

THE SOLVING OF THE DEMOCRATIC DEFICIT AN ANALYSIS OF THE POWERS OF THE EUROPEAN PARLIAMENT AND ITS LEGITIMACY-PROBLEM

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It seems to be a very simple point. Everyone agrees that the European Union must become more democratic. But how exactly to do that is a huge problem. Some say that the European Parliament (EP) already has as much power as a 'regular' parliament has. (Dutch secretary of state for European Affairs Atzo Nicolaï for example¹). Still, many others think the EP has not that much power and the lack of power is not the only democratic deficit problem in the E.U. And if there existed the chance to give the EP more powers would the problem than be solved?

My intention for this paper is not to loose ourselves in the endless flood of information that is available on the internet and in the libraries about all sorts of 'democratic deficits'. That is why I will try to focus on a small part of the whole discussion about the democratic deficit and see in what different manners it is described in the literature and what it exactly means. I will try to focus mainly on the EP and on its relations with the European Commission.

Introduction

It seems to be a very simple point. Everyone agrees that the European Union must become more democratic. But how exactly to do that is a huge problem. Some say that the European Parliament (EP) already has as much power as a 'regular' parliament has. (Dutch secretary of state for European Affairs Atzo Nicolaï for ex-

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My intention for this paper is not to loose ourselves in the endless flood of information that is available on the Internet and in the libraries about all sorts of ‘democratic deficits’. That is why I will try to focus on a small part of the whole discussion about the democratic deficit and see in what different manners it is described in the literature and what it exactly means. I will try to focus mainly on the EP and on its relations with the European Commission.

Corbett for example suggests that neofunctionalist tended to concentrate more on the Commission as the most important actor in supranational development and minimalize the role of the MEP and the Parliament. According to Corbett, Haas highlighted several points why MEP’s would be crucial actors on the stage of integration (Corbett 1998: 46).

So, what I would like to do is *firstly*, describe as good as possible what the ‘democratic deficit’ exactly means and in what manners it is described (mainly neofunctionalism) (Hergenhahn 2001: 5; Stone, Sweet and Sandholtz 1998: 24).

Secondly, I would like to consider some options how the position of the EP within the EU system illuminates the problem of legitimacy.

My main question in the paper would be:

Is the way that power is divided between the European Parliament and the European Commission democratically sufficient or is the European Parliament’s role incorrectly undervalued?

The opinions about this issue are still very divided so that makes it interesting to make a kind of overview of some, not all, of these opinions.

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My hypothesis would be:

The way power is divided between the EP and the Commission is not yet democratically sufficient, but the EP can be considered as an increasingly important actor. The EP's role is not undervalued but we must be reasonable and not overvalue the (importance of the) role at the moment.

My paper would consist of an introduction, in which I will try to create a theoretical-scientific context in which the 'democratic deficit'-issue can be placed. The second chapter will be about the neofunctionalist approach of the 'democratic deficit' and focus on their ideas about the 'democratic deficit' of the EP. The third chapter will focus more on how the position of the EP within the EU system (especially their relations with the Commission) illuminates the problem of legitimacy, and what the functions of the EP exactly are. Finally follows a conclusion in which I will answer the main question and test the hypothesis.

The theoretical-scientific context of the 'democratic deficit'-issue

Fritz Scharpf's analysis

From the many scientists who are trying to create a context to understand and place the 'democratic deficit', Fritz Scharpf is one of the major think tanks. Scharpf suggests analysing the legitimacy aspects by making a distinction between *input-oriented* and *authenticity output-oriented effectiveness*. He distinguishes these two dimensions of democratic self-determination, as the first is based on the people as the only legitimate source of power, meaning government by the people. The second dimension is based on the principle that public action should yield results, meaning government for the people (Scharpf 1999: 56).

In Fritz Scharpf opinion, the conditions required for the first type of legitimacy are lacking at the European level (hence the complaints of 'democratic deficit'), while in their present form, the European institutions are able to claim legitimacy in terms of output and not in terms of input.

Scharpf: *“In the language of democratic self-determination, what matters is the institutional capacity for effective problem solving, and the presence of institutional safeguards against the abuse of public power. In principle, at any rate, there is no reason why governance at the European level should not also be supported by output-oriented legitimacy arguments”* (Scharpf 1999: 57).

Here Scharpf declares to be in favour of a more output-oriented theory, but still others are more in favour of seeking to find an input-oriented solution to this ‘democratic deficit’, while renovating the traditional government model based on the exclusive sovereignty of a State as embodiment of ‘a people’ and ‘a nation’ (Hergenhahn 2001: 2).

Decision-making and executive powers at European level must be given a form of (input-oriented) legitimacy comparable to that of a traditional State. Yet this legitimating mechanism must be compatible with the unique structure of the European Union (which comprises both Community and intergovernmental components). Not only that, but the new requirements of governance, such as involving non-governmental players in the policy decision-making and evaluation processes, must also be addressed (Hergenhahn 2001: 2).

But back to the conditions required for the first type of legitimacy which are lacking at the European level according to Scharpf. Others believe that a community must be united by a number of factors before it can acquire a political dimension, or that these factors can at least contribute to forming a democratic community. Scharpf says that even then there still remains ‘the triple deficits’:

- The lack of a pre-existing sense of collective identity
- The lack of a Europe-wide policy discourses
- The lack of a Europe-wide institutional infrastructure that could ensure the political accountability of office holders to a European constituency (Hergenhahn 2001: 2).

Scharpf: *“The concern over a ‘democratic deficit’ is persisting, even increasing, though the competencies of the European Parliament have been significantly enlarged by the Single European Act and by the institutional changes adopted in Maastricht and Am-*

sterdam. Given the historical, linguistic, cultural, ethnic and institutional diversity of its Member States, there is no question that the Union is very far from having achieved the 'thick' collective identity that we have come to take for granted in national democracies. (...) Some of these deficits might have been reduced through feasible - or at least not a priori impossible - institutional reforms - e.g. by having the Commission president elected by, and fully accountable to, the European Parliament" (Scharpf 1999: 59).

Dimitris Chrysochoou's analysis

Chrysochoou has mainly been writing with the supposition that there really was a 'democratic deficit'. For him it was no question whether it existed or not, it just did. It seems to be relevant to have this in the back of your mind while reading his articles. His question is whether the democratic shortfalls of the Union can be seen as historical continuation of the wider phenomenon concerning the decline influence of the member states legislatures in the national governing process. His answer is that although it does not provide a complete framework for interpretation of the genesis of the democratic deficit, it remains a useful reminder (Chrysochoou 2000: 108). Thus, the democratic deficit of the Union can be seen partly as an extension of national parliamentary deficiencies and partly as an institutional problem transferred from national to European structures of government.

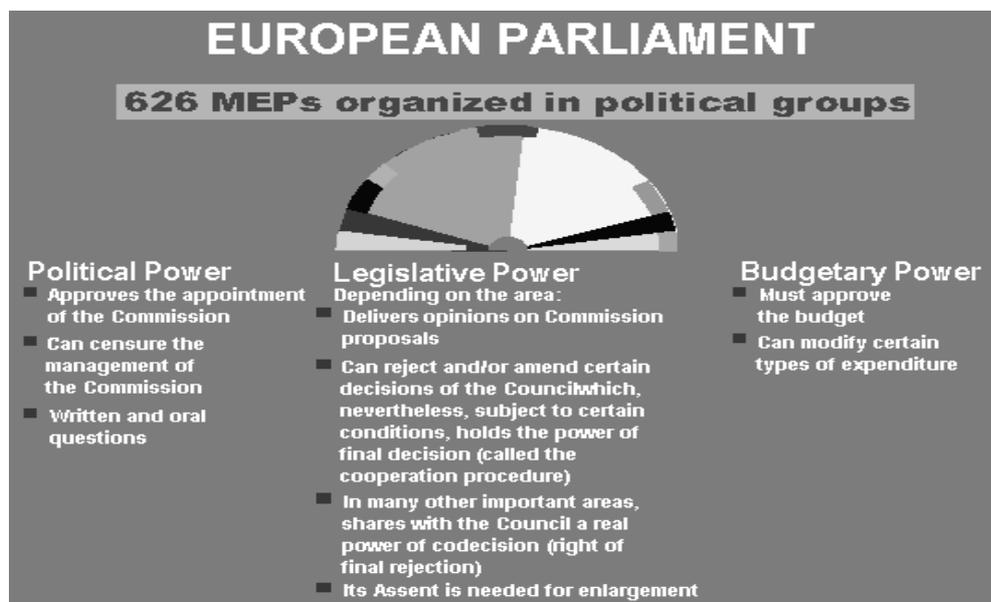
Chrysochoou is referring to the work made by Bryce. According to Bryce, one of his oft-quoted criticisms on the British political system, the disappearance of a sense of 'social responsibility' among members of the Parliament 'has made' parliamentary deliberations seem more and more of a game and less and less a consultation by the leaders of the nation on matters of public welfare. Bryce is convinced that 'something has been lost'. Much of his blame for the changing nature of parliamentarism was apportioned to the increasing importance of 'party machines', which made many parliamentarians feel themselves responsible to political parties, rather than to their constituencies. He perceived the effects of party

discipline as detrimental to Burke's idea of the representatives' independence of mind (Chrysochoou 2000: 109).

Another point made by Chrysochoou is that the member states sought to maintain and even enhance their individual capacities by reserving the final word on a considerable range of draft European legislation, largely at the expense of national parliamentary input. As a result, the member state 'demoi' have experienced a considerable loss in their capacity to influence the affairs of the larger polity through the intermediary involvement of their representative assemblies. Accordingly, when the 'demos' cannot employ its national parliaments to exercise control over the transnational political process a loss of national democratic autonomy can be said to exist (Chrysochoou 2000: 117). The most radical meaning of this loss would be that since national parliaments as the incarnation of popular sovereignty in systems of indirect 'demos' control, have become impotent, the transnational political process does not comply even with the minimum requirements of modern democracy.

The following picture gives a visual impression of what power the EP has. It distinguishes the political power, the legislative power and the budgetary power.

(source www.xanthi.ilsp.gr/kemeseu/ch2/eu_parliament.htm)



The neofunctionalist approach of the 'democratic deficit'

In this chapter I will focus on some of the neofunctionalist ideas about the ‘democratic deficit’ of the EP. First of all, I would like to clear up the difference between neofunctionalists and traditional functionalists. The key issue dividing neofunctionalists from traditional functionalists, and indeed from opponents of European integration or protagonists of intergovernmental co-operation, was whether political integration could proceed on the basis of integrating *Gesellschaft*, though some would argue that Europe already had a degree of *Gemeinschaft* comparable to that of some of its Member States and sufficient for it to function (Corbett 1998: 21).

So, when we look at the central argument of neofunctionalism, it shows that integration in one sector will automatically spill over into integration in other sectors and that as this process continues, political actors will incrementally shift the focus of their activities, their expectations and even their loyalties to the new integrated institutions and procedures. These two aspects, functional spillover and political spillover, were interlinked, as the tensions created in another sector by integration of one sector could be resolved in one way of two ways: integration of the new sector or disintegration of the integrated sector. Thus the supranational agency slowly extends its authority so as to progressively undermine the independence of the nation state. For example, interest groups and local authorities have increasingly more contact with the EU than with their own national government. To illustrate this point, neofunctionalists explored the dynamics of negotiation, bargaining, package dealing, side-payments and log rolling. Haas comes up with the idea that progress would be enhanced by networks and habits developed by working together. All this was focused on the ‘élite’s’ of national and supranational bureaucrats, ministers and interest groups and in the EC on the Commission, not the EP:

Haas: “*Converging economic goals, embedded in the bureaucratic, pluralistic and industrial life of modern Europe provided the crucial impetus. The economic transition, the planner, the innovating industrialist and trade unionist advanced the movement, not the politician, the scholar, the poet or the writer*” (Haas in Corbett 1998: 24).

Haas points out that progress was made by networks of élite's and not by the EP. Here we come at a point where Corbett criticises Haas. In Corbett's opinion neofunctionalists tend to focus more on the Commission as the most important actor and minimize the role of the EP (Corbett 1998: 46).

Though, Haas highlighted two points why Members of European Parliament (MEP's) would be crucial actors on the stage of integration. First, they would "deliberately and self-consciously seek to create a federal Europe by prescribing appropriate policies" and "stimulating the conclusion of new treaties looking towards further integration". The second point is that they would further "the growth of practices and codes of behaviour typical of federations".

According to Haas MEP's must develop into the European parliamentary élite (developing policies themselves, which might be taken up nationally, rather than vice versa) and to the development of the Political Groups (replacing national divisions with ideological ones).

Indeed, Haas considered Groups/Parties to be "far more crucial carriers of political integration than even supranational organised interest groups", and the behaviour of the EP's Groups to be "a more cogent source of materials for the analysis of community formation processes than the immediate decisions of 'the other institution or national governments'" (Haas in Corbett 1998: 47).

We could say that for neofunctionalists, the importance of the EP was in

1. developing habits of behaviour at the supranational level;
2. enabling parties to organise and focus activities;
3. substituting national divisions with transnational ideological ones;
4. providing a channel of communication and developing a body with an interest in further integration.

However, neofunctionalists did not attach great importance to direct elections as such. Their focus on élite bargaining and gradual shifting of interest group expectations and actions did not predispose them to seeing a legitimising role in direct elections, and they even saw potential dangers in them.

The position of the EP within the EU system

The Corbett suggestions

In this chapter I will focus on the position of the EP within the EU system (especially their relations with the Commission), how it illuminates the problem of legitimacy, and what the functions of the EP exactly are. The position of the EP within the EU-system is pluralistic. For example, the legitimacy of an elected parliament was also perceived to be in the interest of the Commission (Corbett 1998: 50). Through its relations with the EP the Commission gives a political dimension to its actions and that is through its political responsibility to Parliament that the Commission can be considered as political institution. So, this means that only than, the Commission can be considered as a political institution. The Commission must see the EP as an ally, and it would be likely to support increased parliament powers vis-à-vis the Council, but more reticent to accept increased parliament powers vis-à-vis itself.

But is not quite clear how to achieve this greater authority. It is not simply that the Council and the Commission could be expected to bow before the will of the people. A possibility would be the election process itself that would overcome the ‘publicity gap’ and provide a basis for popular support for European unification. In this sense, the elections could be the motor of European unification and it would make it impossible for governments to ignore. Maybe the elections would be the driving force for constitutional transformation as well or even force political parties to organise.

But Helen Wallace for example shows some pessimism. She pointed to direct elections being one of a number of factors politicising the EC in a way that contradicted those who thought EC co-operation would consist of:

Wallace: “*would consist of joint positions on a limited range of those issues that lay far from the core of politics*” (Wallace in Corbett 1998: 51).

So, she explains here that there were and are several scientists as well as politicians who think it would be the best for the individual countries if the EU would consist of a framework of cooperation, instead of increasing integration. However she felt that: *“a new constitutional settlement for the EC is unlikely in the near future, pointing out that there is enormous resistance... to any explicit extension of the Parliament’s powers”* (Wallace in Corbett 1998: 51).

Nord and Taylor, both senior Parliaments officials, felt pretty much the same. They thought that the EP would remain ‘much the same’ Given the difficulties in increasing EP powers, they felt able to forecast with some confidence that it will be using its existing powers to more fully, rather than seeking new ones.

Others point out to the professionalisation of the MEP’s. This would be a crucial new element in which MEP’s would be full-time, with good documentation ‘real professionals’, which would allow the EP to gain real powers. An opposite view was that the nominated parliament had power and influence because its members were also members of national parliaments where they exercised some leverage over their own government. Without this asset the Council (Bruce in Corbett 1998: 52) would ignore the elected EP.

For some it was not so much the specialist professionalism, but the prospect of prominent national leaders sitting in the EP (Brandt and Mitterrand had already announced their intention to stand) that would lend it an authority, which could not be ignored.

Nevertheless, most of the views and opinions, envisaged mainly a development of its existing powers, notably:

- Making use of its new budgetary powers by redefining the categories of expenditure over which it had the final say and by using its right to create new items in the budget;

- Developing its role in the legislative procedure by applying the conciliation procedure wherever Council and Parliament diverge and by obliging the Commission to withdraw any proposals specifically rejected by Parliament;

- Recognising a right of initiative by Parliament;

- Subjecting the appointment of the President of the Commission to its approval and reinforcing his role in the choice of the rest of the Commission;
- Enlarging its right to appeal to the Court of Justice;
- Giving its equal rights with Council for the approval of international agreements (Corbett 1998: 53).

The Wessels & Diedrichs suggestions

It is possible to focus in another manner by using the model suggested by Wolfgang Wessels and Udo Diedrichs (Banchoff e.a. 1999). They propose a model in which two other functions are highlighted. The first is the system-development function. This function refers to the EP's ability to participate in constitutive decisions (constitution building) and in shaping the functional, sectoral, and geographical scope of the political system. To the extent that the EP, the only directly accountable EU institution, shapes the evolution of the EU as a whole, it constitutes a means for citizens to influence European governance. Wessels and Diedrichs think that the influence of the EP appears quite limited. There have been several attempts to increase this influence, but till now it stayed fruitless. In 1994 the draft report co-ordinated by Belgian MEP Fernand Herman (Herman Report), intended to serve as a basis for a European constitution, was not taken up by the EP's plenary but referred back to the committee in order to be reconsidered in a broad public debate. This de facto failure of the report reveals that a constitutional solution currently is not on the agenda of the EP itself (Banchoff e.a. 1999: 104).

However, it is important to recall that though a decade earlier the Draft Treaty on European Union submitted by the EP, the so-called Spinelli Draft, was not taken up as a political strategy, it nevertheless inspired the proceedings and preparations leading to the conclusion of the Single European Act.

Moreover, the Spinelli Draft: *"reconfirmed the EP's role as the conscience of the original EC ideal, worrying away around the edges of the existing system"* (Urwin in Banchoff e.a. 1999: 104).

The future evolution of the EP as an effective actor at the level of system-development will depend in no small part on the evolution of its party groups. Since the beginning of the European integration, the members of the Assembly of the European Communities have organised themselves into groups along party lines rather than national delegations. The parliamentary parties have therefore developed largely independently from the co-existing Europe-wide party federations. Throughout this process, partisan conflict has been overshadowed by a common understanding among the main groups in the EP, leading to 'Grand Coalition' of European People's Party (Christian democrats and conservatives) and social democrats.

Wessels & Diedrichs (Banchoff 1999: 105) make four statements about this 'Grand Coalition':

1. The multinational composition of the Parliament has led to overlapping cleavages in which the 'national factor' has become diminished as a source of division within the larger group. This contrasts with the case of national parliaments, in which the political process typically exaggerates policy differences between those parties in government and those in opposition.

2. The absence of partisan cleavages within the EP has arguably hampered its effectiveness as a forum for Europe-wide democratic representation. But this cohesiveness has also contributed to the EP's strength within the overall EU system. Only with an absolute majority of its members has Parliament been able to fight effectively for its interests and positions in the co-decision and assent procedures, and to be perceived as a single actor by the public.

3. Ever more cleavages familiar from the national scene emerge in the Brussels and Strasbourg arenas. By this they mean for example the confirmation of Jacques Santer as Commission President in 1994. It reveals traces of a 'soft' cleavage between centre-right and centre-left groups in the plenary, as well as between parties in government and those in opposition in their home countries.

4. The EP faces a so-called 'conundrum'. This means that until recently, the strategic institutional requirements of the EP have hindered the emergence of political and ideological discussion, conflict and debate among the party groups. Intensified political contes-

tation within the EP seems to be a necessary condition for greater public visibility and support for the EP.

The second model proposed by Wessels and Diedrichs is the interaction function. This function refers to the ability to attract the attention, interaction, and support of citizens. To the extent that the EP increases its interaction with European publics by serving as a locus of partisan exchange and a site of interest articulation, it constitutes a more effective representative institution (Wessels and Diedrichs in Banchoff e.a. 1999: 144).

It is this interaction function of the EP, which addresses the problem of legitimacy most directly. This function includes for example communications with citizens and intermediary groups that create support for the EU as a political system as a whole. Interaction between the EP and European citizens remains thin; popular attention devoted to the EP is low, rising when elections are held, but even then overshadowed by national issues in the member states.

There were a couple of innovations introduced by the Maastricht Treaty in 1992 to bridge the gap between the citizens and the EP. The Ombudsman for example was introduced to receive complaints from any citizen or any natural or legal person residing in the Member States concerning instances of maladministration in the activities of the Union institutions or bodies other than the Court. This official has the right to conduct inquiries, except where court cases are under way.

Another, and maybe the strongest prospect for an enhanced public profile for the EP, emerges from its right to set up a temporary committee of inquiry into an area of suspected 'contravention or maladministration' of Union law. EP's power use of this power enjoyed widespread public attention in the BSE (mad cow) case, when members and civil servants of the Commission responsible for agriculture had to face the deputies in order to clarify their personal performance and responsibility in that affair.

But despite all these efforts there is no strong evidence of public consciousness of the work of the EP, but according to results of Eurobarometer, the European publics are more aware of the activities of the EP than of other EU institutions. Evidence on the issues of trust in EP and interest mediation further complicated the vague

picture that is showed to us by the data. Only 41 percent of respondents declared that they rely on the EP and only 35 percent were convinced that it defended their interest (Banchoff 1999: 107). But we must not forget to compare those percentages with the trust in national parliaments; this is only 45 percent. So, that is not very high as well. Furthermore, 47 percent described themselves as dissatisfied with the way democracy works in the EU, with 41 percent in favor. But again, comparison is necessary; 55 percent expressed dissatisfaction how democracy works in their home countries and only 42 percent were satisfied.

Overall, the data do not tell us much about the quality, depth and consistency of such attitudes. They just provide the outlines of a general trend and differences between the member states could be big. A great deal of work on political interaction with the EP remains to be done: the interaction with citizens remains a weak link. Especially, the increased importance of the EP for intermediary groups lobbies and interest organisations. With the constitutional strengthening of the EP in the decision-making process, the MEP's are becoming a decisive 'target' for lobbyists.

According to Wessels and Diedrichs, the increasing recognition of the EP as a relevant actor in the whole process does not show that the EU is gaining legitimacy at the expense of other institutions. Other national and subnational institutions keep their legitimacy while at the same time the EP is gaining some acceptance and identification by the citizens (Banchoff 1999: 109).

Conclusion

To keep the goals clear I will shortly repeat what I did in this paper;

My intention for this paper was not to loose ourselves in the endless flood of information that is available on the Internet and in the libraries about all sorts of 'democratic deficits'. That was why I focussed on a small part of the whole discussion about the democratic deficit and in what different manners it has been described in the literature and what it exactly means. I have focussed mainly on the EP and on its relations with the European Commission.

I have also focussed on what the ‘democratic deficit’ exactly means and in what manners it was described (mainly neofunctionalism) (Hergenhahn 2001: 5; Stone, Sweet and Sandholtz 1998: 24). Secondly, I have considered some options how the position of the EP within the EU system illuminates the problem of legitimacy.

My main question in the paper was: is the way power is divided between the European Parliament and the European Commission democratic sufficient or is the European Parliament’s role incorrectly undervalued?

My hypothesis was: the way power is divided between the EP and the Commission is not yet democratically sufficient, but the EP can be considered as an increasingly important actor. The EP’s role is not undervalued but we must be reasonable and not overvalue the (importance of the) role at the moment.

Given the theoretical-scientific context I set up in the beginning, my conclusion would be three-wise:

Firstly, though neofunctionalist tend to focus more on the Commission, the EP is considered as an increasingly important component of the EU political system. The EP is more and more an agenda-setter, shaping the political debate and behaviour of other actors. It has to be a process of acceptance and identification from the European demos with the EP as their legitimate representation. But, still the democratic balance between the EP and the Commission is not yet established. According to what I have found I would conclude that at the very moment the Commission has more power than the EP in ‘getting things done’ and its influence in the EU is, overall speaking, the biggest.

Secondly, the legitimacy of the EP is in the end in the political advantage of the Commission. Through its relations with the EP the Commission gives a political dimension to its actions and that is through its political responsibility to Parliament that the Commission can be considered as political institution. So, this means that only than, the Commission can be considered as a political institution. The Commission must see the EP as an ally, and it would be likely to support increased parliament powers vis-à-vis the Council, but more reticent to accept increased parliament powers vis-à-vis itself.

Thirdly, the EP must improve their legitimacy through more interaction with citizens and intermediary groups. This could expend EP influence in the future. In this way they would create political forum providing citizens with closer contact to EU policy-making than secretive bargaining in the Council or technocratic administration within the Commission. At the same time, the EP as a substantial power of co-decision must balance this interaction with its decision-making responsibilities. Furthermore, the EP's institutional need for coherence and internal discipline will complicate its efforts to offer a forum where partisan conflict can take place.

The EP's relative strength lies in providing a public arena of debate and political discussion, in which different political and social currents and actors can identify their positions and interests. The EP's direct representative capacity will continue to play an important role in this system, potentially bolstering a European legitimacy complementary to the national and functional ones.

The EP will probably never become a central representative institution comparable to national parliaments. Nevertheless, the EP's further development will continue to have far-reaching implications for EU legitimacy.

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