THE EUROPEAN UNION:
BETWEEN PARLIAMENTARISM AND PRESIDENTIALISM

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Executive Summary

Both researchers and politicians are more and more discussing the desirable institutional shape of the Union in terms of parliamentarism and presidentialism. That is, should the EU be a parliamentary or a presidential political system? However, little research has clearly established what kind of political system the EU is, and specific criteria for assessing the European polity in terms of parliamentarism – presidentialism have never been applied.

This research paper seeks to find what kind of political system the EU is, by applying Arend Lijphart's (2000) six criteria for distinguishing between parliamentary and presidential systems. The reason for doing so is that Lijphart's theoretical framework provides appropriate instruments for assessing the relationship between the executive and legislative branches of a polity, as well as for determining their weight within the system.

This research reveals that according to the three primary criteria, the EU belongs to the category of parliamentarism. According to only one out of the three secondary criteria, the EU is a presidential system. Thus, the result of the research is that the European Union is a parliamentary political system, albeit not a pure one.

Table of Contents

Introduction

"Europe, yes, but what sort of Europe?"

(Tony Blair 2000:31)

The question posed by the British Prime Minister Tony Blair in his 2000 speech – "[…] what sort of Europe?" – expresses the increasing need to, and interest in, identifying what the European Union is and how it should be in the future. Analysts (Hix 1999; Naumescu 2003; Lord 1998; Sbragia 2005b; Meny 2005) and political leaders within the EU (Fischer 2000; Blair 2000; Amato 2000; Vedrine 2000) are paying more and more attention to European institutional design. This increased attention is aimed to improve the institutional framework in order for the EU to cope with the challenges implied by its widening and deepening, as well as by external challenges such as those stated in the 2007 Declaration of Berlin. Thus, the need to consider the EU's actual and future institutional configuration has become more and more urgent.

Although much research has been devoted to analyzing the European political system in terms of how it is and how it should be, seldom has a clear answer been given. Few researchers have clearly positioned the EU on the parliamentarism – presidentialism axis of political systems (e.g. Magnette 2005). Comparatively more researchers have clearly stated their position with regard to what type of political system they consider the most appropriate for tomorrow's Union (e.g. Berglof *et al.* 2003).

Research Question

This research paper seeks to find what kind of political system the EU is: is it a parliamentary or a presidential system? The need to clearly establish where the EU is currently situated on the above-mentioned axis relies on two important arguments: *first*, there is wide debate on EU's future institutional shape. Both researchers (Berglof *et al.* 2003; Lord 1998; 2001) and politicians (Fischer 2000; Blair 2000) argue for the need to transpose different characteristics of presidential and/or parliamentary political systems to the European institutional architecture. For example, some claim that the Union should have a directly elected presidency (Berglof *et al.* 2003; Lord 1998: 93-94), which characterizes presidential systems. Others militate for a powerful Parliament enabled to form a European government (Fischer 2000; Scharpf 1996: 26), which is a feature of parliamentarism. Therefore, the discourse on the EU's future has become more and more in terms of pushing it towards one or the other category of political systems.

Moreover, it is clear that Joschka Fischer's 2000 speech given at Humboldt University has significantly marked the political debate and propositions for the institutional reform. In 2000 he has personally proposed a fully parliamentarized federal Union. What has first and foremost attracted political opposition was not the parliamentarism-related proposal, but the one of federalism. The Convention on Europe's future has led to a Constitutional Treaty draft which has clearly pushed the EU towards parliamentarism. Although the Treaty has not yet been ratified by the EU member states, it must be considered as an act expressing the political will and commitment of both European leaders and institutions like the EP and the Commission (Wallstrom 2006: 2). Moreover, the constitutional provisions are and will be one of the most

important topics of meetings organized at the European level (e.g. the EP's plenary in June 6-7, 2007; the European summit in July 21-22, 2007) (European Parliament News 2007).

Second, by seeking to place the EU within the category of parliamentary systems or within the one of presidentialism, existent legislative ambiguities in terms of institutional powers can be identified and, eventually, removed through further reforms. Therefore, to establish the best future direction for the Union as a political system (i.e. to analyze whether it should be a parliamentary or a presidential one), one needs to know first and foremost what it actually is, in which category it can be placed. Only after having done so can one clearly and more easily opt for the EU's future design and desirable features.

There is wide debate around the issue of whether the EU is a political system or not. Some analysts do treat it as such (Bromley 2001; Deschouwer 2000; Hix 1999; Chryssochoou 2001; Lord 1998; Pereira-Menaut 2001), while others claim that it is not actually a political system, but a unique type of international organization (e.g. Magnette 2005). This paper does consider the European entity as a political system. In this regard, it follows Hix' arguments (1999), who claims that although the EU is not a state, it is a political system (pp. 1-2). By applying Almond's and Easton's characteristics of political systems, Hix finds that the EU has all of them:

1. a clear set of institutions and rules which shape the politics of the Union;

2. European citizens are able to influence decisions made at the EU level;

3. the latter influence the overall distribution and allocation of economic, social and political resources and values; and

4. there is a feedback mechanism between the political outputs and inputs of the European system (pp. 2 *sqq.*).

In addition, most existing research considers all the three pillars of the EU when seeking to find what type of polity it is (Magnette 2005; Fabbrini 2005). By contrast, this paper focuses only on the first pillar of the EU, for two major reasons. One the one hand, this is the only supranational pillar and it has certain characteristics of statehood (Burgess 2003: 71). Given that the European language and "discourse" are still "impregnated with assumptions about the state" (Schmitter 1996: 132), it seems fairly reasonable not to apply concepts of statehood and domestic politics to what resembles an international organization (i.e. the second and the third pillars).

This is not to say that the EU, even within the first pillar, is actually a state. The literature has already demonstrated that the Union still lacks defining elements of statehood, like the legitimate means of coercion, a taxing system and right, and a European identity (Haseler 2004: 86; Chryssochoou *et al*. 1999: 3; Bohman 2005: 32; Delanty 2005: 127; Heidar 2003: 1; Gilbert 2005: 29-30; Griller 2001: 47, 49 *sqq.*). Thus, this paper remains in line with this argumentation.

On the other hand, the Treaty instituting a Constitution for Europe abrogates both the Treaty of the European Community and the Treaty of the European Union, and it formally abolishes the complex three-pillar structure of the EU (Fossum 2005: 161).

Furthermore, most of the literature seems to consider the Union as a non-parliamentary system, due to the EP's fewer functions and weaker role compared to national parliaments and other European institutions (Magnette 2005; Hayes-Renshaw 1997). By contrast, this research paper analyzes the EU by applying specific criteria related mainly to the executive – legislative relationship, and placing significant emphasis on the EP's power to control the Commission. The reason is that the EP's power in its relationship with the executive is more relevant than its

amount of functions within the legislative process, when seeking to place the EU on the parliamentarism – presidentialism axis.

Methodology

Instead of dividing political systems into parliamentary and presidential ones by considering how many functions the parliament has in the decision-making process, Lijphart (2000) has established a complex set of criteria based first and foremost on the legislative – executive relationship. According to his research, parliamentary and presidential systems can be distinguished through six criteria, the first three of them being considered primary ones (pp. 119-121).

Therefore, a better alternative to position the EU on the parliamentarism – presidentialism axis is to apply Lijphart's criteria to its institutional framework. This is what this paper aims to do: to apply Lijphart's criteria to the EU and, thereby, to answer to the crucial question with regard to its political system: is it a parliamentary or a presidential polity?

Thus, concepts and characteristics of statehood will be applied to the European polity. The reason is that the EU is constituted first and foremost by national states. Citizens living within these twenty-seven national states still perceive the EU in terms of state attributes. To borrow from Hedetoft (2003), the EU "likes" to be shaped and "judged by nation-state criteria of governance, authority and legitimacy" (p. 43). Moreover, as Valery Giscard d'Estaing has stated, the "idea of Europe" is a dynamic one (Wolff 2005), and there is no language yet to be applied to the European Union itself. Although attempts are being made to create a European language, it

would not be wise to drop the question of what the EU is (in terms of parliamentarism – presidentialism) until this language has been created.

Structure

To determine what kind of political system the Union is, this paper is divided into three chapters: the *first* focuses on the existent literature dealing with both the current and the desirable shape for the EU. The reason for this lies in the need to highlight the gaps and the weaknesses of what has been done so far in order to correct them and to conduct an improved research.

The *second* chapter seeks to establish what European institutions constitute the three powers of the political system (i.e. the executive, the legislature and the judiciary). To achieve this goal, the principle of separation of powers will be applied, and the EU's institutions will be analyzed. The major focus will be on their roles and functions within the political system. However, the first chapter will pay little attention to the system of checks and balances instituted at the level of the EU, this constituting the major focus of the third chapter.

The *third* chapter seeks to identify what kind of political system the Union is, by analyzing the relationship between its legislative and executive powers. Arend Lijphart's criteria for classifying political systems will be applied, given that it is more appropriate to position the EU on the parliamentarism – presidentialism axis by considering its checks and balances system, rather than by comparing the amount and type of functions the legislature has to those of the executive.

In sum, this research seeks to find what kind of political system the EU is, by applying a more appropriate theoretical framework for assessing the European polity: Lijphart's criteria. The aim of the paper is to contribute to establishing the grounds for more accurate further analyses focused on the desirable future shape of the Union.

Chapter 1 – Approaching the European Union

Studying the EU as a political system is becoming increasingly important within the field of European studies. Much research has been devoted to the European institutional framework as a whole (Magnette 2005; Stubb *et al.* 2003; Hix 1999; Dinan 2003), while other analyses have focused on specific institutions of the European Union (Hayes-Renshaw *et al.* 1997; Bulmer 1996; Cini 2004; Bulmer *et al.* 1987; Scully 2003).

A significant part of the literature deals with the increasing role of the EU as an international actor within the global scene (Naumescu 2003; Paun *et al.* 2003; Peterson *et al.* 2003). Furthermore, there are an increasing number of studies concerned with the political system of the Union, thus combining the fields of European studies and international relations with that of political sciences.

It is this part of the literature that this paper pays the most attention to. More and more researchers have brought into discussion two crucial questions related to the European polity: *first*, what kind of political system the EU *is* – that is, where it is situated on the parliamentarism – presidentialism axis. *Second*, what kind of political system the EU *should be*: would it better work if it was a presidential polity or a parliamentary one? (Berglof *et al.* 2003; Scharpf 1996; Magnette 2005; Bromley 2001; Caporaso 2005; Sbragia 2005b; Meny 2005). This chapter seeks to review and to analyze the literature dealing with this challenging topic, dividing it into two parts corresponding to the above-mentioned questions.

1.1. What Kind of Political System Is the European Union?

There is a group of analysts who seek, *inter alia* and sometimes not very explicitly, to find what kind of political system the EU is. Most of the studies conducted on this topic do not clearly state whether the Union is a parliamentary or a presidential polity. What they do seem to argue most often is what the EU *is not* – i.e. the EU is not a parliamentary system (e.g. Berglof *et al.* 2003: 46). Although the arguments advanced are to a certain extent diversified, one of them appears to be the centre of the explanation: the European Parliament has fewer functions and a weaker role within the EU than other institutions, especially the Council of Ministers and the Commission (Hayes-Renshaw *et al.* 1997: 179 *sqq.*; Heffernan 2001: 43).

There are, however, analysts who do assert what the EU *is*, such as Magnette (2005) and Caporaso (2005). First of all, Magnette (2005) claims that the EU is not a political system in its own right, but an international organization (pp. 1-3). He further seems to consider the Union as a semi-parliamentary regime (p. 106), given that the EP's powers within the co-decision procedure are equal to those of the Council of Ministers (pp. 117-123). However, he puts little emphasis on the EP's right to control the executive powers – mainly through the vote of confidence and the corresponding censure motion (p. 107).

As regards Caporaso's point of view, he considers the Union as "an emerging parliamentary democracy" (2000: 61). He grounds his statement on both the balance of powers with the European Union and the increasing functions of the Parliament given by the Single European Act and the Treaties of Maastricht and Amsterdam (pp. 61-63).

Although this first group of researchers contributes to the literature with undoubtedly very extensive and thorough analyses, three major criticisms can be raised with regard to their undertakings. *First*, many of them consider the Council as both the legislative and executive

power, and they often overemphasize and overestimate its executive functions. Consequently, they minimize the role that the Commission plays as an executive power, the latter being seen as "a secondary executive" (Heffernan 2001: 42) or as the "secretariat" of the Council (Magnette 2005: 76). On the other hand, the EU's legislature (the Council and the EP) is underestimated. This paper seeks, *inter alia*, to demonstrate that, in fact, the Council has only two executive prerogatives within the first pillar, the European Community, which is the only pillar considered by the paper in its attempt to analyze the political system of the Union.

Second, all these analyses take into account all the EU's pillars. Although these undertakings have the undeniable merit of providing broad and in-depth analyses of the European institutional framework, when it comes to analyzing the EU as a political system they should arguably consider only the first pillar. The major reason is that the Community pillar is the only one in which the EU resembles a national state. It is here where the Community – or "federal" (Fabbrini 2005: 6) – method constitutes the decision-making framework. This means essentially that the EP and Commission have a powerful role in the decision-making process, and the European Court of Justice is enabled to act as a real judicial power (Stubb *et al.* 2003: 139; Dinan 2003: 35; Wincott 2001: 82).

By contrast, within the second and the third pillars the Union clearly resembles more an international organization, where decisions are made on an intergovernmental basis. In these two fields, the Commission has no longer the monopoly over legislative initiative. The legislative role of the EP is significantly weaker and the ECJ is no longer allowed to interpret the legislation produced by the Council (Hayes-Renshaw *et al.* 1997: 11; Magnette 2005: 40; Chryssochoou *et al.* 1999: 43). Therefore, it would be misleading, and arguably even unfair, to attempt to establish

what kind of political system the EU is by applying concepts and criteria related to statehood in areas where it is more like an international organization rather than like a state.

Third, the major argument advanced to support the claim that the Union is not parliamentary is that its Parliament has fewer functions compared to other institutions (Magnette 2005; Hayes-Renshaw 1997). The amount of functions given to the legislature undoubtedly contributes to strengthening or weakening its role played within the political system. However, it is far more important to consider what these functions actually are rather than how many they are. More specifically, what really matters, and should matter, is whether legislative institutions have the legal right to control the executive ones, and in fact the EP clearly has this power.

This third criticism leads us to Lijphart's research (2000) on democratic models of political systems. He distinguishes between parliamentary and presidential polities according to three primary criteria and three secondary ones (pp. 119-140). These criteria are:

1. the political accountability of the executive in front of the legislative;

2. how the chief executive is chosen;

3. the character of the decision-making process;

4. political leaders' possibility to belong to the legislative and/or the executive power;

5. the possibility for the executive to dissolve the legislative power; and

6. the structure of the executive power (pp. 119-121, 126-127).

Although Lijphart's criteria provide a more useful tool for distinguishing between parliamentary and presidential systems, no research has been devoted to the EU's political system by applying them. Thus, the third chapter of this paper seeks to find whether the EU is a parliamentary or a presidential system, according to these specific criteria.

1.2. What Kind of Political System Should the EU Be?

With regard to the attempts made to establish what kind of political system the Union should be, the literature is much clearer. However, while some authors clearly define their position in favor of one or another ideal type of political system (Berglof *et al.* 2003; Lord 1998; 2001), others only discuss the possibility for the EU to become a certain kind of regime (Magnette 2005; Hayes-Renshaw *et al.* 1997; Sbragia 2005b). For example, Hayes-Renshaw *et al.* (1997: 155-156) discuss the possibility of having an elected Presidency of the Council of Ministers, which is a characteristic of presidentialism. Magnette (2005: 201-203) considers the alternative of a parliamentary Union, as the Constitutional Treaty stipulates that the Commission's President shall be elected by the EP (p. 201).

While one group of researchers seems to support changes aimed at transforming the EU into a presidential polity (e.g. Berglof *et al.* 2003; Lord 2001), other authors consider the opposite alternative; that is, of having a parliamentary Union. For example, Scharpf discusses the parliamentary model as a possible way of reducing the democratic deficit at the European level. This model would be achieved by creating two powerful legislative chambers (the EP and the Council) and a European government "elected by and accountable to" the EP (1996: 26).

By contrast, Lord (1998; 2001) rejects a parliamentary model for the EU (in which the Parliament would choose either the Commission or its President), as being "neither practical nor desirable" (2001: 184). He supports more a presidential model, in which European citizens would directly elect the Commission or its President, although this solution might have difficulties as well (p. 185). Likewise, Berglof *et al.* (2003) clearly prefer a "presidential system with strong checks and balances" (p. 35), mainly due to the enhanced accountability of the executive, through the direct election of its leader (p. 45).

Aware of the need for improving and democratizing the Union's system, politicians have also expressed their preferences with regard to the future type of the European polity. Although some of them do not mention the words "parliamentary" or "presidential" regime of the EU (Blair 2000; Amato 2000; Vedrine 2000), others do express their preferences in a clear manner. Joschka Fischer in 2000 has personally opted for the "full parliamentarisation" of a future "European Federation" (2000: 14). In his view, the EU should have a bicameral parliament, which would be the representative of both nation-states and European citizens, and an executive constituted either by the current European Council or by the Commission (p. 15).

In sum, there is no unanimously shared vision with regard to the future design of the EU. Some analysts, as well as European politicians, have so far opted for transforming the Union into a parliamentary or presidential democracy. Others have opted for combining different characteristics of the two opposed models, in order for the EU to cope with its increasing number of both members and responsibilities. Based on the findings of the third chapter – i.e. what kind of political system the EU currently is – this paper aims to establish clear grounds for future debates and reforms of the EU's political system.

So far, the relevant literature in the field has been reviewed, in order to have a clear image of where we are now, and what novel and necessary elements this research paper brings. The following chapter identifies the institutions which constitute the executive, the legislative and the judicial powers within the European political system. The reason is that only by, and after, identifying these powers can one examine the relations between them.

Chapter 2 – The Separation of Powers within the EU

In the first chapter the literature dealing with the institutional framework and the political system of the EU has been reviewed. The next task of the paper is to analyze the European institutions in terms of separation of powers. This chapter seeks to identify what institutions constitute the executive, the legislative and the judicial powers within the Union, by considering their roles and functions. Clearly distinguishing between the powers is the logical preliminary step for evaluating the relations between them. Four comments must be made at the beginning of this chapter: *first*, much research has been devoted to the separation of powers both horizontally and vertically, that is, both between the EU's institutions and between the EU and its member states (Caporaso 2005; Fabbrini 2005; Sbragia 2005; Giddens 2000; Hix 1999). By contrast, the focus here is only on the horizontal distribution of powers at the EU level.

Second, more attention will be paid to the executive power of the European polity, due to the controversy around the Council's dual character as both executive and legislative body. By contrast, the rest of the institutions will be analyzed more briefly, given that so far there is no debate in the literature with regard to their roles and functions in terms of separation of powers.

Third, the system of checks and balances is an important aspect to consider when analyzing the separation of powers within a polity. However, this chapter does not focus primarily on this aspect. Instead, the following chapter will pay much attention to it, as it is the key concern of Lijphart's theoretical framework.

Fourth, this chapter will focus on institutional competencies and functions instituted by European legal provisions. When assessing a polity in terms of separation of powers, one must consider the powers of the institutions *de jure*, and not *de facto*. The reason is that the law is the

fundament of political organization, and in cases of conflict of competencies it is the law which constitutes the unique arbiter in solving the confusion and disputes.

This chapter is structured as follows: the first section analyzes the executive power within the EU (the Commission and the Council of Ministers); the second analyzes the legislative power (the Council and the European Parliament); the third section is devoted to the judicial power (the European Court of Justice).

2.1. The Executive Power: The Commission – Council Tandem

There is great debate around the notion of a European government. Some authors identify it as being the European Commission (e.g. Naumescu 2003: 114), while others consider it to be formed by more than one institution (e.g. Fabbrini 2005: 5). Still, others even reject the notion of a government at the EU level (Sbragia 2005b: 276; Dobson *et al.* 2003: 158; Bomberg *et al.* 2003a: 14). This section claims that the Commission and the Council of Ministers together form the executive power of the Union.

Often viewed as a unique, "hybrid" institution due to its double dimension – political and administrative (Egeberg 2002: 131; Bomberg *et al.* 2003b: 44; Cini 2003: 1) – the **European Commission** is the most important part of the Community's executive branch. It has often been considered the secretariat of the Council (Magnette 2005: 75), or a "secondary executive" (Heffernan 2001: 42). However, it would be misleading not to treat it as an institution which has the functions of national governments, albeit not all of them and not exclusively. Comparing the Commission with national executives, Egeberg (2002: 132-135) points out some of their common elements: the political "wing", envisaged by Commissioners and their *cabinets*, and the

administrative one, composed by administrative internal structures, including a Secretariat-General.

The Commission President, who was only *primus inter pares* (i.e., first among equals) for a long period, as he had not been more powerful than any Commissioner, has gained more prerogatives in terms of appointing and rejecting Commissioners and of the distribution of portfolios (Magnette 2005: 82; Chryssochoou 2001: 157). Since the Amsterdam Treaty, the President has the legal right to reject candidates nominated by member states as Commissioners (Lord 2001: 180). As an example, the current President Jose Manuel Barroso has rejected Romania's original proposal of nominating the liberal senator Varujan Vosganian as European Commissioner (Infopolitic 2006; Enlargement Newsletter 2006). Furthermore, the Commission President is now the political leader of the institution, like prime-ministers are for their governments.

Besides having common role and functions with national governments, the Commission is the institution which represents the EU's interests and not those of the member states. Albeit nationally nominated, the Commissioners and the President must impartially exercise their prerogatives, without following any national instructions and interests (Kassim 2004: 34; Cini 2004: 73).

Above all, what makes the Commission a real executive power resides in its functions themselves: legislative initiative, policy implementation and management, and external representation. Much research devoted to its prerogatives emphasizes the Commission's monopoly of initiating legislative proposals in the fields where the Union acts as a supranational organization (Stubb *et al.* 2003: 139; Pollack 2003: 48). Thus, within the first pillar it legally is the single agenda-setter, although this power is informally shared with other institutions through

continuous negotiations. The Commission is also responsible for the implementation (together with the Council) and administration of the policies adopted by the European legislature. As it has the task of ensuring the implementation of legal provisions by the member states, it has often been called the 'guardian of the treaties' or the 'watchdog' of the EU (IGC 2000: 2, 4; Bomberg *et al.* 2003b: 44; Cram 2001: 158). In addition, the Commission is responsible for representing the Union in its relations with third parties.

Although the Commission shares certain executive prerogatives with the Council of Ministers, and it has not all the functions of a national government, it certainly is the main body which represents the executive power within the Union. One cannot expect it to have the same characteristics of a national institution, since the EU is not a real federal state yet and it may never become one. Therefore, as long as important differences between the EU and national states continue to exist, their institutional frameworks will also have certain dissimilarities.

There is wide agreement that the most powerful EU institution is the **Council of Ministers** (Hayes-Renshaw 1997; Heffernan 2001: 42; Sbragia 2005b: 175; Lewis 2003: 149). Most arguments rely on the role played by the European Council in establishing the general political directions of the EU, and that the Council of Ministers has both legislative and executive functions at the level of the Union (Heffernan 2001: 42; Magnette 2005: 69-70; Lord 1998: 23; Bulmer *et al.* 1987: 2, 75). In order to correctly identify and analyze the three powers within the EU, one must clearly distinguish between the two roles the Council plays within the EU: as an executive body, and as a legislative one. Moreover, this distinction is crucial when it comes to analyze the control mechanism established between the EU powers, in order to find whether the EU is a parliamentary or a presidential polity.

Although it is true that it plays its own role in "executing the law", many researchers often overestimate the Council's executive functions. For example, Hayes-Renshaw *et al.* (1997: 180) claim that it has six executive prerogatives shared with the Commission:

1. agenda-setting;

2. 'prenegotiation' of proposals;

3. gathering feedback;

4. negotiation;

5. implementation of decisions;

6. the representation of agreed policy to third parties.

Here this paper claims that, within the Community pillar, the Council has only two executive prerogatives: policy implementation and representing the EU. The rest of them are related to negotiation and bargaining processes and, thus, they are not actually formal functions instituted by the European legal framework. For example, Hayes-Renshaw *et al.* argue that even if the Commission has the monopoly of initiating legislation, the two institutions often negotiate the proposals before the Commission submits them to the legislature. Such interaction also occurs between these two institutions when the other five functions are exercised.

However, it is the Commission alone which has the legal right of legislative initiative within the first pillar. In addition, informal negotiations also occur with the European Parliament. As was argued at the beginning of this chapter, instituted legal rights should be the primary focus when analyzing a political system through its institutions. Moreover, it is normal for institutions to interact, negotiate and bargain within any system, and their activities often overlap when it comes to decision-making.

These aspects also characterize the relations between other European institutions. For example, the European Court of Justice, through its interpretation of the treaties, has often led to the establishment of new rules and principles that govern the EU (e.g. the direct effect and the supremacy of European law) (Stone Sweet 2005: 47-54). This does not mean that the ECJ is also a legislative body.

The Council is also seen as an executive institution due to the role the European Council plays within the policy-making process. The latter has the responsibility to provide the overall direction and coordination for all the EU's pillars (Hayes Renshaw 1997: 13, 163; Hix 1999: 25; Bulmer *et al.* 1987: 8, 12). However, one should note that this is a legislative function rather than an executive one, in traditional terms of separation of powers, in which the legislature *makes* the law and the executive *executes* it. Legislatures may adopt two categories of acts: acts of juridical nature and acts with political character, such as declarations, messages, and resolutions, which do not have legal force. Likewise, the European Council adopts political acts during the summits, in the form of Conclusions of the Presidency (Magnette 2005: 70; Bulmer *et al.* 1987: 57-58), which are not legally binding. To be legally binding, either the decision-making process within the European Council must follow the procedural rules applicable to the Council of Ministers, or the Council of Ministers must adopt them together with the European Parliament, according to what legislative procedure is required.

In addition, one might argue that the Council of Ministers is an executive body due to its composition, as it gathers executive leaders of the member states, depending on the issues that each Council deals with. However, it would be a mistake to consider the Council as such. One should clearly distinguish between the functions of its members within the national political systems, and their functions exercised at the European level.

The Council of Ministers has executive prerogatives in only two instances: in the comitology system and in ensuring the Presidency of the Union. Within the comitology system, committees composed of national and European civil servants (Magnette 2005: 86; Schmitter 1996: 133) are convened to implement EU legal provisions. There are three types of such committees: advisory, management and regulatory committees (articles 3-5 of Council Decision 1999/468/EC, amended by Council Decision 2006/512/EC). However, within only two committee procedures – management and regulatory – does the Council play its executive role. Whereas in advisory committees there is no appeal to the Council, within regulatory (a and b) and management (a and b) procedures it may intervene as an institution (Hayes-Renshaw *et al.* 1997: 183; Hix 1999: 43).

One must note that the EP has also gained increased powers within the comitology system. The Council Decision 1999/468/EC, which has replaced that of 1987 (CD 87/373/EEC), has given it the right to verify and inform the Council whether the Commission's proposal "exceeds the implementing powers provided for" in the "basic instrument" (article 5). Moreover, the Council Decision 2006/512/EC has introduced a new article (article 5a – "Regulatory procedure with scrutiny"), according to which the EP has the right to reject a proposal submitted by the Commission if the latter exceeds the limits imposed by the basic instrument or if superior acts or principles are not respected. However, this does not mean that the EP also has executive functions. Its powers are fundamentally different from those of the Council, given that its control does not concern the opportunity of measures for implementation, but only their compliance to those acts from which they have emanated. As the Commission has noted, the aim of the 2006 Decision is to give the EP the right "to scrutinise implementation of legislative acts adopted under the co-decision procedure" (European Commission 2006: 1).

The second executive function of the Council is that of ensuring the leadership of the Union. After the Treaty of Amsterdam, the new 'troika', the presidency of the EU, is formed by the Commissioner of External Affairs, the President of the Council of Ministers and the High Representative for Common Foreign and Security Policy (Stubb *et al*. 2003: 153). According to European legal and political acts, the EU troika has the prerogative of representing the Union as a body in its external relations (Council of General Affairs 1996).

In sum, the European political system has a "dual executive" (Hix 1999: 21), formed by the Commission and the Council of Ministers. The Commission has the responsibility of initiating legislation, implementing and administrating policies, and representing the EU in its relations with third parties. Policy implementation and external representation are the only two executive functions shared between the two institutions within the Community pillar.

2.2. The Legislative Power: The Council – European Parliament Tandem

As the legislative power within national states is usually called "parliament", one could argue that EU's legislative is, consequently, the European Parliament. This correlation, however, is not enough and deeper insight is required. By considering the role and functions that the Council plays in the decision-making process, it can be argued that the legislature comprises two distinct institutions: the Council of Ministers and the European Parliament. The former plays the role of an upper chamber of a national bicameral parliament, while the latter can be seen as a lower one.

The **Council of the EU** can be viewed as the European "Senate" in the sense that it represents the national interests of the member states – while the upper chambers of national

parliaments represent those of the administrative-territorial units. In this sense, the Council can correctly be compared with Germany's upper chamber, the *Bundesrat* (Fabbrini 2005: 10). Indeed, it is in the Council that national interests are "articulated, defended, and aggregated" (Hayes-Renshaw 2002: 47), its members representing their national governments for the issues under discussion.

The **European Parliament** plays the role of a lower chamber, as it represents the interests of the European population. It is the only democratically elected body within the EU, and this feature has strengthened its position since 1999, when the first direct European elections took place (Shackleton 2002: 95; Kreppel *et al.* 2003: 12). Since the beginning of the European Steel and Coal Community, when it was created as a supervising institution of the High Authority, it has gradually received more powers in the legislative process. From the Common Assembly, as it was first called, it became the European Parliament, a veritable legislative institution, with more prerogatives in the field of the European legal framework than in the past. The first Treaties had provided only for supervising, consultation and cooperation procedures. The Treaties of Maastricht and of Amsterdam have consolidated its position by introducing and reforming the co-decision procedure. They have strengthened "the hand of the EP" (Tsebelis 2000: 32) by allowing it to play an equal role with the Council in the legislative process in most areas within the first pillar and altering the balance of powers between the two co-legislators (Warleigh 2003: 31-33).

Nevertheless, three comments must be made with regard to the European legislature: *first*, the European polity has often been criticized for not having a party government (Fabbrini 2005: 12; Deschouwer 2000: 7; Sbragia 2005b: 175; Mair 2000: 41; Hix 1999: 74). That is, even though both the Council and the Parliament have a strong say in the appointment of the

Commission and its President, executive formation does not depend on the parliamentary majority within the EP.

Second, in addition to this weakness of the legislature, European elections for the EP are still widely considered to be of second-order (Sbragia 2005b: 175; Lord 1998: 35). This claim is most often supported by low turnouts in elections and referenda organized on European matters (Schmitt 2005: 655; Parsons 2006: 182), as well as by citizens' voting behavior in national terms (Parsons 2006: 182-184; Franklin 2002: 752).

Third, neither the Council nor the EP has the right to propose legislation within the Community pillar of the EU. This prerogative belongs exclusively to the Commission, although the three institutions often negotiate in the process of agenda-setting. Therefore, in practice the EU legislature has a great influence on the legislation initiated by the Commission, although it legally lacks this right.

In sum, the European polity has a strong bicameral legislature (Deschouwer 2000: 9), its approval being needed for all the European acts to be legally binding. Like any other legislative power, it has the right to adopt both political and legal acts. The former are the output of the European Council's summits (Hayes-Renshaw *et al.* 1997: 164), in the form of Conclusions of the Presidency (of the Council as an institution, not that of the Union) whereby the Council establishes the general political directions of the EU. By contrast, the latter are the output of decision-making process at the level of the EP and the Council of Ministers, and they create juridical effects for their legal subjects.

2.3. The Judicial Power: The European Court of Justice

The judicial power within the EU is composed of the European Court of Justice and the Court of First Instance, the latter playing the role of a lower tribunal. The ECJ and the CFI are independent both from other European institutions and national governments (Schmidt 2004: 116). The ECJ has the responsibility to ensure the enforcement of European law, its interpretation, as well as to ensure the legality of acts (Stone Sweet 2005). Cases can be brought to the ECJ by member states, Community institutions and national entities, including citizens, and in all these instances its rulings are legally binding for those involved as part of the litigation (Wincott 2001: 84).

The Court has most often been evoked in the literature for its undertakings which have had the result of strengthening the integration process (Lord 1998: 97; Wincott 2001; Gilia 2006; Bomberg *et al.* 2003b: 60). In the mid-1960s it established the doctrine of direct effect and that of EU law's supremacy. The first essentially means that all national entities can invoke European legal provisions even if they are not implemented in their respective countries. According to the second, in cases of contradictions between national and European law, the latter prevails (even over constitutional provisions). Thus, the ECJ's legal right to interpret treaties has led to important changes within the EU as a polity. Moreover, it is worth noting here that its interpretations can be overturned only by treaty provisions, agreed upon by member states' unanimous vote. Therefore, as Stone Sweet (2005) puts it, unanimity is not a crucial factor only in maintaining the status quo within the Union, but in furthering the integration process as well (pp. 54-55).

The Court's role as 'guardian of the treaties' (together with the Commission) has been strengthened by the Treaty of Maastricht. Its provisions allowed the Court to impose financial

sanctions on those EU member states that do not fulfil their legal obligations which are made enforceable through ECJ's judgments (Magnette 2005: 61; Hix 1999: 106).

The European Court has jurisdiction only over the legislation produced within the first pillar, whereas decisions taken within the other two pillars are not subject to its interpretation. This has not impeded analysts from claiming that the EU is not simply a sum of its member states' "rules of law" (Gilia 2006: 52), but a political and legal entity, having a relatively stable structure and distinct features compared to those of its member states (p. 52).

This chapter has identified the three powers within the European polity: as the executive branch, the Commission and the Council of Ministers have the responsibility to apply the law. As legislative branch, the Council and the European Parliament make the law, acting as a bicameral legislature, with an upper chamber in the form of the Council, and with a lower one in the form of the EP. As judiciary powers, the European Court of Justice and the Court of First Instance are responsible for ensuring the application of European law. Establishing what institutions constitute the powers within the EU is the logical preliminary step for applying Lijphart's criteria in the attempt to establish what kind of political system the EU is. This constitutes the task of the next chapter.

Chapter 3 – Assessing a Political System: The European Union

Having identified the powers within the EU, let us analyze them in terms of Lijphart's criteria. That is, let us turn to the crucial question of what kind of political system the Union is. This chapter applies Arend Lijphart's criteria (2000) in order to achieve the goal. According to Lijphart's criteria, the EU would be a parliamentary political system if it had the following features:

1. an executive branch politically controlled by the legislature;

2. a chief executive appointed by the legislature;

3. a collegial executive;

4. a flexible application of the principle of separation of powers;

5. a legislature which could be dissolved by the executive branch; and

6. a bi-cephalous executive branch.

By contrast, the EU would be a presidential political system if it had the following features:

1. an executive branch which could not be politically controlled by the legislature;

2. a chief executive popularly elected either directly by the European citizens or by a directly elected college;

3. a non-collegial type of decision-making process within the executive branch;

4. a rigid application of the principle of separation of powers;

5. a legislature which could not be dissolved by the executive branch; and

6. a mono-cephalous executive branch.

Two comments must be made before applying Lijphart's criteria: *first*, in line with the argumentation from the beginning of the second chapter, this chapter will also focus on

institutional competencies and functions instituted by European legal provisions. In other words, when assessing whether a polity belongs to presidential systems or to parliamentary ones, this chapter will consider the powers of the institutions *de jure*, and not *de facto*.

Second, although this paper does not seek to analyze Lijphart's criteria, it is worth mentioning that they evaluate the relationship between the executive and the legislative braches of a given polity. To put it simply, a political system belongs to the category of presidentialism if its executive is the dominant power. If the relationship between the two branches is more equilibrated, then the polity is a parliamentary one.

In addition, as Lijphart himself claims (2000: 126), the first three criteria are widely, if not unanimously, accepted and used by the literature to distinguish between parliamentary and presidential political systems (e.g. Sartori 1994; Roskin *et al.* 2000). This is why they are referred to as "primary" or "essential" ones. By contrast, the other three are "unessential" given that there are real-life exceptions to these criteria (Lijphart 2000: 126).

3. 1. Executive's Accountability

The first criterion mentioned by Lijphart (2000) is the accountability of the executive in front of the legislature (p. 120). In parliamentary systems, like the United Kingdom, the chief executive (i.e. the prime minister or premier) is accountable to the parliament. For a government to be established, as well as for its dismissal, parliament's vote is required: a vote of confidence in the first case, and a vote of no confidence, in the second. By contrast, in presidential systems such as the United States, the chief executive (i.e. the president) is not accountable to the legislature. Thus, when considering this first criterion, Lijphart refers only to the right of the legislative branch to appoint and dismiss the executive.

Two interrelated comments must be made in this context: *first*, one might argue that the president in the second case can be dismissed as well, since the legislature can make use of the impeachment procedure in cases of serious violation of the constitution. Therefore, one must note that the type of accountability that Lijphart refers to is of political nature, while the impeachment procedure involves only the type of legal accountability. Thus, in presidential systems the chief executive is legally accountable to the legislature and politically accountable only to the citizens. The reason for this is that the chief executive is popularly elected and, consequently, he or she has democratic legitimacy directly conferred by the electorate.

Second, as Lijphart claims (p. 120), one can consider a political system as being presidential even if the president can be dismissed by the parliament. However, he further argues, there are only two instances in which this is true:

1. the chief executive has the correlative right to dissolve the parliament;

2. parliamentary and presidential elections will be held in cases of both dismissal and dissolution (p. 120).

Having made these comments, let us turn now to the European political system. In this respect, it can be argued that the EU polity can be placed within the parliamentary category. First of all, it is its legislature which appoints the Commission as a whole and its President, through a vote of confidence. However, one might argue that the power of the EP is weak, as the member states appoint the Commissioners and the EP merely confirms or rejects that choice. In this respect, three aspects must be noted: *first*, although the member states nominate their candidates, in this process the Council is involved as an institution, since it is the Council which submits the proposal to the Parliament. Thus, member states do not act on their own in this particular instance, but as an institution. *Second*, the Council acts as the upper house of the European

legislature, and not as part of the executive branch. Thus, what matters here is that the legislature (the Council together with the EP) has the legal right to appoint the Commission. *Third*, the EP is the institution which has the last say within this process, and not the member states within the Council. Therefore, from this perspective, the European polity is a parliamentary one.

As Magnette (2005) describes it, this process consists of two stages: *first*, member states negotiate and agree upon a candidate for the Commission's President, who is approved then by the EP. *Second*, member states propose their candidates for Commissioners, the President distributes the portfolios, and then submit their proposal to the Parliament (p. 77). Since Amsterdam, the EP has the formal right to approve or reject the proposal (Mair 2000: 45).

The EP has developed a three-stage procedure for investing the Commission and its President (Lord 1998: 34). Within this process, the EP devotes a large part of its time to questioning each candidate for the Commission, within its committees which correspond to each portfolio to be allocated (p. 34). Only after having "examined" each nominee, does the Parliament give its vote of confidence for investing the Commission as a whole. Correlatively, it has the right to dismiss the Commissioners and their President *en bloc*, through a censure motion. Thereby, the EP has the strongest say on the appointment and the term in office of a new College (Crombez 2000, pp. 48-49), as it has the right to scrutinize Commissioners, to appoint and to depose them collectively. This has been best proven by the Santer Commission episode, although it resigned before the imminent motion of censure, due to charges of fraud and maladministration (Ringe 2005; Kassim 2004, p. 39; Christiansen *et al.* 2003: 2-3; Warner 2003).

The parliamentary character of the EU from this perspective is strengthened furthermore by the 2004 Constitutional Treaty. The Treaty introduces the obligation for the European Council

to take into consideration the results of the EP's elections when nominating the candidates for the Commission (Fabbrini 2005: 7; Magnette 2005: 75). It is true that the Treaty has already failed to be ratified by powerful states like France, but it still demonstrates a strong political will towards the parliamentarisation of the European polity.

One major criticism has been addressed with regard to the powers of the EP to invest and dismiss the Commission. Lord (1998) claims that these powers are limited by two factors: on the one hand, the EP can dismiss the Commission by a higher majority than that needed to appoint it (i.e. simple majority for appointing the Commission, and a two-thirds majority for dismissing it). On the other hand, it can invest and dismiss the Commission as a whole and, thus, it cannot remove Commissioners one by one (pp. 38-40). Consequently, Lord argues, the parliamentary character of the Union is reduced (p. 38).

However, the first limitation Lord invokes should not be regarded as a factor which makes the EU a non-parliamentary political system. Rather, the difference between the majorities needed to invest and, conversely, to dismiss the executive power demonstrates that the principle of juridical symmetry (which stipulates that juridical effects shall be modified or ceased through the same procedure which has produced them) is not applied in this specific case. With regard to the second limitation, the principle of executive's collegiality is itself one of Lijphart's criteria (2000), according to which parliamentary systems have cabinets with collective responsibility (p.121). Therefore, the "limitation" of the EP's powers in the processes of investing and dismissing the executive are not themselves "limitations" to the parliamentary character of the European polity. Rather, the first one is a matter of juridical regulation, while the other is itself a feature of parliamentarism according to Lijphart's framework (see Section 3.3.).

In addition to the appointment and dismissal of the executive, the EP has other mechanisms of control over the executive branch (both the Commission and the Council as an executive body) at its disposal. For example, it has the right of addressing questions and interpellation to the executive. However, one comment should be made related to these mechanisms. With regard to the Parliament's right to control the Council, here the distinction between the latter's executive and legislative powers is crucial. Only the control over its executive powers must be considered when applying this first criterion. As was noted in the previous chapter, the Council has two executive powers: within the comitology system and through ensuring the collective representation of the Union. It is true that the Parliament has the right to question members of the Council, and to request and receive reports on its activity. However, only the control over its activity of implementing European legislation and over that of representing the EU is part of executive's political accountability to the legislature. By contrast, the Council acting in its legislative capacity is not subject to this sort of parliamentary control.

One must also distinguish between the presidency of the Council and the presidency of the Union. It is true that Council's President is part of the troika and the public tends to consider him or her as the President of the EU. It is also true that the EP controls the activity of the Council's presidency through questioning and reporting procedures (Hayes-Renshaw 2002: 65). However, the troika is composed of two other European officials, and only their activity should be considered when applying this first criterion. For example, as part of the troika the Council's presidency elaborates the so-called "'State of Union' presidency programme" (Hayes Renshaw *et al.* 1997: 145) with the consultation of the Commission, and presents it to the EP for debate.

In sum, the Council of Ministers and the European Parliament, as the EU's legislative branch, have the right to appoint and reject to Commission. Moreover, there are additional

mechanisms through which the legislature controls the executive branch, like the right of addressing questions and interpellation. Therefore, according to Lijphart's first criterion, the European political system is a parliamentary one.

3. 2. Choosing the Chief Executive

The *second criterion* refers to the manner of nominating/electing the chief executive: in parliamentary systems, the prime-minister is nominated by the members of the parliament, whereas in presidential systems, the chief executive – the president – is popularly elected either directly or by a directly elected college (electoral college) (Roskin *et al*. 2000: 248; Lijphart 2000: 120; Sartori: 83).

Within the EU, the Commission President (the chief executive) (see Section 3.6.) is chosen by the EU's legislature: member states agree upon a candidate (Egeberg 2002: 137) within the Council, and the EP gives its vote of confidence. Thus, unlike in presidential systems, the chief executive is neither directly elected by the European citizens nor is he or she elected by a college.

Moreover, the EU can be differentiated also from semi-presidential systems like France. In this case, the executive is bi-cephalous (see Section 3.6.), where the president of the republic is directly elected, while the prime-minister is nominated by the National Assembly. Within the EU, the presidency is the so-called "troika", which is formed by the Commissioner of External Affairs, the President of the Council of Ministers and the High Representative for Common Foreign and Security Policy (Stubb *et al*. 2003: 153). Therefore, within the EU the chief executive is appointed by the legislature, but its presidency is not directly elected. In conclusion,

according to this second criterion, the European polity undoubtedly belongs to the category of parliamentarism.

3. 3. The Nature of the Decision-Making Process

The *third criterion* is related to the character of the decision-making process within the executive branch (Lijphart 2000: 121). In general, in parliamentary systems like the UK, governments (cabinets) are collegial and decisions are collectively taken, because each government member has the confidence of the legislative. By contrast, in presidential systems the decisions have a unipersonal (non-collegial) character (p. 121). In the US, for instance, the members of the presidential administration are more like president's counselors, and the president has the right to take the final decisions.

From this perspective, the European political system is again a parliamentary one. The Commission "operates on the basis of the principle of collegiality" (Egeberg 2002: 136). Consequently, it is invested and dismissed *en bloc* by the European legislature. Although the possibility of individual accountability has been brought into discussion by political leaders of the EU (IGC 2000: 7), collegiality is still the principle of Commission's organization and functioning. Thus, Commissioners cannot be individually appointed and removed by the EU legislature.

One further comment must be made here. It has often been argued that the President of the Commission can influence to an important extent its work as an institution, through his or her political power, skills and personality (e.g. Drake 2004; Dinan 2003: 34). However, it would be improper to claim that the President has the last say on the Commission's decisions. One should

be aware that what is important here is not the informal authority of the Commission's President, but his or her legal prerogatives.

So far this chapter has analyzed the primary criteria for distinguishing between parliamentary and presidential political systems. According to these principal criteria, the EU's political system is clearly a parliamentary one. The rest of the chapter evaluates the European polity according to what Lijphart calls secondary and "unessential" (2000: 126) criteria: the flexible/rigid application of the principle of separation of powers, the possibility of dissolving the legislature, and the structure of the executive power.

3. 4. The Separation of Powers

The *fourth criterion* considered by Lijphart refers to the possibility (or its lack) for the members of the executive to be part of legislative as well. In this respect, parliamentary systems are characterized by a flexible application of the principle of separation of powers, which means that government members can also be parliamentarians (Lijphart 2000: 126). Moreover, in the UK *all* cabinet members are also members of the British Parliament (Olson 1994: 76). By contrast, in presidential systems no one can simultaneously be part of executive and legislative structures (Lijphart 2000: 126). Therefore, in this case the application of the same principle is very rigid.

In the EU, members of the Commission cannot be at the same time members of the legislative power. Therefore, at first sight, one could claim that the European polity could be placed within the category of presidential systems, according to this criterion. However, Lijphart claims (p. 126) that it is possible for a political system to be considered parliamentary even if members of the executive cannot be members of the legislative branch at the same time. As

34

Lijphart argues, within these systems members of the cabinet can participate at parliamentary sessions and, therefore, these polities constitute only a "minor variation" within the category of parliamentarism (p. 126). Within the EU, members of the Commission (e.g. its President) can participate at legislature's meetings (e.g. in the Council of Ministers). Thus, in line with Lijphart's arguments, the separation of powers is flexible also within the European polity. Consequently, according to the fourth criterion, the European polity is a parliamentary system.

3. 5. Dissolving the Parliament

The *fifth criterion* refers to the possibility of dissolving the parliament (Lijphart 2000: 126-127). In parliamentary systems such as the UK, the chief executive (the prime-minister) and the cabinet have the right to dissolve the parliament, according to the principle of powers' equilibrium, that is, because of the legislature's right to depose the government through its vote of no confidence. Even in semi-presidential systems the president has the power to dissolve the legislature (e.g. in France). In presidential systems, contrarily, the chief executive (the president) has no right to dissolve the parliament (the Congress in the US case), according to the same principle.

From this perspective, the EU has a feature of presidentialism, bearing resemblance to the American political system: the Commission President can dissolve neither the Council (as a legislative body) nor the EP. Neither has the Council, when it acts as an executive body, the prerogative of dissolving the Parliament. The impossibility to dissolve the EP might reside in its democratic legitimacy, given that since 1979 it is the only directly elected European institution.

In addition, EU member states such as Italy have argued against dissolving the EP by highlighting the danger of weakening the "instrument of democratic control" (i.e. the motion of

censure) and of undermining "the institutional balances" within the Union (IGC 2000: 8). By contrast, the impossibility to dissolve the Council of Ministers has often been explained by the opposition of national governments to a stronger supranational institution which could be legally way above an intergovernmental one within which their national interests are best represented (Bulmer 1996: 18). In sum, the European executive branch cannot dissolve the legislature. Therefore, according to this criterion, the EU is a presidential political system.

3. 6. The Structure of the Executive

The *final criterion* considered by Lijphart (2000: 127) is the structure of the executive power. Parliamentary systems are characterized by a dual executive, formed by the head of state (the monarch in the UK) and by the government led by the premier. By contrast, in presidentialism the head of state is also the chief executive. In analyzing the EU's political system through this criterion, two comments should be made. *First*, the EU presidency (the Commissioner of External Affairs, the President of the Council of Ministers and the High Representative for Common Foreign and Security Policy) bears little resemblance to the British monarch, as the latter has a symbolic function of representing the UK. Within the EU, the presidency plays a more prominent political role, especially through both the Council's President and the High Representative for Common Foreign and Security Policy.

Second, the semi-presidential type of system must be brought into discussion in this context: following the French model of semi-presidentialism, this type of regime combines the direct election of the president (a feature of presidentialism) with the nomination of the prime-minister by the legislative power (a feature of parliamentarism). In this respect, the EU is

differentiated by the lack of direct elections for its president, and is closer to the British political system.

However, given the two distinct structures of the EU executive – the presidency and the governmental body led by Commission's President – it is undoubtedly true that the EU polity resembles parliamentary, and not a presidential political systems. Within this structure, the presidency has the responsibility to represent the EU as a whole and its member states in their relations with third parties (Hayes-Renshaw *et al.* 1997: 149). The government, formed by the Commission and the Council, has the responsibility to execute the law adopted by the legislature.

In sum, having applied Lijphart's criteria, it is clear that the European polity has the following features:

1. an executive branch politically controlled (i.e. appointed and dismissible) by the legislature;

2. a chief executive appointed by the legislature;

3. a collegial executive;

4. a flexible application of the principle of separation of powers;

5. a legislature which cannot be dissolved by the executive branch; and

6. a bi-cephalous executive branch.

Thus, it has five out of six features of parliamentarism and according to only one criterion it belongs to the category of presidential political systems.

Conclusion

What kind of political system is the European polity? Is it a parliamentary or a presidential one? This is the question raised by this paper. The reason for addressing it in terms of parliamentarism – presidentialism is first and foremost that these are the ones in which the future of the EU is currently discussed. This is proven by both theoretical research and political speeches resulting in political and legal documents such as the (new) Constitutional Treaty.

In addition, much research has sought to demonstrate that the EU should be a parliamentary or a presidential system. By contrast, little research actually seeks to find whether the EU currently is a parliamentary or a presidential polity. However, most of this latter part of the literature does not state what the European polity *is*, but rather what it *is not*. Clearly answering to this question constitutes the logical preliminary step for answering to that of what kind of system the EU *should be*.

As it was noted at the beginning, this paper does consider the EU as being a political system, albeit not a state. In addition, it considers only the first EU pillar, as it is this one that resembles more a state due to its supranational character. By contrast, the second and the third pillars are being correctly viewed as intergovernmental ones, as they resemble more an international organization. Furthermore, concepts and characteristics of statehood are applied to the European polity, as (1) a "European language" itself has not been developed yet, and (2) European citizens are still conceptualizing and judging the EU through national institutions in the broader sense.

Establishing what institutions form the powers within the EU has constituted the logical preliminary step for applying Lijphart's criteria in the attempt to assess what kind of political system the EU is. In particular, it has been crucial to clearly distinguish between the executive and the legislative functions of the Council of Ministers, in order to analyze the political accountability of the executive in front of the legislature. The powers within the EU are the following: the Commission and the Council of Ministers, having the responsibility to apply the law, form the executive branch. The Council and the European Parliament, which make the law, form the legislature of the Union. The European Court of Justice and the Court of First Instance, being responsible for ensuring the application of European law, form the judiciary within the EU.

Applying Lijphart's (2000) theoretical framework reveals that the EU is a parliamentary political system. Five criteria out of six indicate that the European polity is a parliamentary one. According to only one of them can the EU be considered a presidential system: the executive does not have the legal right to dissolve the legislature. The conclusion that the EU is a parliamentary system is strengthened by two additional aspects. Both of them are related to this criterion according to which the EU has a feature of presidentialism. *First*, this latter criterion is a secondary one. As Lijphart himself claims (p. 126), secondary criteria are not essential in determining whether a political system is a parliamentary or a presidential one. Thus, what most matters is whether according to the first three criteria the EU is a parliamentary political system or not. And it is.

Second, Lijphart claims that there are also presidential political systems in which the legislature does control the executive power (p. 120). However, he further points out that for these systems to be considered presidential it is crucial that their executives control the legislatures in turn (p. 120). This is exactly the fifth criterion, the one that the EU does not meet.

This makes the legislature of the European polity more powerful than its executive in terms of political accountability. Therefore, this paper concludes that the European Union is a parliamentary political system.

One might argue that the EU is neither parliamentary nor presidential, given that is does not have all the features of parliamentarism. However, there is no pure political system in real life. Neither the United Kingdom nor the United States can be considered the pure forms of parliamentarism or presidentialism. They are only the "prototypes". The European Union is not a pure parliamentary political system. Nor can it be considered the "prototype" of parliamentarism. However, it is undoubtedly clear that the EU is not a hybrid polity (i.e. both parliamentary and presidential), but a parliamentary political system.

The Treaty instituting a Constitution for Europe agreed upon in 2004 and re-discussed in June 2007 is an important milestone for the future of the Union. It expresses the political will with regard to the future institutional architecture of the EU, and the awareness of political leaders that "Nice is not enough" (Barrosso 2006) and "We need a new treaty for a new reality" (Barroso 2007). It introduces a series of legal provisions which further strengthen the parliamentary character of the Union, in line with the European Parliament's demands. Above all, it clearly states that the EP shall appoint the Commission's President and the appointment of the Commission as a whole should be made by taking into account the parliamentary majority within the EP. In response, the EP, in September 2003, saluted the constitutional provision of electing the Commission's President by the Parliament, and acknowledged its contribution to the consolidation of the EU as a parliamentary system (EP resolution 2003). In light of these latest changes introduced by the draft Constitutional Treaty, two opposite developments for

"tomorrow's Union" (IGC 2003: 2) might be considered in terms of presidentialism/parliamentarism.

Within a first scenario, the EU would remain a *parliamentary* political system, in line with the current legal provisions, including those of Nice. Moreover, its parliamentary character could be strengthened by the (new) Constitutional Treaty, through its prerogatives related to the political accountability of the executive in front of the legislature, stipulated in Part I. These latter changes might occur by the 2009 EP elections, as the Commission's Vice-President Margot Wallstrom has recently claimed (Portal.ro 2007) and as the latest summit negotiations (July 21-22, 2007) have proven (European Commission 2007; Presidency Conclusions June 23, 2007). This scenario is likely to occur, given that the EP has already stated, in a resolution approved in June 7, 2007, that it would reject any decision taken at the European summit (June 21-22, 2007) which does not preserve the basic rules stipulated in the Constitutional treaty, Part I (European Parliament Resolution 2007/2087(INI), based on Brok-Crespo report). Moreover, there have been no disagreements at the European summit with regard to the provisions which strengthen the parliamentary character of the Union (e.g. the Parliament shall appoint the Commission President; the Commission should be appointed according to the parliamentary majority within the EP).

Within a second scenario, the EU would become a *presidential* political system. This scenario is less likely to occur. For the European polity to become a presidential system, three changes have to occur: first, the presidency of the EU and that of the Commission should coincide. Second, the presidency should be popularly elected, that is, either directly by the European citizens or by a directly elected college. Third, the European Commission would no longer be politically accountable to the EU's legislature, but directly to the European citizenry.

This latter change would be first and foremost justified by the democratic legitimacy which would have been gained by the Commission and its leader. However, it is very unlikely for the European Parliament to give up its most important prerogative within the political system: that of politically controlling the executive power of the EU. Thus, due to the European Parliament's increased powers in its relations with the executive bodies of the EU (i.e. the Commission and the Council of Ministers) it is more likely for the Union to strengthen its parliamentary character than to be transformed into a presidential political system.

It is clear, above all, that Europeans want their Europe and they want it improved. It is also clear, therefore, that the debate over the European Union's future – currently the priority of the German Presidency of the Council (Council of the EU 2006: 10, 17) – will continue and various proposals with regard to its institutional framework will be advanced. This research paper has sought to give a clear answer to the question of what kind of political system the European polity *is*. Thereby, its aim was to establish the grounds for present and future discussions on how the EU *should be*. Thus, one crucial question remains open: "[…] what sort of Europe?" (Blair 2000: 31).

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