

**Conference ‘The EP in an ever changing Union: where to go from here’
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Part VI: Parliamentary Democracy and EU’s democratic deficit.

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Ladies and Gentlemen,

Let me start our debate by dwelling a bit upon three questions of which two already were raised by prof. Rittberger during his presentation, from a theoretical point of view, whereas I am inclined to do so from a more institutional and historical angle. Which means that I will show myself, at least in Rittberger’s analytical framework, as an ‘orthodox liberal’¹.

- [1] Is there really a democratic deficit in the European Union, and if so, of what kind?
- [2] What to say about the question of a European democracy without a European ‘demos’?
- [3] What should be the relationship between the European Parliament and national parliaments, given the state of democracy in the Union and in its member-states?

I. Is there any democratic deficit?

Is there any ‘democratic deficit’ in so far as there is no really powerful European Parliament? If the so-called ‘democratic deficit’ is discussed, one traditionally talks about the weakness, the lack of power of the European Parliament, at least in public opinion and in the media, here in the Netherlands.

¹ According to Rittberger’s analysis, I share this epitheton with people like Jürgen Habermas, Andrew Moravcsik and David Held, no bad company, I assume. More in Rittberger’s chapter referred to in note 2.

I think the best answer is given by Julian Priestley, in his “Six battles that shaped Europe’s Parliament’ (2003): “The European Parliament today meets the main classic conditions of what would be expected of a parliamentary body: it will decide on legislation (with the governments of the member states); it will determine, again with governments, both the annual budget and the multi-annual financial framework; it appoints and controls the Executive, while operating in a system of separation of powers”. As Priestley said yesterday of the EP: “It works”. I am not sure if we can say the same of our national parliament in the Netherlands, today.

The image of the EP is that of 1951; the reality is of 2009, provided that the Lisbon Treaty will soon be ratified by all member states. There is no democratic deficit, as far as the European Parliament is concerned, there is an intellectual deficit, especially among the mass media in the Netherlands.

If there is a democratic deficit it is more a question of ‘executive deficit’: there is no real European government. There are at least two executive institutions, operating in a delicate balance: the European Council (with its intergovernmental character) and the (more supranational) European Commission.

A European Council which would be more successful in coordinating national policies in a European context may very well weaken the position of the European Parliament. The Parliament has a vital interest in keeping the Commission as strong as possible. The French presidency (2008) of the European Council has shown that a strong semi-permanent presidency can shift the balance to the intergovernmental direction, to the detriment, not only of the Commission but also of European Parliament. Unless: we are able to organize decision-making in a way, not to make it a zero sum game between Council and Commission and unless we are able to build a more direct relationship between Council and Parliament.

Main weakness of the EP is maybe its incapacity to scrutinize the implementation and execution of European legislation. This form of parliamentary control until now has been left to the national parliaments in

the member-states. I doubt if this situation has to remain like that. There is no formal barrier for the European Parliament to seriously scrutinize, what member-states are doing to implement European directives and regulations. Instead of leaving this to national parliaments, the EP could build its own forms of control, preferably in cooperation with national parliaments. For this to happen it will not need sanctions like a vote of no confidence..

II A democracy without a “demos”

In a chapter for a book in the Palgrave Series on the European Union², which I had the opportunity to read, Berthold Rittberger gives a thorough analysis of those theories that claim a ‘democratic deficit’ in the EU because of the lack of a European demos, of a common European identity, of a European public space. There are the Republicans and Communitarians who believe, that democracy cannot survive outside the nation-state with its common history, common language and common culture. Rittberger gives as an example the argument of the German Constitutional Court in its Maastricht decision³.

But, if that would be the case, what to think then of nation-states which are not ethnically homogeneous like Switzerland, or which are not ethnically homogeneous *anymore*, like practically every northern European nation-state since the nineteen eighties? Do we expect to see democracy disappear in our countries, too?

We are talking here about the well-known distinction between ‘Gemeinschaft’ and ‘Gesellschaft’, which I am so acquainted with through my experience with local democracy and where, during processes of scaling up, always the same debate comes up on the loss of identity and of community. It will continue until most people are used to the new, larger local context. I don’t intend to deny any problem of distance between

² Berthold Rittberger, Democracy and EU Governance, in: Michelle Egan a.o. (eds.), *Studying the European Union: Current and Future Agendas*, Basingstoke (UK), Palgrave Macmillan, in print.

³ BverfGE 89, 155.

electors and the elected in the European space, but (as Rittberger has said in his chapter) these questions are in need of empirical evidence.

Another problem which is discussed in this respect, is the lack of clear political majorities in the European Parliament, corresponding with a clear political orientation of European Commission. That is true, but again, is it also a problem? Countries like mine (but also Belgium, Austria and the Scandinavian countries) are perfectly used to the consociational democracy, with grand coalitions, proportional allocation and depolitisation, which is , for that matter, also characteristic for local democracy in so many European countries and the USA.

If there is a problem (or at least: a complication), it is not consociationalism itself, but the way in which, in a given consociational system, decision-making is depoliticized. In the European Union we see this happen through a politically ‘faceless’ Commission; a European Central Bank without any political control, or through agencies with their non-democratic composition and uncontrolled power. It is the problem of what I am inclined to call: depolitisation through political self-denial and lack of self-confidence. Not a unique problem of European institutions.

III EP and national parliaments

If the “democratic deficit” of the EU is not a problem of Europe’s Parliament in the first place but one of too many and unbalanced Executives;

And if we have to accept that for many years to come there will be two executives in the EU, the intergovernmental European Council and the more supranational European Commission, it might be fruitful to see the European Parliament itself as part of a multiple or “composite” parliamentary system⁴, consisting of European Parliament and the national parliaments of the member-states together.

⁴ Leonard Besselink, *A Composite European Constitution* (Inaugural Address University of Utrecht), Groningen: European Law Publishing, 2007.

In so far as Council and Commission not only are able to be each others rivals but also are able to look for an adequate division of tasks between them, European Parliament and national parliaments may look for the right balance between control through intergovernmental parliamentary procedures and control by a supranational representative institution in the EU. That will be a question of cooperation and division of labor and sometimes of sound rivalry.

National parliaments have to learn – more than they have done until now – that they are part of the European parliamentary system, that they are themselves European institutions, a.o. concentrating themselves on the intergovernmental part of European decision making. The European Parliament should concentrate itself on supranational business; next to that, it may supervise the implementation of European law in the member states.

To that end it is of great importance, not only to deepen our knowledge of the European institutions, but also to deepen our comparative research into national parliaments within the European Union, and to find out what is the real essence of parliamentary democracy in Europe; the *raison d'être* of the Montesquieu Institute.