The Democracy Concept of the European Union: Coherent Constitutional Principle or Prosaic Declaration of Intent?

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A. Democracy as Fundamental Value of the European Union

“Our Constitution ... is called democracy because power is in the hands not of a minority but of the greatest number.” This statement by Thukydides preceded the preamble of the draft constitutional treaty elaborated by the European Convention.¹ Although not adopted by the intergovernmental conference, the proposed introduction illustrates that the Convention intended to attribute a central role to the concept of democracy – at least symbolically.

The democratic constitution of the European Communities has not long been an issue in legal discussions. Democratic legitimacy of the European institutions was believed to be unnecessary by many scholars who argued that the creation of an internal market only served the purpose of promoting individual freedom.² However, with the EU’s development from a purely economic to a political cooperation, the topic has

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frequently appeared on the agenda of scientific discourses in legal and political science.

With the treaty of Amsterdam,\textsuperscript{3} democracy was expressly introduced as a fundamental value into the foundational treaties.\textsuperscript{4} In the Treaty Establishing a Constitution for Europe\textsuperscript{5} (CT), democracy is listed in Art. I-2 among the core values of the Union. The notion of democracy is concretised in Arts. I-45 \textit{et seq.} CT under the title “The Democratic Life of the Union” as representative\textsuperscript{6} and participatory\textsuperscript{7} democracy.

In spite of these affirmations of the democracy principle, the scholarly critique of the democratic legitimacy of the European Union and its institutions is still considerable.\textsuperscript{8} In the course of this analysis, I shall therefore try to define the democracy principle in the context of the European Union (Section B). Then I will apply the determined normative standards on the institutional design in order to analyse whether the Constitution contains a coherent concept of democracy (Section C). Finally, I will provide a short outlook on future institutional reforms (Section D).


\textsuperscript{4} Consolidated Version of the Treaty on European Union Art. 6(1), 1997 O.J. (C 340) 145 [hereinafter TEU].


\textsuperscript{6} Art. I-46 CT.

\textsuperscript{7} Art. I-47 CT.