

## THE CONCEPT OF "IMPERIAL FEDERALISM" IN THE SERVICE OF EUROPEAN INTEGRATION: HISTORY AND CONTEMPORANEITY

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**Abstract:** Researching the history of the establishment and development of the European integration process, as well as the legal nature of the European Union, we have seen that in the scientific literature there is very little information not only on the use of imperial experience in the integration process, but also on the concept of imperial federalism, which used to be rather popular at the end of XIX and in the early twentieth century in the European empires. If in the English-language literature one can find a lot of literature on the theory and practice of imperial federalism in Great Britain, similar studies concerning the German and Austro-Hungarian empires practically had not been carried out. Much more often it is possible to find out books about the German or Austrian federalism, but they generally deal with selected current issues or with the functioning of German or Austria federalism overall. In consideration of the importance of Germany in the European Union's development and functioning, it seems clear that the study of the German experience of integration within the framework of the German Empire under the Constitution of 1871 is long overdue. The purpose of the paper is to provide an overview and to close another gap in the literature on the role of the imperial concept of federalism in the development of modern integration process in Europe.

**Keywords:** European Union, International relations, Imperial model of the state, European identity, European integration, Federalism, Globalization, State, Geostrategy.

### 1. INTRODUCTION

The development of law and state in the 20th century may be characterized by the disintegration (the destruction of the European empires, the process of decolonization, the fall of the socialist federations) and integration (the establishment of the federal states, the creation of the interstate unions) trends. In this context, federalism turned out to be the theory and practice which to a large extent ensured a civilized transformation of the form of the State particularly in European countries. As a result, by the end of the 20th century, there

were 24 states in the world which met the criteria of a federation. Moreover, in the second half of the 20th century, new forms of the realization of the idea of federalism appeared, which can be proven by the establishment of the European Union, in the legal nature of which both confederative and federative elements may be observed.

The analysis of the development of federalism in the modern conditions allows to conclude that the era of globalization is characterized by the expanding application of the idea of federalism. The federalization of the state power is reflected in the de-evolution of the state powers in the unitary states or the creation of the quasi-federal supranational unions combining the characteristics of an international organization, federation, and confederation [9]. At the modern stage of development, the idea of federalism has gone beyond its classical understanding, according to which federalism was exclusively considered from the position of the internal organization of a state. The modern theory of federalism provides for the external changes, which involve the transformation of the global political structure. The aforementioned pattern gave Antje Wiener and Thomas Diez the baseline to review the federalism as a regulatory oriented predecessor of the theory of integration [42] and Elazar D. To assume that we're witnessing the paradigm shift, which leads us from the world of the nation states to the world order, where the importance of the state sovereignty will decrease and the volume of the inter-state connection of the constitutional and federative character will increase [14; 15]. Thus, the theory and the practice of federalism (the imperial federalism above all) should be considered as the tools of understanding the problems of European integration [31].

### **1.1. THE EMPIRE AND FEDERALISM: THE ANTAGONISM OR THE SYNERGY?**

In the second half of the 20th century, federalism gains significant popularity in Europe, which has led to its use as of the form of the State and the model of the integration union. Such situation seems off only at first glance. In reality, the establishment of the theory and the practice of federalism began much earlier – in conditions, when the empire was the dominating form of the State in Europe. Mr. Ilyin emphasizes that the establishment of United Provinces of the Netherlands and the Swiss Confederation was occurring from the 'underneath' while other European federations were forming either under the influence or due to the transformation of the imperial structures. Two of the most vivid examples of federalism (North American and German versions) have imperial origins: American federalism emerged due to the split of the British Empire (as Hamilton once said about the U.S.: "This empire is in many ways the most interesting in the world"). And, during the Holy Roman Empire of the German Nation era, which, according to Leibniz, had already been a federation, Germany was experiencing a constant clash of federal and imperial principles (Lapkin, 2001).

T. Hueglin, in his turn, believes that the principle of building a democratic state on a federative basis, which is commonly used in the U.S., is rooted in the European policies and practices of the 16th century. It was the New Time when the principle of federalism had firmly entrenched in the development of the not fully independent national states in Europe [22]. His views were amplified by D. J. Elazar, who noted that since the mid-17th century and until the mid-20th century the clash between the two tendencies of the independent states' formation had been happening in Europe. The first one was implemented in Germany, Austria-Hungary, Italy, Switzerland, the Netherlands, Scandinavia and partially in Spain and constituted an attempt of the realization of the national integration on the federative grounds with the reliance on the medieval corporatism and the ideas of the American revolution. The second tendency was represented by the French model of a centralized state [16].

It's commonly known that due to the leading role of France in European and global affair during the New Age era (as it was with the Roman Empire in its time), everything that was associated with France in political, legal, economic and cultural spheres was considered

a benchmark, the conformity with which served as the criterion of the people's and the nation's civilization. Gradually, a stereotype formed in the legal conscience of philosophers and legal experts. Under that stereotype, the state and legal development of European countries according to the French model has no alternatives (European states, apart from Switzerland and partially Germany) implemented the French model). The process of modernizing the traditional society, which was launched by the revolution at the end of the 18th and beginning of the 19th centuries, had extended the phenomenon of nationalism, which led to the idea of the national state, which, without fail, should be unitary and centralized. The use of the aforementioned concept in the theory and practice of practice of the state building in Europe led to the displacement of the federal model. While researching the issue of the British federalism, M. Burgess came to the conclusion about the existence of the so-called 'unitary myths', which still impose a dominating influence on the constitutional development of Britain. But if we were to erase the manifestation of those myths, we could notice that the federal ideas began to be perceived as absolutely rational, and legitimate notions providing the answers to a wide range of social problems [7].

Despite the fact that France was imposing its own political and legal standards on other European countries, the philosophical discussions promoted the gradual implementation of the federal principles in the imperial model of the legal and state development. That led to the progressive formation of the 'imperial federalism' phenomenon as of the alternative principle of the state development, according to which individual parts of the state had a significant level of the self-governance within the state as a whole [1]. Despite the principle of the methodological pluralism, the notion of the 'imperial federalism' (a 'federal empire') is critically perceived both by the political science and jurisprudence. The analysis of the resources proved that many scholars point out the non-constructive character of the aforementioned concepts since a real empire is not compatible with the federalism. It should be noted that the suggestion to recognize the 'imperial federalism' as the non-constructive notion only due to the inability to exercise the right of the nation to leave the empire is unjustified. Except for the USSR, there were no federations that would not incorporate that right in their legislation. This fact, however, doesn't provide any reasons to recognize a federation as a non-constructive notion.

The critical attitude towards this category can be explained, first of all, by the ideological labels, the perception of stereotypes, and by the absence of ideologically unbiased complex scientific studies of the empire, its varieties and directions of the evolution. Currently, only a few scientists are trying to overcome the outdated stereotypes and take into account the imperial experience while researching the state and legal development of the European states during the modern times [4]. The former Prime Minister of Belgium Guy Verhofstadt states that the global society is entering the new era, in which the problems the society faces, will be solved by a dozen existing and potential regional empires, more or less equally spread out all over the world. Mr. Verhofstadt suggests that an empire should be understood not as the empires of the 19th – the beginning of the 20th centuries, but as a political and economic entity, which consists of numerous states and peoples united by the common structures and newest institutions, are fueled up by different traditions and values which originate from old and new civilizations [38].

It's worth to mention that most articles are dedicated to studying the EU as a normative empire, while not enough attention is paid to the analysis of the federal imperialism. Although, in the first place reaffirming their common membership in a British collectivity on [34], and secondly, the federal idea and empire during and after World War II. Federal thinking and practice were also prominent at this time in other European empires too, notably the British, French and Dutch [10].

## 1.2. ESTABLISHMENT OF THE CONCEPT OF "IMPERIAL FEDERALISM" IN THE BRITISH EMPIRE

The federal idea was formed and implemented practically in all European empires of the second half of the 19th century and especially in the British Empire, which allowed some authors to assert that «the British empire had federal aspects» [29]. In this period, it was understood as «imperial federalism» («imperial federation») - a term that was introduced in 1853 by priest William Arthur (although Michael Collins notes that «As early as the seventeenth century, a federal model was floated as a solution to reducing the financial burden of defending the West Indian plantations [10]. In his work «The United States of Europe» (1871), Cambridge Professor J. R. Seeley even called for the transformation of European states, most of which were empires, into the federation [5; 7; 36].

If during the 1850-1880's the development of the concepts of the federalization of the empire was carried out by individual representatives of the intellectual and political elite of Great Britain, then from the end of the 1880's this activity was performed by specially created scientific (research) and public organizations, primarily the League of the Imperial Federation (the unofficial motto of the Imperial federalists was «federate or disintegrate» [31]. Theoretical studies in this direction were due to the need of strengthening the positions of the British Empire (ensuring the loyalty of colonies and dominions), which was opposed not by Melbourne, Cape Town or Montreal, but by Berlin, Washington and St. Petersburg. It was this confrontation, which manifested itself in the middle of the 19th century and led to the renaissance of imperial ideology.

Taking into account the negative experience of relations with the United States, the British Empire during the 1840-1869 agreed to grant dominion status to most of its colonies (Canada, Newfoundland Dominion, Australia and New Zealand, South Africa). They were granted the right of self-government, self-defense (Act of 1865), the conduct of an independent economic policy (in particular, regulation of monetary circulation, customs and trade policy), disposal of land funds, immigration issues. The Empire's policy in matters of colonial administration was aimed at achieving mutually beneficial cooperation between the subject and the object of power. In «large self-governing colonies, » the development of dominion status meant a weakening of imperial control over both external and internal policies. Freedom to independently resolve its internal issues was granted to self-governing colonies to the extent that they wished. So, the relationship between the colonies and the metropolis acquired a voluntary character [25]. At the same time, they did not turn into equal partners of the metropolis.

The approval of self-government in the colonies was accompanied by the transfer of the British political model to them: their own legislative assemblies and their responsible government were introduced. However, the governor, to whom the monarch delegated the right to exercise his prerogative, had the right to veto laws of local parliaments, to dismiss the head of government and ministers, to ignore their recommendations. In general, the development of self-government in colonial possessions was constrained by the fact that, with the exception of Australia, there was no single possession of the Crown, which, when calculating the cost of military necessities, would not have been unprofitable (Bright, 1926).

The idea of transforming the Empire into a federal superstate, in which the activities of the imperial parliament would be supplemented by regional parliaments, was considered from the point of consolidation and modernization in accordance with the new conditions (as is known, the self-governing colonies were united by the Crown's citizenship, and not the representation in the Imperial Parliament, which was elected only by the inhabitants of the United Kingdom). The conflict that arose between the imperial and colonial parliaments, as well as the two-tier legislation, was resolved with the help of a formula that had a federal origin: the British parliament had a supremacy in common-imperial affairs, and colonialism

in the local. However, the delineation of the competences of the two levels of government was unclear [29] This, on the one hand, was a disadvantage, and on the other, it contributed to the adaptation to political and socio-economic changes in the colonies and allowed to avoid the fundamental contradictions between the interests of the metropolis and the colonies, and strengthen internal imperial ties. An analysis of this practice allows with certain reservations to recognize that the aforementioned approach regarding the vague delimitation of competences is being used today in the European Union.

The attempts to implement a federative (confederative) association of colonies under the aegis of the metropolis should be considered as another manifestation of federalism in the British Empire (The creation of an «Imperial Federation» was seen as an alternative to colonial imperialism [44]. Thus, during this period, the reforms were embodied in the projects of the creation of colonial federations, which were considered as steps towards the creation of an imperial federation [26; 33; 39]. The purpose of such formations was to strengthen British influence in the region without significant budgetary costs and to ensure the unity of white communities. An example of the realization of these intentions was the creation of the Dominion of Canada in accordance with the «Act of British North America of 1867» and the project of Lord Carnarvon<sup>1</sup> on the establishment of the South African Confederation, (in 1877, the English Parliament adopted the South African Act, which had no legal but political character and was a general confederative scheme that should be specified by the legislatures of the South African communities. It is strange that the colonial parliaments have shifted from the implementation of the Act), which are of considerable interest in terms of theoretical and practical experience of combining self-government with the political integration of various parts of the empire.

In the 1870's. the idea of a federal union of England and its colonies was concretized, its principles were formulated and the search for constitutional forms, in which it could evolve, was conducted. As such a form, colonial conferences were chosen (in 1889, at a meeting of members of the League of Imperial Federalists, Lord Rasperry declared that colonial conferences were the embodiment of the idea of an imperial federation). In 1887, the First Colonial Conference was held, in which representatives of the metropolis and colonies took part. During the conference, the role of the colonies as potential allies of the Empire in case of war was determined. During the 1880s and 1890s, three more conferences were held, which became the optimal form of cooperation between the self-governing parts of the Empire, and therefore they were used in the 20th century. Thus, the development of the idea of the imperial federation contributed to the formation of a new system of political relations within the British Empire. The self-government of the colonies gave their relations with the metropolis the nature of free association, which contributed to the preservation of the unity of the Empire.

In the 1870s, with the accession to power of the Conservatives, there was a correction of state policy, in particular and the preservation of the Empire was designated as the main priority of the government. This did not prevent Conservatives at the conceptual level from considering the possibility of further federalization of the Empire. This was proved by the ideas of B. Disraeli on the conclusion of an economic and military alliance of the metropolis and colonies, as well as the creation of a representative body in the metropolis, that would include also delegates from the colonies. However, none of these proposals were implemented, since the ideas of federalization gave way to the concept of imperialism.

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<sup>1</sup>George Reginald Oliver Molyneux Herbert, 8th Earl of Carnarvon (born 10 November 1956), styled Lord Porchester from 1987 to 2001, is a British peer and arable farmer.

### 1.3. THE IMPERIAL FEDERALISM EXPERIENCE IN THE AUSTRO-HUNGARIAN EMPIRE

The peculiarity of the state structure of the Austro-Hungarian Empire was the combination of features of a unitary monarchy and a multinational federation. Hegel in the «Philosophy of History» noted that Austria was not a kingdom, but an empire, which was a collection of many political organizations (Staat-sorganizationen), which were kingdoms (königlich) [1]. The empire consisted of crown lands which belonged to the Cisleithanien (actually the Austrian lands), and the lands that were part of the Transleithanien (lands of the Hungarian crown). At the end of 19th century, with the aim of ensuring the internal stability of the Empire (opposing Hungarian nationalism and to the revolutionary, secessionist Yugoslavism), projects were proposed for its further federalization: the proclamation of autonomy for radical national groups and at the same time with their integration into large family formations [3; 35; 45; 46].

So, originally the Czechs (František Palacký & František Ladislav Rieger) put forward the idea of turning the Empire into a federation of autonomous regions (the concept of Austro-Slavism). In 1871, Českýzemskýsněm proposed to formalize the Czech crown in normative way as the third component of the Empire, which should include Bohemia, Moravia, and Czech Silesia. The idea of trialism was also supported by Croats. Croatian politicians (for example, the historian Ferdo Šišić), against the backdrop of the debate about the entry of Bosnia and Herzegovina into Cisleithania or Transleithania, proposed the creation of a third, southern Slavic segment of the Empire consisting of Croats, Serbs and Bosnians inhabited by a population of about 5.3 million people and with the capital in Zagreb) [3;12] The creation of this southern Slavic state within the Empire was aimed to mitigate Hungary, on the one hand, and counteract the Greater Serb ambitions, on the other. However, the escalation of the Croatian-Hungarian conflict since 1904 significantly reduced the chances of implementing this option.

Less well-known is the idea of trialism with the participation of Poland. This idea was considered in the context of the broader issue of the Austropolnische Lösung (the idea of reconstructing the Polish sovereignty in cooperation with the Habsburg Monarchy). It was supposed that as a result of World War I, Polish lands could come out from the Russian Empire and Poland's unification with Galicia. In this case, Leon Biliński and Michał Bobrzyński considered as one of the variants of the development of events the revival of the Polish kingdom as the third equal part of Austria-Hungary. Despite the emperor's positive attitude towards the Austro-Polish idea, the Polish politicians, the proclamation was due to the Hungarian Prime Minister István Tisza's objection during the Common Council of Ministers' meeting on 22 August 1914

These projects did not meet the interests of the Hungarian Crown (as history showed, it was the Hungarian and not the Austrian elite that hindered the process of further federalization of the Empire), and therefore these plans in this period, and after the proclamation in October 16, 1918 by Charles I, the manifest concerning federalization of the empire were realized. As the result, that led to its death. Obviously, these reforms had a clearly expressed federal character and were supposed to contribute to the implementation of the model of imperial federalism. It should be noted that representatives of the socialist parties also defined the federalist approach to the question of determining the form of the state structure of Austria-Hungary. Moreover, not only the Austrian and Hungarian Social Democratic parties, but also the political parties of the unqualified peoples of the Empire proceeded from the expediency of preserving its integrity in carrying out broad socio-political and national-state reforms.

Thus, in 1899, at the general Austrian congress in Brunn, a national program was adopted, which provided for the transformation of Austria into a «union state of nationalities» (actually a federal empire) built on a territorial principle. In the period 1916-1917 K.

Renner put forward the idea of uniting the world and turning it into a kind of «world Switzerland» in which each nation will have its own autonomy. The establishment of the union of states and peoples of Central Europe - the so-called «Middle Europe» should have been the important step on that path (Исламов, 1995). These ideas were criticized by F. Engels, who considered the federation an unacceptable form of state structure, which prevents the transition from monarchy (empire) to a unitary republic. In general, it would not be an exaggeration if we say that, with a certain conventionality, the Austro-Hungarian Empire of the late 19th and early 20th centuries can be considered as a forerunner of the European Union (Крючков, 2003).

#### **1.4. THE CONCEPT OF IMPERIAL FEDERALISM IN THE CONSTITUTIONAL THEORY AND PRACTICE OF THE GERMAN EMPIRE**

Researchers note that at the present stage state experience should be drawn not from the monarchical centralized state models, but from the allied-state forms of Germany of the Modern Times (Ивонин Ю, 2004) since Germany was a federalist entity for a thousand years [41]. Alon Confino believes that federalism as a German political idea and political reality had existed since the late Middle Ages. But as an organizational principle, federalism became effective only in the 19th century (Confina, 2002). This is not surprising, as far as the idea of "imperial federalism" in Germany was not embodied under an already existing centralized unitary state, like in Britain and Austria, but the unification of sovereign states as part of created by Prussia German alliances within coercive (military gains) and contractual mechanisms [28] in the process of the formation of the German Empire, the annexion into its compound of the South-German states (Bavaria, Baden, Hesse, Hohenzollern, Mecklenburg, Oldenburg, Saxony) was initiated as military contracts and confirmed by national parliaments. It means that mentioned processes actually had partial character. (So that, if the Holy Roman Empire of the German nation at the beginning of the nineteenth century counted more than 300 states, in the German Union entered 34 states and 4 free cities (32 subjects at the time of its termination in 1866), then the German Empire (1871) consisted of 22 states and 3 free cities), which made German experience useful for developing the concept of the unification process in the second half of the 20th century.

The history of the Holy Roman Empire of the German nation became an important stage in the development of German statehood, without realizing which it is difficult to understand not only the past and modern history of Germany, but also the history of modern Europe: the views of the 17th - early 19th centuries on the federal form of the Empire, formulated in the process of transition from medieval corporatism to modern federalism, became the source of ideas and models of federalism. It is no coincidence that most European federations were formed on the basis of former continental empires. Of course, it is inadmissible to identify the federalist models of the German Empire and the European Union. Also, one cannot notice (and agreeably one cannot ignore) the fact that particular concepts, which were developed during elaboration the theoretic model of German «empire federalism». (Unlike the British and Austro-Hungarian empires, they were implemented in practice) in a certain sense they resemble to the fundamentals of the organization of power of modern EU. Given that the FRG is one of the "locomotives" of the integration process, this looks quite natural.

According to the Constitution of 1871 [18], the German Empire was a national-monarchic union state, whose source of sovereignty was not the nation, but 22 monarchs and three free cities as its subjects (With the exceptions of the cities, Bremen, Hamburg and Lübeck all member were monarchic-constitutional, except Mecklenburg-Western Pomerania, which was still partly feudal) [28]. Given certain clarifications, it allows for a certain analogy between the Empire and the European Union. A feature of the German "imperial

federation" was the complex hierarchy of its subjects, the so-called "imperial ranks." Not being sovereign, they at the same time possessed a complex of various rights and powers. The supreme sovereignty was held as a whole by the complementary imperial state. The German model of "imperial federalism" provided for federal states the traditional two-level (regional and all-imperial) construction of power relations. At the core of this model of power were the imperial constitution, which provided the separation of powers and the creation of a federal defense system <sup>2</sup>.

German "imperial federalism" at this stage had specific signs in comparison with other federations that were known to the world theory and practice of constitutional development. This, as in the case of the European Union, sparked heated discussions about its legal nature. Thus, in the literature it was noted that all state unions, whatever their organization is it, can be classified in one of two categories: Staatenbund – a treaty (international) union (that is, an international organization) or a Bundesstaat - a union state. If you clearly adhere to the signs of these unions, the German Empire did not fit under any of these concepts.

The peculiarity of the state structure of the Empire was due,

*firstly*, the preservation of the monarchy as a form of government in most member states (it is no accident that the Empire was often called the "dynasty alliance");

*secondly*, by the fact that there were no clearly defined boundaries of the competence of the Empire and its members. Imperial power could always be expanded by legislative means and the rights of individual member states were ensured by the fact that any amendment to the Constitution could be rejected if at least 14 votes were cast against it in the Bundesrat. As a result, the authors who investigated the German Empire were forced to state that it reminded, on the one hand, of a union of states, and on the other, of a centralized state.

Let us consider those features of German imperial federalism, which could become a starting point in the design of the modern European Union<sup>3</sup>.

1. The status of the states that formed the Empire. Alon Confino notes: "the regional states have lost their sovereignty in 1870-1, they have maintained their pre-unification structure including a head of state, symbols, a Landtag (regional parliament), a government, a bureaucracy, and peculiar laws. Moreover, changes to the constitution that concerned a specific state, could be approved only with the specific consent of this state. Unlike the Empire, the EU member states remain sovereign. Regarding spheres of responsibility, as in the Empire in the European Union, certain spheres of legal regulation remain under the jurisdiction of national governments. At the same time, it should be recognized that, as in the German Empire, in the EU, as integration is getting deeper, more and more spheres of legal regulation become exclusive or mixed competence of the EU.

2. Inequality of the rights of subjects of the imperial federation – such a conclusion is based on the statement of unequal representation in the Bundesrat (Article 3 of the Constitution). Thus, of the 25 subjects of the Empire, Prussia, which had about 58% of the territory and 62% of the population of the whole Reich, had 17 of the 58 seats in the Bundesrat (later – 22), while other states received from 1 to 6 seats. So that, there was a legal consolidation of the advantages of Prussian rights over other subjects of the Empire. This gave grounds for characterizing the German Empire as a "union of unequal" or "hegemonic federation". A certain inequality of the Member States also exists in the EU, although of a somewhat different

<sup>2</sup> Gesetz betreffend die Verfassung des Deutschen Reiches vom 16. April 1871

<sup>3</sup> TREATY OF LISBON AMENDING THE TREATY ON EUROPEAN UNION AND THE TREATY ESTABLISHING THE EUROPEAN COMMUNITY (2007/C 306/01) <https://eur-lex.europa.eu/legal-content/EN/TXT/?Uri=celex:12007L/TXT>.

kind. So, Germany, France, Great Britain and Italy in the Council have 29 votes each, although the number of their population is not the same. Poland and Spain have 27 votes each, although their population is almost twice as less as in Germany. Inequality is also observed in the formation of the European Parliament. Here, regardless of the population, the state cannot be represented by less than 6 deputies (a similar rule was in the Constitution of the Empire), which is beneficial to small countries (Cyprus, Estonia, Malta, Luxembourg), and more than 96, limiting the rights of Germany and other great powers. However, the dominant position of Prussia in the imperial federation was determined not only by the amount of its seats in the Bundesrat, but also by the decision-making procedure there: a constitutional amendment gave to any fourteen votes in the Bundesrat power to veto any constitutional change. As a result, not only Prussian, but also a likely coalition of smaller states such as Bavaria, Württemberg and Saxony could oppose a change in the status quo (Article 78 of the Constitution) [28]. A similar situation exists in the EU when calculating a qualified majority (the leading member states, primarily France and Germany, strive to provide the control of the decision-making).

3. A different level of participation of Member States in the performance of the functions of the Empire. Thus, Bavaria and Württemberg retained the right to independently collect taxes from the production of vodka and beer, manage mail and telegraph; Bavaria had a certain independence in the matter of the management of the army and the railway, and also received a permanent membership in the Imperial Committee on Army and Fortress matters, while other members were appointed by the emperor; she headed the Committee on Foreign Affairs, whose permanent members were only Saxony and Württemberg, and the other two members were annually elected (Article 8 of the Constitution) [43]. In the case of the EU, it should be noted that, for example, that the UK is nonparticipant in social and monetary integration.

4. A special way of formation of the upper chamber of parliament: the members of the Bundesrat were not elected by the people or parliaments of the subjects of the Empire, but were appointed by the governments of the member states. The Chancellor of the Empire headed the upper chamber (a representative of Prussia). The European Union adopted such an order from the Empire and uses it to form the Council, which is identified with the "upper chamber" of the EU Parliament.

5. The actual disparity between the upper and lower chambers of parliament is another sign of the Empire, which in some way characterizes the relationship between the Council and the European Parliament as the "upper" and "lower" chambers of the EU Parliament.

6. Under the Constitution of 1871, a characteristic feature of Germany was the lack of a general imperial administration (the Cabinet of Ministers). The executive power was exercised by the Chancellor and State Secretaries subordinated personally to him. In the European Union, with the existence of a full-fledged judicial and legislative power, there is no executive power, which is performed by the only body. The Commission is usually compared to the government; however, it is not it. The statements of individual member states indirectly indicate this, primarily the Federal Republic of Germany, which states that it is necessary to create, along with the Commission, an economic government.

7. Unlike the German Union, the power in the imperial federation has its own sources of revenue and budget. The imperial budget was considered and approved through legislation for a period of one year by the Reichstag and the Bundestag. The introduction of the main direct taxes was recognized as the prerogative of the Member States, while the Empire was granted the right to establish only customs duties, general imperial taxes and excise

taxes on tobacco, beer, vodka (schnaps), sugar and salt. The institutionalization of the right to collect customs duties and excises was fundamentally important for the formation of a common economic field; however, the funds received from them by the imperial budget were not enough. An additional source was funds from the post and telegraph offices, as well as matrix contributions of individual member states, although the use of the last put the Empire in direct dependence from individual states. Therefore, in prospect, the Empire was forced to go through the introduction of new taxes that would ensure the filling of its budget. And only in 1919, as a result of the tax reform, the financial sovereignty of the lands was completely eliminated. A similar situation exists in the European Union. Primarily, the revenue side of the budget was formed from contributions of Member States. In 1970, the Council decided on the formation of its own resources of the EEC. Since the late 1980's, the revenue side of the budget consists of three sources: own funds, revenues from the turnover tax and contributions from member states proportional to the volumes of national GDP. It should be noted that since the EU's customs policy promotes intra-union trade and restricts the import of agricultural products, the share of traditional own funds in the Union's budget is constantly decreasing, which makes supranational power depended from national governments. The European Commission has repeatedly proposed to change the system of forming the EU budget for the purpose of introducing new taxes (the Commission does not pretend taxes collected by national governments, but suggests introducing new taxes to fill the federal budget) that will directly proceed into the EU budget. If these plans were implemented, the Union would be able to partially abandon the contributions of Member States to the EU budget, which would ensure its independence from the decisions of EU finance ministers. It is the ability of the Union to obtain financial independence as a premise for economic sovereignty, which forces national governments to be cautious about the initiatives of the Commission.

8. There also was a rather complex institute of dual citizenship in the German Empire. An individual in the Empire was considered it subject only in the case of the citizenship of one of the member states, and only the inhabitants of the imperial lands - Alsace, Lorraine and colonial territories - were in the direct allegiance of the Empire. Subject (citizen) by any state in the Empire had the right to move within the Empire from one nationality to another, without losing the Empire's subjectship (citizenship). Equal in their rights were only the subjects (citizens) of each of the member states of the German Empire within all states of this Empire (Article 3 of the Constitution). Accordingly, the term "foreigner" was applied only to persons who were not subject to any of the member states of the Empire. It should be noted that this approach to determining the citizenship of the imperial federation and its members is fully reproduced in the European Union (Article 9 of the EU Treaty).

9. The Constitution of Germany contained the rule of distinction of competence. The exclusive competence of the Empire was singled out, the general or competing competence and competence of the member states. Standardization in important fields such as education, social policy, economic policy, national symbols, and also courts and jurisdiction, proceeded little by little; the constitution of 1871 left policy in these and other matters largely to the choice of the states. Slowly in the 1870s and more effectively from the 1880s, institutions were developed on the Reich level that introduced standardization throughout the Empire. One calls to mind the standardization of currency, weights and measures put into effect in 1873, or the more complex and gradual systematization of law and the court system (Confina, 2002). Although today such an approach indicates on the federal character of relations, it should be noted that the limitations of the competence of the land gave grounds to compare them with autonomies within a unitary state. A similar approach to the division of competencies exists in the European Union (Art. 2-6 of the TFEU), although the proportions between the competences of each kind in the EU are quite different [37].

10. The German model of imperial federalism provided for the possibility of using coercive measures (execution) against member-states that did not fulfill their union obligations. The decision to apply such measures was taken by the Bundesrat and realized by the emperor (Article 19 of the Constitution). Such powers, atypical for the federation, are also provided in a modified form by the EU Constituent Treaties. Thus, the Council has the right to take measures, in particular sanctions against member states that admit serious and persistent violations of the democratic values of the Union (Article 7 of the TEU) or have an extra budget deficit.

11. The way of creation is also essential for the characteristic of German imperial federalism. It should be noted that the main method of federal states creation was certainly war. However, along with wars, a significant role in this process played legal and especially economic integration. Although the customs union within the EEC was formed only in 1968-1970's, already in the 1950-1960's, researchers discussed the possibility of comparison of the European Communities and the German Empire in aspect of the influence of the customs unions created by the mon integration processes, which developed with in their frameworks. It should be admitted that the creation of a single German economic and legal space as a result allowed to overcome, in a considerable extent, local separatism, and consequently, to ensure the formation of an all-German identity. The vitality of such a complex state structure of the Empire of the late period is due to the fact that it guaranteed well-established federal and regional traditions and relied on complex power institutions that provided its stabilization. If earlier this factor was assessed in the negative aspect as responsible for the confusion in Imperial law and the powerlessness of the institutions of the Empire, today it is rather as a decisive factor contributing to its preservation as a single state, since the protection of regional peculiarities, to a large extent, was the meaning of existence and the right to the existence of an empire of the late period.

### 1.5. IDEAS OF IMPERIAL FEDERALISM ARE SHOWN IN THE WEIMAR CONSTITUTION

For a better understanding of both the nature of imperial federalism in Germany and to assess the possibility of borrowing its experience in the formation of a European integration association, it is necessary to briefly characterize the particularities of the theoretical model of the German Empire in the Weimar Constitution<sup>4</sup>. First of all, it's necessary to specify the following:

The first, Germany retained the status of the Empire, but at the same time changed form of governance, to become a republic (Article 1). This fact testifies that the empire itself is a broader concept, than the form of governance, and consequently, it can be either a monarchy, or the republic;

The second, the Empire formally retained to a federative character (as the name Erster Abschnitt "Reich und Länder" indicates) and bicameral parliament, where the upper chamber represented the interests of the lands;

The third, almost all the subjects of the imperial federation continued to call themselves Freistaat, a term that could be interpreted both as a "republic" and as a "free state" (Art. 17). All lands perceived themselves as states and adopted their own constitutions. At the same time, when recognizing lands as states, researchers, as a rule, pointed to the limited nature of their sovereignty;

<sup>4</sup> Die Verfassung des Deutschen Reichs ["Weimarer Reichsverfassung"] vom 11. August 1919 <http://www.documentarchiv.de/wr/wrv.html>.

Fourth, in the Weimar Empire, like its predecessor, the lands were unequal - 2/5 of the votes in the Reichstag belonged to Prussia;

Fifthly, the previously existing division of competence (Artikel 6-12) was retained, but the limits of the exclusive competence of the Empire and the joint competence were significantly expanded, which allowed to draw a conclusion about the concentration of power at the imperial level. This, however, did not lead to a complete unitarization of power in the Empire;

Sixth, taxation issues actually became the prerogative of the Empire, which had the right to interfere in the legal regulation of land taxation issues (Art. 8, 11, 73, 83, 134, 169).

## 2. CONCLUSIONS

Summing up the analysis of the theory and practice of "imperial federalism" in Germany, Great Britain and Austria-Hungary, it should be noted that the ideas of federalism were extremely popular in the second half of the XIXth and the beginning of the 20th century, as they were seen as a real alternative to the unitary form of the state structure of centralized national states (the French model). Long before the beginning of the integration process, federalism was considered as a doctrine, the implementation of the principles of which allows to reconcile the various interests of multinational and multi-confessional entities, to ensure their coexistence within the framework of a unified political, legal and economic system, be it an empire or inter-state association. At the same time, it should be recognized that in the process of development of integrated model of a unified Europe in the second half of the 20th century, the approaches theoretically elaborated and tested in practice in the Germanic and partly in the Austro-Hungarian empires could be used.

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