

**National Parliaments in the EU decision-making processes. Some comments\*.**  
*di Luigi Gianniti*

1. The real challenge today is not so much the subsidiarity check system, but rather – as already remarked by Bruno Pinheiro and Raffaello Matarazzo – the new shape that the traditional role of national parliaments is acquiring, namely the control and the influence they exert over their respective governments. This responsibility was discharged in very different ways by each national parliament. What we are seeing now is a general underpinning of this role.

A clever example of this widespread transformation can be found in the evolution of the German Bundestag's role. The paper of Oliver Hoing and Katjana Gattermann shows us the evolution of the German Bundestag role. They say that we assist at a "*growing contestation of EU politics in the German Bundestag, eventually revoking the 'permissive consensus' that long characterized German EU politics*".

This new role was paved, as you all know, by the *Bundesverfassungsgericht*.

Following the *Lissabon-Urteil* of 30 June 2009, the German *Bundestag* should retain "responsibilities and competences of its own of substantial political importance", and the Federal Government, which is answerable to it politically, should be "in a position to exert a decisive influence on European decision making procedures".

For the Court in Karlsruhe, in today's EU, described as "an association of sovereign states", legitimacy for any EU institutional and political advancement is provided by national parliaments and governments, and only "complemented and carried by the elected European parliament".

We know very well all the new instruments which have been introduced and the decisive role of the Bundestag in the new intergovernmental treaties. We are still waiting a decisive ruling by BWG on the last one: the European stability mechanism.

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I think we have to deeply consider the new role played by the Bundestag in conditioning the decisions adopted by the German Government at the European level for the creation and the implementation of the new intergovernmental instruments for facing the financial crisis.

This example makes clear how influential the role of national parliaments could be in the future evolution of the European Union integration process. We can say that all relevant decisions in the life of the Union will become more and more subject to a preliminary, strict scrutiny by national parliaments. A few years ago, this kind of scrutiny was applied by a restricted number of national parliaments (i.e., Denmark and Finland), but now, with the enhanced role of many national parliaments within their own institutional framework, governments will find it more and more difficult to maintain their room of manoeuvre inside the EU Council of Ministers.

As a matter of principle, the role of national parliaments seems to be particularly strong in all cases where intergovernmental procedures are involved. This emerged quite clearly with the European System of Financial Supervisors' parliamentary ratification, an essential tool to face the 2011 euro crisis that was temporarily put at risk by the single opposition of the Slovakian Parliament. And yet, in this case and with its final solution, it became quite clear to everyone how different the weight of single national parliaments could be (depending on the country they represent), and more specifically how essential was the role played by the German parliament in the putting up and in the concrete functioning of the ESFS system.

2. I think we can thus identify, in the most recent evolution of EU institutions, two different constitutional systems, which imply two different roles for national parliaments.

As far as the Community (or supranational) method is concerned, national parliaments retain their traditional power of control on national governments and implementation of EU law. With the Lisbon Treaty, they added to this function new competences related to the subsidiarity check, that could help at an early stage a better consideration of the implementation of EU law at national level. The most recent development, which has to be taken into account and which significantly contributes to the crisis of the EU, is the enhancement of the intergovernmental method, that nowadays is applied to the most sensitive competences, including the economic governance of the Union.

Within this decision-making system, the leading role is played by the European Council, while the involvement of the European Parliament is not sufficient. The debate takes place at national level and the power of national parliaments is rather strong. Even though the role of national Governments has been strengthened by the new role of the European Council, it has to be recognized that, when dealing with the complex issues which arise from the economic crisis, the choices made at European level require consensus not only among Governments, but also within the member States. For instance, in Italy the technical Government is reporting more and more often to the Parliament in order to collect the consensus of its wide and transversal majority before and after the European Council meetings. In Germany, the Government has build up consensus time after time. Very often this consensus does not match exactly the political majority, but it includes significant sections of opposition, while leaving outside components of the majority, which might be irrelevant in number, but extremely significant in political terms.

Both cases highlight the role of Parliament as a place for building political majorities, which not necessarily are the electoral ones, in order to gather the consensus of the national public opinion on the political choices made by the Governments at European level.

However, this new power lies essentially with the most influential Member States, which at the present stage are the creditor countries, and thus with the Bundestag.

As a matter of fact, tomorrow (July 19) the Bundestag will gather in order to discuss financial aids to Spain. In Italy, which is a debtor country, the Parliament seems to play a residual role, while the Government's action is strengthened by the constraints which stem from the European political choices.

Moreover, we need to consider that in the intergovernmental context Member States retain their veto power, and thus even a single national Parliament can block funding to the EFSF.

3. It is not easy to find a way out of this dangerous trend.

Dangerous because we assist to a fragmentation of the European political debate. As clearly said by Sergio Fabbrini and Stefano Micossi in a brilliant paper published by *Europeos* few days ago, "*il metodo intergovernativo ha spostato l'arena delle deliberazioni all'interno degli spazi pubblici nazionali*". (The intergovernmental method has moved the decision-making arena into the national public spaces)

A possible solution is to take the federalist path. The role of the European Parliament should be reinforced, with the conferral of the power to choose the President of the European Commission who could also act as President of the European Council.

Another option is to explore new way in the process of federalization of the EU. Feasible options were envisaged during the works of European Convention: the idea of a European Congress. It is possible to take advantage of the democratic legitimation of national Parliaments institutions in many ways. This should lead, for example, to the involvement of National parliamentarians in appointing the major EU institutions, especially the Presidency of the Union, which is the new driving force of the European integration process and the new centre of political and economic decision-making.