

# Europe without Government

*by Shahin Vallée*

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**The proposal by a group of academics to institute a parliament of the euro area has garnered considerable attention. However, according to S. Vallée, this institutional reform would hinder the development of a transnational European democracy. What follows is the first part of a debate between the authors and their critics.**

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Reviewed: Stéphanie Hennette, Thomas Piketty, Guillaume Sacriste, Antoine Vauchez, *Pour un traité de démocratisation de l'Europe (For a Treaty on the Democratization of the Euro Area)*, Paris, Le Seuil, 2017, 96 p.

The French debate on Europe is often most frustrating, marked as it is by a crude and binary opposition between naive “pro-Europeans” and unsophisticated “anti-Europeans.” In offering a critique of the functioning of the European Union that is both radical and profoundly pro-European, this book provides a necessary counterweight to those who have so far held the monopoly of radical contestation, yet whose analyses have more often than not led to an intellectual and political impasse.

Indeed, in contrast for instance to Frédéric Lordon,<sup>1</sup> who maintains that “all of European economic policy is irrevocably fixed in texts of quasi-constitutional value,” or to Cédric Durand,<sup>2</sup> for whom Europe is at its foundation a “class project” that must be brought to an end, the authors of the present work forcefully express “the view that the marble of treaties is not necessarily as solid as is often assumed.” The book therefore provides a fundamentally optimistic critique of European construction that opens up debate and attempts to renew reflection.

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<sup>1</sup> Frédéric Lordon, “Pour une monnaie commune sans l’Allemagne” (For a common currency without Germany). <http://blog.mondediplo.net/2013-05-25-Pour-une-monnaie-commune-sans-l-Allemagne-ou-avec/>

<sup>2</sup> Cédric Durand (ed.), *En finir avec l’Europe*, Paris, La Fabrique, 2013.

# **Remedying the Democratic Deficit of the Euro Area**

The authors start from an important observation: The political and institutional crisis of the euro area overdetermines economic policy. In short, without a political and democratic refoundation, there can be no new economic policy, no economic recovery, no crisis management, no debt pooling, and no revision of budgetary rules. This is a fundamental starting point that contrasts with prevailing analyses. Moreover, the lack of reflection on such refoundation also largely explains why technocratic approaches to reconstructing the Economic and Monetary Union (the Commission's White Paper, the Report of the Five Presidents) have reached an impasse. The authors describe how the democratic deficit widened during the crisis, following the emergence of an increasingly powerful yet more and more elusive euro area governance. They propose to remedy this with a "Treaty on the Democratization of the Euro Area" (T-DEM) that would institute a new parliamentary chamber of the euro area.

This assembly would ensure the democratization of economic governance in the euro area by substituting itself for the Eurogroup and for the summits of euro area heads of state and governments, which were established during the crisis. It would be made up of members of national and European parliaments: 100 national parliamentarians (their mode of selection is unclear, but it would be marginally adjusted—by up to 5 members—such that the smallest countries would be represented) plus 25 European parliamentarians. The idea of this grouping is to promote the European socialization of national parliamentarians around partisan identities, in order to break with the options imposed by the opaque functioning of current euro area governance. Indeed, in recent years, new challenges have emerged and brutal practices have been brought to light. Financial assistance programs have pitted national parliaments against one another, to the systematic advantage of the Bundestag, the German parliament. For its part, the European Parliament has played only a secondary role, as it holds no real power in the governance of the euro area. The European Council, which brings together the leaders of EU member states, has gone from being the council of elders called for by the Treaty of Lisbon to becoming the ultimate executive deliberation body. Lastly, the Eurogroup, a committee of finance ministers with no formal existence in the European Treaties, has come to impose itself as the nerve center of European economic policy and as the prime driver of its trajectory.

## **The Euro Area Parliament: A False Remedy**

The description and analysis of the current system's democratic deficit, although fundamentally correct, has led the authors to put forward a proposal that neglects many other pitfalls and would fail to lay the foundations for a genuine transnational democracy.

To begin with, the authors' desire to achieve a "progressive" majority in the euro area parliament can hardly justify, in and of itself, an institutional reform of such magnitude. A cardinal principle is that institutional reform is acceptable only if it can be conceived under a "veil of ignorance," that is, if it is not intended to give power to a particular political group. A euro area assembly whose sole purpose would be to achieve a progressive majority so as to bring about a certain policy (such as debt pooling or fiscal harmonization) obviously exposes itself to accusations of bias that would immediately compromise its formation. Moreover, given how parliamentary democracies function in northern Europe, it seems illusory to think, for instance, that a coalition agreement between the SPD and the CDU in Germany could be circumvented by such a euro area parliament. This would presuppose, among other things, that the solidarity and (fragile) intellectual proximity between the French Socialist Party and the German SPD would be stronger than a coalition agreement underpinning a Bundestag majority.<sup>3</sup> The strength of the European Parliament is precisely that it elects representatives who have as their sole mandate the general European interest, and who are therefore unconstrained by the contingencies of national politics and domestic parliamentary alliances.

Second, while the democratic deficit described in the book is undeniable, it has its counterpart in an executive deficit which in turn fuels it.<sup>4</sup> If "Euro area governance" forms such a complex maze, it is precisely because the European Commission lacks the budget and the necessary prerogatives to govern the single currency. Thus, the problem is not so much the lack of national or European parliamentary control over the Eurogroup—a point to which I will return later—but the absence of a real executive power in the euro area. There follows from this a decision-making process whereby each member state (in addition to the Commission, the ECB, but also often the IMF) has a virtual right of veto. The latter leads at best to indecision and at worst to diktat. Moreover, it is doubtful that, taken together, national executive representatives are capable of making decisions that serve the general European interest. The Eurogroup, therefore, cannot replace a genuine European executive power, and unless one imagines a parliamentary assembly with quasi-executive powers (similar to the French National Assembly under the Third Republic), a parliamentary chamber of the euro area cannot substitute for it either.

Thus, instead of providing a solution to the executive deficit, the T-DEM seems caught up in the hope that national parliamentarians as a whole can succeed where executive representatives (i.e., the finance ministers of the Eurogroup) have failed. The authors are right to highlight the shortcomings of the Eurogroup, but the logic and method of this mode of government are in no way challenged by the T-DEM they propose. Indeed, according to them, it suffices to "democratize the intergovernmental bureaucratic network that has formed over the past ten years" (p. 10) rather than to dismantle it. However, it seems that the critique

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<sup>3</sup> At the German federal level, coalition agreements in the Landers already bind representatives to the Bundesrat, the German Federal Council where the 16 Landers are represented. See *The National Parliament in the European Union: A Critical Review*, Philipp Kiiver, Kluwer Law International, chap. 8, p. 178.

<sup>4</sup> "Le parlement européen et les marchés financiers" (The European Parliament and Financial Markets), speech pronounced at the conference of the Swedish Financial Markets Committee, Nicolas Veron, 8 June 2012.

of intergovernmental logic must be pushed further and applied as well to all the parliamentarians elected on a national mandate. Here, our authors appear to forget that it was precisely in response to these deep tensions—which were experienced as early as 1957—that the European Parliament was freed from national tutelage with the institution of its own universal suffrage in 1979.

## **The Impasses of the Intergovernmental Approach**

Indeed, the intergovernmental approach rests on several errors. The first is to believe that a deeper revision of the Treaties is beyond reach, and that it is therefore necessary “to follow in the wake of the ESM and TSCG Treaties, but with a view to democratizing their terms” (p. 27), because “no one today is contemplating the possibility of relaunching the Herculean project of revising the European treaties with 27 member states” (p. 26). In reality, an in-depth revision of the Treaties has become the *sine qua non* for the institutional refounding of the euro. This may be construed as a distant horizon, but to frame it as an insurmountable obstacle is to declare an absolute impasse. And in this case, the audacious and valuable intellectual enterprise would be to reflect on ways to dismantle the euro rather than to prolong its agony by merely patching it up. Besides, it is incorrect to assert, as the authors do on several occasions, that a revision of the Treaties is beyond reach. And this especially since the creation of intergovernmental instruments—including the European Stability Mechanism (ESM)—itself required that Article 136 of the Treaty on the Functioning of the European Union be amended, so that the institution of a financial mechanism could be authorized without prejudice to the no-bailout clause indicated in Article 125 of this Treaty.

The second error lies in the notion that national parliamentarians would necessarily, almost by construction, have more legitimacy than the European Parliament to ensure democratic control of euro area governance. This hypothesis has, in fact, been empirically rejected: Eurobarometer surveys show that there has been a profound loss of confidence in European institutions since the beginning of the crisis—thus validating the authors’ assessment—but also that confidence in national parliaments has dropped even lower than confidence in the European Parliament, particularly in southern European countries.<sup>5</sup> The authors’ enthusiasm for bringing together national parliaments at the European level therefore appears to be rooted in the weakness of French parliamentarism. Rather than advocating for more direct control over the President of the Republic and the Minister of Finance when they represent France in Brussels (as occurs in many parliamentary democracies of northern Europe), the authors prefer to circumvent the weaknesses of the Fifth Republic and to try and remedy them at the European level.

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<sup>5</sup> Silvia Merler, “Is There a Path to Political Union?”, Bruegel Blog, August 2014. <http://bruegel.org/2014/08/is-there-a-path-to-political-union/>

Lastly, and this is a more fundamental problem of political philosophy for those who wish to lay the foundations of parliamentary democracy in the euro area, the T-DEM would establish a new legislature in charge of controlling a pseudo-executive power, but it would not introduce any legal order. Indeed, unless the Treaties were amended, European law and the European Court of Justice would remain sovereign. Such a set-up would be exposed to serious legal tensions given the geographical inconsistencies between the legal and legislative orders: The euro area assembly could, for instance, decide to bail out a bank on the basis of legislation passed by the European Parliament and not by itself. This assembly would supervise the executive in the name of legislative power, but without in-depth revision of the Treaties, it would not really enjoy such power, because the T-DEM could not give it the prerogatives that currently belong to European institutions and to the European Parliament.

Moreover, in matters of debt pooling or fiscal policy, a parliamentary assembly under international law cannot supersede the European Treaties. The latter indeed provide a prescriptive framework, in particular with Article 125 (i.e., the no-bailout clause) and with Articles 113, 114, and 115 of the Treaty on the Functioning of the European Union (TFEU), which require that decisions pertaining to taxation be taken unanimously by all member states. Thus, while the book clearly lays out the legal process for creating such an assembly—supported by the jurisprudence of the European Court of Justice as regards the creation of the European Stability Mechanism (ESM)—it will be impossible to grant this new euro area parliament more than symbolic powers unless the European Treaties are profoundly modified. The authors put their finger on the central problem when they highlight the need for democratization and the shortcomings of the current organization, but the “turnkey” solution they propose does not satisfy the democratic requirements they have set for themselves.

## **Another Avenue for Reform**

This book provides a useful and widely shared assessment, which contributes<sup>6</sup> to a much-needed institutional and constitutional debate in France and in Europe. However, just as technocrats believe that a euro area finance minister with vague prerogatives would suffice to solve the problems of euro area governance by creating an economic government without parliamentary control, so too the advocates of the T-DEM believe that a euro area parliament thus constituted would suffice to address Europe’s democratic deficit. These two symmetrical errors should prompt us to adopt a holistic approach that addresses not only the executive deficit, but also the current democratic impasse.

Such an approach demands not only a deeper revision of the Treaties, but also certainly a set of constitutional changes in many European countries. This is clearly a long-

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<sup>6</sup> Other initiatives exist, including elaborate ones like the Protocol of Frankfurt put forward by Andrew Duff, and more embryonic ones such as the Democracy in Europe Movement (DiEM) proposed by Yanis Varoufakis.

term project, which is made particularly complex by the diminishing returns of the step-by-step method (*méthode des petits pas*) and by the general discredit suffered by European elites and institutions. Nevertheless, if one still believes in gradualism, or if one resigns himself to the impossibility of the great institutional revolution, it is possible to describe a series of transitional proposals that might serve as a springboard for far-reaching future reforms.

For instance, the Treaty on Stability, Coordination, and Governance (TSCG, also known as the “Fiscal Pact”) contains a revision clause that would allow for its integration into the European legal order, and hence for its revision. By the same token, the European Stability Mechanism (ESM) should be communitarized and its role expanded so that it could serve as an embryonic budget for the euro area. The Eurogroup (which is also the ESM board of directors) would then exist formally in the Treaties. Though previously opposed to the idea of a euro area sub-chamber, the European Parliament has now accepted it as a necessity—even if the European Commission is more ambivalent about it. Moreover, recent debates, notably after the Brexit vote, have decisively opened up the possibility of a differentiated institutional architecture. Finally, the presidency of the Eurogroup could be held by the Commissioner for Economic and Financial Affairs.

However, these reforms constitute merely a transitional program aimed at remedying the most pressing problems. They therefore cannot dispense with a more in-depth reflection on the organization of European fiscal federalism and the sharing of competences between the national and European levels. National governments should relinquish some of their prerogatives and fiscal dividends at the European level, just as they do *vis-à-vis* local governments, in order to provide the government and the parliament of the euro area with the clarity and resources they are sorely lacking. The federalization of the governance of the single currency would lead, *in fine*, to the institution of a genuine European executive power (in the hands of the Commission instead of the Eurogroup), to the exercise of parliamentary control by a sub-chamber of the European Parliament, and to the establishment of prerogatives and relations between the federal level and the member states. It would thus allow for the transnationalization of democracy that was called for by Jürgen Habermas. In the same way that the Maastricht Treaty gave birth to an ungovernable single currency which has become a source of tremendous frustration, the T-DEM would fail to move beyond the dysfunctional intergovernmental *status quo* (even with the disappearance of the Eurogroup) if it stayed shy of a broader Treaty reform. It would then function as the mere fig leaf of Maastricht, and would limit itself to giving the Treaty a thin veneer of democratization.

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