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What Kind of Deficit? Problems of Legitimacy in the European Union

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ABSTRACT: We are still unable to correctly identify the true crisis in Europe: whether it is a question of a lack of *demos* or *cratos*; whether it is the democracy, legitimacy, or justice that is inadequate; whether we are facing a problem of intelligibility or of too little politicization. I begin my analysis with three hypotheses: 1) None of the attempts to explain the crisis that focus on a single deficit or weakness seems satisfactory, so the discussion should focus on the way these types of deficiencies are expressed and the extent to which each one of them is involved. For this very reason, it makes no sense to entrust the entire solution to the strengthening of one single criterion (participation, effectiveness, or communication, for example). 2) Polarizing the legitimacy framework around two possibilities (input and output) seems to be a simplification that does not do justice to the intricate way in which the results and the procedures, effectiveness and consent are related in a democracy. 3) The resulting description cannot be less complex than that which it is attempting to describe, so the task of repairing EU legitimacy should be carried out through a sophisticated division of labor (between institutions, criteria, and values). The process of European integration may be one of the most interesting manifestations of a general problem in today’s societies: how to reconstruct political authority to confront the new challenges of communal life.

Keywords: legitimacy, European integration, democratic deficit

1. Introduction

The project of European integration has always been

accompanied by the shadow of a suspicion of inadequate legitimacy. This distrust is nurtured by the fact that our concept of legitimacy stems from the categorical framework of the nation state, while new institutions barely meet the criteria of legitimacy and democracy to which we used to be accustomed. As long as matters of integration were rather distant and acceptably effective, the suspicion of a lack of legitimacy did not lead to mobilization. But the economic crisis has become a crisis of Europe to the extent that it has revealed a lack of political ability.

After the euro crisis, there is a need to fully address the question of what can legitimize the European project, its transnational foundations, and its ability to be configured as a political actor that fulfills the expectations that justify its existence. However, we should begin by accepting that legitimacy today probably signifies something quite different from legitimacy in the "golden age" of the nation state (Hurrelmann / Schneider / Steffek 2007, 232). It is not very realistic to think about transposing the categories of democracy in the nation state to processes like European integration and, even less, to global governance. I am not suggesting we should be less strict on this level than on other levels, lowering standards and accepting in the transnational realm what we would find unjustifiable in the national arena. Instead, it is a question of understanding that we are facing diverse polities that respond to diverse functional necessities, which means that their legitimacy should also be tackled with other very different concepts than those that served as justification for the states. The Hobbesian question "*quis iudicavit?*" is now transformed into "Who governs when no one governs?" (Favre 2003). If the question of legitimacy is settled by indicating a sovereign power, a genealogy, and a delimited space, the question of the legitimacy of processes like European integration should be resolved in the realm of realities and processes that are characterized by shared power, the realization of certain functions, and network-like structures.

It is true that we can hardly describe policies that are not carried out following public debates or through transparent

decision-making processes as democratic. However, the fact that modern democracy took shape within the nation state does not mean that it cannot appear in other formats or under very diverse conditions. It is true that there is no international organization—even though the EU is not international in the strict sense—that is more democratic, and it is even true that we can talk about the EU’s “democratic surplus” in relation to international institutions (Lord 2012, 71). But, in any case, judgments about the EU’s democraticity should begin by understanding its nature and complexity. The EU is in part government and in part governance. Thus, demands for the “complete” democratization of the EU by the transfer of the democratic characteristics of the nation states only make sense for its governmental side. This in no way impedes having its governance aspects develop through rigorous criteria of legitimacy. The latitude of action that states retain supranationally carries with it a decrease in the standards of democraticity, but not necessarily in the standards of legitimacy.

In the transnational sphere, “there is little room for democracy . . . but a lot of space for legitimacy” (Willke 2007, 127). At this level, the question of legitimacy has more to do with requirements for justice than with requirements for democracy (Neyer 2010), which does not mean lowering these normative demands but specifying them in a way that is more suitable to the nature of the problems that are in play. The emphasis on justice also has the advantage of being less connected to the nation state than to democracy. It points to a conception of legitimacy more interested in content than in procedures although, as we shall see, this distinction continues to be problematic. The true European deficit consists of excessive reliance on national politics that have not internalized the consequences of European and global interdependence (Maduro 2012). The question of the legitimacy of the European Union cannot be answered outside of the context of the possibilities and responsibilities made available by a particular form of transnationality.

2. We Few: European Elitism

The canonic formula for democracy is expressed in the authority with which the Constitution of the United States or the Charter of the United Nations is established: "We the People." There is no expression that better synthesizes the democratic ideals of self-government and the foundation of all political legitimacy. In contrast, the history of European integration and, particularly its loss of direction during the current crisis, seems to have preferred the expression "We Few" that Shakespeare placed in the mouth of Henry V to refer to the reduced number of soldiers he had available for the Battle of Agincourt against the enormous French army, rallying them with a glory they would not have to share with a crowd.

The process of European integration is marked from the beginning by an aristocratic conception. There are at least three reasons for this elitism: in the first place, after the experience of Nazism and the Second World War, the promoters of European integration were on principle suspicious of the idea of popular sovereignty; this is the reason why the Union has always had a structure that limited sovereign powers. In the second place, these same founders had great distrust of rivalry and ideological conflicts and deep faith in the leadership of the technocrats when it came to advancing international cooperation (Haas (2004) [1958]). In the third place, the agenda of questions that were to be the purpose of integration included a series of topics that were very distant from the people's day to day concerns. These issues lacked electoral salience or the capacity for political mobilization. The Europe of the beginning of the twenty-first century is very different. The configuration of societies is poles apart from where it was after the totalitarian experience, there is less confidence in technology, and the topics under consideration have an immediate impact on citizen's daily lives. All these circumstances explain why the demands for re-legitimation have increased and why there are more objects of legitimation to be addressed than in the past (Hurrelmann / Schneider / Steffek 2007, 232).

But the current reality, or at least the social perception of that reality, is that Europe is distant, technocratic, and bureaucratic. Europe seems to be in the hands of market forces

and the machination of the elite, who are beyond democratic control. The Europe of Offices, as Haas famously called it, is sustained by the belief that technology, planning, and the labor movement advance integration further than the political system, although Haas himself later recognized that he had underestimated the politicians and the states. Governance arrived in the 1980s (Majone 1996; Scharpf 1999), which gave a certain amount of legitimacy to the experts and the corresponding comitology. There are those who defend European governance as an administrative, not a constitutional, matter (Lindseth 2010). They also, on the other extreme, denounce integration as an elitist process (Haller 2008), as an aristocratic bureaucracy directed "from the arrogance of institutions" (Vaubel 2001). In the European Union, there would be verification of the idea posited by Schumpeter (1942) or Dahl (1971) that the greatest democracy to which we can aspire is a competitive oligarchy, or at most, the "elite pluralism" of which David Coen spoke (1997).

The EU is procedurally democratic, but in substantive terms, it would be closer to enlightened despotism than to genuine democracy. One example of this is the fact that the election of the EC president has more in common with the election of a pope than with an open struggle between political candidates (Hix 2008, 78). The oligo-bureaucratic character of European decision-making seems to configure it as a benevolent democracy, in which executive power dominates, from an apolitical conception of integration. It once again confirms the "iron law of oligarchy" (Michel 1969), according to which large-scale organization reduces the responsibility of those who are elected with respect to the electors. In any case, it is true that until now the displacement of competencies toward the European level has taken place through public debates that are less inclusive of civil society than national debates. This new arrangement has allowed executives to increase their influence on political decisions, affording less control to their national parliaments and civil society. European integration, whether intentionally or inevitably, is a matter for the elites. Executive license is assured on the margins of social control, and the nature of the topics that are in play does not allow social actors

to mobilize European public opinion with an alternative message.

Although the values of democracy point toward greater transparency and inclusion, the development of globalization has made politics more opaque and more dependent on experts than ever. This is especially obvious in the current institutional organization of the European Union where decisions are adopted without sufficient transnational legitimacy but outside of the reach of national legitimation. Many of the political decisions that are made at the European level demand immediate validity within the member states without procedures of democratic ratification at that level. Legislative control of intergovernmental decisions has been even further weakened by the fact that intergovernmental politics often occurs in contexts that are not legally binding and, therefore, not subject to domestic ratification (Schäfer 2006). We have not managed to stabilize the influence that decisions at the European level have on the domestic plane. These decisions may appear arbitrary, authoritative, and lacking in control; at the same time, there is the paradox that the influence of the nation states on European institutions has expanded, to the extent that the principle that has guided institutional reforms of the European Union is now the protection of state rights (Dehousse 2005). In this way, the political preponderance of national governments in European decision-making agencies is consolidated and so is the influence that executives are granted in decision-making procedures. It is not the EU that reduces our spaces for decisions but, as paradoxical as it may seem, the states.

Focusing on the dramatic decisions adopted to address the euro crisis, a split has arisen between the ability to act and democratic authorization, between those who are capable but not accountable and those who are accountable but not capable, an asymmetry of power and legitimacy, of authorization and effective power (Zürn 1998, 17). All of that has a lot to do with the increasingly underscored difference between responsiveness and responsibility, between what citizens expect from their governments and what governments are obliged to do or, if one prefers, between the ability of governments to explain their

decisions and the ability of citizens to understand them. That is the dilemma politicians tend to reference: they know what they need to do, but they do not know how they are going to be reelected if they do it.

The technocratic and executive component is strengthened at the expense of parliamentary deliberation. We are living a type of "Saint-Simonian moment" in European structuring by virtue of the technological complexity of the solutions, which confers extraordinary power on the experts. In fact, effective measures are decided, not in national parliaments, but in epistemic communities or institutions that are only indirectly or partially democratic. Let us think about the imposition of "technocratic" governments (Italy), austerity measurements "adopted" by certain member states in 2012, or the affirmation by Christine Lagarde, Managing Director of the IMF, that democracy has in fact been revealed to be an obstacle for handling the crisis. There is a type of "decisional outsourcing" in the EU that corresponds to the asymmetry between functional demands and Europe's ability to satisfy them. The states have turned into "decision takers," they are no longer "decision makers" (Eriksen 2009, 157). These circumstances seem to support Thomas Nagel (2005, 147) when he affirms that questions of justice beyond the borders can only be resolved by effective but illegitimate institutions. The shortage of parliamentary control, the lack of transparency, representation, and accountability lead to public protests and disillusionment. It is not surprising that the EU appears to be a project of the elite when they increasingly perceive public opinion and national voters as the principal obstacle for the process of integration, and even believe that large reforms can only be undertaken when there are no elections on the horizon.

This distance is not only a question of institutional design but, especially, a social phenomenon that nurtures the tension between cosmopolitan elites and territorialized masses. Europe is a matter for the elite; the nation is a matter for those who feel threatened (Münch 2001, 294). European integration is a project that upper levels of society understand and support better than the public at large. The average person has more to fear from globalization and feels unprotected outside of the

nation state. This cannot continue in this way for long without posing a threat to European cohesion. The contrast between nationalized voters and bureaucratically decisive policies is fatal for the European Union. It is inconceivable to have democratic politics in the twenty-first century without the explicit backing of the people. It is also not possible to make strategic decisions without a vision that implies institutional leadership and the effectiveness of public policies. This will be one of our principal debates when it comes to resolving the European crisis. This is a crisis in which there are informal hegemonies (the "German Europe," for example), forms of domination, and unjustifiable asymmetries, of course, but we should not interpret them with traditional categories. The problems to which I am referring are problems generated by interdependence and not the typical problem of domination. In any case, we are no longer facing the typical conflict between the elites and the masses, which was the crux of democratic emancipation, but a horizontal and lateral struggle that must be resolved by inclusion and cooperation, building what is communal with criteria of justice.

3. Rethinking Legitimacy

Democratic legitimacy has been approached, according to Lincoln's famous formulation, as government of the people, by the people, and for the people. This tension has been enunciated with different terms and has generally been presented as a dilemma and even as an incompatibility: between participation and effectiveness, between process and results, between democracy and effectiveness, between participation and authority (Dahl 1994), between public inputs and policy outputs (Scharpf 1970 and 1997), between the acceptable and the correct, between *demos* and *kratos*. It is a question of the fundamental types of legitimation upon which our institutions and political practices rest: legitimacy that comes from popular support or acceptance of decisions because of the democratic procedures through which the people assert themselves (input legitimacy) or the legitimacy that

governments sanction to the extent that they assure public goods and resolve societies' problems (output legitimacy).

Many ideological debates have been polarized around these two types of legitimation; some claim that we must put into play criteria like checks and balances, judicial responsibility, or deliberation rather than popular participation (Banchoff / Smith 1999; Hérítier 1999; Grant / Keohane 2005), while others protest by condemning the weakening criteria for democraticity that this would entail. They insist that "we should not lower our democratic standards just because it is difficult to meet them outside of the nation state" (Kohler-Koch 2001, 8). Even though this is not the place to develop this debate as thoroughly as it deserves, I do believe that the right-left axis is now being overlaid by another axis that confronts, in the broad sense, populists and technocrats; both these categories include left and right versions. The new ideological spectrum can be explained around various combinations of these four criteria. What we have is basically technocrats from the right and the left and populists from the right and the left, giving rise to alliances and antagonisms that cannot be understood based on classic ideological polarization.

The *White Paper on European Governance* (2001) attempted to connect the increase in effectiveness and democratization as objectives of European politics. This may be more of a desire than a reality, and the truth may be that we find ourselves in the dilemma noted by Scharpf where the European Union lacks the input conditions of democracy, while member states are incapable of producing the political results to which their populations have the right (Scharpf 1999). In the end, it is a drama that generally rends our political systems, since they see how the input dimensions of democracy were reduced and at the same time, they were not capable of deploying compensatory output dimensions, which are only partially within their reach and depend more on global factors.

From the point of view of strict democraticity, the political system is justified more by its inputs than by its outputs, but the problem is not resolved by establishing a type of primacy between both dimensions of political justification, less still in a

polity as complex as the European Union. On the one hand, it is true that low levels of input legitimacy can have a negative impact on the acceptance of government decisions (Quintener / Hooghe / Marien 2011, 399), but it is simplistic to assume that better procedures necessarily assure better results (Champeau). Output legitimacy places the obligation for the common good of the leaders above the common sense of those being led, but it is difficult to think that one can realize good decisions without any participation by those affected. There are forms of benevolent paternalism that could respond to the demands of legitimation through results, but there are also decisions that fulfill all the requirements of popular legitimation, but they are not effective or just. "The results of politics are not democratic, but the way they are carried out is" (Offe 2005: 264), or, at least, the results must not contradict the principles of a legitimate government.

For the nation states, the balance between effectiveness and democratic acceptance can generally be resolved in favor of the latter; for transnational institutions, effectiveness is decisive even if only because of the fact that those institutions have been configured precisely to resolve problems that are not within the reach of the nation states and to correct their ineffectiveness (Preuss 1995, 61). In fact, the transfer of sovereignty toward European institutions was justified by the claim that they were better able to resolve certain problems. Any political system, but particularly those that represent a functional novelty, must respond to the expectation that we live in "societies that resolve problems" (Scharpf 1997). The EU is an institution that was specifically created to resolve problems, a functional association whose legitimacy is connected to its performance. It is fundamentally a democracy of the stakeholders, government *for* the people. This pressing need to legitimize itself through effectiveness is what is expressed in Durao Barroso's call for the "Europe of results" or Tony Blair's motto "Europe has to deliver," but it also has a social democratic version: the demand to provide a European equivalent to the welfare state, which Habermas called "*wohlfahrtsstaatliche Ersatzprogrammatik*." In all these cases,

the goal of legitimacy expects to achieve more by obtaining results than by democratizing procedures.

It may be that the democratic deficit is not so much the lack of live democracy in the European arena as citizens' perceptions that the Union does not resolve its principal problems. People have a very utilitarian relationship with the EU (Mau 2005; Nissen 2006). In the case of international institutions, legitimacy by results is, according to the polls, more valued than democratic standards, and the protests have more to do with negative results than with democratic procedures (Nölke 2007).

To address the question of the EU's legitimacy, we would have to understand its institutional specificity and the expectations on which it is founded and with which it should nurture its renovation. It is inevitable that the balance of legitimacy should at present shift to the law and toward expert knowledge, to the detriment of participation. We should not scorn the "technocratic" element of political processes, particularly in European integration. Technocratic competence is essential to good politics, and a failure to address it tends to activate a desperate call for effectiveness as the last hope for salvation. The ineffectiveness of many European policies has devastating effects on the legitimacy and stability of the EU. There has not been sufficient attention paid to suboptimal performance, which threatens the EU more than other weaknesses.

Of course, functional legitimacy is instrumental, but this type of legitimacy is especially pertinent when we are addressing a type of politics that, being new, must struggle to achieve direct popular support. Effectiveness is important for systemic stability because it affords the new political system the time necessary to develop loyalty and legitimacy. Why not think about legitimacy in dynamic rather than ancestral terms, as a process more than a static qualification? David Held claims that achieving legitimacy through results is conditional and unstable (1987, 238). This approach presupposes a world of certain stability and a politics with identical tasks throughout time. But what if volatility were normal and we were transitioning toward a world that is more unstable, in terms of legitimacy as well?

This could be the case because of transformations that require continual reconsiderations of the terms of legitimacy as well as the fact that the requirements that societies make of their government institutions change.

It is true that purely functional, apolitical justifications of international institutions and the European Union are insufficient (Zürn / Ecker-Ehrhardt 2012). It is not acceptable that the elite from a few countries, rejecting national and global public opinions, determine the national politics of other countries. However, the incidence of international political decisions in domestic spheres is not always an unjust interference, but an ever more present reality that requires legitimacy. It should not be impugned as something unjustifiable, but accepted as something that can and should be justified. The idea of legitimacy means two things: that political authority is doing what it should do and that the people regard it in that way, in other words, it signifies correctness and acceptability. We must maintain this distinction so we do not confuse legitimacy with stability or subjugation, which often does not obey any criteria other than habitual obedience, the fear of punishment, or cost-benefit analysis.

In the age of politics beyond national borders, of interdependence and networks, functional legitimacy is called upon to acquire greater importance regarding territorial representation. For this affirmation to not suppose an abandonment of the principles that rule our democratic societies, the emphasis on functionality demands a differentiation of levels and issues because it cannot have the same weight on immediate affairs as it does on global problems or in the temporal register of urgency as in constitutional measures. The existence of principles that are under discussion and not easily compatible is a part of our political condition, but we must know how to adequately organize around the problem that is being addressed and the circumstances that condition it.

It is true that legitimacy in terms of results is not sufficient, that the quality of decisions is not the only thing that matters, and that, for that reason, the demand for participation and control in contemporary democracies is intensified. However,

there is in our political culture a Rousseauian idealization of parliamentary democracy that has a very mechanical vision of legitimacy according to which our representatives do nothing but immediately translate into legislative decisions the collective interests formulated by voters who know what they want prior to any process of deliberative formation of the political will. The limits of legitimacy by results has a lot to do with the fact that efficacy does not dissolve the political question about what the society values as truly effective; the question of what "deliver" means or what we accept as "results" is eminently political, something that cannot be resolved in the last instance but through political decisions and according to democratic logic. Moreover, effectiveness is not enough to assure acceptance, even if it is only because of the fact that its regulations and assignments will always have unequal redistributive consequences (Schmitter 2006, 164). There are no politically neutral technocratic questions; they all put into play normative matters that reasonably divide the parties and the electorate.

Applying all this to the European Union, what we get is a map of legitimacy in which efficacy and democracy interfere with preferred ideas of integration. We could classify the visions of Europe into federal, technocratic, and intergovernmental. Within those categories, legitimacy follows a logic of analogy, complementarity, or derivation, and various weights are assigned to aspects of input and output legitimacy (Hurrelmann / Schneider / Steffek 2007, 236). The following chart attempts to present the possibilities:

	INPUT LEGITIMACY	OUTPUT LEGITIMACY
FEDERAL INTEGRATION	high	medium
TECNOCRATIC INTEGRATION	low	high

INTERGOVERNMENTAL INTEGRATION	high	medium
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1. When the *federalist* type approach thinks of the EU as something similar to a state, they tend to think that the legitimacy of its institutions should be considered analogous to the legitimacy of the states. Therefore, they follow the logic of the constitution and quasi-national language and symbolism. The fundamental goal of this way of seeing integration is to essentially satisfy an *input* legitimacy, understood as a still incomplete aspiration.

2. From an interpretation of integration that is rather *technocratic* or *expertocratic*, the priorities of legitimacy are inverted. We could take Giandomenico Majone and his almost exclusive emphasis on output structure as a representative of this way of thinking. Given that the EU's regulatory competencies are better exercised in institutions, such as the Commission, that are non-majoritarian and independent of electoral pressure, European institutions are legitimate to the extent to which they can achieve what is not within reach of the member states, acting as an "independent fourth branch of government" (Majone 1998).

3. *Intergovernmentalism* conceives of the balance between input and output in a manner similar to the federalists; both groups view popular legitimacy as central, but they establish both features on different levels, in the (current) nation states or the (future) European society. For intergovernmentalism, legitimacy follows a derivative logic because it is the member states that provide legitimacy to the EU and regulate this provision in agreement with a criterion of national democracy. The legitimacy of the EU is founded on the fact that it can be controlled by the states, and it is this control that gives the measure of derived legitimacy. Input legitimacy is provided by the states and their electorates, while output legitimacy is due, at a later and secondary moment, to the success of European politics. The vetoes, the strengthening of the Council and the

national parliaments, the subsidiary nature or the national control of constitutionality depend on this conception.

Now, once we have considered this distinction between input and output, could we do without it, like the metaphor of the thrown-away ladder that Wittgenstein proposed? What if there were not two exclusive categories, but two sides to a single reality that end up corresponding with a single demand?

This is important, in the first place, because, even though I have used this contrast to consider some useful references in the dense space of legitimacy, there are other dimensions that should not be ignored if we want the map to be complete. There is, for example, throughput (procedural) legitimacy, to which we appeal when we call upon the integration of national parliaments, the deliberative quality of decisions, levels of transparency, or the access to information (Wimmel 2009). On the other hand, the success of the category of accountability is due to emphasizing input legitimacy without limiting the ability to resolve EU problems. This output element champions transparency, legal supervision, and good administrative procedures without participatory requirements that could endanger the efficacy of decisions. To complete this cartography of legitimacy, we would also have to add the fact that there are decisions that are considered legitimate, not because they are the result of democratic processes, but because they have been adopted by institutions that are considered authorized for it, like courts, central banks, or regulatory institutions. We consider many of their decisions correct, not so much because of criteria of effectiveness but because of criteria of equity or justice.

We could also soften the contrast if we complemented it with another similar distinction: the distinction between *acceptability* (which would highlight the quality of decisions) and *acceptance* (that measures the true empirical support of the decisions among citizens) (Lauth / Pickel / Welzel 2000). The first has a hypothetical character, as if it were a conditioned promise that should finally be able to be verified; the second is not always legitimate, as the phenomenon of populism reveals. As if that were not enough, all of it should include the value of "time," since *acceptability* allows political agents to have the

future at their disposal (anticipating and even governing, even if it is only for a brief period of time, against the fluctuations of public opinion and short-term thinking, without the pressures of public opinion), but *acceptance* puts an end point on the availability of the future (it temporally limits the delegation conceded to those who govern, putting an end to it with a procedure of verifying and reporting back). Stated in another manner: there is no legitimate democracy without the possibility of governing outside popular will (before knowing it and even, under certain conditions, against it), but still less when this distance is an unqualified license for the authorities to do whatever they want at any time. As much delegation and anticipation as is necessary, as much verification as possible: that could be the formula for a practice of government that does not want to be politically contradictory or democratically unjustifiable.

But we can still think about surmounting the always too coarse contrast between democracy and effectiveness conceptually. We could do so in such a way that, to follow the metaphor, we would have to use Wittgenstein's ladder again. Our political systems would be poorly conceived if they continuously forced us to exchange effectiveness for democracy, to choose between competence and participation. The force with which the technocracy-populism axis has appeared on the current ideological landscape bears witness to the fact that we have not framed matters successfully. Could there be some way of simultaneously conceiving of and resolving *input* and *output* legitimacies?

Yes, I propose bearing in mind that the *popular demand for results* summarizes the two legitimacies to a large extent. This focus is not technocratic, but it has an input element. It includes the expectations that people make of it, but it does not grant a license to populism because it also embraces a demand for results. What is accepted as positive results is a question that should be resolved by democratic procedures, but this verification is hard to carry out without a debate that includes argumentation about the objective assessments of those results.

If the concept of sovereignty tries to respond to the question of why sovereigns do what they do, today it would be more of a question of what we expect from politics and what politics can guarantee (Vobruba 2009). In this way, the problem of the foundation of power loses its ancestral absolutism. The place for a hypothetical macro-subject is now occupied by the people; where there was previously hierarchical superiority, there are now expectations and interests. Results, yes, but required and assessed in that way by the people, who must have access to all the instruments necessary to verify the fulfillment of those expectations, to convert that which is justifiable into justified.

4. Executive Deficit: The *Cratos* of Democracy

The dominant theory when it comes to interpreting the current state of integration and the European crisis is that we are principally facing a problem of "deparliamentarization" or "executive dominance," which leads to a "short-circuit of the democratic processes of representation and accountability" (Rittberger 2005; Börzel / Spungk 2007). If that were fully true, we would have entered into an era of "post-parliamentary governance" (Andersen / Burns 1996). These critiques are very pertinent, but they also have their limitations, which I will now address.

In the first place, the thesis of deparliamentarization must be confronted with the following question: compared with what? The process of European integration suggests an inverse relationship: the integration is not the cause of deparliamentarization but rather the beneficiary of a pre-existing transformation of national systems in a more executive direction (Lindseth 2010, 202). The primacy of the executive is not new or a property of the EU; instead, it dates back to the 1920s, when certain constitutional changes were initiated (some that saved democracy and others that corrupted it), at a time when we needed unprecedented social and economic intervention of the states. This transformed the old balance of the liberal state, which would generate an executive and

technocratic sphere that needed to be provided with a new legitimacy (Lindseth 2010). Apart from that, this growth in executive power and the weakening of democratic deliberation is something general in democracies; it is due to the increase in global regulatory regimes, on the one hand, and the privatization of many public services, on the other, which makes democratic scrutiny of domestic legislative institutions difficult.

But we must also keep the other side of the coin in mind, specifically, the executive weakness of the Union that we try to correct, in moments of crisis, but also in general. The compound, complex nature of the EU largely explains this weakness. In a non-hierarchical structure, power is shared among different institutions, in such a way that each one has the same veto power. In this type of context, with the low cohesion that always corresponds to compound polities, the balances that must be respected when it comes to adopting any decision can lead to consolidating a certain inability to decide. "A nondecision might be a necessary price to pay to avoid a bad decision" (Fabbrini 2007, 150.) But a complex democracy also needs to be capable of making a decision. The problem, therefore, is how to correct the weakness of the *cratos*, its poor effectiveness and even inefficacy, without subverting the complex nature of the EU. We should not lose sight of the fact that elevating its decision-making capabilities can have divisive effects. That which stabilizes weakens, and vice versa. The compound character of the EU stabilizes it and facilitates its survival, but the external challenges it confronts are putting its unity to a permanent test, as was revealed during the euro crisis. The objective that needs to be achieved is the institutionalization of as much strength, efficacy, and rapidity of decision making as is compatible with continued cohesion. The problem is to determine how wide-spread authority should be so that government does not become ineffective and impossible, how to make sure the benefits of diversity do not become inconveniences when it comes to making decision.

During the euro crisis, it became particularly obvious that Europe is suffering, in addition to other more well-known weaknesses, from a true executive deficit. It was on the verge of transforming a democratic deficit into a "democratic default"

(Majone 2012). It is not an unprecedented possibility in the history of European integration. It has already frequently been the case that disparities about who is responsible for what lead to blockades and empty spaces of action that are finally occupied by the European Court of Justice or the European Central Bank to compensate deficient institutionalization. One of our principal challenges consists of improving European decision-making without consolidating the exceptionality that is in the end fatal for democracy, but without forgetting that indecision may hurt it more, giving way to unjustified impositions and informal hegemonies.

To the necessity of legitimacy we add the necessity, no less urgent, of a European executive authority. There is a democratic deficit when there is a lack of *demos* and also a lack of *cratos*. "The democratic problem of the Union is also one of effectiveness. A democracy that cannot effectively govern is no democracy. There is no self-government without government" (Maduro 2012). Widespread democratic frustration produces a self-government impeded by exterior circumstances as one that does not govern because of its own inability. In fact, within the high degree of European dissatisfaction, the highest level of concern is not the democratic nature of Union but the efficacy of its actions. According to the *Eurobarometer*, 57% of those polled do not trust the European Union. But, while 45% (versus 44%) are not satisfied with the workings of democracy in the Union, 58% (versus 33%) believe the Union is ineffective. What most affects the social approval of an institution is its incapacity when it comes to solving urgent problems, its weakness rather than its imposition. Just and democratic executive action is a goal that any organized society requires, but particularly an institution like the EU whose justification has been and continues to be the conquering of spaces of influence that its member states cannot reach.

5. The Deficit of Intelligibility

The framing of the current crisis of legitimacy would not be complete if we did not include an intelligibility deficit. We talk a

lot about the democratic deficit, but I believe Europe's most profound problem is its *cognitive deficit*, our lack of comprehension about what the European Union represents. It is hard for us to understand that we are seeing one of the largest political innovations of our recent history, a true laboratory for testing a new formulation of identity, power, or citizenship in the context of globalization. The crisis that is behind the constitutional failure, behind the unfortunate management of the euro crisis or generalized disaffection in the face of the possibility of moving toward integration is fundamentally due to a deficient comprehension of what we are and what we are doing. This may be considered a philosophical excess, but we could say that the problem is the lack of a good theory about Europe. The deficit to which I am referring is not a lack of communication that could be resolved with better marketing. It is a lack of comprehension and conviction (between its citizens and those who govern) about the originality, subtlety, meaning, and complexity of the European structure. That explains the fears of the citizens and the weak ambitions of a large part of its leaders. The fact is that ideas about the EU are full of misunderstanding that leave it at the mercy of superficial public opinion: like a scale of supplementary power, like a strategy to survive in the face of globalization that is only perceived as a threat, like a political shape upon which the model of the nation state is projected, etc. This is how it is often the case that some countries seem very Europeanist, in essence because they appreciate the subsidies they have received, while others see Europe as a threat and stop perceiving the opportunities it affords. Both sides have a mistaken perception of what Europe represents and, as long as this mistake is not cleared up, support for the European political project will continue to be weak or superficial.

In the current situation, we cannot progress toward necessary integration with any confidence in the support of inhabitants who do not understand the structure of Europe, people who have been bombarded for years with protectionist speeches and who are now being served an image of Europe as a disciplinary agent at the service of the markets, without remembering the responsibilities we share and the mutual

advantages of which we are beneficiaries. Appealing to a sovereign people or resorting to the criticism of our leaders is intellectually and politically very convenient. It makes us feel morally irreproachable as a member of the innocent crowd. We should, however, be reminded that there would be no populist leaders if there were not populist peoples.

The current crisis of legitimacy should be understood as the contrast between new practices and old ideas, a contrast that makes it difficult for the people to understand what to expect of the EU, what type of legitimacy and what responsibilities are in play, the limits of action of jointly held government. This is the breeding ground upon which populism and disillusionment are nurtured. It is fundamental for the functioning of democracy that the people grasp the political issues that are at stake in each case. As Walter Bagehot said in the nineteenth century: "When you put before the mass of mankind the question, 'Will you be governed by a king, or will you be governed by a Constitution?' the inquiry comes out thus in their minds—'Will you be governed in a way you understand, or will you be governed in a way you do not understand?'" (Bagehot 1873, 61). This general principle is also very specifically applicable to the European structure.

It is important to understand how institutions function, but also, in a normative sense, to properly assess the course of things. It is essential that our respect for the unusualness of an entity as complex as the EU not be used as an excuse for lowering the democratic standards with which we want to live. Intelligibility has, therefore, not only a descriptive dimension, but a normative one. Understanding is not a neutral world, a mere realization of how a particular reality functions, but a comprehension of it in accordance with a series of values that imply acceptance and criticism, a horizon of justification, something that makes sense, that can be known and recognized.

We will only be able to escape the current crisis with new meanings, and that requires a conceptual leap that allows us to understand and explain the advantages and the responsibilities of interdependence. Only a comprehension of the usefulness of

the European project will allow us to overcome the "demoscopic fear" (Habermas 2012) that grips our leaders and explains the populist drift of our societies and the reasons why the short term is given priority in political decisions. We must understand the extent to which the EU constitutes an instrument to alleviate the negative effects of globalization and bring back to the European level some of the abilities lost on the state level. The EU must be capable of showing that it adds value to the mere juxtaposition of national states.

The truth is that a state is sovereign in the negative sense when it is immune to exterior interventions regardless of whether or not it has the resources needed to put its immunity to the service of the ends it has proposed. But there is a positive sense to sovereignty, which is not only an absence of outside interferences, but the ability to act: one could be unimpeded from the outside and still be incapable. What member states do is precisely transform their negative sovereignty into positive sovereignty or, better yet, replace sovereignty with power: the limitations they accept allow them to enjoy the advantages of communality and its possibilities of expanded action.

It is unquestionable that there is a conflict between the normative principles of democracy and the effectiveness of politics to resolve some collective problems of particular importance. Supranational institutions are not part of the problem, but part of the solution, no matter how difficult. Not all obligations we have been assigning to the state can currently be carried out within the state and with the instruments of state sovereignty; the sooner we recognize this, the sooner we can think and work on a new political configuration where there is a balance between democracy, legitimacy, and functionality. Seen from this perspective, the EU offers unprecedented possibilities to respond to the challenges of interdependence in a deterritorialized world (Eriksen /Fossum 2007, 25-26; Maduro 2003, 75). This must be understood if anything is to be understood.

In some way, this deficit of intelligibility is also a political deficit, if by political we understand the articulation of the political game. A society that understands what is settled and

that can participate in the formation of political will plays a substantial role in this. The EU political system struggles in this regard because it is hard to read it with the categories of antagonism to which we are accustomed on the national level. There is without a doubt a political deficit that deserves greater consideration (Dehousse 1995). Enough attention has already been drawn to the difficulty of finding one's bearings within the European political space regarding the categories of right- and left-wing. It is also complicated to assert at this level the power sharing that lays the foundations for the ability to "throw the rascals out" that Popper enthroned as a principle of democratic logic (1962, I, 124).

There has been an entire debate about the possibilities of EU politicization, about its limits, and its risks (Hix / Bartolini 2006; Magnette / Papadopoulos 2008). It is unquestionable that the election of the president of the Commission by the European Parliament, for example, will make the electoral participation of citizens more comprehensible and interesting. I would simply like to draw attention to the fact that the politicization of the EU's modes of decision making must bear EU structural peculiarities in mind. Many of the proposals exaggerate the force of right- and left-wing ideological axes because that is how it has been in the domestic sphere. Aside from the fact that even at this level, the identification between politics and parties has lost the plausibility it had in postwar Europe, its transfer to the European level is not plausible or desirable (Wiesner / Palonen / Turkka 2011, 13). Many of the allegations in favor of the partisan politicization of the Union have a very Schmittian conception of politics, as if there could be no politics if the contrast between friend and enemy were tempered, as if there could be no power sharing without antagonism, and no difference without conflict. Politicizing is not the same as recovering political categories from other ages and at other levels. These categories are connected to the hegemony of the nation state and the classic ideological antagonism of the right and left. Politicizing means situating decisions within a political framework that belongs to a society that I like to call post-heroic, where categories such as contingency, deliberation, the weighing of alternatives, and criticism are emphasized

(Innerarity 2012). The necessary politicization does not attempt to reconstruct on a European scale an antagonism that even on the domestic level no longer seems intelligible when resorting to simplistic old categories.

We need to situate the Union's obvious problems of communication within this context. Obviously, the EU is a particularly complex political system, but complexity does not necessarily mean incomprehensibility. This is the first challenge to EU communications. Its political actors and its institutions face the challenging task of making it intelligible without unnecessarily simplifying its complexity. For this reason, analogies to the nation state should be employed with extreme caution, because it may well be the case that people fully understand something that is not what should be understood. What must be understood is not a / mere supplement of the states nor the reconstruction of statehood on a European scale, but a "compound polity" where elements of intergovernmentality and transnationality are articulated in an unprecedented fashion.

The second challenge of intelligibility requires that we understand that it is not so much a problem of information as of meaning. In fact, there is more and more information available and there is, especially, more transparency about the Union's short term costs for everyone. But our leaders barely address the long term advantages, which are thus scarcely recognized by societies.

The third requirement for communication consists of carrying it out without the elitist attitude that tends to characterize it, as if it were a type of popularizing with which, perhaps involuntarily, the distance between the experts who know and the ignorant masses—a distance we specifically wanted to overcome—is reconfigured. In a democratic society, the politics of communication must be mindful that it is an act whose recipients ultimately wield authority and, therefore, it is a bidirectional relationship. Perhaps it is true that we should be more modest and replace the proliferation of viewpoints with an improvement in explanations.

What Europe needs is to know itself and to renew its consistency. We cannot make progress with political integration if we do not openly address the question of the nature of Europe, if we avoid the deepest questions about what it is and what it can become. Without this clarification, it is obvious that the politics of communication at the heart of the Union will not be effective, especially in a mature society where there are less and less things that can be done without providing convincing justifications. As Julia Kristeva (2000) stated, Europe not only has to be useful, but it also has to make sense. Understanding Europe is the first step to giving it meaning and affording it a direction, showing citizens what should receive their assent after a public debate. It is possible that this clarification may be considered pointless for a while, but it now seems unavoidable to have an idea of Europe that explains its distinctiveness and the possibilities it contains.

6. Conclusion: A Complex Legitimacy

It is not that the EU only allows a “limited democracy” (Hix 2008, 4), but that it constitutes a complex democracy; it is not a question of transforming a semi-despotic system into a partially democratic one, but of articulating democracy and complexity in a way that corresponds with the type of political entity that the EU is. Europe will continue to have conflicts about its democratic legitimacy; the question of what to consider legitimate and democratic regarding the level of desirable integration will continue to be controversial. The habitual national debate is complicated here because it becomes mixed up with the question of the ways in which we should understand democracy and legitimacy to promote the type of polity that we understand the EU to be and that we want it to become. We are circling around dynamic concepts, which is why we have no choice but to keep the discussion open and to continue modifying our position as we discover diverse challenges and difficulties. This is the reason why it is better to avoid abstract *models* and focus our attention on the *procedures* that take into account the variables that are in play and the range of possible effects of our decisions.

That is why the whole legitimization of the European Union should be based on a combination of different criteria of legitimacy according to the dimension of the system that is in play. In some areas, competence will be more important than participation; in others, public opinion should correct the unilaterality of the experts, etc. Therefore, the legitimacy of the EU can only consist of a combination of different strategies, which is not easy and creates specific problems. In many cases, the supranational, technocratic, and intergovernmental strategies have implications that contradict each other and are, in the end, incompatible. For example, strengthening the European Parliament means weakening the independent regulatory capacity of the Commission and national control over common policies (Hurrelmann / Schneider / Steffek 2007). If we have agreed that there is constitutional pluralism, we should also think about legitimacy in a plural fashion. We must move to a division of labor regarding European legitimacy, without entrusting everything to a single variable, among other reasons because acceptance, results, participation, competence, intelligibility, and trust are vectors of legitimacy that are strongly interconnected among themselves.

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