„EUROPEANIZING"
THE EUROPEAN ELECTIONS.
THE CASE FOR A PAN-EUROPEAN
CONSTITUENCY IN THE CONTEXT OF THE
EUROPEAN PUBLIC SPHERE DEBATE

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Abstract

   The European Union today is facing multiple challenges with long-term economic, but also societal effects, which require unity and solidarity more than ever to safeguard common European interests, but also pragmatic approaches to consider and respect Member States' diversity. However, worrying trends show that democracy is sliding in some EU Member States, while radicalisation, disinformation and populism is reshaping the political landscape in practically all countries. The paper explores the role of the public sphere is shaping democracy and legitimacy of the supranational institutions and processes of European integration at times of crisis. The analysis draws from the theoretical research on public spheres and the European Union context in particular (Habermas, Risse, Eriksen and Fossum) to emphasize the role of unconstrained debate and democratic discussion for the formation of broader public consensus on key EU integration issues. From this theoretical perspective, the recent initiative (2022) by European Parliament to revisit EU's election laws and to establish a pan-European constituency, is analysed. The paper ends with discussion on whether such developments can be a step towards bringing the EU closer to a true parliamentary democracy and solving some of the transparency and accountability challenges faced by the Union, and what the main current challenges are.

   Key words: public sphere, EU, elections, constituency, transnational lists

1. Introduction

   Europe today is facing multiple challenges with long-term economic, but also societal effect for the future of the continent – the difficult recovery from the Covid-pandemic, the Russian invasion of Ukraine, refugee and migrant pressures, need for systemic restructuring of economic and social systems in the context of the digital transformation and worsening demographics, climate change and other major issues. Those challenges require unity and solidarity more than ever to safeguard common European interests, but also require pragmatic approaches to consider and respect Member States' diversity. A unified EU at the face of current geopolitical and socio-

economic odds requires strengthened respect for democracy, individual rights and freedoms and the rule of law as core European values among all EU members.

However, worrying trends show that democracy is sliding in some EU Member States, while radicalisation, disinformation and populism is reshaping the political landscape in practically all countries. Contemporary populism is now deeply rooted in many European societies, transforming party systems and changing the foundations of European democracies. Populism in Europe becomes an important component of EU politics with European populists ever more interested in influencing the political process in the EU and its institutions from within[1].

Europe is also becoming increasingly vulnerable to disinformation – a phenomenon which is not so much a threat from outside but rather „an internal reality"[2]. The distinction between foreign and domestic disinformation is becoming ever more blurred across the EU as messages serve diverse stakeholders across national borders[3]. And while the debate on disinformation in the EU often focuses on external state actors such as Russia and China, or on transnational networks of conspiracy theorists, internal sources of disinformation such as political parties and national government are often left unnoticed. Increased centralisation and/or state capture, censorship in key media sources and attacks against independent media threaten European media pluralism[4].

The above challenges must be interpreted in the context of declining trust in institutions in EU, despite lower unemployment rates and the phasing out of pandemic restrictions. According to Eurofound, recorded trust in institutions such as national governments, the EU, the police and news media has deteriorated across the European Union over the past few years, with those who previously expressed higher trust levels, such as those in financially secure positions, now becoming less trusting. Declines in trust are being driven, in part, by the spread of misinformation on social media, and take place in the context of high levels of inflation, rising energy costs and increasingly difficult economic circumstances[5].

This paper will look at the challenges of strengthening public trust and engagement with the EU from the perspective of participation and debate as means for countering populism and disinformation. We will first review the key dimensions of the theoretical debate on the EU as „discursive interaction"[6]. It proceeds as follows: the first part investigates the main dimensions of the discussion on EU democratic legitimacy from the perspective of the public sphere theories. The next part of the paper focuses on a recent initiative at EU level – a legislative initiative report adopted by the European Parliament in 2022, proposing to repeal the 1976 European Electoral Act and replace it with a new Council regulation on the election of the Members of the European Parliament by direct universal suffrage. The political, legal and societal dimensions of the proposal will be presented. The paper will conclude with a discussion on whether these developments

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[1] Lazar, 2021
[2] Colomina, 2019
[3] Vériter, 2021
[4] Heinrich-Böll-Stiftung, 2021
[5] Eurofound, 2022
[6] Risse 2000, Weiler, 2000

can be a step towards making the EU a true parliamentary democracy and solving some of the transparency and accountability challenges faced by the Union.

2. EU Democratic Legitimacy from the Perspective of the Theoretical Discussion on the European Public Sphere

The discussions of the European democratic deficit dilemmas have always been interpreted – among other paradigmatic approaches – through the lens of the *public sphere theories/deliberative theories*[7]. According to E. Eriksen „the development of post-national democracy in Europe depends not merely on rights but also on the emergence of an overarching communicative space that functions as a public sphere"[8]. The public sphere is seen as a condition for realization of the public sovereignty, as it gives each individual the right to participate in the public debate without any restrictions regarding topics, participants, time and resources. The public sphere is the communicative space, guaranteed by individual rights and liberties such as the freedom of speech and association, in which problems and issues are uncovered, presented, but also thematised, relived, re-experienced and voiced in the form of opinions and wills. Decision-makers are accountable for taking those opinions and wills into consideration and for transforming them into political action[9].

According to Jürgen Habermas, solving the legitimacy deficits of the EU is not possible in the absence of a public sphere of a European scale – defined as a network/ nexus which provides citizens of all Member States with equal opportunities for participation in a large-scale process of focused political communication. The European public sphere, according to Habermas, should not be seen merely as a projection of familiar formats from the national to the European level. It should rather emerge from the mutual opening of the existing national public spheres towards one another, leading to mutual penetration of translatable national communications[10].

Thomas Risse outlines the concrete dimensions of a European public sphere in the process of formation, beyond the national ones. His view is that we can speak of a EU-wide public sphere if and when European discuss the same European issues at the same time and at similar levels of attention in the contexts of the national public spheres and media; if and when similar frames of reference, meaning structures and patterns of interpretation are used across national public spheres and media; if and when a transnational community of communication emerges, in which speakers and listeners recognize each other as legitimate participants in a common discourse. Each of the mentioned factors is a social construct, developed through discursive practices[11]. But if the existing empirical practices of the European public sphere are interpreted through the above conditions, according to Risse, European do not talk about Europe too often, but if they do, they establish a community of communication across borders. The issues of European integration are penetrating national

[7] Habermas 2001, van de Steeg 2002, Risse 2003, Eriksen & Fossum 2002, Trenz & Eder 2004
[8] Eriksen, 2009
[9] Eriksen & Fossum, 2002
[10] Habermas, 2001
[11] Risse, 2003

communications remarkably quickly, with shared reference frameworks taking shape, and shared integration challenges becoming salient among the different national publics. The media, which cover EU subjects, also do not dramatically differ in the interpretative frameworks used from one national public sphere to another. According to Risse these trends have clear effects on the policy level. Many political and business leaders may believe that controversial issues endanger the European unity and so the elite consensus should be maintained, however according to the author contestation and politization are constitutive for a democratic polity therefore the salience of European issues and shared challenges should not be discouraged, but actively promoted by both European and national institutions and actors[12].

Other theories of the public sphere however offer a „fundamental critique of the deliberative public sphere model"[13], confronting the deliberative theory's disregard for antagonism in its conceptualisation of the public sphere[14]. According to the *agonistic* theorists (from Greek, agon, „struggle"), conflicts within the political systems should be given due voice and inclusion of adversaries and conflicts is to be done by institutions like political parties and by building institutions like those of the European Union that are capable of such transformation[15]. The role of the public processes and institutional settings is to „bring together multiple conflicting interests, take account of power relations, and achieve a consensus, moral compromise, or resolution"[16].

Yet other perspectives on the European public sphere build upon Rokkan's *cleavage theory* (1970, 1975) and define it as a composite architecture of communicative networks of ideological groups structured around Europe-wide political cleavages[17]. Sicakkan and Heiberger point out that since the 90s many authors have considered EU integration processes from a cleavage perspective: the cleavage opposing the new middle-class winners of the transformation of Western European societies to the group of losers of this process[18]; Europe as part of a larger cultural conflict[19]; European integration as a constitutional revolution[20]; transnational cleavage of libertarian, universalistic values against the defence of nationalism and particularism[21].

Whichever way one looks at the prospects for development of a truly European public sphere – whether focusing on perspective of deliberation and communicative action, or emphasizing conflict and the role of existing and emerging cleavages – the uniting argument remains that the development of supranational democracy in Europe depends on the development of a communicative space which can function as a public sphere, a pan-European discourse[22], a viable public sphere in which unconstrained

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[12] Risse, 2003
[13] Sicakkan & Heiberger, 2022
[14] Mouffe 1999, 2007; Crowder 2013
[15] Sicakkan & Heiberger 2022, Mouffe 2012
[16] Motion, 2005
[17] Sicakkan & Heiberger, 2022
[18] Kriesi, 1998
[19] Evans, 1999
[20] Marks & Wilson, 2000
[21] Golder 2016; Höglinger, 2016
[22] Eriksen, 2005

debate, analysis and criticism of the political order can take place[23]. As democratic politics are moving beyond the nation-state[24]), the so called „permissive consensus"[25] which largely accompanied the process of integration since its inception, is no longer a sufficient framework for public support. The European project cannot draw legitimacy from its capacity for effective problem-solving. Moreover, in an increasingly complex global scene, its capacity to solve complex problems effectively will be ever more challenged, particularly when faced with multiple crises, many of which have no unifying solution effective for all Member States and societal groups.

The integration process has reached a turning point when its legitimacy deficits can only be successfully addressed by increasing – not decreasing or mediating – politicisation and political contestation of proposed solutions. EU policy and politics need to become more politicized – issues need to become more salient, public opinion needs to become more polarised, and actors and audiences need to develop greater ownership on European governance, thus strengthening the European political sphere as the foundation for democratic and legitimate decision-making.

In the next section, we will review in more detail the initiative for common EU electoral rules and transnational lists for MEPs and how this can contribute to solving the above challenge.

3. Europeanizing the Elections: Towards a Pan-European Constituency

The European Parliament elections determine the representatives of European citizens at EU level, but the process according to which they are organised is largely decided at national level and rules differ in many aspects. For example, EU countries vote on different days, only national political parties appear on the ballots and voting age varies.

The establishment of *trans-national lists* for the European elections has been among the main contentious points in the debate for reform of EU electoral law. Although the idea had seemed Utopian for a long time, in the late 90s there was some progress made with the European Commission strongly backing up the proposal[26]. However, it was not included in the proposal for European Constitution in the early 2000s, which itself was never ratified. More than a decade later, in the context of Brexit and the vacated seats of the British MEPs, French President E. Macron put forward a proposal that starting with the 2019 elections, transnational lists can be created that allow Europeans to vote for a consistent common project. Yet the proposal for transnational lists prior to the 2019 European elections did not receive support from EU heads of state and government. At a meeting in February 2018, they decided to review the issue at a later stage „with a view to the 2024 elections".

After the European elections in 2019, the Committee on Constitutional Affairs, AFCO, resumed work on the idea, this time based on a detailed proposal. Series of amendments were made, and in July 2021 the Committee approved the proposal and

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[23] Fossum & Schlesinger, 2007
[24] Conrad, 2009
[25] Lindberg & Scheingold, 1970
[26] Crego, 2021

submitted it to the plenary. The proposal was adopted on 3 May 2022 by a sufficient majority of 323 votes to 262.

The proposal foresees that the EU-wide constituency has 28 MEPs, elected through a closed-list-proportional system (seats allocated to lists in proportion to the votes cast on them). In order to guarantee the trans-national character of the lists, each of them shall be formally supported by parties or movements significantly present in at least 7 member states. The election of candidates from smaller member states is also guaranteed – 3 groups of member states are formed according to the size of their population, and each sequence of three candidates on each list must contain one candidate from each group.

The idea of the so-called *Spitzenkandidaten* should be discussed when the concept of pan-European constituency is concerned, as the *Spitzenkandidaten* was indeed one of the two most prominent proposals for „Europeanization" of the EU elections and parliamentary system. The aim of the proposal was to promote an open contest for the position of Commission President. It was believed that if rival candidates were openly presented and publicly visible, they would be „suitable vehicles to better aggregate and present the political programs of the European parties, to focus political attention towards the levels of EU politics, and to inject a dose of politicisation into the election contests" [27]. However, the lead candidate process is insufficiently embedded in the Treaty of the EU and hence has weak legal foundation. So, despite some success in 2014, the process was rigorously opposed by the Council in 2019 and was thereafter left behind. Thus, the new initiative for trans-national lists, adopted in May 2022 makes numerous references to the idea of Spitzenkandidaten, but it does not stipulate that the leader of the winning list is to be elected President of the Commission.

What is the significance of these developments and what effects for EU democracy and legitimacy should be expected? The adoption of the proposal for a Union-wide constituency by the European Parliament is no small step forward, but there is still a long road ahead. The proposal must be unanimously approved by the European Council, amendments may be made which then need to be agreed upon by the EP. And it must subsequently be ratified in all Member States.

Despite remaining procedural challenges, the achieved majority in support of the proposal, reached in the Parliament, is of significance and can signal growing (albeit still insufficient) political consensus for the idea. An effective representative democracy requires an arena for political debate and contestation and the political realization of the outcomes of this debate in the form of electoral decisions. To this end, the boundaries of *electoral space and demos* must overlap. The Union-wide constituency has the potential to strengthen the European public sphere while in turn the emerging European public sphere will galvanize the pan-European election debate. As the Parliament stipulates in its motives for the proposal, „the voter turnout registered in the 2019 European elections was the highest of any elections to the European Parliament in the last 20 years (...).the participation rate hides existing wide disparities between Member States, [nevertheless] the increased turnout is a positive signal and shows that citizens, and in particular the youngest voters are taking an increasing interest in the development of integration[28]".

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[27] Auel & Tiemann, 2020
[28] Eurobarometer, 2021

Given the fact that still only half of the Union citizens took part in the 2019 vote, efforts must be made to increase citizen's interest in European issues and voter participation. According to the EP, the trend of a growing voter turnout can be improved if the connection and accountability between voters and candidates is strengthened and the Union-wide dimension is fostered. Notably, the proposal specifically includes a recommendation to establish a European public sphere within which deliberative, representative, and participatory democracies are clearly defined like rights and responsibilities.

We are yet to see the development of the process, heading towards the 2024 elections. However, it is already clear that if finally adopted, it will allow headway in tackling two key challenges – electoral law fragmentation in the 27 member states (by ensuring more uniform rules) and the stronger emancipation of the European elections form the narrowly focused national debates (through the Union-wide constituency).

4. Discussion

The proposed electoral measures may have significant effects towards the strengthening of the European public sphere. Allowing citizens to vote for transnational lists by creating a joint European constituency for the European elections is an important step towards a stronger public and political debate on the key issues faced by Europe today.

However, several challenges need to be considered.

Firstly, *institutional changes take time,* and their effects may be delayed or weakened due to occurring circumstances of international or internal nature. As the authors of an important study on the topic „Europeanising European Public Spheres", commissioned by the AFCO Committee of the European Parliament, note, „institutional reforms and innovations take time to fully unfold their effects, especially if not based on clear legal or constitutional rules. As the fate of the Spitzenkandidaten process illustrates, until they do, they remain vulnerable and can easily be undermined"[29]. But the challenges to EU democracy and accountability are very real and the public discourse vis-a-vis the EU integration is becoming easily contested and polarized, particularly in times of global challenges and instabilities. The European democracy needs quality public discourses that form basis for political mobilization for the values and principles that the EU stands behind, and it needs those now.

Secondly, *changing the rules of the game is often more realistic* than changing the substantive content of the game, so EU political elites may find it easier to reform electoral procedures but more difficult to achieve qualitative transformation of the nature and content of the public and political discussion in the Union. Nevertheless, „electoral engineering" should not remain the sole purpose of the proposed amendments. They should be preceded and followed by the necessary formats for public discussions and mobilizations towards collective action at EU level. European politics and policies are increasingly becoming the subject of public debate, which is an important corrective to the expert-technocratic decision-making, but as Rauh (2015) warns, discussion alone does not make a supranational democracy. It is about the quality of the discussion, but also about the institutional and policy response stemming from it – the communicative action that follows. European publics, alongside the

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[29] Auel & Tiemann, 2020

institutions of the supranational and national levels need to find an institutional response to the new public attention directed at the EU and its policies.

Thirdly, the *current communicative environment* should be considered, with all its opportunities for dialogue between citizens and institutions, but also with its risks, such as populisms, extremisms, disinformation and fake news. As suggested by Habermas, the idealized public sphere may not be possible in an environment where political elites have better access to media, are able to control their messages, and exert power over ordinary citizens[30]. Kermer and Nijmeijer (2020) warn that social media and the rising tide of information disorder have worsened this dynamic through their exploitation of human cognitive functions and prioritising virality over factuality.

Lastly, in terms of the academic discussion on the issue of the formation of a European public sphere, *more and more robust empirical analyses are needed* on the unfolding national and transnational public debates on issues of key European relevance, in order to measure the extent to which similar issues are salient across Member States and are being discussed with similar frames of reference. This will help both the academic community, and more importantly, EU and national decision-makers establish the processes and forums needed to strengthen the formation of common European communicative action that can bring the Union forward to address the pressing challenges it will continue to face in the future.

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[30] Zúñiga 2015, Habermas, 2006

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