

Conflicts of Legitimacies within the European Union - abstract

In the beginning of first part, the thesis focuses on the very concept of legitimacy. The point of reference is rather a sociological conception of legitimacy. Then, the critical overview of theoretical contributions to the topic of EU's legitimacy deficit is provided. On this analytical background it is held that the democratic legitimacy is indispensable for the Union and that there is a necessity of its creating even on union-wide (transnational) level. Subsequently, in the second part dealing with particular modalities of legitimacy within the EU, the thesis makes use of the contemporary democratic theory focusing on the concept and functioning of democratic representation.

The framework for the second part is a spatio-mechanical metaphor of four modalities („vectors“) of legitimacy (legitimation) formulated previously in the literature. It consists of indirect legitimacy, parliamentary legitimacy, technocratic legitimacy and procedural legitimacy. Changes in their balance after the Lisbon Treaty are discussed. The chapter on indirect legitimacy focuses on theoretical questions and then looks into the institutional and legislative development. It also provides an analysis of the relevant case-law of the Federal Constitutional Court of the Federal Republic of Germany and the Court of Justice of the European Union. The main concern is on the parliamentary legitimacy. The underlying concept of substantive representation is here clarified. The legislative procedure on the EU-level is assessed, especially in terms of transparency. The involvement of national parliaments in the legislative procedure and, more basically, in the will and judgement formation in the EU is also evaluated. The chapter on technocratic legitimacy is concerned with European economic governance. As regards procedural legitimacy, the focus is on the rule of law as the constitutional value of the EU and on the rule of law crisis in some member states. It is held that the EU is unable to protect sufficiently its constitutional values.

On this conceptual and empirical basis some normative conclusions are drawn. Creation of legitimacy in the process of democratic representation is crucial. It might not be reduced to the national level only. Visible political contestation, better informing and continual interaction of representatives with the public are indispensable for fully functioning representative democracy. However, democratic decision-making on the national level, on the one hand, and EU-wide level, on the other, are not posited as mutually excluding alternatives as in the logic of zero-sum game. The EU should strengthen the parliamentary legitimacy. Nevertheless, it is necessary to maintain some balance *vis-a-vis* other forms (modalities) of legitimacy. The development in this direction might only proceed gradually.

Keywords: European constitutional law (EU), legitimacy, representative democracy