DEMOCRATIC DEFICIT IN THE EUROPEAN UNION

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Abstract

In this paper we are analyzing the problem of the democratic deficit, which makes the European Union to look more like a strange spaceship rather than an institution created by people for the sake of mutual cooperation and peace-raising in Europe. The fact that the European citizens are more concerned about their national elections and they pay less attention to the elections for the European Parliament has to be explained by the lack of real communication between the EU institutions and the people, or by that high degree of bureaucratization which characterizes the actual structures of the EU. It is very hard for the citizens to keep accountability of the European high-level decisions, as well as for decision makers to justify every step towards millions of people who are targeted by these. We are following the Paul Magnette's approach to have an insight view of the situation and, while trying to solve it, we must not at all forget that this problem is not a false one, but a real issue of legitimacy of European institutions in the people's eyes.

Keywords: democratic deficit, EU, Magnette's approach, accountability, legitimacy

Résumé

Dans ce papier on va analiser le problème du déficit démocratique, ce qu'il fait d'Union Européenne plus un *objet politique non-identifié* q'une institution crée par des gens avec le but d'une cooperation mutuelle et de la paix en Europe. Le fait que les citoyens européens sont plus préoccupés de l'élections nationales, en payant moins d'attention aux élections européennes doit être expliqué par le manque d'une communication réelle entre les institutions de l'Union Européenne et les personnes et par un haut degré de bureaucratisation qui caractérisent les structures actuelles de l'Union Européenne. C'est très difficile pour les citoyens d'être au courant avec toutes les décisions européennes prises à haut niveau et c'est la même chose pour les décideurs de justifier chaque action. On suit la démarche de Paul Magnette pour une vue d'ensemble sur la situation et, en essayant de la résoudre, il ne faut pas oublier que ça n'est pas un faux problème, mais un manque réel de légitimité des institutions européennes aux yeux des citoyens.

Mots-clé: déficit démocratique, UE (l'Union Européenne), la démarche de Paul Magnette, responsabilité, légitimité

Rezumat

În această lucrare vom analiza problema deficitului democratic, care face ca Uniunea Europeană să semene mai degrabă cu un *obiect politic neidentificat* decât cu o instituție creată de oameni în scopul cooperării mutuale și al păcii în Europa. Faptul că cetățenii europeni sunt mai preocupați de alegerile naționale, acordând mai puțină atenție

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celor pentru Parlamentul European trebuie explicat prin lipsa unei comunicări reale între instituţiile UE şi persoane, sau prin acel grad înalt de birocratizare care caracterizează actualele structuri ale UE. Este foarte dificil ca cetăţenii să fie la curent cu toate deciziile europene la nivel înalt, la fel cum este şi pentru decidenţi să justifice fiecare pas milioanelor de resortisanţi. Urmărim demersul lui Paul Magnette pentru o vedere de ansamblu a situaţiei şi, în încercarea de a o rezolva, nu trebuie să uităm că aceasta nu este o falsă problemă, ci o reală lipsă de legitimitate a instituţiilor europene în ochii cetăţenilor.

Cuvinte cheie: deficit democratic, UE (Uniunea Europeană), demersul lui Magnette, responsabilizare, legitimitate

In this essay we have as purpose to understand why the European Union (EU) is having so many problems regarding its own legitimacy, why the democratic deficit is getting higher and higher and also why it is so important for this European entity to achieve bigger legitimacy instead of continuing this rather meteoric trip through some stars that nobody can see from the Earth. This would be the stake. As it is now, the EU seems more like a strange spaceship with an obscure utility, which just can be seen, but not also understood. We do not even know if it is dangerous for us Europeans, if it menaces, even against its will, to destroy the cultural roots of Europe itself, the regional identities and traditions, by promoting an exacerbating globalism which leads to the constituency of new societies, new rules and new people, a perspective which for surely provokes a kind of vague fear and unrest between many of us.

Europe tends to be so modern over the night, not in a natural way, I would say. Some centuries ago, Europeans were generally convinced of, why not recognize it, the superiority of the white race and, in the name of this abstract theory, European powers had free hand to expand their territories by colonizing other states, not behaving in a very gentle manner with the obeyed people, thinking (or at least proclaiming) they are "civilizing" the barbarian populations. This is how Inca or Maya cultures were destroyed, to mention just an example. We do remember that, in those times, colonizing powers were in an almost direct competition: who succeeds in conquering more space, more populations and more resources? (And this happened long before the Third Reich's famous theory of the *Lebensraum*). There were tense naval battles in order to control the routes to the New World in the 16th century (between England and Spain, to name just a case).

Browsing through a much more closer historical period, we should not forget that the both most powerful conflicts of the 20th century, the World War I and the World War II were located in Europe and the flame was starting every time here, in Europe. Let's also have a look inside the almost whole second part of the 20th century, when we find a strong-divided Europe, not only metaphorically separated by an ideological and famous "iron curtain", but also by a tangible and deadly, very concrete Berlin Wall. This separation was not only political, but also economical and military. In an opposition to European Economic Community, the Eastern

communist block has created the Council for Mutual Economic Assistance (CoMEcon). As a response to the NATO military alliance, the Eastern block constituted the Treaty of Friendship, Cooperation and Mutual Assistance, better known under the name of Warsaw Pact. And each of the sides did this in the name of the mutual defense against the other one. Every of these examples are showing us how fragile is in fact Europe and that we cannot dream too early of a historical 100% understanding. To give an example, in military matters, countries tend to judge more from a national perspective: if it is profitable for us as a nation, we get into the war; if not, we better avoid it. The events are showing that European countries still have a long way until a perfect cooperation, if that is possible.

Some might argue to this point, stating that, in fact, EU is working great, because there are free borders now, people can travel and establish their lives in a different territory much easier than before, economically the EU is not doing so bad (as entity) and that all this is enough, we do not need any further improvement or deeper process. And this is one of the reasons why many Europeans look reluctant in giving the EU more legitimacy than now. They fear that some of the EU's decisions will affect their lives, starting with job situation and ending with personal safety: it is already well-known the myth of the polish fitter (plumber) who will take away jobs of the French people, because he will be less-paid and the companies will prefer spending less money with him rather than more money with a native; or, the myths about the "thieves invasion" and powerful media campaigns before Bulgaria and Romania joined the EU in 2007. What to say about Turkey, a country with a Muslim majority, to join the EU? These all reflect nothing but fear and uncertainty regarding the future. This is why to many it looks that Europe has taken too big steps, and this is why there is a gap between European policy-making and the people's approval. This is why people do not hurry to vote in European elections so we can talk about some lack of legitimacy at the EU level.

The EU Council is practically not directly chosen by people. At the EU parliament level, there is a kind of representative democracy, but it is much diluted. And it gets more and more diluted with every EU enlargement, because, if talking in percentages, a representative must take care of much many voters than before, so its representivity is not as strong and compact as before and therefore the interests are more dissipated. Besides, a voter is voting for a party when going to the elections, but in the EU parliament those parties are losing themselves into bigger groups, can join a group or alliance ideologically different, and this way the primary connection between the voter and the party is lost, leading to an increasing mistrust and disorientation regarding the whole process.

We hope this introduction clarifies a bit the concerns some people have regarding the EU strength to modify their lives. Going more into the problem, we can resume a bit what it is understood by the collocation "democratic deficit": "the EU institutional system is too complex, too far-away of citizens, disconnected of the real daily life problems, that its decision-making mechanism privilege the

executive rather than the legislative, in the detriment of local and territorial collectivities, of syndicates and associations. Graver, even though each treaty revision claimed that it has solved this thorny problem, it never ceased to aggravate. And the fact that at the European elections the turnout is so reduced it is one of the most obvious signs of civic confusion which EU, this "cold monster", has unleashed" (Magnette 2003, p. 53).

The Origins of the democratic deficit – law specialists, political analysts, philosophers, economists, each of them are trying to tackle with the problem from one or another perspective. We will give credits to Paul Magnette and we will use his approach in the presentation of some hypothesis, without any pretension of being exhaustive.

A. The realistic view – Europe of states: the dominant idea for a long period of time was that the Europe is a classic international organization, created and governed by the states. This is also one of the favorites approaches of the former French president Charles de Gaulle: "a frequent association between responsible governments, as well as the work of specialized bodies in each of the common and government-subordinated domains"(de Gaulle 1960, p. 698) This analysis has been consolidated by other scholars, jurists, historians, political analysts. Through a careful examination of the diplomatic documents of the epoch, it has been proved that the governments engaged in the European construction were almost exclusively following the defense of the national interests (Milward 1992). Also, by analyzing the intergovernmental negotiations, it has appeared that the states had as main preoccupation to promote their own interests (Moravcsik 1992). From a judicial perspective, the Community was defined as a classical international organization (Leben 1991).

From all these analysis it turns out that the EU does not suffer from any deficit of democracy. Even more, there is no conflict against the axiom of popular sovereignty as long as it is build and conducted by democratic government. All treaties have been ratified by the chosen parliaments or through referendum, with all the respect for the constitution. Each member state is preserving its right to leave the EU. As for the citizens, they have the possibility, if they wish to, to keep accountable the national government, for influencing the evolution of the European integration (Milward, 1992). It can be said that Europe is a "democracy by rebound" (Magnette 2003, p. 55). In 1991, the European Commission asserted that "community's member states are pluralists democracies. It is a necessary condition for joining the EU. Therefore, any organization created by these states is also democratic. This is the case of the European Community"(European Commission 1991, p. 5). But even this realistic view minimizes major aspects of the EU. Are people sovereign when the decisions are adopted using the majority and when there are obligations imposed, without people to consent about them? Can we still say that the governments are continuing to control the situation when their negotiations

are determined by the communitarian agenda, by the Commission's initiatives, by the European Parliament's amendments or by Court of Justice's decisions? Are not each people's preferences more and more influenced by the existence of a common frame? These are just some of the critics which the realistic view of the European construction must endure (Magnette 2003).

B. The positivist view – Europe as a risk-regulator agency: this perspective insists on the "communitarian bodies" own power, which are receiving more autonomy. In the 50' of last century, the constituency of independent bodies answered to the positivist criticism of the democracy. European parliamentary regimes have been weak, crushed by the divisions and rivalries of the political class, and that gave in some countries free hand to the dictatorship. This is why it got imposed the idea of "giving up some fundamental political missions to some neutral bodies, composed by competent and independent clerks. Technocracy was supposed to correct the democratic excesses. It was common the idea that some public issues should not be submitted to a public debate because they possess scientific truths. The economic science tended itself capable of establishing laws concerning the market functionality. The problem left for the representatives was that of the assessment of resources, a matter of a high-degree political nature, not a technocratic one" (Magnette 2003, p. 57).

Such an approach inherited since the constituency of the European Community and until nowadays appreciated that it is more preferable that the technocrats should establish agenda and formulate proposals. Even the setting up of the European Central Bank and the "risk-regulator agencies" joined the same logic. This perspective appreciates that "the Community is nothing but an assembly of technical and autonomous institutions, which received from the governments the power of intervention and regulations in definite fields because they possess a better level of administration than the national one. The authors of this analysis recognize that they take into consideration just the Community itself, to say nothing about intergovernmental pillars and the coordination of national politics (Majone 1997).

The legitimacy of Europe refers in this case to the outcomes of its actions; these are accepted by the citizens in the measure in which they produce the expected outcomes (Scharp 1999). For putting a nuance in the analysis, P. Magnette appreciates that in order to respond to the democratic exigencies, the Community resorted to the two methods considered compatible with the independence of these bodies: the *corporatism* and the *legalism*. The first method has a cognitive objective. It was applied by Monnet and his partners. In order to reform, you must know well the situation. The idea was to stimulate the adhesion of the citizens aimed by the communitarian politics. "They thought that Europe could be legitimate with the help of partial legitimacy of different social groups. For some animated by trade-unions ideals, the direct participation to the decision-making could have been understood as a new democratic method". (Magnette, 2003, p. 58)

The second method, the legalism, has centered in the beginning upon the respect for the forms. Later, it became a "democratic substitute" (Héritier 1999). Motivation of the proposals and decisions in accordance to the article 252 (190 of the Treaty of Rome) is not a simple formal condition imposed to the communitarian institutions. It has as objective to make possible the consultation over the decisions. By imposing transparency when adopting norms and by ensuring the access of the citizens to the institutions documents, it should facilitate the critical expression of the public. The access to the information is considered in the contemporary democratic theories as a first condition in the exertion of civic rights. (Przeworski and Stokes and Manin 1999) "At least theoretically, we can conceive that institutions permanently action under the vigilant control of the citizens and that they justify their positions so that the citizens could deliberate over the public action. Without doubt, this privilege does not assure the power to hinder an action or to impose a policy on the agenda, but at least it alleviates the authority of the taken decision. The procedural conditions imposed to the leaders (policy-makers) should make them less-authoritarian". (Magnette 2003, pp. 58-59) This idea can be also found at Kant and more actually at J. Habermas: what it matters is not that the power to emanate from the people, but this power to be ceaselessly obliged to justify itself in front of the citizens.

The presentation of the balance sheets at the end of mandate should be the key-element of the democracy. This conception about democracy proves to be too elitist in practice. In fact, the fundamental principle of the equality between citizens is not guaranteed by these mechanisms. The consultation of the public is more a manner, a way to consolidate the policies rather than a genuine civic participation. The public audiences of the Commission or of the Parliament are so lacked of effects, as we can talk, in accordance to G. Bachelard, of a *democracy by simulation.* The procedural version of democracy is universal and has tend to diminish the condition of nationality, but this supposes to know a good knowledge of the institutional ins and outs and to be familiar with the communitarian jargon, which are requirements that an ordinary citizen cannot comply with. So it is not a surprise that these procedures are used by organized groups, which benefit by a strong financial and intellectual capital. (Kohler and Koch 1997) It is not sufficient for the system to be democratic in order to permit the participation of each citizen; it has to be more than this. The system must incite to participation. (Sartori 1994) "Conceived as a risk-regulator agency, the Union correspond to a depoliticized public space in which just the already-organized groups are mobilizing. As an example, the Central Bank is not looking for the citizen's approval, but for the financial markets adhesion" (Magnette 2003, p. 60).

C. Federalist view – The European State: this theory puts in evidence, in a simple and coherent manner, that the image of Europe is bound to the theory of the state. According to this theory, "EU would be a state in a incipient phase, whose destiny is to become sovereign by the replacement of the sovereign states. The direct effect

and the supremacy of the communitarian law over the national laws, qualified-majority vote, the election of the European Parliament by direct vote and the existence of an European Justice Court and of an European Central Bank, both of them at an over-national level, these all are elements which prefigures the formation of an European federal state. More than this, even if these characteristics find themselves also in the frame of other international organizations, none of these organizations have succeeded in gathering all those elements together" (Magnette 2003, p. 60). The partisans of this federalist interpretation sustain that this is the final version of an already-existent project in the EU nowadays, under the form of initial previews of the founding treaties. This vision corresponds to the aspiration of European peoples towards a new form of government, to which the national governments did not answer or did not succeed to produce it at a national level. Therefore it was stated that just this constitutional project (their) can determine peoples adhesion. (Habermas 1999)

In this view, the EU's democratic deficit is analyzed in purely constitutional terms. But it is sufficient a raise of the European Parliament's powers for the Union to be considered democratic? In fact, these Madisonian-style federalists did not take into account that the Parliament developed its powers by the revisionary of the treaties along 20 years, also the high degree of absenteeism at the European elections, a not too solid version over the popular sovereignty. These facts show rather the democratic deficit and not at all its disappearance, as the federalists were thinking.

D. Republican view – Europe as a federation of states: this theory is considered much useful than the previous three. "None of them permit a fully understanding of the EU nature and of the causes of its democratic deficit. The positivist interpretation is deliberately limited to the study of some communitarian functions and processes, without presenting an assembly image of the EU. As for the other two views, realistic and federalist, they deform the contemporary reality of the Europe, forcing it to fold in a too tight interpretation framework, specific to their own concepts" (Magnette 2003, p. 63).

The republican paradigm has at its base the conceptions of the natural law school representatives, Rousseau and Kant. It is not a unique interpretation of the political reality. It has as objective the translation of the citizen's aspirations in the name of the general will; also it conciliates the identity of states with the common project specific to the EU. It is a transposition of Rousseau's ideas regarding the fact that the union of states does not affect the sovereignty, but it strengthens. As for the EU, this *spirit of cooperation* (Magnette 2003) is seen at the European Commission, the same as the Court of Justice has the role of assure the arbitration between states. "But the European Commission is something totally new in the history of international organizations, which has the scope to avoid, *apriori*, the appearance of potential conflicts between states. Its objective is to encourage the governments towards cooperation in the decisions-making, and not to replace them

in this process. The monopoly of the initiative granted by treaties permits the Commission to establish an agenda and to determine the negotiation's basis, its surveillance and instruction missions and sometimes (but rarely) the possibility to sanction, gives the Commission the capacity to oblige the governments to respect the engagements. The Commission does not violate the decisional axiom, so important for de Gaulle (conform to which the political decision is belonging to the national governments). It also keeps Kant's formula, a *federalism of free states*, keeping the states sovereignty. Unanimity voting, presence of veto, the custom to adopt the norm through consensus (even when the Treaty gives the possibility of a qualified majority vote), the subtle vote sharing between states, derogation and compensation system, the tighten cooperation in transitional periods, given with the idea to avoid offending the partners, all these show very well the common action without getting into conflict with the sovereignty axiom" (Magnette 2003, pp. 65-66).

The sovereignty is changing its sense, giving up the force and the recourse to law replaces a fragile liberty with one safe and guaranteed liberty. In this way, the legislator has "tamed the sovereignty from interior". By voluntarily obeying to the institutional procedures of the civilized negotiation, the sovereign state has civilized in the external relations (Magnette 2003).

A republican model for the Europe

One of the lessons of the republican thinking is to repeat that the constituted power is in great measure depend of the citizens quality. The contemporary political science proved the importance of the institutional elections in forming the civic spirit. However, the actual communitarian model encourages everything but not the civic participation, thinks P. Magnette. (Magnette, 2000) The causes which generate this situation are the over-sophistication of its institutional framework, deep technical style of its norms, de-politicization of its important stakes, so to speak the transformation of the force rapports between social groups into the technical matters or judicial problems. The left-right cleavage, which opposes the supporters of the public powers and those of market economy, is constantly un-striking by the fragmentation and procedure-making of political issues. To these we can also add linguistic gap, the geographical and cultural distance and so on. The communitarian institutions make efforts for encouraging citizens' participation. The Commission multiplies its audiences, consultations, polls and ad-hoc forums. The Parliament invites different associations as the Committee of Regions and the Social-Economical Committee, whose role is to permit the local communities, workers representatives, employers, and consumers to be heard inside the Union. Every citizen or resident has the right to depose petitions, intent recourse against decisions which affects him, appeal the mediator, have access to institution's documents and send electronic messages to the communitarian institutions.

But the republican theories of the citizenship appreciate that these communication channels have two major defects: 1. They do not respect the principle

of equality between citizens, but foster just the implication of a target-group chosen without transparent criterion; 2. They do not encourage the participation, because they do not offer a middle of civic socialization and that is why they are trying to save themselves through the revival of national public space. Can EU be reformed in a republican spirit? This could be possible. Seiler (1986), Mayer and Perrineau (1992) have proved that two political structures are contributing to the development of the civism – the clarity of the institutional model and the clarity of the political debates.

Surpassing the pluralist model

The actual system, conceived through development and successive compromises, has produced, willingly or not, a variation of American pluralism. In this model, the power is divided between multitudes of independent bodies, so to avoid the tyranny of the majority. Its opening is towards the *interests groups* which assure an acceptable participation of the civil society in the decision-making. It is a model of canalization of factions and popular discontents, which was rejected by neither Hamilton, nor Tocqueville. (Magnette 2003) But, according to the republican point of view, EU reaches to conciliate *everybody's will*, but destroys the *general will*. In practice, the application of a majority model, of majority vote, a subtle division of power has permitted to bypass the pluralism in many European states. The alternation to power makes possible to assimilate the majority will to general will (Manin 1996) and the critic brought by the opposition contributes to civic instruction. This way of thinking cannot be applied to EU, which seems reduced to a regime of compromise. The solution of change would stay in power of the European Parliament, which tried to consolidate its position. Therefore, it took over the technocratic style of the bureaucrats. In order to consolidate, it reduced to silence minority voices. It centered upon closed discussions, previous contacts, and informal negotiations. (Costa 2001) This way, the deliberation on plenary reunion – crucial instrument of debate of the civil society – has been emptied of its essence (Magnette 2003).

In this sense, there are some remedies:

1. *To reform the mode of representation*; when it was created, the Community was based on two complementary pillars (the **Council** reunited the governments, while the **Assembly** reunited representatives from the national parliaments). Then it has been constituted a **Social-Economical Committee**, supposed to represent workers, employers, and consumers. Committee of Regions includes local and territorial communities. National parliament's role decreased in favor of the European Parliament, elected directly. Each initiative has been presented by its supporters as being a contribution to the reduction of EU's democratic deficit. It was about a better representation of the citizen in the communitarian sphere, by his

vicinity to Union's institutions. Citizen's representation channels in the communitarian sphere are so many that he wanders. In an over-national Union, it would be ideal to deliberate in a double European and national (plan) (Magnette 2003).

2. *this deliberation should be temporized;* the establishment in the political life of the EU of some strong moments of deliberation, which will help gradating the stakes so often discomposed by technical matters, would help the development of the deliberation and would stimulate the citizens interest (Magnette 2003).

3. *clarifying the responsibilities of each institution*; in the parliamentarian system, at the state level, the power is pyramidal organized, while in the Union, the structure looks more like an interpenetration. (Magnette and Costa 2000) For this reason, it appears the idea that some political bodies are irresponsible from a political point of view and deny the axiom of a popular sovereignty.

Restoration of the political conflict

EU avoids the conflict. This exists, but is being dissimulated, discomposed in judicial, technical aspects. It is needed space and time to clarify the terms of the debate over the conflict. A clear image over the conflicts which structure the European political life would help the citizens to better understand the European stakes. They could be able to achieve the feeling of *civil competency*, which makes them being actives. This image would give a cognitive and motivational basis to the European citizenship.

Two types of conflicts animate the actors of the European scene: nationality and ideological identity (Magnette 2003). The first conflict appears as a result of the collations between political and judicial national cultures who point out differences between nations. Even though the Union was founded in order to bypassing the conflicts between nations, these still exist. The danger appears when national differences are transforming into xenophobic conflicts; 2. Conflict – ideological references. In the beginning, the Commission tried to dissimulate the conflicts. In our days, when Union has a stable institutionalized system, "the Commission could assume the risk of politicization. Experiences show that an ideological polarization is possible just in the absence of a majoritarian government schemes. In concordance democracies, as Swiss, Belgium or Austria before J. Haider, the coalitions did not hinder the big parties to make public their divergent positions" (Magnette 2003, p. 77).

The politicization of the EU on ideological lines could lead to a closeness of political deliberation in the partisan field. In these conditions, it would be voided of ideas and values represented by different parties or civic associations. It is also what P. Ricoeur is proving, based on Mannheim's analysis – that the constant opposition between ideologies and utopias is a major element of the democratic vitality. Utopia hinders the *fossilization of ideologies* (Ricoeur 1997, p. 409), while ideologies maintain a link to the realities. Ideology contributes to the integration,

utopia opens new perspectives. In this perspective it would be needed to revise the parliamentary rules which marginalize small parties or to accord a right to legislative initiative to the citizens, which will oblige the Parliament to deliberate over a public issue presented by a number of citizens.

"Is it not the political crisis traversed by EU some kind of manifestation of a profound re-composition of the occidental democracies?" (Magnette 2003, p. 53) A convenient manner for avoiding the debate is to pretend that the democratic deficit is a false problem under the pretext that also the traditionally state-nations suffer from the same imperfection. Anyway, political sciences cannot ignore the phenomenon and it is their duty and mission to understand the causes and to find the proper solutions.

As conclusion, we can summarize some ways through which the democratic deficit can be reduced. As Føllesdal and Hix (2005) appreciate, a much more clearly institutional design of the EU would facilitate people's understanding and a facts-based judgment when having to deal with European issues. Moreover, a competitive opposition force within the EU, as a result of competitive elections, to reflect the preferences of citizens in order to increase their trust. Open political competition brings more receptivity from people's part and increase the opinion formation. And by a better understanding of all these mechanisms, we won't see just strange UFOs around us, but a clear blue sky.

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