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THE DEMOCRATIC DEFICIT OF THE EUROPEAN UNION: CURRENT SITUATION
AND FUTURE PERSPECTIVE

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ANNO ACCADEMICO

2012-2013

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INTRODUCTION: PERCEPTION OF THE DEMOCRATIC DEFICIT

Between 2nd and 17th June 2012 the Eurobarometer opinion polls¹, surveys conducted by private and well-respected polling agencies in each country of the European Union (EU), registered the attitudes of the European public opinion towards the EU. One of the results of 26.622 face to face interviews shows that as the image of the EU is improving in the eyes of the of European citizens, a majority of them still think that their voice “does not count in the EU”. The fact that a lot of Europeans more are now conscious of the benefits of being part of the Union, does not mean that they are giving their “permissive consensus” to how the Union acts and that they do not want their voices to be heard.

The integration process came to life as an elite-driven process, too difficult to be deeply understood by the ordinary citizens. Consequently, in the early 1970s their opinions regarding the process were generally neutral and permissive, giving the governments a considerable room for manoeuvre. Gradually, as the European integration continued to evolve, questions began to be raised and the people’s unconditioned faith in the governments started to waver. Now citizens are far less willing to accept decisions of the EU and of their own governments than they used to be. It is in this context that the first assumptions and concerns about the democratic deficit take place. Initially, it was only a concern in member states that have an historically solid democratic base, such as Denmark, France, the United Kingdom, Sweden and the Netherlands; but after the collapse of public support originated by the opposition to the Maastricht Treaty, the issue of the democratic deficit is widespread in the whole EU. This should prevents us to think of the democratic deficit as a product of the Euroscepticism, but to see it as an idea that originates from the discontent of most of the European citizens with regards to the EU and its institutions.

To sum up, the perception of a suspected democratic deficit brings about the necessity and the duty of evaluating the European polity. This point can and should be approached by three different perspectives: a theoretical perspective (defining the concept of democratic deficit and how it is affecting the EU), an empirical perspective (how much democratic or non-democratic is the EU today; what has been done till now to make the EU more democratic and why it is not enough) and a normative and applied perspective (how much democratic the EU should become and what are the reforms that could make it more democratic). In order to make light on the concept of

¹ http://ec.europa.eu/public_opinion/index_en.htm

democratic deficit, I will begin adopting the first perspective, trying to understand from the real data how it is affecting the EU.

PART I: A THEORETICAL PERSPECTIVE

1. Making light on the democratic deficit

“The idea behind the notion of a ‘democratic deficit’ is that decisions in the EU are in some ways insufficiently representative of, or accountable to, the nations and people of Europe”¹. This definition, given by Lord, perfectly describes the feeling of being “unheard” that has been developing in the minds of the European citizens during the last years. However, this is not the best and most comprehensive definition that can be provided. The word “democratic deficit” is used to indicate a complex of elements that should all be embraced by a single definition. A really hard work, considering that we could provide many different definitions depending on the point of view we adopt or on the elements that we think are the most important. But if we are not able to supply an objective, unique definition, we are still able to describe the democratic deficit in other ways. Indeed, saying that the EU suffers from a democratic deficit, means that it suffers from deficiencies in the basic elements that make a government a democratic government, such as representativeness and accountability. One thing we can do, then, is to describe the democratic deficit listing the main “standard claims” that are made about it.²

1.1 Five standard claims about the democratic deficit

The first claim is that European integration has led to an increase in executive power and to a decrease in national parliamentary control. Indeed, despite newer decision making procedures granting the European Parliament more power, the Council of the European Union, made up of national ministers, is still said to be the “institutional heart of decision making in the EU” because of its extensive legislative and executive functions. This is obviously difficult to accept for countries where the central institutions of representative governments are the national parliaments.

The second claim is strictly related with the first. Many believe not only that the national parliaments have become weaker than the executive power, but also that the

¹ Lord 2001

² Hix, 2008

European Parliament is not as strong as it should be. In 1990s many scholars claimed that the only solution to the weakening of the national parliaments was to increase the legislative power of the European Parliament and, as a matter of facts, successive reforms went in this direction, granting the EP a more important status. However, a part of the EU legislation is still passed under the consultation procedure, the case in which the EP is not able to block legislation, and the governments are still the agenda-setter in the appointment of the Commission.

The third claim is that there is not a democratic electoral contest for the EU political office or for the direction of the EU policy agenda. This is not technically true, as the European citizens elect both their governments, who sit in the Council and nominate the commissioners, and the European Parliament. Nevertheless, these elections are not seen in a European perspective. When Europeans vote they feel like they are voting in domestic elections, on domestic issues and for domestic parties and personalities. This happens because the bases of democratic legitimacy in the EU are more complex and more indirect than the national ones, causing the accountability and delegacy processes to be roundabout. But it is not just a matter of institution: the national media are also implied, as they treat the European elections as mid-term contests in the national electoral cycle. That being so, can we still say that the EU is characterized by a democratic electoral contest, when citizens are not able to know who and what they are voting for?

The fourth claim is that the EU is simply too distant from the voters, that cannot understand its institutional mechanism. The same Eurobarometer of June 2012 showed that all Europeans know very little about the institutional functioning of the EU and, moreover, that a third of them cannot name three of the EU institutions. These data are sometimes undervalued, but they actually have a big part in building up the feeling of democratic deficit in Europeans citizens. Evidence indicates that knowledge of the EU appears to have positive implications for public opinion: those who know more about the EU are also generally more supportive and enthusiastic of the integration process. On the contrary, citizens that cannot understand the EU will never be able to identify with it and to perceive it as an accountable system of government.

The fifth and last claim is that there is a gap between the policies that citizens want and the policies they actually get. This happens probably as a result of the combination of all the previous claims: governments can undertake policies at the European level that they cannot pursue at the domestic level, being constrained by parliaments, courts and interest groups; being the European Parliament not the dominant institution in EU governance, interest groups politics are not counterbalanced by democratic party

politics in EU policy making; because of the functioning of the EU institutions and of the mechanisms of checks-and-balances, most policy outputs are very centrist and many of these policies are not supported by a majority of citizens in most member states. Needless to say that this last claim becomes for European citizens one reason more for mistrusting the EU institutions. It is important to underline that these arguments are often made by social democratic politicians and scholars, that strongly argue that EU policy outcomes are generally to the right of domestic policies in some member states.

1.2 Challenging the five standard claims about the democratic deficit

In his book “What’s wrong with the European Union and how to fix it” Simon Hix (also in note), after presenting these five claims, recalls one of Andrew Moravcsik’s recent studies, demonstrating that there are good reasons to challenge at least four of these five claims.¹

Against the first claim, that the EU has led to a shift in power from parliaments to governments, can be argued that the idea of national parliaments controlling the national government is nothing more than a myth. Indeed national elections are perceived as oriented not to the making-up of the parliaments, but rather to the choice of the parties that should be in power, forming the government majority. It is the government that the citizens feel as directly accountable and when a government has its own majority in the parliament, the role of the members of parliament can be easily reduced to “throwing paper airplanes at the government tanks”. So, if national governments are the most accountable institutions in European politics, the EU has not really changed the structure of power present at domestic level.

Having said that, it is quite easy to challenge the second claim, that the European Parliament is too weak. The EU is now a more majoritarian system, where most of the decisions are made by QMV and in binding cooperation between the Commission, the European Parliament and the Council of the European Union. This is the result of the main institutional developments that in the last two decades have been considerably increasing the powers of the European Parliament. The most clarifying examples of these developments are the veto power that the EP has acquired under the co-decision procedure, which now covers most of the EU legislation, and over the selection of the Commission.

The claim that the EU is too distant and opaque ignores the fact that EU policy-making is now more transparent than most domestic systems of government. On 9th November

¹ Moravcsik, 2002-2003

2005 the European Commission launched the European Transparency Initiative. It is based on a website¹, designed to make the Commission's decision-making process more open and accessible to the citizens, giving them the possibility to access information on legislation, documents, impact assessments, consultations, interest representation and lobbying, recipients of EU funds, etc. More diffused and easily accessible information dissipated many of the citizens' reservations on the European Union and definitely increased the capability of national parliaments and courts of reviewing the EU actions. And yet, it is true that the claim for more transparent European institutions is still widespread, mainly because of the opaque decision-making inside the Council, which could be far more clear and open than it currently is. Sure, the way to a perfectly transparent European Union is still long, but we must recognize that some big steps forward were made in the last decade.

With regards to the fifth claim, we cannot say that a policy gridlock, often resulting in centrist policy outcomes, does not exist in the European Union. And indeed what Moravcsik² and Hix³ want to criticize is the social democratic idea that in the EU policies are systematically oriented in a right-wing direction. The institutional design of the European Union means that board coalitions are required for policies to be adopted. As a consequence, no single set of private interests can dominate in this process and the inevitable centrist policy outcomes frustrate both the left-wing and the right-wing representations in the European institutions. This perfectly explains why the British Conservative Party, the most right-wing party in the centre-right, and the French Socialist Party, the most left-wing party in the centre-left, are both relatively anti-European, being far away from the centrist policy outcomes of the EU.

Here we demonstrated that all the claims about the democratic deficit could be at least partly refused, except one, that there is no democratic contest for control of political authority at the European level. This remaining claim can be seen as the base of the two main pillars supporting the democratic deficit of the EU: the policy gridlock and the lack of popular legitimacy.

2. Policy gridlock

Decision making at the EU level is a complex affair. 27 different national governments must be involved through the EU's supranational political institutions (European

¹ <http://ec.europa.eu/transparency>

² Moravcsik, 2002-2003

³ Hix, 2008

Parliament, European Commission, European Council, European Central Bank) and, besides them, a wide range of non-state actors and non-governmental organizations (trade unions, interest groups, NGOs) mobilize to try to shape policy decisions. On top of it, decisions taken in Brussels must deal with the various levels that make up the European system: the European level, the national level, and the subnational level (local or regional governments). These elements make the way for consensus in Europe long and meandering, so that the EU may easily suffer from a “policy gridlock”, whenever no coalition is strong enough to form a majority and establish policy. It is in order to avoid the “gridlocking” of policy making, that many reforms in the last twenty years were directed to make the EU evolve from a consensual to partially majoritarian government.

2.1 European Union from highly consensual to more majoritarian institutions

For most of its existence the EU has been a consensual political system, which means that a broad coalition was required for policies to be adopted or changed. Today, on the contrary, the EU is more majoritarian and less consensual thanks to three major reforms, according to Simon Hix: the extension of the qualified-majority voting in the Council; the increases in the legislative powers of the European Parliament; and the changes to the way the European Commission is chosen. ¹

Under the rules of the Nice Treaty, QMV in the Council is based on a “triple majority”: the larger member states have more votes than the smaller member states and decisions require almost 74 per cent of the votes to pass (255 of the 345 votes), but a qualified majority must also represent a majority of the member states and 62 per cent of the EU population. The threshold is more than a simple majority (50 per cent plus 1 votes) and a relatively board coalition is still needed, but clearly the 74 per cent is much easier to achieve than unanimity. Further more, starting from the Single European Act (1987), the QMV has also been extended to a wide range of policy areas, such as: most areas of social and environmental policy (Maastricht Treaty in 1993 and Amsterdam Treaty in 1999), areas of justice and interior affairs (Nice Treaty in 2003), a few areas regarding the economic and monetary union, most of the areas of budgetary policies and areas Common Foreign and Security Policy. Only very few areas, such as taxation, social security provisions and internal border control, are still under unanimity voting because they have to do with highly sensitive issues.

Many institutional changes relate to the European Parliament. The first important change came with the Single European Act, which gave the Parliament two readings of most legislation in the creation of the internal market and the possibility to make

¹ Hix, 2008

amendments that the Council could barely overturn. The opinions expressed by the EP, which at that time was only a consultative body, began to acquire more importance and consideration. Nevertheless the most valuable changes came with the Maastricht Treaty and the Amsterdam Treaty, which respectively introduced the co-decision procedure and extended it to cover almost all areas of legislation where QMV is used in the Council. Under the co-decision procedure, the Commission has the sole right to propose legislation, which can be adopted only if it is supported both by qualified majority in the Council and by simple majority in the European Parliament. Needless to say that the extension of this procedure to most areas of legislation makes the EP more powerful than many national parliaments in Europe, also because it is fully independent from both the Commission and the Council and consequently it cannot be dissolved by them.

The third major change modified the way the Commission is appointed, which is again related to the increase in power of the European Parliament. Initially, the EU governments chose the Commission president unanimously and the other members of the Commission were then nominated by each government and approved by unanimous vote in the European Council; the European Parliament had no role in this process. This was until the Maastricht Treaty, when national governments saw their role in appointing the Commission decrease, in favour of the European Parliament, which gradually gained a major role in this process. The EP must now be consulted on the choice of the Commission President and has the power to veto and dismiss the Commission as a whole. The Amsterdam Treaty then formalized the role of the EP and extended the term of office of the Commissioners from four to five years, aligning it with the term of the European Parliament itself, so as the appointment of the new College takes place after the EP elections. Finally, the Nice Treaty introduced the rule that the European Council would approve the Commission President and the whole College by QMV rather than unanimity. This last reform may seem less important than the others, but it actually represents a fundamental change, as it equalizes the European Council and the European Parliament, which together elect the Commission with the same-sized majority. This means that the EU is now a quasi-parliamentary system of government, where a particular majority could choose “their” Commission with its particular agenda, so to be “in government” for a certain period, while other member states and political parties could find themselves “in opposition” to this government. This was perfectly reflected by the elections of the 2005-9 Commission. At first, the French conservatives and German socialist governments backed the liberal Belgian prime minister, Guy Verhofstadt, as Commission president, but they backed down as soon as it became clear that José Manuel Durão Barroso, the Portuguese centre-right prime minister, had sufficient support to reach the QMV threshold. In the vote, Barroso was certainly supported by a centre-right majority in the European Parliament, but many MEPs on the

centre-left and extreme-left were voting against him. The anti-Barroso MEPs then strongly opposed the appointment of Rocco Buttiglione, an Italian Christian democrat, as the justice and home affairs commissioner and this time the liberals agreed with them, so that the liberal-left coalition represented a majority in the Parliament and threatened to block the appointment of the Commission as a whole. In the end, Buttiglione was replaced and the Barroso Commission was elected with a narrow centre-right majority both in the European Council and Parliament. In a nutshell, changing the way the Commission is appointed opened the way to a party-politicization of the Commission, that never stopped growing since 2005.

Put together, these three sets of treaty changes gave the EU a much more majoritarian set of institutions. A particular political coalition, able to reach the QMV in the Council and the majority in the European Parliament, could potentially choose its own Commission and Commission President and propose policies with high probability to see them approved. In other words, the EU should be much more able to undertake policy reforms now than twenty years ago, when it was a highly consensual system. Apparently, however, between the mid 1980s and mid 1990s the EU was able to pass a large amount of legislation, while it is currently unable to make relevant policy changes. If this is true, we are not going to find the main reason for the EU policy gridlocking in the institutions and in their functioning. The reason lies elsewhere.

2.2 The shifting of the EU policy agenda

In the mid 1980s to the mid 1990s the main dimension of policy-making was the level of EU regulation in the internal market. Some states wanted less EU regulation, others wanted more. Just to make a specific example, the French socialist president Mitterrand and the German Christian democratic-liberal Kohl agreed on the willing of a “social dimension” to the internal market programme; while, at the other extreme, the British conservative Margaret Thatcher firmly opposed social regulations of the internal market. Thatcher was then marginalised, as the qualified-majority coalition in the Council was relatively centrist and the European Parliament was dominated by a centre-left coalition (socialists, liberals, greens and radical left members of the European Parliament (MEPs)), but the key point is that there was a very wide range of policies that could be adopted by the EU in this period, despite the naturally different positions of the political actors. As a matter of fact, there was a large range of policies that all these actors were willing to accept since the alternative, of not having a working international market in goods and services, was so undesirable. Virtually all actors preferred any EU legislation to the status quo of not having an internal market.

Talking about more recent times, since 1990s the main issue of policy-making in the EU has been how regulated or liberalized the internal market should be and, as a consequence, most policies involved reforming an existing set of relatively centrist policies. In this new situation, some governments and parties wanted to move existing policies leftwards, by adopting new social regulations or by harmonising company taxes, while others wanted to move existing policies rightwards, by liberalising takeover provisions, the labour market and the service sector. Naturally, find a common denominator between the different political positions became more difficult, especially because some of the political actors would now prefer not to change the status quo, rather than change it in a way that is different from the one they propose. In other words, the range of existing policies that a qualified majority in the Council and a majority in the European Parliament could agree was now rather small, as the gridlock that affected the EU under the Prodi Commission demonstrates. In that situation, the majorities in the Commission and Council were on the left, favouring more EU regulation, and the majority in the European Parliament was on the right, favouring liberalisation of the existing economic policies, so that an agreement between the Council and the EP was all but impossible.

It is true that there were some important institutional changes between the earlier period and this period, however the Single European Act had already introduced some major changes, such as establishing QMV in the Council for most of the key areas for creating and regulation the internal market and giving the European Parliament two readings for most internal market legislation. In the end, the institutions in 1980s were not as different as it seems at a first glance. Actually, the most significant change between the earlier and later period was in the location of existing policy status quos, which means that the policy gridlock basically depends on the shifting of the EU policy agenda. During the period of building the internal market, the EU was able to pass a large amount of legislation because there was overwhelming support for changes to existing policies. In contrast, as the agenda shifted from creating the internal market to economic reform, the EU has been less able to make policy changes because EU political actor have wanted to change policies in opposite directions. At this point, any change to existing policies would bring about some winning governments and parties on one side, and some losing governments and parties on the other side, so that building a coalition between the Commission, the Council and the European Parliament would be extremely difficult.

2.3 The lack of a political mandate in the EU

Certainly, the EU decision-making system could be more efficient if other institutional changes were introduced, but the EU would still lack a legitimate mandate to make any major changes that would be against the interest of any of the big players. This is exactly what the Barroso Commission was missing while trying to enact its reform package. The French government, the main government on the minority side of this situation, questioned the legitimacy of the agenda backed by the majority in all the three main European institutions and could have been outvoted if it hadn't been for the French referendum on the EU constitution, which forced the Commission and the governments to interrupt the process towards any reforms. It becomes clear that what the EU really needs is a political mandate, rather than an institutional reform. The reason why this mandate still does not exist is the next subject that needs to be discussed.

3. Lack of popular legitimacy

In the last decade there has been a dramatic transformation in public attitudes towards the European Union. Fifteen years ago the majority of citizens in all member states was supportive of the "European project" and thought that the European institutions were trustworthy. Starting from the early 1990s the European citizens' commitment to the EU gradually diminished and eventually collapsed in 2005, so that today the European-level deals and decisions taken by national governments are not blindly accepted anymore.

The "rise and fall of public support for the EU"¹ has been clearly recorded by the Eurobarometer opinion polls, conducted every six months since 1970s. According to the surveys, in the period leading up to the Maastricht Treaty ratification there was an increase in levels of "Euroenthusiasm"²: approximately 70 per cent of Europeans (on average across the EU) answered to the question "Generally speaking, do you think that [OUR COUNTRY'S] membership of the European Union is a good thing, a bad thing, or neither good nor bad?" by saying that their country's membership was a good thing. Very soon however, by the time of the signing of the Amsterdam Treaty in 1997, this enthusiasm had waned and less of 50 per cent of European citizens gave a positive answer to the same question. If this trend can be partly explained by the entry of three relatively Eurosceptic member states (Austria, Finland and Sweden) in 1995, the same change in the attitudes towards the European Union can be observed in countries, such as the six founding member states (Western Germany, France, Italy and Benelux) and the Southern Enlargement countries (Greece, Spain and Portugal), that had always been

¹ Hix, 2008

² Mc Laren, 2006

very supportive of the European integration process. This is why the 2005 referendums in France and in the Netherlands on the Constitutional Treaty are an important case of study.

To use Simon Hix's words: "Scholars of public opinion have been warning for some time that public attitudes towards the EU are a 'ticking bomb'. In the Spring of 2005 this bomb finally went off"¹. In 2001, European Union member states established a European Convention for the purpose of drafting a Constitutional Treaty for the EU member states. While the majority of the EU member states ratified the Constitutional Treaty, the referendums held in France and in the Netherlands, respectively on 29 May 2005 and 1 June 2005, had different results. The citizens of two of the founding EU member states rejected the EU Constitution, with 55 per cent voting "no" in France and 62 per cent voting "no" in the Netherlands. Why? Many theories and hypotheses have been raised by scholars to explain the changing attitudes to European integration. We will go through the main ones.

3.1 Political economy and rationality²

Theories related to this model are based on the assumption that individuals rationally pursue their self-interest. Some of these theories are *egocentric*, which means that individuals support or oppose the integration process because they have either personally benefited (or think that will benefit) from it or have been harmed by it (or think that will be harmed by it).

For example, European integration has provided elites, such as top-level business executives, individuals with higher level of education, and individuals with higher incomes, with new opportunities to live and work where they choose, to travel more freely and cheaply, to interact with a greater number of people, to commerce without facing trade barriers, and to make the most of their human capital. On the opposite side, individuals with poor job skills, education and incomes appear to be disadvantaged, so that they tend to be more hostile to the EU in general. Empirical data support this theory: Eurobarometer No. 57.1 (spring 2002) reveals that 70 per cent of professionals and executives affirm that their country's membership of the EU is a good thing, while 48 per cent of manual workers thinks the opposite; similarly, only 47 per cent of those with lower levels of education are happy with the integration process, whereas the same answer is given by an overwhelming 66 per cent of those with higher-levels of education.

¹ Ibidem

² Cini, Pérez-Solorzano Borrigan, 2010

Other theories within this context are said to be *sociotropic* and state that citizens of some of EU member states are more supportive of the European project when they believe their countries have benefited from it, and are less supportive when they believe their countries have not benefited by it. According to Eichenberg and Dalton (1993) the EU can provide economic benefits to member states in either trade or budgetary outlays and the public opinion seems to be especially influenced by the second one. When Ireland and the UK joined the European Union in 1973, the level of support for the EU was low in both the countries. However, since joining Ireland appears to have benefited from the integration process far more than the UK, with enormous investments and large financial transfers from the EU's regional funds. As a consequence, public support for the EU in Ireland saw a great boost, which continued till 1990s, while in the UK it has barely changed from the beginning. This attitudes reveal that the key net contributors to the EU budget, between which we find the UK, contain the smallest percentage of citizens claiming that their country's EU membership is good (30 per cent in the UK); whereas citizens in countries that have been the largest beneficiaries of the EU budget, for instance Ireland, are far more positive about their country's EU membership (75 per cent in Ireland). This theory can partially explain what lead the majority of Dutch citizens to vote "no" in the 2005 referendum, as indeed the Netherlands are one of the key contributors to the EU budget and this could have influenced the Dutch public opinion in the same way it did with the English public opinion.

3.2 Attitudes to the national government¹

This approach presents as an alternative to the previous one, which some scholars see as unrealistic, depending on the fact that most Europeans are probably unable to calculate with precision whether they have benefited or not from the European integration. Being capable of such a calculation demands a great knowledge of both the integration process and the economy, which are indeed a very complex affair, difficult to understand for the ordinary Europeans. Considering this, the following approach argues that because of the complexity of the EU institutions and processes, the European citizens tend to perceive the EU in terms of national issues, more comprehensible and closer to them.

This twisted perception of the European-level can be easily seen both in European Parliament elections, which are often perceived as mid-term contests in the national electoral cycle, and in referendums at the EU level, which often turn into a vote on the national government's popularity. For example, the French nearly voted against the

¹ Cini, Pérez-Solorzano Borrigan, 2010

Maastricht Treaty in 1992, not because of opposition to the components of that treaty, but because of unhappiness with the government of the day. We are thus induced to think that the same thing could be the origin of the result of the Dutch and French referendums in 2005. It is well known that by the time of the referendum the French national government, and particularly the French President Jacques Chirac, was becoming increasingly unpopular, so that for many French voters the referendum probably turned into a confidence vote on the government. Similarly and at the same time, a feeling of unhappiness with the government's adoption of the euro and the consequent devaluation of the Dutch guilder was growing in the Netherlands; a feeling that might have led to an enlargement of the party voting "no" in the referendum.

In conclusion, if surveys show that few Europeans know much about the European project, they must be formulating their opinion about the European Union and the integration process from something different than their own knowledge of them. According to we have just analysed, European citizens' attitudes towards the EU are at least in part projections of their feelings about their national governments: hostility to the national government is projected into negative feelings about the EU, while positive feelings towards the national government are also translated into positive feelings about the EU. ¹

3.3 Political psychology: cognitive mobilization and identity²

This last approach is indeed the most psychological. It underlines two main aspects guiding European citizens' perception of the EU: *cognitive mobilization* and *identity*. The first one has to do with the fact that those who think about and discuss political issues are usually more supportive of the EU and the integration process. The mechanism lying behind this fact is very simple: the more people talk about the European Union with friends and family, the more they become familiar with the European project; the more they know about it, the less fearful of it they are; the less fearful they are, the more supportive they would be. In the end, it is the knowledge of the EU that appears to have enormous implication for the European public opinion: those who have at least a general knowledge about the history and institutions of the EU are on the whole more enthusiastic about the project than those who know very little about the EU³. According to this, one of the key explanations for the result of the 2005 referendum in the Netherlands seems to be that Dutch citizens were unclear as to what they were being asked to approve. The referendum campaign had in fact got off very slowly and media and politicians, as usually happens, struggled to find ways to frame the debate about the

¹ Anderson, 1998

² Cini, Pérez-Solorzano Borrigan, 2010

³ Karp, Banducci, Bowler, 2003

referendum. Thus, there was no clear information as to what the European Constitution meant for the EU and for the Netherlands, and this is why many Dutch citizens expressed their vote for the referendum as a vote in opposition to the government.

The other element the psychological approach underlines is the one of identity. The theory known as *social identity theory* contends that identities are extremely important for people and that some individuals might develop an aggressive and unsupportive behaviour towards the EU, in order to “protect” the social groups they belong to and identify with. It is not clear the reason why the individuals should acquire this behaviour: many scholars say that the majority of people use the group identity and protectiveness to bolster their self-esteem, while many others argue that people use group identity to help them simplify and understand the world¹. What is certain, however, is that Europeans may perceive European integration as a potential threat to one of the main identities they identify with, the national one. The level of concern about the loss of national identity as a result of European integration vary widely across the member states: in the UK, for example, 63 per cent of the citizens claim to be afraid that being part of the EU could lead to the loss of their national identity; while in Romania the citizens that claim to be afraid of the same possibility are the 22 per cent only².

What is important, though, is that such fears do affect general feelings about the European Union. The Eurobarometer No. 64.2 (autumn 2005) reveals that while 34 per cent of those who worry about the loss of their national identity due to European integration claim that the EU membership is a good thing, 62 per cent who do not share the same concern believe that EU membership is a good thing. The Dutch “no” vote in the 2005 referendum may have been in great part a result of the fear that, with the expansion of the EU, a small member state like the Netherlands is would have not been able to wield influence and to protect its interests in the new Europe.

The Eurobarometer No. 64.2 also makes light on another important element: the distinction between those who hold multiple territorial identities and those who identify only with the nationality. Indeed many people who are worried that the EU will lead to the loss of their national identity still believe that their country’s membership of the EU is a good thing. This is usually the case of people that own a multiple territorial identity, namely that they see themselves as nationals but also Europeans.

¹ Turner, 1985

² Eurobarometer No. 65, spring 2006

Table 1: **Fear of loss of identity and attitudes to EU membership**

	Currently afraid of it (%)	Not currently afraid of it (%)	Don't know (%)
A good thing	34	62	32
A bad thing	24	9	12
Neither good nor bad	38	28	34
Don't know	4	2	21
	10,271	13,676	977

Question wording column variable: Some people may have fears about the building of Europe, the European Union. Here is a list of things which some people say they are afraid of. For each one, please tell me if you, personally, are currently afraid of it, or not?... Loss of national identity and culture.

Question wording row variable: Generally speaking, do you think that (OUR COUNTRY'S) membership of the European Union is a good thing, a bad thing, or neither good nor bad?

Source: Eurobarometer No. 64.2 (autumn 2005)

In countries like UK, Lithuania, Hungary and Estonia, the majority of the citizens see themselves exclusively in national terms and consequently are more hostile to the EU, fearing that the European project will obscure their national identity (only the 32 per cent of them believe EU membership is a good thing). The opposite happens with those who see themselves as nationals first but also Europeans (the 62 per cent of them believe that EU membership is a good thing), and with those who see themselves as Europeans first but also nationals (the 72 per cent of them believe that EU membership is a good thing). According to these data, in order to have a complete idea of what influences public opinion towards the EU under the social identity theory, the level of concern about the loss of national identity due to the European integration must be considered together with the level of exclusiveness of national identity in each country.

Table 2: **Exclusive national identity and attitudes to EU membership**

	(NATIONALITY) only (%)	(NATIONALITY) and European (%)	European and (NATIONALITY) (%)	European only (%)	Don't know (%)
A good thing	32	62	71	66	36
A bad thing	24	8	7	9	17
Neither good nor bad	39	28	20	21	34
Don't know	5	2	1	3	13
	10,621	11,824	1,465	479	535

Question wording column variable: In the near future, do you see yourself as (NATIONALITY) only, (NATIONALITY) and European, European and (NATIONALITY) or European only?

Question wording row variable: Generally speaking, do you think that (OUR COUNTRY'S) membership of the EU is a good thing, a bad thing, or neither good nor bad?

Source: Eurobarometer No. 64.2 (autumn 2005).

3.4 The perceived poverty of European Union institutions¹

Differently from some approaches we saw before, recent approaches to the study of public opinion and the EU assume that people are at least familiar with some aspects of the EU. That being so, people may perceive that EU institutions are deficient and consequently become more hostile to the project as a whole. Predictably, levels of trust in the institutions of the EU vary considerably across member states: only 27 per cent of the UK public opinion trusts the European Parliament and the European Commission; in Slovakia, Belgium and Malta trust in the EP is widespread; and so on.²

Table 3: **Trust in EU institutions, Autumn 2012**

	European Parliament (%)	European Commission (%)
Austria	48	40
Belgium	58	54
Bulgaria	61	59
Cyprus	39	34
Czech Republic	46	43
Denmark	67	62
Estonia	57	55
Finland	57	56
France	47	42
Germany	45	39
Greece	28	20
Hungary	57	54
Ireland	43	40
Italy	43	40
Latvia	43	40
Lithuania	56	56
Luxembourg	60	56
Malta	55	49
Netherlands	55	53
Poland	60	58
Portugal	46	44
Romania	55	50
Slovakia	54	53
Slovenia	48	47
Spain	25	23
Sweden	58	54
UK	24	24

Question wording: For each of these, please tell me if you tend to trust it or tend to not trust it? ... The European Parliament; ...The European Commission. Source: Eurobarometer No. 78 (Autumn 2012).

¹ Cini, Pérez-Solorsano Borrigan, 2010

² Eurobarometer No. 78, autumn 2012

Why should people distrust European institutions? Sometimes distrust is connected to the functioning of national institutions: when they function poorly, citizens look to the EU to provide better governance with the national institutions and consequently become more trustful towards the EU; whereas when national institutions function properly, a layer of supranational governance is perceived as unnecessary or even excessive, so that people tend to distrust the EU. Other reasons that could explain why some citizens of the EU may be more distrusting of its institutions are strongly connected to some of the theories that we saw before. One reason could be that those who identify exclusively with their national country probably find more difficult to trust the EU institutions than those who identify with their national country as well as with Europe as a whole. Similarly individuals who claim to have benefited more from their country's EU membership naturally tend to be more trusting of the EU institutions than those who claim that their country has not benefited of the European integration.

3.5 The EU needs more politics

Today the level of popular legitimacy of the EU is dangerously low. Most worryingly, are the citizens of most of the founding member states that are less supportive of the EU, which means that the ideological support for European integration that once existed at least in the founding countries has yielded the floor to distrust, scepticism and, in some cases, hostility. Besides all the different reasons that have been given for this change in the public opinion attitude towards the EU, there is one that is strictly connected to the policy gridlock and that must be taken in big consideration. Since most existing EU policies are relatively centrist, any change means that some citizens will be opposed while other will be in favour: right-wing citizens, for instance, will favour more liberalisation, whereas left-wing citizens will oppose this. This is clearly what happens everyday with national politics, but if inside national boundaries it is considered normal administration, within the EU boundaries it appears to be a problem that could potentially threaten the stability of the entire EU project. In national democratic political systems, if a citizen loses from a particular policy, this citizen does not blame the political system as a whole, but rather blames the government of the day. In the EU, in contrast, those who lose from a particular policy have none to blame but the EU system as a whole, as they do not perceive a governing coalition at the European level who they can replace.¹ Bearing this in mind, making the EU more transparent and more efficient or telling European citizens more about the EU is a start, but it is not enough to convince them that the EU is still necessary or that new policy actions by the EU are legitimate.

¹ Hix, 2008

PART II: AN EMPIRICAL PERSPECTIVE

4. How much is the European Union democratic?

In the first part we made light on the democratic deficit concept, analysing deeply its main features and the elements that are the reason of its existence. We first listed the five standard claims that are usually made about the democratic deficit and then tried to challenge them, discovering that they can all be refuted except one: that there is no democratic contest for control of political authority at the European level. As we saw, this claim is strictly connected to the policy gridlock and to the lack of popular legitimacy, the pillars of the European democratic deficit itself. In the attempt of finding a possible solution to both these problems affecting the EU – and consequently to the democratic deficit - it is now necessary to understand how much the European Union is democratic or non-democratic, in order to get an idea of how we should intervene to improve democracy at the European level.

Today we can define democracies as those regimes that guarantee the real political participation of the adult male and female population, and that admit the existence of dissent, opposition and political competition.¹ An analysis of the European institutions and procedures, made in order to see if they actually possess these elements, reveals that democracy at the European level is a very complex affair. Especially, if on one side we clearly notice that the European institutions are affected by a democratic deficit, at the same time we must admit that they are not totally non-democratic. This is the result of the several treaty reforms that in the last twenty years ran over the EU, guiding it from a suffocating consensual system to a slightly majoritarian one and laying the foundations for an institutional design that allows for a publicly identifiable coalition to govern for a limited period, an EU version of “government opposition” politics.²

So what is the EU democracy missing now? Clearly the European institutions have made some big steps along the pattern leading to democracy so far, but still a democratic deficit exists and this means that everything that has been done till now is not enough to ensure a democratic, accountable and representative European Union. Shall the principles of majority and direct representativeness be improved, in order to make European decision making faster and to best represent the European citizens? Or rather

¹ Cotta, Della Porta, Morlino, 2008

² Hix, 2008

shall the European parties be strengthened and the party politicization in the European Parliament encouraged? Which of the elements that characterize a democratic regime should be the focus of the EU democratic evolution and to what level should they be improved? In order to answer these questions we will now go through the main treaty reforms that have improved democracy at the European level in the close past, particularly focusing on the effects they have had on each of the four main European institutions.

5. The European Commission

The Commission dates back to the High Authority of the European Coal and Steel Community, but many things have changed since then. One thing that still remains the same is that the Commission is a unique institution: it has many governmental characteristics but it is not quite a government, it embodies both elements of intergovernmentalism (national dimension) and of supranationalism (European dimension), and it represents the first executive body of an international organization, with its own political leadership, that has been set up outside the ministers' council.¹ Since the Maastricht Treaty in 1992 the Commission has undergone a major organizational reform, which altered its structure and processes, with the main result of transforming the Commission in a more political body than it used to be.

5.1 The increasing role of the European Parliament in appointing the Commission

Commissioners are supposed not to take instructions from outside the Commission, as stated by article 213 of the treaty by saying "commissioners should be completely independent in the performance of their duties", and do not represent national governments in any formal sense. However, reality is much more complex: as commissioners are career politicians, with links with national parties, and elected by national governments, we cannot expect them to be totally autonomous in their choices. This is why the recent treaty changes have gone in the direction of reducing as much as possible the potential influence of national governments on the commissioners. The Maastricht Treaty probably introduced the most important change, establishing the right for the European Parliament to hold a vote on the candidate for Commission President and to exercise a veto on the proposed Commission as a whole.

This profound change means a diminishing of the national governments role in making-up the College of Commissioners and, symmetrically, an increase of the role of the

¹ Cini, Pérez- Solorzano Borrigan, 2010

European Parliament in many ways. Indeed not only is the EP able to dismiss the entire College from the very beginning, but also the term of office of the Commissioners has been extended from four to five years, in order to align it with the term of the EP. This means that the appointment of the new Commission takes place just after the EP elections, a big step in the direction of a parliamentary system. It should not be concluded from this, however, that the Commission is beholden to a particular political majority in the European Parliament, as the governments that choose the Commissioners are in relation to national (not European) parliaments; but surely since the Santer Commission (first Commission chosen after the Maastricht Treaty) the European Commission has been much more connected and sensitive to the will of the main political parties in the EP.¹

The Santer Commission is a perfect example of the growing party-politicization of the Commission. Santer's investment vote took place during the first plenary session of the newly elected parliament in July 1994. Many socialist MEPs were arguing that a centre-left politician should have been appointed as Commission President, both because they were furious about the secret bargaining that had secured Santer's nomination and because the socialists were the largest group in the chamber. But Santer eventually passed the investiture vote with a narrow majority (260 votes to 238), despite the socialist MEPs opposition. Clearly the vote was broadly along party lines rather than national lines: right-wing MEPs supported Santer and left-wing MEPs voted against him.

5.2 QMV and growing party-politicization in the Commission

The Maastricht Treaty is not the only cause of the European Commission transformation. The first revisions to the treaty, agreed in Amsterdam in 1997, didn't bring about extreme changes, but they represent the willingness to increase the role of the President of the Commission. Indeed after the Amsterdam Treaty the President is able, for the first time, to reject candidates for the Commission presented by the national governments, he has the final say on how the portfolios are allocated and he also has the possibility to reshuffle this allocation during the five-years term of office. Thanks to these reforms and due to the present size of the Commission, which makes issues easier to be dealt with the direct interaction between the President and the particularly affected Commissioner(s), the President's role has grown over time. This does not mean that a "presidentialization" is taking place: the President still carries the same weight as the other Commissioners -one vote each during the voting session- but today the work of the College is normally expected to be subject to the President's political leadership.

¹ Hix, 2008

The Nice Treaty then introduced the qualified majority vote in the European Council for nominating the Commission President, a key change on the way to a more politicized European Union. Before appointing the Commissioners, the national governments reunited in the Council must agree on a candidate for the Commission Presidency, a candidate who had to be chosen unanimously till 2001, when the Nice Treaty came into force. It is quite easy to realize how all the Presidents chosen by unanimous agreement were inevitably a compromise satisfying all governments and hence political moderates. On the contrary, now that the Commission president can be chosen by QMV, he/she is likely to be more clearly to the left or to the right, a fact that enforces party-politicization of the European Commission.

The Nice Treaty sanctions also a second fundamental reform, which became necessary after the enlargement of the European Union to fifteen member states. Previously, larger countries had two Commissioners each, while the others had to be satisfied with just one each. If this rule had not been changed, in a Union with fifteen members or more the Commission would have risked becoming unmanageable and it would have had extreme difficulties in identify the interests of the EU as a whole.¹ This is the main reason why Nice introduced one Commissioner per member state, a reform that indirectly influences politics inside the Commission. In fact, when the larger member states had two Commissioners each, they usually chose one from the centre-left and one from the centre-right; while with one Commissioner per member state, a government naturally tends to choose a Commissioner from the main party in government. As a consequence, the make-up of the Commission after Nice mirrors the make-up of the Council at the time of the Commission's appointment: if the Council is dominated by governments on the right/left, the Commission will also be composed mainly of politicians on the right/left.²

The very different make-ups of the three Commissions showed in this table (Santer, Prodi and Barroso Commissions), are clear indications of the process of party-politicization taking place within the Commission. Before the Nice Treaty came into force, the Commissions were certainly more balanced. The Santer Commission had nine conservatives and Christian democrats, two liberals, and nine social democrats. Similarly, the Prodi Commission had ten social democrats, one green and one left-wing Christian democrat (Prodi himself). Far less balanced is the first Commission appointed following the introduction of the Nice Treaty, the Barroso Commission.

¹ Telo', 2004

² Hix, 2008

Table 4: **Political make-up of the European Commission, 1999-2009**

Santer Commission (1994-9)		Prodi Commission (1999-2004)		Barroso Commission (2004-14)	
<i>Commissioner (member state, party)</i>	<i>LR position</i>	<i>Commissioner (member state, party)</i>	<i>LR position</i>	<i>Commissioner (member state, party)</i>	<i>LR position</i>
Wulf-Mathies (Ger, SPD)	0.31	Schreyer (Ger, G)	0.30	Kovacs (Hun, MSZP)	0.32
Marin (Spa, PSOE)	0.33	Busquin (Bel, PS)	0.31	Spidla (Cze, CSSD)	0.34
Cresson (Fra, PS)	0.34	Lamy (Fra, PS)	0.34	Almunia (Spa, PSOE)	0.38
Gradin (Swe, SAP)	0.34	Liikanen (Fin, SDP)	0.34	Wallstrom (Swe, SAP)	0.38
Van Miert (Bel, SP)	0.36	Wallstrom (Swe, SAP)	0.34	Verheugen (Ger, SPD)	0.39
Bjerregaard (Den, SD)	0.36	Vitorino (Por, PS)	0.36	Hubner (Pol, ind/left)	0.40
Liikanen (Fin, SPD)	0.38	Nielson (Den, SD)	0.37	Kyprianou (Cyp, DIKO)	0.51
Kinnock (UK, Lab)	0.38	Vernheugen (Ger, SPD)	0.40	Mandelson (UK, Lab)	0.52
Papoutsis (Gre, PASOK)	0.40	Solbes Mira (Spa, PSOE)	0.41	Borg (Mal, PN)	0.57
Bonino (Ita, Rad)	0.46	Prodi (Ita, Dem)	0.43	Grybauskaite (Lit, ind/centre)	0.57
Bangermann (Ger, FDP)	0.51	Kinnock (UK, Lab)	0.47	Rehn (Fin, KESK)	0.58
Flynn (Ire, FF)	0.53	Diamantopoulou (Gre, PASOK)	0.50	Michel (Bel, MR)	0.62
Santer (Lux, PCS)	0.56	Reding (Lux, PCS)	0.61	Reding (Lux, PCS)	0.64
Van Den Broek (Net, CDA)	0.59	Fischler (Aus, OVP)	0.62	McCreevy (Ire, FF)	0.65
De Deus Pinheiro (Por, PSD)	0.60	Byrne (Ire, FF)	0.65	Potocnik (Slv, ind/centre)	0.65
Fischler (Aus, OPV)	0.61	De Palacio (Spa, PP)	0.66	Piebalgs (Lat, LC)	0.67
Monti (Ita, FI)	0.68	Monti (Ita, FI)	0.68	Barroso (Por, PSD)	0.68
Orega (Spa, PP)	0.72	Bolkestein (Net, WD)	0.69	Ferrero Waldner (Aus, OPV)	0.70
Brittan (UK, Con)	0.74	Patten (UK, Con)	0.69	Barrot (Fra, UMP)	0.70
De Silguy (Fra, RPR)	0.77	Barnier (Fra, RPR)	0.72	Fischer Boel (Den, V)	0.74
				Dimas (Gre, ND)	0.77
				Frattini (Ita, FI)	0.77
				Kroes (Net, WD)	0.81
				Figel' (Slk, KDH)	0.85
				Kallas (Est, Ref)	0.96

LR position = left-right position of each commissioner's national party in the relevant period. Location of parties on a scale from 0 (most left) to 1 (most right). See Hix (2008).

In this case, the average commissioner is considerably to the right of the average commissioner of the previous two Colleges and Barroso himself, being elected by QMV in the Council, is further from the centre than Santer or Prodi, both elected unanimously.¹

To sum up, all the reforms mentioned before -introducing the “confidence vote” of the Parliament in appointing the College, giving more power to the President of the Commission in the choice of the Commissioners, and establishing the vote by QMV in the Council for electing the President of the Commission- perfectly harmonized in their results, enhancing the legitimacy of the Commission. From being an institution with a non-political but rather technocratic characterization, due to its isolation from the mechanisms of democratic responsibility, the Commission has become a more accountable and democratically legitimate institution, where politics shadows technocracy.

6. The Council of the European Union

The Council is the epicentre of EU decision-making and it is the institution that, together with the European Council, is designed to represent the member states. Consequently, it is an important arena for inter-state diplomacy and negotiation, but it is also endowed with extensive legislative powers, as all EU proposals originating from the Commission, cannot become EU law without the approval of the Council (and of the European Parliament when under codecision procedure). The Council has an executive function as well: to provide strategic leadership and steer the pace and direction of European Integration.²

Despite the core role the Council plays within the EU institutions, few claim that it is an effective decision-making system. It takes about 18 months on average for a new proposal to make its way through the stages of negotiation inside the Council and with the EP. And sometimes it could take much longer, as in the case of the chocolate directive (2000/36/EC), which took 26 years to reach agreement on a common definition for “chocolate products”. Over time the EU has grown in terms of member states and its agenda has consequently grown more extensive, even overloaded, and the issue of too long negotiations in the Council has become more problematic. Being the Council strained and overloaded, the overall coordination is increasingly left to the European Council, which represents member states rather than the EU as a whole.

¹ Hix, 2008

² Cini, Pérez-Solorzano Borrigan, 2010

Another problem of equal concern for the Council is certainly the one of credibility with the European citizens, for instance the democratic deficit. As we already know, this issue is on the top of the EU's agenda since the 1990s, but if all the members of the Council convene on the need for the EU to be more transparent, accountable and connected to the citizens, they are not able to find an agreement on how to accomplish this task. One innovation was to hold "public debates" by broadcasting selected Council meetings on television and on the Internet, but this had the negative and unexpected result of stifling the real dialogue, since the ministers simply began reading from set speeches. ¹ What is the next step? The Lisbon Treaty tried to reduce the dysfunctions of the Council, by introducing a number of important institutional reforms, that we shall see.

6.1 Lisbon Treaty reforms and the Council ²

The Lisbon Treaty introduced four main reforms regarding the Council. The first one is the new qualified majority voting system (Article 16), the most contentious item debated during the Lisbon (IGC). The new system passes from being based on a triple majority to being based on a double majority, in order to make the voting system less controversial than the one introduced by the Nice Treaty was. From 1 November 2014 the two threshold requirements for reaching a qualified majority will be: at least 55 per cent of the member states (15 in an EU27), representing at least 65 per cent of the total EU population. An additional clause requires at least four member states to form a "blocking majority", a safeguard against big-states coalitions blocking legislation.

A second fundamental reform is the one regarding the European Council President (Article 15). The idea of appointing a President for the European Council comes from the willing of improving coherence and of enabling the EU to speak with a single voice, so that the elected President should both representing the Union and Chair the summits of the heads of state and government. The European Council appoints the President by qualified majority for a term of 2.5 years, after which the President can also be renewed but just for once. In Article 15.5 it is clearly specified that the President cannot wear a "double hat", hence it cannot simultaneously hold a national office. Once invested of its role, the President has the duty to: chair meetings of the European Council, ensure the preparation and continuity of the work of the European Council, endeavour to facilitate cohesion and consensus, and issue a report to the EP after each summit.

¹ Cini, Pérez-Solorzano Borrigan, 2010

² Treaty on the European Union and Treaty on the Functioning of the European Union

The third major reform is the upgraded Foreign Policy Chief (Article 18), another issue that gave birth to a big debate in the Lisbon IGC. The idea was actually already present in the Constitutional Convention, but the Lisbon IGC agreed on changing the title of “Mr/Mrs CFSP” from “EU Foreign Minister” to “High Representative of the Union for Foreign Affairs and Security Policy”, as some members could not accept the old title. To avoid organizational chaos in the EU external relations, the HR wears a “double hat”: it is not only an actor in the Council, but also is the Vice-President of the Commission in charge of the external relations budget. The HR duties then include: chairing the External Relations portion of the GAERC, attending European Council meetings, serving as Vice-President of the Commission and running the External Relations DG, and representing the EU externally and conducting high level diplomacy, in order to finally give answer to Henry Kissinger’s quip in 1973 “I wouldn’t know who to call if I wanted to talk to Europe”.¹

The last important reform regards the Enhanced Cooperation (Article 20). This Article of the Treaty on European Union is said to formalize a “pick and choose” Europe, because it allows member states to opt-out by the acts adopted by the EU. Adopted acts and only bind participating member states, while outsiders can take part to deliberations having no voting right. It is commonly stated that this reform was taken in order to “further the objectives of the Union, protect its interests and reinforce the integration process”, but probably the main reason is that core members of the EU could no longer accept to be held back by reluctant integrationists. Enhancing cooperation is, however, considered “a last resort” when “cooperation cannot be attained... by the Union as a whole”.

6.2 Politics and ideology in the Council

We could think that the level of democratic legitimacy of the Council is not different than the one of national governments, as it is formed by members of these same governments. Actually the Council and the national governments depend on different and non-synchronized processes of democratic legitimacy, and indeed the composition of the Council changes each time the members of the single national government change.² This aspect mostly influences cohesion and efficiency in the Council rather than its level of democracy, which is mainly related to the voting procedures.

Decision-making in the Council is less transparent than decision-making, especially because most decisions are taken by consensus rather than by a formal vote, even when

¹ Henry Kissinger, 1973

² Cotta, Della Porta, Morlino, 2008

a qualified-majority vote could be used. Normally the President summarizes the discussion and announces that the majority has been reached, or asks if anyone is opposed and, if not, closes the matter. Voting by consensus brings about the phenomenon of “consensus in the shadow of a vote”¹: governments that expect to be on the losing side agree to support the position of the majority. This happens because it would probably be very difficult for a government to persuade the citizens and the interest groups of its country of the importance to implement a European act, which he was not in favour of during the voting session.

Table 5: **How often [COUNTRY] voted in minority in the Council of Ministers of the EU (14.07.2009-11.03.2013)**

	Total votes cast	Votes for	Votes against	Abstentions
Austria	410	386	11	13
Belgium	410	404	3	3
Bulgaria	410	402	4	4
Cyprus	409	409	0	0
Czech Republic	409	400	4	5
Denmark	383	367	8	8
Estonia	409	403	0	6
Finland	409	403	2	4
France	410	410	0	0
Germany	410	388	10	12
Greece	409	407	0	2
Hungary	410	405	0	5
Ireland	394	384	0	10
Italy	408	398	7	3
Latvia	410	406	2	2
Lithuania	409	409	0	0
Luxemburg	410	405	4	1
Malta	410	405	3	2
Netherlands	409	390	9	10
Poland	409	390	9	10
Portugal	410	396	4	10
Romania	410	404	2	4
Slovakia	409	403	2	4
Slovenia	410	403	1	6
Spain	408	399	5	4
Sweden	409	396	10	3
UK	395	354	16	25

Source: www.votewatch.eu/

The graph clearly shows how member states of the Council tend to rarely vote in minority, as there is a very low incidence of contested votes (that is voting “no” or “abstaining”). Nevertheless, there have been positive changes over time: since the mid 1990s most governments are increasingly willing to register the opposition to legislation during the voting procedures in the Council. If we consider the strong incentives for governments not to reveal that they lost on a particular bill, it is rather

¹ Hix, 2008

surprising that almost 50 per cent of EU legislation now passes in the Council with at least one government being in the losing minority.

Moreover, when there are divisions in the Council, these tend to be increasingly based on ideological differences between the governments rather than pro-anti Europe differences. Left-wing governments tend to vote together, right-wing governments tend to vote together, and the governments voting against the majority in the Council tend to be either on the furthest left or on the furthest right. This idea is reinforced by the fact that as the governments switch from the left to the right or vice versa, their voting behaviour changes and they always tend to aggregate with governments of their same wing. Hagermann in 2006 ¹ calculated that the first voting dimension (left-right dimension) explains over the 50 per cent of vote decisions of governments in the Council and, in contrast, that the second voting dimension (anti-pro furthering European integration) explains less than the 10 per cent of vote decisions of the governments.

The majority of those changes inside the Council was probably brought about by the enlargements, which have made a consensus more difficult to be reached, so that many issues are now more likely to be pushed to a vote. Also, in the new enlarged Europe, if a government wants to avoid being on the losing side it will have to build alliances with like-minded governments (in a left-right perspective) from other member states. ² Whichever is the reason, what evidence demonstrates is that the Council has begun to evolve into a more normal legislature, where there is open conflict and coalitions are made along ideological preferences.

7. European Parliament

For long time since when it began its life in 1952 as the European Coal and Steel Community Common Assembly, the European Parliament did not attract the attentions of the scholars of the European Union, being judged less important than the other institutions of the Union. The “founding fathers” of integration had thought it as an institution of control and scrutiny, not of decision-making, and in fact for many years the EP has been nothing more than a “multi-lingual talking shop”, as it was labelled. But this is no longer the case: during his history the EP has undergone more substantial changes than any other EU body, that eventually enhanced its role within the Union’s governing structures. It now carries out an important legislative work , developing and

¹ Hagermann, 2006

² Hix, 2008

shaping policies and laws especially under the ordinary legislative procedure, and, being directly elected, it is the institution that best fulfils the role of the “voice of the people”, linking the EU political system to the public. That being so, the reason why it is so important to examine the European Parliament, in the perspective of defining the level of democracy in the European Union, becomes evident.

7.1 The increasing power of the European Parliament

As we already specified, the European Parliament was created in 1952, as the Common Assembly of the ECSC. It had only limited and specific responsibilities: discuss policies, scrutinize their execution and dismiss the High Authority (today’s European Commission) for gross mismanagement. All the opinions issued by the Common Assembly were never binding for the other institutions, which could decide whether to respond to them or not. Naturally, at that time the Common Assembly was not directly elected by voters, but its membership was drawn from member states’ national parliaments: 78 national parliamentarians from the then six ECSC member states.

The Rome Treaty in the late 1950’s had already called for the Common Assembly of the EC to become an elected institution. But because of the hostility of the governments and of the parties, which did not want to see the EP in such a powerful position to claim for greater powers, the first EP elections took place only in 1979. The 1970’s are the years that trigger a long season of treaty amendments and of institutional agreements, which have greatly enhanced the EP’s power till today. Two treaties in the 1970’s established the right for the EP to propose modifications to planned “compulsory” spending (mostly related to agricultural price support through the CAP), to insist on amendments to “non-compulsory” spending (European Structural Funds and internal policies), and to reject the budget completely, with absolute majority of the all MEPs and two-thirds of MEPs voting. The budgetary role of the Parliament has been further increased by a series of Inter-Institutional Agreements in 1980’s, stating that for increases in most areas of EU spending the approval of the Parliament is necessary. ¹

The main progresses of the Parliament in terms of executive oversight came with the Maastricht and the Amsterdam Treaties, which gave first the EP the veto power over the Commission nominated by the national governments, and then the possibility to veto separately the Commission President and the entire team of Commissioners. The MEPs demonstrated their willingness to use these powers especially in 2004, when appointing the Barroso Commission. In that occasion, many MEPs (mainly on the left) were not happy with the choice of Rocco Buttiglione as Commissioner on Justice,

¹ Cini, Pérez-Solorzano Borrigan, 2010

Freedom and Security and in the end Barroso was forced to withdraw him from the list of Commission nominees, in order to be sure of having the approval vote of the Parliament.

In 1987 the Single European Act entered into force. Prior to it, the EP had only a consultative role during the legislative procedure: could offer opinions, but could not force the Commission or the Council to respond to them. The SEA did not cancel the consultation procedure, which was retained for most laws, but for most of the legislation related to the Single Market initiative, the cooperation procedure was introduced. This procedure allows the Parliament to propose amendments to draft legislation, which, in case of support from the Commission, can be overturned just by an unanimous vote of the Council accepted by a qualified majority of states. Under this procedure, the EP can also veto pieces of legislation, which again can be overturned just by an unanimous vote in the Council. The SEA also introduced an assent power for the EP with regards to association agreements and the enlargement (any EU enlargement must be agreed by the Parliament).

The Maastricht Treaty in 1992 introduced another legislative procedure: the codecision. Under the codecision procedure, laws must be adopted by both the EP and the Council, which means that the EP can exert a veto over legislative proposals. “The codecision procedure means that [the Parliament] has now come of age as a law-making body”¹, said Duff underlining that the Maastricht Treaty represents a considerable step forward for the EP. The same codecision procedure was then revised by the Amsterdam Treaty in 1997, which also extended it to most of the areas of EU legislation. A further extension was brought about by the Nice Treaty, with which the most important European legislation falls under the codecision. Given these premises, it is not surprising that the Lisbon Treaty established the codecision procedure as the standard procedure, applied almost universally. Since the mid 1990’s the EP is no longer a marginal institution, but a central part of the Union’s governing system.

7.2 Politics in the European Parliament

The internal politics of the EP is characterized by a high level of complexity, guaranteed by the multinational, multilingual and multiparty political environment. MEPs in the Parliament represent well over 100 separate national parties from the 27 member states, which bring about a huge diversity of political viewpoints and experiences.² This is probably why the EP is usually imagined as divided between groups of national

¹ Duff, 1994

² Cini, Pérez-Solorzano Borrigan, 2010

politicians acting along their national lines, and where consequently the only way to overcome national divisions is that the two largest groups in the Parliament (EPP and S&D) collude together. A clear example of this type of action is the case of the Takeover directive, which was defeated in 2001 because German MEPs from both left and right voted together against. The same directive only passed in 2006 when leaders from the EPP and PES made a deal. ¹

Contrariwise, researches on the voting behaviour of the MEPs reveal that politics in the European Parliament surprisingly is not so different than politics in the national parliaments. The EP is more dominated by ideological conflicts rather than national conflicts, with parties competing with each other to control and shape the policy agenda. For sure, the parliamentary groups in the EP, being to an extent confederal, find their base in strong national delegations; and the decision-making rules of the EP itself lead its members to take decisions on a broadly consensual base. But this does not mean that a real political debate is missing and that the parliamentary groups cannot reach a united group position.

Table 6: **European political groups' cohesion rates on all policy areas (14.07.2009-18.04.2013)**

GUE-NGL	79.22%
Greens/EFA	94.57%
S&D	91.35%
ALDE/ADLE	88.94%
EPP	92.96%
ECR	86.61%
EFD	49.79%

Source: www.votewatch.eu/

The table confirms an increasing cohesion within the parliamentary groups in general and especially within the larger ones, which reach a percentage of cohesion around ninety. This means that MEPs are more likely to vote with the members of their same parliamentary group, rather than with members of their same nationality, but sitting in another group. In the end, the fact that a final compromise is always necessary in order for the EP to have a substantial impact on the legislative procedure, does not exclude political debates and political decisions before the compromise is reached. The parliamentary groups organize themselves in order to first develop common group decisions and then to find compromises with the other groups, still trying not to betraying their initial positions and to make them prevail on the others. This process does not look very different than the one that takes place in many national parliaments, when there has to be a search of consensus between parties, to find a majority sustaining a new government.

¹ Hix, 2008

Another similarity between the European Parliament and the national parliaments is the fact that coalitions between the political parties and MEPs are based mainly on left-right competition rather than on pro-/anti-Europe competition. The EP was once known as a “bastion” of pro-integrationist opinions, mostly because those who were less interested in the EU were less likely to stand as candidates for the EP. However, especially since the enlargement in 2004, a bigger number of Eurosceptic figures has been included in the parliament. As a consequence, the pro-/anti-Europe dimension is now more present in the EP, but still it only explains about 10 per cent of voting behaviour of the MEPs. Of the remaining percentage, the left-right dimension can explain at least the 60 per cent. ¹

In conclusion, recent years have witnessed the developing of a more genuine party system in the EP, growing levels of voting divisions along left-right lines, and a bigger level of cohesion within the parliamentary groups. Probably these changes wouldn't have taken place if the powers of the EP had not been enhanced: the increased powers of the EP have indeed been an incentive for MEPs with similar political ideology and policy preferences, to collude together to try to shape EU policy outcomes in their preferred way via the European Parliament. The result is that politics inside the EP is essentially more democratic now than it ever was before. As already specified, the political parties have been essential for this process of democratization inside the EP to develop, and this is why their role must be deepened.

7.3 The role of European political parties in shaping democracy inside the European Parliament

Political parties in general are essential to the democratic process: they are arenas for discussion and resolution of policy differences, they are the main political actors for the accountability of power and, probably most important, they shape and give voice to the public opinion. Not all political parties are able to fulfil the whole set of these actions, and even when they do sometimes they do not do it in the best possible way. Nevertheless, their importance is undeniable and this is why article 10.4 of the TEU specifies: “political parties at European level contribute to forming European political awareness and to expressing the will of citizens of the Union”. But even before the TEU the central role of the European parties was recognized by the Maastricht and Nice Treaties and with a Council/Parliamentary regulation in 2003, which gave the parties operational autonomy with resources from the EU budget.

¹ Hix, 2009

Even if the role of the political parties has been recognized in many ways, a “Notre Europe’s” study ¹ demonstrated in 2009 that parties are still far from carrying out fully their role of linkage between the public opinion and the EU institutions. And today, twenty years after the Maastricht Treaty was signed, things have not changed much and European parties still do not work as properly as national parties usually do. In fact, despite their similarities, national parties and European Political Parties are quite different. Members of national parties collude together on the base of their political affinity, define a common program, select candidates for executive offices, and ensure that the elected representatives abide by the commitments taken with the electorate. At the present situation, little of this characterizes the political parties at the EU level.

First of all, they are not primarily campaigning organizations, being to a certain extent “in the thrall of the parliamentary groups at the European Parliament”². Second, the majority of the members of the European Political Parties comes from different historical and cultural backgrounds, which makes more difficult to resemble a common political affinity on a particular position. As a consequence, their policy formation is more the result of a technical exercise and less a matter of common political and ideological denominators. Third and above all, the European citizens, either being party supporters, militants or normal citizens, feel no sense of belonging to the European parties, with which they have little or no link and within which they do not exert any decision-making role. Of course each MEP is accountable to his/her electors, being in constant touch with his/her national party, but what Europarties are still not able to do is to act as a relay between the citizens and the elected MEPs, guaranteeing the implementation of the proposals made during the electoral campaign.

The 2009 European elections brought to light a paradox: an increasingly powerful EP mobilizing a decreasing public support ³. This campaign was characterized by the lowest ever turnout in the history of the EP elections, mainly because European themes had not been enough developed and because parties had not been able to achieve a concrete differentiation. The result was that public opinion was not mobilized and that national issues prevailed on the European ones.

The absence of European content in this campaign is the result of the combination of many elements. In some member states the European elections coincided with national, regional or local ballots, which appeared more relevant in the eyes of the electorate, that possibly used the EP elections to express a vote in favour or against the national government of the day. Another element is that the European political parties had not

¹ Etudes et Recherches No. 71

² Matarazzo, 2011

³ Ibidem

enough funds to dedicate to the campaign, partly because the EU treaties have never established this kind of extra fund and partly because parties spend most of their budget on central administration and on meetings of their statutory bodies¹. Finally, some of the fault must also be imputed to the media, which did not give enough coverage to the events organized by the European parties, causing a lack of information in the electorate.

Another thing that negatively characterized the 2009 elections, as already said, is that the single parties were not able to take the distance and differentiate from the others. This problem would have probably been eluded if parties had exerted their right to name their “candidate” for President of the European Commission, but the key governing parties on the left, such as the British Labour and the Spanish and Portuguese Socialists, not only refused to nominate a Socialist “candidate”, but also endorsed the EPP “candidate”, Barroso. This, despite the strategy agreed in a previous PES Congress, requiring Socialist parties to propose their own “candidate”. Needless to say that this kind of behaviour totally undermined any attempt to provide a differentiation of the European parties and a European-wide personality focus for the elections.

Despite the discouraging results of the 2009 elections of the EP, it must be stressed that the European political parties have undergone some interesting progresses in the last decade. The cohesion of the political groups within the Parliament has actually strengthened since 2009 and regularly meetings are currently held between the leaderships of national parliamentary groups and their EU counterparts. But of course this informal networking should be developed further. Also national parties, on their side, are undergoing a process of Europeanisation, becoming more interested and involved in activities and politics at EU level. All of this results in a normalisation of contacts with like-minded parties at the European level and at national level. In some ways, the process of enlargement also helped in achieving this result, forcing the European parties, especially the bigger ones, to clarify their ideological position, in order to preserve a clear and workable majority in the Parliament.

Many reforms are still needed in order to make the European political parties more efficient and accountable, but yet the Lisbon Treaty has certainly triggered a series of positive changes, which helped to reduce the “participation” deficit of the EU. Moreover, these changes did not concern just the European parties. National parliaments are now more involved in the EU affairs, especially through the control power on subsidiarity, and can thus provide a new opening for involving citizens in the work of the Union. The

¹ EP draft report by Mrs. Giannakou, rapporteur for the Constitutional Affairs Committee on the application of Regulation 2004/2003 on the regulations governing political parties at European level and the rules regarding funding

same result can be brought about by the citizens' initiative, which, forces the institutions to react when an initiative is backed by a million signatures.

8. Enhancing European democracy from outside the EU institutions

8.1 A new role for national parliaments after the Lisbon Treaty

The integration of national parliaments (NPs) into the European Union's legislative and democratic processes is one of the most important innovations introduced by the Lisbon Treaty. Article 12, Title II of the TEU specifies that "National Parliaments contribute actively to the good functioning of the Union"¹, being proper interlocutors of the EU, formally independent of their national governments. The NPs have always claimed for a more direct role in the EU process, but it is only with the Treaty of Amsterdam in 1997, that the flux of information from the European institutions to NPs increases. Following this line, the draft Treaty agreed by the Convention on the Future of Europe (2002-2003) attributed to the NPs the power to proceed to the so called "yellow" card procedure, hence the power to withdraw a Commission's legislative proposal before it is submitted to the Parliament and the Council. In 2006, little after the rejection of the Constitutional Treaty in France and in the Netherlands, the European Commission decided to improve the cooperation between the NPs and EU institutions by launching a "political dialogue".

The Treaty of Lisbon continued this trend, establishing two more weeks of time for NPs to exert the subsidiarity check and a stronger "orange" card procedure. This innovated procedure establishes that, if more than half of the NPs decides that there has been a breach of the subsidiary principle in a policy area subject to the ordinary legislative procedure, and if the Commission does not take into account the opinion of the NPs, then the opinions of both the NPs and the Commission² are sent to the EP and to the Council, which will then decide (majority vote in the EP and 55 per cent of the votes in the Council) whether or not to continue with the legislative procedure.

According to article 12 of the TEU: the inter-parliamentary cooperation between NPs and the EP is reasserted; the EU institutions must forward to the NPs all the legislative proposals of the Union; and the NPs exert their power of subsidiarity check, take part in the revision procedure of the Treaties and are fully informed about accession

¹ Article 12, Title II, TEU

² "Orange" card procedure, Art. 7 [3] of the Protocol

applications.¹ In the end, after the Lisbon Treaty, NPs acquire the possibility to influence democracy at European level in four ways: influencing the positions of the national governments, dialoguing with the European Commission, enhancing the inter-parliamentary cooperation, and strengthening their relationship with the European Parliament.²

The NPs can influence the national governments' positions through two different approaches. In the document-based approach the Parliaments examine EU legislative proposals systematically or by *ad hoc* selections, and can eventually adopt policy prescriptions. Whereas, in the procedural approach the governments have to present to the Parliaments their negotiating positions on the draft proposals on the EU before every Council meeting, and the Parliaments can eventually adopt politically binding acts to change the governments' positions. The Lisbon Treaty, wanting to enhance the NPs influence on the national governments, as a mean to legitimate the decision of national governments at European level, has prompted some NPs (such as the Italian and the German) that still had not done so to pass from the first to the second approach.

The "political dialogue" between the Commission and NPs started in 2006 and today it has possibly become stronger. The Commission transmits legislative proposals and consultative documents directly to the NPs, which are allowed to make comments and express their opinions. The Commission then replies systematically to all the opinions received by the NPs. The relevant change within this procedure, lays in the fact that the political dialogue today does not involve only matters of subsidiarity check, but all aspects of the Commission's initiatives. The Commission itself considers the subsidiary control mechanism and the political dialogue as "two sides of the same coin", and the NPs seem to agree with this position.

Passing from the political dialogue between the NPs and the Commission to the inter-parliamentary dialogue, the latter probably originates from the Conference of Community and European Affairs Committees (COSAC), established in 1989. The COSAC biannually reunites six representatives for each parliament, with the task of increasing the NPs control on EU affairs. Despite the fact that COSAC is the only centre of cooperation that is formally recognized by the Treaties, during the last decade other forums have been created with the aim of developing inter-parliamentary cooperation further. The ones that gave the best result are the regular meetings of NPs representatives in Brussels (Monday Morning Meetings); and the Inter-Parliamentary

¹ Art. 12.2, TEU

² Matarazzo, 2011

EU Information Exchange (IPEX).¹ The latter is a platform for electronic exchange of information between the EU and NPs, hosted by the EP since 2009. Further more, an increasing number of meetings are now held between the European political groups in the EP and their respective political groups in NPs, in order to coordinate the implementation of the Treaties and often to adopt *ad hoc* political initiatives.

Similarly, also the inter-institutional dialogue between NPs and the European Parliament has greatly developed in the last decade. The flow of opinions on EU draft legislation from the NPs to the competent committees in the EP, has been constantly growing, and the same kind of growth has characterized the number of meetings between European and national parliamentary committees. Of course the relationship between NPs and the EP can be problematic, as it tends in some cases to increase the competitiveness between them, due to their two opposite visions about EU decision-making: on one side the EP feels the expression of the communitarian method, and on the other side NPs tend to defend the inter-governmental method. However, there is no doubt that a stronger relationship between the parliamentary institutions at national and European level enhances the overall legitimacy of the European Union. If this was not enough, keeping the level of participation of NPs in the EU activities high, would give the national parliamentarians more political incentives to participate in European matters, so that they would feel it is worthy to invest time and means in the EU project.

8.2 European Citizens' Initiative and direct democracy in the EU

The Lisbon Treaty states, in art. 10.1 of the TEU, that “the functioning of the Union shall be founded on representative democracy”² and many steps have been made in this direction; particularly the election of the European Parliament by universal suffrage, the extension of the EP decision-making role in the EU, and the establishment of the European citizenship in the Maastricht Treaty. What was missing till 2003 was the citizens' initiative as an instrument of direct democracy, which was first included in the Draft Treaty establishing a Constitution of Europe. Since then, the European Citizens' Initiative (ECI) has survived the misfortunes of the Treaty establishing a Constitution for Europe and has been included in the Lisbon Treaty.

Art. 11.4 of the TEU states that “not less than one million citizens who are nationals of a significant number of Member States may take the initiative of inviting the European 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

¹ Matarazzo, 2011

² Art. 10.1, TEU

purpose of implementing the Treaties”.¹ The ECI, however, cannot be considered a law proposal submitted to the competent body, as in fact it is the Commission that has an exclusive right to propose legislation in the EU. This means that the ECI, differently than what happens in other systems such as that of Italy or of Spain, is not a detail legal act: it should only clearly specify its objective, while the actual drafting of the proposal is up to the Commission.

The ECI can be considered a big step forward on the way towards a more democratic and representative European Union, but however it is still a quite limited instrument. The first limit is due to the fact that the ECI must be submitted to the European Commission instead of to the European Parliament, which causes a deficit of representative democracy in all the domains where the EP has only a consulting role and not a codecision role. The second limit is much more clearer: the EC holds the monopoly on legislative initiative and is not obliged to give the go-ahead to the ECI.

Due to these limitations, the role of the ECI as a means for citizens’ participation in the EU decision-making process, is not decisive and it is certainly unable to achieve its main purpose in the best possible way. Nonetheless, it is not to be considered a useless and profitless instrument. The ECI, giving rise to a debate within the European citizens on issue of transnational interest, contributes in forming a wider European public opinion and in developing the concept of European citizenship. And this is already a very good result and a relevant contribution to the development of participatory democracy in the EU.

9. The European Union is a democracy in its own way

As a result of the treaty reforms since the 1980s, the European Union has now the prerequisites for being defined democratic. On the institutional side, the EU has changed from an overwhelmingly consensual system to a much more majoritarian one, so that it allows for a publicly identifiable coalition to govern for a limited period. The European Parliament has now co-equal power with the Council under the codecision procedure, that covers the majority of the social and economic legislation, and new means for direct participation of the European citizens to the EU affairs have been developed.

On the behavioural side, an EU version of the “government-opposition” politics is emerging, with the majoritarian coalition of political parties in the EP having the power

¹ Art. 11.4, TEU

to appoint its own Commission President, as established by the Lisbon Treaty. A genuine party system is then evolving in the EP since the first direct election in 1979 and political competition is also developing in the Council, where governments tend to split more on an ideological base rather than on national divisions. Also the relationship between the Commission and the other EU institutions has become more politicised, starting from the Santer Commission and continuing with the Prodi and Barroso Commissions.

Looking at the European Union today, it is difficult to see it as totally non-democratic. Certainly, some sort of democratic deficit still exists and the EU is still not as democratically efficient as democratic national governments tend to be. But in the end concrete democracies differ from one to another because, for ideological or contingent reasons, they have “differently picked up from the democratic menu”¹. This is to say that concrete forms of democracy are the result of the balancing of democratic principles with different exigencies: popular control and division of powers, majoritarian system and respect of minorities, efficiency of the authority and representation of different opinions, etc. With incredible difficulty all these elements can be maximized simultaneously; and for this reason the European Union has tried and is still trying to balance the democratic principles with its own exigencies.

At this point, what makes the European institutions and the national institutions so different is that the bases of democratic legitimacy of the formers are more complex and often more indirect. “More direct” democratic mechanisms are present in the EU system (i.e. direct European Parliament elections), but till now these mechanisms have substantially weighted less than the “more indirect” ones; and probably this lead to a lower level of political mobilization in relation to the European politics.

To sum up, more than being considered non-democratic, the European Union should probably be seen as a *sui generis* form of democracy, suitable for the particular nature of the polity, of the demos and of the other political actors operating on the European scene. The necessity to adapt to such peculiar elements, requires the mechanisms of political mandate and of accountability to be more indirect, the decisional rules to be less majoritarian, the identification of responsibility less clear, and the public sphere to be more fragmented than in national democracies. But this does not mean that there is no need to improve democracy at the EU level; rather it should be improved as much as possible within the European Union frame.

¹ Lijphart, 1999

CONCLUSION: A NORMATIVE and applied PERSPECTIVE

10. The next step towards more democratic institutions

Despite the emerging politics in Brussels, at least two elements are still missing.¹ First and regarding politics inside the European institutions, a more defined coordination of positions and alliances across the institutions is certainly missing, with the consequence that politicians have very few incentives binding them to the informal coalitions that emerge issue-by-issue in the EU. Second and regarding the relationship between the EU institutions and the European citizens, there is very little connection between the emerging political structure in the EU and the attitude of its citizens, which both because of the little information they have and of the conformation of the EU institutions, find it very difficult to identify the protagonists of the EU politics and the position they represent. Both these missing elements cause a deficit of effectiveness and of legitimacy in the EU system and consequently undermine the development of a more democratic EU.

What is needed is a set of changes focused on making the emerging politics inside the EU institutions more transparent and clearly understandable, increasing the incentives for EU politicians to coordinate their positions and compete more openly, and giving the European citizens the necessary means that will make them able to engage with the new democratic politics in Brussels. This sort of changes would not only enable the EU to overcome policy gridlock, but it would also make the EU more democratically accountable, allowing the media, domestic politicians and citizens to identify the members of the governing alliance, understand what they stand for and accept them as legitimate winners of the political contest in that particular moment.

All these changes do not inevitably require further treaty reforms, especially because treaty reforms alone would not necessarily change the way political elites behave and the attitude of the European citizens towards the EU. Politics is the result of both institutional rules and of political behaviour, which means that there is enough room for manoeuvre to encourage democratic politics in the EU, only by changing some of the informal practices and formal rules of procedure that govern the way the EU institutions work.²

¹ Hix, 2008

² Hix, 2008

10.1 European Parliament: involving the European citizens in the EU political system

The European Parliament is the only European institution able to directly link politics inside the EU to the citizens' choices, as they are expressed in the EP elections. However, as we previously saw, the EP elections tend to be more about national issues rather than about EU issues, mainly because there are few incentives for national parties and the media to see the EP elections as something totally separated from the national contest. This problem could be partly solved with an improvement of the communication between the EP and the national media, but this will not be a satisfying solution by itself. It is necessary to look at the reasons why the EP elections do not work and make an effort to eliminate the elements that are impeding their proper functioning.

The first reform that should be taken into consideration is a reform in the policy-making power inside the European Parliament, which is allocated on proportional rather than on a competitive basis. Indeed, if in theory there is an election amongst the MEPs for the president of the EP, in practice the two largest groups in the Parliament, namely the EPP and the S&D, normally agree that one of them has the presidency for the first half of the five-years term and the other has it for the second half. The same happens with the committee chairs, which are assigned in proportion to the size of the political groups, as stated by an informal agreement between all the political groups. If this means that there is never a political group dominating the assembly, and that all the main national political parties are fairly represented, it also means that the result from the elections has very little impact on policy outcomes at European level. Rather the EP elections are likely to have a bigger impact on national politics than on European politics.

This would not happen if the key offices inside the EP were allocated on a less proportional basis. The EP, because of its nature, cannot and should not be based on a winner-takes-all principle, as the US Congress or the British House of Commons, which implies that the winning party dominates the policy making. Nevertheless the EP could have a proportional electoral system and allocate offices with a winner-takes-more system¹, as in the Scandinavian, Benelux or German parliaments. Under this system, the largest party would have more power inside the parliament than the next largest party, and this would bring about more competitive elections, because the main parties in the EP would have more power to influence the EU policy outcomes, and the construction of broader majority-winning alliances rather than narrow ideological coalitions. Also the way the president of the EP is elected should be changed: it could be elected for a five-years term, rather than for a two-and-a-half year term, so that the main parties would put up rival candidates and then try to build a stable coalition with smaller parties

¹ Ibidem

supporting their candidates. The result would be an identifiable majority coalition supporting the president of the EP during his/her full-term of office.

Another crucial element that may contribute to the improper functioning of the EP elections is the membership of the European parties. At present, the citizens cannot affiliate directly to the European parties and this possibility is only limited to national parties. However, individual memberships would certainly be a democratic gain: in the long term, it would solve the problem of those European citizens disenfranchised from activity in the European parties that do not have national counterparts, and would make European citizens in general feel more involved in the EU. This is why a general reform of membership should be realized, with national parties still able to affiliate to European parties en bloc, but with members receiving a distinct European membership card, enabling them to participate in the internal decision making.¹

Finally, if improving the European Parliament elections is the objective, the ideological offer of the parties needs to be sharpened. Till now the European manifestos have been largely useless in any campaign, and this is especially demonstrated by the refrain “they are all the same”, coming from disillusioned voters often heard at European elections. In fact, European parties tend to be seen all as pro-EU and in favour of what the European institutions decide. Needless to say that actually it is perfectly possible for European parties to be totally pro-EU but to disagree about what the European institutions do. It is then fundamental for the European parties to focus regularly on the campaigns (and not only in the pre-election period) and to highlight their points of differentiation. The motivation for participating and voting will then be strengthened and, most importantly, electors will increasingly understand that European elections should be considered of the same importance of the national ones, because many promises made at national elections cannot be honoured without the EU action.²

10.2 A Council of the European Union within everyone's reach

The EU Council used to be very similar to the UN Security Council or NATO Ministerial Meetings: an institution where governments meet behind closed doors and where votes are rarely taken. This is no longer the case, thanks to the reforms operated by the Amsterdam and Nice treaties and by the agreement at the Seville European Council (June 2002). Indeed some of the Council documents are now publicly accessible, debates held in the Council are open to public at some stages in the legislative process, and when a vote is taken, either by majority or by unanimity, how each government

¹ Matarazzo, 2011

² Ibidem

voted is recorded and made available via the PreLex legislative tracking service on the EU's website.¹

The enlargement to twenty-five and then to twenty-seven member states, made it necessary to simplify and to make faster the negotiations in the Council. Initially, the negotiations used to start with a *tour de table*, during which each government minister explained in turn his/her government position on the legislation proposed and suggested some amendments to the initial text. After the biggest enlargement this procedure became unfeasible, as it would have taken almost all day for each government to speak and to propose its preferred amendment.

This is why in occasion of the Seville European Council the governments agreed to introduce important changes. Now the member state holding the Presidency of the Council (6 months term) has the power to determine who is going to speak, in which order and the time for the speeches. Also the process for proposing amendments has been simplified: governments are now required to propose amendments to legislation and to explain the reasons why they are proposing them in writing, and not during their oral speeches. Moreover, governments with identical or similar positions are expected to present a joint amendment, and to choose only one of the governments to present it at the meeting, representing behalf of the others.

Given all the reforms mentioned above, we can decisively say that the Council is not such a secretive institution as it used to be not many years ago. But nevertheless several things could still be changed in the way the Council works, with the aim of transforming it in a more transparent legislature. First of all, even if the public access to documents in the Council has been very much improved, still it cannot be considered the same as a full access to legislative documents. The next step forward a more transparent democratic legislature is to make all legislative documents - including agendas of the meetings, documents proposed by the Presidency, text of legislative amendments proposed by the governments, reports of the proceedings of the Council meetings, record of roll-call votes and texts adopted - publicly available. If this is possible in the European Parliament, there is no reason why it should not be possible in the EU Council.

Related to this first point, is the need for all legislative deliberations in the Council to be open to the public. Debates in the Council have already been opened to the public via the Council website, but, as agreed at the Seville European Council, only at certain

¹ <http://www.ec.europa.eu/prelex/apcnet.cfm?CL=it>

stages of the co-decision procedure: during the initial stage, when the governments debate for the first time about the initial proposal of the Commission; and during the final stage, when the governments vote for the final proposal. Excluding the two mentioned stages of the co-decision procedure, naturally the doors of the Council remain closed during the first, the second and the third reading, which are not of less importance of the initial and of the final stages. During the first reading governments try to agree on a “common position” on the legislation, during the second reading the Council considers the amendments proposed by the EP, and finally during the third reading the Council discusses whether to accept or not the text agreed with the Parliament in the conciliation committee. Needless to say that the fact that debates are not opened also at this essential stages, nor at any stage of the consultation procedure (still used in almost half of EU legislation), remarks that the Council is still too secretive for being considered a truly democratic legislative chamber.

A third point that requires attention is the amendment right. At the moment there are no restrictions on who can propose amendments, and this both provides no incentive for governments to coordinate their behaviour with other governments, and causes a higher risk of “spoiling amendments”, which take place when a single actor can propose such a big amount of amendments that the whole proceedings can easily derail.¹ The legislative deliberations in the Council would be far more efficient if the amendment rights were restricted to coalitions of governments requiring, just to make an example, a certain number of votes under QMV and a certain number of member states.² This would encourage governments to build alliances, which would also enable the public to clearly identify the key amendments and the governments behind them. In a nut shell, a stronger and more defined political competition would develop in the Council, and the emerging structure of political competition between the Council and the European Parliament, on one side, and the Commission on the other would become more stable.

Lastly, all legislative decisions in the Council should be put to a vote, whose outcomes should be recorded in the minutes. Currently, all votes are already reported in the minutes, but this procedure makes less sense if we consider that very few votes are actually taken. When QMV is used, votes are only held about 30 per cent of the time, while the other 70 per cent of the decisions is taken by consensus. This 70 per cent should not remain unrecorded, even if this means that the 70 per cent of the time the minutes would simply state that the vote was unanimous. There is no reason why a unanimous vote should be considered less important than a QMV vote, and moreover if all the Council decisions were put to vote and all the votes were recorded, the

¹ Hix, 2008

² Ibidem

governments would feel watched more closely by media, interest groups, national politicians and European citizens, and this would probably change at least a little bit of their attitude while expressing their vote.

Realizing all these changes would not mean transforming the Council in a normal democratic legislature, as the ones we normally see at national level. The nature of the composition of the Council, made up of ministers and officials from national bureaucracies, does not allow this to happen. However, given the fact that the Council is the main legislative body in the EU, there is no reason why its transparency and democracy should not be improved as much as possible.

10.3 Transparency as the basis for the Commission President's election

“Europe cannot be built without the participation of Europeans. It is essential that citizens have their say as the European Union develops and moves forward”.¹ This is what Viviane Reding, the EU’s Commissioner for Justice, Fundamental Rights and Citizenship, claimed referring to the recommendation of the Commission of the 12th March 2013; and indeed this recommendation aims to strengthen the link between citizens and the EU. With this act the Commission recommends that political parties nominate candidates for the Commission President and calls the national political parties to make clear to which European political party they are affiliated, in order to make the contest of the Commission President more transparent in the eyes of the European citizens.

The appointment of the Commission President has always been the result of political battles and coalition-building behind the façade of what seems to be a rolling package-deal between the governments. The deal would ensure that a president from a big state is then followed by one from a small state, and that a president from the right is then followed by one from the left. The list of the Commission Presidents the EU has had till now seems to support this idea: R. Jenkins (British, Social Democrat), G. Thorn (Luxembourg, liberal), J. Delors (French, Social Democrat), J. Santer (Luxembourg, Christian Democrat), R. Prodi (Italian, left-wing Christian Democrat) and J. Barroso (Portuguese, conservative). However, even if this deal really existed, this does not mean that the appointment of a particular candidate is not a matter of politics. Delors was chosen only after a bitter battle between M. Thatcher and F. Mitterrand over the appointment of C. Cheysson, Santer was the compromise candidate that was chosen in

¹ Viviane Reding, European Commission Press Release of 12th March 2013, http://europa.eu/rapid/press-release_IP-13-215_en.htm

order to avoid J. Major's veto, and when Barroso was elected both J. Chirac and G. Schroeder were against his candidature and in favour of G. Verhofstad candidature.¹

Political battles in the appointment process have been growing during the years, but these battles still take place behind closed doors, far from the control of the European Parliament and, as a consequence, of the European citizens. The choice of Santer as a compromise candidate was made in secrete conclaves between the governments, Prodi was appointed with little public discussion (in a rush to find a substitute for Santer after his resignations), and Barroso's nomination was not much better. In this last case, an agreement was possible only after B. Ahern, the chair of the European Council at that time, had held private discussions with all the other heads of government.

Even though the election of the Commission President does not directly involve European citizens, it is still an *election*. That being so it cannot be considered democratic, until it will be clear what each of the potential candidates stands for and which are the European and national parties backing each single candidate. In the attempt of giving solution to this problem, a new procedure for the investment of the Commission President was introduced in the proposed EU Constitution: a majority in the EP would have nominated a candidate, and the European Council would have had to approve the candidate of the EP by QMV. This would have made the Commission President elections much more open and politicized, especially because each party in the EP would have proposed its own candidate in the EP elections, and then tried to build a majority in support of their candidate. But unfortunately the proposal ended up with the failed EU proposed Constitution and was not inserted in the Lisbon Treaty, which at Art. 17 of the TEU currently states that "taking into account the elections to the European Parliament and after having held the appropriate consultations, the European Council, acting by a qualified majority, shall propose to the European Parliament a candidate for President of the Commission. This candidate shall be elected by the European Parliament by a majority of its component members. [...]".²

Nevertheless, the changes in the investment procedure proposed in the Treaty establishing a Constitution for Europe could still be realised. The TEU leaves enough space for manoeuvre to create an open contest for the Commission President under the current procedure, only changing the way the process works at a political level. First of all, as also expressed by the Commission in the recommendation of March 2013, the Euro-parties should declare their support for particular candidates for Commission President before European Parliament elections. The leaders' summits, where every few

¹ Hix, 2008

² Art. 17 TEU

months prime ministers and opposition leaders from the national member parties, the leader of their group in the European Parliament and their commissioners get together, seems to be the ideal place where the discussion leading to the choice of the favourite candidate for each party could take place.

Once nominated, the candidates of each party should present their policy agenda for the five-years term of office as Commission President, which should guide their work if elected. The governments would maintain control over the nomination of the commissioners, but the Commission President would have a clearer mandate for the allocation of Commission portfolios and for the establishment of the multi-annual work programme of the Commission. This would certainly make the Commission President more democratically accountable, especially because the media and the public, knowing the manifestos of each candidate to the Presidency before the elections, would become able to clearly see if the elected President follows his/her manifesto or not.

Finally, the European Parliament should invite candidates to hold a live public debate. A debate would enable the media and the European citizens to clearly recognize each candidate and their personal and policy differences. The European Parliament is probably the best place where the debates could be held, as with its media facilities would be able to broadcast the debates on all the main TV channels in Europe and on the internet.

11. Is more politics the best way to reduce the EU democratic deficit?

All the reforms listed in the previous chapter would bring enormous changes within the current institutional framework of the EU. They would promote more political competition at the European level, which would bring about positive benefits for the accountability of the European institutions, and an improvement in the EU policy-making. The higher level of political competition would also make the political divisions and alliances, inside and across the EU institutions, transparent and understandable by the national politicians, the media, the interest groups and, most importantly, the ordinary citizens. To sum up, what may result from these reforms is that there would start to be public identification of the policy opinions and of the winners and losers in the EU political process.¹ To say it with the Commission President Barroso's words "[...]

¹ Hix, 2008

a European public space where European issues are discussed from a European standpoint”¹ would finally exist.

It may seem counterintuitive, but this result can be achieved without further treaty reforms. If the powers inside the European Parliament were allocated in a less proportional way, there will be more at stake in the EP election both for national and European parties, which would act in a more politically competitive way. If the legislative process in the Council was more transparent and the contest for the Commission President was more open, then more democratic politics in the EU would result. This can be enough to reduce the EU democratic deficit, because the basic provisions for democratic politics already exist in the EU institutional design, which leaves enough space for manoeuvre for implementing these provisions. Above all, it would probably be very difficult for the twenty-seven (soon 28) governments composing the EU to agree to such treaty reforms; and even if most agreed, there would almost certainly be some member states totally opposed. In order to be applied, these reforms do not require anything but the commitment of the key political actors in the EU in filling the existing institutional structure with a democratic political content.

Some may argue that politicize the EU would completely overturn the nature of the EU as it was created. This is true: politicizing the EU would turn the Commission from a non-political actor into a “political executive” and turn the Council into a “political legislature”, something that would change the EU as it was initially thought. But actually the EU of the present days is already different than the EU that the founding fathers had imagined. Since its birth the EU has undergone an enormous number of transformations, which have required and still require an adaptation of its institutions, politics and procedural rules. None would expect the EU 27 (soon EU 28) to be the same as the EU 6, 12 or 15. The shift of the European policy agenda from the internal market to more competitive issues, the bigger number of member states that need to find an agreement, and the growing cultural and political differences between the member states after the various enlargements, make a unanimous agreement more and more difficult to be reached, and consequently require the EU to take fundamentally political decisions in order to be efficient and effective.

Certainly this does not mean that there are no obstacles on the way towards a more politicized European Union. The EU is a Union of States which have asymmetrical populations, and consequently faces the problem of making them count the same in order to keep them together. However, the more democratic the EU becomes, the more

¹ J. M. D. Barroso, 2012 Speech on the State of the Union, http://europa.eu/rapid/press-release_SPEECH-12-596_en.htm

empowered is the European Parliament, being the main institution granting the accountability of the EU executive. And the more empowered is the EP, the more the electors of the different member states will acquire different weights through their deputies. More precisely, electors from bigger member states will count more having more deputies, while electors from smaller member states will count less. A more “parliamentary” EU would only work if in each member state was present only a left-right division, and if this division was represented by analogous political parties (both on the right and on the left side) in all the member states.¹ In reality this does not happen: different member states have different histories, different economic potentials and different cultural backgrounds, which makes really difficult to think that may exist only a political division between them. Moreover, the euro crisis has enhanced other kinds of divisions such as the one between regional areas (North-South) and the one between member states, even if governed by parties from the same political family (see Spain and Germany).

What we can deduce is that more politics in the EU is goal very difficult to achieve, both because of the conformation of the EU and because of the current political and economic situation. Nevertheless, the question we should ask is: do we have choice? Can the EU resist the politicization of its institutions? Assuming a negative answer, the best thing that can be done is to accept the transformation in action and to take advantage of it to make the EU far more effective, legitimate and democratic.

¹ Fabbrini, 2013

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