germany’s accession to the Council. It should become an integral part of a united Europe. The majority of the German delegates to the Assembly during the session of 1950/51 had clear expectations and hopes for a united Europe. Despite political and ideological differences they favoured a Europe along federal lines. They were prepared to take away sovereignty from the national state and set up a European constitution with a bicameral system. Eugen Gerstenmeier from the Christian Democrats (CDU) in the Consultative Assembly explained the motion of the German Federal Diet on a European Federal Pact which was transferred to the Council of Europe:⁷⁵ It is “a fact of life that the leitmotif of all the ideas of the free nations of Europe since the Second World War has been the notion of a constitutional economic and political union [...] Victorious nations, no less than the vanquished, must realise that the period when ideas and actions operated only within the framework of sovereign nation states belongs to the past. A reconstruction of Europe based on the idea, whether avowed or unavowed, of re-acquiring as extensive a sovereignty as possible, or on a revisionist activity, could in no sense be a genuine reconstruction, but merely the dangerous restoration of a period which belongs to the past”.⁷⁶ Gerstenmeier also stressed the point that the German national conscience as a result of the experience of the war has undergone a profound change. Germany is not asking for national advantages: “In declaring ourselves in favour of a united Europe, we are leaving aside all considerations of private advantage. [...] [W]e Germans feel no more at home than you do in places where liberty and justice are

⁷³ *Ibidem*, p. 429 (Translation WDG).

⁷⁴ *Ibidem*, p. 430 (Translation WDG).

⁷⁵ German Bundestag (in the following DBT), 1st Legislative Period 1949-1953, 179st Sitting 26 July 1950, Printed Document 1193. The motion was adopted unanimously – Document on a European Federal Pact also in: Politisches Archiv des Auswärtigen Amtes Berlin (in the following: PA AA) Abt. 2, 221-01 vol. 2.

⁷⁶ CoE CA 2nd Session Official Report of Debates, 3rd Sitting 9 August 1950, p. 128.

oppressed. We feel at home here, within the community of the free nations of Europe. We feel at home among those peoples to whom liberty and justice are more important than life itself".⁷⁷

Kurt Georg Kiesinger and Carlo Schmid also pointed out the advantages of a federal solution for Europe.⁷⁸ Like Ronald Mackay Schmid pleaded in favour of a gradual shift from national sovereignty to supranational sovereignty.⁷⁹ After the successful negotiations for the establishment of a European Coal and Steel Community (ECSC) and the signing of the treaty establishing the European Defence Community (EDC) the Council of Europe and the ECSC set up an Ad-Hoc-Assembly which should draw up a constitution for a European Political Community. The Constitutional Committee was headed by the German Christian Democrat, Heinrich von Brentano.⁸⁰ It submitted a draft constitution for a European Political Community.⁸¹ Since the Treaty of the European Defence Community was not ratified by the French parliament the EDC and the EPC did not come into force.

When the Basic Law was negotiated in the Parliamentary Council the mothers and fathers of the constitution did not consider the role and rights of the German Lander in European affairs. In order to achieve the status of an equal partner in European negotiations it was highly important for the

⁷⁷ *Ibidem*, p. 130.

⁷⁸ Cf. *Ibidem*, 21st Sitting 28 August 1950, pp. 1202-1204 and 23rd Sitting 23 November 1950, pp. 1570-1572.

⁷⁹ Cf. Carlo Schmid, *Deutschland und der Europäische Rat* (note 46) – Mackay, Ronald William Gordon, *Western Union in Crisis*. Oxford: Oxford UP 1949 – cf. also Mackay's literary estate in the LSE Library Archives and Special Collection London: GB 97 Mackay.

⁸⁰ BHStAM St.K. 13206 Ad Hoc Versammlung (in the following AHV) EPG 1952/53 – *Ibidem*, St.K. 1035 – *Ibidem*, AHV-EPG Sten. Ber. 20.12.1952 (Report of the Constitutional Committee) – *Ibidem*, AHV-EPG Sitting January 1953 Doc AH 2, 6 January 1953 (Report v. Brentano) – Cf. Gruner, Wolf D., *Der Europarat wird fünfzig – 'Vater' der europäischen Integration: Gründungsvorstellungen, Wirkungen, Leistungen und Perspektiven nach 50 Jahren*, in Gruner, Wolf D., (Ed.), *Jubiläumsjahre – Historische Erinnerung – Historische Forschung. Festgabe für Kersten Krüger zum 60. Geburtstag* (Rostocker Beiträge zur Deutschen und Europäischen Geschichte 7). Rostock: Universitätsdruckerei 1999, pp. 117-234, p. 211ff. – Koch, Roland / Kroll, Lothar (Ed.), Heinrich von Brentano (note 25) – cf. *Ibidem*, Elvert, Jürgen, „Heinrich von Brentano. Vordenker einer Konstitutionalisierung Europas“, pp. 159-181.

⁸¹ CoE CA Doc 120 (5) 1953: Report on the Draft Treaty embodying the Statute of the European Community adopted by the Ad Hoc Assembly – PA AA 2/580 Bericht über die gemeinsame Sitzung der Mitglieder der Beratenden Versammlung des Europarates und der Gemeinsamen Versammlung der EGKS v. 22.6.1953 in Straßburg.

federal government to regain as much sovereignty as possible. The Bonn government in its European policies should, on the other hand, always take the national question into consideration. When the German Bundestag was discussing the Treaties of Rome in 1957, Walter Hallstein, at the time Undersecretary of State for Foreign Affairs, in a declaration for the federal government referred to “the deplorable fact that Germany is integrated into the new European Community burdened with the political mortgage of forced division. But it is also true that no German federal government, irrespective of its composition, will ever approve of a deepening of German division”.⁸²

Besides the national question there was another issue, which was on the agenda ever since the early steps of the Federal Republic towards European integration. It is still a problem in the relations between the Federation and the German Lander, i.e. the role, the rights and the obligations of the Lander *and* of the Federation in European integration policies, i.e. in the German case we have to deal with the Triad Federation – Lander – Europe.⁸³

When the Parliamentary Council in 1948/49 was setting up a unitary federation (‘Unitarischer Bundesstaat’), neither the members of the Council nor the Western occupying powers realized the long term consequences of the “constitutional compromise” agreed on in 1949, i.e. its impact on the rights, competences and jurisdiction of the Lander and of the Federation on issues of European integration. In the early 1950s West Germany joined the Council of Europe, in 1951/52 it became a member of the European Coal and Steel Community (ECSC), in 1957 it signed the Treaties of Rome. Until

⁸² Presse- und Informationsamt der Bundesregierung, *Bulletin* 1957, No. 56, pp. 473-480, p. 475 (Declaration of the Federal Government to the Bundestag, 22 March 1957) – cf. also Gruner, Wolf D., „Die Bundesrepublik Deutschland und die Römischen Verträge in historischer Perspektive“, in Gehler, Michael (Ed.), *Vom Gemeinsamen Markt zur Europäischen Unionsbildung. 50 Jahre Römische Verträge 1957-2007 – From Common Market to European Union Building. 50 Years of the Rome Treaties 1957-2007*. Wien Köln Weimar: Böhlau 2009, pp. 485-520.

⁸³ Cf. for the issue: Diedrichs, Udo, The German system of EU Policymaking and the Role of the Länder: Fragmentation and Partnership, and Elisabeth Dette-Koch, German Länder Participation in European Policy through the Bundesrat, in: Gunlicks, Arthur, *German Public Policy and Federalism*, pp. 165-181 and pp. 182-196 – Some key documents are printed in: Sekretariat des Bundesrates (Ed.), *Bundesrat und Europäische Gemeinschaften. Dokumente*. Bonn: Bonn Aktuell 1988 – Gruner, Wolf D., *Les Länder allemands et la création de la CECA* (note 20).

1995 the Federal Republic was the only federation in the European Communities. According to the provisions of the Basic Law the Federal government had the right to conclude international treaties. The participation of the Lander became an issue when the Federal Republic joined the Council of Europe. In the process of ratification the Lander were claiming half of the seats for the German Lander and a greater participation in European affairs. They did not go to the Supreme Court.⁸⁴ But already at this point the Lander were asking for equal representation of the Federal Diet and the Federal Council.⁸⁵ The ECSC treaty had a direct impact on the rights and jurisdiction of the German Lander. During the discussions in the ratification process the Federal Council was considering to take the government to the Supreme Court in order to safeguard the rights of the German Lander.⁸⁶ In 1951 the Lander did not succeed in their efforts to participate directly in any negotiations at a European level and to be informed in advance by the federal government on the upcoming issues European and problems. Since the 1950 battle over the ratification of the ECSC Treaty the German Lander improved their position in the triad of Federation – Lander – Europe. On 19 July 1957 die Federal Council after debates on the impact of the EEC Treaty on the national question and the influence of the Lander in European affairs adopted unanimously the ‘Rome Treaties’.⁸⁷ The federal government was obliged according to article 2 of the law implementing the Treaties of Rome (The EEC Treaty and the EAC Treaty) to inform the Federal Council and the Lander about European projects, the government’s Europe policy and initiatives in advance.⁸⁸ The right of the Lander provided by federal law in 1957 was not adequate, however, to keep up with the growing pace of European integration and

⁸⁴ The FRG was entitled to send 10 delegates into the Consultative Assembly of the Council of Europe.

⁸⁵ Cf. in more detail: Wolf D. Guner, „Der Europarat wird fünfzig – ‚Vater‘ der europäischen Integration. Gründungsvorstellungen, Leistungen und Perspektiven nach 50 Jahren“, in: Gruner, Wolf D., *Jubiläumsjahre – Historische Erinnerung – Historische Forschungen*. Rostock: Universitätsdruckerei 1999, pp. 117-234.

⁸⁶ Cf. Wolf D. Gruner, *Les Länder allemands et la création de la CECA* (note 20), pp. 38ff.

⁸⁷ The respective documents can be found in: Bundesrat, *Bundesratsdrucksache* (in the following: BR-Drs.) 146/1957 B (Statement of the Federal Council) – DBT, *Bundestagsdrucksache* (in the following BT-Drs.) 2/3440 (Answer of the Federal Government) and proceedings of the Federal Council, Official Journal 181st sitting 19 July 1957, p. 742C – 726B.

⁸⁸ Cf. Bundesgesetzblatt 1957 II, p. 753.

necessary actions to protect the interests of the Lander. The speeding process of European integration process since 1957 increasingly interfered with the jurisdiction of the Lander in their genuine competence like education, cultural affairs, regional policy and broadcasting corporations and the Federal Council on several occasions referred to this intrusion upon its competences.⁸⁹ When the “Single European Act” was signed in Luxembourg on 17 February 1986 the Federal Council had to ratify the respective bill with a 2/3 majority.⁹⁰ When the Federal Government was negotiating to complete the Single European Act the Bavarian Government filed a motion “for a resolution of the Federal Council concerning the revision of the Treaties of Rome”.⁹¹ Bavaria claimed that many wordings in the available documents are too vague and might have an impact on German standards. Bavaria requested that the sphere of educational policy should remain in the responsibility of the member states, in the German case in the responsibility of the Lander. This reservation should be included in the final wording of the treaty. It was also requested that the rights of the Lander concerning the transfer of sovereign rights to the EC must be improved. There should be no transfer of sovereign rights (Hoheitsrechte) without the approval of the Federal Council.⁹²

⁸⁹ Cf. e.g. Bundesrat (in the following DBR), BR-Drs. 95/1978 – BR-Drs. 418/1979 – BR-Drs. 432/1983 – BR-Drs. 414 and 469/1985 – BR-Drs. 45 and 186/1986 – A useful report on the growing role of the Bundesrat is: Konow, Gerhard, „Der Bundesrat und das Gleichgewicht zwischen Bund und Ländern. Anmerkungen zur und aus der Arbeit des Bundesrates von 1958 bis 1988“, in Hrbek, Rudolf (Ed.), *Miterlebt – Mitgestaltet. Der Bundesrat im Rückblick*. Bonn: Bonn Aktuell 1989, pp. 244-265.

⁹⁰ DBT, BT-Drs. vol. 339 /1986 10/6013(17.9.) – BT-Drs. 10/6029 (19.9.) – vol. 341/1986, BT-Drs. 10/6226 (Report and recommendation of the Europe Committee, 22 October 1986) – vol. 342/1986, BT-Drs. 10/6380 (Report of the Federal Government, 7 November 1986) – DBT-Drs. 10/6392 Draft of Bill Single European Act (10. November 1986) – DBT-Rds. 10/6418 Information through the Federal Government. Reply to the statement of the Federal Council of 16 May 1986 (12.11.1986) – BT-Rds. 10/6414 (motion of the SPD parliamentary group of 12 November 1986) – vol. 343 BT-Rds. 10/6663 Report and recommendation of the Foreign affairs Committee and BUNDESRAT, BR-Rds. 150/86 (16 May 1986, adoptier) – Cf. also John, Anke, „Konzeptionen für eine EG-Reform: Der europäische Verfassungsdiskurs in der Bundesrepublik 1981-1986“, in König, Mareike / Schulz, Matthias (Eds.), *Die Bundesrepublik Deutschland und die europäische Einigung 1949-2000. Festschrift für Wolf D. Gruner zum 60. Geburtstag*. Stuttgart: Steiner 2004, p. 559-575 with important Preference to the research on the 1980s.

⁹¹ DBR BR Drs. 50/86: „Antrag der Bayerischen Staatsregierung: „Entschließung des Bundesrates zur Änderung der Römischen Verträge“, submitted 21 January 1986, also in: ACSP München Alfons Goppel Papers 674.

⁹² *Ibidem*.

In the early stages of the Single European Act (SEA) ratification process the Federal Diet and the Federal Government were not prepared to concede rights to the Lander beyond the legal regulations of 1957. The Federal Council, however, insisted in its resolution of 16 May 1986 on immediate participation in the domestic ('innerstaatlich') decision-making process. This right should be inserted into the Basic Law.⁹³ Therefore the Foreign Affairs Committee of the Federal Council recommended to the Bundestag to adopt a revised version of the bill on the Single European Act by including article 1a. It committed the federal government to inform the Federal Council and the Lander at an early stage about plans of the EC that are of interest to the Lander and which have an impact on their rights.⁹⁴ Despite the strengthened position of the Lander in European affairs since 1987 the Federal government could and did bypass its obligations. Thus the Lander decided to set up their own "embassies" in Brussels, to lobby directly in the European Commission, to brief MEPs and to delegate their officials directly into directorates dealing with their Land-interests.

When the European Parliament sent its draft Constitution for a European Union to the German Diet with a request for its opinion, the problem of German unity and European integration was discussed again.⁹⁵ The conclusion of the Federal Diet was: "'The Draft Treaty for the foundation of a European Union' is compatible with the Reunification clause".⁹⁶ The all-German *acquis* is not changed.

⁹³ The respective clause sub C reads: "3. Der Bundesrat verlangt, daß die Beteiligung der Länder an der innerstaatlichen Willensbildung für Entscheidungen im Rahmen der Europäischen Gemeinschaft nicht nur in dem Gesetz zur Einheitlichen Europäischen Akte, sondern darüber hinaus später in der Verfassung festgelegt wird. Außerdem darf die Übertragung von Hoheitsrechten nach Artikel 24 des Grundgesetzes auf zwischenstaatliche Einrichtungen in Zukunft nicht ohne Zustimmung des Bundesrates möglich sein, zumindest dann nicht, wenn es um Hoheitsrechte der Länder geht. 4. Der Bundesrat stellt die Zustimmung zu dem Gesetz zur Einheitlichen Europäischen Akte in Aussicht, wenn die von ihm verlangte Änderung des Gesetzentwurfs durch Einfügung eines neuen Artikels 1a erfüllt wird" – cf. from the Lander point of view: Hübler, Martin, *Die Europapolitik des Freistaates Bayern. Von der einheitlichen Europäischen Akte bis zum Amsterdamer Vertrag*. Munich: AACON 2002, p. 56ff.

⁹⁴ DBT vol. 644, BT-Drs. 10/6663 (3 December 1986).

⁹⁵ ACSP München Aigner Papers 40: „Wiedervereinigungsgebot und Vertragsentwurf zur Europäischen Union“.

⁹⁶ *Ibidem*, p. 10.

After unification in 1990 and the signing of the Maastricht Treaty in 1992 the German Lander received a new chance to improve their status in the triad Europe – Federation – Federal States. There were fierce debates in the committee to insert a ‘Europe’ article into the Basic Law, which replaced the old article 23 that provided the constitutional basis for the accession of the Lander of the GDR to the Federal Republic of Germany on 3 October 1990.⁹⁷ The new article 23 of the Basic Law is vital for improving the constitutional position of the Lander in affairs of the EU. In the process Germany shifted to some extent from a ‘unitary’ federation towards a more ‘federal’ federation. The Europe article describes the rights and obligations of the federation and of the Lander.⁹⁸ The new article 23 of the Basic law improved the position of the Lander vis-à-vis the federation. Despite the strengthening of the position of the Lander in a long struggle since the 1950s the federal states are still dissatisfied with the slow process of information and communication in European affairs. Thus today the Lander are searching for an appropriate role of further deepening of the European Union, especially as far as the principle of subsidiarity is concerned.⁹⁹ How can it best be applied at a European level? In proposals and discussions leading to the 1996 Intergovernmental Conference,¹⁰⁰ the Committee of the Regions argued that article 3b of the European Union Treaty (Treaty of Maastricht) could be implemented only if the Committee of the Regions would receive a status equal to the European Commission.

This claim is still on the agenda for European reform. The German Lander support this demand. The improved constitutional status of the

⁹⁷ For the original reading of article 23 cf. Limbach / Herzog / Grimm (Eds.), *Deutsche Verfassungen*, facsimile version (note 59).

⁹⁸ Quoted according to: Basic Law for the Federal Republic of Germany, text edition – Status: December 2000 (pdf-version): http://www.bundestag.de/htdocs_e/info/germanbasiclaw.pdf (consulted 5 January 2018).

⁹⁹ Cf. the interesting article by Ludger Kühnhardt, „Föderalismus und Subsidiarität“ in *Aus Politik und Zeitgeschichte* B45/91, p. 35-45 – From a broader angle: Gruner, Wolf D., „Der Föderalismus als Gestaltungsprinzip: Historische, philosophische und aktuelle Deutungen an deutschen Beispielen seit dem 18. Jahrhundert“, in Timmermann, Heiner (Ed.), *Föderalismus und Subsidiarität in der Europäischen Union*, Berlin: Duncker & Humblot 1998, p. 51-76.

¹⁰⁰ Cf. the Reflection Group Report (Westendorp Report): General Secretariat of the Council of the European Union (Ed.), *1996 Intergovernmental Conference (IGC'96). Reflection Group Report and other References for Documentary Purposes*. Brussels Luxembourg: Office of Official Publication 1996.

German Lander concerning their active participation in European integration and reform policies since 1994 had a positive impact on the German debate on the finality of Europe. People like the former Prime Minister of the state of Baden-Württemberg, Lothar Späth, or his successor Erwin Teufel who was the representative of the German Lander in the European Convention for establishing a European Constitution¹⁰¹ and other politicians from federal states made useful and important contributions to the European debate.¹⁰²

3. Walter Hallstein and Franz Joseph Strauss: Their version of Europe

Walter Hallstein ever since the early 1950s pleaded for a federal solution of the European question.¹⁰³ When the Treaty for the European Coal and Steel Community was signed on 18 April 1951 Walter Hallstein referred to the most dangerous enemy on “the way towards a European Federation”, namely, “national egotism which divides people and which still has its supporters in all of our countries”.¹⁰⁴ Like chancellor Adenauer Hallstein opposed a protectionist Europe and a Europe of the Fatherlands. He believed in the foundation of United States of Europe. He was confident that this aim will be achieved. The history of the foundation of the United States of America between success and the dangers of failure served as a model.¹⁰⁵

¹⁰¹ Every member state was allowed to send 3 delegates into the Convention. Germany sent 1 member of the government (Joschka Fischer, Green Party), 1 member of the Lander (Prime Minister of Baden-Württemberg Erwin Teufel, CDU) and 1 member for the Bundestag (Professor Meyer SPD).

¹⁰² Cf. Lothar Späth, 1992 *Der Traum von Europa*. Stuttgart: DVA 21989 – Späth, Lothar / Henzler, Herbert A., *Jenseits von Brüssel*. Düsseldorf: Econ 2001 – Späth, Lothar, *Strategie Europa. Ein Zukunftsmodell für die globalisierte Welt*. Reinbek b. Hamburg: Rowohlt 2005 – Palmer, Christoph E. (Ed.), *Europa in guter Verfassung. Erwin Teufel – für die deutschen Länder im Konvent*. Stuttgart: Staatskanzlei 2004 – Teufel, Erwin, *Europa bauen, den Wandel gestalten. Europa im Umbruch*. Stuttgart: Bosch Stiftung 2004.

¹⁰³ On Walter Hallstein cf. besides his books also his speeches: Hallstein, Walter, *Europäische Reden* (note 19) – also interesting: Küsters, Hanns Jürgen, „Adenauers und Hallsteins Vorstellungen von Europa“, in Duchhardt, Heinz (Ed.), *Europäer des 20. Jahrhunderts*. Mainz: Philipp von Zabern 2002, pp. 91-113.

¹⁰⁴ PA AA 2 / Sekretariat für den Schuman Plan, 55: Address in French by Walter Hallstein on behalf of the German Delegation on 13. March 1951.

¹⁰⁵ Cf. Hans-Jürgen Küsters, *Adenauer und Hallstein* (note 103), p. 104ff. – Gruner, Wolf D., „Der Platz Deutschlands in Europa nach dem Zweiten Weltkrieg aus der Sicht Jean Monnets (1940-1953)“, in Wilkens, Andreas (Ed.), *Interessen verbinden. Jean Monnet und die europäische Integration der Bundesrepublik Deutschland*. Bonn: Bouvier 1999, pp. 31-71, p. 67ff.

His vision was a federal solution for Europe, developed in his study “Europe in the Making”. The German title, however, “Der unvollendete Bundesstaat” is more appropriate.¹⁰⁶

The “Community must be seen not as a sovereign power made up of six parts delegated to it by six sovereign states, but as a Community venture equipped with a legal system of its own which its member-states have created in accordance and conformity with their national constitutions. [...] The conception sketched here is enough to leave many lawyers breathless. We have tried to rise above the legal forms and traditions of the past. Many would no doubt call our attempt ‘revolutionary’, and it may well be that future generations will come to regard the philosophical and legal concept underlying Europe’s constitution as the most creative achievement in the evolution of jurisprudence in our age, and perhaps even as the most original feature in our effort to integrate Europe. While the Germans have welcomed this concept and influenced its application and evolution, because their history has made them familiar over the centuries with a wide variety of federations and confederations, our French friends have had the greatest difficulties in coming to terms with it, because their historical experience is dominated by the concept of a highly-centralized state [...] If some Frenchmen claim that a ‘supranational’ Europe means the end of the nation-states, then one cannot accuse them of unfairness – only of being wrong, illogical, and unrealistic. Many of the world’s great states are federations. The citizens of such states are subject to two public authorities – that of the member-state and that of the federation. Admittedly, integrated Europe is not yet a federation, or a state; but it shares one important characteristic with a federation proper: the element of sovereignty of its own, conferred upon it by and derived from its member-states”.¹⁰⁷

It is difficult, he argues, to define the present status of the European Communities. According to Alexis de Tocqueville we will have to find a ‘new word’ to solve any semantic dilemma for a form of government “which is neither exactly national nor Federal”.¹⁰⁸

¹⁰⁶ Walter Hallstein, *Europe in the Making* (note 19) – Hallstein, Walter, *Der unvollendete Bundesstaat* (note 19).

¹⁰⁷ Walter Hallstein, *Europe in the Making* (note 19), p. 37f.

¹⁰⁸ *Ibidem*, p. 38. Hallstein is quoting Tocqueville and his reference to the American model.

From his experience as a scholar, a negotiator and the long-term president of the EEC Commission Hallstein claimed to have the 'new word': "The Community Idea". The expression "Community Idea" was invented by Professor Ophüls, an expert and political adviser in the German Foreign Office. The basic question has been "what form should the union of Europe take? We had three choices open to us: unitary, international, and supranational or 'Community'".¹⁰⁹ What Europe needed was not a French style 'unitary structure' nor an international solution which would have created a 'partnership of states', but a 'supranational solution'. The Community idea is not aiming at destroying national identities and the nation state, but the "'Community' concept [...] implies – and rightly – that states renounce merely a part of their sovereignty, or rather that they put parts of their sovereignty, or rather that they put parts of their national sovereignty into a common pool which is controlled by 'Community' institutions whose decisions are in fact their own. One could this solution 'federal'".¹¹⁰

The expression 'Community Idea' should be preferred in the process of constructing Europe since the term 'federal' implies the notion of a state. Hallstein makes it quite clear – and this is the difference to de Gaulle's notion of a Europe of the Fatherlands.¹¹¹

"The Community resembles a federation only in so far as its member-states transfer part of their national sovereign powers to a union to which they all belong but which has its own identity, different from that of any of its individual members. In this respect the Community is not dissimilar from a federation. It also serves the purpose for which it was set up, to achieve a balance between a central European authority, deriving its power from the parts of the national sovereignties transferred to it, and the separate national authorities of the member-states".¹¹²

In a special chapter Hallstein was also dealing with the reasons for Germany being part of a closely-knit Community: "The integration of the Federal German Republic into a united Europe is in the interest of all

¹⁰⁹ *Ibidem.*

¹¹⁰ *Ibidem*, p. 39.

¹¹¹ Hans von der Groeben in an interview pointed to the difference between his Europe and de Gaulles Europe: Groeben, Hans von der, *Europäische Integration aus historischer Erfahrung. Ein Zeitzeugengespräch mit Michael Gehler*, in: ZEI Discussion Papers C 108/2002, p. 60ff.

¹¹² Walter Hallstein, *Europe in the Making* (note 19), p. 39f.

Europe. Like the other members of this ever more closely-knit Community, the Federal German Republic joined with all its assets and liabilities, and without any discrimination against it. The prospect of healing the division of the world, which has also caused the division of Germany depends entirely on securing peace in Europe and in the world, and in winning back for Europe a share in determining world affairs. These are the political aims of European unification".¹¹³

Looking back from the late 1960s Hallstein still believed in his dream, that, despite the struggles among member states, which lie in the nature of federal structures, the Community will continue "with patience and tenacity to work for a better understanding of what we are doing: already the integration of democratic Europe, a reliable safeguard for peace is becoming a reality and one which is also in the interests of the East European nations".¹¹⁴ For him it was therefore "high time to go further. For there is no alternative, either in our objective – unity – or to the road we set out on twenty years ago, and of which today we have covered half the distance. William the Silent, of the House of Orange [...] once said: 'One does not need hope to act, or success to persevere'. How much greater, then, is our obligation to act and persevere, for we have hope, and we have success".¹¹⁵ Hallstein also referred to the Transatlantic solidarity, "which has been forged not merely by an arbitrary decision but by a common destiny, based on a community of spiritual and material circumstances in the present state of the world",¹¹⁶ a set of values which is still on the European agenda.

In the preface to the English edition, the third version of the book published in 1969, Walter Hallstein reflected on the "dynamic process of European integration, its progress and its setbacks, its ups and downs".¹¹⁷ The EC summit at The Hague in December 1969 "formed a fitting conclusion to the European Community's transition period, and marked the beginning of a new balance of interests on the part of its member states: it confirmed their financial solidarity in the agricultural field, it decided to consolidate the Community by means of economic and monetary union, and it opened the way" to the entry of new members.¹¹⁸ He was quite confident that the

¹¹³ *Ibidem*, p. 332.

¹¹⁴ *Ibidem*, p. 333.

¹¹⁵ *Ibidem*.

¹¹⁶ *Ibidem*.

¹¹⁷ *Ibidem*.

¹¹⁸ *Ibidem*.

Community will succeed. The discussions in the early 1970s are a promising sign “about the tasks of the future. These include particular, economic and monetary union, the efficiency and democratic legitimation of the Community’s institutions, and a constructive relationship with non-member countries, especially in Europe and the Mediterranean, with America and with the states of Eastern Europe. It is no less encouraging that this discussion already involves both Government and the public opinion in the countries that are now in the process of joining the European Community”.¹¹⁹

Since the publication of *Europe in the Making* Europe has changed dramatically. Many aspects touched in Hallstein’s considerations have become real or are in the process of an “ever closely-knit [European] Community”. A European constitution is still a desideratum, which is very difficult to be accomplished.

The Bavarian Franz Josef Strauss, member of the CSU, who for many years served in different political functions at the federal level as member of the Federal Diet, as minister of Defence and Finance, as chairman of the CSU and since 1978 as Prime Minister of Bavaria.¹²⁰ He was a politician adored and hated. Franz Josef Strauß was among three quite different Europeans whom Anthony Sampson featured and interviewed in his study on the *Anatomy of Europe*. Sampson choose personalities who as individuals had different ideas about Europe. Each has a “different picture of the continent, each with an important following, who have become symbols as much as individuals – Jean Monnet, Charles de Gaulle and Franz-Josef Strauss”.¹²¹ Strauss as a “protagonist of the European idea” is characterized as “the most controversial” of all protagonists.¹²² He was “the rogue elephant of West Germany, and its present finance minister. Strauss has from the beginning been convinced of the need of a united Europe, but his political attitudes have been so autocratic, so militant and even blood-curdling, that he has frightened away many of his allies. He has sometimes

¹¹⁹ *Ibidem*, p.3.

¹²⁰ Cf. Carstens et al., Franz Josef Strauss (note 20) – Möller, Horst, Franz Josef Strauß. *Herrscher und Rebell*. München: Piper 2015 – Brüggemann. Klaus / Höpfinger, Renate, Ministerpräsident Franz Josef Strauß, in Bayerisches Hauptstaatsarchiv (Ed.), *„Das schönste Amt der Welt“. Die bayerischen Ministerpräsidenten von 1945 bis 1993*. München; Danuvia Neuburg a.d. Donau 1999, pp. 147-170 – Strauß was an ideal object for cartoonists cf. Höpfinger, Renate (Ed.), Franz Josef Strauß oder ‘der dickköpfige Satansbrätling’. Munich: Hanns Seidel Stiftung 2015.

¹²¹ Anthony Sampson, *Anatomy of Europe*. New York Evanston: Harper & Row 1968, p. 6.

¹²² *Ibidem*, p. 21.

seemed to embody a crude power-lust, and he has probably made more enemies than anyone in Europe. Yet, among the discreet and wavering German politicians he stands out as an authentic voice, who can comprehend and guide a country's ambitions".¹²³ In 1965 Franz Josef Strauss referred to the indissoluble intertwining of European integration and compensating the immediate German past and its consequences:

"Germany needs Europe more than any other country. In its post-war insecurity and solitude, it has seen in the European idea not only a way of compensating for the immediate past but an honourable outlet for its formidable energies".¹²⁴ Strauß argued that through "Germany's contribution for the foundation of a European federation Germany would find itself".¹²⁵ He called for an initiative for Europe. Europe needs to make progress, step by step, in the process of unity. "United States of Europe, with a nuclear deterrence of its own, must be in a position to defend itself, in order to become an equal partner of the United States. Europe thus united would be highly attractive for our Eastern neighbours under communist rule and the Soviet Union as well might be induced to seek a peaceful reconciliation with Western Europe within the framework of an all-European détente [...This would also make possible] German unification and remove the latent dangers of German division for world peace".¹²⁶ Strauß is still supporting the "magnet theory", already out-dated at the time. His creed has been that Western Europe must set up a convincing model of a policy of independence and self-preservation being attractive for Eastern Europe, which would lead to the political unity of all Europe. The aim of the European process must be, as Strauss perceived it, to establish a "federal Europe of the people" that could defend the interests of the European nations against the superpowers. For Strauß the "Europeanization" of the German question is the 'key' for German unification and European political unity.¹²⁷

¹²³ *Ibidem*.

¹²⁴ Quoted from Sampson, *Anatomy of Europe*, (note 103), p. 21 – the original: Strauß, Franz-Joseph, *Entwurf für Europa* (note 20), p. 13.

¹²⁵ Franz Josef Strauß, *Entwurf für Europa* (note 20), p. 13 (Translation WDG).

¹²⁶ *Ibidem*, p. 7f. (Translation WDG).

¹²⁷ *Ibidem*, p.137ff. In this chapter Strauss is also dealing with Charles de Gaulle's view of a united Europe: „Erst wenn wir wirklich verstehen, unser nationales deutsches Teilungsschicksal in seiner Verknüpfung mit dem zerrissenen Europe zu erfassen, und an das Problem unserer Wiedervereinigung im Sinne einer vom Westen aus entwickelten europäischen Einigungspolitik heranzugehen, erst dann kann die von Frankreich eingeleitete Auflockerungspolitik gegenüber dem Osten zu einem wirklichen Erfolg führen“, p.164.

Strauß did not have a European vision like Hallstein. His attitude to European unity, as Anthony Simpson realized from several long talks and interviews with Strauß, “is simple and fairly consistent. He believes (as he put it to me), that ‘it’s not natural for three hundred million Europeans to be dependent on either one hundred and ninety million Americans or two hundred million Russians’. He denies being anti-American, but insists that ‘we want to be a partner of America, not a nuclear protectorate’. He believes that Europe must have its own nuclear force (ENF) and that a united Europe without it would not make much sense. With a strong nuclear Europe and an integrated European army he believes that the Atlantic alliance can be much healthier and stronger, and that the Atlantic can become the equivalent of the Mediterranean of ancient times. He denies that he is rigidly anti-communist, and supports the opening-up to the East. [...] He believes that the European nations must give up some sovereignty to survive: ‘For the outdated conception of a Europe of the nations we must substitute a Europe of its peoples. Not a melting pot, but a continent in which difference of character and temperament in the individual are preserved in a community which raises their standard of living without standardizing their lives and guarantees their security. In order to remain German, or British, or French, or Italian, we must become Europeans’. [...] Strauss’ vision of Europe is more aggressive, less idealistic than Monnet’s; more straightforward and less nationalistic than de Gaulle’s¹²⁸ and more power-oriented.

In an article on basic questions of Europe, written in 1975, he was worried about recent developments in European politics. Ever since the late 1940s, Strauß believed, that a European policy would not be possible without the cooperation of many European democracies to establish an economic, political and military union. Thus Europe would have a voice in vital processes of world politics. This would mean, however, to give up the obsolete idea of sovereignty for small and medium-sized states and replace it by a pooling of sovereignties. This should happen through “the institutions of a European Federation!”¹²⁹ Today the free states of Western Europe are far off this aim. The EC is experiencing a standstill, especially in its monetary policy and also in other fields. He vehemently criticised that the EC is not making progress in its political and economic policies. It is

¹²⁸ Anthony Sampson, *Anatomy of Europe* (note 103), p. 24f.

¹²⁹ Franz Joseph Strauß, *Grundfragen Europas* (note 20), p. 103.

lacking commitment and insight concerning Europe's basic questions: The interaction between politics and economy. A political unity will not be possible without economic integration of the European states. Economic integration would remain a patchwork without the strong will for political union. At some point economic regulations will no longer be sufficient.

Therefore in the political domain the states will have to overcome egotism and be prepared to give up sovereignty in favour of a European federal state. The West Europeans have to take their chance, otherwise "Western Europe as a free continent would come to an end".¹³⁰ The topic of freedom is an important issue for Strauß when he speaks about Europe.¹³¹

In 1988 he answered a parliamentary interpellation of the CSU faction in the Bavarian Diet on Bavaria and Europe.¹³² Since World War II Europe is divided by the Iron Curtain into a socialist and a democratic Europe. We should be aware of the fact that the states of real socialism with their different social and political systems also belong to Europe like the neutral states, e.g. Austria, Switzerland, Sweden and Finland".¹³³ Prime Minister Strauß in his speech heavily criticized the role and activities of the European Commission and of the Council of Ministers. Furthermore the European Parliament does not possess the competencies of a normal parliament. "Europe has reached a crossroad. It desperately needs to set a new course. It took the wrong way: The EC interferes into the rights of the member states and prevents independent political actions. This means that the federal structure of the Federal Republic of Germany will be increasingly undermined".¹³⁴ It was Bavaria which successfully fought against European centralism, Strauß argues. The ratification of the European Single Act provided a voice for the German Council in European decision making. In all European issues relating to responsibilities and interests of the Lander the Federal Government has to obtain the opinion of the Federal Council. Its opinion has to be observed in the negotiations of the Federal Government at a European level. On request representatives of the Lander

¹³⁰ *Ibidem*, pp. 103-113, p. 113.

¹³¹ Cf. Franz Josef Strauß, „Europa als Kontinent der Freiheit“, in Strauß, Franz Josef, *Gebote der Freiheit*. Stuttgart: Gruenwald 1980. pp.255-280.

¹³² ACSP München Heinrich Aigner papers 36: Rede des bayerischen Ministerpräsidenten Franz Josef Strauß zur Beantwortung der Interpellation der CSU-Landtagsfraktion vom 28.9.1987 am 3.2.1988 im Bayerischen Landtag.

¹³³ *Ibidem*, p. 3 (Translation WDG).

¹³⁴ *Ibidem*, p. 22.

have to participate in negotiations with the European Commission or the Council of Ministers. These provisions are “of historical importance for the preservation of German federalism”.¹³⁵ Strauß pleaded for a European defensibility. Besides NATO there should be a European pillar. The main pillars of European security should be France and Germany. In his speech there was no reference to German unification. He only mentioned if the Bavarians quoting a modified saying of the Bavarian King Ludwig I. wish to remain Bavarians and Germans they have to become Europeans.¹³⁶

Other than Hallstein, the political intellectual, the Professor of Constitutional Law, Franz Josef Strauß was a politician with instincts and a feeling for situations. For his concept it was important that Germany was provided with a field of action at a European level and at the same time he was picking up an idea that has been discussed in the Consultative Assembly of the Council of Europe, that a united Europe should take on the role as the third global force, an idea which came up in the early 20th century and in the new age of the “flat world”¹³⁷ is on the agenda again.

The dilemma of the ‘fourth level’, i.e. the question of unification and the relations between the Federal Republic and the GDR besides the European, national and German Lander level was solved by history in 1989/90. The dynamics of German unification as well as the transformation of Eastern and Central-Eastern Europe caught the EC by surprise. It changed the historical landscape of post-war Europe, closed the period of European history since the Paris peace treaties of 1919/20. It opened a new chapter in global history.¹³⁸ Which course will Germany follow in European politics? What political and economic role will it play in an emerging new Europe? How will it deal with the double task of domestic and European integration? Will Germany, the largest European economy and the most populous European state give up its restraint not to be the captain in the European driving seat, not just the Most Valuable Player, and take on the role of a leader? The German role in Europe since 1990 has been debated. Some demand that Germany “should show a little more economic and

¹³⁵ *Ibidem*, p. 33.

¹³⁶ *Ibidem*, p. 55.

¹³⁷ Cf. Thomas L. Friedman, *The World is Flat. A Short History of the Twenty-First Century*. New York: Farrar, Straus and Giroux 2005.

¹³⁸ Cf. Thomas Friedman, *Flat World* (note 137), p. 49ff.

political leadership”,¹³⁹ and a commentary in the Wall Street Journal put the central question, asking: Will Germany “act as Germania Rex, the haughty leading man who hogs the spotlight and steals the scenes? Or will it become more of an ensemble player, a willing partner of and respected spokesman for a more unified European Community?”¹⁴⁰ Recently Angelo Bolaffi offered a new interpretation of the new German question.

He argues that what we want is a Germany which is culturally and politically able to imbibe for Europe the difficult responsibility of the hegemony. Germany with its demographic, geopolitical central position and its economic strength is condemned from an objective point of view to take on the challenge. It does not make sense to contrast a German Europe and a European Germany. Germany has arrived in the West.¹⁴¹

4. United Germany and Europe since 1990 and the Finality of the European Process

German unification for many reasons speeded up the path towards an ever closer integration of the European peoples.¹⁴² For the German land it was important to know how the European Union should be organized in the future and what concepts the European Commission would have. When Jacques Delors came to Munich to speak to the Bavarian Diet the former Prime Minister of Bavaria and Member of the European parliament, Alfons Goppel, submitted a memorandum of the Prime Ministers of the German Lander.¹⁴³ Bavarian Europe policy is aiming at a European Union

¹³⁹ Timothy Garton Ash, “Angela Merkel needs all the help she can get. Few had anticipated the leadership dilemma of a European Germany in a German Europe”, in *The Guardian* 8 February 2012 – Garton Ash, Timothy, “The New German Question”, in *The New York Review of Books* August 16, 2013, p.1.

¹⁴⁰ Terrence Roth, Nelson, Mark M., “Germany Prepares for a Leading Role”, in *The Wallstreet Journal*, Europe, 9 July 1990.

¹⁴¹ Angelo Bolaffi, , *Deutsches Herz. Das Modell Deutschland und die europäische Krise*. Stuttgart: DVA 2014.

¹⁴² Cf. The considerations in: Gruner, Wolf D., Germany in Europe: the German question as burden and as opportunity, in: Breuilly, John (Ed.), *The State of Germany. The national idea in the making, unmaking and remaking of a modern nation-state*. London New York: Longmans 1992, pp. 201-223 – Gruner, Wolf D., , Deutschland in Europa (note 1), p. 381ff. – Gruner, Wolf D., “Is the German question – is the German problem back?” (note 1)

¹⁴³ Cf. Positionspapier zur Weiterentwicklung der Gemeinschaftsverträge, 1 February 1991 (ACSP Munich Goppel Papers 684).

based on federal structures which preserve cultural identities, social diversity, a balanced economic development and ensure public accessibility. The EU should be based on democracy, the rule of law, federal structures and subsidiarity. Federalism would guarantee freedom and democracy. The European Union should have an independent third level below that of the member states. The lander have developed a model of a regional institution. This would allow the lander and regions more participation in the decision making process at a European level, based on the principle of subsidiarity. The German lander believe that in immigration and asylum policies there should be a harmonised common EC policy. The EC should have competencies for reintegration of refugees. The German lander will support the European integration process. They are prepared to examine which spheres of their competencies could be transferred to the European Communities.¹⁴⁴

The "revolutions" of 1989/90, besides German unification, also raised the question as to how to pull closer the states of the former Soviet sphere of interests toward the EC. This initiated the debate on institutional reform and the 'finality' of the European Process. How can a reformed EU live up to its global and regional responsibilities for the people of Europe? After the ratification of the Treaty of Maastricht there was a lively debate in Germany among the major German parties and at a federal level.¹⁴⁵

Discussion started with the so-called Schäuble-Lamers Strategy paper of the CDU/CSU parliamentary group in September 1994. It dealt with the interests of Germany and the best means to make progress in the process of European institutional reform and deepening of integration.¹⁴⁶ It was an answer to the ideas of the French Prime Minister Baladur on a

¹⁴⁴ *Ibidem*

¹⁴⁵ Cf. Grosse Hüttmann, Martin / Knodt, Michèlle, Die Europäisierung des deutschen Föderalismus, in: *Aus Politik und Zeitgeschichte* B 52-52/2000, pp. 31-38 – Knodt, Michèlle / Kohler-Koch, Beate (Eds.), *Deutschland zwischen Europäisierung und Selbstbehauptung*. Baden-Baden: Nomos 2000 – Hrbek, Rudolf (Ed.), *Europapolitik und Bundesstaatsprinzip – Die Europafähigkeit Deutschlands und seiner Länder im Vergleich mit anderen Föderalstaaten*. Baden-Baden: Nomos 2000.

¹⁴⁶ Cf. *Bulletin Quotidien Europe* 1994, 7 September, p.11ff. For the German version cf. Pressedienst der CDU/CSU Fraktion im Deutschen Bundestag (Ed.), *CDU/CSU-Fraktion des Deutschen Bundestages: Überlegungen zur europäischen Politik* (1 September 1994) – I would like to thank the Archiv der Demokratischen Politik of the Konrad Adenauer Foundation St. Augustin for providing the German version of this paper.

“Europe of different speeds”,¹⁴⁷ of deepening and widening the EU. Balladur also discussed the issue of institutional reform. It was followed up by several contributions by European parties and politicians¹⁴⁸ and a project of the Tindemans Group.¹⁴⁹

The Treaties of Amsterdam and Nice did not find a way out of the European deadlock. Thus, in the spring of 2000 the “finality debate” was renewed. The major contributions came from politicians in France and Germany. Foreign Secretary Joschka Fischer opened the debate with his “private” lecture “From Confederacy to Federation – Thoughts on the finality of European integration” at the Berlin Humboldt University on 12 May 2000.¹⁵⁰ It was in Germany’s “supreme national interest”, he argued, that enlargement was a “unique opportunity to unite our continent, wracked by war for centuries in peace, security, democracy and prosperity”.¹⁵¹ In order to be able to act the EU needs an appropriate reform of its institutions. Fischer favoured a model that would divide sovereignty “between Europe and the nation state” by setting up the European Parliament as a two-chamber system, the second “Chamber of States”, representing the member states and the first chamber “for the elected members who are also members of their national parliaments”. The Chamber of States could be established

¹⁴⁷ Cf. *Bulletin Quotidien Europe* 1994, 3 September, p.1ff.

¹⁴⁸ Cf. the ideas of the SPD on “differentiating while “integrating”: Friedrich Ebert Stiftung [Schmuck, Otto] (Ed.), *Die Reform der Europäischen Union. Aufgaben der Regierungskonferenz 1996*. Bonn: Bundeszentrale 1995 – Friedrich Ebert Stiftung [Dauderstädt, Michael / Lippert, Barbara] (Ed.), *Differenzieren beim Integrieren. Zur Strategie einer abgestuften Osterweiterung*. Bonn: Bundeszentrale März 1999 – For a collection of German and other European positions on the Intergovernmental Conference’96 (IGC’96) cf.: Vertretung der Europäischen Kommission in der Bundesrepublik Deutschland (Ed.), *Europäisches Forum: Die künftige Verfassungsordnung der Europäischen Union. Eine Dokumentation*. (Europäische Gespräche 2/94). Bonn 1994 – IDEM, *Reform’96. Positionen zur Regierungskonferenz’96*. (Europäische Dokumentation 2/95) Bonn 1995.

¹⁴⁹ Van Tuyll van Serooskerken, Sammy (Ed.), *Europe your Choice. 5 Options for Tomorrow’s Europe. Report of the Tindemans Group on European Institutions*. London: The Harvill Press 1995 (published also in French, Dutch and German).

¹⁵⁰ Cf. Joschka Fischer, “Vom Staatenbund zur Föderation: Gedanken über die Finalität der europäischen Integration”, German version printed in: *Integration* 3/00, p. 157-197; English version: <http://www.auswaertiges-amt.de> (sp120500 pdf. file) and in Joerges, Christian / Mény, Yves / Weiler, J.H.H. (Eds.), *What kind of Constitution for what kind of Polity? Responses to Joschka Fischer*. Badia-Fiesolana: EUI 2000, pp. 19-30.

¹⁵¹ Joschka Fischer, *From Confederacy to Federation*, p.5 (pdf. file).

according to the model of the US Senate or the German Bundesrat.¹⁵² There were two options possible for setting up a “European executive” by either reforming the European Council or the European Commission. From his point of view to set up a European Federation early on would be “an artificial construct which ignores the established realities in Europe”. Thus it would be “an irreparable mistake in the construction of Europe”.¹⁵³ He believed that only if European integration takes the nation-states along with it into such a Federation, only “if their institutions are not devalued or even made to disappear, will such a project be workable”,¹⁵⁴ i.e. “the division of sovereignty between the Union and the nation-states requires a constituent treaty which lays down what is to be regulated at European level and what still has to be regulated at national level [...] There should be a clear definition of the competences of the Union and the nation-states respectively in a European constituent treaty, with core sovereignties and matters which absolutely have to be regulated at European level being the domain of the Federation, whereas everything else would remain the responsibility of the nation-states. This would be a *lean European Federation*, but one capable of action, fully sovereign yet based on self-confident nation-states, and it would also be a Union which the citizens could understand, because it would have made good its shortfall on democracy» (155) and the «last step will then be completion of integration in a European Federation”.¹⁵⁶

German and European reaction to Fischer’s ‘strategic speech’ was differing according to the interests of the member state and the domestic situation. It was considered as a ‘politically successful speech’ at the right time given by Foreign Secretary of the largest member state. The renewed German confession to Europe and European integration forced the other member states to position themselves and discuss the implications of such proposals. The French Foreign Secretary and the French President Chirac reacted to Fischer’s ideas. Chirac in a speech to the Bundestag declined a European super state, but underlined the necessity to discuss “what kind of Union” Europe needs. For initiating institutional reform France and

¹⁵² *Ibidem*, p. 8

¹⁵³ *Ibidem*, p. 7

¹⁵⁴ *Ibidem*.

¹⁵⁵ *Ibidem*, p. 8

¹⁵⁶ *Ibidem*, p. 12

Germany should form an “avant-garde”.¹⁵⁷ The British press reacted hysterically whereas the smaller EU member states, especially in Scandinavia felt marginalized by the French-German initiatives.¹⁵⁸ In a speech at the Polish Stock Exchange on 6 October 2000 the British Prime Minister Tony Blair turned down the German and French proposals for a closer European Union, a constitutional federal system and a super state. From his view there was no necessity for a “legally binding document called a Constitution for an entity as dynamic as the EU”. In practice “given the sheer diversity and complexity of the EU, its constitution, like the British constitution, will continue to be found in a number of different treaties, laws and precedents”.¹⁵⁹ Blair argued that “Europe is a Europe of free, independent sovereign nations who choose to pool that sovereignty in pursuit of their own interests and the common good, achieving more together than we can achieve alone.”¹⁶⁰

Since Chirac in his speech to the Bundestag mentioned the necessity of a European Constitution and called it a Constitution for Europe, constitution making was on the agenda. One of the long-time protagonists for a European Constitution had been the German member of the Bundestag Jürgen Meyer (SPD) who also initiated a European Fundamental Rights Convention for adopting a ‘European Charter for Fundamental Rights’. Meyer worked for this Charter to become an integral part of a European Constitution. The Bundestag sent him as its representative into the Convention on the Future of Europe (European Convention). The Convention replaced the method of setting up Intergovernmental Conferences, representing the governments. Its members were delegated into this forum by the national governments, the European Commission, the European Parliament and national parliaments. Germany sent besides Meyer for the Bundestag, Foreign Secretary Fischer and as the representative of the Länder the Prime Minister of Baden-Württemberg Teufel, into the European Convention. Jürgen Meyer, a professor of

¹⁵⁷ Cf. <http://www.bundestag.de/parlament/geschichte/gastredner/chirac/chiracq.html> Jacques Chirac „Notre Europe – Unser Europa” (27 June 2000) and <http://www.europa-reden.de/chirac/rede.htm> visited 8 February 2006.

¹⁵⁸ Cf. Peter Schwarz, *Streit in Frankreich über Chiracs Europarede*, 8 July 2000 (http://www.wsws.org.de/2000/jul2000/chir-j08_prn.html), (consulted 8 January 2018).

¹⁵⁹ Cf. <http://www.number-10.gov.uk/output/Page3384.asp> Prime Minister Speeches, Speech to the Polish Stock Exchange, p.5 (6 October 2000) (consulted 8 January 2018).

¹⁶⁰ *Ibidem*, p. 4.

constitutional law, favoured a constitution for Europe which would establish a "Federation of Nation States".¹⁶¹ A European constitution as a basis for a reformed and federal European Union was on the minds of the majority of the German "classe politique" ever since the 1950s. In his important speech to the European Parliament on 4 April 2001 Federal President Johannes Rau made a "Plea for a European Constitution".¹⁶² It will be the task of the European Parliament and of all other institutions of the EU to make the process of European integration more transparent and to answer questions of the citizens not academically but in a more practical way, questions such as "How can we organize the European Union in such a way that citizens can find their way around it better? What must we do to ensure that decisions made by the European Union have a broader legitimacy at European level? How, finally, should the organizational framework look?"¹⁶³ Despite the fact that Rau favoured a federal system for the EU, he referred to a "European Federation of nation states". This would be quite the opposite of a European super state, which, as people argue, would abolish the nation-states. He was convinced that "we need a European constitution. The European constitution is not the 'final touch' of the European structure, it must become its foundation.

The European constitution should prescribe that Europe will not become a centralized super state but, rather, that we are building a federation of nation-states".¹⁶⁴ Rau wished to avoid the impression – like Roman Herzog and Richard von Weizsäcker before him – that he was pleading for a 'Europe à la Federal Republic of Germany'. For him the transformation of «Europe into a federation of nation-states [...] will enhance the democratic legitimacy for joint action while, at the same time, safeguarding the competences of the nation-state which they want and indeed should maintain".¹⁶⁵ Rau demanded that the constitution should comprise three parts:¹⁶⁶

¹⁶¹ <http://lists.infodrom.org/jef-verfassung/2002/0008.html> Stefan Ulrich interviewing Jürgen Meyer for "Constitution for Europe. Between Confederation and Federation" (Verfassung für Europa. Zwischen Staatenbund und Bundesstaat) 3 February 2002.

¹⁶² Cf. <http://www.europa-web.de/europa/03euinf/08VERFAS/rauengli.htm> Rau, Johannes, Plea for a European Constitution 4 April 2001 (Europainformationen – Europäisches Parlament 5 April 2001), (consulted 8 January 2018).

¹⁶³ Johannes Rau, "Plea for a European Constitution", p.2.

¹⁶⁴ *Ibidem*.

¹⁶⁵ *Ibidem*.

¹⁶⁶ *Ibidem*, p.3.

1. the “Charter of Fundamental Rights” which should have a “binding power on the actions of European institutions and the member states where they implement European law”,

2. a European constitution which «must divide competences between the member states on the one hand and the European Union on the other with the necessity of clarity. It would thus largely determine the relationship between the member states and the Federation. We should endeavour to anchor the principle of subsidiarity on a broader basis: only those matters should be decided at European level which the member states cannot better deal with themselves. That must be the guiding principle!”

3. All competences which are not referred to should remain a national competence. These national competences, reserved to the member states, must expressly be defined.

Rau proposed a “genuine bicameral parliament”. The former Council of Ministers would be turned into a “Chamber of States”, being responsible for preserving the sovereignty of the nation states. The directly elected European Parliament would serve as the “Citizen’s Chamber”. Both chambers “should make decisions on an equal basis in all spheres where legislation is made”.¹⁶⁷ As far as the Commission is concerned, which would serve as a European government, there are two models as to how to elect the President of the Commission, either directly by the European people or by the two chambers of the European Parliament. Rau preferred the latter, because this would give stronger democratic legitimacy to the Commission and thus “the European idea with crucial new impetus”.¹⁶⁸

Rau underlined two other points, which from his personal and political experience and self-understanding were crucial:

1. The politicians should take care that the constitutional debate on the future of Europe is “not only conducted in expert circles”, but should include all citizens interested, also in the candidate states. The future European constitution will be the constitution of the people of the present and the future member states.

2. The Europeans have without doubt great differences and diversities, but they are “basically of the same kind” (Luigi Barzini) and have common features. There is a common European heritage which is

¹⁶⁷ *Ibidem*, p.4.

¹⁶⁸ *Ibidem*.

“made up of the Christian faith and ethics, of culture, the arts, philosophy and science from antiquity to modern times”.¹⁶⁹

Rau’s approach to a future European constitution was based on German historical and constitutional federalist traditions. Like Rau his predecessor Roman Herzog belonged to the generation which experienced the war. Like Hallstein Herzog was a former Professor of Public Law. Coming from Bavaria he was a convinced federalist. He started his speech to the European Parliament in 1995 tuning his audience in: “We have a vision and it is called Europe. Time and time again visions of the future have emerged from the experience of a common history. That is the case again today ... Every vision also entails the risk of failure, so we do well to understand what is at stake. I have come to Strasbourg to raise questions that citizens are asking in every nation on our continent. These three questions will have to be answered convincingly by the technocrats in Brussels and the political elites in our national capitals if they are not to suffer political harm”.¹⁷⁰ He asked the vital questions early on, before there was a move to set up a Convention on the Future of Europe which should deliberate on a European Constitution: “Why Europe? What kind of Europe? Europe for whom?” He reminded the members of the European Parliament that Europe should not define “itself negatively as a mere reaction against external threat”, but “also positively by drawing on its own inner substance”. One answer is history, the revival after the War of the century-old vision of “reconciliation”. The wealth of Europe is the diversity of the regions of Europe and the fact that ever since Greek and Roman times Europe has seen itself “as a single entity beyond the mere geographical definition”.¹⁷¹

As a former President of the Supreme Court and a scholar Roman Herzog was highly supportive of “a political system that begins with the letter ‘F’ but which of late had become taboo in European debate [...]

¹⁶⁹ *Ibidem*, p.1., Rau is referring to Barzini and Churchill in his address cf. therefore Barzini, Luigi, *The Impossible Europeans*. London: Penguin 1983 and Churchill’s Speech on 19 September 1946 at the University of Zürich “The Tragedy of Europe”: <http://www.europa-web.de/europa/02wwwswwww/202histo/churchil.htm> (consulted 10 December 2017).

¹⁷⁰ Roman Herzog, *Speech to the European Parliament at Strasbourg*, October 10, 1995, printed in Herzog, Roman, *Lessons from the Past. Visions for the Future*. (American Institute for Contemporary German Studies. The Johns Hopkins University. German Issues 18). Washington: AICGS 1998, pp. 39-47, p.39.

¹⁷¹ Roman Herzog, *European Parliament 1995*, p. 40 f., p. 42.

Nonetheless, I still consider that system – the one which begins with ‘F’ – to be the best history has ever had to offer [...] Federalism [...] is, after all, the opposite of centralism. Indeed, as exemplified in Germany’s post-war history, it can almost be said to be a method of decentralization. For that reason our Anglo-Saxon Europeans need not to be put off. The fact that the arch centralist Alexander Hamilton founded a party in 1791 that he called the ‘Federalist Party’ can be blamed only on Hamilton, but not on federalism. On the other hand, federal decision-making procedures ensure the rationality and effectiveness that have always been at the heart of the great French political tradition. There is nothing to stop nation-states from forming a federation and still remaining nation-states. Europe as a ‘motherland of motherlands’ has always rung true in the ears of federalists, too. For it was not the advocates of German particularism who first spoke of a ‘United States of Europe’ [...] but such great Frenchmen as Saint Simon and Victor Hugo [...] [N]othing compels the members of the European Union to opt for, say, the Swiss, the American or the German federal system. And there is undoubtedly the reassuring alternative of coming up with a totally different model. This, I feel, is one of the great tasks of the European Parliament and a marvellous opportunity. The place to conduct the debate on Europe’s future political organization is in Parliament. It is here that European sovereignty, if it already exists, should be articulated. And the more it is articulated, the more it will exist”.¹⁷²

Rau and Herzog underlined that we “will create a lasting, democratic Europe only if it sees itself as a Europe of the people, and really becomes that, rather than just talking about it” and that the prerequisite for any further development of the EU towards a federation will be its acceptance by “its citizens and it can only be given substance if it is firmly rooted in their hearts. Our actions must therefore be closer to the people they must be more transparent and have more democratic legitimacy”.¹⁷³

Herzog pointed to the necessity to provide orientations for the citizens of Europe by giving answers to the questions of why Europe and what kind of Europe, but furthermore that the Europe we envision will be a federal and democratic Europe of the citizens in an open society. Democracy is the prerequisite for an open society and who “would deny that democracy

¹⁷² *Ibidem*, p.44f.

¹⁷³ *Ibidem*, p.46.

forms and integral part of the common European patrimony? [...] Democratic legitimation also means ensuring that the citizens of all member states understand the process of European integration and can mentally keep pace with it [...] It also appears essential to me that progress on the road to political union be tied to the tradition of human rights in Europe and the existing institutions for their protection. Democracy begins with human rights. Human rights are the foundation of what we call the European community of values".¹⁷⁴ Democracy combined with the strategy of federalism to Herzog seemed to be the right answers to the European challenge. Federalism offers opportunities for the geographically smaller states: "Precisely in the mobilization of their potential lies the critical advantage for federalism in the competition among the various forms of political organization".

Herzog was confident then that "we do not stand here without some sense of where we're going. The 'old-fashioned avant-garde' supplies us with powerful arguments. And the forty-year-history of the European unification shows us how one integration model can build on another. The European Union of the Maastricht Treaty is the politically enhanced form of the European Community of the Treaties of Rome. From now on we are travelling the road to the democratically enhanced form of the European Union – however it may ultimately look, and whatever it may ultimately be called".¹⁷⁵

The gathering of the Convention on the future of Europe and its drafting of a European constitution was an important step into the right direction, despite all setbacks. There is no alternative to the European project, not only from a German point of view. The citizens of Europe need more orientation about the future organization of Europe and its historical and political traditions, they have to understand what is going on and they have to accept Europe. The finality of a democratic, political and social Europe of liberty and the rule of law needs to be "rooted firmly in their hearts", as Herzog put it.

¹⁷⁴ Roman Herzog, The New Europe. Speech at the 1996 International Bertelsmann Forum, 19 January 1996, in Herzog, Roman, *Lessons from the Past, Visions for the Future*, pp. 49-57, p.53, p.56.

¹⁷⁵ *Ibidem*, p 57.

5. Conclusions

Within a changing historical and political framework the majority of the political elite of the Federal Republic has always been in favour of 'some sort' of federal solutions to the European project. Historical traditions, the German question, and experience of a federal system in the Federal Republic and a Europe ideology have contributed to these considerations. Walter Hallstein may serve as an example for the believers into a European Federation. Franz Josef Strauß' approach to European integration was differently. He also considered as the ultimate aim of the European project a European Federation, which could adopt the role of a third force in world politics. From Strauß's point of view "a new European architecture" allowed to "safely contain Germany's energies". For him the "strongest reason for uniting Europe has always been to absorb the danger of Germany".¹⁷⁶ The perception of Europe has changed after 1990, as Herzog's speech has shown. There will be an alternative to the ideas of the 1950s, a may be "totally different model". Thus, for Lord Ralf Dahrendorf, Monnet and Hallstein stood for the "old Europe". Dahrendorf criticized the Hallstein approach as 'primitive', because he believed that, if you "start working on integration in one corner you will soon integrate the whole landscape".¹⁷⁷ During his time as a member of the European Commission he realized that the "first Europe" and its institutions had reached its limits.

The new Europe, the European Union he was envisaging, will need a constitution for democrats.¹⁷⁸ German policy aiming at the completion of European integration has become more active since the barriers for German European integration policy have been removed. The broadening of the rights and competences of the German Lander in Germany's Europe policy

¹⁷⁶ Anthony Sampson, *Anatomy of Europe* (note 103), p. 21, p. 26.

¹⁷⁷ The interview of the author with Lord Dahrendorf on 2 September 1998 can be found in: https://archives.eui.eu/en/oral_history/INT642_Ralf_Dahrendorf, p. 19 – For Dahrendorf's views on Europe cf. besides the interview inter alia: Dahrendorf, Ralf, *Plädoyer für die Europäische Union*. München: Piper 1973 – Interviews with German Europe politicians and their perspectives on Europe cf. e.g. Ernst Albrecht, Hans Apel, Manfred Brunner, Hans von der Groeben, Klaus Hänsch, Hans E. W. Hoffmann, Karl-Heinz Narjes, Helmut Schmidt and Horst Teltschik – can be found sub: https://archives.eui.eu/en/oral_history/# (consulted 6 February 2018).

¹⁷⁸ Ralf Dahrendorf, *Europäische Union* (note 160), p.209ff. – Cf. also Dahrendorf, Ralf, „Europa und der Westen“, in *ZEuS* 2/2004, pp. 165-172 – Meiford, Franziska, *Ralf Dahrendorf: Eine Biographie*. München: C.H. Beck 2017.

contributed to the debate on federalism at a domestic and European level. At a domestic German level the Lander had to cope with a process of transformation and innovation. This level is closely connected with the necessity to discuss a reform of the institutions of the EU in order to safeguard the rights and interests of the Lander – the issue of subsidiarity – in a future European political organization. The German debate of adopting federalism to the needs of the present and preparing it for the future may have a fruitful impact on the debate on how to construct a functioning and effective future European Union which is close to the citizens. Today's Germany presents itself as a sensitive and creative player in the European debate on the finality of Europe. The contributions by politicians of all parties since the mid-1990s, the speeches of the Federal Presidents on Europe and the ideas of task forces and experts on the institutional framework of the EU initiated a discussion all over Europe, supporting or refuting these ideas. German views on Europe at present range from a "European Confederation" to a "European Federation of Nation States". We should not be satisfied, however, with the progress European integration has made since the late 1940s and we should keep in mind, as Jean Monnet reminded his contemporaries in the early 1960s that the European process "is not a static a static creation; it is a new and dynamic phase in the development of our civilisation".¹⁷⁹ Robert Schuman in a lecture in Luxembourg stated: "Europe is an enterprise of reason, but not of sentiment". Carlo Schmid reminded us in his 1949 speech on Germany and the Council of Europe, that we need a European vision, long-term concepts and creativity: "Nothing hampers the realisation of things considered as being right more than getting used to a situation leaning into the right direction for fifty or twenty five percent: what we have achieved is temporarily sufficient; or notions like: we need to be realistic and should not ask for more than is available. [We should have the courage] to seek new horizons, roads the stages of which we are not yet able to predict. We hope that the statesmen of Europe will have this [courage]".¹⁸⁰ Today, in 2018, we need this courage: visions and Institutional reforms.

¹⁷⁹ Introduction to Richard Mayne, *The Community of Europe. Past, Present, Future*. New York: Norton 1963, p.5.

¹⁸⁰ Carlo Schmid, *Europa-Rat* (note 62), p.18f. (Translation WDG).

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