

Tomasz Grzegorz Grosse[★]

Is Europe Moving Towards a Democratic Federation?

Abstract: *The goal of this article is to answer the question if the European Union may, in the coming years, see reforms towards a democratic federation. At the beginning there is a scientific discussion about the traits of a federation in comparison with a confederation, as well as a technocratic (executive) federation to a lesser degree. What follows is a diagnosis of the current system of the European Union, which can be considered a hybrid in that it contains the traits of different systems. Next, the role of the main federal institution of the EU, that is the European Parliament, is assessed together with recent proposals for further reforms towards the federation. In the conclusions a projection of the key changes in the EU is presented, with a focus on evaluating the probability of a rise of a democratic federation.*

Keywords: democratic federation, technocratic federation, asymmetric confederation, the European Union, the European Parliament, hybrid system

A federation in Europe – a discussion¹

Federalism is for many intellectuals and politicians a vision of the future of European integration, a target of many years of efforts, as well as an ideology meant to mobilize the society towards creating a federation. In European studies federalism is a very specific normative theory, which

[★] Prof. **Tomasz Grzegorz Grosse**, Ph.D. – University of Warsaw, Head of Department of European Union Policies, e-mail: tgrosse@op.pl.

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is close to a political ideology, as to a large extent it is being engaged to realize this political vision. On many occasions it seeks to justify federal solutions, as well as those historical, cultural, social or international experiences which make it easier for policy makers to achieve the goal of a European federation.² For these reasons some researchers do not consider the theory of federation in European studies to be a scientific approach.³

The core objectives of many visionaries of the federation in Europe were to limit the role of countries, eliminate the nationalists and the hierarchical domination of strong States over the weaker ones, as well as the competition for national interests among them. As a result peace would be guaranteed. It was also meant to lead to the formation of a strong federal state and democracy on the European level, as well as a political community (*demos*) on the European scale.

The founding fathers⁴ of regional integration in Europe promoted two major methods of building a federation, which seem to complement each other. Jean Monnet's method assumed a gradual extension of integration on various fronts, especially moving from integration in the economic sphere, towards deeper political cooperation.⁵ This was meant to ultimately lead to the rise of the federation. Altiero Spinelli, on the other hand, underlined that it is crucial to appoint a Constituent Assembly and adopt a treaty establishing a federation, which could be then ratified in a referendum or by state parliaments.⁶ It seems that this type of a revolutionary change would need a 'constitutional momentum', that is the right historical circumstances and a certain maturity of the political elites and the European societies. Meanwhile, Mario Albertini opted to combine both of these methods.⁷ His constitutional gradualism idea assumed

² J. Czaputowicz, *Teorie Integracji Europejskiej (Theories of European Integration)*, Warszawa 2018.

³ A. Moravcik, *European federalism and modern social science. A rejoinder on the Maastricht referendum*, "French Politics and Society", Vol. 11, No. 2/1993, pp. 85–95.

⁴ According to the European Commission the founding fathers of the process to establish the European Union were: Konrad Adenauer, Joseph Bech, Johan Willem Beyen, Winston Churchill, Alcide de Gasperi, Walter Hallstein, Sicco Mansholt, Jean Monnet, Robert Schuman, Paul-Henri Spaak and Altiero Spinelli. Cf. https://europa.eu/european-union/about-eu/history/founding-fathers_pl (last visited 30.09.2017).

⁵ Cf. M. Burgess, *Federalism and European Union: the Building of Europe, 1950–2000*, London–New York 2000; S. Konopacki, *Dylematy federalizmu europejskiego*, "Studia Europejskie", No. 4/1998, pp. 77–91.

⁶ A. Spinelli, *European Union in the Resistance*, "Government and Opposition", Vol. 2, No. 3/1967, pp. 321–329.

⁷ More: W. Bokajło, *Federalizm – rozwój idei i niektóre teorie* in: *Teorie i koncepcje*, W. Bokajło (ed.), Wrocław 1998, pp. 25–142; J. Czaputowicz, *op.cit.*

at first phases of continuing integration, which after a time would create the right circumstances for launching the constitutional procedure. Albertini thought that a federation may be implemented by *fait accompli*, that is through entering the path of gradual institutional reforms, which finally result in a full federation. The introduction of direct elections to the European Parliament he considered one of such steps (1979). This institutional change should result in a gradual increase in the competences of the Parliament until they would reach a similar level to those of the parliaments of federal states. Another step concerned a common currency, which would first make it necessary to introduce the instruments of fiscal federalism, and next an appropriate level of political control over them, meaning the institution of a democratic federation.

In literature the democratic federation is defined as a system in which there is political community and its public authorities are chosen in general elections, both at the state (of the political units of the federation), as well as at the federation level itself.⁸ There are, therefore, so-called ‘majoritarian’ political institutions, which are chosen in way of democratic elections and follow the majority rule when making decisions. On both levels there is the constitutional law system, which entails the formal existence of the constitution and constitutional courts. However, there is a hierarchy of governance between both levels which leans in favour of the federation. Mostly it concerns the regulatory dimension, as demonstrated by the supremacy of federal over state law, with some legislative autonomy reserved for the state legislatures. At the same time the legal hierarchy is highly respected in regard to the judicial interpretation. Another expression of the hierarchy of governance is the transfer of competences deemed significant for the sovereignty, such as foreign and defence policy, internal security and so on, to the federation. Another attribute of power are the well-developed political and administrative institutions at the federation level as well as fiscal competences, concerning the budget and taxes. They ensure that a federation is a state-like structure which also is, usually, well-governed.

Daniel Elazar, an extraordinary subject matter scholar has a somewhat different definition of a federation.⁹ According to him a federation

⁸ Cf. A. Cuyvers, *The Confederal Comeback: Rediscovering the Confederal Form for a Transnational World*, “European Law Journal”, Vol. 19, No. 6/2013, p. 713.

⁹ D.J. Elazar, *The United States and the European Union: Models for Their Epochs* in: *The Federal Vision. Legitimacy and Levels of Governance in the United States and the European Union*, K. Nicolaidis, R. Howse (eds.), Oxford–New York 2001, p. 51. Some Polish researchers present a different definition of a federation. They consider the separation of different spheres of activities (competences) between the central level and the members of

is constructed by its citizens and the member states alike. He also claims that a federation – especially in the USA – is more concerned with the importance of the rights of its citizens than its member states. Then, it is the political community (*demos*) comprised of all of its citizens that is sovereign and not the member states. The opposite is true of confederacies. They place a greater importance to the rights and responsibilities of the states and their political communities, and not to observing the rights of individual citizens (or human rights). For Jürgen Habermas one confederate feature is the rule of the equality of the member states, which is why the decision-making bodies should grant equal representation (or number of votes) to each member state. In turn, federations are built upon the democratic equality of their citizens, which means that, for example, the federation parliament should consider the demographic factor in elections, so as to choose more MPs from more populous states.¹⁰

In terms of the political system a distinctive feature of the democratic federation is, above all, a strong parliament representing all of its citizens and the whole federal community, which has fiscal and budgetary competences, as well as the power to appoint, account and change the federal government. On the federation level there usually is also a legislative chamber representing member states, but its power is weaker than the representation of the citizens. The representation of states is not intergovernmental, but is a result of general elections. Furthermore, usually in this chamber the countries (states) have equal representation or an equal number of votes. Another feature of the democratic federation is a strong central government with a clear democratic mandate. It can be a result of general elections of the head of the executive, for example the president, or it may be elected by the federation parliament. As I have mentioned previously, the federation has a constitutional court with a superior legal status in relation to the constitutional courts of the member states.

the federation with a simultaneous provision of autonomy of both of these levels to be the key trait of a federation. As within the framework of this approach it is difficult to achieve a clear distinction between the concept of the federation and confederation, and due to limited space I have decided not to pursue this discussion. To explore this topic further I recommend this source: D. Kabat-Rudnicka, *Zasada federalna a integracja ponadnarodowa. Unia Europejska między federalizmem dualistycznym a kooperatywnym*, Kraków 2010, pp. 35–38.

¹⁰ J. Habermas, *Citizen and State Equality in Supranational Political Community: Degressive Proportionality and the Pouvoir Constituant Mixte*, “Journal of Common Market Studies”, Vol. 55, No. 2/2017, p. 177.

Table 1. The systemic features of a democratic federation and a confederation

Features of a democratic federation	Features of a confederation
<ul style="list-style-type: none"> • a strong parliament representing the federal community and individual citizens • the principle of democratic equality of the citizens • a tangential, in regard to the governance, chamber representing member states (but not the Member States' governments) • a federal government with a strong democratic mandate • the supremacy of federal law and the constitutional tribunal of the federation 	<ul style="list-style-type: none"> • decision-making and political dominance of intergovernmental institutions • the rule of equality of the member states • weak decision-making power of the confederate parliament, usually representing state parliaments • executive institutions of confederation with weak political autonomy which are subordinate to the states • judicial power of the confederation limited to the role of an arbiter to the Member States

Source: own elaboration.

Researchers have varied opinions concerning the political system of Europe in the process of integration. Elazar claims that the Community is a highly developed confederation, without great prospects for becoming a full democratic federation in the future.¹¹ Also Giandomenico Majone considers the EU to be 'a successful confederation', which has failed in its transformation into a federation.¹² National identity, an almost 400-year-old tradition of nation states in Europe, as well as a strongly developed politicization of the state electoral systems ensure that while it is possible to gradually increase the transfer of sector-specific competences to the European level, it is not possible to transfer democracy and the main electoral institutions from the national to the European Union level. According to Elazar one of the sources of the confederate system functioning in Europe is the popularity of political thought of Jean Bodin¹³ in the Old Continent. It excludes the possibility of greater subjectivity of the citizens over sovereign states. European integration is also highly elitist. One result of the attachment to Bodin's views may be the fact that discretionary 'politicization of diplomacy' at the level of the European Union has

¹¹ D.J. Elazar, op.cit., p. 49.

¹² G. Majone, *Federation, Confederation, and Mixed Government: A EU-US Comparison* in: *Comparative Federalism: The European Union and the United States in Comparative Perspective*, A. Menon, M. Schain (eds.), Oxford–New York 2006, p. 136.

¹³ D.J. Elazar, op.cit., p. 33. J. Bodin, *The Six Bookes of a Commonweale* (Classic Reprint), London 2017.

an advantage over the ‘politicization of elections’, referring to the public discussion and the verdict of the voters.¹⁴

Other experts claim that the EU is based on a confederate foundation, but with time it has developed a federal ‘super-structure’.¹⁵ They also notice that the Community is being systematically strengthened, but at the same time the Member States retain strong powers.¹⁶ They consider the EU a systemic hybrid,¹⁷ or a federation of sovereign states,¹⁸ and as such *de facto* to be a compilation of both of the discussed systems. Also according to Joseph Weiler, an eminent scholar on international law, the European Union is a combination of a confederation and federation. One of the features of a confederation is the institutional dimension, that is the dominant role of intergovernmental institutions and a considerably weak central government on the European level, with strong political power on the national level. On the other hand, the hierarchy of the regulatory system is a feature of a federation, meaning the supremacy of the European law over the national law and the direct effect of enforcement of the regulations of the Union in the territories of Member States. It is guaranteed by the constitutional court of the EU, that is the Court of Justice of the European Union (CJEU). In this manner, Europe is characterized by a ‘top-down hierarchy’ of laws (norms) and a bottom-up political power authority (or real power), as well as a confederate political system with a federal regulatory system.¹⁹ This causes a gap between the confeder-

¹⁴ More on various types of politicisation in Europe: T.G. Grosse, *O polityczności dwupoziomowego systemu politycznego w Europie (On the Politics of the Two-Tier Political System in Europe)* in: *Multi-level governance w Unii Europejskiej*, J. Ruskowski, L. Wojnicz (eds.), Szczecin–Warszawa 2013, pp. 133–151.

¹⁵ A. Cuyvers, *op.cit.*, pp. 712, 720.

¹⁶ P. Genschel, M. Jachtenfuchs, *Conclusion: The European Integration of Core State Powers* in: *Beyond the Regulatory Polity? The European Integration of Core State Powers*, P. Genschel, M. Jachtenfuchs (eds.), Oxford–New York 2014, p. 249.

¹⁷ R.L. Watts, *Comparing Federal Systems*, Montreal–Kingston 1999, p. 69; N. Scicluna, *When Failure isn’t Failure: European Union Constitutionalism after the Lisbon Treaty*, “*Journal of Common Market Studies*”, Vol. 50, No. 3/2012, p. 441; C. Joerges, *Taking the Law Seriously: On Political Science and the Role of Law in the Process of European Integration*, “*European Law Journal*”, Vol. 2, No. 2/1996, p. 125; T.G. Grosse, *Hybrydowy ustrój Unii Europejskiej: dwie logiki zmian w projekcie traktatu konstytucyjnego (The Hybrid System of the European Union: Two Logic of Changes in the Draft of Constitutional Treaty)*, “*Analizy Natolińskie*”, No. 3 (26)/2008.

¹⁸ A. Dashwood, *The Relationship between the Member States and the European Union/Community*, “*Common Market Law Review*”, Vol. 41, No. 2/2014, p. 355; R. Schütze, *European Constitutional Law*, Cambridge–New York 2012, p. 49.

¹⁹ J.H.H. Weiler, *Federalism Without Constitutionalism: Europe’s Sonderweg* in: *The Federal Vision. Legitimacy and Levels of Governance in the United States and the European Union*, K. Nicolaidis, R. Howse (eds.), Oxford–New York 2001, pp. 57–58.

ate political foundation and the federal technocratic *super-structure* of the Union to appear, as it does not have appropriate democratic legitimacy, thereby it does not have sovereign political power.²⁰ Therefore systemic changes in Europe are very slow, and it is hard to achieve the reform, which I dubbed as an *institutional breakthrough*, that is a radical redevelopment of the system towards a full democratic federation.²¹

To summarize the expert discussion it is possible to point to the following features of the system in the integrating Europe, which do not allow one to consider it a democratic federation. Above all, there is no political community (*demos*) on the European level.²² Therefore, there is not a suzerain in form of all of the citizens who comprise the democratic community, which would be a reference for the regulatory system functioning in Europe or a source of political legitimacy for European law (aiming to be recognized as constitutional in the Europe). The EU is, above all, a union of Member States, which can be seen in the dominant decisive role of the intergovernmental institutions.

European technocracy serves a double systemic role in the EU. On one hand its decisive competences and political autonomy are increasing in relation to the Member States. In some areas the European Commission has supervisory functions over the conduct of the Member States. Because of this it is difficult to consider Commission to be a confederate institution. It is also not a strong federal government, because it has a very weak democratic legitimacy. The emancipation of the union technocracy, especially before the crises of 2008, neither had confederate roots, nor federal ones – it was more similar to authoritarian systems, within which the executive power does not have the adequate democratic mandate.

The European Commission makes use of both the powers to issue secondary union legal acts, as well as legislative initiative, in order to consistently increase the scope of impact of European law and to extend its own powers.²³ It has undertaken institutional competition with Member States multiple times, either by trying to increase its own authority in relation to the intergovernmental bodies or by enforcing its own stand, contrary to the opinion of governments. It has sought support from other Union

²⁰ A. Cuyvers, op.cit., pp. 712, 727.

²¹ T.G. Grosse, *Czy jest możliwy przełom instytucjonalny w Unii Europejskiej (Is the Institutional Breakthrough in the European Union Possible?)*, „Sprawy Międzynarodowe”, No. 1/2006, pp. 40–60.

²² J.H.H. Weiler, op.cit., p. 56.

²³ I. Camisão, M.H. Guimarães, *The Commission, the Single Market and the Crisis: The Limits of Purposeful Opportunism*, “Journal of Common Market Studies”, Vol. 55, No. 2/2017, pp. 223–239.

institutions, especially the Parliament and the Court of Justice of the European Union. However, the *competence creep* of the Commission usually takes place with the consent of at least some of the states which consider the strengthening of the execution of European Law as important. An increase in the delegation of the competences to technocratic institutions, resulting in a centralization of powers at the European level is referred to as the strengthening of ‘executive federalism’, or ‘technocratic federalism’ in Europe.²⁴

In times of crises the political autonomy of EU technocracy weakened visibly, and instead its informal subordination to the strongest Member States increased.²⁵ In this way the EU *super-structure* is of a supplementary character in many spheres of European politics, and it is not superior in relation to the Member States.²⁶ Even if the ambitions of the technocrats are greater, then in reality in many situations the Commission makes it easier to implement national targets, especially for the most politically influential States. This brings it closer to the model of a confederation with asymmetrical features, that is characterized by hierarchical relations of power between its strongest and weakest members.

Moreover, a federal European state does not exist,²⁷ and the institutional, administrative and financial potential of the EU is still very modest.²⁸ To exemplify this point, there is a small number of EU public officials when compared to those employed in national administration, as well as the limitation of the executive to the regulatory actions, or its committal to administration and courts in Member States.²⁹ The EU budget is very modest, as it totals only about 1 per cent of GDP. This constitutes only about 2 per cent of all public funds in Europe (to compare, the federal budget of the USA manages over 51 per cent of the public funds, while in Switzerland around 33 per cent³⁰). Brussels practically does not have its own tax revenue inde-

²⁴ B. Crum, *Saving the Euro at the Cost of Democracy?*, “Journal of Common Market Studies”, No. 4, Vol. 51/2013, pp. 614–615.

²⁵ T.G. Grosse, *Introduction in: European Union Policies at a Time of Crisis*, T.G. Grosse (ed.), Warsaw 2017, pp. 9–32.

²⁶ A. Cuyvers, *op.cit.*, pp. 711, 737.

²⁷ Cf. J.E. Fossum, M. Jachtenfuchs, *Federal challenges and challenges to federalism. Insights from the EU and federal states*, “Journal of European Public Policy”, Vol. 24, No. 4/2017, pp. 467–485.

²⁸ P. Genschel, M. Jachtenfuchs, *op.cit.*, pp. 254, 266.

²⁹ D. Keleman, *Building the New European State? Federalism, Core State Powers, and European Integration in: Beyond the Regulatory Polity? The European Integration of Core State Powers*, P. Genschel, M. Jachtenfuchs (eds.), Oxford–New York 2014, p. 223.

³⁰ D. Keleman, *op.cit.*, p. 220.

pendent from the Member States.³¹ Thus, it does not have the competences, which could be dubbed as a positive fiscal federalism, meaning the ability to generate its own fiscal potential on the federal level.

Leading competences – especially those deemed crucial to sovereignty – remain under the control of individual states, and are only to a small degree transferred to the European level. It particularly applies to the foreign and defence policy,³² but it also includes a number of powers in respect to redistribution, which belong to the fiscal (budgetary) policy. For example, it refers to the social, health, and education policy. A gradual Europeanization can be observed in the area of internal security, as evidenced in a transfer of competences to the EU level or their coordination from the European level. Yet, it is still primarily a domain of national governments.³³ Any change made to the Treaties (that is constitutional law in the EU) has to be made unanimously, which is the norm in confederate systems. Secession, that is leaving the European Union, which is a feature of a confederation (at least formally) is also possible.³⁴

The federal features of Europe are above all the legal system, especially the principle of supremacy and direct effect.³⁵ Some experts emphasize³⁶ that both of these principles of EU law are taken from the experience of federal states, and not from other international organizations. In the case of these organizations, a rather weaker norm of reciprocity applies, which creates greater possibilities for the flexible application of the law and for the leaving a given legal regime. Meanwhile, the principle of supremacy – at least based on its assumptions – should be applied unconditionally, in a definitive way and throughout the territory of the whole federation, which has a unifying dimension. The transfer of competences

³¹ M. Hallerberg, *Why Is there Fiscal Capacity but Little Regulation in the US, but Regulation and Little Fiscal Capacity in Europe? The Global Financial Crisis as a Test Case in: Beyond the Regulatory Polity? The European Integration of Core State Powers*, P. Genschel, M. Jachtenfuchs (eds.), Oxford–New York 2014, p. 88. EU budget revenue comes, among other things, from customs on goods imported from third countries, that is customs on agricultural commodities as well as VAT revenue. However, all this revenue is collected by Member States and then a portion of it is transferred to the EU.

³² Cf. A. Menon, *Defence Policy and the Logic of High Politics* in: *Beyond the Regulatory Polity? The European Integration of Core State Powers*, P. Genschel, M. Jachtenfuchs (eds.), Oxford–New York 2014, pp. 67.

³³ D. Keleman, *op.cit.*, p. 218.

³⁴ Cf. G. Majone, *op.cit.*, p. 142.

³⁵ P. Genschel, M. Jachtenfuchs, *op.cit.*, p. 268.

³⁶ W. Phelan, *Why do the EU Member States Accept the Supremacy of European Law? Explaining Supremacy as an Alternative to Bilateral Reciprocity*, “*Journal of European Public Policy*”, Vol. 18, No. 5/2011, pp. 766–777.

to the Union as part of internal and external trade policy and other policies supporting the functioning of the common market are considered federal features.³⁷ The EU competences in the remit of fiscal policy are gradually increasing. They mainly concern the regulation of budgetary policies and attempts to harmonize the tax policy in the Member States, which can be described as negative fiscal federalism. Therefore, *competence creep* in subsequent areas, and thus the centralization of power in the EU institutions, can be considered as a sign of an emerging federation. Another federal feature is the departure from the principle of equal number of votes for each state in intergovernmental institutions and the growing tendency to apply decision-making procedures based on majority vote. Finally, the federal tendency is confirmed by the strengthening of the political role of the European Parliament, especially since the introduction of direct elections (1979) and as a result of a gradual increase of this institution's participation in the legislative process. However, the Parliament is not becoming a strong institution of a democratic federation with key decision-making competences with regard to the taxes and budget, as well as appointing, appraising and changing the federal government. The European Parliament is politically much weaker than intergovernmental institutions of the EU, which brings the Union system closer to the model of a confederation.

Table 2. Systemic features of the European Union

Features of a confederation	Features of a federation	Authoritarian features
<ul style="list-style-type: none"> · the dominant decision-making role of the intergovernmental institutions, · the weakness of the Parliament in terms of decision making powers, · the influence of national governments on the executive body (union technocracy, including the European Commission). 	<ul style="list-style-type: none"> · the Parliament representing all of the EU citizens and chosen in general elections, · a strong Constitutional Tribunal (CJEU) having de facto supremacy over the Constitutional Courts of the Member States, · supremacy of European law over national law, · departure from the rule of equal number of votes in the institutions representing the Member States, 	<ul style="list-style-type: none"> · autonomy of the EU executive institutions in relation to the Member States, without the appropriate democratic mandate of those institutions, · weak control over the Constitutional Tribunal of the EU (CJEU) by EU majoritarian institutions.

Source: own elaboration.

³⁷ A. Cuyvers, op.cit., p. 721.

1. Constructing a democratic federation

The introduction of direct elections to the European Parliament (EP) as well as an attempt to create its image as an emanation of the EU citizens were an important aspect of building a federation in Europe. A gradual increase of the role of the Parliament in the legislative process, crowned in the Treaty of Lisbon by an introduction of a so-called ordinary procedure (previously known as co-decision) as the main method of adopting regulations between the Council and the EP.

The Treaty changes that have, in recent years, been increasing the role of the Parliament were a result, at least in part, of the foresight of the MEPs and their aspiration to realize their own institutional interests. However, the representatives of the Member States played a major part at this stage. And it was them who had the final say regarding the real power granted to the Parliament. According to Weiler³⁸ the expansion of the EP's competences is offset by the simultaneous strengthening of the competences of intergovernmental institutions, especially of the European Council. In turn, empirical research (conducted on the basis of statistical modelling) shows³⁹ that in the context of the ordinary legislative procedure the Parliament has only about 20 per cent of the political power of the Council. The triologue loophole, which increases the Council's power in the legislative process, offers the main explanation to this phenomenon. This is an informal procedure consisting of meetings by political figures from the Council and the EP who are expert in this matter with the participation of representatives of the Commission. These meetings lead to a compromise on a given regulation before the initiation of formal work in Parliament, and thus they contribute to the adoption of the law already at first reading. Interestingly, the Council is also at an advantage in other stages of the ordinary legislative procedure. This procedure culminates in negotiations between the representatives of the Council and the European Parliament in a Conciliation Committee. Based on research of almost all cases settled in this way between the years 1993 and 2012 scientists concluded that in 70 per cent of the cases the solution preferred by the representatives of the governments was chosen.⁴⁰

This could mean that the development of European parliamentarism contributes to the strengthening of real authority of the EP only to a small extent; therefore it rather belongs to the sphere of promotion and political

³⁸ J.H.H. Weiler, *op.cit.*, p. 55.

³⁹ R. Costello, R. Thomson, *The distribution of Power among EU institutions: who wins under codecision and why?* "Journal of European Public Policy", Vol. 20, No. 7/2013, p. 1032.

⁴⁰ F. Franchino, C. Mariotto, *Explaining negotiations in the conciliation committee*, "European Union Politics" Vol. 14, No. 3/2013, pp. 345–346, 357.

marketing.⁴¹ In this case, what could be a motive is an attempt to lower the ‘demographic deficit’ and the wish to further justify the extension of the Union’s competences in the eye of the general public in the Member States. This motivation is also mentioned by experts on the subject matter of European parliamentarism.⁴² They also add that a direct pretext for the improvement (at least of a declaratory nature) of the role of the Parliament was the wish to strengthen intergovernmental institutions (*sic!*).⁴³ It concerned an increase in the scope of application of the majority vote and a departure from the rule of the equal division of votes between Member States, which led to the improvement of the decision-making effectiveness, and at the same time, strengthened the Council. In this fashion instead of paving the way towards a federal solution, that is transferring the real power to the EP, the confederate system was strengthened by the improvements in the functioning of the Council and its informal importance to the political system. At the same time, a clever procedure was used in which the federal motive (strengthening the EP) served to justify the introduction of solutions used in a federal system to the Council (meaning a significant increase in the practice of majority voting and a departure from the principle of an equal number of votes for all Member States). In my opinion this led to the consolidation of confederate solutions, but on an asymmetrical basis. It strengthened the political superiority of the strongest states over the smaller and peripheral ones. That is why I am describing this path of institutional change as building an asymmetric confederation.

However, let us go back to the analysis of the EP as an institution that is to pave way for the democratic federation in Europe. During the time of the crisis of the euro area the Parliament’s activity in terms of the institutional expansion was significantly lower.⁴⁴ Also the governments were

⁴¹ T.G. Grosse, *Konstruowanie rzeczywistości jako metoda integracji europejskiej. Przykład Parlamentu Europejskiego (Constructing Reality as a Method of European Integration. Example of the European Parliament)* in: *Zastosowanie konstrukttywizmu w studiach europejskich (The Use of Constructivism in European Studies)*, J. Czaputowicz (ed.), Warszawa 2016, pp. 87–105.

⁴² B. Rittberger, F. Schimmelfennig, *Explaining the Constitutionalization of the European Union*, “Journal of European Public Policy”, Vol. 13, No. 8/2006, pp. 1148–1167; F. Schimmelfennig, *The Normative Origins of Democracy in the European Union: Towards a Transformationalist Theory of Democratization*, “European Political Science Review”, Vol. 2, No. 2/2010, pp. 211–233.

⁴³ B. Rittberger, *Institutionalizing Representative Democracy In the European Union: The Case of the European Parliament*, “Journal of Common Market Studies”, Vol. 50, No. S1/2012, p. 31.

⁴⁴ C. Fasone, *European Economic Governance and Parliamentary Representation. What Place for the European Parliament?* „European Law Journal”, Vol. 20, No. 2/2014, pp. 164–185; S. Fabbrini, *Intergovernmentalism in the European Union. A comparative federalism perspective*, “Journal of European Public Policy”, No. 24:4, pp. 580–597.

reluctant to grant it new competences, and even disregarded its opinions on purpose while creating successive anti-crisis instruments, including those related to the fiscal policy. This practice departed significantly from democratic standards, both of the Member States, and those of a democratic federation, because fiscal policy should be overseen by the parliament. For this reason some claim that the aforementioned practice made the Economic and Monetary Union (EMU) less democratic.⁴⁵

To summarize, it is difficult to consider the system of the European Union to be heading towards a democratic federation. It is asserted that there is no European *demos*, meaning a unified political community with its own identity and interests in Europe.⁴⁶ Whereas there are national communities whose interests and identification are paramount to the European interests. There is not enough Europe-wide debate which would allow one to identify the interests and select the programme options concerning European matters.⁴⁷ Practically, there are no European media which have the general social outreach on the scale of the whole Union that could serve as the platform for this kind of a debate. There are also not enough Europe-wide citizen organizations and those that exist have limited influence on the formation of public opinion (on a European scale) and they are very heavily dependent on financing from EU institutions.⁴⁸ In effect, they cannot be treated as a manifestation of a bottom-up creation of a European civil society, but rather as an information or promotional tube of the European institutions. Also European parties are not actors to such a discussion concerning the programme and, in principle, do not participate in the EP elections. National parties, however, take part in these elections, but they mostly concentrate on domestic matters. Additionally, European election is considered secondary to the national election and usually they have a significantly lower turnout of voters.⁴⁹

Thus, the resources of a European democratic federation are rather of a seed-like scale. Even though the elites of the EP largely act in order to establish such a federation, their aspirations do not reflect the reality of the system. Therefore, it is difficult to talk about the possibility of more effective (as compared to intergovernmental institutions) identification of the interests common for the entire EU. Especially that in the Parlia-

⁴⁵ S. Fabbrini, *op.cit.*, p. 582.

⁴⁶ J. White, *Political Allegiance after European Integration*, Basingstoke 2011.

⁴⁷ R. Bellamy, D. Castiglione, *Three models of democracy, political community and representation in the EU*, "Journal of European Public Policy", Vol. 20, No. 2/2013, pp. 206–223.

⁴⁸ *Ibidem*, p. 219.

⁴⁹ S. Hix, M. Marsh, *Second-order effects plus pan-European political swings: an analysis of European Parliament elections across time*, "Electoral Studies", No. 30/2011, pp. 4–15.

ment we are dealing with an amalgam of national interests, institutional interests of the EP and the supranational elites functioning within this institution.⁵⁰ The Parliament has limited capacity to head deliberations concerning European matters, especially in way of influencing the public and the debates resounding in the Member States to focus on these matters.⁵¹ The systematic strengthening of the EP's competences does not solve the problems discussed; neither does it remove the democratic deficit in the EU.

2. Experimenting with a federation and proposing systemic changes

One extra-treaty experiment, paving the way towards the democratic federation can be pointed to, namely the choice of Jean-Claude Juncker for the role of the President of the European Commission in 2014.⁵² A basic argument supporting this nomination was a referral to the verdict of the recent PE election, where national parties won, making their way in this Parliament to be a part of the leading party (European People's Party). Among other things it was in order to increase the Parliament's competences in regard to the choice of the head of the Commission and at the same time to give an impression that the voters were the ones who appointed the new leader. Thus, it was an attempt to create a new quasi-federal institution, meaning direct election of the head of European executive, which was called the *spitzenkandidaten*⁵³ procedure. It was more of a marketing move, rather than a real strengthening of the democratic legitimacy at EU level. In most countries the citizens did not know that they were choosing the President of the Commission, and to a large extent they did not even know his name. Furthermore, the results of the 2014 elections did not favour the federalization of the EU. For the first time in history Euro-sceptic parties, those that are against further progress towards integration were this successful (in some countries, such as France and Great Britain they have won this election). Moreover, the final decision was taken not by the voters or the EP, but by the heads of governments, whose configuration of votes in the Council decided on the choice of the new head of the Commission. There is still a long way to go to the

⁵⁰ T. Jensen, T. Winzen, *Legislative negotiations In the European Parliament*, "European Union Politics", Vol. 13, No. 1/2011, pp. 118–149.

⁵¹ R. Bellamy, D. Castiglione, op.cit., pp. 214–215.

⁵² Cf. *Juncker zatwierdzony jako przewodniczący KE*, EurActiv.pl, 15.07.2014, <http://www.euractiv.pl> (last visited 17.07.2014).

⁵³ Cf. J. Priestley, G. Schollgen, N. Peñalver García, *The Making of a European President*, London 2015.

direct election of the head of this institution, despite the fact that Juncker actively promoted this institutional innovation later.⁵⁴ Before 2019 EP election Member States poured cold water on *spitzenkandidaten* idea at a summit in Brussels on 23 February 2018. EU leaders told the European Parliament that it does not have a monopoly over choosing the next president of the European Commission. There was agreement among Member States that the European Council cannot guarantee in advance that it will propose one of the lead candidates (or *spitzenkandidaten*) for president of Commission and that there is no automatism in this process.⁵⁵

Federal ideals are present in the sphere of European ideology, as well as in the multiple ideas for further EU reforms. For example, Emmanuel Macron, the president of France, in 2017 postulated reforms which would strengthen the fiscal federalism of the EMU, and would result in building a separate parliament for this sphere.⁵⁶ He also proposed a new legislation for the EP which would ensure that at least part of the MEPs are chosen from transnational lists, which would undoubtedly be a serious step towards a democratic federation.⁵⁷ Similar concepts were initiated by leading representatives of European institutions and they, among other things, concerned a strengthening of the powers of the EP or a creation of a separate chamber for the euro area in the EP.⁵⁸ In the State of the Union Address of 2017 Juncker proposed to strengthen technocratic federalism through merging the post of the President of European Council and the president of the Commission. They have also postulated a deepening of the fiscal federalism, i.a. by moving to the vote by qualified majority in case of decisions concerning a Common Consolidated Corporate Tax Base, VAT, taxes on the digital sector and the financial transaction tax.⁵⁹

For now all of these proposals are limited to the land of ideas and it is difficult to evaluate the probability that they may move forward. Another

⁵⁴ Cf. J.-C. Juncker, *State of the Union Address 2017*, Brussels, 13 September 2017, http://europa.eu/rapid/press-release_SPEECH-17-3165_pl.htm (last visited 16.09.2017).

⁵⁵ *EU leaders nix transnational lists, cool on 'Spitzenkandidat'*, "EUobserver", 23.02.2018, <https://euobserver.com/institutional/141100> (last visited 28.02.2018).

⁵⁶ Cf. T.G. Grosse, *Germany's strategy and tactic towards the crisis in European integration*, in print.

⁵⁷ *Initiative pour l'Europe – Discours d'Emmanuel Macron pour une Europe souveraine, unie, démocratique*, <http://www.elysee.fr/declarations/article/initiative-pour-l-europe-discours-d-emmanuel-macron-pour-une-europe-souveraine-unie-democratique/> (last visited 30.09.2017).

⁵⁸ H. Van Rompuy, J.M. Barroso, J.-C. Juncker, M. Draghi, *Towards a Genuine Economic and Monetary Union*, Brussels, 5 December 2012; J.C. Juncker, D. Tusk, J. Dijsselbloem, M. Draghi, M. Schulz, *Completing Europe's Economic and Monetary Union*, Brussels 2015.

⁵⁹ *EU leaders nix transnational lists, cool on 'Spitzenkandidat'*, op.cit.

example of a general idea was the appeal of Martin Schulz to establish the United States of Europe until the year 2025, which is similar to a revolutionary change proposed by early federalists.⁶⁰ Germany, however, for many years has been against the deepening of the fiscal federalism of the EMU, except for a stricter budgetary discipline of the Member States. The largest Member States, even if they agree that it is important to strengthen the parliamentary institution of the EU or to invoke it in the EMU, are still not interested in allowing for the loss of power of intergovernmental institutions.⁶¹ The convictions of European societies constitute yet another obstacle to the realization of federal ideas. In research conducted by the Royal Institute of International Affairs about 60 per cent of respondents from ten EU Member States were for the return of the competences of the EU back to nation states. Only 17 per cent wanted to increase the power of the EU, and only 8 per cent opted in favour of the European federation.⁶² In another survey residents of ten Member States (constituting 80 per cent of the EU population) over 40 per cent of the respondents were in favour of moving power from EU institutions to national governments, and only 19 per cent were in favour of continuing the progress of integration.⁶³

Conclusions

The European Union in times of the crises attempted to increase its efficiency of the governance, while at the same time continuing integration processes. However, as some studies show, it did it at a cost of not meeting the expectations of a significant number of voters. In the coming years the probable direction of development of integration is a further increase in the role of the largest Member States and the concentration of powers in the euro area. One can also expect progress of integration within selected EU policies alongside further delegation of competences to the European institutions. In this way, the centralization of powers will shift the system of Europe towards a technocratic federation (which results from the shift of governance to the EU level) and an asymmetric confederation (as evidenced by hierarchisation of relations between more

⁶⁰ *SPD's Martin Schulz wants United States of Europe by 2025*, "Politico", 7.12.2017, <https://www.politico.eu/article/spds-martin-schulz-wants-united-states-of-europe-by-2025/> (last visited 29.12.2017).

⁶¹ *Leaders maneuver to prevent EU 'deep state'*, "Politico", 14.12.2017, <https://www.politico.eu/article/leaders-maneuver-to-prevent-eu-deep-state/> (last visited 29.12.2017).

⁶² T. Raines, M. Goodwin, D. Cutts, *Europe's Political Tribes. Exploring the Diversity of Views Across the EU*, London 2017.

⁶³ Cf. *Euro-scepticism Beyond Brexit*, Pew Research Center, June 2016, p. 2.

and less politically influential states). At the same time, it will be difficult to call such a systemic hybrid a democratic federation, as the democratic mandate and relatively small powers of the majoritarian institutions of the EU level (mainly the European Parliament) still will not compensate for the methodical limitation of national democracy, especially in some Member States which are smaller or are located outside of the euro area.

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