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# Intellectual Prejudice and Institutional Shortcomings. The Risks for the Next Generation EU

by

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### **Abstract**

Despite the fact that during the pandemic emergency the European Union managed to provide an ambitious and courageous response, in contrast to previous decisions, the intergovernmental method undermines European democracy.

### **Key-words**

European Union, multi-level governance, economic crisis, crisis of democracy, pandemic crisis



## 1. The role of contradictions

In order to understand the reasons behind Europe's crisis, starting with the unresolved issues of the Union's governance, it may perhaps be useful to briefly retrace the paths that have crossed and sometimes overlapped in the process of European integration process. In a recent book-interview, Nadia Urbinati discusses the visions and intellectual contributions to the idea of Europe, underlining how the political cultures that have played a decisive role in this framework were essentially two: the Enlightenment vision, that has also inspired Spinelli, Rossi and Colorni<sup>1</sup>; and the Christian Catholic tradition, to which the main political protagonists of the European integration process belong - from Robert Schuman to Konrad Adenauer and Alcide De Gasperi- (Urbinati, Fico 2019).

The first chapter of this book-interview is significantly entitled “Europe”, which means that the term Europe is declined in the plural form in Italian language. This lexical choice invites us to use a careful look at the complexity of the recent history of the integration process idea: in addition to the Enlightenment vision and to the Catholics’ one, the author dwells on the theme of the European projects of the neoliberal thought, questioning the interpretation according to which the neo-liberal design was imposed from the beginning in the project of supranational integration of the continent. On the one hand, it is true that for authors such as Hayek, Europe could be a fertile experimental ground for the creation of an economic space made up of exchanges outside and beyond the States, but on the other hand, it is equally true that once the political implication of treaties such as the ECSC and the Treaty of Rome became apparent, the liberalists came to the conclusion that the European space was anything but the expression of minimal public intervention (Urbinati, Fico 2019: 33).

In this regard, it is worth remembering that the European Economic Community was created only afterwards and because of the failure of the European Defence Community (EDC) project: on 30 August 1954, the French National Assembly under the government of Mendès France, rejected the project without engaging in an in-depth debate (Preda 1990; Bertozzi 2003). It is only recently that the neoliberal ideology "has defined the horizon of European political cultures, and little by little it has also conquered the left-wing, which has gradually transformed



the demand for social justice into a question of governability of social processes and economic efficiency” (Urbinati, Fico 2019: 66). At least from Maastricht onwards, the idea of the political dimension of European integration has been replaced by the idea of a frayed governance that feeds on an unresolved contradiction: on the one hand, the rejection of the creation of a European sovereignty dimension and, on the other, the tendency towards the state of emergency, under the aegis of the national executives.

The process of European integration has been interpreted as a process that generates - and at the same time is generated by - growing contradictions, which follow one another and which are particularly visible in the context of economic integration. According to this reading, the stages that have marked recent European history are nothing more than attempts to respond to certain contradictions, which have in turn opened up other inconsistencies (Masini 2018). We can therefore try to interpret the many crises gripping Europe today, such as the economic crisis, or the migration crisis or the crisis of democracy in general, as the result of these growing contradictions.

## 2. The Economic crisis

Let's take a step back. The financial bubble linked to the American real estate market generated an unprecedented global financial crisis in 2008, showing the unsustainability of that kind of financial capitalism. After the collapse of the giant Lehman Brothers in September 2008, the governments of the world's most powerful countries launched massive public spending interventions for the benefit of the most exposed banks - the world's leading central banks agreed on a liquidity injection of more than four trillion euros - in order to help the recovery of credit activity. The negative effect of this operation was twofold: firstly, the banks kept the funds provided by the Central Banks on deposit, thus cancelling any kind of recovery effect in the economic system; secondly, bank bail-outs by public budgets aggravate the exposure of States, transforming foreign debt contracted to cover structural balance of payments deficits into sovereign debt (Masini 2018: 67).



In this context, the Greek case breaks out, with the consequent concentration of financial speculation. The European governments (represented by their collegiate body, the Council) have opted for the policies of austerity (Bruni, Ispi report 2016), controlled and established by an intergovernmental governance that has presented all its inadequacy: to finance the liquidity problems of Greece (and to ensure the repayment of the credits of the French and German banks, considerably exposed on the Greek debt) the ECB, the IMF and the European Commission (the so-called troika) intervene; but to grant credit they demand the respect of heavy conditions<sup>II</sup>.

On the one hand, therefore, the social situation of the Greek population became dramatic, and on the other hand, the management of the sovereign debt crisis increasingly took on the character of a state of emergency. In May 2010, the EFSF, the European Financial Stability Facility, was established from the European budget (and managed by the Commission), with the objective of providing short-term financial assistance in emergency situations, but in October, the Heads of State and Government of the Member States decided to create a special fund (to be launched in October 2012), the European Stability Mechanism, which was supposed not to be subjected to the management of the Commission, but to that of the governments of the countries themselves: it is managed by the Board of Governors, made up of the Euro Area Finance Ministers, a Board of Directors (appointed by the Board of Governors) and a Director General, while the European Commissioner for Economic and Monetary Affairs and the President of the ECB are only observers.

With respect to the European Stability Mechanism, it is particularly interesting to focus on the procedural method for taking decisions: the voting rights of each Member State are proportional to the value of the shares paid into the fund (Germany's share is 27.14% of the total; France's 20.38% and Italy's 17.91%). This is, in other words, the institutionalisation of what Trasimaco called “the advantage of the stronger” (PLATO, Republic: 338c). On 2 March 2012, an international treaty was approved, signed again by the Heads of State and Government; it was the Treaty on Stability, Coordination and Governance in the Economic and Monetary Union, or Fiscal Compact.



What seems important to underline, from the perspective of the philosophy of law, is exactly how the economic crisis has been managed in recent years: focusing on the method and procedures does not mean refraining from assessing the eminently economic choices that have been made, but instead implies a reflection on the transformation of political-institutional action at European level. What we have defined as the government of the emergency has assumed an eminently intergovernmental character that has ended up centralising decision-making power in the hands of State representatives alone, to the detriment of supranational institutions - the European Commission reduced to the role of controller/executor and Parliament to the role of spectator-.

The key example is given by the power assumed by a completely opaque body such as the Eurogroup, which brings together the Ministers of Economy and Finance of the countries of the Eurozone: it is an informal body, whose meetings and meetings therefore take place behind closed doors before each Council of Ministers of Economy and Finance (ECOFIN), which is one of the institutional formations in which the Council of the European Union meets. The consequences of this intergovernmental transformation are just as important in a reflection on European democracy as those arising from the fact that governments “look to the markets” to see what they can and cannot do.

Reading the decision-making mechanisms at institutional level shows us how in recent years, at European level, we are witnessing a progressive centralisation of decision-making power in the hands of those bodies representing the Member States - the European Council and the Council of the European Union - to the detriment of the bodies representing the Union and its citizens, precisely in the name of the need to manage the emergency.

The results of this concentration of power take on significant theoretical importance if we consider that the voting method adopted in the European Council is unanimity and that the Council of the European Union takes a decision by a different method depending on the area and subject matter in question. The issue of the crisis of democracy is therefore more complex than generally assumed.



### 3. The crisis of democracy

The This issue, in fact, cannot be reduced to what the sociologist and political scientist Anthony Giddens has defined as the "paradox of democracy" (the fact that if, on the one hand, democratic institutions are continuously spreading throughout the world, on the other hand, in mature democracies discontent and disappointment with these same institutions are emerging, Giddens 2000). To understand in what sense we can refer to the crisis of democracy, it is probably necessary to deviate from the definition of liberal democracy - and in this regard, it is interesting to mention Colin Crouch's idea of post-democracy (Crouch 2003) - and try to read its dichotomies, contradictions, fallacies that unravel between the interstices of the successes of democracy.

The author who seems to have grasped these elements more than others is Norberto Bobbio, who defined democracy as an "extremely complex practice", a delicate mechanism that breaks down at the slightest shock, which clashes with the "first paradox" of the so-called democracy of the moderns, with the fact that it demands "more and more democracy in increasingly unfavourable objective conditions" (Bobbio 1975).

The list of the paradoxes of modern democracy and the unfulfilled promises of democracy proposed by the Italian philosopher is particularly effective in the context of a reflection on European democracy. The so-called second broken promise, for example, can be traced back to the question of the revenge of particular interests versus political representation and general interests; in the context of our reflection, we can try to read through this specific reading-key the emergence of the particular interests of the Member States, and in particular of their governments, versus the common European interest. The third paradox identified by the philosopher, then, postulates that in industrialised societies, where complexity is increasing in many areas, there is an increasing number of problems requiring technical solutions, i.e. reliable only to competent people<sup>III</sup>; this paradox also seems particularly fitting in an attempt to explain the current European system, insofar as the inability to take a shared political position is replaced by the assumption of the obligation to respect parameters and regulations. Another central issue in the Bobbian analysis is that of the failure to defeat invisible power (the





conviction that democratic government could be transparent); in this regard, we are aware of the centrality assumed by an informal body such as the Eurogroup and the opacity of the rules of diplomacy conducted by the various representatives of the States.

Bobbio's analysis seems to be a useful key to read critically and accurately some of the most significant dimensions of the current institutional crisis of the European Union and of the “intergovernmental drift of the Union” (Frosina 2018).

At this point of the reflection we should mention also what Joseph Weiler has defined as the “perversion of democracy” (Weiler et al. 1995), that Laura Frosina reads both as the supremacy of the executive of the EU on the legislative in the normative production, and as the possibility for the national executives to assume scarcely transparent decisions. The decisive point is the fact that the de facto protagonism acquired by the European Council in the management of the most important political and institutional dynamics has led to an involutory phenomenon attested by an increasingly intense recourse “to informality, atypicality and intergovernmental solutions of an extra-ordinary nature” (Frosina 2018).

Faced with the observation of the impossibility of individual states to address with national instruments those problems that by their nature transcend state borders, the response of the governments of European countries has been that of creating a coordination between distinct national responses rather than seeking a supranational response.

#### **4. The Covid crisis management and the “aristocratic” diplomacy**

The management of the economic and social crisis caused by a completely unpredictable event such as the spread of the coronavirus has only partially reversed the trend. In July, during the negotiations between the representatives of the 27 member countries, an important agreement was reached on Next Generation EU, in a very different time frame compared to the 2009 crisis and with a substantially different commitment. The Recovery Plan has an amount of 750 billion, with a specific proportion between transfers (390 billion, 52%) and soft loans (360 billion, 48%); the management of these funds and the governance of their implementation is entrusted to the Commission, including the control over the National Recovery Plans and their





implementation, which the Council will approve by qualified majority, but with the possibility for an individual State to ask to refer the matter to the European Council, thus suspending the decision for a maximum of 3 months.

In reality the compromise and the sacrifices have been made on the less conspicuous but no less important front: the multi-annual financial framework, the EU's multi-annual budget that must finance all European public policies for the next 7 years, well beyond the response to the pandemic. And it is no coincidence that a clash of negotiations with the European Parliament is taking place on this very issue.

In today's Europe, as in that of the 19th century aristocracies, the last word on important decisions is in the hands of the representatives of nations. The European Commission and the European Parliament, the two EU institutions of the Union, naturally have an important role to play, and the ambitious proposal for a 750-billion-euro plan to tackle the Covid-19 crisis is the Commission's proposal, fully supported by Parliament. But the final word here, too, is from the Heads of State and Government, who in the weeks leading up to the July summit held negotiations, and organised bilateral meetings, in search of a compromise. As when in the nineteenth century, during the great court dances, in sumptuous halls with golden stuccoes, with waltz notes in the background, royal weddings were planned, alliances were built, war was prepared. The symbolic image of this approach was unveiled to us at the European Council held in March 2022 in Versailles (the sumptuous palace built by Louis XIV) where the leaders of the Member states met to discuss the dramatic situation of the Russian attack on Ukraine. Surrounded by golden stuccos, they spent hours discussing a common European response, and they appeared like politicians from a bygone era that today seems quaint.

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<sup>I</sup> Authors of the Ventotene Manifesto, clandestinely written and circulated in the circles of the Resistance to Fascism.

<sup>II</sup> See also [https://ec.europa.eu/info/business-economy-euro/economic-and-fiscal-policy-coordination/eu-financial-assistance/which-eu-countries-have-received-assistance/financial-assistance-greece\\_en](https://ec.europa.eu/info/business-economy-euro/economic-and-fiscal-policy-coordination/eu-financial-assistance/which-eu-countries-have-received-assistance/financial-assistance-greece_en)

<sup>III</sup> Some authors, unlike Bobbio, have identified this element of technocracy as the solution to the crisis of democracy: for example, the famous *The Crisis of Democracy: On the Governability of Democracies*, a 1975 study written by Michel Crozier, Samuel P. Huntington and Joji Watanuki.