



Flexible Transnational Electoral Constituencies:

A proposal to europeanise
EU elections

Abstract:

The dual health and economic emergency generated by the COVID-19 pandemic and the first EU response have created unprecedented possibilities for reinvigorating European democracy. On the one hand, there is the opportunity to address the EU's longstanding problem of 'democratic deficit', which is no longer compatible with the quantum leap in the EU integration process that the emergency has made clear is urgently needed. On the other hand, the response is the premise for the EU to become a laboratory addressing the diffused crisis of representative liberal democracy that is also affecting Member States. This paper advances a proposal to reform the system used to elect the European Parliament, so that all European voters can join an EU-wide constituency, rewarding the parties and candidates whose votes are more evenly distributed across Member States. Temporary adjustments to facilitate the transition to the new system are also discussed.



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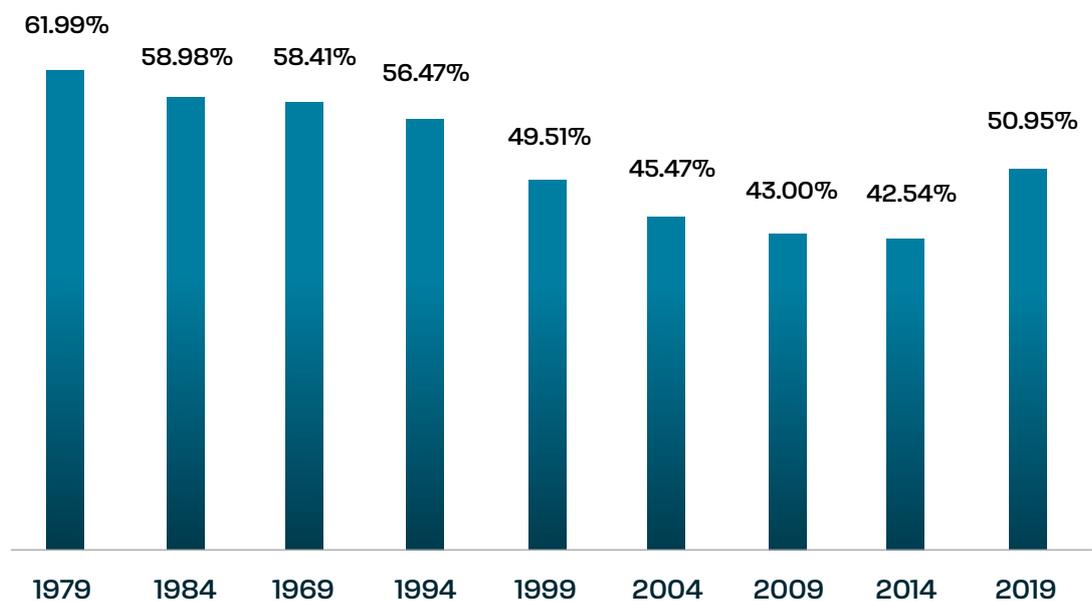
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The problem: a European Parliament with only national identities

The debate on the European democratic deficit is one of the oldest among the many longstanding discussions that, in recent decades, have addressed the question of how to institutionally reform the European Union.¹

Within the architecture of the EU, the European Parliament (EP) is the institution that should guarantee direct accountability to European citizens.² It is also the only supranational assembly elected with universal suffrage (direct election), and its power has progressively increased since the first election in 1979.³ However, this positive evolution contradicts the fact that people's interest into the EP, as measured by the turnout at the polls to elect its members, has actually decreased, as Figure 1 reveals.

Figure 1: European Parliament election turnout (percentage of electorate, 1979–2019)



Source: European Parliamentary Research Service

1 See, for example, Huber, P.M. (2009), 'Demokratische Legitimation in der Europäischen Union', *Zeitschrift für Staats- und Europawissenschaften (ZSE)/Journal for Comparative Government and European Policy*, 7(3–4), 364–380.

2 Priestley, J. (2010), 'European Political Parties: the Missing Link', *Notre Europe*, 22 October, <https://institutdelors.eu/en/publications/european-political-parties-the-missing-link>; S. Hix (2008), *What's Wrong with the European Union and How to Fix it* (Cambridge and Malden, MA: Polity Press).

3 Héritier, A. (2017), 'The Increasing Institutional Power of the European Parliament and EU Policy Making', *European University Institute working paper 2017/01*, <http://hdl.handle.net/1814/45825>; Hix, S., Noury, A.G. and Roland, G. (2007), *Democratic Politics in the European Parliament* (Cambridge: Cambridge University Press).

Turnout has progressively gone down, with the only exception being the 2019 election. And yet that was the election in which the vote for Eurosceptical parties reached its highest (31% of the total votes), while the combined vote share of the two mass European political parties (European People's Party and the Progressive Alliance of Socialists and Democrats) which has been the cornerstone of European politics for decades, fell for the first time to less than half (44%) (European Parliamentary Research Services, 2019).

Scholars and politicians have identified the EP's electoral law as an important cause of citizen disaffection. Regarding the election of the EP – regulated by the Act of 20 September 1976 instituting the election of the representatives of the Assembly by direct universal suffrage and last amended by Council Decision 2018/994 of 13 July 2018⁴ – the European Council never even managed to arrive at basic common principles.⁵ The EP elections are, de facto, the sum of 27 national contests, taking place according to different time schedules (in 2019, they ran from 23 to 26 May). The fact that election polls happen in some countries when the results from others are public, may also contradict the rule introduced by some Member States according to which exit polls and other information on electoral trends are banned in the days leading up to the elections and on election day.

In addition, transnationality is explicitly excluded. Under Article 22(2) of the Treaty on the Functioning of the European Union, 'every citizen of the Union residing in a Member State of which he is not a national shall have the right to vote and to stand as a candidate in elections to the European Parliament in the Member State in which he resides'.⁶ This means that an EP candidate can neither be voted for by citizens outside the candidate's country of residence or citizenship, nor contest in more than one country.⁷

It is, therefore, this current structure that works as an almost explicit contradiction to the European value of democratic voting.

4 The law finds its legitimacy in the 1976 Electoral Act ("Act concerning the election of the members of the European Parliament by direct universal suffrage" accessible at [https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:01976X1008\(01\)-20020923](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:01976X1008(01)-20020923)); Article 14 of the 2012 Treaty on European Union; Articles 20, 22, and 223 of the Treaty on the Functioning of the European Union (accessible at https://eur-lex.europa.eu/resource.html?uri=cellar:2bf140bf-a3f8-4ab2-b506-fd71826e6da6.0023.02/DOC_1&format=PDF); and Article 39 of the Charter of Fundamental Rights.

5 In 1992, the Maastricht Treaty (1.1.3) declared that elections should be held in accordance with a uniform procedure and that the European Parliament was to draw up a proposal to this effect for unanimous adoption by the Council. Since the Council never agreed on any of the proposals, the Treaty of Amsterdam introduced the possibility – but not the provision – of adopting common principles.

6 Article 22 of the above mentioned "Treaty on the Functioning of the European Union" (at https://eur-lex.europa.eu/resource.html?uri=cellar:2bf140bf-a3f8-4ab2-b506-fd71826e6da6.0023.02/DOC_1&format=PDF)

7 A further paradox is that Belgium – home to Brussels, the 'capital' of the EU – even requires candidates to be able to speak French, Dutch, or German (La candidature pour les différentes élections - Elections européennes et régionales 2009. lbz.rnm.fgov.be. 18 December 2008).

The ongoing debate about EP electoral reform dwells on a mix of different objectives which we would classify as for the following taxonomy:

1. Create an EU-wide electoral procedure: This is to avoid the EP elections being the sum of 27 national elections. The idea is that the elections should at least be based on the ‘common principles’ recommended by the Maastricht and Amsterdam treaties but never fully adopted by the Member States.⁸ Here, more recently, Leinen and Pukelsheim⁹ reiterated the proposal of a tandem system that would ensure that the EP’s seats are allocated such that it can be roughly proportional on two dimensions – the electorate’s geographical division by Member State and the electorate’s political division by partisan vote – so that the principle of the ‘equality of all votes’ is respected.

According to this proposal, European Parties would compete on a transnational basis whereas EP seats would continue to be distributed proportionally, based on how much of the vote each party gets, but each party’s seats would also subsequently be allocated to each country according to the predetermined number of seats allotted to that country.

2. Ensure that all votes are counted similarly: This was formally achieved by the 2002 amendment to the electoral law, where proportionality became one of the few principles accepted by all Member States.¹⁰
3. Achieve a fair distribution of the number of MEPs among Member States: The distribution should be approximately proportional to each Member State’s share of the EU population. This allocation is to be done at the next elections through an ‘apportionment’ process which – according to the Lisbon Treaty, **Treaty on the Functioning of the European Union (TFEU)** – establishes a distribution of seat which “degressively proportional” to the population of the various Member States.¹¹

8 Pukelsheim, F. and Oelbermann, K.F (2011), ‘Future European Parliament Elections: Ten Steps Towards Uniform Procedures’, *Zeitschrift für Staats-und Europawissenschaften (ZSE)/Journal for Comparative Government and European Policy*, 9(1), 9–28; F. Pukelsheim and K.F. Oelbermann (2014) ‘Reform of the European Electoral Law’. *Zeitschrift für Staats-und Europawissenschaften (ZSE)/Journal for Comparative Government and European Policy*, 12(4), 549–559; D.M. Farrell and R. Scully (2005), ‘Electing the European Parliament: How Uniform are “Uniform” Electoral Systems?’, *Journal of Common Market Studies*, 43(5), 969–984, <https://doi.org/10.1111/j.1468-5965.2005.00604.x>.

9 Leinen, J. and Pukelsheim, F. (2021), ‘The Tandem System: A New Electoral Frame for the European Parliament’, *Zeitschrift für Parteienwissenschaften*, (2), 115–124, <https://doi.org/10.24338/mip-2021115-124>.

10 Council Decision 2002/772/EC, Euratom of 25 June and 23 September 2002 modified the 1976 Electoral Act introducing the ‘common principle’ of proportional representation (together with a number of incompatibilities between national and European mandates).

11 Pukelsheim, F. and Oelbermann, K.F (2011), ‘Future European Parliament Elections: Ten Steps Towards Uniform Procedures’, *Zeitschrift für Staats-und Europawissenschaften (ZSE)/Journal for Comparative Government and European Policy*, 9(1), 9–28; F. Pukelsheim and K.F. Oelbermann (2014) ‘Reform of the European Electoral Law’. *Zeitschrift für Staats-und Europawissenschaften (ZSE)/Journal for Comparative Government and European Policy*, 12(4), 549–559; D.M. Farrell and R. Scully (2005), ‘Electing the European Parliament: How Uniform are “Uniform” Electoral Systems?’, *Journal of Common Market Studies*, 43(5), 969–984, <https://doi.org/10.1111/j.1468-5965.2005.00604.x>.

4. Leverage electoral mechanisms to create a Europe-wide debate: This would mean European political parties would propose cross-national policies, and European citizens would vote based on these proposals.¹² Reference is made in this article to, among others, MEP Andrew Duff's 2011 proposals, probably the most ambitious attempt to reform EP electoral law thus far,¹³ the more recent proposals by Sandro Gozi,¹⁴ and those of the European Parliamentary Service,¹⁵ which proposed mechanisms to correct the bias that the transnational list may produce in favour of larger Member States.¹⁶ Significantly, reference is also made to the *Spitzenkandidat* process, which involves the nomination by European political parties of candidates for the role of Commission President.¹⁷
5. Facilitate innovative voting procedures: The range of innovations includes postal and electronic voting.¹⁸

12 Wouters, J. (2020), 'The Long and Winding Road Towards a European Electoral Law', in S. Kritzinger and others (eds.), *Assessing the 2019 European Parliament Elections* (London and New York: Routledge), pp. 9–18; R. Hrbek (2019), 'The Arduous Way Towards a Uniform Electoral System for the European Parliament', in O. Costa (ed.), *The European Parliament in Times of EU Crisis* (Cham: Palgrave Macmillan), pp. 255–274.

13 For an interesting analysis of the reasons why Duff's attempt was not successful, see Donatelli, L. (2015), 'A Pan-European District for the European Elections? The Rise and Fall of the Duff Proposal for the Electoral Reform of the European Parliament', *Bruges Political Research Papers* 44, http://aei.pitt.edu/73647/1/bprpaper_44.pdf.

14 Gozi, S. (2021), *Promoting Europe as a Sovereign and Democratic Power: Contribution to the Conference on the Future of Europe* (Geneva: University of Geneva Global Studies Institute), pp. 109–115.

15 Crego, M.D. (2021), 'Transnational electoral lists: Ways to Europeanize elections to the European Parliament', *European Parliamentary Research Service Study*, PE 679.084, February, <https://doi.org/10.2861/520461>.

16 Bol, D. (2021), 'Reforming European elections: Could a pan-European ballot paper engage EU voters?', *LSE Blogs*, 8 March, <https://blogs.lse.ac.uk/europpblog/2016/03/08/reforming-european-elections-could-a-pan-european-ballot-paper-engage-eu-voters>.

17 Under the *Spitzenkandidat* process, the party winning the most seats in the EP receives the first opportunity to attempt to form a majority to back their candidate (akin to how heads of government are elected in national parliamentary democracies). On 23 January 2018, the Constitutional Affairs Committee adopted a text stating that the *Spitzenkandidat* process could not be overturned, and that the EP 'will be ready to reject any candidate in the investiture procedure of the Commission President who was not appointed as a *Spitzenkandidat* in the run-up to the European elections "*Spitzenkandidaten*" process cannot be overturned, say MEPs.', *European Parliament, Press Room*, (2nd February 2018). However, again the final outcome of the 2019 election was the choice of a president (Ursula Von Der Leyen) who was not the *Spitzenkandidat* of any of the European parties. This is unfortunate, given that the May 2018 Eurobarometer poll showed that 60% of the EU voters think that the *Spitzenkandidat* process would make the European Commission more legitimate and 70% think that the process would promote a real debate on European issues Democracy on the MOVE, May 2018, *Barometer*, https://www.europarl.europa.eu/pdf/eurobarometre/2018/oneyearbefore2019/eb89_one_year_before_2019_eurobarometer_en_opt.pdf.

18 The last amendments to the 1976 Electoral Act were adopted by Council Decision (EU, Euratom) 2018/994 of 13 July 2018, which includes provisions regarding the possibility of different voting methods (advance voting, and electronic, internet and postal voting); the possibilities of different electoral thresholds - the minimum share of the primary vote which a candidate or political party requires to achieve before they become entitled to any representation - in different Member States; the protection of personal data; penalties for 'double voting' by national legislation; voting in third countries; and the possibility of the visibility of European political parties on ballot papers.

Joining the debate, this article focuses on the fourth objective, purported to be the priority in the current context. The adoption of innovative procedures (fifth objective) will be demonstrated to be a technical enabler that may result in a uniform electoral procedure (first objective).

However, the authors recognise that the full application of proportional representation of citizens (second objective) and of Member States (third objective) may be part of a trade-off with the idea of incentives for transnational political representation (as in the fourth point). Specifically:

- a)** the creation of an EU-wide political arena is seen as a political objective that is necessary for further integration and, thus, worthwhile ‘positive actions’ that are already frequently used to achieve certain targets (examples range from the wide deviations from proportional representation that exist almost in all democracies so that political stability is guaranteed, to ‘quotas’ introduced to improve the gender balance in elected assemblies);
- b)** the principle by which each Member State should have a certain number of MEPs (as per the ‘appropriation’ mechanism), contradicts the very institutional principle that MEPs represent all European citizens – including those who did not vote for them – regardless of nationality.

It follows that the objective that this article pursues is, more specifically, how to ‘use’¹⁹ the EP’s electoral law as a lever to:

- a)** create – at the political party level – an incentive to compete in the European elections with lists encouraging campaigns that are as transnational and EU-wide as possible;
- b)** reward – at the individual candidate level – the capability to garner support from voters of different nationalities, as a proxy for the important ‘competence’ or experience that a European representative should have.

The aim of our proposal is therefore similar to the proposal that the EP rapporteur Domenec Ruiz Devesa has recently presented as a draft.²⁰ However, as we will

19 There is a wide literature that explores the legitimacy of using electoral law as an instrument to reach certain political objectives (Heurtaux, J. and Harwood, A. 2013), ‘The Making and Use of an Electoral Law’, *Revue française de science politique*, 3–4(63), 519–544, <https://doi.org/10.3917/rfsp.633.0519>; Russell, M. and O’Cinneide, C. (2003), ‘Positive Action to Promote Women in Politics: Some European Comparisons’, *International & Comparative Law Quarterly*, 52(3), 587–614.

20 Devesa, D.R. (2021), ‘Draft report on the reform of the electoral law of the European Union (2020/2220(INL))’, European Parliament, Committee on Constitutional Affairs, PE693.622v02–00, 1 July, https://www.europarl.europa.eu/doceo/document/AFCO-PR-693622_EN.pdf. The incipit of the draft proposal is, in fact, quite explicit: “The European Parliament has for long pleaded to enhance the European dimension of European elections, frequently criticised for focusing too much on national politics and internal candidates. Aiming to foster a true pan-European political debate ahead of European elections, stress the link between those elections and the European project, and increase citizens’ interest in European affairs, the European Parliament is currently working on a legislative initiative that

see, the EP's proposal appears to probably be less bold than our times demand, and accepts a number of compromises that do not necessarily make it more likely to overcome vetoes from specific countries or political parties (ratifications from all Member States will be necessary).²¹

Our idea is, in fact, that the entire debate should start by acknowledging that more European democracy is absolutely essential to proceed with a quantum leap forwards on the process of European integration, and that time has come for more radically clear choices, even if they may require the modification of treaties or enhanced cooperation. While the longstanding debate on the democratic deficit has to date not yielded significant results, this article argues that the pandemic has created a new scenario, exposing with unprecedented clarity the urgent need to address the many contradictions of an EU made of a number of half-integrations, including, for example, persisting obstacles to the free movement of people, a common market without tax harmonisation, and a monetary union without a common fiscal policy. All of this makes the entire structure of the EU unstable and subject to challenges by dissenting Member States.

The article underscores the belief that the time has come to reframe the entire debate on the European democratic deficit. As has been discussed, it is true that democracy at the EU level needs to be significantly strengthened, but that is also true of the Member States that are experiencing a deterioration of the effectiveness of their institutions, which were built for a different time.²²

The strengthening of European democracy becomes part of the challenge of reorganising political representation for a society that is being radically transformed by a technology-enabled mutation. The Internet, for instance, is impacting the dimension of the spatial organisation of the lives of the great majority of individuals, and this also changes the shape and definition of the territorial communities to which they belong. Up to the last decade of the twentieth century, the pyramidal structure of nation-states and of their territorial levels was the dominant modality of political and policy-making power. While the Internet revolution has accelerated both the globalisation of markets and the immigration/mobility trends transforming the composition of the EU territorial

seeks to repeal the current Act concerning the election of the Members of the European Parliament and adopt a new Regulation governing European elections"; Devesa, D.R. (2021), 'Modification of the act concerning the election of the members of the European Parliament by direct universal suffrage pursuant to Article 223(1) of the Treaty on the Functioning of the European Union', European Parliament, AFCO, Legislative Train, <https://www.europarl.europa.eu/legislative-train/theme-constitution-al-affairs-afco/file-reform-of-the-electoral-law-of-the-european-union>.

21 As a matter of fact, it is not even granted that vetoes may come from smaller member States or from the ones beyond the founding core. The last attempt to adopt a common electoral mechanism (in that case, a minimum threshold below which a party would not be represented in the EP) was rejected by the German Constitutional Court

22 See the forthcoming article, Grillo, F. and Nanetti, R. (2021), 'Democracy at Work as Collective Problem Solving: The Paradoxical Case of China and Lessons from History', *Journal of Information Technology*.

communities, electoral constituencies have remained the same. The result is the existence of distortions in social and economic conditions not properly addressed, and of inefficiencies and injustices in the way European society is politically represented in elected assemblies.

In this sense, a supranational organisation like the EU becomes a textbook example of what needs to be changed. An individual living, working and travelling across different cities and Member States, as is common today, has fewer chances of being elected than one who has spent their entire life in the same province or region. The potential voters of the former are dispersed among different geographies and so tend to be electorally irrelevant; while the constituency of the latter is concentrated in one territory so they may be elected as an MEP considering that votes are still counted by region/nation, with a proportional mechanism. The end result is paradoxical: there is a global class that has knowledge but is politically insignificant (aside from the few who are advisers and experts) and a locally based political class largely making up the elected assemblies (including the EP), but with much less personal experience about the cross-border and transnational problems upon which that the parliament of a supranational organisation like the European Union is called to deliberate.

The idea: the electoral system proposal

Against this context, the article presents a proposal for change. First, steps through which the new EP would be elected are illustrated, then the advantages of this proposal are discussed in relation to other methods that have recently been attempted. Finally, the concluding remarks dwell on adjustments that could be considered to make the proposal more readily acceptable to all Member States and political parties.

The proposed allocation of EP seats would occur in four steps:

Step 1: The establishment of the EU transnational constituency

Within a certain time limit before the day of the EP elections, voters choose whether they want to continue to vote within a local/national constituency (default option) or to join the EU-wide constituencies. We also envisage that the choice should be expressed through electronic voting.²³

As will be seen in the next steps of the election mechanism, the entire procedure would have been expensive in the pre-Internet era, but now Internet voting

²³ Electoral law (as amended in 2018) already provides for a transnational constituency (citizens residing abroad) and the 2018 amendment to the electoral law also requires states to allow electronic voting.

seems to have reached maturity.²⁴ It has been successfully tried and has been regularly adopted in Estonia, for instance.²⁵ Transnational lists would be drafted by European parties in a period that starts some time (perhaps one month) before and ends (perhaps one month) after the day when voters have to express their choice of constituency.

Step 2: Distribution of the EP seats between local/national and EU-wide electoral constituencies

Seats would first be allocated to national and European constituencies on the basis of the number of voters who choose to vote within each mode. For example, if 30% of the voters choose to vote in the transnational constituency, 30% of the seats would be allocated to the transnational lists, while the rest would be allocated to the national lists.²⁶

This step creates a degree of fair competition among the two modalities, allowing information to be gathered regarding whether European voters perceive themselves as belonging to a national citizenry or to a more transnational community.²⁷

Step 3: Allocation of EU transnational constituency seats among different political parties

The votes resulting from Step 2 would be distributed among European parties in proportion to the votes received by each party. However, they would be weighed by their 'transnationality'.

The principle is that the more the distribution of the votes obtained by a party in different Member States resembles the distribution of the EU population across the Member States, the more that party is rewarded with a vote multiplier factor. This provides an incentive to the parties to really campaign in all countries (in the last election, none of them had MEPs from all Member States), and to advance proposals that are not captured by national interests. It would also be a corrective

24 A.H. Trechsel, V.V. Kucherenko, and F. Silva (2016), 'Potential and challenges of e-voting in the European Union', Study for the AFCO Committee, PE 556.948, https://www.europarl.europa.eu/RegData/etudes/STUD/2016/556948/IPOL_STU%282016%29556948_EN.pdf.

25 Evidence shows that the percentage of voters using the electronic option has stabilised to around one third and that, more importantly, the uptake is not significantly different across age, income, or gender groups. As in K. Vassil and others (2016), 'The Diffusion of Internet Voting: Usage Patterns of Internet Voting in Estonia Between 2005 and 2015', *Government Information Quarterly*, 33(3), 453–459;

26 In fact, there are two possibilities here: one is to consider potential voters (this will create a strong bias towards the national lists, because that is the default choice); the other is to only count those who actually vote. The first is simpler, but the second is fairer.

27 One possibility would also be to allow citizens to vote in both constituencies: this would promote a new understanding of identity and citizenship as not being exclusive (as is already recognised by the EU treaties).

factor for a system that otherwise tends to favour the larger Member States.²⁸

The proposed algorithm is such that parties gaining votes from all Member States and in proportion to their population – thus proving to be truly transnational – would have their votes multiplied by two, while those obtaining all their votes in one Member State would not gain any such reward.²⁹ The formula also allows for most situations that would fall in between these two extreme cases.

The current structure of the European parties (most of their votes are concentrated in certain countries) suggests that the correction or deviation from a system of pure proportional representation would be relatively small in the first election when the system is adopted.

Step 4: Allocation of seats to individual candidates

The seats gained by each party should be allocated to the candidates according to their vote share, weighted by their transnationality (using the same mechanism as in Step 3).

A pure transnational candidate (very unlikely case) would double their vote tally, while a purely national one would have no extra rewards from the weighting mechanism. It is fair to expect that the vast majority of candidates would get almost all of their votes from no more than one or two Member States. This would result, as with the allocation of seats among parties, in a relatively small deviation from proportionality that will, again, increase in time as the system starts to generate a proper EU-wide political arena.

The proposed system has several strengths and it also addresses some of the obstacles that the introduction of transnational lists is said to encounter.

a) It does not entail the abolition of current electoral laws. It would only provide an option for the electorate, the candidates, and the European parties willing to try competing in a different context, which is rather cogent for a European election.

b) It provides an instrument not only to measure the consensus about different European parties and candidates, but also to accurately track how strongly

28 Bol, S. 'Reforming European elections'; . Pukelsheim, F. and Oelbermann, K.F. (2014), 'Reform of the European Electoral Law', *Zeitschrift für Staats-und Europawissenschaften (ZSE)/Journal for Comparative Government and European Policy*, 12(4), 549–559.

29 The proposal is to calculate the multiplier using a formula based on absolute deviations: Multiplier = $2 - (\sum |x_{pc} - y_c|) / \max(\sum |x_{pc} - y_c|)$ where x_{pc} is the percentage of the total votes in Member State C for a party P, and y_c is the number of voters in C as a percentage of the total number of voters within the EU transnational constituency. In the case of a party (or a candidate) whose votes are distributed among the Member States in the same proportion as EU voters are, $\sum |x_{pc} - y_c|$ would be zero, and thus the multiplier would be two (its votes would be doubled). When the party or candidate gets votes in only one Member State, $(\sum |x_{pc} - y_c|) / \max(\sum |x_{pc} - y_c|)$ would be 1, so the multiplier would also be 1 (which means that there is no reward).

European the EU citizenry feels. We expect younger generations to adapt to the innovation more quickly.

- c) It opens up, again on a voluntary basis, the opportunity for citizens and candidates to experiment and come to trust new, electronic means of expressing themselves politically and institutionally.
- d) It would an example of how technologies can enable solution to new needs that they themselves generate, when they promote different forms of citizenship. As such, the EU would really become a laboratory in which to experiment on the innovations needed to address the crisis facing the instruments of representative democracy.
- e) It encourages representation of all Member States and carries a good probability that even the transnational constituency would produce candidates whose nationalities are a good representation of all 27 Member States.
- f) It represents a relatively small deviation from pure proportional representation (for the reasons outlined above) and it may also present a bias towards national constituencies. This would result in an initially small innovation that may flexibly increase over time, as the political debate becomes more European and the vote share of millennials grows.
- g) It provides a weighting mechanism that is simple enough to be explained to ordinary voters but also flexible enough to mirror a progressive Europeanisation of European democracy.
- h) It requires a counting procedure that is complicated and time-consuming if implemented manually, but which would be instantaneous when done electronically and relatively quick even via postal ballots that are fed into a few central nodes using scanners.

Overall, the proposal has the advantage of flexibility, which may be the real key to approaching the 'reform' of the EU.³⁰ It is also different from the EP proposal in the following ways:

- a) **It is democratic:** The number of seats allocated to the transnational list is not fixed (the EP proposal sets the number at 46 seats) and it leaves the choice to every single citizen who freely chooses how they want to be represented and the electoral forum that suits them best.
- b) **It is flexible:** It allows the system to be informed by the evolution in time of the preferences of the electorate. Younger citizens, especially, may gradually shift to a more European political arena to which European political parties will need to adapt.

30 Stubb, A. (2002), 'Negotiating Flexibility in the European Union: Amsterdam, Nice and Beyond' (Basingstoke: Palgrave).

- c) It is clear:** It indicates a clear action that will make it the MEPs' function to represent all European citizens, and it rewards parties and candidates who are capable (irrespective of nationality or residence) of better representing the distribution of the electors among different countries.
- d) It is simple and open:** It would avoid the allocation in slots of five candidates coming from the Member States of different sizes and would not adopt the closed list system (at least it would not do so in the form we have just proposed). Fair representation would be guaranteed by shifting the attention from the nationality of the MEP elected to the capability of the system to better represent individual preferences (in line with the constitutional 'one person, one vote' principle).
- e) It is neutral:** It does not create any bias in favour of any specific party (we will elaborate below on how it does not put at disadvantage even those who are the most critical of the Union) or any country, regardless of size.

The proposal, therefore, has the merit of more clearly indicating a pattern towards the creation of a modern, transnational democracy, which is something we need in order to tackle complex global problems that cannot wait for unanimity among the Member States. Its political strength is that it puts forward strong arguments that can appeal to a broad audience and make it harder, as we have tried to demonstrate, for any Member State or political party to resist.

The EP can and should be the place where such experimentation takes place, if the EU aspires to overcome the current dual emergency by reviving its original purpose of being a socially inclusive community, a thriving innovation-driven economy, and a strong liberal democracy.

Alternative options and proposed sub-optimal adjustments

The system we have proposed could face a number of potential criticisms. We anticipate that they will come from both extremes of the political spectrum with regard to the future of the EU integration process.

The main ones are likely to be about the speed of the innovation, which is suggested for an EU political system that may not be ready for it. Conversely, the most fervent supporters of a federal EU may argue that a mechanism such as the one proposed here should be completed with additional innovative features, such as, for example, that the president of the Commission be a Spitzenkandidat from the transnational lists.

As far as the latter is concerned, the authors do not recommend weighing their proposal down with additional features (this was Duff's mistake) as they endorse a much-shared social science principle: each policy instrument should be associated to not more than one policy objective, which in this case is to encourage the emergence of an EU-wide political arena. Thus, it is not pertinent to link the introduction of a system aimed at promoting an EU-wide political arena with the institutionalisation of the election of the president of the Commission. The latter should be an issue for the debate that is generated, because not all participants in such a transnational forum may agree that they should be directly elected (or indicated) by the voters (just like not all national voters and active political participants may necessarily agree with directly electing the head of state).

On the contrary, the concern of political parties whose agenda is against further European integration is understandable and fair. This may well be the case for region- or nation-bounded parties, such as Italy's Lega Nord, the French National Front, or the Hungarian Fidesz. Their concerns about being put at a competitive disadvantage when faced with a transnational constituency should be taken on board. However, it is also true that the voters of a transnational constituency would no longer vote in the national constituencies, so the potential reduction of the seats taken by Italy's League in the transnational constituency would be compensated for by the opportunity to gain more seats in the national one.

All things considered, the proposal offered in this article may be adjusted in the following ways:

- a)** The abolition of the weighting mechanism to 'simplify' the scheme (so that traditional means of elections can also be employed): Voters would simply have an additional list when they are at the polls, as in Sandro Gozi's proposal.³¹ In this case, a correction for more likely gaps among the Member States may be compensated for by a minimum quota by state (and by gender and/or age).
- b)** The introduction of closed transnational lists proposed by political parties: Here candidates could be elected on the basis of their position on the party's list, so that a certain share of citizens from different countries (and a minimum gender and/or age balance) is guaranteed.³² This means competition would only be along political party lines, and the order of candidates would become the guarantee of cross-border and gender equality.

31 Gozi, S. (2021). 'Promoting Europe as a Sovereign and Democratic Power: Contribution to the Conference on the Future of Europe. Geneva: University of Geneva Global Studies Institute. As one of the three MEPS who were elected in a EU country other than their own, Gozi is arguably not only one of the promoters but also a symbol of European transnational democracy'.

32 Bol, D. (2016) 'Reforming European elections: could a pan-European ballot paper engage EU voters?' LSE European Politics and Policy' (EUROPP) Blog. Website.

- c) The introduction of a fifth step that controls seat allocations to individual candidates so that a certain percentage of them is reserved for individuals of a certain nationality (similar positive action may also apply to gender or age).

A final consideration is that the three profiled optional adjustments would be sub-optimal. It could also be argued that they may even entail the acceptance of a legacy that should be proactively rejected. The reference is, again, to the idea that MEPs represent their own countries, which contradicts the very legal principle that should guide the functioning of the EP and its members: they are expected to represent all European citizens, to act in the interest of the Union, and to have the skills to govern hugely complex global issues.

A leap towards an advanced level of integration requires a sincere and constructive critique of the shortcomings of European democracy and of the EP elections followed by resolving through innovative mechanisms a major contradiction in what remains the greatest and most innovative political project of our times. ■

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