Towards a more democratic and transparent European Union

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Abstract

The European Union (EU) has faced vital challenges that have reinforced the need for institutional reforms in recent years. The decision of the United Kingdom to leave the European Union underlined the institution's legitimacy crisis and the need to address the lack of community feeling. This is as well linked to the question of representation of the citizens in "their" institution, the European Parliament (EP), and the transparency of the institutions in general.

The policy paper at hand presents several policy recommendations on how to build a more democratic and transparent EU, which have two aspects in common. First, they tackle the general provision of information about the EU and the functioning of its institutions as well as the need for clear communication strategies to increase the transparency of and knowledge about EU politics. Second, they advocate for more transnational powers, including the establishment of transnational lists in the EP elections and for a better balance of powers of the institutions. In this sense, we consider it essential that the EU institutions work in line with and are backed by the interests of European citizens.

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1 Introduction

For the last decade, the European Union has faced vital challenges that have reinforced the need for institutional reforms. The decision of the United Kingdom to leave the European Union underscored the institution's weaknesses but as well its strengths. On the one hand, Brexit negotiations triggered the debate on the future of a stronger and more united EU, which should have started with a big conference series initiated by France and Germany in May 2020 but was postponed due to the global pandemic. On the other hand, Brexit negotiations dominated EU politics from 2015 onwards and left little space for other essential discussions on the functioning of the Union itself. Moreover, they showed the need to reinforce the feeling of belonging to the European community so that citizens in all member states feel part of the EU and represented by its institutions.

Internally, the 2019 election to the European Parliament (EP) showed a greater fragmentation of the voters. For the first time in 40 years, the two largest political groups, the *European People's Party* and the *Socialists & Democrats*, do not hold the absolute majority. This result is not only part of an ongoing trend of mistrust in EU's democratic institutions and movement towards nationalist and Eurosceptic groups but also shows the EU citizens' dissatisfaction with political groups that are traditionally in power – highlighting once more the urgency of reforms in the EP elections.

The year 2019 ended with Ursula von der Leyen's appointment as the new President of the European Commission (EC) and the new year 2020 started with the United Kingdom's adoption of the EU Withdrawal Agreement Act in in January 2020. Still, the democratic and legitimacy crises of the EU remain significant challenges that can undermine the institution's existence. Plus, the new challenges that emerged amidst trade wars and the global pandemic suggest that the tendencies towards nationalisation will not cease to exist in the short run. Moreover, they have the potential to exacerbate the already ongoing crises, if no counteracting measures are taken.

Against the background of contested legitimacy and the often-mentioned democratic crisis, a policy lab on "How to make the European Union more effective, efficient and democratic" took place in the framework of the DAFEUS project on 29 - 30 May 2019 at the Centre international de formation européenne (Cife) in Nice. The policy paper at hand presents several policy recommendations on how to build a more inclusive and more democratic EU, which the participants of the two days policy lab jointly developed. The recommendations are

divided into four groups: reforms concerning 1) the European Parliament, 2) the European Parliament Elections, 3) Transparency and 4) Information on the EU.

2 Recommendations

2.1 Recommendations I: European Parliament

The power of the EP, as the only directly elected institution, is often considered as too weak compared to the EC and the European Council (EUCO). In order to strengthen the EP's position, we consider the following:

1) The right of legislative initiative for the EP.
2) The establishment of an instrument to monitor the consideration of EP positions in the EU's Common Foreign and Security Policy (CFSP) topics.
3) The introduction of a constructive vote of no confidence against the College of Commissioners.

Firstly, we recommend giving the European Parliament the right to initiate legislation, which is mostly in the hands of the EC (Article 17(2) Treaty o the European Union (TEU)). The Council's and the EP's role is, up to now, limited to inviting the EC to submit legislative proposals. However, when the EC refuses to submit a legislative proposal, it is obliged to provide a reason for the refusal. A direct initiative right would clearly strengthen the position of the EP and thus lead to a more equal distribution of power among the institutions. In her inaugural address and in her Political Guidelines EC President Ursula von der Leyen has already proposed that the EP should be able to force the EC to submit a legislative proposal, when acting with a majority of its MEP. Von der Leyen's proposal is very welcome and will indeed strengthen the collaboration between the EC and the EP. However, in the long run, a full right of initiative for the EP, when acting by a majority of the MEPs, would be desirable, to give the EP more independence from the EC. As a result, not only the chosen representatives of the EC, but also the elected representatives of the EU citizens would have the possibility to propose new and adapt existing legislation. As this would require an amendment of the treaties, we are aware that this idea can only be considered as a long-term goal.

The Common Foreign and Security Policy is one of the last policy areas where the EP's action is rather limited, as legislative acts are excluded. The EUCO and the Council of the European Union that must act – in the majority of the cases – unanimously (Article 24 TEU) are the main actors in CFSP. The member states and the High Representative of the Union for Foreign

Affairs and Security Policy (HRVP) – who as well chairs the Foreign Affairs Council – put the CFSP into effect (Article 26 TEU). We understand the importance of this policy area for the member states. However, following the logic of an "ever closer union" (Preamble, Treaty of Rome and following EC/EU treaties), we argue that it is essential not to exempt this policy area from integration - while giving the biggest say to the head of government and states, but to hear and indeed consider the position of the EP as well. The HRVR shall regularly consult the EP and inform it of how CSFP evolves (Article 26 TEU), and the EP can make recommendations to the HRVP. In addition, the EP must be immediately and fully informed at all stages of EU agreements concluded as well in the area of CFSP (Article 218 (10)). We think that it is important that there is full compliance with the above-cited articles. It is essential that the HPVP and the EUCO take the recommendations of the EP duly into consideration. Therefore, we propose, as our second point, a simple monitoring mechanism to oversee the recommendations made by the EP and the final steps taken by the responsible actors. This would lead to an increase in democratic scrutiny over the CFSP and further strengthen the role of the EP. Until now, the EP only has indirect control over CFSP through its budgetary supervision. A simple monitoring mechanism is in line with the Lisbon Treaty, that is why this proposal could be easily implemented.

Lastly, we argue that the EP must have the right of a constructive vote of no confidence against the College of Commissioners or single Commissioners. Currently, EU law requires a two-thirds majority vote in the EP to carry out a motion of censure that dismisses the Commission as a body (Article 234 TFEU). In this case, the College of Commissioners remains in office until they are replaced, which might generate political distrust and uncertainties. A constructive vote of no confidence could be an effective mechanism to ensure that the EU institutions do not encounter any severe divergences that could jeopardise the functioning of the EU as a whole. We are convinced that this would be a better option for the EP since it assures that a suitable replacement for the College would already be approved beforehand.

2.2 Recommendations II: EP Elections

The euphoria about the high turn-out of the last European elections was followed by disappointment of an only partly transparent system which led to the appointment of Ursula von der Leyen as President of the Commission. We demand clear rules in the appointment process, making it less prone to opaque back-room deals. To overcome the second-order

characterisation of the EP elections and to foster the EP's role in the election procedure of the EC's President against the EUCO and Commission, we recommend the following:

1) The reform of the elections of the President of the EC.
2) The establishment of transnational lists for the EP elections.

Boucher et al. (2019) have already pointed out that a "fully fledged Spitzenkandidaten system whereby the EP gets to choose the Commission President even when it cannot muster a firm majority for any single candidate is unlikely to be feasible" (2019: 6). That is why we recommend a two-step system giving the EP, more precisely the EP elections, the primacy over the EUCO's opinion (Article 17(7) TEU). In the two-step system, European political groups identify a leader who they already present prior to European elections as a lead candidate and try to find a firm parliamentary majority for their candidates after the election. Not the political group that relatively secures the most votes – which would clearly favour the bigger groups –, but the candidate who is able to secure a stable majority in Parliament would be the EP proposal for the next EU Commission President. This opens the possibility to build coalitions in the EP and would indeed reflect the outcome of the EP elections for the election of the Commission President. The EUCO would then nominate the identified person (Article 17(7) TEU). In case that no majority can be reached, and no other compromise can be found by the EP, the EUCO steps actively in and suggests another candidate who – ideally – has already run for elections, and thus is directly legitimised by the EU's citizens.

Setting binding rules for a clear two-step system will cause less frustration and confusion for citizens and experts following the debate and will democratically legitimise the intervention of the EUCO if no consensus can be found in the EP. This two-step system also puts additional pressure on the political groups in the EP to look for a suitable candidate that will have the backing of the majority in the Parliament *and* the EUCO if the EP wants their candidate to be nominated. This process would still be in line with the treaties and can be introduced by means of a simple interinstitutional agreement between the EP and the EUCO, as the backing of a common candidate of the EP beforehand can still be interpreted that the EUCO takes "into account the elections to the European Parliament" (Art 17(7) TEU).

For members of the EUCO, executive experience – as head of state or government, minister or Commissioner in the EC – and multilingualism are seen as essential prerequisites (Rappold 2019). The EP groups should bear these prerequisites in mind when selecting their candidates, as the Commission President needs to have a stable working basis with the EUCO and the

Parliament. Making the selection of the lead candidates of each group more transparent, instead of nominating the candidate behind closed doors, will make it more difficult for the EUCO to reject the forwarded candidate. Fixing and applying the two-step procedure and considering it as set rules at the European elections 2024 will help the EU to get out of its "work in progress" approach applied after the 2019 elections. Giving the citizens the possibility to elect their President, and thus the orientation of its next *EU government*, directly, will give the European elections – and the Parliament – more weight.

The above-mentioned claim, a European Commission President being elected through the *Spitzenkandidaten* system at the European Parliamentary elections, only appears as a reasonable goal, if all eligible voters can actually vote for that given person. However, this is not the case in the current voting system. Until now, voters can only cast their vote for their own national representatives. That is why we demand to give every voter two votes for the next European election in 2024: one for a national list, and one for a transnational list. A European lead candidate can only be a real European *Spitzenkandidat* if every eligible voter can give his/her vote to the preferred lead candidate directly, being on the top of the transnational lists of the different groups in the EP. Until now, European elections rather represent 27 parallel national campaigns than a single common one. It is the national parties that nominate the candidates, and that chose different topics – influenced by national challenges – for their national election campaign for the European elections. And it is the national parties that the members of Parliament are loyal to because they decide about their possible re-nomination. These are the reasons why European elections are called "second order elections" (Reif/ Schmitt 1980).

Transnational lists, in contrast, would pave the way for the establishment of a real European common political space. In addition, a transnational campaign, followed by public debates with lead candidates, will make the election process more visible and tangible for the wider electorate. The political groups, whose role in the European elections are until now very limited, would be given a chance to run a real trans-European electoral campaign, promoting the same topics in different member states which would help them to sharpen their visions for the EU. Transnational lists will help the political groups in the EP to transform into genuinely transnational political entities and will help to ease the pressure that Members of the EP currently feel – to represent a position of their national party rather than of their political group in the EP. Members of the EP elected through a transnational list would be

accountable to all EU citizens and search for solutions and future visions that are suitable for their whole electorate. In a genuine European campaign, candidate would be less restrained by national interests, which would revive EU politics as such. Most importantly, this change will strengthen the EP's core task: To represent the interest of the EU's citizens and not of its member states.

2.3 Recommendations III: Transparency

We are convinced that a more democratic EU requires more transparent institutions and processes. The link between transparency and legitimacy in this context is essential: Transparent decisions, i.e. clear procedures and interests involved, are easier for the citizens to understand and, therefore, considered more legitimate than deals made behind closed door. We certainly acknowledge that the EU has already developed different tools to enhance transparency, such as the access to documents and public consultations. Nevertheless, some areas can be further improved to serve EU citizens better and achieve the institution's goal of having its decisions "be taken as openly and as closely as possible to the citizen" (TEU Article 10 (3)).

That is why, besides the reform of the election of the Commission President, we suggest further institutional reforms to make EU politics more transparent:

1)   Clarity regarding the Council's legislative decision-making process.
2)   A more transparent voting system in the Council.
3)   Information provided on the candidates and the election of the European Council President.
4)   Regulation of lobbying.
5)   Disclosure of party funding.

Firstly, the Council of the European Union would benefit from clearer information regarding its responsibilities and activities, as the current perception of a lack of transparency is deteriorating the institution's accountability. Its legislative responsibilities should be more evident to the general public both concerning the nature of these responsibilities and the decision-making process behind them. There is a need to provide more access to information on the Council's procedures and the work of its preparatory bodies in order to fill the gaps in the public comprehension of the institution's functioning (Panizza 2019).

Second, we propose that the Council should have the qualified majority as the only voting system. Currently, voting in the Council of the EU takes place in three different forms: simple majority, qualified majority, and unanimity. Each type of voting is applied based on the nature of the respective issue. The main problem with unanimity is that relevant decisions, such as foreign policy matters or certain provisions in the field of justice and home affairs or social security, can be hindered if only one country disagrees. Although the regular decision-making process in the EUCO is also based on consensus, we believe that a change to a qualified majority voting system is more suitable for the Council due to its role in day-to-day policy-making. This change would assure that minorities have their voices heard during the negotiations in the Council, but do not allow them to block significant decisions unless they represent at least 35% of the EU population. Therefore, we believe that having only qualified majority voting could enhance the functioning of the Council and the EU as a whole. Moreover, changes in the Council's voting system should be accompanied by reforms that readjust the inter-institutional balance of power: Thus, we argue that the role of the EP should be strengthened in all policy fields (including CFSP), as mentioned in our first part. In this way, the EU could increase its legitimacy giving more power to its only directly elected institution. However, we understand this proposition might be difficult to be attained as unanimity is needed for the change. Given the vitality of topics decided in the Council, some member states are likely to oppose to changes in the current voting system.

Third, the EUCO presidential elections remain an opaque procedure. With the entry into force of the Treaty of Lisbon in 2009, the President of the EUCO became a full-time position, signalising the crucial role of this position in EU politics. Nonetheless, the election of the President remains a foggy procedure. The President of the EUCO is elected by the EUCO by a qualified majority (TEU Article 15(5)), but the possible candidates for this position and their political agendas are usually unknown. Providing more information on potential candidates and how the final decision is taken could enhance the citizen's understanding of the current state of EU politics and in which direction the organisation is heading. The transparency of this procedure could also be achieved after the election, with the EUCO justifying the decision and the newly elected President presenting the programme for their mandate publicly.

A fourth relevant topic concerns the regulation of lobbying in the EU. The creation of the transparency register was an important step to promote better control of lobbying activities in the EU institutions. However, the voluntary nature of the platform for information

disclosure has been harshly criticised by European civil society groups that support the creation of a mandatory transparency register (ALTER-EU 2016; Pearson 2019). Similarly, we encourage the adoption of a mandatory lobby register to improve transparency and accountability in all EU institutions. While new improvements have already been developed in some cases, such as the adoption of a new transparency rule on MEP meetings (De la Baume 2019), we argue that there should be more homogeneous procedures for lobby transparency in EU institutions. It is also noteworthy that EU member countries do not have homogenous regulation on lobbying, which makes lobby control more challenging.

Finally, another crucial element for transparency is the disclosure of financial information related to the funding of Europarties. In contrast to the relatively strict rules on financial transparency in EU institutions, many grey areas still exist regarding EU party funding. In 2014, the European Parliament and the Council adopted a regulation (1141/ 2014) laying down new rules for the funding of EU political parties, including, among others, funding conditions, award and distribution of funding, donations and contributions, and financing of campaigns for elections to the EP (Nielsen 2018). However, after several cases showed inappropriate use of funding, the Commission proposed a revision of the regulation aiming at possible loopholes (Panizza 2019). Even though the revision promotes essential changes, we suggest that the EU regulation of party funding should be more transparent regarding donations and should reduce the possibility of loopholes in the regulation. Furthermore, better control mechanisms would undoubtedly be beneficial for EU political parties, as they could enhance people's trust in EU institutions.

2.4 Recommendations IV: Information on the EU

Although the latest Eurobarometer surveys showed that EU citizens today indeed feel more European than in the past decades (EU/ Standard Eurobarometer 92 – Autumn 2019), much can be done to further strengthen the European demos. Before diving deeper into the topic, we would like to share a definition of "European demos":

> […] a demos is a group of people the vast majority of which feels sufficiently attached to each other to be willing to engage in democratic discourse and binding decision-making. […] At the same time, however, a demos is more than a mere aggregation of individuals. There has to be a sense of community, a we-feeling, however 'thinly' expressed, for democracy to have any meaning" (Cedermann 2001, 144f.).

In order to enhance the development of a European demos and to provide information about the EU to the EU citizens, we consider two aspects essential:

1) An EU recommendation to strengthen education on the EU at schools and other educational institutions.

2) The establishment of a common European public news medium.

Firstly, concerning compulsory teaching on EU studies in schools and other educational institutions in EU member states, we consider it essential that every European citizen has a basic knowledge of the EU, its history and its actual functioning. Although education policies are core competences of EU member states, we suggest that the EU proposes a recommendation for its member states defining minimum standards that every student in the EU should have acquired, in order to build a real European demos. We are convinced that having an awareness of a common history and common future and, at best, the same knowledge about the current challenges, will strengthen the aforementioned "we-feeling" and the sense of solidarity among young Europeans.

The young Europeans of today will be the future leaders of tomorrow. Assuring their community-feeling today will make it easier for the EU in the future to overcome differences of opinion. With the mutual recognition of diplomas and increased mobility for pupils and students, big milestones in educational policy have already been reached over the last decades. Introducing a common minimum standard of knowledge on the EU in national curricula, especially in secondary schools, a claim that has already existed for many years (de Witte 1987: 137), should be relatively easy to achieve compared to prior accomplishments.

Secondly, we consider an independent European public news medium essential, in order to establish a real European public space. The main task of the medium would be to represent a common European stance on current challenges, in addition to the 27 different national coverages and should be published in the respective national language of the member state. The national portfolios should not be undermined through this common approach but rather be supplemented by a bigger European picture. That is why we propose the collaboration with national media. Furthermore, this medium could make national challenges – only faced by a single country or a group of countries – more understandable and their backgrounds more tangible for fellow Europeans. It would help to stop seeing European topics only through the national lens but complementing it through a truly European one.

By presenting evidence-based and objective information, the common European news medium would also support the fight against fake news and help to counter misinformation. Some similar media projects, such as *Euractiv* or *Politico*, do already exist, but unfortunately, they are only known and consulted by a small group – usually experts and elites working in the field. In the long run, it would be desirable that this European medium – available in the respective national language of EU member states – is available as a printed newspaper. This would give every interested citizen the possibility to access information, instead of making information about the EU only available for people who are fluent in English.

To sum up, a common European public news medium in the respective national language and sufficient information on the EU provided at every school would strengthen the community feeling of the citizens and would therefore help in building a stronger European Demos. And thus, it would bring us closer towards building a *real* European democracy.

3   Concluding Remarks

This paper identified crucial reforms that the EU should undertake to foster its legitimate and democratic character. The recommendations focused on different measures that concern not only the direct public participation in the institutions but also the public's perception regarding the EU institutions and their functioning.

The recommendations have two aspects in common. First, they are preoccupied with the general provision of information about the EU and the functioning of its institutions, and clear communication strategy to increase the transparency of and knowledge about EU politics. Second, they advocate for more transnational powers, including the establishment of translational lists in the EP elections and for a better balance of powers of the institutions, especially in favour of the EP. In this sense, we consider it essential that the EU institutions work in line with and are backed by the interests of European citizens. Finally, we claim that the EU can only be as strong as its citizens and that citizens can only be strong if all relevant information is accessible and understandable for them.

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The DAFEUS project has four objectives. It enhances the debate on the future development of the EU, fosters public knowledge and awareness of EU politics, promotes EU studies in new research areas, and strengthens the exchange between both academics and practitioners as well as civil society and the general public.

By comparing the EU to federally organised countries, the project will shed new light on strengths and deficits of the EU's political system. On this basis, DAFEUS develops concrete recommendations how to make the EU and its federal elements more effective, more efficient and more democratic.

DAFEUS will focus on three key topics:
1) Institutions and decision-making in federal systems
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