

Notes on Dehousse's Discussion of Method: The Return of the European Federalism/Functionalism Debate

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[1] German Foreign Minister Joschka Fischer's speech of May 12, 2000, held in Berlin, (1) addressed the future institutional shape of the European Union and was based on the belief that with the challenges facing the European Union, especially enlargement, the Union stands again at a crossroads, to decide whether to change the institutional order of the Union. Fischer's speech does not constitute an isolated attempt at starting a new discussion but is, rather, a German follow-up on a debate initiated by a interview of the former President of the European Commission, Jaques Delors (2), in which Delors called for the establishment of a federation of nation states in order to accomplish the objectives fixed in 1992 in Maastricht. Delors' comments led to a controversial discussion in France (3). With his speech, Fischer pronounced his "personal views" on the on-going process of European integration. His contribution is not limited to building an *avant-garde* of member states wanting to intensify their integration with one another, but draws a picture of the future Union as a European federation established by a constitution and based on the continuing existence of the nation states. [2] With his contribution to a European University Institute symposium on the Fischer speech entitled "Rediscovering Functionalism," Renaud Dehousse offers a significantly different approach to the future shape of the European Union (4). He does not comment on the actual sketch for redesigning the institutional system. His concern is the method. While Fischer presses for the elaboration of a European constitution by a smaller number of member states based on a blueprint of a coherent institutional construction, Dehousse pleads for the maintenance of the functional method which has proven its effectiveness over almost 50 years of European integration. [3] Dehousse takes note of the objections made against the functionalist method, which claim that it lacks transparency, is undemocratic and leads to a system in which the Member States are bound to a series of spill-overs that cannot necessarily be foreseen by the political leadership. But Dehousse dismisses these objections as being a misconception of the functionalist method. He argues that it has turned out to be the case that spill-overs were not an automatic consequence of functionalism. Spill-overs, Dehousse explains, also required a "political input." Thus, even in the functionalist approach, the exercise of national sovereignty still matters. Only the integration process was guided by politicians who were "talented political entrepreneur." By explaining further steps of integration as a "positive sum game" for everyone and as a guarantee for the functioning of the integration process, they were therefore able to convince their colleagues. Additionally, political leaders always had the possibility of rejecting responsibility for decisions taken in "Brussels." [4] Having this in mind, Dehousse is sceptical of the methods of developing a blueprint for the future institutional shape of the European Union proposed by Fischer. For Dehousse the different national conceptions of the future of Europe present too heterogeneous a range of visions to permit agreement on one coherent concept. The introduction of a new institutional system requires an Intergovernmental Conference (IGC) and therefore unanimity. Hence it is unavoidable that a coherent sketch will be destroyed by compromises. This happened to the institutional system elaborated by the IGC of Maastricht. Only the functionalist method of developing the Union in small steps of limited impact has worked to this point. Thus the functionalist method still has a significance. [5] Dehousse's main concern is that the actual crisis within the EU cannot be solved by transforming the institutional system of the EU, what he calls social engineering. Even though it was tempting to render the EU more transparent and democratic this approach was not working. He argues that the European system was far more complex than the national political systems and even those were not functioning in a totally democratic way as considerable parts of domestic politics are dominated by unaccountable structures. Beyond that, the legitimising effect has been overestimated if it is expected to overcome the crisis of legitimacy by a mere reshaping of the institutional system. Summing up, Dehousse recalls one result of J.H.H. Weiler's research, that due to missing ethnic and linguistic ties the EU can never rely on the same emotional allegiance as the national political systems to secure social integration and stabilize the national political system (5). [6] This insight leads to Dehousse's main thesis. The EU has and always will be legitimised by performance. Only the capacity to resolve actual problems can serve as grounds of legitimacy of the EU. The institutional reshaping of the EU, on the other hand, has no impact on the legitimation of the Union. This does not mean that there is no need for a transformation of the institutions. Dehousse does not disagree on the necessity of finding another decision-making model in order to preserve the capacity to act, especially in an enlarged Union of up to 35 members. But according to the functionalist approach, first and foremost, the material problems have to be approached (e. g. financial solidarity, guaranty of the level of protection of health and environment). The institutional system serves only as a means to resolve those material challenges to the EU. Their change represents only an annex to the treatment of material policy fields. [7] So Dehousse's playdoyer for an functionalist approach to the integration process is based on two premises. First, it is highly unlikely that the development of a coherent blueprint on the European Union could actually be achieved, bearing in mind the numerous different conceptions. Second, the Union's legitimacy depends more on the Union's capacity to resolve material problems than on transparent and democratic structures or on the Organisation of the EU itself. Dehousse's approach is to be understood mainly on the grounds of the idea of the EU as an political

community which draws his legitimacy from the persisting existence of the Members States. [8] It is acceptable and even desirable to enter into the discussion on the final institutional design of the European Union. One might harshly criticize the sketch put forward by Fischer. The express rejection of the development of a final blueprint, however, goes in an altogether different direction. It leads back to the old debate on federalism and functionalism which had been confronted at the very beginning of the European project, when the political will to unify only led to the founding of the (sectorally limited) European Communities and not a European Political Community. Later the functionalist approach superseded the building of a federation on several occasions. For example, in 1986, the Member States agreed on a limited program for the creation of the internal market and rejected a federal approach presented as the Spinelli Entwurf (proposal). In spite of this moderation and pragmatism, the European project was always meant to lead to a final stage of integration that had only to be acknowledged. [9] It might be difficult to agree finally on one precise model. But it should not be forgotten that the level of integration is far higher than it was at the times when functionalism was the only way of promoting further integration. The European Union, after all, now has widespread competences. It only seems appropriate to give the proper institutional face to this highly integrated body. [10] Also the thesis that legitimacy is mainly provided by the results does not convince as it ignores the actual crisis of legitimacy within the European Union (6). Due to the high level of integration the EU will have to continue to take highly controversial decisions which can only satisfy some of the members states and which can represent a considerable burden to the population or the industries (e. g. regulation in matters of environmental or consumer protection (7)). As these decisions never represent a "positive sum game" to everybody their acceptance can only be secured if they are taken according to rational procedures, which can be understood by the persons concerned and which allow their participation. Thus the Union needs to introduce transparent and democratic procedures which can only be established according to a coherent blueprint. [11] The lack of transparency and democratic structures also will not be remedied if one merely transfers regulatory powers to agencies that are open to public participation like Dehousse proposes (8). Even if such an approach might temper the problem within the European Union it does not alter the perception of the Union from the outside. Given the close nexus between the stability of the European currency and confidence in European politics it must be acknowledged that at least the European currency depends on a coherent blueprint for a European Constitution (9).

(1) See, <http://www.germanembassy.org/au/eu-fisch.htm>.

(2) Jacques Delors, Critique la stratégie d'élargissement de l'Union, LE MONDE, January 19, 2000, at 2.

(3) For an overview of the chronology of this debate, see, C. Busse, Braucht Europa einen Kern, Das Parlament, B (47) 2000, 3 et seq.

(4) See, <http://www.jeanmonnetprogram.org./papers/00/00f1101.html>.

(5) Joseph H. H. Weiler, THE CONSTITUTION OF EUROPE 330 et. seq. (1999).

(6) On the notion of legitimacy in the EU, see, Gunnar Folke Schuppert, Überlegungen zu demokratischen Legitimation des europäischen Regierungssystems, in FESTSCHRIFT FÜR RAUSCHNING, 201, 207 (2001).

(7) E. g., the BSE-crisis.

(8) Renaud Dehousse, Regulating by Networks in the European Community: The Role of Agencies, 4 JEPP 246 et seq (1997).

(9) Armin von Bogdandy, Der Euro zwingt zur politischen Union - und vielleicht einer neuen Gemeinschaft, EuZW 449 (2001); Jean-Marc Sorel, L'Euro vu de l'extérieur: une monnaie entre puissance et incertitudes, 127 JDI 7, 15 et. seq. (2000).