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“European Parliament cannot become a victim of institutional rebalancing”

Policy roundtable:

“The post-pandemic EU political system: State-of-play two years into the new institutional cycle”

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I would like to start with a kind of abstract or executive summary of what I want to share with you in my remarks as a participating witness of the political process of institutional de-balancing or off-balancing in the first half of the current institutional cycle, when only in 2020 we had 13 meetings of the European Council, this year already 7.

I think we are witnessing a culmination of this long lasting process of changes to the institutional balance.

When I look at the way the flagship multipolicy project which is the NGEU has been organized I actually see the petrification of the dual mechanism of the EU decision making - what we used to call the community method and the big scale coordination of national processes which some of us might remember from the times of Lisbon agenda. These are memories of failure.

Correct me if I am wrong but I believe that since Maastricht there has been no major transfer of powers between institutions or levels of governance through treaty change, nevertheless EU agenda has moved to new policy areas while inter institutional balance has been shaken.

In important policy areas we have been through waves of inter governmentalism, including reaching out to international agreements among member states. In some fundamental areas, and specifically under crisis conditions, consensus was built around national priorities and interests through coordination of national resources.

In the first half of the current cycle we see continuation of what we already have known especially after Lisbon which is an accidentally shaped but intentional institutional rebalancing between the European Council and the Commission with a collateral damage to the EP. Competences and responsibilities might continue to be accidentally moved around through the same method also in the future. There have been as well accidental shifts in the scope of interest of the European Council depending on whether its President was from a member state with common currency or not.

In that case the scope of the Commission responsibilities was simply adjusted. This has deepened the lack of clarity, not to say created confusion, in the institutional balance.

There is a long list of instruments that the European Council has developed enlarging its political territory. Quite recent example is the use of its conclusions to give directives to the European Commission.

Practically there are no limits to the European Council actions with some spillovers to the way the Council of the European Union acts, with an amazing amount of non-legislative activity in several formations of the council. This lack of respect of check and balances has been happening through practice, outside the treaty path and has legitimacy and accountability related consequences.

It also raises the question whether decisions and coordination through intergovernmental channels provide for a sufficiently effective policy making mechanism, allowing to deliver on all elements of European decision making, institutional efficiency, democratic legitimacy and equality of service.

From the EP viewpoint this spontaneous institutional sharing of competences undermines the legitimacy and accountability dimension of decision making.

The EP has no prerogatives to hold the European Council to account when heads of state and governments make decisions as national leaders. This means that EP does not provide accountability to decisions made at European level which affect citizens represented by the MEPs. So indeed, the EP is concerned with the dominating method of institutional balance evolution.

You might remember the message from Jean Claude Juncker and Frans Timmermans striking a new balance in the Commission work between legislation effort and policy coordination and implementation, increasing the role of the latter and legislating less. It impacted as well the situation within the new institutional cycle.

f what we have witnessed for the last decade is a new integration method based on a dual vehicle: what we used to call community method and the coordination of national policies, I hesitate to call it Union's method, then I would be ready to understand Juncker-Timmermans narrative on moving away from the focus on legislation toward coordination, implementation and non-legislative decision making as an effort to capture some space for the Commission in this new method.

This emergence of double track integration method is happening through practice, outside the treaty path and, as I already mentioned, has legitimacy and accountability consequences.

In 2020 crisis proof management system hardly existed, the Union has been moving rather with high speed toward new areas of policies and the institutions have been trying to establish their role in the process of change.

In general, the EU has been reforming itself through action and the institutional roles have been identified through pragmatic politics. Both legislative and coordinating instruments have been deployed. But what will be the results of deploying the dual mechanism of governance, hard to assess today.

If we want to look at check and balances system of the EU and reflect on rebalancing with a dose of more objective and less politicized criticism, we need to have clarity in which direction we would like to see the EU move. We cannot rely on an accidental outcome.

The problem is that the European Council, like a gene is already out of the bottle, you probably cannot put it back there without a radical institutional overhaul. So the only way is to move forward.

Some of us would immediately come with the idea of merging the two functions of the heads of both executive institutions. Others would point to how weak we are without a good technology for treaty making.

So all in your hands professor Fabrini.

We need more than ever a new method of treaty making. In the meantime maybe, we should look at the current institutional cycle as if it were a transition period.

Not knowing where we go through this parallel track, or, if you wish, the coexistence of legislation-based integration, being the domain of the Commission and with well-established European Parliament's responsibilities and integration based on coordination of decentralized national resources, both legal and material, the domain of the European Council, can we be sure about achieving a common European objective.

COFE is a chance to talk on those choices. And we can expect that there will be a pluralism of European voices on this issue. As it will also be on possible treaty change.

In the meantime, we have no choice but to accept a kind of hybrid governance combining elements of community method and the inter-governmental procedures in the time of unprecedentedly challenging and disruptive political situation within the EU.

In the debates ahead of us, the EP will most likely not be ready to continue looking the other way when a rebalancing of European institutional equilibrium takes place at its expense.

What is my additional worry is that the expansion of the inter-governmental governance makes the European policy making more sensitive to national politics.

The case of Hungary and Poland proves how national events, political shocks, anti-European political attitudes can undermine the political dynamics at European level.

So while I understand the usefulness of an inter-governmental moment in times of crisis, when looking beyond the time of crisis we need a systemic mechanism to provide legitimacy to EU actions and decisions, through transparent and accountability based institutional equilibrium.

Last elections were different from 2014 and the earlier ones, more focused on truly European issues across the member states. I have the impression on the basis of existing evaluations of those elections that there are signs of European demos emerging through a bottom up process.

The COFE which accompanies our entry into the second half of this institutional cycle can offer a broad space for reflection on institutional rebalancing and on the best possible institutional architecture.

You might have noticed that pragmatism has become a new buzzword in these times of crisis management and spontaneous institutional shifts. This meant as well quick fixes of the legislation, patching and peace meal solutions, which were needed.

But institutional balance cannot and must not be adjusted through a pragmatic approach, because institutions have to be trusted. Reestablishing the institutional balance must go in a direction that would reaffirm Europe's relevance. Whatever it means.

The risk is that we can wake up with two centers of European policy making. We should stop investing in a dual institutional structure for decision making when we have not agreed what is our destination.

