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THE ROLE OF MULTI-LEVEL PARLIAMENTARISM IN ADDRESSING THE EU'S "DEMOCRATIC DEFICIT"

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ABSTRACT

The article argues that an increased role for the European Parliament and the national parliaments of the member states in the EU's decision-making process can make an important contribution to addressing the Union's "democratic deficit". It identifies the key aspects of the deficit as the uncoupling between decision-making and electoral accountability, the absence of genuine political contestation ("opposition deficit") and the weak monitoring and democratic control of EU institutional actors. It defines the current state of European integration as predominantly intergovernmental and lacking a unified pan-European political sphere, but progressing towards a stronger supranational dimension. It advocates a model centered around three measures: (1) giving the EP the right to legislative initiative; (2) granting a nonbinding right to legislative initiative ("Green Card") to national parliaments; (3) increasing interparliamentary cooperation through an interparliamentary cooperation nexus based on a "COSAC Plus" model.

1. Introduction

The question of the European Union's "democratic deficit" has been raised with increasing frequency, by specialists, politicians and the public alike, as the European integration process deepens. The expression as such actually precedes the EU in its current form, its paternity most often disputed between the Young European Federalists, who claim the first introduction of the concept in their Berlin Manifesto of 1977, and the British author David Marquand, who used it in his 1979 work, *Parliament for Europe*.

We can see right from its genesis that the concept of "democratic deficit" was tied with: (a) supranational integration / federalisation and (b) the idea of a European parliamentarism. Eliminating, or at least reducing this deficit, is a key point in any prescriptive model of EU development. Indeed, some see it as "The Problem" that must be overcome if the Union is to have a real political future.

Less clear however, is, how exactly this deficit should be defined. In the academic

field, there is a remarkable diversity of opinion regarding the nature, importance, or even existence of the EU's "democratic deficit". Indeed, the discussion on the issue tends to raise the same questions as a discussion on the Loch Ness monster: "Is it real? If so, what does it look like and what should we do about it?"

The current paper aims to examine the main issues that characterise the Union's "democratic deficit" and to argue in favour of a partial solution to it, centred on an increased role for the European Parliament (EP) and the national parliaments of the EU member states in the Union's decision and policy making processes. It is not an attempt at a comprehensive and definitive "Solution" to "The Problem", but an argument in support of a specific (and realistically limited) set of measures which can make a positive contribution to a democratic European project.

2. The nature of the beast: What is actually the EU's "democratic deficit"?

As mentioned, the term as such emerged more than four decades ago, seen at first more in the half-philosophical, half-constitutional logic of the grand federal integration projects that always seemed to be tantalizingly just around the corner. After the 1992 Maastricht Treaty, a historic "constitutional leap" for European integration, discussions about the democratic character (or lack thereof) of the new Union became more substantive and applied. A natural step, since the treaty offered the first true blueprint of a pan-European political construction.

The problem of an exact definition for the "democratic deficit" was raised by authors such as MacCormick (1997) or Van Parijs (1998) more than twenty years ago. A concrete solution depends obviously on an exact definition of the problem and usage of the term "deficit" invites a parallel to the field of economics (Would there be an optimal value for such a deficit, for example?). One other big issue is the degree of subjectivity imparted by the role of public perception in defining the problem. The Union's level of democratic accountability is often described as "deficient" with regards to its citizens' expectations. However, as the European integration advances, those expectations rise accordingly - a correlation well underlined by authors such as Iordan Bărbulescu (2015, p.515) - turning the solution to the deficit into a moving target.

A group of authors, most notably G. Majone (1998) and A. Moravcsik (2002), question the very existence of a significant democratic shortcoming of the EU, arguing that the competences of the Union's supranational institutions are: (a) limited; (b) delegated by the member states and (c) carried out under the control of said member states. With Union policies seen chiefly as a set of intergovernmental instruments, the only substantive legitimacy necessary is, obviously, that of the "users" – the national governments. Moravcsik, in particular, argues that most supporters of the deficit thesis tend to compare the Union to a utopian model of representative democracy that simply does not exist in reality. (It's hard not to see the merits of this plea for realism when looking at the state of democracy in some EU members.). By realistic standards, the Union appears to Moravcsik and co. as a successful democratic, transparent and responsive entity.

Expectedly, this perspective has been broadly challenged by a host of authors,

including A. Føllesdal, S. Hix (2006), R. Bellamy (2010) or Weiler (2012). Most of them focus on the idea that the existence of open political competition between different candidates and programmes is a fundamental precondition of genuine democracy, and is conspicuously absent at the EU's supranational level.

A. Weale (1997) carried out an extensive analysis focused on the EU's decision-making authority, its scope and legal framework. He found deficiencies in all three aspects and suggested, as an overarching solution, a constitutional convention followed by ratification by referendum in all member states. This 1997 solution had some difficulties being put into practice the first time, but the need for a legitimising "constitutional moment" continues to be raised by scholars such as Dieter Grimm (2005, 2015, 2017).

More recently (which is to say post-Lisbon), V. Schimdt (2015) identified three dimensions of the EU's "democratic deficit": a lack of influence by European citizens on the EU's decision makers and policies, an "ambiguous" relationship between European and national institutions (the "federal deficit") and the lack of a popular legitimacy of EU institutions due to the absence of a serious debate on their structure and authority (the "constitutional deficit").

A particular critique of the EU's democratic legitimacy concerns an alleged imbalance between social and economic priorities, with undue precedence given to the latter at the expense of the former. Articulated by economy-focused authors such as Caporaso (1996) or Scharpf (1997), it also finds a certain type of support among constitutionalists such as Grimm, who postulates that, throughout the process of integration, certain policy preferences, particularly neoliberal ones, have become "constitutionalised" and, as such, removed from the normal dynamics of political contestation (Grimm: 2015, p. 460-473)

Looking at the "theoretical battle lines", it's clear that the adepts of an intergovernmental paradigm tend to downplay the importance of the deficit, considering that the problem is largely solved by the democratic legitimacy of member states – masters of the treaties and of the Union – while (neo) functionalists and in particular federalists see it as one of the main obstacles to a successful supranational Europe. One could also say that a key difference lies in what is actually being analysed: while intergovernmentalists tend to look at the EU as it is now, the functionalists view the deficit question more in the light of the (usually federal) objectives of the integration process.

Nevertheless, this eclectic mix of academic perspectives does allow us to identify a set of common features which can be used to draw up a broad definition of the EU's "democratic deficit": a disproportion between the amounts of normative power accumulated at the level of EU institutions and those institutions' level of accountability and democratic legitimacy in the use of said power.

Considering democratic accountability and legitimacy as key defining concepts, and drawing upon the substantial quantity of academic analysis on the issue, we can also come up with a list of main issues that need to be addressed in the efforts to alleviate the deficit:

a. The uncoupling between decision-making and electoral accountability

Generally, in national democratic polities, the citizens can express their option, via the ballot box, for a certain political programme and the officials tasked with implementing it. Regular elections give voters the opportunity to sanction or reward their government's policies and conduct. Those governments that no longer enjoy the support of a majority of the population can be voted out. In other words, the "chain of accountability" is clear, as are the competences of the various institutions subject to the popular vote.

In the EU, by contrast, we can see rather a "spider web of electoral accountability", where overlapping strands alternate with obvious gaps. The componence of European institutions is decided by an impressive number of aggregate elections and appointments. What is conspicuously absent is a clear "electoral moment" when citizens can vote on the Union's political agenda. There are elections for the EP, of course, but the Parliament is just a co-legislator (and elections are held in separate national constituencies, more in the logic of national political issues than European ones). The country's representative in the European Council (EC) is normally decided by a national election, but they are one of twenty-seven, and none so far have been elected based mainly on their performance in the Council. The ministers that sit in the Council of the EU are the indirect result of national elections, but, likewise, those elections have practically nothing to do with the Council's activity. The Commission is nominated by the member states and approved by the EP, but the strategic directions of its work programme are essentially the result of compromises negotiated in the EC. A cloud of semi-autonomous bodies and agencies with executive roles hovers around these main institutions, further blurring the lines of accountability. National parliaments are also in the mix, with mostly non-essential prerogatives (that they rarely exercise anyway).

This context, often unclear to EU officials themselves, fosters the phenomenon called by Schmidt "politics without policy", at the national level, versus "policy without politics", at the EU level (Schmidt: 2016). As more and more competences move from the former to the latter, the "chains of accountability" are broken. National voters disaffected with European policies have no other recourse than punishing their national governments at the ballot box, often for decisions that those governments had only limited influence on.

b. The absence of genuine political contestation with regards to EU's "governing programme"

As shown above, European citizens have at best indirect influence on the Union's political priorities. Members of the European Parliament (EMPs) run on a party platform, obviously, but the platform of the majority party does not become the EU's "governing programme", as it would in a national contest. The political agenda is defined via intergovernmental negotiations and implemented by an institution (the Commission) not subject the popular vote. More importantly, a key element of political competition is rendered impossible by the current institutional setup. This is of course, opposition. There is no alternate work programme being advanced by a "shadow Commission" sitting in the EP. In the absence of an organic link between a

stable majority in Parliament and the political make-up of the Commission, this would be utterly pointless. As such, there is little substantive debate on alternatives for EU political priorities. Just as important, there is no actual forum for such a debate, or, to be more accurate, there are several incomplete forums – the EP, the EC and the EU Council – each covering the issue from a specific point of view. There is also what one might term a "technocratic" EU policy debate space, in the non-governmental sphere of specialised think-tanks, but this cannot replace a democratic institutional arena.

The ill-fated *Spitzenkandidat* initiative attempted to address some of these issues by superposing the trappings of a regular parliamentary competition on the EP elections. It met with apparent success in 2014 and failed spectacularly in 2019. We will return to this issue later, but, for now, it suffices to say that the obvious constitutional limitations on the process meant that even in the pseudo-presidential debates of the two campaigns, the candidates had real trouble articulating genuinely competing visions for the EU and quite often the theme ended being, as many commentators put it: "more Europe" vs. "even more Europe".

These constraints have led to a dangerous situation. With no space or conditions for meaningful policy competition, the main political divide in the EP has ended up being between Europhiles and Eurosceptics. Likewise, in national political contests, the voters' inability to express their disapproval of certain European policies has caused them to express disapproval of the EU as a whole – something they can do by voting for their national Eurosceptic parties. This dynamic should also be considered when analysing, for example, the failure of EU treaty referenda in certain member states.

c. *Weak monitoring and democratic control of EU institutional actors*

This can be aptly labelled as the "black box of decision-making" issue. The first precondition of efficient democratic control is transparency, i.e., access to relevant information by the public and those democratic bodies tasked with monitoring executive action. The mechanisms of the EU are largely the creation of senior civil servants and diplomats from the member states, professionals for whom discretion and secrecy are paramount for success. This is not unreasonable, considering that certain EU bodies, chief among them the Council of the EU, are also forums for intergovernmental negotiations, a context in which the possibility of genuine compromise is contingent on a high level of discretion. On the supranational level, certain issues, such as the trade negotiations conducted by the Commission, also require carefully managed information distribution.

The problem is, of course, that "the purpose justifies the means" is not exactly a mantra well invoked in a discussion about democratic accountability. Practical imperatives, however important, cannot take precedence over fundamental democratic principles.

As noted, the Council of the EU is most often the focus of the demands for more transparency and accountability (with the EC usually ranking second). A risk often evoked in the context of these demands is what J. Bohman called "reverse agency" (Bohman: 2007, p.7), when the normal cycle of parliamentary authorisation is inversed and governments leverage EU-level decisions to compel their national legislative bodies to pass certain measures. Habermas was particularly critical of this strategy's

use during the Euro crisis, as "self-authorising" heads of state and government took decisions with substantial impact on their citizens' lives and only afterwards coalesced national parliamentary majorities in support, often under threat of EU sanctions (Habermas: 2012, p.8). This view was also (bluntly) echoed by Philipp Kiiver: "national executives play European legislators under complex and secretive bargaining rules, and their parliaments at home have to accept, possibly implement into national law, binding Union legislation; they are too slow, too uninformed, and often too bored to enforce government accountability for European affairs; parliaments are ignorant of what their governments intend to do in the Council beforehand, and merely watch as the governments scapegoat 'Brussels' for unpopular decisions afterwards." (Kiiver: 2006, p. 229).

Essentially, this can be considered a particular case of the two-level game theory introduced by Putnam in 1988, where member state governments use the results of international negotiations to gain advantages in the domestic political sphere.

3. The state of the Union

Addressing the deficit will have to take into account the context in which any kind of prescriptive model would have to fit, namely the current political and institutional characteristics of the Union. Three aspects appear particularly salient for this endeavour:

a. *The predominantly intergovernmental nature of the Union*

The European construction has remained a fundamentally intergovernmental one throughout its successive incarnations, from the European Coal and Steel Community (ECSC) to today's EU. Even in the periods when functionalism was ostensibly the guiding philosophy of integration, member states have never really surrendered their primacy and control over the supranational mechanisms. The legal foundations of the Union are a series of intergovernmental treaties. States remain, *de jure* and *de facto*, the "masters of the treaties"[1], with the capacity to amend, replace or denounce them. They can leave the Union at will. Member states have a decisive influence on the speed and scope of the integration process, and control EU enlargement. The intergovernmental nature of the EU also means that states will continue to be essential vectors of democratic legitimacy for the Union as a whole, transferring it form the national to the supranational level via the European institutions. Conversely, it also means that the Union's overall legitimacy is contingent on helping member states fulfil their democratic obligation to their citizens. (These two aspects are also supported by the following point "b".)

b. *The lack of a unified pan-European political sphere*

A unified political sphere would entail a common debate arena and integrated space for political competition, as well as a substantial collection of transnational issues that create cross-border political cleavages and alliances. It would also benefit

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1   A well-known 1993 decision of the German Constitutional Court on the ratification of the Maastricht Treaty has enshrined this phrase in EU lore.

from a common media and information space. Most importantly, it would require a unified citizenry, a so-called "European *demos*". Such a *demos* would entail a high degree of interdependence between its citizens, making them equal stakeholders in EU-level decisions (e.g. Christiano: 2010, p. 130-131). It would be predicated upon a common identity that should override current national cleavages. In many ways, European citizenship would have to go beyond being a legal, objective reality and become an affective, subjective one.

Habermas (1974, 1995) argues that a unified European public space is the precondition of a genuine post- and transnational European democracy. In the same vein, a large number of authors consider that the existence of a common political identity is essential for the EU citizens to accept redistributive policies with real costs (e.g. Scharpf: 1999, Zurn: 2000, or Grimm: 2005, 2015). This type of argumentation goes back (often explicitly) to the work of John Stuart Mill (1861), in considering common identity as a requirement for a truly democratic decision-making process and a guarantee that the majority will not abusively use its power against minorities.

In the academic sphere, there seems to be broad consensus with regard to the current absence of a unified political sphere / *demos*. What differs are the solutions offered, which again seem to align on the "aspirational vs. pragmatic" axis. On the one hand, we have authors like Habermas (2012), who advocate the purposeful forging of a strong European identity, superseding national ones. On the other, we have the proponents of the "*demoi*cratic" (Nicolaïdis: 2003, 2013 or Chevenal and Schimmelfennig: 2013) or "republican union" (Collignon: 2004 and most famously Bellamy: 2013, 2019) models, which see the EU as a union of distinct peoples in a network of interconnected national public spaces.

Objective reality seems to favour the second group, at least for the time being. We can observe, however, a "superficial" (obviously with regard to depth not seriousness) pan-European public space. It currently offers limited opportunities for engagement and policy influence at the supranational level to individual citizens, and is still far from being the most consequential arena of political competition. But it can be considered an early stage in the process of interconnecting and integrating national political spaces.

c. The ongoing and evolving character of European integration

Any realistic proposals of EU institutional reform have to address today's issues while at the same time contributing to an effective framework for the future development of the European project. In the current context, the process of integration is still open-ended and still its own objective. This (deliberately) vague (and politically convenient) reality is encapsulated in the expression "ever closer union".

Since its inception, the European construction has moved constantly (although sometimes hesitantly) from the intergovernmental towards the supranational. This stock phrase sums up a complex phenomenon, that is more than just the simple constitutional transfer of areas of competence between governments and institutions. It also covers intra-institutional dynamics and broad societal evolutions. Although EU institutions are generally classified as either intergovernmental or supranational,

this distinction is not absolute. Intergovernmental bodies, in particular those with a permanent schedule working staff, tend to develop a (sometimes quite strong) supranational component. On the other hand, the EU's supranational institutions tend to retain plenty of intergovernmental dynamics. For instance, every five years the magic of the College of Commissioners supposedly transforms 27 senior national politicians into neutral servants of the EU's general interest. The reality is, of course, that each member state also considers "their" Commissioner as representing it at the Commission's decision-making table.

Stone Sweet and Sandholtz (1997) encapsulate this paradigm in their "integrated theory of integration", which sees European policies and processes dynamically distributed along the intergovernmental-supranational axis. While national governments decisively influence the pace of integration, their control of the process is not absolute (Stone Sweet and Sandholtz: 1997, p. 306). As supranational institutions consolidate their competences and autonomy, they start to influence not just the results, but also the rules of EU processes and the behaviours of the other actors. A type of loose "transnational society" thus emerges, gradually becoming a given.

Models for EU development therefore have to take into account this multi-level dynamic, not just the anticipated constitutional, "treaty-to-treaty" evolution of European integration.

4. The development of EU parliamentarism

"Parliamentarisation" has been put forward for a long time as a solution (many times, "the" solution) to the EU's democratic deficit. The vehicle most frequently envisaged for this process is the EP, but member state parliaments are also seen as institutions whose deeper involvement in EU decision-making would strengthen the Union's democratic character.

Of course, in order to ascertain a realistic path forward for the EP and national parliaments in the EU's institutional framework, it is necessary to have an accurate image of their evolution and current powers.

a. The rise of the European Parliament

The EP's history seems to be in itself the institutional projection of the European project's drive to ensure democratic legitimacy and accountability. Fittingly, it is probably the European institution that has undergone the most substantive changes through the years. Its roots go to the very beginning of European integration and the ECSC's Common Assembly, which first met in 1952[2]. (The founders had apparently first intended to use the already existing Council of Europe Parliamentary Assembly, but this was dropped due to British objections[3]). With the establishment of the EEC and Euratom, the Assembly was enlarged and became the European Parliamentary Assembly, and, in 1962, the European Parliament.

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2   The fact that some form of (modest) parliamentary oversight was considered important even at this early stage is an argument that supports both the political and the democratic nature of the integration process.

3   One of the many losses brought about by Brexit will certainly be the disappearance of the beloved phrase "due to British objections", previously a common presence throughout all chapters of EU history.

The 1951 Treaty of Paris was clear on who the Assembly was supposed to represent, namely "the peoples of the member States of the Community" (Article 20), thus setting the institution apart from the ECSC's intergovernmental bodies.

Until 1979, its members were appointed by the member states' national parliaments. The elections of June 1979 took place a mere 22 years after the 1957 Treaty of Rome stipulated that "The Assembly shall draw up proposals for elections by direct universal suffrage in accordance with a uniform procedure in all Member States" (Article 138/3). This was mainly due to the immediately following sentence: "The Council, acting by means of a unanimous vote, shall determine the provisions which it shall recommend to Member States for adoption in accordance with their respective constitutional rules." The problem was connected to the "uniform procedure" required by the treaty. It can be considered one of the European Community's first serious run-ins with the lack of an integrated political space. This particular issue was gracefully kicked down the road as the Council finally agreed to elections (after the EP threatened to go to the European Court of Justice/ECJ), but postponed the issue of voting systems. The "uniform procedure" was mentioned again in the 1992 Maastricht Treaty, followed by the same lack of consensus in the Council. In true European fashion, a workaround, in the form of "common principles" was introduced by the 1997 Amsterdam Treaty. These principles refer to elections "the basis of proportional representation, using the list system or the single transferable vote", the existence of a minimum threshold for the allocation of seats, not exceeding 5% of the valid votes cast at the national level, as well as to incompatibilities with an EP mandate. National laws continue to determine other aspects such as the structure of constituencies or the exact type of electoral system used in each member state.

That the issue of the EP's electoral mechanism has not been fully settled to this day speaks volumes about the objective difficulties of representing the Union's different national political spheres, interconnected as they may be. In this regard, the change from representatives of "the peoples of the member States" in the Paris Treaty to the "representatives of the Union's citizens" (Article 10 of the consolidated Maastricht Treaty/TEU) tends to be aspirational rather than factual. This becomes more evident when considering that EU citizenship, established by the same TEU (Article 20/1), is contingent upon holding the nationality of a member state and "shall be additional to and not replace national citizenship".

Closely connected with the issues of elections is the aspect of political (not just national) representation in the European legislative. The ECSC Common Assembly was, by its own account, the world's first international body that also organised itself in political groups (unanimously decided by the Assembly in 1953)[4]. This was not circumstantial, but a deliberate attempt to strengthen the Assembly's transnational character.

The gradual formation of pan-European parties and interest groups could, in the view of authors such as Bohman (2007: p. 313), compensate for the current fragmentation of the EU's political space. As a matter of fact, this role is mentioned

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4   A detailed analysis of this event, produced by the EP's in-house think-tank, is Salm, Christian, (2019) "The ECSC Common Assembly's decision to create political groups. Writing a new chapter in transnational parliamentary history", *European Parliamentary Research Service*.

in the TEU itself, albeit in somewhat vaguer terms: "Political parties at European level contribute to forming European political awareness and to expressing the will of citizens of the Union" (Article 10/4).

The issue here is, of course, that "European level political parties" are not generated from the grassroots, as part of an organic process. They cannot even be classified as effects of the integration process, but rather as structures deliberately engineered to support it. Bellamy (2013, p. 511) even uses the term "artefacts of the EU". This should by no means be seen as a "bad" thing. European integration has been, since its inception, a top-down, elite-driven process. And it could not have been otherwise. The process was not confined to the elites, though, and has enjoyed broad popular support. The question posed here is to what extent this popular support can be aggregated through pan-European political groups, at this stage. The answer would probably be "some, but not a lot", considering that these groups are: (1) highly heterogeneous, both ideologically and structurally and (2) essentially absent/irrelevant at the national level, where the voters and the salient issues are.

Again, this does not make European parties useless or superfluous. They remain a key vector of political integration and have already achieved some impressive results by increasing dialogue and cooperation between national parties, "socialising" and "Europeanising" political parties in newer member states, and ensuring a strong pro-integration, pro democratisation impetus in the EP. There are, however, still serious limits to what they can achieve at the current level of European political integration.

A leitmotif of any discussion about EU institutions is pointing out that the EP remains, in real terms, the weakest among the "big four" (EC, EP, Council of the EU and Commission). It is true that, for much of its existence, the Parliament has been essentially a consultative body. It has, however, experienced a significant expansion of its competences, especially in latest stages of the integration process.

The Treaty of Paris granted "supervisory powers" to the ECSC Assembly, without filling this expression with much substance. It could ask questions of the High Authority (Article 23) or cause its resignation through a motion of censure (Article 24). In essence, the treaty gave the Assembly two weapons – a toothpick and a nuclear bomb – and nothing much in between.

The Assembly / EP was undeterred by this oversight and set about tenaciously carving a role for itself. A big part of it was positioning the EP as an institutional counterweight to the Commission, which is to say holding the Commission to account on behalf of "the peoples of the Member States". It could only do so via questions, hearings and non-binding statements, of course. But, as the question of the European project's democratic accountability became more salient with the expansion of the European Community/EU's competences, the political costs of ignoring or antagonising the EP grew.

The first "constitutional" increase of the EP's powers came in an area historically seen as fundamental for the development of strong national parliaments: the power of the purse. The two Budgetary Treaties of Luxembourg (1970) and Brussels (1975) gave the EP control over the Union's non-compulsory expenditures, as well as the power to reject the EU's budget in its entirety.

The 1986 Single European Act introduced the cooperation procedure and, for

the first time, the "European legislative" was able to actually participate in legislating, although in a secondary role to the Council. It was, however, the first step in accumulating substantial legislative competences in an increasing number of areas. The Maastricht Treaty introduced the codecision procedure which finally made the EP a co-legislator (again, in a secondary role to the Council). The 1997 Treaty of Amsterdam finally put Parliament on an (mostly) equal footing with the Council in codecision.

This trend would continue until the Treaty of Lisbon, when codecision became the "ordinary legislative procedure" and its remit was expanded to cover most areas of EU activity. In the procedure's framework, the EP is finally on a par with the Council.

The Maastricht Treaty also gave the EP the right of legislative initiative, but a mediated and non-mandatory one. The Parliament has the right to ask the Commission to prepare a proposal, but the Commission is not legally compelled to do so. The Lisbon Treaty has maintained this setup:

"Article 225: The European Parliament may, acting by a majority of its component Members, request the Commission to submit any appropriate proposal on matters on which it considers that a Union act is required for the purpose of implementing the Treaties. If the Commission does not submit a proposal, it shall inform the European Parliament of the reasons."

In parallel, the Parliament's powers of oversight with regards to the Commission also grew. The EP showed its assertiveness (or impatience) on the matter by holding "informal" approval votes on the incoming Commission's work programme in 1981, more than a decade before the Maastricht Treaty obliged and made such a vote compulsory. This "offensive" approach of claiming a key competence before a treaty mandates it, with the argument that, by political and democratic logic, the Parliament should have that competence, was also tried with the *Spitzenkandidat* initiative, with somewhat different results.

The EP really came into its own as an oversight body in the late '90s, when it also claimed its first high-profile scalp, in the form of the hapless Santer Commission. Acting on (confirmed) accusations of financial mismanagement and corruption, the Parliament effectively forced the resignation of the entire Commission in 1999. The case also highlighted a political dynamic in the EP that seemed sometimes to approach that of a national parliament. As the corruption accusations focused on Socialist Commissioner Édith Cresson, the PES group played the role of "supporting majority" for the Commission (also in part because 1999 was a European election year and the high-profile case was seen as damaging for Socialists as a whole). The EPP, despite being President Santer's party, duly fulfilled the role of "opposition".

The Commission's collective resignation was forced in part by the fact that individual Commissioners could not be dismissed, only recalled by their own governments. As France refused to replace Cresson (and she refused to resign), there was only one solution. Later, Cresson would go on to hold the distinction of being the first Commissioner to receive a guilty verdict from the ECJ for her conduct in office.

Subsequent treaties would extend the EP's oversight "toolbox". Per the post-Lisbon TEU *(Article 17/7): "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.*

If he does not obtain the required majority, the European Council, acting by a qualified majority, shall within one month propose a new candidate who shall be elected by the European Parliament following the same procedure.

[…] The President, the High Representative of the Union for Foreign Affairs and Security Policy and the other members of the Commission shall be subject as a body to a vote of consent by the European Parliament. On the basis of this consent the Commission shall be appointed by the European Council, acting by a qualified majority."

The EP still can't pick and choose Commissioners, only validate or reject the President or the Commission as a whole[5]. But the EP's stronger role overall means that the EC will have to compromise, and the less desirable candidates are usually replaced if their parliamentary hearings did not go well.

To sum up, almost 70 years of evolution have made the EP a much stronger institution than many commentators seem to assume. A good question going forward is, of course, what kind of institution, exactly? How does the EP fit in the post-Lisbon framework? What competences could (and should) be its focus and how can they be further developed?

These are not superfluous questions, as parliaments across Europe (and the world) come in all shapes and sizes. This article is not, fortunately, dedicated to a complete taxonomy of global parliaments. It does postulate, however, that the closest model for the EP can be found not in Europe, but across the Atlantic: the U.S. Congress.

P. Dann (2003) considers Congress as the archetype of the "working parliament", by comparison with the "debating parliament" model predominant in Europe. In this definition, the "working parliament" is fully separate from the executive and carries out most of its activity in parliamentary committees, while the "debating parliament" is characterised by the traditional fusion of power between legislative and executive and is, obviously, focused more on plenary debates. Dann classifies the PE as a special type of working parliament, namely a "controlling parliament", whose main role is monitoring the executive's activities.

This approach brings well in focus the EP's defining characteristics: (1) institutional and political autonomy; (2) the lack of a parliament-government political fusion and (3) substantial committee activity.

The EP's autonomy means that, in both legal and practical terms, it does not depend on any other actors in the EU system. Neither the Council nor the Commission can dissolve Parliament or launch early elections. The three institutions are formed through different procedures and have different sources of legitimacy (and power), stated as such in the treaties. By confirming the Commission President and College of Commissioners, the PE does transmit to them some of its own electoral legitimacy, but this is just one of the Commission's sources of legitimacy, and not necessarily the main one. The Commission was designed, after all, to be able to exercise its powers without being dependent on a "parliamentary majority". A further resemblance to the US Congress model (and difference from the Westminster one) is that membership in the Parliament and Commission is mutually exclusive[6].

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5   In loving memory of Édith Cresson, the amended TEU also includes Article 17/6: "A member of the Commission shall resign if the President so requests."

6   A notable exception to this rule in the American model is, of course, the fact that the U.S. Vice President also

Even the PE's motion of censure resembles the US impeachment procedure more than it does the European models. It is not an instrument that ensures a change in the political make-up of the Commission, or the replacement of its work programme, like a regular motion of censure. It is rather a way of sanctioning a breach of ethical or legal norms by members of the College, such as in the Santer/Cresson case. Decker and Sonnicksen (2011, p. 176) even call the motion "a legal principle disguised as a political procedure".

Rather than a "working parliament", perhaps a more appropriate label for the EP is that of "autonomous parliament", as it underlines its key feature. The EP, as it stands today, enjoys a triple autonomy: institutional (its members are not vetted or validated by any of the other institutions and it cannot be dissolved or dismissed by other bodies), political (is not in a majoritarian, political fusion type of relationship with the Commission) and electoral (is directly elected by citizens in its own dedicated procedure).

This autonomy is partly a result of its long-term "outsider", consultative role in the EC/EU decision-making process (or its deliberate sidelining, if using a more critical perspective). The EP has been admirably adept at leveraging this status and creating for itself a role as an independent actor holding the Commission to account (and many times the Council and EC as well).

b. Invisible but indispensable: national parliaments

Member state parliamentarians had an early presence in the European institutional system. They did so as members of the EP, as, until 1979, all MEPs were delegated by their respective national parliaments. Even after the EP started being directly elected there was a certain amount of personnel overlap and being a national parliamentarian did not become incompatible with being an MEP in all member states until 2009. This "parting of the waters" was normal, following the growth of the EP's attributes and the manifold expansion of its work volume.

An important effect was, of course, the clear separation of the EC/EU's "parliamentary dimension" into two increasingly distinct tracks, the national and European. It also brought to an end the type of intrinsic European affairs coordination between member state parliaments afforded by dual membership.

Partly as a reaction to these developments, the Conference of European Community Affairs Committees was established in 1989. It has since changed its name to the more unwieldy "Conference of Parliamentary Committees for Union Affairs of Parliaments of the European Union", but kept the already well-known acronym: COSAC[7]. It brings together members of the EP and the national parliaments' European Affairs Committees (six members per parliament) and meets twice a year, in the states holding the EU Council Presidency.

Member state parliaments were formally acknowledged as institutional actors in their own right in a Declaration annexed to the Maastricht Treaty, that underlined

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serves as the President of the Senate. In practice, however, this office is mostly formal (the VP is even barred from voting except to cast a tie-breaking vote) and day-to-day responsibilities are delegated to a Senate president *pro tempore*.

7 *Conférence des Organes Spécialisés en Affaires Communautaires.*

the importance of "encourage[ing] greater involvement of national Parliaments in the activities of the EU", mainly by intensifying their cooperation with the EP and making sure they receive the Commission's legislative proposals "in good time for information or possible examination". Another Declaration (attached to the same treaty) invited the national parliaments and the EP to meet regularly in a "Conference of Parliaments" and tasked the Presidents of the Council and Commission to regularly report to this Conference "on the state of the Union".

The "Protocol on the Role of National Parliaments in the European Union", annexed to the 1997 Amsterdam Treaty, strengthened the national parliaments' right to review the Commission's legislative proposals and gave them a six-week window to do so, before they were put on the Council's agenda. It also, for the first time, acknowledged the COSAC format ("a conference of Parliamentary Committees for Union Affairs") and allowed it to "submit any contribution it deems appropriate for the attention of the European Parliament, the Council and the Commission".

It was only with the Lisbon Treaty that the national parliaments truly moved from the annexes to the main text and received formal functions. Their existing rights to information were reconfirmed. In addition, they became a part of the evaluation mechanisms for policies in the area of freedom, security and justice, as well as of the revision procedures of the Treaties. They are also formally notified of applications for accession to the Union.

By far the most consequential (and best known) attribute introduced by the Lisbon Treaty is the national parliaments' power to monitor the principle of subsidiarity, the so-called "Yellow Card procedure". If member state parliaments decide with one third of their votes[8] that a legislative proposal breaches the principle, its initiator has the option to "maintain, amend or withdraw the draft"[9] and give reasons for the decision. The threshold is reduced to a quarter in the case of acts in the area of freedom, security and justice. Should opinions of non-compliance represent a simple majority of national parliaments' votes for an act under the ordinary legislative procedure and the Commission chooses to maintain said act, it must submit its reasoned opinion on the matter, as well as those of the national parliaments, to the legislators, for consideration in the procedure.

It's easy to see how the "Yellow Card" moniker was acquired. But there is no "Red Card" option, where opposition by national parliaments could end a legislative initiative and certainly no "Green Card", where the parliaments would themselves have the right to initiative. (Expectedly, both ideas have been floated as possible ways to extend national parliaments' role in the EU system.)

The TEU, as amended by the Lisbon Treaty, also included a provision that, although not granting any additional institutional competences to national parliaments, can be considered equally important. This is Title II: Provisions on Democratic Principles / Article 10: *"(1) The functioning of the Union shall be founded on representative democracy. (2) Citizens are directly represented at Union level in the European Parliament. Member States are represented in the European Council by their Heads of State or Government and in*

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8 Each national parliament gets two votes. In the case of bicameral parliaments, votes are allocated 1/chamber.

9 Treaty of Lisbon, Protocol (No 2) on the Application of the Principles of Subsidiarity and Proportionality.

the Council by their governments, themselves democratically accountable either to their national Parliaments, or to their citizens. (3) Every citizen shall have the right to participate in the democratic life of the Union. Decisions shall be taken as openly and as closely as possible to the citizen. […]".

The Treaty thus acknowledges both the EP and national parliaments as sources of democratic legitimacy for the EU (direct and indirect, respectively). It also mentions, no less importantly, European citizens' right to be involved in the Union's democratic life and have decisions taken "as closely as possible" to them.

The question rises, therefore, as to how national parliaments could best discharge these functions. And the first step in answering this is defining how these statements of principle translate into concrete measures.

The paragraph on democratic accountability refers us back to one of the main dimensions of the democratic deficit, highlighted above, namely the weak monitoring and control of executive actors operating at the EU level (namely in the Council or EC) by their domestic democratic bodies.

The first precondition for the effective exercise of this democratic control function is access to the relevant information. As seen, national parliaments do have a treaty-confirmed right to information with regards to EU initiatives, but this is only part of the equation. This allows parliaments to understand the nature of the issue and send their own feedback and proposals, but it does little to ensure their control over the behaviour of their national governments during the decision-making procedures.

Genuine parliamentary oversight would require both *ex ante* and *ex post* control, essentially approving a mandate for the government at the beginning of negotiations and assessing the results afterwards. An ideal model (and one which would significantly raise the odds of a successful *ex post* evaluation) includes the ability of the parliament to give its input and consult with the government throughout the process.

Formally, most EU parliaments do have a varying degree of control over their executives in the area of EU affairs[10]. The key words here are, of course "formally" and "varying".

Positive examples of parliaments that made efforts to ensure proper information access and oversight come mostly from north-western Europe. This should not be surprising considering the strong parliamentary tradition of countries such as Denmark or the Netherlands (and also, as more cynical commentators might observe, a certain vein of local Euroscepticism).

The Danish *Folketing* is often invoked as a model of good practice when it comes to parliamentary control over EU affairs[11]. Its European affairs committee approves the ministerial mandates for the EU Council reunions. The other parliamentary

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10 An in-depth study on the topic is: Bărbulescu, Iordan Gheorghe; Ion, Oana Andreea; Toderaș, Nicolae (2012), "The coordination of European Affairs at the national level. Government-Parliament cooperation mechanisms in the area of European affairs. A comparative study in EU member states" (published in Romanian, under the original title "*Coordonarea afacerilor europene la nivel național. Mecanisme de colaborare între Guvern şi Parlament în domeniul afacerilor europene. Studiu comparativ în statele membre UE*"), *Strategy and Policy Studies* (SPOS), no.2. Another, commissioned by the EP's Committee on Constitutional Affairs is: Wessels, Wolfgang; Rozenberg, Olivier et co. (2013), "Democratic Control in the Member States of the European Council and the Euro zone summits".

11 The 2013 EP study referenced above places Denmark at the highest level of parliamentary control of EU affairs ("full parliamentarisation").

committees also have the right to summon cabinet ministers for consultations and prepare their own official positions on specific issues on the EU agenda. In Finland[12], the *Eduskunta*'s Grand Committee is tasked with expressing the legislative's formal position on all legislative and budgetary aspects of EU-related issues. The PM and his ministers have the obligation to brief the Grand Committee before and after all EC and EU Council reunions.

The *Bundestag*'s approach is, expectedly, characterised not just by German rigour but also by a keen awareness of the country's role and influence in the EU. The executive-legislative interaction on EU affairs falls under the EUZBBG (the kind of acronym that would discourage even a seasoned Eurocrat), i.e. "The Cooperation Act between the Federal Government and the *Bundestag* in areas regarding the EU" (*Gesetz über die Zusammenarbeit von Bundesregierungund Deutschem Bundestag in Angelegenheiten der Europäischen Union*). Adopted in 2013, after gentle prodding from the German Constitutional Court (which could be called one of the most influential EU institutions in its own right), the act imposes substantial obligations on the federal government to inform, report and grant access to EU documents. These obligations cover not just EC and EU Council reunions, but also the activities of preparatory bodies and working groups. The cabinet has to inform the legislative about all Commission acts, the substance of the trialogues or the Eurogroup discussions. It even has the "early warning" obligation (at least once per trimester) regarding any upcoming relevant developments. Once the *Bundestag* adopts an official opinion on an EU issue, the executive must use it as the basis of its negotiating mandate. If said mandate cannot be fulfilled in its initial form, national representatives in EU formats must invoke the parliamentary scrutiny reserve and get the *Bundestag*'s assent on a new mandate.

In addition to benefiting from this generous legal framework, the Bundestag is also one of the few EU parliaments with the actual resources and political will to enforce it. As mentioned, most member state legislatures do not lack legal attributes in this regard. But domestic political dynamics, in particular the tendency towards "executive dominance" manifesting in many countries, often make it a hollow and formal procedure. The resulting high degree of latitude and expediency may serve the government well in the short term, but its negative effects are already beginning to show. Squeezed between the increased scope of EU policies and national executive dominance, member state parliaments are the prime casualties of the "policy without politics / politics without policy" phenomenon. The relative decrease in their normative power is accompanied by a corresponding loss in their importance as political debate arenas. These losses are not yet compensated by a proportionate increase in the democratic representativity and accountability of EU institutions. Member state citizens see the importance of their national vote gradually diminishing. Under these circumstances, it is unsurprising that "Take back control" was one of the more effective Brexit slogans.

In many ways the current situation is not unexpected, considering all the variables of the integration process and the effects of a succession of crises on its speed and depth. Perfectly balancing national, intergovernmental and supranational

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12   Like Denmark, one of the states that tend to show up in the "best in class" column of comparative studies. The 2013 EP analysis places Finland as an example of the "expert model" of parliamentary oversight.

mechanisms would have been difficult even at the best of times. So, as one famous European once asked: "What Is to Be Done?"

c. The Great Leap Sideways: the Spitzenkandidat initiative

For some authors, the answer was obvious: an urgent injection of "politics" (and corresponding democratic legitimacy) at the EU's supranational level. Enter the *Spitzenkandidat* initiative, the latest (and most-publicised) chapter in the EP's quest for a stronger institutional role.

A type of direct election for the Commission President was suggested by authors including Bogdanor (as early as 1986), Hix (1998, and together with Føllesdal in 2006), or Kumm, Maduro and de Witte (2012). Unsurprisingly, the EP, as well as federalist politicians, embraced this idea as an important step towards solving the EU's democratic deficit, while maintaining the momentum of European political integration. Just as unsurprisingly, the EC and member state governments were less than enthusiastic about the setup.

It was nevertheless put into practice in the 2014 EP elections, which saw the EPP's Jean Claude Juncker and the PES's Martin Schulz emerge as the two main *Spitzenkandidaten*. Begrudgingly accepted by the EC, Juncker went on to be the next Commission President and the *Spitzenkandidat* system seemed to have come to stay. However, just one round of European elections later, in 2019, it imploded ignominiously. Ursula von der Leyen became President despite not being put forward as a lead candidate by any of the EP parties. The *Spitzenkandidat* project was pronounced dead by many commentators, although plenty of others predicted a return in 2024 (and the EP has certainly not thrown in the towel).

The mixed conclusions are not surprising, considering how context-dependent the result was in both cases. In 2014, the EP was able to have its way largely because the two main parties – the EPP and PES – held a majority between them and both supported the *Spitzenkandidat* system. A logical position, considering both of them had good reason to believe that the winning candidate was likely to come, for the foreseeable future, from the ranks of one or the other. Parliament was thus able to effectively "hold the EC hostage". Both main parties also proved adept at selecting suitable candidates. It can be easily argued that Juncker's acceptance by the heads of state and government was in no small part due to the fact that he was the exact type of candidate the EC had favoured in the past.

The 2019 elections, however, delivered a different EP configuration, with the EPP-PES "grand alliance" losing the majority and the *Renew Europe* group emerging as a third force. Substantial gains were also made by the *Identity and Democracy* nationalist-Eurosceptic group. This shake-up meant that it was much more difficult for Parliament to present a united pro- *Spitzenkandidat* front. But what allowed the EC to deliver the decisive blow was arguably the profile of the 2019 candidates, which made their rejection easy and politically affordable. The PPE in particular manage to redefine the concept of "lowest common denominator" by nominating Manfred Weber, who notably seemed to lack any of the skills or experience needed to lead the Commission through one of the EU's most difficult periods. Socialist candidate Frans Timmermans

had a more solid resume, but also lacked the kind of name recognition that would energise the broad European electorate[13]. Predictably, voters were unimpressed by the 2019 crop of candidates, and so was the EC.

Analysing the life cycle of *Spitzenkandidat* initiative can prove very useful for the discussion on addressing the EU's democratic deficit and, in particular, on the EP's possible role.

The main issue is that the initiative sought to graft a "classical" parliamentary model on a reality that did not support it, either constitutionally or politically. The normative linchpin of the entire project was a very broad interpretation of the TEU's Article 17/7, which required the EC to "take into account" the EP elections when putting forward a candidate for President of the Commission. The EC had quite sensibly interpreted this provision as an imperative to select a candidate that can secure a favourable vote in the EP and to ensure that the College as a whole reflects the political distribution in Parliament. By contrast, proponents of the *Spitzenkandidat* system sought to effectively reverse the nomination-validation cycle, reducing the EC to the formal role of confirming the EP's preferred candidate. In a circular logic, the EP plenary would then vote for the candidate that the EP itself had proposed.

In the absence of an integrated pan-European political sphere no *Spitzenkandidat* could honestly claim the kind of electoral mandate a national prime-minister has. They could not claim to credibly represent a unified electorate on a set of salient transnational political issues (due to the structure of European elections they could only be on the ballot in one of the nationally-defined circumscriptions anyway).

Structurally, neither the Commission nor the EP allow for the kind of "Westminster" or "Bundestag" dynamic envisaged by the *Spitzenkandidat* system. The Commission President has a (very) limited input in the selection of the Commissioners or the structure of the work programme. Candidate platforms could only be broad and vague. In both the 2014 and 2019 European elections major party candidates struggled to distinguish themselves from their opponents on any meaningful issue.

At the same time, EP political groups do not yet have the political or structural cohesion needed for a stable "governing majority". Nor have they established the kind of connection to the voters that would allow them to be a viable confidence-supplying interface between the "government" and its electorate. As mentioned before, there is also no space for a traditional "parliamentary opposition", an essential democratic balance element.

In short, the system would have profoundly redefined the EP's institutional and political profile (and arguably, this was the intent of its proponents), from an "autonomous parliament" to a confidence-supplying one, without having any of the preconditions in place. Often overlooked are the equally profound changes that it would have required of the Commission. By design, that body must be independent of national influences and politically neutral. Independence and neutrality (even if they are often relative and aspirational), are basic requirements if the Commission is to credibly claim to "promote the general interest of the Union" and to fulfil its role as "guardian

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13 Ironically, outside his own country, he was probably best known in those Eastern European states whose governments he had come into conflict with, usually on rule of law issues.

of the treaties" and, more recently, as "guardian of fiscal discipline"[14]. How would a majoritarian-logic Commission relate to the other groups in the EP or to member state governments of a different political colour? How should those governments relate to a different-colour Commission, considering their own domestic mandate and electoral imperatives? One of the risks would be that this "government-opposition" dynamic would be discharged in other bodies, most notably in the EU Council.

Fortunately, "How would a *Spitzenkandidat* Commission would look like?" is not just a rhetorical question, since we've already had one, the Juncker Commission. The answer: pretty much the same as a regular Commission. While Mr. Juncker did state his intent to lead a "political" Commission, in practice all actors involved, including the EP, understood quite well the limits of the current institutional and political framework. A commendable use of common sense across the board, but one which drove another nail into the *Spitzenkandidat*'s coffin. As European voters saw no discernible benefits from the system, they had no reason to be invested in it.

In her *captatio benevolentiae* to the EP, President von der Leyen pledged to "improve the lead candidate, or *Spitzenkandidaten*, system" together with the Parliament[15]. It remains to be seen if and how this can come about.

5. A more modest proposal

The failure of the *Spitzenkandidat* initiative underscored once again the need for realistic expectations. Leapfrogging a stage or two of European integration is always tempting, but it may well compromise the long-term perspectives of a sustainable European community.

Authors such as Dahl (1989) and Bellamy (2013) draw attention to the risks of forcibly trying to create a unitary "EU *demos*" at this time, which would invariably be bogged down by factional politics and irreconcilable positions. The political and institutional infrastructure needed to support such a high degree of supranational political integration just isn't there yet.

However, one of the things that the *Spitzenkandidat* proponents got right is that the EP is an important part of the solution to the current "democratic dilemma". I would argue that another part is related to the role of national parliaments. They are, in some aspects, even more important than the European legislature in addressing the set of outstanding issues.

At this stage of EU political integration (i.e., in the absence of a unitary pan-European political space), parliaments are still the key link between Union-level decision making and electoral accountability. This link can be reinforced in two ways: by strengthening the accountability of member state executives acting in the Council and the EC to their own national parliaments and by giving parliaments themselves a bigger role in the decision-making process. Increased involvement should also revitalise parliaments' role as relevant debate spaces, addressing the "policy/politics" issue and compensating the "opposition deficit" at the supranational level. This would go a long

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14   It can be argued that this particular role simultaneously requires and undermines the Commission's national and political neutrality, since it actually requires the implementation of certain policy preferences.

15   *Political Guidelines for the next European Commission 2019-2024*

way towards bringing EU politics "*as closely as possible to the citizen*".

The EP's institutional importance and role as vector of democratic legitimacy will likely keep increasing as integration progresses. While it is still a long way from being able to assume the prerogatives of a Westminster or Bundestag-style parliament in a supranational European system, it has gradually acquired substantial powers and an institutional identity that plays an important oversight and balancing role with regard to the other Union bodies. A prescriptive proposal for the EP will best work by leaning into this identity as an "autonomous/working/controlling" parliament. The scope of any change will have to take into account the need to preserve the current intergovernmental/supranational power balance in the EU, which best reflects and serves the current level of integration, as well as its medium-term perspectives.

Bearing this in mind, a number of proposals for addressing the "democratic deficit" and ensuring the further sustainable progress of European integration appear feasible:

a. Giving the EP the full right to legislative initiative

This has obviously been an objective of the EP for quite a while and, in a number of arrangements with the Commission and EU Council, it has sought (per its tried-and-true strategy), to secure the attribute *de facto*, before having it formalised by a treaty. The current "Interinstitutional agreement on better law making" (signed in 2016), states that the Commission will "duly take account of the views expressed by the European Parliament and the Council at each stage of the dialogue, including their requests for initiatives" and establishes joint (EP-Council-Commission) declarations on annual interinstitutional programming, containing legislative priorities. The Commission must reply to legislative initiative requests within three months. Should it reject such a request, "it will inform the institution concerned of the detailed reasons, and will provide, where appropriate, an analysis of possible alternatives and respond to any issues raised by the co-legislators".

In many ways, the EP has earned an upgrade. It is generally considered a competent and reliable co-legislator[16] and the quality of its committee work (as reflected in reports and other output) is consistently high (in all fairness, the resources available to the EP dwarf those of most national legislatures). It has also staked out strong roles as defender of the public interest and promoter of European integration.

Granting an unmediated right to initiative to the EP would require the redesign of the ordinary legislative procedure, as the Commission would find itself with an unclear role in the case of a Parliament initiative. The best course of action appears to be maintaining the Commission's formal monopoly on legislative initiative, but making a request from the EP binding rather than optional. In effect, it would entail (eventually) amending Article 225 of the Lisbon Treaty. But, like in previous cases, this obligation could be first assumed voluntarily, as part of a new Commission-Council-EP interinstitutional agreement.

This particular objective may actually be in sight, as President von der Leyen has officially stated her support for "a right of initiative for the European Parliament"

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16 The fact that codecision worked well enough to be transformed into the ordinary legislative procedure (and have its remit greatly expanded) is a good general indicator of the EP's job performance.

in the current Commission's Political Guidelines. She has committed to respond "with a legislative act […] in full respect of the proportionality, subsidiarity and better law-making principles" when "Parliament, acting by a majority of its members, adopts resolutions requesting that the Commission submit legislative proposals". Von der Leyen also pledged to increase the Commission's degree of accountability to the EP by briefing Parliament "at all stages of all international negotiations, following the mould set by the Brexit negotiations". We can probably say with a high degree of certainty that if this "dry run" of the EP's right to initiative proves successful it will be enshrined in the next EU treaty.

b. Granting the "Green Card" to national parliaments

While strengthening the EP's institutional role is a step in the right direction, there are issues that national parliaments are better equipped to address. Giving them a proactive role in the legislative process would leverage their intrinsic advantages and proximity to citizens. It would also stimulate a more substantive engagement between national legislatures and supranational institutions, such as the Commission. In addition to expanding the Union's political debate space and bringing it closer to the average citizen, member state parliaments can fulfil a crucial role in embedding EU issues in national politics - what analysts like Krögera and Bellamy (2016) call "domestication" - essential for the creation of a pan-European political space. They are also able to provide feedback to the Commission from a much broader section of the national political spectrum than the governments represented in the Council. This can contribute significantly to tailoring EU policies to individual national needs and conditions – an ever more pressing need since the successive waves of enlargement have led to a very diverse Union.

Once again, this is something some national legislatures (the Danish and Dutch most prominently[17]) have already advocated for. In fact, in 2015, taking a page from the EP playbook, 16 national chambers, led by the UK House of Lords, sent a collective legislative proposal to the Juncker Commission. Their letter explicitly expressed the hope that it would serve as a precedent for a "Green Card" system[18]. It (quite obviously) did not, as the Commission chose a prudent middle ground by taking on board some of the parliamentary requests, but carefully avoiding any reference to any such system. The fact that the initiative had some success was also due to the initiators' careful choice of a non-controversial, politically advantageous topic – reducing food waste. The next attempts, including one on corporate social responsibility, were not so lucky and were rejected outright by a precedent-wary Commission.

As an EP full right of initiative looks more and more like a certainty in the near future, it makes sense to proportionally "upgrade" the national parliaments. A logical step would be to grant them the kind of nonbinding right the EP legally has now. The Commission would not be obligated to legislate at the national parliament's request, but it would have to acknowledge it and give reasons for any refusal.

One of the problems in this case could be precisely the promise made by

17 The UK parliament was, expectedly, one of the strongest promoters. One can only speculate now what effect the adoption of such a measure would have had on the "Take back control" argument for Brexit.

18 *Food waste: a proposal by national parliaments to the European Commission*, 22 July 2015

President von der Leyen to the EP. Having the coveted right of initiative seemingly within reach is likely to make the EP even more reluctant to share it with national parliaments. This "interparliamentary rivalry", which sometimes manifests visibly, is one of the aspects that will need to be managed as the national and European legislatives' relative importance in the EU institutional system grows over time.

c. Increasing interparliamentary cooperation

This would serve a threefold purpose: (1) to constructively leverage the national parliaments' increased EU-level legislative role (particularly if they acquire a "Green Card"-type attribute); (2) improve interaction and coordination between member state legislatures and the EP; (3) help generate and promote best practices in exercising national parliaments' scrutiny and accountability roles *vis-à-vis* their national governments in European affairs.

The COSAC is the obvious choice of vehicle for increasing interparliamentary dialogue and cooperation. Its scope would have to be broadened, however, considering that "EU affairs" are no longer the exclusive remit of EU affairs committees. As an increasing number of policies have a substantial European dimension (and over time quite a few of them shift towards being primarily EU policies), a "COSAC Plus" could become a type of interparliamentary cooperation nexus, with the European affairs committees still its backbone, but providing a space and format for the interaction of other relevant parliamentary committees. The Interparliamentary Conference for the CFSP/CSDP would be an important component of such a multidisciplinary transnational nexus. This would also require a (much) bigger support structure (the COSAC Secretariat currently has one Permanent Member and usually five or six rotating members delegated by parliaments). On the technical side, the Interparliamentary EU Information Exchange (IPEX) could also be more actively used to inform and help coordinate member parliaments.

Increased coordination at the European level would also help national parliaments better discharge their scrutiny rights at home. It is not hard to imagine, for instance, a set of (formal or informal) EU-wide parliamentary scrutiny best practices and standards.

A key aspect is related to the readiness of national parliaments themselves for an increased level of transnational cooperation, and a bigger EU role in general. It is quite certain that most, if not all, of them would require supplementary human and material resources. This should not be regarded as a superfluous expense. As European integration moves forward, a substantial number of professional staffers with EU expertise will be needed anyway, in order for parliaments to carry out their domestic legislative duties.

6. Conclusions

As underlined in the beginning of this article, the "democratic deficit" is not a rigidly defined constant, but rather a context-sensitive variable. Its importance (indeed its very existence) is dependent on one's views of the EU – what it is and, more importantly, what it is supposed to be. Consequently, there can be no definitive verdict

on the deficit issue until an integration end state (meaning the final constitutional, political and geographical parameters of the Union) has been clearly defined. The current lack of consensus on this final destination is reflected in the varying academic viewpoints on the deficit. While intergovernmentalists may see it as a relatively minor issue, unjustifiably amplified by poor communication and distorted public perception, post-functionalists or federalists (the latter being the group with probably the best-defined objective of European integration) consider it something that needs to be addressed in order to achieve a genuine European political community.

The scope of the present article does not, unfortunately, allow for a full presentation of all theoretical viewpoints. The argumentation and solutions presented presume the fact that the deficit does exist and its nature is dynamic (and, at this point, manageable without the need to fundamentally alter the nature of the Union).

A certain amount of "democratic deficit" is an intrinsic effect of the ongoing integration process. As competences are redistributed among the national, intergovernmental and supranational levels of the EU, imbalances between legitimacy and power are bound to happen. Due to the fundamental role of democratic principles in the Union's architecture, and to the democratic nature of its member states (most member states, at least), this deficit has not affected the core democratic nature of the European project. However, it would be a serious mistake to leave it unaddressed or attempt to compensate it with "output legitimacy" for too long. As we have seen with Brexit and the rise of Eurosceptic parties, even the appearance of a such a deficit can lead to citizens losing faith in the EU.

The progress of European integration will require an increasing degree of "parliamentarisation" sooner or later. Baring any remarkable social or technological leaps, the representative legislative assembly will remain a centrepiece of democratic political systems. A strong parliamentary component is necessary to ensure not just legitimacy and representativity in the EU system, but also institutional balance and separation of powers.

The dual-track approach proposed in this paper takes into account both the current stage of the integration process (still predominantly intergovernmental but slowly progressing towards a stronger supranational dimension) and the state of the EU's political environment (no integrated pan-European space yet, with national spheres remining the primary political spaces for citizens).

In this model, the EP consolidates its status as an "autonomous parliament", a strong co-legislator and counterweight to the other institutions. So far, it has proven the capabilities and political acumen to exercise its powers responsibly. It may, in the long term, evolve into the Union's primary legislative and policy debate space, but that moment is still far away. Overenthusiastic attempts to force it and the Commission into "Westminsterian" roles they are not designed or legitimised for are unlikely to do much good. A *Spitzenkandidat*-type system will probably still be advocated by the EP (if only as a face-saving measure), but it is hard to see how it could produce more profound changes, at this stage, than the Juncker Commission did.

National parliaments are currently the best-placed actors to address the "policy without politics" and "opposition deficit" issues. They can do this by providing a political debate space that is relevant and close to member state citizens, and by

transposing EU issues in the national political spheres ("domestication"). But fostering these roles requires meaningful attributes for the national parliaments, beyond that of subsidiarity watchdogs. A non-binding, mediated right of legislative initiative is a logical step forward, which makes use of parliaments' most important capabilities. It also encourages them to increase their engagement on European issues, both vertically (with their own electorates and EU institutions) and horizontally (with the other member state parliaments).

A consolidated interparliamentary cooperation nexus is necessary if national legislatures are to use their powers in an efficient and meaningful way. We probably will not be able to speak of a "third legislative chamber" of the Union (in addition to the EP and the Council) for quite some time, but strengthening this second dimension of EU parliamentarism is a major step in ensuring decisions are "taken as openly and as closely as possible to the citizen", as the TEU demands.

The solutions suggested can help address a set of key aspects of the EU's "democratic deficit" and do so in a realistic manner. They are all well within reach and the Union itself is structurally and politically ready for them. In keeping with the logic of the European integration process so far, the answer seems to be again evolution, rather than revolution.

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