

BOOK REVIEW

Marta Cartabia, Nicola Lupo, Andrea Simoncini (eds), *Democracy and subsidiarity in the EU National parliaments, regions and civil society in the decision-making process*, il Mulino, 2013, [ISBN 978-88-15-24516-8] 512 pages.

Involved in a never-ending debate on its democratic legitimacy, the European Union – since its foundation – has gone through profound treaty reforms. Which, while completely amending the entire institutional architecture, they nevertheless did not solve the controversial democratic query.

Today, although the EU still continues suffering from a lack of democracy, since 1979 many steps ahead have been done in order to deal with the issue.

Specifically, the introduction into the Maastricht treaty of the principle of subsidiarity is one of the most important novelty in this direction. The principle – both on its horizontal and vertical dimension – was meant to bring the EU closer to its citizens.

Along with this debate, the book “Democracy and subsidiarity in the EU” represents an important contribution to the analysis of the current state of the EU democratic challenges after the Treaty of Lisbon.

The book edited by Marta Cartabia, Nicola Lupo and Andrea Simoncini is a collection of some of the lectures and of the best papers presented at the Summer School on “Parliamentary Democracy in Europe” held in Rome on July 2012. The authors, based on the common understanding that democracy and subsidiarity are amongst the landmark principles of the European construction, explore the implications brought by the entering into force of the Treaty of Lisbon and they investigate the new forms of democratic participation in the EU. Specifically, with respect to national parliaments, regional authorities and civil society.

The book is structured into five sections and starting by a general overview, it then examines more in detail each specific issue.

The first section, on “The democratic principles within the Euro-national decision-making process”, starts with the chapter of Cesare Pinelli, which gives an interesting analysis of the impact of the financial crisis on both the “meaning and the implementation of the provisions on democratic principles”, contained specifically in art. 10 of the Treaty of Lisbon. According to the Author, the Euro-crisis has further delegitimized the EU system of governance, both in terms of input and out-put legitimacy. However, the cause does not lie just on the intensified intergovernmental practices but rather it does on the inexistence of an accountable and “true European government”.

In the same vein, Marta Ferrara gives a negative assessment of the new provisions of the Treaty of Lisbon. The Author, focusing mainly on the citizen’s right of referenda on the ratification of European Treaties, argues that the new provi-

sions do not enhance their involvement into the EU decision-making process, but rather they risk to strengthen the sense of opposition toward the EU.

With a different and broader approach, in his chapter Andrea Simoncini enlarges the classical debate on democratic deficit: to the conceptual framework of representative democracy, he includes the concept of participatory democracy. In this respect, the main actor becomes “civil society” and participation includes “all the ways European citizens or their associations may influence the European decision-making *“other than”* the exercise of their right to vote”. The Author, by giving evidences of how civil society effectively affects European governance, concludes suggesting a shift of our insight of European constitutional democracy, from a “bi-dimensional plane” to a “tri-dimensional space”, adding the societal dimension.

In the last chapter of the first section, Pier Luigi Petrillo, focusing on pressure groups, distinguishes between two regulation models of lobbying. The first – typical of the European system – is the “participation” model, the second – distinctive of the UK system – is the “transparency model”. In his comparative analysis and by giving evidences of the two models, the Author concludes that the “participation model” is the most suited for Italy too.

The second and the third sections are devoted to the new role played by the national legislatures in the light of the post-Lisbon’s provisions. Respectively, the first gives a more theoretical and general analysis of the new procedures and the latter illustrates the practical activity of the national legislatures in some specific Member States.

The chapter written by Nicola Lupo highlights the contradiction between the European model and the national realities. In fact, contrary to the European legal framework which considers all the parliaments formally equals, in practice a strong differentiation exists among them. They belong to different domestic legal orders with their own legal traditions and institutional settlement. In the book, evidences are given by the cases study analyzed in the third section by Davide Alberto Capuano, Oliver Höing and Maria Romaniello, respectively on the Italian, the German and the Belgian case. Moreover, another interesting perspective underlined by Nicola Lupo is the potential of the new provisions of the Treaty of Lisbon on national parliaments to accelerate the Europeanisation process and realign politics and policies at the EU level. On this point, Barbara Guastafarro, add another positive consequence to the monitoring function of the national legislatures in the context of the early warning mechanism. According to the Author, this new function can reframe the subsidiarity test and reaffirm its original intent, such as, preventing the “EU’s increasing competences from encroaching upon the power of lower levels of government”.

Still on the early warning mechanism, Cristina Fasone examines the participation of the national parliaments in the EU in the light of McCormick theoretical framework, which argues that the democratic deficit is instead a subsidiarity deficit. On the basis of this approach, Fasone concludes that the early warning mechanism is a potential tool aiming to contrast the subsidiarity deficit together with

the cooperation of all the EU Parliaments. Still, cooperation is also the centre of the argument developed by Elena Maioli Castriota Scanderbech, who considers it as absolutely necessary for the successful implementation of the early warning mechanism.

Thereafter, the book dedicates its fourth section to the regional dimension of the European Union. According to Marco Olivetti and Karolina Boronska-Hryniewiecka, the EU should bolster the regional participation in the EU decision-making process. With the first asking for a reconciliation of the “Europe of States” with the “Europe of regions” and the latter advocating for the recognition of a stronger involvement of regions in the subsidiarity control mechanism.

Finally in the last section, “on the Judicial enforcement of the principle of subsidiarity”, the three chapters give evidences of the new challenges that the Court of Justice of the European Union shall deal with.

According to Werner Vandenbruwaene, the Court of Justice of the European Union in the context of judicial review of subsidiarity is “ill-equipped”. Therefore, the Author suggests that a review for compliance with art. 5.3 TEU and the use of the Impact Assessment could be useful for strengthening the Court’s role in subsidiarity review. This latter aspect is further analyzed by Luca Di Donato, who argues that the Impact Assessment could become an important juridical instrument for assessing the discretion of the European legislator also in the courtroom.

Finally, the last chapter of Katarzyna Granat examines the subsidiarity action introduced by art. 8 of Protocol no.2 attached to the Treaty of Lisbon. Accordingly, Member States may notify an infringement of the principle of subsidiarity on behalf of their national parliaments. The provision does not give an independent power to national parliaments but it requires further arrangements at the national level. In her chapter, the Author develops a detailed analysis and gives evidences about different accommodations of these new competences at the national level, strictly dependent on the type of Parliament-Government relationship.

Starting from the initial general overview of the democratic principles, the book provides an updated picture of the complexity of the European democratic architecture after Lisbon. Moreover, an adding value of the book is represented by the different backgrounds of the Authors. The “mix” between scholars and practitioners and between lawyers and political scientists offers a complete portrait of the actual on-going debate on EU democracy.