UNION'S CITIZENSHIP AS THE BASIS FOR EUROPEAN DEMOCRACY[*]

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1. *Some questions to start*

This is a timely call for a reflection and discussion on "European citizenship and Democracy", that brings us to the problem of popular consensus, needed to carrying out the European project. The more so, when one considers that nowadays the European integration process seems instead to attract (as shown by the electoral events in France and Greece) a growing popular discontent, if not anger, against Europe.

Moreover, the devaluation and even the degradation of politics, in our days, went so deep as to widen up the sense of dissatisfaction, if not alienation, among citizens towards politics. This is true at national and, possibly, much more at European level.

On this background, the relationship between European citizenship and democracy becomes a crucial issue, of course.

To approach the subject, it may be useful to start with some questions.

How much representative of European citizenry as a whole can be a Parliament elected at European level on the basis of national lists and through different electoral systems?

To what extent is it true that the Union as a whole must function basically on the principle only of the representative democracy?

Considering the still very strong links of political parties, not to mention individual political careers, with regional or national territories, how and to what extent is it feasible that European Union government will evolve in the direction of an increasing politicization in the form of a system of parliamentary representation based on European political parties?

How and to what extent is it feasible the idea of Europarties, that is parties which, by definition, are not (or should not be) rooted in any regional or national territory? And which is (should be) their relationship with national parties, from where most likely they come out? Politically speaking, is there any sector having a European dimension that is not, at the same time, linked to a regional or national one?

To what extent Europarties can be helpful to European democracy, as long as they are not formed on the basis of a true European civil society, of a European public debate and, ultimately, of a European citizenship?

In other words, which comes first: Europarties or Eurocitizens? And again, is not true that the all matter of European democracy must be redefined, in terms of its complex nature, with regard specially to the complementary nature of these two basic components, political and social?

Finally: how would it be possible to approach the issue of democracy at European level, without taking into account the constitutional model of EU government? That is, without considering the variety of democratic scenarios put forward by the Lisbon treaty, involving: the role of the European Council and the Council, in representation of Member States and their governments ("themselves democratically accountable either to their national Parliaments, or to their citizens"); the role of the European Parliament, in representation of the citizens at Union level; the role of political parties at European level; the mechanisms of consultation and dialogue of the European institutions with citizens; the emphasis on the role of civil society and participatory devices; the European citizens initiative; the enhanced role of national Parliaments in the decision-making process at European level; not to mention, moreover, the so called open method of co-ordination, based on the inter-action between a multiple decision levels, with the involvement of local authorities and social partners.

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2. *From sectorial to global approach*

Without confusing the many plans of discussion, and at the same time resting on the central issue of the relationship between European citizenship and democracy, seen from the viewpoint of representative democracy, one may agree, in trying to answer the above questions (although some of them evidently rethoric), that times are ripe, and even demanding, for reforms of political parties at European level, on the basis of Union law provisions recognizing Europarties as transnational legal entities and enabling them to get involved on European issues in Member States and participate directly, as such, to campaigns for European elections. The same, of course, applies for reforms of parliamentary elections at European level, to revitalize and regain consensus, not only permissive one, but a more active consensus, among citizens at large.

However, the challenge of 'more Europe', properly understood in terms of greater popular support to the integration process, should be tackled and won on the terrain of citizenship and democracy, jointly, that is of society and politics.

Frankly speaking, a main concern is that we need to go beyond sectorial specialized aspects, pointing, in a global approach, to fundamental issues, at the core of the present crisis, not only financial and economic one, but also social and political, that affects the European project and its possibility of having a federal future, or even a future anyhow.

In this sense, I think that any discussion on parliamentary elections and political parties, cannot avoid taking into account the wider scenario, by and large, of the constitutional model of European Union government.

In a language more directly focused on the subject of our discussion, that is on the problem of popular support, in terms either of European identity and Union's legitimacy, the question can be put like this: given that Europe is an imperfect democracy, but a democracy nevertheless, how much imperfect is yet the constitutional structure of a democratic government of the Union, from a federal viewpoint, and what can be done to correct and improve it, in order to get closer to such final destination, as already forecasted in the Schuman Declaration?

To answer this question, it will take of course much more time than it is here allowed. I will leave aside the question then, holding it like a guiding and inspiring motive, so to speak, in the shadow of which I will try, instead, to spot on a series of relevant points.

3. *Who decides in Europe?*

Before going ahead, a further question that arises is, precisely, about the running of the Union's government, or the institution which has effectively the power to decide in Europe.

"The functioning of the Union shall be founded on representative democracy": states the Treaty on the European Union (TEU, art. 10, 1).

Indeed, it seems obvious that institutions of representative democracy do provide the main starting point for reflection on the European democratic model. But it is also evident that such institutions, as developed in the nation-state context, cannot be simply transposed to the European Union context.

The system of representative democracy is faced, here, with two hard challenges: the structural and functional multi-level architecture of the Europolity; the multi-polar decision-making process, traditionally based on the 'institutional triangle' (Commission, Council, Parliament), characterizing the so-called 'community method'.

This method, symbolizing the consensual nature of politics in Europe, has in fact been progressively eroded and finally challenged by the alternative 'Union method' (more recently proposed by Federal Chancellor Angela Merkel, on November 2010, in a speech at the College of Europe), centered around the European Council. It is described (in her words) as such: "we wanted the *European Council* to be an institution with a *permanent President*. That means the Heads of State and Government of the 27 member states and the President of the European Commission lay down jointly with the President of the European Council *guidelines on how the Union should develop*" (italics added).

This seemingly new method, in reality resembling a stronger intergovernmental method, will push even further the shift of the centre of political gravity in the European Union, from legislative to executive and technocratic politics. In contrast with the role of the European Commission, as the main guarantor of the "general interest of the Union". But much more in contrast with the position of the European Parliament, ranked first in the list of the European institutions, being the only directly elected institution, as representative of the European citizens.

A recent application of such approach can be seen in the new "*Treaty on stability, coordination and governance in the economic and monetary union*", the so-called "fiscal compact".

I am not quite sure if, in the words again of Angela Merkel, as reported by the media, we are faced with "a milestone in the history of the integration process and a first step towards the political Union".

Should it be so, however, it would be for the wrong reason and in the wrong direction. Almost paradoxically, with this method we are getting closer, may be, to United States of Europe, but without Europe.

Indeed, the European Union that comes out of such vision is the Union of the balanced budget rule, glorified as "general interest" of the Union. A rule that, under its apparent technical neutrality, actually works, in the logic only of the market's interests, to dictating and influencing policy choices with relevant social implications. On the basis of a greater concentration of intergovernmental powers, aimed to a centralized governance of national budget deficits at European level, put in the hands of the Council, with the assistance of the Commission, forced in the role of accountant agency, to police austerity measures. Leaving aside the European Parliament, not to say of European citizens and civil society at large.

We are then left with the alternative of abolishing the community method, thus reducing the European Commission to a kind of directorate general, a centralized administrative apparatus, or to regain it to its governmental role, by enhancing its political status.

4. *Four basic principles of the Union's democratic model*

The main points characterizing the Union's democratic model may be seen in the interplay of the forms of democracy (representative and participatory) with general normative principles that stem from Union's primary law. Such principles may be listed as follows.

The principle of democratic equality between European citizens and Member States.
The principle of complementary nature of representation and participation.
The principle of substantive nature of democracy.
The principle of correlation between European identity and Union's legitimacy.

4.1. The principle of democratic equality

With regard to the first point, it is important to observe how representative democracy and its founding principle are accommodated in the European Union context.

The European Union's democratic legitimacy, even though lacking a European *demos* (or nation), however is not missing, in theory, a direct reference to a base of popular sovereignty, in terms of citizens' sovereignity.

As it is well known, Union primary law does not refer to a European people, but by referring to European citizenship, makes it clear that such new form of autonomous citizenship, additional and complementary to nationality, is the pillar of a true democratic legitimacy of the EU as union of peoples.

In order to put forward the principle of popular sovereignty in terms of citizenry, the text of the aborted Treaty establishing a Constitution for Europe, so-called Constitutional treaty (of 2004), in its article 1, on the "Establishment of the Union", was referring to the "will of the citizens of the States of Europe to build a common future".

The EU Treaty goes further, making reference directly to the "citizens of the Union".

Indeed, a major innovation introduced with the Lisbon treaty, strongly upheld by the European Parliament representatives at the 2007 IGC called to finalise that text, is the insertion of the European citizenship in the EU Treaty, under the title of the "Provisions on Democratic Principles", thus emphasizing the citizenship of the European Union as the basis of such principles.

The constitutional relevance of the European citizenship, not to be confused with nationality citizenship, as the main pillar upon which to build a European democracy, is thus made evident.

Indeed, the legitimacy of the European Union institutional order, though not independent of the will of sovereign member states, can be traced to direct popular roots, represented precisely by European citizenship.

An excellent conceptualization of this point is offered by the opinion of Advocate General Poiares Maduro (Rottmann case, 2009, at § 23), stating that: "European citizenship […] presupposes the existence of a political relationship between European citizens […] based on their mutual commitment to open their respective bodies politic to other European citizens and to construct a new form of civic and political allegiance on a European scale […] founded on the existence of a European political area from which rights and duties emerge".

In this sense, the principle of political equality, whereby "In all its activities, the Union shall observe the principle of the equality of its citizens, who shall receive equal attention from its institutions, bodies, offices and agencies" (as established by TEU, art. 9), can be interpreted, more precisely, in terms of principle of "democratic equality", referring to the double legitimacy of the Union, based on the will of its member states, as well as of its citizens.

A clear evidence of such interpretation is obtained by reading the text of article 10 TEU, that sets the double standard for democratic representation at European level. First, through the European Parliament, where "Citizens are directly represented at Union level", and therefore EP "shall be composed of representatives of the Union's citizens" (as stated by subsequent article 14, 2). Second, through the European Council and the Council, where member states are represented by their governments ("themselves democratically accountable either to their national Parliaments, or to their citizens").

Moreover, on the base of this principle of democratic equality, it must be properly placed the new power assigned to the European Parliament of electing the president of the European Commission (TEU, art. 17). Indeed, even more than the rather generic provision about the "taking into account the elections to the European Parliament", for the designation by the European Council of a candidate for president, such power, emphasizing the derivation of the presidential mandate from the will of the Union's citizens, as represented in the European Parliament, coupled with the power of the Parliament itself to vote for the entire Commission to resign, add a clear element of politicization of the Commission, as expression of a political majority.

4.2. *The principle of complementarity between representative and particpatory democracy*

A second point worthy of consideration is offered by the entire normative texture of the title on Democratic Principles, where the principle of citizens' sovereignty, at the basis of the European Union legitimacy, is strictly connected, in turn, with a variety of participatory devices, complementing representative democracy, thus characterizing on the whole the European democratic model.

Indeed, along with the principle of representation, at basis of the functioning of the Union (TEU, art. 10, 1), that title proposes a complex model of interrelated and cumulative principles, essentially combining representative and participatory democracy.

In this respect, the well known warning that the opposite of "representation" is not "participation", but "exclusion", upon which everyone would agree, in the simple basic meaning that democracy is, of course, unthinkable without elections and political parties, comes to be questioned and it is somehow challenged at European level. At least insofar as this cornerstone of the classical model of liberal democracy no longer seems adequate, by itself, to sustain the functioning of the Union, according to both formal and substantive standards of democratic legitimacy.

It must be observed that a title entirely devoted to principles of democratic life of the Union, with reference to citizens' initiative, civil society dialogue, and other participatory devices, was a claim successfully made, first, in the Laeken Convention, that found its way through the draft text of the Constitutional treaty (2004). Then, it was taken up again in the European Council leading to the reform treaty; and eventually incorporated in the Lisbon Treaty of 2009.

Reading through the provisions of this title, the plea in favour of a more participatory democracy in the functioning of the Union stands out prominently, together with the European citizens' initiative, whose implementation raises hopes and expectations, as an opportunity not only to influence the Union's legislative agenda, but to promote trans-national political debates and the formation of a European public space.

It is not possibly, here, to go into details about the great variety of participatory tools. Leaving aside referenda and the European citizens' initiative, one may mention procedures such as public consultations, deliberative polling, citizens or consensus conferences, stakeholder dialogues, also amplified by information technologies (as in the case of internet dialogues and social networks).

The multifarious experiences up to know gained at European level with regard to forms of citizens' participation, beyond verifying the feasibility of such mechanisms in a trans-national context, have been useful to show, together with difficulties, of course, the opportunity to strengthen and develop means of public participation on a more formalized and structured basis, such as a standing committee within the European institutions or an independent agency (as it has been proposed), in order to make more effective the principle that: "Decisions shall be taken as openly and as closely as possible to the citizen" (TEU, art. 10, 3).

On the whole, and regardless of the soft-law character of many of the provisions in question, operating like guide-lines, so to speak, for the European institutions, what really matters is that participation and representation, far from being opposed, are complementing and reinforcing each other, towards the same objective of a greater and deeper democratization of the Union.

To this regard, it is very significant that, according again to the Union treaty, the right of every citizen to participate in the democratic life of the Union (TEU, art. 10, 3), is followed by the investiture of political parties at European level, to contribute "to expressing the will of the citizens of the Union" (TEU, art. 10, 4). Incidentally, a combination of provisions that imply the (right of) participation of citizens ("every citizen") as individual members of political parties at European level.

Due to this close linkage, one may foresee that political parties at European level, and much better trans-European parties, in order to fulfill their representation function and contribute to fostering a European public space, will act to lend their structural support to a more active participation, as in the case, for instance, of the European citizens' legislative initiatives. Thus giving shape to a new way of thinking or a way of rethinking the function of political parties as structures of good citizenship, open to the forms of interaction with civil society.

To complete the picture of the complex and articulated European democratic model, from the point of view of the citizens, in addition to the role attributed (already since the Treaty of Maastricht) to political parties at European level, one cannot forget the role assigned to national parliaments "to contribute actively to the good functioning of the Union" (TEU, art. 12, 1); thus becoming a kind of "third chamber", where to debate the substantive merits of proposed EU legislation, specially with regard to the compliance with the subsidiarity principle.

Moreover, when looking to the panorama of the several alternative ways for establishing links between the citizens and Europe, it must be equally remembered the role of subnational intermediaries, such as local and regional communities and territories; that is, the interaction of regional and local authorities with civil society organizations, in the formulation and implementation of EU policy, strongly supported by the "White Paper on Governance" (2001).

4.3. *The principle of substantive nature of democracy*

To say it very briefly, democracy is (should be) not an empty shell.

The substantive contents of democracy reflect and correspond to the autonomous nature of European citizenship, being – as repeatedly stated by the European Court of Justice – the "fundamental status" of all citizens (nationals of Member States) in Europe.

To this regard, it is worth noticing that the transition from the European Communities of the 50ˢ to the European Union of the 90ˢ of the last century has helped the European integration process to develop towards new and more ambitious objectives and tasks, with the aim of strengthening Union's institutional architecture, as well as rationalising and legitimising its legal order, in terms of fundamental values and principles, to make it respectful of the rule of law and human rights.

Indeed, the evolutionary dynamics set in motion since the beginnings of the integration process for an ever closer union among the peoples of Europe, although still far from reaching the goal of the federation of Europe, move along the direction of empowering the Union's political and institutional structure and character as an autonomous community of both states and citizens, «founded on the indivisible, universal values of human dignity, freedom, equality and solidarity», so defined in the preamble of the Charter of fundamental rights of the European Union.

To be truly respected, then, the democratic principle can not be limited only to institutional and procedural issues, related to elections and decision-making process. It also implies and obliges the protection of fundamental rights and the implementation of basic welfare policies, in order to guarantee equality of opportunity.

The Union's primary law, that is the 'constitutional law' of Europe, spells out, in article 2 of the EU Treaty, what are the common, indivisible values and principles identifying the European model of society, listing and linking democracy with human dignity, freedom, equality, the rule of law, respect for human rights, including the rights of minorities, pluralism, non-discrimination, tolerance, justice, solidarity.

To speak of democratic deficit, therefore, means also to acknowledge its relationship with the social deficit, in terms of problematic issues concerning social participation, equality of opportunity, human dignity, welfare policies and social justice.

4.4. *The principle of correlation between European identity and Union's legitimacy*

This leads to a fourth point, that may be synthesized in this way.

The need to democratize Europe, means the need to Europeanize politics, political parties and civil society alike.

The answer to this challenge, how to give 'flesh and blood', so to speak, to a common European citizenship, as the primary and true constitutional foundation of a European democracy, both representative and participatory, is a task that requires, to be fully acquitted, a multidisciplinary approach, through the combination of politico-institutional, socio-economic and cultural aspects, that are there involved.

Basically, the main point that here arises, can be summarized in the question on what are the contents and the forms upon which one may count, to make the Union a true 'community of fate', in the perception of its citizens, who feel they need to preserve it as common good (*res publica*), with a sense of belonging that reflects a spirit of civic membership and participation, in terms, precisely, of common values (fundamental rights, rule of law, democracy, social justice) freely chosen and taken as commitments that are consequential to such spirit.

This brings us back to the current crisis, properly understood in its political roots, whereby Europe, though formally united by common institutions, can be substantially divided by common policies, including of course austerity policies, that are not deliberated through an effective, transparent democratic process, in order to spell out what is the "general interest of the Union".

On this point, I will simply add a short remark, that may sound rather rhetorical, but that, in our days, could be also promising, at least I hope so.

To Europeanize civil society means ultimately to strive for a socialization to a feeling of belonging to Europe, or, as it is sometimes called, to 'Europeaness'.

Here, the appeal is mostly to the same agents of all forms of socialization: school, university circles, working places, media coverage in all its expressions, public speeches, elite groups and active minorities, associations and movements, social networks. And last, but not least, political parties.

Although, looking at the panorama around Europe, it can be observed a wide flood of a variety of feelings of dissatisfaction and opposition against European Union.

Most of such feelings are in the name of national traditions and the preservation of particular local conditions.

It is true and right to affirm that Europe is "united in diversity", as stated by the motto chosen to define the European Union identity.

But it is also true and right reminding ourselves that Europe is united by common values and common institutions, in view of a common citizenship, and for the benefit of building a common fate of peace and prosperity.

To be sure, for the prosperity of the peace, as the only condition that can guarantee to Europeans, a minority of the population in the globalized world, a chance of future.

5. *Some final remarks*

To come to some final remarks, let me stress again the fact that, with this presentation, focused on the problem of the relationship between European citizenship and democracy, I intended to emphasize the centrality of such topic of discussion in the politico-institutional route of the Union towards a federal destination.

The strict relationship of citizenship with democracy in the European context, such as evidenced by the Treaty provisions, gave shape to a complex model based on the principle of the democratic equality between European citizens and Member States and the principle of complementary nature of participatory democracy with representative democracy.

In view of this model and of its far-reaching implications for the constitutional structure of the European Union, in terms of government and governance alike, with regard to both politics and policies of the Union, it is to be regretted the lack yet of reforms for elections to European Parliament and for the formation of true European political parties.

As we know, there are a variety of causes that explain the so-called "structural remoteness" of the European Parliament, affecting its representation function. Not to mention the low representative role played by political parties at European level and, indeed, the lack of trans-European parties.

Some my even think that the words with which Andrew Duff complained the fact that the "European Parliament has not always been reformist in temperament" (in his well known pamphlet on "Post-national democracy and the reform of the European Parliament", dated 2010), have become prophetic, in the light of the recent vote by the European Parliament, rejecting the reform of its own electoral procedure, with regard in particular to the creation of a pan-European constituency for the election of 25 MEPs on the basis of transnational lists.

Though I have some doubt that in this case it has been missed (in Andrew Duff's words) "the opportunity to bolster the political legitimacy of the European Parliament and to galvanize European political parties", due to the very symbolic value, and yet politically relevant, of that reform, I do agree with him that (in his words again) "a stronger European Parliament might best contribute to the better government of a more united Europe".

However, a more united Europe implies a far greater Europeanization of civil society and politics at large, as I tried to explain before.

Courageous reforms are needed. In my opinion, however, what counts more, is that such reforms will have to be proposed and implemented with an aim not simply to reduce formally the gap between European institutions and citizens, but to empower good practices of citizenship, specially on the side of participatory mechanisms. Having in mind that the principle of citizens' sovereignty is not any longer identifiable with the only pillar of representative democracy, but requires more effective forms of democratic participation, to which also political parties are called to contribute, as structures of good citizenship.

In the end, it is worth recalling the way in which Altiero Spinelli, envisaging long time ago the idea of "European revolution", as an action aimed at making Europe a union of peoples, therefore of the citizens of Europe, emphasized the link with socially active forces, able not only to share this idea, but to ensure its effectiveness.

In his words: "Evidently *is not enough that the federal system has its own merits*. In order to be realized, it is necessary […] that there will be massive vital forces […] such that, *for asserting themselves, feel they need that system*, and are therefore willing to act to maintain it" (italics added).

My understanding of such statement is that citizens of Europe, for asserting their European identity, must feel that they need common institutions and can influence common policies, to be developed through an effective democratic process based on both representation and participation at European level.

This is because the problem of consensus is, precisely, the problem of how to answer, institutionally, politically and socially, the question of the citizens' sovereignity, in terms of both European identity and Union's legitimacy.