

AESI SEMINAR OF STUDY

"DEMOCRACY AND EUROPEAN CITIZENSHIP"



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The European Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, values which are common to the Member States (Article 2 TEU). With regard to democracy, it should be noted that, since their origins, the European Communities have suffered from a democratic deficit resulting mainly from the transfer of legislative powers from the Member States to the Communities themselves. This transfer had entailed a removal of powers from the national parliaments which, although "physiological" in the European integration process, had not been accompanied by any compensatory measures at European level. Indeed, the European Parliament had a purely consultative power over the proposals made by the Commission, while decision-making power was concentrated in the Council, made up of the ministers of the Member States.

In the Lisbon Treaty of 13 December 2007, democratic principles are stated, first of all, in the form of representative democracy. In this regard, Article 10 TEU reaffirms a double legitimacy: it consists, on the one hand, of "European" legitimacy, which manifests itself in the direct representation of the citizens of the Union in the European Parliament; on the other, in the "national" legitimacy, which is expressed in the indirect representation of the peoples of the individual Member States within the European Council and the Council, through the Heads of State or Government and, respectively, through the governments, that are democratically accountable to national parliaments (or to their citizens).

As far as the European Parliament is concerned, "codecision", in which the adoption of an act takes place only if it is approved by both the Parliament itself and the Council, is envisaged as the ordinary legislative procedure. There are, however, special legislative procedures, in which the act is usually adopted by the Council with the participation of Parliament in a merely consultative function. Furthermore, in the field of common foreign and security policy (CFSP) Parliament does not participate in any way in the decision-making procedure, limiting itself to being consulted regularly by the High Representative for Foreign Affairs and Security Policy on the main aspects and fundamental choices and to be informed. Even in European economic governance, which also has a significant impact on citizens' daily lives, the European Parliament is placed in a substantially marginal position. Finally, it should be stressed that Parliament and its members still have no legislative initiative powers. The European Parliament can only ask the Commission to present appropriate proposals on the issues for which it deems that a Union act is required for the implementation of the Treaties.

For the appointment of the Commission, the European Council proposes to the European Parliament a candidate for the Presidency, destined to be elected by the Parliament itself by a majority of its members, "taking into account the elections of the European Parliament and after having held the appropriate consultations" (Article 17, paragraph 7, TEU). The reference to Parliament's election results leads to prefigure the candidate for President of the Commission as politically consistent with the parliamentary majority, increasingly subordinating the identification of the President (and, indirectly, of the entire Commission) to the political orientation of the Parliament. The bond of political trust between the Parliament and the Commission also emerges from the possibility, foreseen since the original Treaties, that the European Parliament, with a motion of censure, determines the resignation of the entire Commission, as well as from the power of the Parliament itself and its members to put questions to the Commission and Parliament's examination of the Commission's annual general report. In relations with the Council, it should be stressed that the European Parliament not only shares the legislative powers, as a rule, but also those relating to the approval of the budget. However, the Parliament remains in a marginal position in defining the system of own resources of the budget, exercising a merely consultative role in this regard.

The entire Article 12 TEU is dedicated to national parliaments. After declaring that they actively contribute to the good functioning of the Union, it provides that they are informed by the European institutions and receive draft legislative acts, in accordance with Protocol No 1. This establishes terms before which the project cannot be examined or approved by the Council, in order, obviously, to allow the national parliaments an adequate examination and discussion of the project and the formulation of observations and guidelines addressed to their own executives. In some cases, national parliaments may have direct relations with the European institutions. The most interesting hypothesis regards the preventive control on the respect of the principle of subsidiarity in the draft European legislative acts, which each national parliament (or its chamber) can exercise by formulating a reasoned opinion in which it declares to believe that the draft in question does not comply with that principle (Protocol No 2). The opinion must be taken into account by the proposing institutions; if it comes from at least a third of the votes attributed to national parliaments, the draft must be reviewed and, at the end of the review, the proposing institution is required to motivate its decision, but may decide to maintain the draft, as well as to modify or to withdraw it.

Finally, if an act to be adopted with the ordinary legislative procedure is contested by the majority of the votes of the national parliaments, the Commission must review the proposal and, if it intends to maintain it, must submit its opinion and those of the national parliaments to the European Parliament and the Council. These take such opinions into account and, before the conclusion of the first reading, examine the compatibility of the proposal with the subsidiarity principle. If the Council or the European Parliament considers that the proposal is incompatible with this principle, it is not subject to further examination. The attribution of such a power to national parliaments sounds as an expression of heightened sensitivity for democratic principles, not only for the obvious consideration that these parliaments are democratic bodies; but also because it tends to ensure that the requirement - underlying the principle of subsidiarity - that decisions are taken as closely as possible to the citizens, is respected.

Moreover Article 11 TEU contemplates various forms of participatory democracy. The institutions, first of all, shall give citizens and representative associations, through the appropriate channels, the opportunity to make their opinions known and publicly exchanged in all areas of Union action; secondly, an open, transparent and regular dialogue between the European institutions and representative associations and civil society is required; finally the Commission, in order to ensure the transparency of the Union's actions, carries out extensive consultations with parties concerned. In the context of participatory democracy, a power of popular legislative initiative is envisaged. Union citizens, numbering at least one million and having the citizenship of a significant number of Member

States, may invite the Commission, within the framework of its powers, to submit an appropriate proposal on matters on which they consider that a Union legal act is required for the implementation of the Treaties. The precise regulations of this popular initiative are contained in Regulation (EU) 2019/788 of 17 April 2019.

In conclusion, despite some "gray areas" (think of the CFSP) and certain top trends, such as those resulting from the strengthening of the role of the European Council, it seems to us that the present framework shows an overall advancement of democratic principles in European construction. It derives not only from the clear expansion of the powers of the European Parliament, but also from the new role assigned to national parliaments, which affects the government monopoly of the representation of States and can be particularly congenial to an experience that is not merely international, but supranational as it is the European one. In any case, the different forms and expressions of democratic principles nowadays offer European citizens new and more effective opportunities to participate in the determinations concerning the life and future of the Union.