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Direct democracy in the European Union

Direct democracy is put forward by many scholars, commentators and even some politicians as the solution to the EU's accountability crisis. However, efforts to democratize the Union are bound to institutional limitations. The trade off between democracy and integration was the main dilemma of the EU in the past. The introduction of elements of direct democracy offers a solution to this problem, despite ambivalent effects of referendums on European integration. The paper discusses one of the major innovations of the Treaty of Lisbon in that respect - the European Citizens' Initiative (ECI).

Introduction

After a decade of expansion and institutional reform, the current economic and political crisis reveals one of the European Union's major inherent problems: the widening gap between decision-makers and the public. This leads directly to the paradox that the EU is facing in terms of its democratic accountability: On the one hand, internal EU reform with the Treaty of Lisbon aims at making institutions more democratic and efficient. On the other hand, political apathy, euroscepticism and nationalism are on the rise. Several indicators underline this statement: While the voter turnout of the European elections has been steadily declining from 63 % in 1979 to 43 % in 2009 (Figure 1), anti-European parties like Jobbik in Hungary or the True Finns in Finland not only gain momentum but stabilize their position – both in the European and national parliaments.

European integration has primarily been an elite-driven process for almost five decades. Today, new forms of governance involving the public sphere seem to change the face of European decision making. Although referendums have led to a stalemate in EU reform in 2005, the prospect of direct democracy in the EU is far from being discarded. From a scientific point of view, EU referendums provide a unique opportunity to study direct democracy comparatively. No other issue generated as many referendums cross-nationally as the process of European integration. Against this backdrop, the paper discusses the effect of referenda held on European issues since the Treaty of Maastricht and analyzes the chances of bottom-up Europeanization within the system of multi-level politics by direct democratic procedures.

Starting point of the analysis is the ongoing discussion on the EU's democratic deficit. There has been a long theoretical debate on legitimacy and democratic accountability in the political system of the EU (Jensen 2009). This article takes an actor-centred approach on the issue of the democratic deficit - before and after the Treaty of Lisbon. It focuses on the argument that elements of direct democracy could lead out of the democracy dilemma in the EU and discusses the prospect of the European Citizens' Initiative (ECI). Despite the 'destructive' potential of direct democracy on the EU policy process, 'constructive' popular initiatives could bridge the gap between European institutions and an increasingly indifferent and even hostile public environment towards European politics.

The democratic deficit revisited

The so-called democratic deficit of the European institutions has been debated in academic and public discourse since the 1970s. As there is no single meaning of the term 'democratic deficit', definitions are as varied "as the nationality, intellectual positions and preferred solutions of the scholars or commentators who write on the subject" (Follesdal/Hix 2005: 4). The literature on the democratic deficit is very heterogeneous: there is no consensus on whether a democratic deficit even exists and if so, on how to act on it.

One of the leading figures in the debate, Giandomenico Majone (2005: 23) points to an apparent problem: While membership in the EU is conditional on the acceptance by each member state of democratic principles based on the article 6 of the Treaty on European Union (now article 2 TEU) and defined in the Copenhagen Criteria, neither the European Communities nor the European Union fully satisfied the criteria of representative democracy they impose in their members. The persistent growth of European competences, combined with majority voting in the Council introduced by the Single European Act in 1986, has given rise to increasingly vocal complaints of a serious lack of democracy in the EU. According to some commentators this democratic deficit is paradoxical – if the EU were a state it could not be a member of the Union. The issue of double standards became most obvious in the Eastern Enlargement: How can the European Union impose on the countries of Central and Eastern Europe conditions which itself is deemed unable to satisfy?

The democratic deficit has been called a 'structural democratic deficit', in that it is inherent in the construction of the European Union as a supranational union *sui generis*. The Union as it stands today is more than a pure intergovernmental organization but less than a true federal state. With reference to the EU glossary, "the democratic deficit is a concept invoked principally in the argument that the European Union and its various bodies suffer from a lack of democracy and seem inaccessible to the ordinary citizen because their method of operating is so complex".¹ Therefore, as an analytical starting point, it is crucial to take a look at the institutional interplay between EU's main political bodies - namely the Council, the Commission and the Parliament.

At the centre of EU's institutional set-up, the Council of the European Union combines legislative and governmental powers. For a long time, the Council kept most of its internal negotiations secret when acting as a lawmaker. This goes along with the argument that European integration means an increase and concentration of intransparent executive power and a weakening in national parliamentary control. The EU is designed in a way that policy-making at the European level is dominated by executive actors: national ministers in the Council and government appointees in the European Commission. Those agents are much more independent from parliamentary scrutiny and control than are national cabinet ministers and bureaucrats in the domestic policy-making-process.

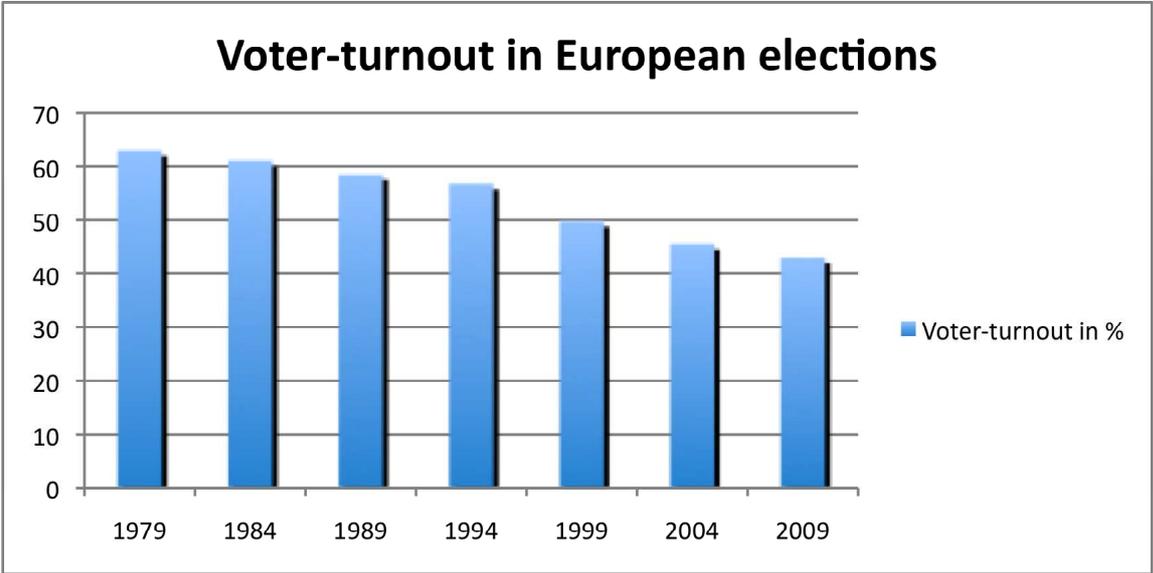
The European Commission as the main EU executive body and initiator of legislation is at the core of the discussions on the alleged democratic deficit. The Commission is neither a government nor a bureaucracy, and the 27 Commissioners are appointed individually by the national states. Hence, the key player in the EU system is lacking electoral oversight by a

¹ http://europa.eu/legislation_summaries/glossary/democratic_deficit_en.htm

constituency. The legitimacy of the technocrats in the Commission mainly comes from the vote of approval that is required from the European Parliament, accompanied by the Parliament's power to dismiss the entire body.

The European Parliament itself has been addressed by critics of the democratic accountability of the European Union. Most analysts of the democratic deficit argue that the European Parliament is too weak in contrast to the executive powers in the EU decision-making-process. With the reforms of the EU Treaties throughout the 1990s, the powers of the European Parliament have been steadily increased. However, the European Parliament is still the weakest actor in the legislative process. This is also due to the relatively low turnout in elections for the European Parliament (see Figure 1). There are no real 'European elections' and parties and the media treat them as mid-term or even 'second order' national contests, where national issues tend to dominate the campaign (Weiler et al 1995).

Figure 1



The low voter turnout has dramatic repercussions for the democratic accountability of the Union: "The absence of a 'European' element in national and European elections means that EU citizens preferences on issues on the EU policy agenda at best only have an indirect influence on EU policy outcomes" (Follesdal/Hix 2005: 6). As there is neither a coherent electorate nor a direct accountable EU government compared to the national level, it is hard for citizens to understand the EU and to perceive it as a democratic system writ large. As a consequence, one could argue, European elections don't have a direct influence on decisions and policy directions of EU leaders. So is it enough to focus on the European Parliament when it comes to enhance the Union's democratic accountability?

According to Beck/Grande (2007: 233-236), the past strategies to democratize the EU were not sufficient. They were based on the principle of political representation through the direct election of the European Parliament and the extension of its powers - accompanied by different forms of representation via functionally (like the European Economic and Social Committee) or territorially (like the Council or the Committee of the Regions) organised institutions. The authors conclude that the European Parliament's influence has increased

over the years - its democratic legitimacy has not: "As the participation in European Elections has made clear, the European Parliament still lacks the recognition of its citizens as a site of legitimate representation of *their* political goals and interests. It is seen as part of the Brussels power apparatus and not as an effective instrument of citizen control. And this perception is completely correct" (Beck/Grande 2007: 235).

This is due to the lack of public interest and information provided on activities of Members of the European Parliament, and the distance from the citizens they represent. The low voter turnout in European elections is also an expression of the weakness of the Parliament's powers. Why should the electorate vote for a European Parliament that cannot even elect and dismiss an executive government? The limits of the so-called parliamentarization strategy can be found in the EU's institutional peculiarities: the European Parliament could control only part of the whole decision-making process, due to the distribution of power among several independent levels of decision-making. Even a European Parliament equipped with the maximum possible competencies would be made responsible for political decisions that it could control only to a limited extent (Beck/Grande 2007: 235).

European elections are only one indicator of this development. Majone (2005: 40) points to a big trade-off between democracy and integration in the process of European integration: "Europe's democratic deficit – in the literal meaning of an underdevelopment of democratic institutions and practices – is the unavoidable consequence of a process with which economic and political integration not only move at different speeds but also follow different principles, supranationalism in one case, intergovernmentalism in the other". He claims that the democratic deficit is the price we pay for pursuing regional economic integration while preserving the core of national sovereignty – in taxation, social security, foreign policy and defence. The tensions between negative and positive integration in the absence of a European demos intensify the democracy dilemma. And, paradoxically, this dual strategy has been backed by the great majority of European voters and by their political leaders, which also means that the democratic deficit is democratically justified.

One way out of this dilemma would be to create a federal state. Majone himself is pessimistic about full-fledged federalism in the EU: "Even assuming a growing demand for greater political union as a result of deepening economic and monetary integration, or of external threats and challenges, there is not reason to think that the political and constitutional arrangements of the future will ever mirror the institutional setup of a federation state" (Majone 2005: 41). He concludes that as long as nation states are the arenas for democracy and not the European level, the lack of democracy will remain endemic and could only be reduced by decreasing the volume of tasks delegated to the supranational institutions. He remained fairly sceptic about the Constitutional Treaty – now transformed into the Treaty of Lisbon – as it attempted to increase the legitimacy of the integration process by giving a larger role to the national parliaments and maintained the national veto on all matters close to the core of national sovereignty. However, this view neglects the inherent dynamics of the reform treaty. It is true that arguments about Europe's democratic deficit cannot be disconnected from arguments about the finalité of the Union (Majone 2005: 40). The Treaty of Lisbon - representing a compromise between federalist and intergovernmental approaches - does not rule out the federalist vision. It is, in fact, a further step towards a real political union.

The Lisbon Treaty aimed to reinforce democracy in the EU and its capacity to promote the interests of its citizens. It modified elements which have been mentioned in relation to the democratic deficit earlier. First, it increased the powers of the European Parliament: the co-decision procedure with the Council of the EU is extended to new areas of policy, thereby increasing the Parliament's ability to shape and propose legislation. Second, the Lisbon Treaty requires the Council to meet in public at all legislative procedural meetings (that include debate and voting) for transparency reasons. Third, the Treaty expands the role of Member States' parliaments in the legislative processes of EU institutions as it ensures that national parliaments receive draft legislation earlier from the Commission. Furthermore, the new legal text gives national parliaments the right to send any proposal back to the Commission for reconsideration if it is deemed to be incompatible with the principle of subsidiarity as it is contained in Article 5 Paragraph 3 of the Treaty on European Union (TEU).

The Lisbon Treaty aimed to make the EU more effective, democratic and transparent. It has definitely raised the bar in terms of democratic accountability as it has strengthened both the national parliaments and the European Parliament. But is it going to bring the Union closer to its citizens? Is it able to democratize the Union?

A key to answer this question might be one of the Treaty's major innovations – the European Citizen's Initiative (ECI). Before analyzing the prospect and chances of the ECI to overcome the democratic deficit we will analyze the effect of direct democratic procedures in recent EU history.

Direct democracy in Europe - a double-edged sword?

How does direct democracy affect European integration? Taking into account all referendums on European questions since the 1970s from European countries concerning the EU, there is no simple answer to this question. Approximately 50 referendums have been held all across Europe, with most of them being top-down initiated referendums on accession and treaty reform.²

In the 1990s, direct democratic procedures became part of ratifying EU reform treaties in several countries. For instance, the Treaty of Maastricht was accepted by voters in Ireland and France but rejected in Denmark in 1992. In a second referendum on the same question in 1993, the Danes voted for the Treaty of Maastricht.³ This procedure of top-down initiated 'second rounds' was reiterated in Ireland on the Treaty of Nice (2001 and 2002). In the midst of the biggest reform in EU's history, the referendums held in France and the Netherlands in 2005 put an end to the "Treaty establishing a Constitution for Europe" (henceforth Constitutional Treaty). Previously, 77 % of Spanish voters had voted in favour of the treaty in a referendum on 20 February 2005 (turnout of 42 %). The treaty was then rejected by 55 % of French voters on 29 May 2005 (turnout of 69 %) and by 62 % of Dutch voters on 1 June 2005 (turnout 63 %). Originally, ten countries had announced that they would hold referendums on the Constitutional Treaty, but in some EU countries including Poland, UK, Ireland and Portugal these referendums were cancelled. Only Luxembourg decided to go

² <http://www.mehr-demokratie.de/5986.html>

³ A positive referendum was held in Denmark on the Treaty of Amsterdam in 1998.

ahead with its referendum on 10 July 2005 in which a majority of 56.5 % of voters approved the Constitutional Treaty (turnout 88 %).

In the case of the Constitutional Treaty, direct democracy had a devastating effect on EU policy reform as the ratification process for the treaty was halted whilst the EU was facing an institutional crisis after the 'big bang enlargement' in 2004. Yet, out of the "reflection phase" following to the negative votes in France and the Netherlands, a slightly altered version of the original reform treaty emerged. The Treaty of Lisbon was signed under the Portuguese presidency in December 2007. In most parts identical to the Constitutional Treaty, the new treaty was not subject to referendums in most EU members. However, Irish voters rejected the Lisbon Treaty in 2008 – only to accept it in yet another voting in 2009. The treaty was ratified in every EU member state and came into force in December 2009 - a historical step towards an 'ever closer union'.

Even more referendums than on constitutional issues have been held on the question of whether a country wants to join the EU. In Norway (1972, 1994), Greenland (1982) and Switzerland (2001) citizens decided against EU membership. On the contrary, EFTA-members Austria, Finland and Sweden voted for EU accession in 1994. Referendums were also initiated on further EU integration of a country, as for instance on the introduction of the Euro in Denmark, which was denied by a referendum in 2000.

The eight Central and Eastern European States (CEECs) and Malta held referendums before joining the EU.⁴ The (obligatory) referendums in the CEECs were all initiated by the national parliaments. The results were varying to a great extent: While in Poland, Lithuania, Slovakia, Slovenia, Czech Republic and Hungary at least 75 % of the votes were in favour of EU accession, a lower outcome was registered in the Baltic states of Estonia and Latvia (Table 1).

At the time of EU accession, there were strong differences in the frequency of referendums, with some countries opting for significant use of direct democratic procedures after the collapse of communist dictatorships (de Waele, 2005: 10). Given the great variety of different procedural rules it is hard to give generalized statements about their use or abuse. The mere existence of elements of direct democracy, however, could contribute to foster the political process between citizens and state actors to prevent the isolation of new or old political elites. It should also be noted, however, that only in some cases the institutionalization of grassroots democratic processes in Eastern Europe was preceded by a developed political culture.

In general, EU referendums have brought the Central and Eastern European governments a political advantage. The accession to Western organizations was a priority for the fledgling democracies and usually had strong support in the population. The EU Eastern enlargement was a decision of historic importance and the referendum in the wake of the "Return to Europe" discourse was also an important signal for both the public and the political elites. During the parallel enlargement of NATO comparatively few referendums were initiated on the accession to the military alliance in the affected countries.

⁴ In almost all post-communist constitutions of CEECs, direct democratic procedures were introduced. The Czech Republic was an exception, and adopted an ad hoc law for the EU referendum.

So what trends could be detected in the EU polls in the CEECs? First, it should be noted that these referendums were not very politicized. EU accession was largely in the candidate countries' interest as there were no real alternatives to be considered. Domestic political veto players were scarce, mostly because even the parliamentary oppositions represented a pro-European course. Second, the referendums in the CEECs have been timed to bring a domino effect in motion. In chronological order, the first referendums were held in countries, whose populations were more EU-friendly (Slovenia, Hungary). It quickly became obvious that the electorate should be mobilized in a transnational spill-over-process. The low turnout in Hungary (under 50%) was a first warning signal – given the fact that in Slovakia, Poland and Latvia at least 50% turnout for a valid vote had to be achieved.

As a result, all the referendums held were in favour of EU accession, but with strong country-specific deviations. The referendums are especially revealing considering the amount of yes-votes relative to population. Here, clear discrepancies are evident: Slovenia leads the list with about 54% of the yes-votes in relation to the electorate. Hungary is at the end of the list with about 38%. In the no-votes as a percentage of the electorate Latvia (23%) is leading, followed by Estonia (21%). In single digits and therefore marginal remained the opponents of EU membership in Lithuania, Slovenia and Hungary, while Slovakia has the lowest percentage (3%). The average turnout was at 59%, slightly below the average of all referendums held on European issues in the last 40 years (66.7%).

Table 1: EU-Referendums in CEECs

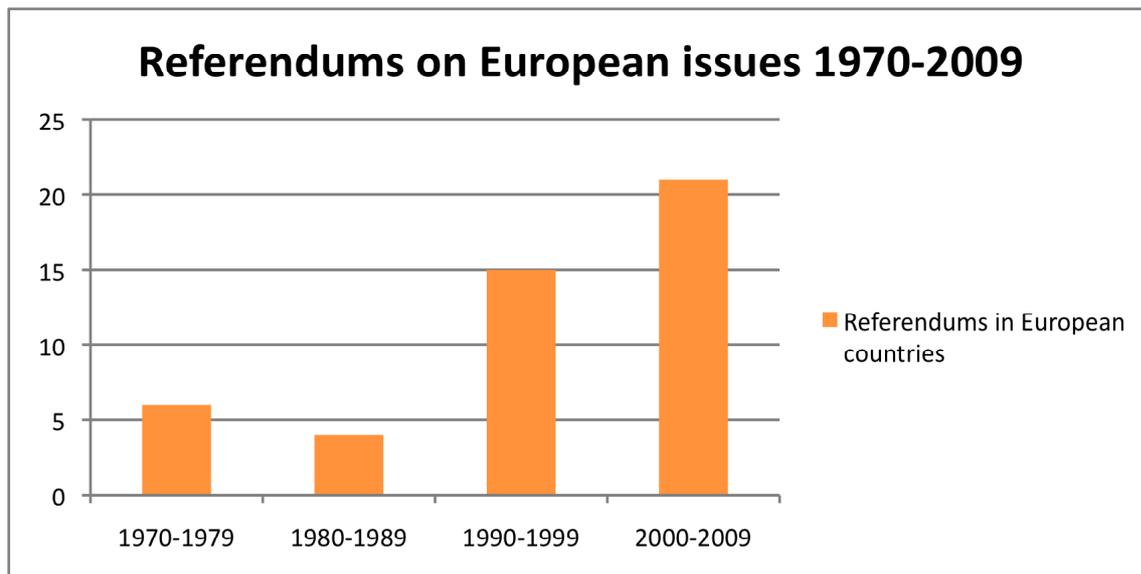
Country	Date	Yes-votes	Voter-turnout	Yes-votes/ population	No-votes/ population
Slovenia	23.03.2003	89,6 %	60,3%	54 %	6 %
Hungary	12.04.2003	83,8 %	45,6 %	38 %	7 %
Lithuania	11.05.2003	91,1 %	63,4 %	58 %	6 %
Slovakia	17.05.2003	92,5 %	52,2 %	48 %	3 %
Poland	08.06.2003	77,5 %	58,9 %	46 %	13 %
Czech Republic	17.06.2003	77,3 %	55,2 %	43 %	12 %
Estonia	14.09.2003	66,8 %	64 %	43 %	21 %
Latvia	20.09.2003	67 %	72,5 %	49 %	23 %
average		80,7 %	59 %	47 %	11 %

Direct democratic procedures have not always proved to be positive on EU expansion and integration as was shown by the example of Switzerland, Norway and Denmark or the recent referendums on the reform of the EU treaties in France, the Netherlands and Ireland.

Conversely, in the wake of EU enlargement the majority of Central and Eastern European voters expressed their wish for EU integration, which marked the final step to end the historical division of the European continent. Direct democracy may thus not be described as a hindrance to European integration per se, but has become a dominant factor on European

politics. Figure 2 illustrates the growing use of direct democratic instruments in the process of European integration.

Figure 2



Given the empirical data presented above, we can now discuss direct democratic procedures as a recipe against the democratic deficit by taking into account voters, political elites and policy outcomes.

In the literature on voting behaviour, there are two competing approaches: The 'attitude school' sees referendum outcomes as a reflection of reasoned decisions of voters on the future of European integration. The 'second order election school' claims they are rather plebiscites on the performance of national governments (Hobolt 2006: 155). In addition, referendums are often used strategically by governments to achieve a domestic political gain. Hug (2002: 65) argues that punishment strategies of voters against political leaders ('second order voting') are more likely to occur when governments employ referendums in an attempt to shore up support and when the outcome is not legally binding.

The role of political elites should therefore not be neglected as they may use referendums for strategic manipulation. Three specific reasons why governments decide to initiate referendums underline this: First, governments may use referendums to stabilize their position by calling for a referendum they feel relatively certain will pass. This was the case in France: the incumbent presidents tried to consolidate their power by top-down initiated referendums on enlargement of the Community in 1972, the Maastricht Treaty in 1992 and the Constitutional Treaty in 2005. The latter example shows the dangers inherent of such a strategy as it turned out to be a major political failure for President Chirac. Second, referendums may be used to unite diverging interests within the government as it was the case in the British referendum on the country's continued membership in the European Economic Community. The controversy within the ruling Labour party was finally resolved through a post-legislative referendum held on 5 June 1975. The electorate expressed

significant support for EEC membership, with 67 % in favour on a 65 % turnout.⁵ Third, referendums are sometimes used to pass treaties that would otherwise not be ratified as was the case in Denmark on the Single European Act in 1986.

Another issue discussed in the literature on voting behaviour is the question whether ordinary citizens are sufficiently competent to vote directly on EU treaties and policies. Given the complexity of European affairs, one might ask if voters have the adequate knowledge and to what extent referendums can be instrumentalized by politicians or lobby organizations. As some of the findings indicate, voters may have little knowledge about European politics, but they can still make informed choices by relying on heuristic shortcuts, such as elite endorsements and campaign cues (Hobolt 2006: 155).

Direct democracy has already had direct effect on policy outcomes in the EU: it has decided accession to the Union, membership in the Eurozone and treaty ratifications. These direct effects were either positive or negative for deeper integration, depending on a number of domestic and international factors. Much more scrutiny must be laid on indirect effects of direct democratic procedures. Some commentators suggest that referendums tend to produce 'conservative' policy outcomes and "more referendums will lead to more cautious (less integrationist) treaties owing to the presence of additional veto players" (Hobolt 2006: 160).

Against this background, we need to ask whether direct democracy is the adequate answer to the EU's problems. It represents a radical approach to rethink Europe beyond the existing representative institutions. In the view of the Beck and Grande the only way out of the democratic deficit is through the introduction of direct forms of participation, but not in a Rousseauian way of direct democracy: "Rather, it is a matter of creating independent possibilities of articulation and intervention for the citizens that complement existing institutions of parliamentary democracy. The most important means to this end are *Europe-wide* referendums." (Beck/Grande 2007: 235).

Apparently, this is not going to happen in the near future. Traditions and practices of direct democracy vary to a great extent between member states.⁶ Therefore, Europe-wide referendums could only be achieved through incremental introduction of direct democratic elements in the long run. Nonetheless, democracy in Europe has to be conceptualized beyond the nation state. Only new ideas and mechanisms of citizen participation will lead out of the self imposed dilemmas of the democratic deficit in the EU.

Ways out of the dilemma - the prospect of European Citizens' Initiatives

The following chapter discusses the prospect of direct democracy in the EU politics framework. The European Citizens' Initiative (ECI) - one of the major innovations of the Lisbon Treaty – serves as a focal point. The ECI allows citizens from April 2012 to call directly on the European Commission to propose a legal act within the framework of its powers.

⁵ In a similar vein, governments could decide to initiate referendums to isolate the issue of European integration from the domestic party political debate.

⁶ In the EU-15, only Austria, Denmark, Ireland, Italy and Spain have constitutional provisions for mandatory constitutional referendums (Hug 2002: 42). Most of the new constitutions in Central and Eastern Europe also contain provisions for referendums.

The ECI introduces a new form of public participation in European Union policy shaping. The legal basis of the ECI is set out in Article 11, Paragraph 4 of the Treaty on the European Union (TEU) and Article 24, paragraph 1 of the Treaty on the Functioning of the European Union (TFEU). According to Article 11 of the TEU, “not less than one million citizens who are nationals of a significant number of member states may take the initiative of inviting the European Commission, within the framework of its powers, to submit any appropriate proposal on matters where citizens consider that a legal act of the Union is required for the purpose of implementing the treaties”. It is highly disputed, however, if the Lisbon Treaty provides for a citizens’ initiative to demand an amendment or even a revision of the EU Treaties themselves (Maurer/ Vogel 2009: 21-22). As it falls well within the Commission's powers to trigger a treaty amendment, it is still unclear whether ECIs are put on the same footing in that respect.

On a proposal from the European Commission, the EP and the Council adopted a legislative act which defines the rules governing this new instrument.⁷ Regulation No. 211/2011 of 16 February 2011 on the citizens’ initiative determines the practical arrangements, conditions and procedure of the ECI. In accordance with the regulation, the first European Citizens’ Initiatives will not be launched before 1 April 2012.

The regulation stipulates that an ECI must have the backing of signatures from at least one quarter of member states (currently 7 out of 27 EU countries). Signatories must be eligible to vote in European Parliament elections in the country concerned.⁸ Smaller countries will need proportionately more signatories than bigger states, as the figure is calculated by multiplying the number of Members of the European Parliament elected the respective country by a factor of 750. This minimum number of statements ranges from 74.250 in Germany and 54.000 in France, UK and Italy to 3.750 in the smallest EU member Malta.

There are several steps to be taken for an ECI to be successful. First, a so-called “citizens’ committee” composed of at least 7 EU citizens who are resident in the same number of different member states must be set up to register an initiative. At the point of registration, the Commission will carry out a check to determine whether the proposed citizens’ initiative does meet the formal criteria and has to answer within two month. The Commission has to register the proposed initiative if the composition of the citizens’ committee follows the formal rules. Furthermore, according to the article 4 of the Regulation 211/2011 there are some conditions with regards to contents: Only those ECIs will be registered which do not manifestly fall outside the framework of the Commission’s powers to submit a proposal for a legal act of the Union for the purpose of implementing the Treaties, which are not manifestly abusive, frivolous or vexatious and which are not contrary to the values of the Union as set out in Article 2 TEU.

Once the Commission has registered the ECI, the organisers are free to continue collecting signatures (in paper form and/or electronically). The committee will have 12 months to collect the necessary statements of support, which have to be certified by the competent authorities in the respective member states. The Commission will then have 3 months to

⁷ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:065:0001:0022:EN:PDF>

⁸ In most countries, citizens over 18 years of age are eligible to vote in European elections, except Austria where it is 16 years since 2009.

examine the initiative and decide how to act on it. The organisers will also have the opportunity to present their initiative at a public hearing organised at the European Parliament. In its answer set out in a communication, the European Commission has to explain its conclusions on the initiative, what action it intends to take, if any, and its reasoning.

While the idea behind the ECI is to address a perceived democratic deficit in the European Union by helping citizens to participate directly in the legislative process, implementation issues could undermine the effectiveness, relevance and democratic potential of the new instrument. As the ECI is still not fully put into practice as major procedural points are currently under discussion. The European Commission wants to carry out an admissibility check once 300.000 signatures have been collected. The Council and the Parliament opted for lower admissibility criteria, while the Commission wanted to keep the initial hurdles high.

There are some practical points to be considered here: by softening the admissibility criteria, the ECI could become susceptible to fraud or be hijacked by extremist groups or powerful lobby organisations. Conversely, there is a much greater danger of making the ECI too bureaucratic and useless for its original purpose of introducing more direct democracy, as citizens would be discouraged from using it. This also affects some technical issues that remain to be resolved, including the organisation of public hearings with representatives of the EU institutions once organisers have successfully collected a million signatures. Furthermore, it is still not clear who has to pay the costs for the mechanism to verify signatures. Responsibility for doing so lies with member states, and some countries are insisting that signatories give their passport or ID numbers. Data protection and proper mechanisms would have to be introduced to prevent fraud and duplication of signatures.

Another critical point is the institutional response to successful ECIs. The European Commission is not obliged to translate the initiative into European law, as this depends on whether or not it has the intention, will and power to do so. As determined in article 10 of the Regulation 211/2011, the executive body of the European Union must decide within 3 months if it is going to propose a new law. Within that timeframe, the Commission sets out its legal and political conclusions on the citizens' initiative based on its prior examination in a communication.

Chances of the ECI as a mechanism of participatory democracy

Once put into practice, the ECI offers major chances to help overcome the democracy gap in the EU – in terms of accountability, legitimacy and participation. First, the ECI enables European citizens to access the EU policy process. The possibility of direct participation in EU legislation will increase the legitimacy and accountability of the Union in the view of its citizens. The initiation of an ECI is not necessarily elite-driven: even marginalized groups or minorities can start an initiative and engage in agenda-setting. The ECI will therefore enforce social cohesion and pluralism in the EU. This does not contradict the majority rule, as the initiative will have to pass majorities in further instances of the EU lawmaking process (or even supermajorities as in the European Parliament). Second, as ECIs are based on large numbers of signatures, they will foster transnational discourse, European social movements and civic engagement. The organisation of ECIs could establish long-term structural ties between European societies and even lead to a European public space. Third, the nature of

the ECI is solution-oriented and leads to constructive rather than destructive initiatives. This means that ECIs do not primarily result in punishments or sanctions for the rulers in a national context. The destructive potential of top-down initiated referendums on European integration could be seen in the objection of the Constitutional Treaty by French and Dutch voters in 2005, as discussed above. More recent examples are the Irish referendums on the Treaty of Lisbon (2008 and 2009). This case was especially illustrating as - after the initial objection of the Treaty - it was in the competence and power of authorities to ask the electorate the same question for a second time (with a positive outcome then). On the contrary, the ECI is not designed to achieve congruence between the government's position and the voters but to engage citizens constructively in the political process. The ECI goes beyond the simplistic fight for the yes or no of voters as initiators have to come up with a genuine idea to address an issue at the EU level.

The introduction of the ECI could be a first step on the path to direct democracy at the EU level. However, ECIs are not designed to confer effective decision-making power to the citizens of Europe as they are issue-oriented and non-binding to supranational institutions. The ECI in that respect represent a cautious way of introducing elements of direct democracy in EU governance. Under positive circumstances, it may well lead to significant initiatives which really influence the political process in Brussels. The prospect of the ECI may also cause greater demand for the participation of civil society, which is seen as an opportunity to legitimise European governance.

Given the risk that petitions are destined to fail on the grounds that they do not meet the high admissibility criteria, disillusionment with the EU might actually increase. If a high number of initiatives don't take the initial hurdles and the Commission refuses to act on the successful ones, it would gradually lead to even more frustration among EU citizens. A successful ECI must go beyond awareness-raising and lead to political decisions. To this end, the Commission and the member states are now in the driver's seat to guarantee that regulation becomes a useful tool for public participation. Fully implemented, the ECI will be the first step towards a cosmopolitan citizenship and transnational participatory democracy in Europe.

Conclusion

There are no simple answers to complex questions. It is doubtful, that strengthening direct democratic procedures will automatically lead to more integration. Even 'cosmopolitan realists' like Beck and Grande point to the ambivalent effects of direct democracy: "Any of such activation of citizenry can be a double edged sword. As the record of national referendums demonstrates, a referendum can function both as a source of political innovation and as a conservative, conserving element" (Beck/ Grande 2007: 237).

The history of European integration has shown that referendums can put necessary reform on hold as it was seen with the Constitutional Treaty. Direct democracy introduces new veto players in the decision-making process which can increase the risk of political disintegration. The threat of a popular veto is even higher facing an increasingly eurosceptic citizenship.

The European Union has throughout its history managed to reinvent itself. Democracy and integration do not exclude themselves in the supranational context, but overcoming the

democratic deficit is a gradual process. The ECI is a step in the right direction bringing Europe closer to its citizens. Best practices and institutional learning will help to develop this instrument of public participation further, a development which could eventually even lead to Europe-wide referendums.

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