

THE NEED FOR A EU GOVERNMENT



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CONTRIBUTIONS

The Eurozone's crisis not only confirmed the lack of democratic credentials of the EU. It also dissolved the narrative of a well-functioning technocratic organization that surrounded its performances for many decades.

Even before the opening of the Greek chapter, the decision-making procedure failed to comply with the financial aggression to the euro. While the Commission behaved as a shadow institution, deep conflicts arose both among Member States and the European Council, and among national governments and central banks. The consequent delays of EU interventions, with the exception of the ECB, demonstrate its low capacity in facing the challenges arising on the ground of markets management. And, first and foremost, the vetos of important Member States on the adoption of European financial measures such as the Eurobonds confirm their unwillingness to project a common future.

At any rate, **the hypothesis of a functional differentiation on democratic grounds between Member States and the EU, according to which the EU's unique 'output legitimacy' should compensate its scarce 'input legitimacy'** (G.Majone, 1998, 18 ff.), **appears denied from the clear incapacity of the European political institutions in managing the Eurozone's crisis. The system needs therefore to be changed on the ground of efficiency not less than of that of democracy.** At this respect, it exhibits its difference with the national systems of government. While the latter were founded on various attempts of balancing representative democracy as expressed from parliamentary assemblies with the efficient action of the executive, the "institutional balance" between intergovernmental and supranational elements of the EU system has hitherto barred the



possibility of a clear-cut executive, and therefore the emergence of a connection between power and accountability. The dispersion of governmental authorities affecting the EU creates unique opportunities for exerting political power without being held accountable for such exertion. What renders typical the EU arena is the launching of “policies without politics” (V.A.Schmidt, 2007, 223), that is confirmed both from the absence of European political parties as interlocutors for public opinion, in spite of the Lisbon Treaty’s provisions, and from the EP’s internal organisation, founded on the “division of the spoils” rather than on usual political divides (J.Priestley, 2011, 16 ff.). The opaqueness of European rulers and rules is further increased from how these are presented at the national level, where mediatic agencies and political parties co-operate decisively with governments in insulating the EU from the imagination of politics.

It is at this respect that the crisis of the Eurozone, a typical failure of output legitimacy, goes hand in hand with the popular detachment from the EU and the rise of populism, that have to do with the input legitimacy, in urging a fundamental move of the EU institutional system towards the establishment of a governmental authority called to account on political grounds. Furthermore, the new institutional devices aimed at solving the Eurozone’s crisis through the imposition of particular economic and fiscal policies on some States require, in turn, to be democratically legitimated (M.Poiars Maduro et al., 2012, 2).

This is not to say that such authority should be grounded on a domestic analogy. The institutional balance should not simply be left aside: rather than the action of national governments in the decision-making process, **remedies should aim at limiting the dispersion of European government, that endangers the performances of the whole EU’s action and, at the same time, impedes the visibility of its rulers.**

2. Under the Lisbon Treaty, the European Commission’s President is appointed by the European Council “taking account” of the result of the EP’s elections, and then elected by the EP. Finally, the Treaty asserts that the whole Commission is collectively responsible before the EP.

The relationship between the EP and the Commission appears thus close to the confidence that characterizes the parliamentary system, although the appointing power of the Commission rests with the European Council, whose structural and functional features differ from those affecting the head of the state of parliamentary regimes. While the latter’s power of appointing the prime minister is exercised only as a formal matter, unless a government crisis occurs whose solution appears uncertain, the correspondent European Council’s power is highly political, and exerted from a huge board gathering together the highest ranks of the executive of the Member States. This paves the way to different possibilities within the EU institutional triangle.

In October 2004 the EP proved to take seriously his function of merely “approving” the Commission, which was entrusted with before the Lisbon Treaty’s enactment, thus expressing “beginnings of Union authority” (W.T.Eijsbouts, 2005, 154). The “Barroso Drama” confirmed the commonly held assumption that written constitutional provisions afford only a general framework for the development of conventional relationships among governmental institutions. These relationships, together with parliamentary regulations, electoral laws, and the structure of the political system, play everywhere a major role in shaping the parliamentary model.

Such account is likely to occur at the EU scale as well. In spite of the already mentioned Lisbon Treaty’s provisions, the further Barroso’s appointment in 2009 was paradoxically a return to the past. Neither the rule that, while designating the Commission’s President, the European Council shall “take account” of the result of the EP’s elections, nor that giving the EP the power of electing such person, enhanced the EP’s role vis-à-vis that of the European Council. To the contrary, the latter’s choice was decisive, also because of the opportunity to take a view on the candidates for the Presidency of the Commission together with those for the new “Lisbon offices”, namely the Presidency of the European Council and the High Representative (J.Priestley, 2011, 24).

Given these elements, **rather than on formal treaty’s provisions, attention should be driven on the European political system.** The elections of the EP appear to date politically ‘de-structured’, namely reduced to the choice of a certain list of candidates from the electors. To that extent, the provision that the European Council shall “take account” of the result of these elections in appointing the Commission’s President leaves considerable room to its discretionary power.

Furthermore, such circumstance depends exclusively on the prevalence of national over European party politics considerations, since the EU treaties do not, nor could, forbid an informal designation from political parties of the candidate for the position of the European Commission’s President in the occasion of the EP’s elections. It is worth adding that the presentation of a candidature from one of the major European political families would suffice to convince further ones to do the same. At that point, the EP’s elections would be politically ‘structured’, with the following consequences on the EU-Member States relationship.

First, electors would be provided with a supplementary political choice, that makes the difference between a shallow election of national representatives at the EP and a telling competition for the parliamentary majority and therefore for the EU government’s lead. Furthermore, the European Council’s appointing power of the Commission’s President while “taking account” of the result of the EP’s elections would correspondently be converted into that of designating the candidate of the European political party that won the elections upon a specific political platform. Finally, the political legitimacy of the



Commission would be significantly strengthened, putting the premises for bridging the already mentioned gap between its 'inward' and 'outward' accountability.

3. It has been objected that, "given the heterogeneity of the EU, it would be least desirable if it turned into a majoritarian system in which the Commission could govern the EU while enjoying a stable majority in the Council and/or in the European Parliament" (B.Crum, 2005, 464). **There a few doubts that a Commission's politicization might endanger its neutrality, that goes hand in hand with its technocratic features. But the question is deeply controversial of whether, while being elected by the EP, and forced to engage with it, such institution should contextually maintain its original role.** As it has been convincingly observed, the position that the President of the European Council has acquired under the Lisbon Treaty "is limiting the influence of the Commission as an honest broker between Member States", and, on the other hand, the new functions which the latter is entrusted with under the Fiscal Compact and other fiscal crisis related legislation do require a correspondent legitimacy, precisely that coming with direct link to the outcome of European elections (M.P.Maduro et al., 2012, 2).

Such hypothesis has been in turn confuted on the ground that any reference to the 'new democratic legitimacy of the Commission President' would be viewed as a very sick joke by the peoples of those countries that are threatened by the massive reduction in wages and slashing of social provision resulting from the macro-economic imperatives of the governance of monetary union (C.Jorges and F.Roedl, 2012, 2).

However, the objection fails to compare such popular reaction with that already emerged vis-à-vis the well-known EU institutional assessments. Contrary to the former, we know it. We know that distrust for the EU is strongly increased among the peoples of these countries due to the impression that EU fiscal policies are driven from self-interests and calculations of some of the major member states. Such impression sheds a sinister light on the fact that all these states are expected to serve both their citizens and the macroeconomic imperatives as laid down in the EU legislation (C.Jorges and F.Roedl, 2012, 2). **So far, the question is not whether the current institutional assessment might prevent the EU crisis from escalating into a disaster: it doesn't. The question is rather whether a solution aimed at connecting the citizens' will with the EU supranational institutions might concur in avoiding an otherwise certain disaster.**

A further consideration should be added on constitutional grounds. **Conflicts are likely to emerge between a democratically legitimated Commission, together with a stable political majority in the EP, and the intergovernmental institutions. But, unlike the current distorted EU-Member States relationship, these conflicts would be of a political kind.** On the other hand, **such assessment would enhance, rather than endanger, the role of countermajoritarian authorities, departing from the EUCJ.** And the fact that conflicts might here arise as well would reflect the emergence of a constitutional democracy in

the European space. It is at this respect that the establishment of a EU executive should be connected to the issue of how constitutionalism might be adapted out of the old state setting (N.Walker, 2010, 291 ff.).

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