

Parlasur Direct Elections: A Step towards Integration

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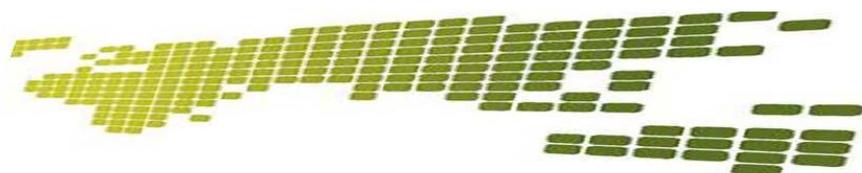
The long-awaited communication has arrived: the National Decree 775/2015 formalized the direct election of Argentine representatives to the Mercosur Parliament (PARLASUR), concomitant with the general elections on next October 25. Meanwhile, primary elections will be held on August 9. The citizens will have the opportunity to elect 43 Argentine representatives, according to the Ouro Preto Protocol (1994), an Additional Protocol to the Treaty of Asunción on the Institutional Structure of MERCOSUR. The PARLASUR, which was instituted in 2005 and established in 2006, started to operate on May 7, 2007, replacing the Joint Parliamentary Commission of Mercosur (CPC), which was composed of national MPs coming from the member states.

With this step, Argentina achieves the second stage of the scheduled transition to the Parlasur's final composition. In the first phase (between December 31, 2006, and December 31, 2010) the representatives were elected by the national congress of each member state according to the method of decreasing demographic representation. So, the first composition defined 37 representatives for Brazil; 26 for Argentina; 18 representatives for Paraguay and Uruguay. The national deputies were holding simultaneous functions as Mercosur representatives without any direct elections. In the second stage (from January 1, 2011 to December 31, 2014), the number of representatives rose to 75 for Brazil, and 43 for Argentina; Paraguay and Uruguay remained with 18 representatives each and 31 for Venezuela. In this phase, the Constitutive Protocol established the composition of Parlasur according to a criterion of citizen representation with representatives who are elected by the citizens of the member states by direct, universal and secret suffrage. However, as of today, only the representatives of Paraguay were elected directly by popular vote (April 2013, per Law 4584/12).

Finally, on December 29, 2014, the Chamber of Deputies of Argentina enacted the bill 27/120, *Election of Parlasur Representatives*, which establishes that, through popular vote, 43 Argentine representatives are to be elected to Parlasur, simultaneously with next October's Presidential elections.

Behind the unusual rush which has been put in place to foster the Mercosur parliamentary elections, certainly there is a background that is impossible to ignore. A few days before the end of the 2014 parliamentary year, the ruling party decided to dust off a series of initiatives aimed at exploiting the direct elections regulated by the Constitutive Protocol of the Mercosur Parliament (Parlasur).

Even if it is crucial to prepare the election of Parlasur representatives, the aforementioned bill missed out what the Constitutive Protocol of Parlasur provides for when the election will actually take place. For this reason, fostering its achievement without regard to the Protocol is an outrage.



It provides independent elections which ensure a proportional representation of the electorate in each member state. The truth is that the Common Market Council (CMC), the executive body of Mercosur, did not establish a "Mercosur Citizen Day" for the election of representatives *simultaneously in all the member states* by direct, universal and secret suffrage of its citizens (Art. 6, paragraph 4, of the Protocol).

Another point that has much ado in the initiative of the ruling class regards the immunities. It is expected that national legislators are equated with Parlasur representatives, thus extending immunities which have not been established in the Protocol nor in the Rules of Procedure of the Parlasur. The Protocol establishes in Art. 12/2 the immunity for thoughtcrime: "Representatives cannot be judged, at civil and criminal level, in the territory of the Member States of MERCOSUR, at any time, neither during nor after their terms in office with regard to opinions or votes expressed by them in the performance of their functions".

In addition, it seeks to add the immunity from prosecution provided in the Argentine Constitution, Art. 69: "No senator or deputy, as from the day of his election up to the one of his conclusion, shall be arrested, except when flagrantly surprised committing a crime deserving capital, infamous or other serious punishment; in which case a summary report of the facts shall be submitted to the appropriate Chamber". It is illegal and unconstitutional that the National Congress legislates beyond the provisions of the Protocol. A political game is beginning, in the light of the possible application of such immunity from prosecution to those who now hold *executive* positions in Argentina: this puts into question the valuable goals expected in the enactment of a law which is really needed but used as an opportunistic justification.

The current integration process, despite advances, suffers from lack of democratization in its very essence, considering the intergovernmental nature which includes the very genesis of Mercosur. In fact, ultimately, the member states are always those who retain the final word on sovereign decisions in all core areas of public policies.

There is a structural imbalance in the construction of a majority among the countries. Likewise, decisionism does not contribute to the construction of common institutions. We note the lack of supranationality in drafting common state policies at regional level. In this sense the CMC, instead of Parlasur, plays an essential role.

One of the mechanisms to address this institutional porosity is certainly to provide Parlasur with legislative powers in order to strengthen the Mercosur institutions. The direct election of representatives must be considered as the starting point, not the ultimate aim, in order to grant to the Parliament effective powers to draft binding laws in Mercosur countries.

Comparative studies underline that the institutionalization level of Parlasur is very low. The powers allocated by the Constitutive Protocol to Parliament are neither legislative nor executive. Among its functions there are: a) at the political level: ensuring the preservation of the democratic order and respect of human rights in the member states; b) for the relationship with Mercosur institutional structure: requesting reports to other organs and invite them to exchange views; proposing laws to the CMC, preparing draft bills for the harmonization with national legislations;



c) at the administrative level: drawing up its own budget and inform the CMC; adopting and amending its rules of procedure. About this last point, if we read carefully Art. 4 of the Protocol, it indicates only that Parlasur has the power to produce draft bills or legislative proposals which ultimately remain decisions of the CMC, at the expense of a discussion within a real republican and federal representation.

It's time to be clear. The time has come to clarify what kind of integration we foster, under the only principle of a coordination of interests, emphasizing the regional level more than the national one. Therefore, it is essential to rethink the idea of the Mercosur construction starting from its institutional strengthening, by providing the Parlasur with the powers needed to legislate on common and inclusive regional policies. Parlasur is the key to the political integration process of Mercosur and represents the solid base on which to build and strengthen its institutional structure. The path followed in the European integration process shows that the European Parliament consolidated itself as an institution with legislative and control functions under the pressure of political and social actors driven by a strong will to promote radical change. Parlasur urgently needs to be endowed with the powers needed for it to be able to actively promote integration in the Mercosur.

Translated by Laura Roscio

