



CENTRO STUDI SUL FEDERALISMO

THE GREEN DEAL AND EURATOM

*Antonio Padoa-Schioppa and Alfonso Iozzo**

Environmental challenges require very demanding, but nonetheless feasible, choices of economic and fiscal policy, if (and only if) adopted within the framework of the European Union. In respect of climate risk, several lines of action are developing, linked with the commitment of the Commission and the European Parliament.

The Commission has indicated the need to mobilise resources amounting to 1000 billion euros over ten years, a figure that could be reached through a multi-tiered EU public contribution of 100 billion euros per year, which would act as a guarantee for a funding multiplier. The costs of [introducing a general carbon tax](#), i.e. limited initially only to the external borders of Europe, have been carefully assessed.

The European Parliament has adopted the objective of the [European Green Deal](#), which the new Commission, under the leadership of Ursula von der Leyen, has placed at the heart of its [five-year programme](#) with the activation of an initial 100 billion euro Transition Fund (Just Transition Fund) to which, through the multiplier mentioned above, 900 billion euros would be added over a decade that could be allocated through various channels to the Union's budget. However, calculations by the European Court of Auditors and other authoritative experts indicate that a [much higher total figure](#), in the order of 3000 billion euros over a decade, is needed to achieve the objective of neutralising climate risk by 2050.

A recent project, backed by eminent Europeans, proposed the establishment of a [European Bank for Climate and Biodiversity](#), requiring a financial commitment of 100 billion euros a year for a decade to achieve an ecological transition in Europe and Africa. The most viable way to achieve this – compared to revising the Treaties and enhanced cooperation – would be to establish a Treaty outside the European treaties that should be concluded among willing countries in the form of an intergovernmental pact. Other observers and experts have also proposed the creation of a [European Carbon Central Bank](#).

An alternative approach is anchored more directly to the Union's institutional framework, as it envisages making use of existing Treaties, and necessitates the involvement of the European Parliament, the Commission and the two Councils. The Treaty that established the European Coal and Steel Community (ECSC) was incorporated into the two Treaties on European Union (TEU) and on the Functioning of the European Union (TFEU) – which were updated after the approval of the Lisbon Treaties. Thus, the structure for the EU's future energy and environmental policies could be based on the consolidated version of the Treaty establishing the European Atomic Energy Community (EAEC or Euratom), which is still in force. To this end, the competences of the TEU, the TFEU and the Euratom Treaty should be extended to other energy sources, the regulation of which is now inextricably linked to the planning of the Union's future economic and environmental policies. The latter Treaty could be renamed the "European Energy and Environment Community" (EEEC).

One legal question that arises in this regard concerns the procedure required to achieve this objective. Given that an amendment to the Euratom Treaty would in any case be needed for this purpose, the question is this: is it possible to make use of the procedure laid down in Article 48.3(2) TEU, whereby the Treaties can be amended by a simple majority of the Council and without the need to convene a Convention, after obtaining the consent of the European

Parliament? Or, alternatively, would it also be possible to make use of the procedure laid down in Article 48.6 TEU, which regulates the simplified procedure provided for in the TFEU, Part Three - Union policies and internal actions?

The answer seems clear, meaning that the first procedure indicated is admissible but not the second, as Article 106a of the Euratom Treaty (2012) expressly provides for the possible application of Article 48(2) to (5) TEU, but not (6), which would exclude the possibility of making use of the simplified procedure.

Article 206 of the 2012 consolidated version of the Euratom Treaty also provides for the adoption of the procedure laid down in Article 48(2) to (5) TEU, for Agreements with one or more States or international organisations calling for an amendment to the Euratom Treaty in order to establish an association with reciprocal rights and obligations.

The most significant benefit of using the Euratom Treaty for the EU's renewable energy and environmental policies would be that it would provide a ready-made legal framework that is fully consistent with the current institutional structure. The important, indeed fundamental, Euratom Treaty rules include those on the establishment of one or more Agencies authorised to carry out the related policies (Articles 52-56 of the Euratom Treaty, 2012) as well as those on the financial provisions referred to in Articles 171 to 172, which include the right to issue loans on the capital market. This latter element is particularly significant, as it would make it possible to mobilise additional funding for the development of new technologies, which require substantial resources that can only be partially raised from private capital. It has now been demonstrated that for investments relating to structures which require a good deal of time and do not guarantee short-term returns, public resources are the only means to effectively supplement them: as the American model has also demonstrated in the distant and recent past.

Without prejudice to the need to expand the competences of the European Union in the future through a reform of the Treaties, it can be added that by granting autonomous fiscal power to the European Parliament in co-decision with the Council, the current legislation already allows fiscal provisions to be adopted. This can be achieved by using special or ordinary legislative procedures (Article 192.2 TFEU) and by using enhanced cooperation, namely a specific intergovernmental agreement, as recently confirmed – regarding these latter two hypotheses – by the European Court of Justice (Cases C-209/13 and C-370/12).

In conclusion, the use of this and other appropriate strategies requires, of course, an impetus that can only come from politics at the European level: hence the importance of the process which started with the new European Parliament term and the new Commission.

* **Antonio Padoa-Schioppa**, former President of the Centre for Studies on Federalism, is Emeritus Professor at the University of Milan; **Alfonso Iozzo** is President of the Centre for Studies on Federalism and Vice President of Robert Triffin International

(The opinions expressed here do not necessarily represent those of the CSF)

CENTRO STUDI SUL FEDERALISMO
Piazza Arbarello 8, 10122 Torino
Tel. +39 011.6705024 Fax +39 011.6705081
www.csfederalismo.it info@csfederalismo.it