

# Towards a legal framework for the delegation of powers in the EU legal system

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## Propositions Accompanying the Dissertation

Towards a Legal Framework for the Delegation of Powers in the EU Legal System

by Annalisa Volpato

1. The delegation of powers represents a fundamental legal mechanism for the organisation and functioning of the EU as it is today. It can be recognised not only in the adoption of delegated acts pursuant to Article 290, but also in the transferral of powers to the European Commission pursuant to Article 291 TFEU, to the Council of the EU, to the ECB, and to EU agencies.
2. While the requirements for the delegating act show considerable homogeneity across the forms of delegation, it is necessary to strengthen the existing legal framework for the subsequent exercise of the delegated powers in order to safeguard fully the rule of law and the institutional balance in the EU legal system.
3. A clearer distinction between the powers delegated under Articles 290 and 291 TFEU would contribute to the development of a coherent legal framework horizontally applicable to the different forms of delegation.
4. The democratic oversight of the exercise of the delegated powers by the Council and the ECB should be improved, in particular providing the Parliament with the procedural rights to protect its institutional prerogatives.
5. To enhance the democratic legitimacy of the delegation of powers to EU agencies, it is essential to insert an express provision on this form of delegation in primary law and to rethink the current accountability mechanisms in light of the increasing role of EU agencies in EU administration.
6. Like Penelope with her shroud, EU institutions appear to silently un-weave the innovations that the Lisbon Treaty brought to the framework for the implementation of EU law, progressively undermining the significance and the implications of this reform.
7. The composite character of EU administration is currently an inescapable reality which cannot be disregarded in any proposal for reforming the EU executive.
8. The evolution of the EU as a constitutional legal order of an inter-individual character calls for closer attention to be paid to the respect of the fundamental rights of EU citizens and to the legality of the legal mechanisms which lie at the heart of its rule-making activities.
9. Especially today, when the EU is facing unprecedented challenges to the very foundations of its existence and legitimation, it is important to contribute to the public debate on the future of EU democracy and to suggest reforms improving the democratic character of EU decision-making.
10. “When in doubt, mumble; when in charge, ponder; when in trouble, delegate.” (James Boren)