CHAPTER 10

The Euro Crisis and the Democratic Principle

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1 Introduction

According to an often quoted definition, while a rule supplies an answer “in an all-or-nothing fashion”, a principle is “one which officials must take into account, if it is relevant, as consideration inclining in one direction or another”.1 Such a definition, correct as it may be for all legal principles, certainly seems suitable for the principle of democracy since it does not imply the application of some given rules but rather the commitment to a general method of government. A democratic government can thus take different forms, as long as it finds its legitimacy in direct elections by the people and its institutions are accountable to the electorate. The democratic principle will not, however, in itself provide a solution for individual legal problems and can be perceived as a general source of inspiration for the legal order.

Consequently, one should not be surprised that, on the one hand, European Union law places strong emphasis upon the democratic principle, now expressly referred to in Articles 9–12 TEU, and, on the other hand, the concrete existence of a ‘democratic deficit’ in the EU institutional framework is often alleged.2

The present chapter aims to address the operation of the democratic principle in the Euro crisis and to assess the concerns expressed as to the legitimacy of the intervention of the European Union for the coordination of national fiscal, budgetary and economic policies. Unlike other contributions about the legal dimension of the Euro crisis, the chapter will not engage in an in-depth examination of all the measures adopted in order to deal with the financial and

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2 Recently it has been argued that the real reason for the democratic deficit lies in the excessive dependence of the EU on national politics: see M. Poiares Maduro, “A New Governance for the European Union and the Euro: Democracy and Justice”, RSCAS Policy Paper 2012/11, p. 18.
economic difficulties faced by Member States. After a general overview of the challenges to the democratic principle arising from the Euro crisis (para. 2) it has been deemed preferable to pick out three crucial subject-matters relating to the implementation of the democratic principle—the actors in the Euro crisis (para. 3), the acts of the European Union and/or its Member States in those matters (para. 4) and the existence of a power of judicial review (para. 5)—that will be analysed in turn.

2 The Democratic Principle in the European Union and the Challenges Arising from the Euro Crisis

As a matter of fact, the recognition of the democratic principle as a cornerstone of European integration dates back to even before it was clearly expressed in Articles 6 and 7 of the Maastricht Treaty.\(^3\) However, it is often underlined that several shortcomings in the implementation of the principle can be observed.

The traditional arguments concerning the democratic deficit of the European Union can be summarized as follows. Among the EU institutions, only the European Parliament is directly elected by the citizens. Nonetheless, before the entry into force of the Lisbon Treaty, in some matters, even of core relevance, the European Parliament was confined to a merely consultative role and could only make a negligible contribution to the definition of the policies and to the adoption of the decisions of the European Union.

By contrast, in most matters, the Council and the European Commission were called upon to carry out crucial political functions, even though they do not match the traditional model of representative democracy.\(^4\) The former, being composed of members of the Governments of the Member States, is not, in itself and as a body, accountable to the people. Rather, every single member is supposed to express the political will of his/her State, as developed through the applicable national constitutional procedures.\(^5\)

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5 The accountability of the Heads of State or Government has been called into question by some scholars, as it would be relevant only at national level and would not take the specific institutional balance of the Union and its allegedly democratic character into account: J. V. Louis, “Les réponses à la crise”, *Cahiers de droit européen* 47, 2011, pp. 359–360.