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Democracy in EU institutions after the Reform Treaty

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For five decades since its inception the European Community, later the Union, has managed to advance without stating explicitly its goals, leaving some to believe that it was to become a federal political entity, others that it was and would remain a confederation of sovereign states sharing competences as required by specific common goals. In reality, the Union has developed as something in between, sharing features of a federation and a confederation; the Court of Justice has derived from Community laws rights for individuals that can override national laws.

The legitimacy of common institutions has been mainly ensured by the consensus of the member states, closely in control of decisions through Council committees, and the increasing involvement of organised interest groups in the making of legislation, faraway from the scrutiny of national parliaments and public opinions. The European Parliament has played a role in fostering more transparent decision-making and holding the Commission to account, but has not been in control of the main Community policies, such as agriculture, the composition of the budget and the coordination of economic policies; therefore, it has not managed to become the relevant public space for political debates at European level, as clearly shown by decreasing participation in European elections. Thus, democratic control over the transfer of competences to Brussels and their exercise has been weak; the tacit agreement of the citizens has rested more on the peace and prosperity associated with European integration than on its democratic characteristics.

Since the Nineties, this 'permissive consensus' has started to brake down, as citizens demanded greater control over integration policies, enlargement decisions and the exercise of new Union powers, notably in the domains of internal and external security. The Reform Treaty recently agreed in Brussels opens new spaces of democratic control

within European institutions which, if utilised, can go some way in restoring democratic support to the Union.

First, the decision to drop all reference to a constitution and statehood in the new Treaty implies that a fully-fledged European federal state is no longer in the cards. Moreover, the European Council becomes a Union institution, with a stable president operating in Brussels; stronger Union powers in foreign and domestic security matters will be exercised under tight control by the member states. Thus, goal ambiguity is eliminated, at least for the foreseeable future; while the competences entrusted to the Union may still change, the existing equilibrium between federal and confederal decision making is there to stay.

Second, the new Protocols on the Role of National Parliaments and on the Application of the Principles of Subsidiarity and Proportionality have placed an effective check on the creeping transfer of powers to Brussels. National parliaments will be empowered to ask for a review of legislation under consideration in the European Parliament and Council that they deem in contrast with subsidiarity; the member states and national parliaments will be able to bring Union institutions before the Court of Justice for infringement of the principle of subsidiarity by a European legislative act. It has also been clarified that Article 308 of the EC Treaty – whereby the Council can undertake action not provided for in the treaties in order to attain one of the objectives of the Community – cannot be used to increase Union competences.

Third, while quite appropriately the control of subsidiarity has been entrusted to national democratic institutions, the European Parliament has acquired new powers in the functioning of the Union: it will elect the Commission president and it will co-decide the spending programmes in the multi-year financial perspectives, not only in the yearly budget as is now the case. These changes open the possibility to give new meaning to the European election, by presenting the electorate with different candidates for Commission president with different budgetary programmes. There will be scope for truly Europe-wide political debates on Union priorities.

Finally, one potentially important improvement derives from the fact that there will be two treaties: a Treaty on the Union and a Treaty on the Functioning of the Union. The first one will be a sort of 'fundamental law', setting the rules of the game that everybody

must respect at all times; whereas the second will contain provisions on specific policies, on which political dissent will be able to emerge without calling into question the common institutions. The door is open for EU-wide partisan debates on policy priorities.

European institutions were originally conceived as not only supranational, but also *super-partes* and somehow politically neutral, in many ways more similar to executive agencies than to government institutions. For this reason, the democratic deficit of EU institutions cannot be eliminated by simply copying national democratic procedures. The Reform Treaty has skilfully opened new spaces of democratic accountability within Union institutions that do not endanger their functioning; practical experimentation will tell what works and what doesn't work and will show the direction for further progress.

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