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PAPER ABSTRACT

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The EU at 27: Facilitating Democracy through Loyalty?

‘Voting in favour in Brussels and acting later at home as if you were not there when the decision was taken, is the opposite of a comprehensible and coherent policy.’*

The Commission President referred in his State of the Union Address to a well-known phenomenon of European politics: the unwillingness of national politicians to own EU decisions. This has been the case for a very long time. Yet the Brexit vote in the UK has demonstrated in an unprecedented manner the consequences that this lack of ownership may have. The Brexit vote should also become the trigger for internal reforms aiming to break with the habit of using the EU as a means in the national political gamble.

It is a particularity of European Union law that it does not treat states as ‘black boxes’. Indeed the effectiveness of EU law is above all a result not only of the fact that it directly confers rights on individuals but also that it directly imposes obligations on national courts and national administrative authorities. The principle of sincere cooperation, also referred to as the principle of loyalty, is accepted to require specific national authorities to give effect to EU law. Furthermore, it is central to safeguarding the EU’s unity in external relations.

After the Brexit vote, the EU should consider what the principle of loyalty might mean internally, both for national politicians and EU institutions. Coherent behaviour of national politicians at home and in Brussels could potentially do more to politicise substantive issues in EU decision-making than past attempts of politicising the appointment of EU actors in a disconnected fashion. Obligations of protecting internal unity and coherence can also be logically developed from the existing case law of the Court of Justice.

* Juncker, State of the Union, oral delivery on 14 September 2016: ‘in Brüssel laut ja sagen und zu Hause so tun, als wäre man nicht dabei gewesen, ist das Gegenteil von nachvollziehbarer Konsequenz’.