

# The democratic aspects of European integration within EU itself

## **Abstract**

As democracy has prevailed to be the ideal regime status, and totalitarian regimes have been eliminated by the end of 20<sup>th</sup> century (at least in major Western countries), there has been intense discussions whether the European Union is democratic itself. This discussion becomes more important, as the Union is increasingly becoming a significant player both externally and internally. In international politics arena it seeks its role as the second global polar and most of its recommendations and admonitions (along with the USA) are in favour of democratic conditions and values.

Within the Union territory, its role as a political actor is heightened by the sequential Treaties, and the challenge is to find a basis for legitimate governance under which citizens accept the Union as an entity within which governmental authority is exercised. This challenge will continue to persist for as long as the member states, as well as EU citizens will keep on turning to the Union to seek solutions to problems that cannot be solved in national level.

The major idea behind the argument of democratic deficit is that decisions in the EU are in some ways insufficiently representative of, or accountable to, the people and the nations of Europe (Lord, 1999).

On the other hand, it is often argued that too much democracy could constitute nothing but a drawback for the Union, as the recent referendum in Ireland (but also, previous referendums) have showed.

This paper examines the above issues and argues that once the Union is recognized for what it is –an innovative polity, where power is shared by a large number of players with many participation and influence-wielding mechanisms,- it becomes apparent that on the whole it complies with democratic legitimization standards no less than do member states, even if multiple, and potentially conflicting legitimization channels and principles may confuse observers.

## **Introduction**

Since the discussion is about democracy, we have to define what is meant by democracy and what is democratic rule?

Albert Weale defines democracy as a condition in which ‘important public decisions of law and policy depend, directly or indirectly, upon public opinion formally expressed by citizens of the community, the vast bulk of whom have equal political rights’ (Weale, 1999). Public opinion could be expressed directly through elections or referendums, or indirectly through a representative body. We should note that a representative body can control a process of government by granting or withholding resources, as well as appointing and dismissing office-holders.

Weir and Beetham argue that public control and political equality are the defining features of democratic rule; and authorization, representation and accountability are the key principles by which it is realized. (Weir and Beetham, 1999).

The Union itself, through one of its significant documents (the Laeken declaration) puts focus on accountability and democracy, acknowledging a current deficit, stating that the European institutions must be brought closer to its citizens, to become more efficient and open, and to involve more with public concerns. The declaration clearly distinguishes the role of the Union's institutions from that of the national elected representatives that could be perceived as a threat to national identity, and argues that citizens want better democratic scrutiny.<sup>1</sup>

Moravcik, conversely, has claimed that further channels of democratic legitimization are not required, for two main reasons. Firstly, he sees the European Union as the product of an intergovernmental agreement – embodied in the Treaties- that is “pragmatically efficient, normatively attractive and politically stable”: a satisfactory negotiated equilibrium, periodically modified when the need arises, and otherwise reconfirmed, and that therefore reflects the requirements of participating states (Moravcik, 2006). Secondly, he maintains that increasing the opportunities to participate and decide does not necessarily generate more participation, nor does increased participation generate more legitimization. In fact, in his view, declining voter participation in elections to the European Parliament would appear to confirm that the greater scope for democratic participation provided for by the Treaties has largely been unused; and where and when it has been used, this has been to express dissatisfaction with the domestic policies of national governments (a point also made by Bogdanor, 2007; Hix, 1999; Schmitter, 2000). Moravcik considers that this is due to the nature of the tasks undertaken by the Union, which are of a mainly technical nature, with modest general political salience for most citizens, such as international trade, development assistance, agriculture or safety standards for manufactures and services.

The above views have been met critically by substantial numbers of political scientists and constitutionalists who conversely feel that the Union's institutions have now taken on an autonomous role, even vis-à-vis the member states, in defining the rights and political, economic and social conditions of individuals. Furthermore, they assert that these powers cannot be taken back by the member states inter alia because of the unanimity requirement for Treaty revision, and deem that the accumulation of powers in the Union hands has already exceeded the threshold requiring autonomous safeguards against possible abuses (Schmitter, 2000; Lord, 2004; Lord & Harris, 2006; Schmidt, 2006). Possible abuses that concern first and foremost the Council, insofar as it can elude national parliamentary control when ruling at the Union level.

The Union itself seems to become aware of the critics and through the Lisbon Treaty has tried to bring the Union closer to its citizens. While carrying over from the previous Treaty provisions on citizenship, the treaty specifies new rules on the right of Union citizens to take part in its democratic life, including the right to legislative initiative<sup>2</sup>

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<sup>1</sup> The context of Laeken declaration does matter in this case. The Union had come across a major crisis with the resignation of the whole Santer Commission on accusations of corruption and non-transparent spending of EU budget. In 2001, when the Laeken declaration was issued, matters of transparency and public control were threatening the entire image of the Union.

<sup>2</sup> According to article 8B, paragraph 4, “Not less than one million citizens who are national of a significant number of Member states may take the initiative of inviting the Commission, within the framework of its powers, to submit any appropriate proposal on matters where citizens consider that a legal act of the Union is required for the purpose of implementing the Treaties”

## **The Institutions and the Governance of the Union**

Currently, the traditional separation of the state powers, that is the legislative, the executive and the judicial, is performed by means of the Union's autonomous institutions.

The European Court of Justice functions as the judicial power, and is distinguished for two important characteristics: the supremacy over national laws, and the direct effect on the legislature of member states.

The European Parliament (EP) is directly elected from the public, and is comprised of 732 members from the 25 states (Romania and Bulgaria had not accessed in time for the latest elections). Its main function is legislative, however it has to co-ordinate, often in co-decision, with the Council of Ministers.

The Council of Ministers comprises a representative of each national government. In an increasing number of cases, the Council acts by Qualified Majority Voting (national vetoes are still valid in limited areas), based on a system of weighted voting which gives the member states influence roughly in accordance with their size.

The Commission acts as the Union's government, with its President and twenty-four Commissioners, whose task include proposing Union legislation and ensuring that member states apply that legislation, once adopted by the Council of Ministers and the EP. According to Majone (2005), it is exactly this exclusive legislative initiative that constitutes the quintessential expression of the European construction's non-democratic nature. However, as has been recalled and he himself notes, this power was devised essentially for issues relative to the freedom of movement –i.e. “technical” issues in the sense used by Moravcik- and applies neither to the general economic policy nor to the eminently political issues of foreign and defence policy.

Finally, the European Council is the regular meeting of the Heads of State and Government of the member states and is considered as the highest political body of the Union. While it has no formal executive or legislative powers, it is an institution that deals with major issues and any decisions made are “a major impetus in defining the general political guidelines of the EU”, as it essentially defines the European political agenda. As it is composed of national leaders, the body brings together the executive power of the member states and exercises the executive powers of the Council of the European Union, such as the President of the European Commission. However, the body has been often criticized for a lack of leadership, in part stemming from the weak structure of the body with no staff and no legislative decisions made, and in part stemming from the rotating Presidency of every six months as apart from the limited period, the personality and the country of origin of the President-in-Office play a certain role.

We have to distinguish at the different levels at which the democratization might be implemented. In intergovernmental approaches, the EU gains legitimacy through the elected national institutions of its member states, so the Union is thought to be indirectly controlled by the nations, all of which are well-established democracies. Furthermore, each national democracy has to ratify any change to existing EU treaties, or to new ones which is effected either parliamentary or through referendums (as in the case of Ireland) according to the provisions of the national constitutions. The most important decisions have to be approved by the Council of Ministers, on which each national government is represented. Those governments are, in turn, accountable to their parliaments and electorates. Moreover, due to the overall highly compromising nature, the Union appears to operate within a ‘permissive consensus’ in which the policy outputs are thought to be too uncontroversial to require any special democratic authority. (Lord, 1999)

In supranational approaches, entirely new democratic institutions are established at the European level. These institutions are specifically made for the political system of EU (we may

not find comparable ones in other organizations) and they try to operate with at least minimum consistency across the Union as a whole.

Arend Lijphart introduced the notion of consociational democracy to describe a form a consensual democracy in which majority rule is replaced by joint decision making. Aspects of this model are already present in the EU, as member states retain vetoes for matters of taxation, immigration and asylum, the Common Foreign and Security Policy, and Justice and Home Affairs. (Lijphart, 1997).

The coexistence within the Union of the two distinct levels at which public institutions exercise their power – federal and confederal- generates an intrinsic need for corresponding democratic legitimization mechanisms and channels, focusing on the one hand on member state representation in the Council and on the other, on citizen representation in the European Parliament. This dual representation was explicitly acknowledged in the Treaty on Union agreed in Lisbon, new article 8A of which read (paragraph 2): “Citizens are directly represented at Union level by their Heads of State or Government and in the Council by their governments, themselves democratically accountable either to their national Parliaments, or to their citizens”.

The Union, in other words, can be thought of as a peculiar polity where power is spread out over multiple centers and is exercised through various decision-making procedures –currently numbering about thirty. It features not only frequent dissociations of territorial and functional jurisdictions, but also variability in the criteria defining insiders and outsiders with respect to the exercise of its powers, both functionally and territorially (Schmitter, 2000); for this reason, it has been described as a polity with undefined borders.

We would also have to underline the role of the networks. The Euro-Polity has from the very onset accorded privileged status to associations representing organized economic interests at the European level; it has often encouraged and financed the setting up of such bodies. Over time, producer organizations were joined by trade unions, consumers, environmentalists and “single issue” advocacy groups, while many regions have set up representation offices in Brussels. These organizations have become the focal point for networked, extended communities of interests in the member states, that rely on the network to take part in Commission and Parliament consultation processes, publicly debating the merits of measures as they are being developed, and standing in on the drafting of legal provisions, to which they may contribute with their technical input.

On the whole, the multiplicity of decision-making procedures, often criticized as causing opaqueness throughout the process, reflects varying balances of power between players and interests involved in decisions regarding specific sectors or fields, negotiated at the outset or through successive adjustments in the management of common policies. They therefore play an important legitimizing role that should not be ignored.

## **Control and democratic legitimization mechanisms**

### Elections and referendums

The main mechanism of democratic participation lies in popular vote in elections and referendums. As noted above, voter participation in elections to the European Parliament is not high, at less than 50% of the electorate, and it dropped by about 20 percentage points between

1979, the first election, and in 2004<sup>3</sup> (\*some observers have however claimed that decline in voter turnout largely reflects spurious statistical phenomena in voter demographics, in particular the accession of countries where voter turnout is traditionally lower; when data is corrected for such phenomena, the downward trend is less marked –Franklin, 2001). Furthermore, voter positions on European matters have appeared to be strongly correlated to the popularity of national governments in office.

Low voter participation may however stem from reasons other than disaffection with Community Institutions (Lord, 2004): it may for instance reflect the fact that these consultations have little impact on the general thrust of European Affairs and the identity of those who will be chosen to govern. Alternatively, in a more positive view, low voter participation may reflect the basic consensus of leading political groups as to the general direction of European Affairs: when positions advocated by parties and candidates appear to be sufficiently aligned to the preferences of the median voter, the incentive to participate in an election procedure is, more or less, diminished. In fact, the remoteness and complexity of European issues tends to generate conformal positions of national parties, with the main disaggregation to be more of an integrationist – non integrationist countries rather than traditional left / right cleavages.

Conversely, the idea that the President of the Commission should be elected directly by voters seems controversial, as politicizing the Commission would be incompatible with the Commission's dedication as arbiter of Treaty application and its exclusive powers of legislative initiative, which also assumes a shared, non-partisan vision of the integration process.

Equally controversial is the idea that the democratic gap could be bridged by resorting more frequently to referendums. Francois Mitterand had once said that the citizens in referendums, usually answer to everything except of the question that is being put. This became again reasonable with the recent “No” of the Irish in the Lisbon Treaty, same as had happened exactly three years earlier with the negative verdicts of the French and the Dutch for the Constitutional Treaty. At this point, two significant issues arise: the first one is whether the citizens may answer with a simple binary vote to complex legal texts that even pertinent scientists have difficulty in understanding. The second one, is the democratic practicality of the current structure, as Europe is being dragged in a new crisis because 862.415 (this is the exact number) Irish citizens, in a total of about five hundred million Europeans, rejected a Treaty that had not studied, nor understood. It is worth noting that in 1972, when the average income of the Irish was equaled to 58% of the European average, 84% of them enthusiastically voted in favour of the EU accession. Now that their income equals to 130% of the EU average –in part due to community subsidizations- they vote against the European integration.

### The role of national parliaments

At the member state level, the main issue is adequate control by national parliaments over the actions of governments and administrations within the Council, which actually implies an indirect channel of democratic control by citizens over Union decisions.

National parliaments play a key role in the approval of Treaty modifications, which constitute the Union's primary law and in many member states this approval comes under constitutional procedures. On the same fashion, decisions on the Union's financial resources require

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<sup>3</sup> Some observers have however claimed that decline in voter turnout largely reflects spurious statistical phenomena in voter demographics, in particular the accession of countries where voter turnout is traditionally lower; when data are corrected for such phenomena, the downward trend is less marked (Franklin, 2001)

ratification under national fiscal procedures since funding is effected by state budgets. Definitely, the powers of the national parliaments are greater for Council decisions adopted under the unanimity rule, where European Parliament involvement is weaker. Such decisions have significant political and institutional weight so the powers of scrutiny are usually exercised with high degrees of incisiveness and often with active public opinion participation. On the other hand, national parliament control is inevitably weaker over Council decisions regarding Union directives or policies where majority voting is the rule.

European researchers have claimed that transferring functions to the Union implies shifting the balance of powers towards executive powers, which can avail themselves of considerable discretion when negotiating compromises within the Council, as well as towards bureaucracies, which cooperate in the implementation of Community norms within Council Committees. Both sets of institutions, far removed from the eyes of the public, can collude with the Commission and with segments of the organized interest community, according to vertical “filières” (procedures) can use the Union to bring about decisions that would not be feasible at national level (Chrysochoou, 2003; Maurer et al., 2000).

Certain member states –in particular Denmark and the UK- have addressed this issue by adopting tight procedures to provide guidance and oversight for government behaviour within European institutions, while in other cases parliamentary procedures appear less incisive and could be strengthened (Hix, 1999, Lord, 2004).

That said, majority voting within the Council and co-decision with the European Parliament rule out rigidly binding mandates, that would preclude all compromise; similarly, any direct intervention by national parliaments in European decision-making would surely entail decision-making paralysis (Manzella, 2008). Democratic control must therefore be resolved through the Union’s mechanisms –that is, mainly scrutiny by the European Parliament.

### **The paths ahead for further democratization**

There is no doubt that the greatest legitimacy of a representative body comes from direct elections from the public, which is considered to be the summit of democracy. The first elections for a European Parliament were held in 1979, and since then, they are held on a five-year basis. However, Reif and Schmitt analyse European elections as ‘second-order’ national contests (1980). The principal insight of this theory is that both voters and parties consider competition for power in national arena to be far more important than competition for power in the European arena that they use their only opportunity to elect a Union institution to express domestic political preferences. Consequences of second-order voting include, apart from lower participation, issues such as influenced results by domestic political cycle, favour of small national parties, favour of domestic parties of opposition etc. In Greece, the ruling Socialist Party (PASOK) got 33% in Euro-elections of 1999 and 34% in 2004, while for national elections it got 44% in 2000 and 40,5% in 2004. Similarly in France, UMP got 16,6% in the elections of 2004, while in the national elections its performance was at 20% in 2002 (under J. Chirac) and 31% in 2007 (under N. Sarkozy)<sup>4</sup>. On the other hand, the right-centrist UDF party got 12% in 2004, while in the national elections the results were 6,8% in 2002 and 7,6% in 2007.

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<sup>4</sup> Results refer to the first round of presidential elections.

This second-order nature of European elections and the absence of a credible electorate link remove, not typically but essentially, the full authorization by the public opinion.

However, EP does not look like a typical Parliament in a European member state, as it has slender powers of executive formation or dismissal, but impressive legislative powers, even in a very complex process with the Commission and the Council. These processes could take the form of consultation, co-operation or co-decision and in that way, it looks much more like the US Congress.

EP gained much more respect and attention during the last 10 years, as a result of Treaties that strengthened its role, but also due to a sound demonstration of power, in 1999 when the Parliament forced the resignation of the whole Santer Commission.

We have to note that there are important forms of collective decision-making that can not be controlled through the EP powers, and this particularly applies to the Common Affairs and Security Policy (the second pillar) and Justice and Home Affairs (third pillar). Paul Magnette (1998) has described the EU as a 'semi-parliamentary regime', in which the development of sophisticated practices of representative politics in some issue areas coexists with their near absence in others.

EU has two major obstacles to overcome: the first is the size and diversity of the political system (27 member states and 459 million inhabitants, plus 23 official languages) and the second is the novelty and the unfinished nature of the political system. Citizen loyalties remain primarily at the national level, and very few will declare to be more European than, e.g. Dutch or Portuguese.

As regards to the options of the Union for further democratization (if we accept that there is a current democratic deficit), we have to note that the Commission has presented itself as an apolitical and technocratic body. And politicians who are elected and are subject to re-election can be expected to behave very differently from those who are not. We have to note that one of the important functions that the EU performs, is that of removing the political cost from the national governments and on that fashion the member states and EU citizens continue to turn to the Union to seek solutions to problems that cannot be solved nationally. A painful and unpopular decision can be easier made and enforced by a technocratic (and far-away) Brussels body, than the national prime-minister who is subject to its political constituency.

In the recent years, several governments have based their spending cuts on the Stability and Growth Pact agreed on Maastricht, while the possibility of disrupting operation for the national airline companies of Alitalia and Olympic Airways was always a threat attributed to the Commissioners of Brussels and never to the national governments of Italy and Greece.

As regards to a more powerful European Parliament, the question is whether the conditions have matured yet or not. The national bias in pan-European elections might be significant as, for example British people is dubitable whether they could accept to be governed by a French or a Spanish prime-minister. It is the most obvious question, whether national publics or member states are yet prepared to invest so much democratic legitimacy in the hands of one supranationally elected office-holder.

Strengthening the powers of the EP to resemble those of a national parliament, would raise also questions of practicability and desirability. Even if the national parties have been organized in identifiable political groups, and are capable for respectable levels of cohesion (Attina, 1990), it seems unlikely that multinational parties (consisting of more than 20 national parties) could ever achieve the same unity as their national equivalents.

Debate on European issues tends to elude the left/right divides typical of national political systems (Hix, 1999, Bastasin 2008), and break up on a case basis into different member state and interest group coalitions: this does not favour linkages between national political debates and decisions to be taken at the European level. Voting patterns in the European Parliament reflect motivations that can rarely be traced back to traditional political stances within member states; and national public debate on European issues tend to run along pro- and anti-European lines, which are also poorly correlated to traditional party divides.

### **Constitutional Treaty and Lisbon Treaty**

Since the year 2000, the European Union engaged in a process of fundamental institutional and constitutional reform. A body specifically designed to discuss these matters was established, the “Convention” under the presidency of Valéry Giscard d’Estaing. The main aims were efficiency, as well as legitimacy of the Union. Constitutional Treaty was divided in four main parts, namely, Basic Principles on which the EU functions, Charter of Fundamental Rights, Policies of the Union and General and Final Provisions. What the Convention tried to do was mainly, to incorporate all of the existing Treaty texts into a single Treaty, plus protocols, in order to offer simplification.

The Constitutional Treaty also, tried to achieve democratic accountability and citizen involvement. Thus, it proposed for an ‘ordinary’ legislative procedure between the Council of Ministers and the EP, and ruled that the Council will in future always legislate in public. It emphasized not only representative democracy and the equality of citizens as democratic subjects, but also participatory democracy and the special “citizens initiative. (Shaw, 2003)

However, the history has written that the Constitutional Treaty consisted one of the soundest failures of EU as it was rejected in the public referendums in France and Netherlands (the surprise was that they are both countries that could be classified as integrationist).

This failure to ratify the Constitutional Treaty could have several explanations. A plausible one is that the European nations are not ready to accept a form a super-state, that will exist in supremacy of their nation state, at least for the time being. This means that the conditions are still immature for symbols, such as anthems or flags, as well as for persons, such as a European President or a Foreign Minister, with increased responsibilities. Of course, we should not forget that there were finally 18 member states that did approve the Constitutional Treaty, but this was done mainly through parliamentary procedures (the exception was Spain, where it was accepted with the impressive 77%, plus Romania and Luxemburg) and apart from France and Netherlands, it had to be ratified in referendum also in the UK (a promise of T. Blair) and Ireland.

Two years after the disastrous referendums in France and the Netherlands, with the Lisbon Treaty, member states tried to reach a new agreement on institutions that uphold the main innovations laid out in the Constitutional Treaty –albeit without the ‘signs and symbols’ of a constitution. A major reason, it would appear, for strong public opinion opposition. The Treaty thus clarified the allocation of competences between the Union and the member states, specified the balance of powers between the Council, the Commission and the European Parliament, and rebalanced, within the Council level, the voting weights of large and small countries. It also put an end to the rotating Presidency of the European Council, strengthened the powers of the High Representative of the Common Foreign and Security Policy, reduced the number of commissioners and increased the number of topics subject to majority voting, thus improving the functionality of the common institutions.

By removing the ‘signs and symbols’ of a constitution, the Lisbon Treaty also tried to remove indeterminate finality from the picture: it seemed now clear that the Union was not destined to become a state and that the current balance between federal and confederal dimensions is here to stay. The Lisbon Treaty has therefore removed a number of obvious flaws in the Union’s democratic legitimization, however the rejection of the Irish postponed, for once more, the faith of European integration.

## **Conclusion**

One of the things that the Union has avoided so far, is to engage in a form of competition with what actually constitutes it, its member states. Thus, perceiving all nations as its constituency, would entail the danger of being perceived as a threat of national sovereignty.

The European Union is not a state, and comparisons with state-type models of democratic legitimization may well prove misleading. The first direct election to the European Parliament took place nearly thirty years ago and since then, the Union’s institutional system has continued to evolve, establishing significant scope for democratic participation and control in the process.

Once the Union is recognized for what it is – an innovative polity, where power is shared by a large number of players, with many participation and influence-wielding mechanisms, constantly adapting its institutions to the requirements of its component parts – it becomes apparent that on the whole it complies no less with democratic legitimization standards than do member states (Meny, 2002), even if multiple, and potentially conflicting legitimization channels and principles may confuse observers.

Definitely, the Union will be strong in the eyes of public opinion and its citizens if it manages to come up with solutions to the challenges of globalization, external and internal security, energy, the environment and the increase of its global geopolitical role. In this respect, there is no reason why difficulties encountered over the last decade should endure, to the extent that they were a systemic consequence of poor Union functioning. Time will no doubt tell.

Presently, what needs to be kept in mind is that the member states and EU citizens, however mangled by crises and difficulties, continue to turn to the Union when seeking solutions to problems that cannot be solved nationally, and that there is an extraordinary proliferation of subjects and channels providing participation to European debates and decisions, in new and ever-changing ways.

Of course, this continuous adaptation process has not been without consequence for institutional balance. The founding fathers’ initial idea of a supranational polity has been scaled down to accommodate a more realistic view of power attribution and sharing. With the extension of the Union’s scope, and its increasing politicisation, the weight of Council and Parliament in decision-making has increased; the Commission has strengthened its technical prerogatives in matters of Treaty implementation and enforcement, while its right of initiative has been curtailed. Application of the Community method has been circumscribed to some areas, mainly those where common action is basically technical and “non-majoritarian” (Micossi, 2008).

The road is long (and with an unknown destination), and the constant, complex and various forms of interactions, could someday, bring the nations so close together, that a real democracy would be feasible.

For the moment, EU is surely better at representation than accountability. Its very success in allowing so many perspectives to be represented in decision-making –via national governments, economic / functional interests and parties in the EP- creates a complex form of consensus politics, in which it can be difficult to determine precisely who should be accountable for what (Lord, 1999).

Finally, we should raise the question of concern. Do the citizens care much about whether there is a democratic deficit in EU or not? Is there a problem to be solved, and if yes, what should be its priority? Definitely, the balances between 27 member states are fragile, and a possible action could generate too many reactions that should be anticipated in advance.

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