

**THE CONCEPTS OF PARLIAMENTARISM
IN THE EU'S POLITICAL SYSTEM**

APPROACHING THE CHOICE BETWEEN TWO MODELS

Teija Tiilikainen

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EU-level parliamentarism is at a crossroads. The hybrid form of parliamentarism, combining elements of parliamentarism as control of the executive and parliamentarism as a separation of powers, has rendered the public image of the European Parliament obscure, and decreased the democratic legitimacy of the EU's political system. Even the contradictory elements of the two main models of parliamentarism have been incorporated into the Union's political governance.

Lack of clarity concerning the contours of parliamentarism tends to support an underestimation of the role it plays at the EU level. The path towards the revision of the Union's democratic governance along the lines of the separation of powers system is currently shorter than the one provided by parliamentarism as control of the executive.



TEIJA TIILIKAINEN

*Director,
Finnish Institute of International Affairs*

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INTRODUCTION

Different understandings of parliamentarism have characterised the formation of the EU's political system ever since the establishment of the three European communities in the 1950s. The principle of parliamentarism as parliament's right to control the executive – encompassing the right to a vote of censure – also formed a part of the initial European Coal and Steel Community. It was duly incorporated into the Treaty on the European Economic Community (1958) in an identical form. Due to prevailing political controversies with respect to the completion of this type of parliamentarism, alternative understandings of the concept have gained significance in the Union's political system.

Parliamentarism has also been advanced in the EU in its general meaning, as the power of bodies elected by popular vote. This conception of parliamentarism brings the overall powers of parliamentary bodies to the fore and adds national parliaments – in addition to the European Parliament (EP) – to the instruments of parliamentarism at the EU level. Being a characteristic of the system of separation of powers, this concept of parliamentarism is, at the level of political systems, an alternative to the first notion of parliamentarism revolving around the control of the executive.

The co-existence of the two notions has led to certain problems of compatibility in the EU's political system. A third conception of parliamentarism goes back to the classical understanding of parliamentary politics as politics by means of speaking. Various interpretations of this conception have been expounded in British 19th-century political thinking and in the works of Max Weber. Approaching parliamentarism in the EU from this perspective stresses the importance of certain parliamentary practices such as the culture of openness and the EP's dialogue with the other political institutions of the EU.

This Working Paper focuses on the role of different conceptions of parliamentarism in the EU's political system. First, it addresses the ways in which the two concepts of parliamentarism that usually stand as alternatives to each other, parliamentarism as control

of the executive and parliamentarism as a form of separation of powers, entered the Union's political system. How do the two models co-exist and function, and what kinds of challenges and tensions does this create? The paper also assesses which future institutional solutions and choices can be considered decisive with respect to the more long-term consolidation of the EU's political system as parliamentarism of the first or second type.

The third concept of parliamentarism as politics by means of speaking will then be studied with respect to its impact and significance in the EU's system. As this concept is broader than the first two, and encompasses a certain culture of political power rather than relations between political institutions, it does not clash with the others. But it can be seen as being at odds with some other dominant characteristics of the EU's political culture which stem from the Union's inter-governmental features, namely those of diplomatic negotiations and secrecy.

PARLIAMENTARISM AS CONTROL OF THE EXECUTIVE

The accountability of the government to parliament is the key characteristic of a parliamentary government and the main difference with respect to a presidential one. According to Arend Lijphart,¹ accountability means that the head of government and his or her cabinet are responsible to the legislature in the sense that they are dependent on the legislature's confidence and can be dismissed from office by a legislative vote of no confidence or censure. The power to confirm the cabinet often forms a part of parliament's role in a parliamentary government, although there seems to be much variation among European political systems in this respect.²

The right of the European Parliament to censure the Commission has formed a part of the core principles of

1 Lijphart 1999, 117.

2 Decker and Sonnicksen 2011, 174.

the EU's political system ever since the establishment of the European Coal and Steel Community (ECSC). The initial formulation of parliamentary accountability in the ECSC Treaty reflected an aspiration to enable the European institutions to acquire sufficient independence from the Member States.³ The functions of the High Authority (later the Commission) resembled those of a political executive, albeit limited to a narrow substantive field. The High Authority was to be scrutinised by the Parliamentary Assembly through a procedure that was still linked to the approval of the annual report of the former.⁴

While the formulation remained as such in the EEC Treaty, the Maastricht Treaty on European Union (1993) broadened the Parliament's vote of no confidence from the framework of the Commission's annual report.⁵ The Lisbon Treaty generalises the principle of parliamentarism further by stating that the Commission, as a body, will be responsible to the European Parliament (TEU Art. 17(8)).

As the fact that the vote of no confidence will deal with the entire Commission, and not with individual members only, has been seen to pose an obstacle to the efficient control of the Commission, this rule has been complemented with mechanisms providing more flexibility in this respect. According to the treaties (TEU, Art. 17(6)), a member of the Commission must resign if requested to do so by the President of the Commission. An agreement between the Commission and the EP⁶ obligates the President to exercise this right or to explain his or her refusal to do so if a lack of confidence against an individual Commissioner emerges in the EP.⁷

3 Gerbet 1989, 46.

4 L'Assemblée procède, en séance publique, à la discussion du rapport général qui lui est soumis par la Haute Autorité. L'Assemblée, saisie d'une motion de censure sur le rapport, ne peut se prononcer sur ladite motion que trois jours au moins après son dépôt et par un scrutin public. Si la motion est adoptée à une majorité de deux tiers des voix exprimées et à la majorité des membres qui composent L'Assemblée, les membres de la Haute Autorité doivent abandonner collectivement leurs fonctions. Ils continueront à expédier les affaires courantes jusqu'à leurs remplacement conformément à article 10 (Traité instituant la Communauté Européenne du Charbon et de L'Acier, art. 24).

The Assembly shall discuss in open sessions the general report submitted to it by the High Authority. If a motion on censure on the report is tabled before it, the Assembly shall not vote thereon until at least three days after the motion has been tabled and only by open vote. If the motion of censure is carried by a two-thirds majority of the votes cast, representing a majority of the Members of the Assembly, the Members of the High Authority shall resign as a body. They shall continue to deal with current business until they are replaced in accordance with Article 10. (Treaty establishing the European Coal and Steel Community, 18.4.1952, art. 24.)

5 Treaty on the European Union, Art. 144: "If a motion of censure on the activities of the Commission is tabled before it, the European Parliament shall not vote thereon until at least three days after the motion has been tabled and only by open vote".

6 Framework agreement on relations between the EP and the Commission (9 February 2010).

7 If Parliament asks the President of the Commission to withdraw confidence in an individual Member of the Commission, he/she will seriously consider whether to request that Member to resign, in accordance with Article 17(6) of the EU Treaty; the President shall either require the resignation of that Member or explain his/her refusal to do so before Parliament in the following part-session.

Despite this, the EP has not utilised its right to censure the Commission efficiently, which in part is a reflection of the Commission's role as a collegial body. At a general level, it reflects the vacillating support for the emergence of a parliamentary government at the EU level. The lack of proper parliamentary instruments for the more general testing of the Commission's confidence, such as interpellation, hampers the efficient scrutiny of the executive in practice.⁸ The same can be said of the voting rule in the European Parliament, which requires a two-thirds majority in support of the motion of censure (TFEU, Art. 234).

Similar shortcomings – from the perspective of parliamentarism as control of the executive – apply to the form taken by the EP's right to elect the Commission. This parliamentary practice was only introduced by the Maastricht Treaty (Art. 214), which required the EP to be consulted on the member state governments' nominee for Commission President, and the members of a full Commission to be subordinated to a vote of approval. The EP, however, adopted a stronger interpretation of its own role and organised a vote on the nomination of Jacques Santer for Commission President⁹ and, subsequently, hearings with the nominees for Commission members. The Amsterdam Treaty amended the consultative role of the EP into the power to veto the nominated Commission President and the body of commissioners, and the Nice Treaty finally introduced the qualified majority rule as a mechanism for this.

The weak materialisation of parliamentary control, both when it comes to the election of the Commission and censoring it, reflects the deficient completion of the parliamentary government and the current character of the EU's regime as a hybrid of the two main forms of parliamentarism.¹⁰ Concerning the issues discussed in this paper, the non-partisan character of the Commission, that is, its political independence, and its internal structures of responsibility form the decisive embodiments of the merger between the two forms.

The initial treaties already paved the way for this hybrid construction by demanding that the members of the Commission should carry out their task wholly independently, thereby promoting the general interest of the communities.¹¹ The members of the Commission should not take instructions from the Member States nor from any other institution. Irrespective of

8 Proksch and Slapin 2010, 3.

9 Hix 2005, 59.

10 Decker and Sonnicksen 2011; Hix, Noury and Roland 2007, 13.

11 Traité instituant la Communauté Européenne du Charbon et de L'Acier; Art. 49.

the EP's strengthened grip on the appointment of the Commission and its President, the formulations on the Commission's independent character have remained unchanged to a large extent. According to the Lisbon Treaty (TEU, Art. 17(3)), the members of the Commission shall be chosen on the basis of their general competence and European commitment from persons whose independence is beyond doubt. The members of the Commission shall, however, resign if the President – himself/herself elected by the EP by taking into account the result of the European elections – so requests. Despite serious efforts to reduce the number of commissioners – and to separate the division of seats in the Commission from the grip of the Member States – the long-standing set-up with the national governments defining the (partisan) composition of the Commission still prevails.¹²

A key difference between a parliamentary government and a presidential one – leaning on a separation of powers form of parliamentarism – relates to their internal dynamics. In a presidential government, the members of government depend on the trust of the President, with the government being much less of a collegial body than in the case of a parliamentary government.¹³ The Commission functions as a collegial body acting on the basis of joint decisions, but the strong role of the Commission President and the lack of a partisan dimension bear a strong resemblance to the presidential government.

Currently, the two models of government come together in the job description of the Commission President. The President is the only member of the Commission whose election involves a partisan element confirmed explicitly in the Lisbon Treaty. According to TEU, Art. 17(7), the European Council shall, taking into account elections to the EP, propose a candidate for the Commission President to the EP. Although the provision does not specify the way in which the elections will be taken into account, both the preparatory works of the Lisbon Treaty and the established practice confirm an interpretation according to which the President has to have the support of the winning party group. In order to strengthen their own position in this nomination procedure, the European parties started

to nominate their 'lead candidates' for the Commission Presidency in the EP elections of 2014. Even if the Member States refused to endorse the procedure, it continues in the elections of 2019.¹⁴

The current method of electing the President of the Commission by the EP provides a strong element of parliamentarism in the Commission together with the requirement of the EP's approval, which must be achieved for the entire Commission. On the other hand, the key role played by the President when putting together the Commission along with his or her right to ask individual Commissioners to resign are, rather, features of a Presidential government, where the members depend on the trust of the President.

The lack of a party government characterises, in the same way, the election of the members of the Commission which, according to the treaties, shall be subject as a body to a vote of consent by the European Parliament. This role, and the hearings with the nominees for the Commission preceding the vote, have been interpreted as a key contribution to the parliamentary government. The lack of a party dimension, however, has led to the hearings being constructed in keeping with the model of the US Senate confirmation hearings with the nominees to the President's cabinet.¹⁵ This function forms a part of the hearings through which the US Congress exerts oversight of nominations by the President to executive and judicial positions. It differs, consequently, concerning its logic from parliamentary nomination and government approval in systems of parliamentary government.

It could be concluded that, in the current circumstances, there are both institutional deficiencies and deficiencies related more broadly to the EU's political system, which form the key stumbling blocks to the EU's development towards a parliamentary system based upon the parliament's control of the executive. The lack of party government – meaning that the composition of the Commission is lacking a broader linkage to the outcome of EP elections – is part of a more complex set of factors dealing with the character of the party system at the EU level, as well as with the nature of European elections, which are still far from fulfilling the conditions of a functioning parliamentary government.

12 Both the Nice Treaty and the Lisbon Treaty included provisions on the reduction of the Commission, but they were never put into practice before getting replaced by an agreement safeguarding the status quo. The first drafts of the Treaty on European Constitution would have reduced the size of the Commission and ended the practice of Member States' seats. The goal of a smaller Commission has recently been confirmed by France and Germany in their Meseberg Declaration of 19 June 2018.

13 Lijphart 1999, 188.

14 The fact that the lead candidate of the largest political group after the 2014 elections, Jean-Claude Juncker, was nominated for the Presidency was seen to consolidate the procedure and it was in this context that a formulation was added to the European Council Conclusions of June 2014, according to which the European Council will later consider the process for the appointment of the President of the Commission for the future. As no definite decision was taken, however, many of the European political parties have continued this practice prior to the 2019 EP elections.

15 Decker and Sonnicksen 2011, 174; Hix et al., 2007, 16.

On this basis, it has been argued that, in fact, instead of a parliamentary democracy, a US-style pluralist model of democracy would appear to be more applicable to the EU's supranational context and character.¹⁶

The institutional deficiencies are, again, related to those missing competences in the relationship between the Commission and the EP that form a key characteristic of a parliamentary government. The missing right of the Commission to dissolve the EP and call for new elections can be considered a major distortion in this relationship between executive and legislature from the point of view of parliamentarism as control of the executive. Another missing right is the ability to initiate legislation, which is an essential competence of parliaments in a parliamentary government.¹⁷ The lack of this right is, however, to some extent compensated for by the EP's enhanced ability to invite the Commission to submit a legislative proposal.

PARLIAMENTARISM AS A SEPARATION OF POWERS SYSTEM

In more general terms, parliamentarism in the EU is understood as the key role taken by the directly elected bodies – both the European Parliament and national parliaments – in the EU's political system. This concept of parliamentarism comes closer to an understanding of parliamentary powers in a presidential, or a separation of powers system. As the name suggests, the 'powers' of such a system are more independent of each other with implications for the role of elections, political parties and the entire logic of representative democracy. The government does not represent the parties winning the elections and therefore it has a different connection to the organised civil society and the citizenry compared to a parliamentary system with a government accountable to the parliament. Referring to Max Weber's initial distinction between *Redeparlament* and *Arbeitsparlament*, Philipp Dann calls this kind of parliament a working parliament and stresses that it is more the strong and specialised committees and less the floor that functions as the main locus in working parliaments.¹⁸

This concept of parliamentarism is also firmly embodied in the EU's democratic system. Instead of close political interaction with the government – typical of

parliaments in parliamentary systems – the focus of the EP's functions is on its legislative mandate, which it carries out as an actor independent of the other actors involved, namely the Commission and the Council. This legislative independence, where the EP takes the role of a counterforce to the executive rather than being its political foundation like parliaments in parliamentary systems of government, revolves around the co-decision mechanism as the key legislative procedure, which came into being in the Maastricht Treaty. Unlike the previous mechanisms of assent or cooperation, this mechanism, currently known as the ordinary legislative procedure, defines the EP's role as an independent and equal actor in the EU's legislative competence.¹⁹ The same setting exists in the current budgetary procedure.

The working mechanisms of the EP, as well as the evolving bicameral structure of the legislature, are elements that support the EP's development towards a parliament in a separation of powers format rather than a parliament controlling the executive. Along with the EP's strengthened powers, both with respect to the EU's legislative and budgetary competence, the Union's legislative procedure follows the model of a bicameral parliament. In the EU this takes the form of the ordinary legislative procedure, where the consent of both chambers, namely the Council and the EP, is needed for a legislative act. Even if the Council still has executive competences other than those of a legislative nature, it does not challenge the trend towards bicameralism. In this respect, the observations concerning the difficult compatibility of bicameralism and parliamentary government are valid with respect to the EU as well.²⁰ The difficulties dealing with the efficiency of parliamentary scrutiny in such a system are seen to stem from the biased setting, where it is normally only the lower chamber representing the people that can dismiss the government, and not the chamber representing the Member States, namely the Council.

Another characteristic of a working parliament, which the EP shares, is the focus of its work being on its strong committees, which prepare the EP's positions towards initiatives for new legislation.²¹ The fact that the responsibilities of the committees correspond to the EU's main legislative competences, and the

16 Coultrap 1999; see also Dann 2003, and Proksch and Slapin 2010.

17 Decker and Sonnicksen 2011, 177.

18 Dann 2003, 556.

19 In the ordinary legislative procedure, the consent of both the Council and the EP is needed for a legislative act to come into being. The procedure that might comprise two readings and a conciliatory committee strongly resembles the bicameral legislative procedures of federations such as the United States.

20 Raunio 2002, 114; Saunders 1995.

21 Neuhold 2001.

particularity with which the parliament's positions are being prepared on legislative issues, are further signs of this.

Seen from this perspective, the Commission's forms of parliamentary control – the right of censure and the right to give its approval to its composition – appear awkward. However, the weak materialisation of the mandate – to exert scrutiny and the vote of no confidence – decrease the significance of the principle. In the current circumstances, the main institutional deficiency with respect to the conditions of parliamentarism in a separation of powers system lies in the deficient popular anchoring of the government. A president elected by the people is a key characteristic of the separation of powers system and provides the proper legitimacy for an executive that is not accountable to the parliament.²²

The question of direct election of the Commission President has been widely discussed in the EU in the context of previous changes to the institutional system, and should be perceived against this background.²³ Apart from the popular anchoring of the government, direct election of the Commission President is argued to complement the EU's party system whereby the political parties do not fulfil their role as ideological intermediaries between the citizenry and the political system in the same way as in a parliamentary government. Decker and Sonnicksen, for instance, argue that a presidential system can manage without well-organised, advanced party structures as the directly elected head of government possesses legitimacy independent of parliament on account of the popular election.²⁴ In this respect, the current EU-level party system already fulfils the prerequisites of a presidential system, and the changes demanded would not be as comprehensive as those required by a fully-fledged parliamentary government.

A shift to a directly elected Commission President would complete the EU's governance as a predominantly separation of powers system and would thus require a reconsideration of the current mechanisms of parliamentary accountability, such as the vote of approval of the Commission and the possibility of a vote of no confidence. The definition of the electoral procedure for the new direct elections would require

a careful balancing between European majoritarianism on the one hand, and the protection of the role of the small Member States on the other.

THE CONTROVERSIAL ROLE OF NATIONAL PARLIAMENTS AT THE EU LEVEL

In its general meaning as the power of bodies elected by the people, parliamentarism in the EU has recently encompassed firm efforts to strengthen the role of national parliaments at the EU level. Being outside of the blueprints of both models of parliamentarism discussed above, the strengthened role of national parliaments is presented instead as a *sui generis* solution which could, as a less controversial model, help to decrease the EU's lack of democratic legitimacy in the short term.

The EU-level empowering of national parliaments has, however, faced difficulties due in part to its weak compatibility with both of the leading models of parliamentarism represented by the EU's political system. First, any type of parliamentary control exerted by national parliaments at the EU level can be argued to mix up relations of power and accountability between the two layers of the EU's political system. The new role introduced by the Lisbon Treaty, where national parliaments are mandated to control compliance with the subsidiarity principle, already faced this criticism and made the 'red card option', that is, the ability of national parliaments to veto legislative initiatives incompatible with the principle of subsidiarity, a no-go for most Member States.

Ideas concerning the further EU-level institutionalisation of the role of national parliaments have duly met with criticism.²⁵ The idea has come powerfully to the fore in the context of the economic and financial crisis as a means of improving the democratic legitimacy of the EU's strengthened competence in economic and fiscal policy. Various forms of cooperation between the EP and the national parliaments have been proposed with the most far-reaching suggestions comprising the establishment of a specific chamber for the EP representing national parliaments. Any steps in this direction would require careful consideration of the political and institutional differences existing

22 Decker and Sonnicksen 2011; Lijphart 1999, 17; Siaroff 2003, 288.

23 For many years, the idea has been included, for example, in the EU programme of the German Christian Democrats (for the most recent formulation, see *Gemeinsam erfolgreich in Europa*; *Europapolitischer Beschluss des 26. Parteitags der CDU Deutschlands*, 5.4.2014) and was also raised in the Report of the Future of Europe Group (17.9.2012) representing foreign ministers of eleven EU countries.

24 Decker and Sonnicksen 2011, 184.

25 In the Convention for the Future of Europe, the establishment of a Congress of Europe's Peoples, bringing together Members of the EP and national parliaments, was strongly promoted by the President of the Convention, Valéry Giscard d'Estaing. The idea was, however, overturned due to its controversial character.

between national parliaments as collective actors in their own right, distinct from national governments. The national parliaments form a very heterogeneous group reflecting differences between national political systems and their roles therein. Most of them have difficulties in adopting such a role outside the national parliamentary framework, which a further institutionalisation of their role at the EU level would require.

The conclusion could be drawn that while the concept of parliamentarism, which refers to the powers of bodies elected by popular vote, has formed an important starting point in the development of the EU's political system, an imbalance in favour of the European Parliament currently constrains the possibilities to strengthen the role of any other popular bodies, including national parliaments. As a parliament in the separation of powers format seems to be politically easier to advance at the EU level – and as the argument about its better applicability to the EU's type of political system might be justified – it is currently more likely that the completion of EU-level parliamentarism will follow this model rather than parliamentarism as control of the executive. The centre for parliamentary politics would then be the EP with its independent legislative powers, which would set the limits for EU-level competence for any other parliamentary bodies.

PARLIAMENTARISM AS DELIBERATION AND DEBATE

The third concept of parliamentarism reflected in the EU's political system relates to the historical understanding of the concept as deliberation and debate. This conception of parliamentarism was strongly present in the 19th-century thinking of Walter Bagehot and Max Weber, for example.²⁶ According to Bagehot, parliament refers to politics by means of speaking and to government by discussion. Even if this concept of parliamentarism has clear conceptual linkages to parliamentarism as control of the executive, it also has a more general meaning, the implications of which can be identified in the EU's political system.

According to Palonen, the parliamentary style of politics operates with the power of deliberation and debate as opposed to the politics of sheer force, and limits the politics of sheer numbers. Parliamentary speaking means speaking pro et contra in a debate,

which provides the key principle of the parliamentary procedure.²⁷ The essence of parliamentarism ensures that the construction of opposing points of view is not subordinated to a higher truth or common good. On the contrary, the countering of any proposition with an alternative is the driving force behind parliamentary politics.

Parliamentarism as deliberation and debate is linked with a debating parliament in the distinction made by Max Weber between this kind of parliament and a working parliament. As its focus is on the plenary and not on the committees – and on debate and voting rather than on negotiations and the search for compromises – the concept can at first sight be argued to have played a smaller role with respect to the EU's parliamentary system based on a working parliament model.²⁸

The development concerning the EP's election, its free mandate and working methods have, however, started to reflect the concept of parliamentarism as deliberation and debate more closely. The election of the EP by universal suffrage, the gradually emerging uniformity of European elections and the existence and strengthened role of the EP's political groups can all be treated as preconditions of a deliberative assembly. The same applies to the independent mandate of the members of the EP, as well as the privileges and immunities enjoyed by them according to the EP's Rules of Procedure.

When approached from this point of view, parliamentarism requires certain working methods from the parliament in order to allow the policy of debate and deliberation to take place. Here, the temporal dimension of parliamentary proceedings is important. Parliaments should be permitted enough time for the deliberation of an issue, since this is the main means of reaching a solution. Another method deals – in the spirit of Max Weber – with the executive's need to constantly convince the parliament of its actions through argument and debate. According to Weberian thought, the same control should be extended to the state administration concerning its compliance with the parliament's political guidelines.

The EP's development towards a working parliament – and the key role played by its committees – has affected the ways in which parliamentarism as deliberation and debate is expressed. As the main preparation of the EP's position on legislative issues takes place in the committees – and as this is even the place where

26 Palonen 2008, 82; 2011, 42–44.

27 Palonen 2011, 42.

28 Dann 2003.

the different political standpoints meet through the functions of rapporteurs and shadow rapporteurs – the plenary is less important as a venue for deliberation.²⁹ The parliament’s regular interaction with the executive – and the duty of the latter to inform and convince the parliament – also increasingly takes place through the committees as they, with their chairpersons and rapporteurs, are in a key position when the parliament’s position is dovetailed with those of the other two legislative bodies, the Council and the Commission.

In this context, the long practice of the EP’s right to pose questions both to the Commission and to the Council represents in the current circumstances a working method that can be linked to a deliberative parliament and the executive’s constant need to convince it. The three existing forms of parliamentary questions all function separately from the EP’s right to censure the Commission or, indirectly, a member of it, so they cannot be perceived as an elementary part of parliamentary scrutiny.³⁰ Their role – and the EP’s increasing willingness to use the instrument – must therefore be seen as a channel of dialogue and interaction between the EP and the executive.

While oral questions require a larger group of MEPs behind them, written questions can be asked by individual MEPs and need to be answered by the Commission within a time limit. The fact that the obligation to reply to the questions concerns the Commission but not the Council (TFEU, Art. 230) is reflected in the large number of questions addressed to the former compared with those addressed to the latter.

Parliamentary questions can be perceived as a part of a broader practice with a parallel impact, namely the EP’s custom of open hearings arranged with key representatives of a majority of the Union’s other institutions and bodies. A part of this interaction, which applies to the presidents of the European Council and the European Commission, ministers representing the rotating Council Presidency and the president of the ECB among others, has a treaty basis whereas the remainder has emerged as a political practice. The parliamentary hearings taking place in the plenary or in one of the committees have begun to provide an important forum for political debate in the Union. The practice requires institutions, which previously used to operate in a less transparent manner, to openly formulate policies and publicly defend them.

Parliamentarism in the Weberian sense of deliberation and rhetorical culture is furthermore reflected in the practices of the European Parliament in at least one broad context. The EP’s impact on the openness and transparency of the EU’s decision-making extends far beyond its key role in stipulating the bulk of EU legislation, introducing transparency and access to documents and information on the EU’s legal system. The parliamentary mode of decision-making – revolving around the EP and its practices – has provided an important counterforce to the intergovernmental mode, which leans more towards diplomatic practices and lack of openness. Calls for greater openness vis-à-vis the Union’s legislative process, which first bore fruit in the EP context, have recently materialised in the framework of the Council’s legislative functions, too. The EP’s own need for information has, along with its enhanced powers, cultivated a culture of openness in the EU. As a part of this development, the Commission’s legislative work has also become increasingly transparent. Since the 1990s, the Commission has used green and white papers as well as public hearings and consultations in its initiation of new legislation. Currently, the need to maintain an open, transparent and regular dialogue with civil society is an obligation of all the EU institutions (TEU, Art. 11), which can be treated as a change of political culture.

CONCLUSIONS: WILL PARLIAMENTARISM BE PERFECTED?

EU-level parliamentarism is at a crossroads. The hybrid form of parliamentarism, combining elements of parliamentarism as control of the executive and parliamentarism as a separation of powers, has rendered the public image of the European Parliament obscure, and decreased the democratic legitimacy of the EU’s political system. Due to reasons of political acceptability, even the contradictory elements of the two main models of parliamentarism have been incorporated into the Union’s political governance, giving rise to a situation where the accomplishment of the EU’s democratic governance in keeping with either of them has proved politically difficult. Lack of clarity regarding the contours of parliamentarism tends to support an underestimation of the role it plays at the EU level.

Currently, it seems that the path towards the revision of the Union’s democratic governance along the lines of the separation of powers system is much

29 Mamadouh and Raunio 2003, 348.

30 Proksch and Slapin 2010.

shorter as it has become deeply rooted in the EP's procedures and functioning. Moreover, it is argued to suit the EU's fragmented governmental structure and underdeveloped supranational party system better than the model of parliamentarism as control of the executive. The decisive step required for the perfecting of this model also seems politically easier than the essential changes required by the completion of the competing system, namely parliamentarism as control of the executive. Whereas the latter would require a transfer into a party government at the EU level, that is, party politicisation of the Commission, a separation of powers type of parliamentarism could be strengthened just by making the President of the Commission electable by popular vote. This change, which has increasingly gained support in various political circles (see footnote 7) during the past few years, would imply a decisive move in the competition between the two key models of parliamentarism.

Even if the direct election of the Commission President might provide a politically easier way to complement the system of parliamentarism at the EU level, it would still have major implications for the EU's political system. It seems that these implications would apply to the functioning of the EU's executive powers in the first instance, while the relationship between the Commission and the EP is already in many ways characterised by the logic of a separation of powers system.

Election of the President by popular vote would firstly strengthen the Commission's political position considerably and consolidate its independence as the Union's true executive. Pressure would increase to diminish the role of the Member States in the composition of the Commission as this would become a key part of the President's popular mandate. On the other hand, tensions might increase with respect to the other part of the EU's executive, namely the European Council, which seems to be more easily reconcilable with a parliamentary government than a presidential one.³¹ How would the current delicate division of powers within the EU's dual executive – where the European Council sets the broad political guidelines, which are then translated into concrete legislative projects by the Commission – be affected by the latter obtaining a popular mandate? It is also highly doubtful whether the kind of institutional hybrids represented, for instance, by the function of the double-hatted High Representative of the Union for Foreign Affairs

and Security Policy could be maintained as a part of a new presidential regime.

Another question relates to the character and implications of the new round of European elections that would result from this change. As the key goal of the change is to establish a popular anchoring to the Commission as the Union's executive, the challenges facing the elections in fulfilling this function should be addressed. The main concern in this respect relates to the legitimacy of these new direct elections, which might become a real problem with a truly European-wide electoral procedure. With the nomination of candidates being made by the EU-level parties, the question of how to ensure a common European public space with equal opportunities both for the candidates and for the European constituencies to gain sufficient ownership of the electoral debate is paramount. Failure to open such a public space, coupled with problems convincing the constituencies of the importance of the new elections, would most likely lead to very low – or highly uneven – turnouts and a weak legitimacy. This, again, would seriously call into question the true popular anchoring of the Commission that can be achieved through this new process.

Whichever of the two models of parliamentarism ensues, the key challenge seems to be how to engage civil society and create the necessary conditions for parliamentary politics in this respect. The question of which of the two forms of parliamentarism suits the EU better can hardly be answered without considering the type of competences that the EU-level political system deals with. In most federations, a key source of legitimacy of the federal political structures deals with their share of responsibility over public funding. According to this logic, people have a sense of ownership over federal-level politics as this deals directly with their own well-being. Can the EU, with its current marginal share of public spending (2%), reach the necessary level of democratic legitimacy on the basis of a pluralist polity lacking a party system that would be deeply rooted in societal cleavages, and that would function as an ideological intermediary between citizens and political institutions? As the choice between a parliamentary government and a presidential one will have far-reaching consequences throughout the political system, the conditions of legitimate governance should play a more prominent role in the debate than the institutional preparedness that currently forms its leitmotif.

31 Decker and Sonnicksen 2011, 178.

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