International Journal of Sociology and Political Science
www.sociologyjournal.in
Online ISSN: 2664-7745, Print ISSN: 2664-7737
Received: 15-06-2024, Accepted: 16-07-2024, Published: 31-07-2024
Volume 6, Issue 2, 2024, Page No. 73-81

Rule of law crisis and democratic deficit in the EU: After more than a decade of the Lisbon treaty and electoral reform

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Abstract
This paper aims to investigate it by critically evaluating the course and present situation of the rule of law and democratic legitimacy in the EU post-Lisbon Treaty under consideration both institutional changes and recent electoral developments. It will add to the discussion by providing a revised and combined view of the structural difficulties still present as well as the success of EU-level reactions. The research addresses the following: How far has the Lisbon Treaty corrected the democratic shortfall in EU institutions and governance? Particularly in the cases of Poland and Hungary, how successful have EU institutions been in reacting to the rule of law crises in member states? Since the Lisbon Treaty, how have electoral changes either strengthened or degraded democratic legitimacy in the EU? Do structural restrictions still exist post-Lisbon, or has the European Parliament's influence been greatly enhanced in practice? As of June 2024, how do these problems affect public confidence in and involvement in EU-level democracy? This paper also investigates whether the Lisbon Treaty has made limited progress in lowering the democratic deficit due of persistent intergovernmental dominance and weak enforcement of democratic norms or EU rule of law mechanisms (e.g., Article 7 TEU, the Rule of Law Conditionality Regulation) politically constrained and inconsistently applied. Notwithstanding official improvements in electoral processes, it also contends that electoral reforms since 2009 have only slightly enhanced transparency but failed to generate a meaningful EU-wide democratic identity. Furthermore, citizens' confidence in EU institutions remains fragile due of perceived democratic disconnection and institutional opacity. After the Methodology and Research Design comes a qualitative, multi-method political and legal analysis combining case study of Hungary and Poland (for rule of law crisis) with document analysis. Data is gathered from main sources including EU treaties (Lisbon Treaty, TEU, TFEU), European Commission communications, European Parliament resolutions, CJEU rulings, Official election data and reports and the Secondary Sources including academic literature, journal articles, policy papers, Reports from think tanks (e.g., CEPS, Bruegel), NGO reports (e.g., Freedom House, Amnesty, Transparency International), analysis of EU elections regarding participation, transparency, and Spitzenkandidaten impact.

Keywords: EU, Lisbon treaty, rule of law, democratic legitimacy, deficit, spitzenkandidaten

Introduction

Notwithstanding considerable academic focus on the European Union's democratic framework and the rule of law, significant deficiencies persist in comprehending the profundity and continuity of the rule of law crisis and the democratic deficit within the EU, particularly in the context of recent political and institutional advancements. The Lisbon Treaty, enacted in 2009, was seen as a pivotal moment, intended to bolster the EU's democratic legitimacy and rule of law frameworks. Nevertheless, almost a decade later, the Union persists in contending with democratic regression, especially in some member states, and the inadequacy of EU procedures in resolving these issues. In recent years, the European Union (EU) has had to address challenges to its legitimacy. It is encountering a declining absence of support from people and member nations for its objectives and its aspiration of a 'ever-closer union'. An increasing number of dissenting voices are challenging the democratic legitimacy of its elected institutions. Moreover, anti-European sentiment has proliferated across Europe, emerging as the most significant danger to the EU (Chompff, Erik E. 2016: 4) [5], even after Great Britain's departure from the union.

Current research mostly examines institutional reforms, including modifications to the functions of the European Parliament, the European Commission, and the Council of the EU, or assesses specific case studies of non-compliant member states. Nonetheless, there exists a paucity of thorough research that comprehensively evaluates the efficacy of these changes throughout time, especially regarding electoral reforms to date and their ramifications for democratic accountability and legitimacy at both the EU and national tiers. Furthermore, while the rule of law problem—particularly in nations such as Hungary and Poland—has garnered much attention, the relationship between this crisis and the EU's overarching democratic deficit remains little examined. There is a deficiency of empirical and normative research examining the interplay between these two crises, how they feed one another, and their impact on public faith in EU institutions.

The European Union (EU) has historically been seen as a paradigm of supranational government founded on democratic ideals and the rule of law. Over a decade subsequent to the Lisbon Treaty (2009) and several electoral changes, such as the Spitzenkandidat process and increased openness in EU elections, the Union continues to confront enduring challenges to its democratic legitimacy and legal coherence. Member states like Hungary and Poland have faced criticism for compromising judicial independence, press freedom, and checks and balances, prompting concerns of a more profound rule of law problem and a democratic deficit within the Union. Over a decade after the Lisbon Treaty was enacted in 2009, the European Union (EU) still contends with essential challenges that jeopardise its unity and legitimacy. The primary issues are ongoing rule of law challenges in several member states and a wider

democratic deficit at the EU level. Notwithstanding institutional improvements, such as modifications to the election process and initiatives to enhance democratic accountability, considerable obstacles persist. This study analyses the condition of the rule of law and democratic legitimacy inside the EU in contemporary times, evaluating both advancements achieved and ongoing structural challenges.

The Lisbon Treaty, implemented in 2009, included many measures to mitigate the European Union's (EU) democratic deficit. Essential measures included augmenting the legislative authority of the European Parliament (EP), amplifying the participation of national parliaments, and instituting the Citizens' Initiative to foster direct democracy. These modifications were intended to enhance the accountability and responsiveness of EU institutions to people. Nonetheless, discussions continue over the efficacy of these measures in completely addressing the democratic gap.

In addressing rule of law problems in member states like Poland and Hungary, the EU has used measures such as Article 7 of the Treaty on European Union (TEU) and the Rule of Law Conditionality Regulation. Article 7 permits the EU to revoke certain rights of a member state determined to violate basic principles. Although the EU has started legal actions against Poland and Hungary, it has encountered difficulties in attaining tangible results. The European Parliament has conveyed discontent with the advancement, urging for more organised hearings and specific proposals. The European Court of Justice (ECJ) affirmed the legitimacy of the Rule of Law Conditionality Mechanism, allowing the EU to restrict funding to nations that breach democratic criteria. Nonetheless, apprehensions persist over the uniform and efficient implementation of these processes.

Following the Lisbon Treaty, electoral changes, including the Spitzenkandidaten process, were implemented to bolster democratic legitimacy by more closely associating the nomination of the European Commission President with European Parliament elections. The method, aimed at enhancing openness and voter influence, has encountered criticism and inconsistent application, raising doubts about its efficacy in strengthening democratic legitimacy. The Lisbon Treaty substantially enhanced the legislative authority of the European Parliament, with the objective of enhancing its position within the EU's institutional structure. In reality, the European Parliament has acquired influence, especially in fiscal affairs and co-decision processes. Nonetheless, institutional constraints persist, including the intricacies of decision-making procedures and the ongoing significance of intergovernmental discussions, which may undermine the authority of the EP. These factors jointly affect public confidence and engagement in EU-level democracy. Perceptions of insufficient reactions to rule of law transgressions, discussions over the efficacy of election changes, and perceived institutional constraints foster scepticism among people. Confronting these difficulties is essential for bolstering public trust and participation in the EU's democratic mechanisms.

The Lisbon Treaty and Its Democratic Ambitions

The Lisbon Treaty aimed to enhance the democracy, efficiency, and transparency of the EU. It implemented numerous significant changes, including: 1) Augmenting the authority of the European Parliament, 2) Empowering national parliaments, 3) Instituting the European Citizens' Initiative 4) Rendering the Charter of Fundamental Rights legally obligatory. The changes sought to enhance the EU's proximity to its inhabitants and guarantee improved compliance with democratic norms and basic rights among all member states.

Democratic Deficit and Its Analysis

The phrase "democratic deficit" was first used in a chapter of the 'JEF manifesto', which was ratified by the Congress of Young European Federalists in Berlin in 1977 (Federal Union, 1977) [29]. The democratic deficit has two dimensions: an institutional dimension and a socio-psychological one. The socio-psychological dimension addresses the deficiency in voter participation. The institutional dimension underscores the deficient institutional connection inside the EU, characterised by inadequate representation of the average citizen, insufficient accountability of EU institutions, and a perceived lack of accessibility for individuals (Demetriou, 2015:7) [11, 13]. The European Union's concept of the democratic deficit, as articulated by Demetriou (2015: 5) [11, 13], is: The democratic gap refers to the notion that the EU and its institutions lack democratic legitimacy and seem unreachable to the average person due to their sophisticated operational methods. The perspective is that the Community's institutional framework is governed by an entity that amalgamates legislative and executive authority (the Council of the European Union) with an organization that lacks democratic legitimacy (the European Commission).

The phrase 'democratic deficit' refers to a condition in which institutions and their decision-making processes exhibit insufficient democracy and accountability. In the context of the European Union (EU), it denotes a perceived deficiency in accessibility or representation for the average citizen concerning EU institutions—a sentiment of a disconnect between the authority of those institutions and the perceived incapacity of citizens to affect their decision-making processes. The matter of democratic legitimacy has been a contentious topic at every phase of the European integration project. The Maastricht, Amsterdam, and Nice Treaties progressively conferred additional powers to the directly elected European Parliament and expanded the domains in which it shares decision-making authority with the Council of the European Union. Consequently, the Parliament has transformed from a consultative body into a co-legislator. The Treaty of Lisbon, effective from 1 December 2009, included many modifications to mitigate the democratic deficit within the EU. The pact enhanced the Parliament's authority in three specific areas. Monetary: The Parliament is crucial in approving all classifications of EU yearly budget spending. Legislative: The co-decision technique evolved into the usual legislative procedure, applicable to almost all domains where the Council makes decisions by qualified majority vote. Nominating: The Parliament elects the President of the European Commission based on a candidate nominated by the European Council, considering the outcomes of the Parliamentary elections. The Commission, as an entity, requires the Parliament's agreement prior to its appointment by the European Council. The Treaty of Lisbon, adhering to the principle of subsidiarity, established mechanisms to promote the involvement of national parliaments in EU policy development, enabling them to examine the Commission's legislative proposals through the subsidiarity scrutiny mechanism (EUR-Lex 2022: 1) [14, 22].

The socio-psychological dimension addresses the deficiency of civic participation inside the EU and the absence of

communal bonds among its inhabitants (Azman, 2011: 246) [1]. A significant determinant of voter involvement is the perceived advantage of participating in the EP elections. The perception persists that the European Parliament lacks influence in the decision-making process. Consequently, the advantage of voting for the European Parliament is diminished, resulting in decreased voter participation (Mattila, 2003: 454) [36]. A significant aspect is the insufficient support for the EU, resulting in less voter involvement (Franklin and Hobolt 2011: 68) [27]. The elections for the European Parliament are not a significant priority for voters (Franklin 2001: 315) [28]. This mostly 'national-oriented' aspect arises from the fact that parties primarily compete on European matters, whereas individuals tend to vote based on home problems and concerns. Citizens perceive little stake in the EP elections, believing that the outcomes would not influence domestic policy (Franklin and Hobolt 2011: 68) [27]. Voters are sometimes unaware of which parties align with their interests and for whom to cast their vote. The insufficient understanding of the issues or the parliamentary leaders of the parties has contributed to a diminished voter participation (Directorate-General for Communication, 2014: 4) [12].

According to Moravcsik (2002) [38], there are multiple reasons why the notion of a democratic deficit is so common and widely perceived. In relation to the lack of voter engagement, he can understand why the EU seems distant from EU citizens. The lack of common history, culture, discourse and symbolism, which member states use to create a common identity is less present in EU, therefore, citizens disengage from the EU. He argues that while there is a lack of common identity, it does not mean that the EU is not a democratically legitimate institution (Moravcsik, 2002: 604) [38]. In addition, Moravcsik (2002) [38] argues that if the European elections were the only form of democratic accountability in the EU it would be a difficult matter. However, citizens are represented in the European Council where the elected heads of state have direct power and input in the EU (Moravcsik, 2002: 612) [38].

The institutional dimension of the democratic deficit pertains to the insufficient representation of the average person, the absence of accountability among EU institutions, and a perceived inaccessibility to the populace (Demetriou 2015: 8) [11, 13]. The assertion on the perceived deficiency of accessibility for residents is divided into three components. The institutional design of the EU is considered overly complex; the geographical separation of its headquarters in Brussels fosters a perception of unaccountability among citizens, and its operational methods are viewed as markedly dissimilar to those of the national parliaments of member states (Follesdal and Hix 2006: 536) [25]. The issues stemming from insufficient representation are ingrained in the delegation of authority to an organisation. The European Commission is an unelected body that has excessive authority over the decision-making process and is neither elected by nor required to consult the public (Azman 2011: 245) [1]. The delegation of authority from national governments to the EU has not been matched by a corresponding rise of power inside the European Parliament. The European Parliament has less authority in the formulation of policy and legislation compared to the Commission. Consequently, governments may circumvent and disregard their national parliaments. Consequently, they are unable to adequately safeguard the interests of the populace (Follesdal and Hix 2006: 535) [25]. The implementation of Qualified Majority Voting in the Council of Ministers, coupled with the confidentiality of the deliberative process, renders it unfeasible for national parliaments to hold their representatives responsible (Katz, 2001: 55) [33]. The assertions of Moravcsik (2002) [38] and Majone (1998) [37] that challenge the perspective on the democratic deficit. Moravcsik (2002) [38] contends that the EU is a legitimate entity subject to constitutional checks and balances.

Follesdal and Hix (2006) [25] recognise that insufficient community and media engagement fosters the perception that the EU is too remote from voters. Nonetheless, voter saliency does not imply a lack of interest. This may also stem from a lack of comprehension of the EU, leading individuals who do not grasp its functions to see it as a non-democratic entity (Follesdal and Hix 2006: 537) [25]. Their principal criticism of Moravcsik's theory is that the policymaking process, being controlled by technocrats, results in an absence of discussion. The contention over insufficient representation in the EU fundamentally pertains to the delegation of authority from national parliaments to the EU, without commensurate increase in representation. Moravcsik (2002) [38] contests the idea of insufficient representation inside the EU. The authority and fundamental capabilities of the EU are significantly limited by institutional and constitutional restrictions. Contending the fundamental capabilities of the EU primarily lie in managing policy externalities arising from cross-border activities (Moravcsik 2002: 607) [38]. Moravcsik identifies certain obstacles that prevent the EU from acting independently of member states' permission and from augmenting its powers. These limitations include monetary, administrative, procedural, and legal limits. Fiscal limitations impede the EU from engaging in novel domains and formulating new policies. Moravcsik (2002: 608) [38] argues that the EU's capacity to enact and enforce legislation is somewhat limited and not as robust as individuals may perceive (Majone 1998: 9; Moravcsik 2002: 608) [37, 38]. Procedural restrictions comprise checks and balances imposed on the EU's capacity to act. Restricting the EU from adopting capricious decisions that lack the endorsement of member states (Moravcsik 2002: 609).

Legal limits provide member states the capacity to halt legislation deemed objectionable and provide for opt-out provisions. They may use various legal obstacles to ensure that the law does not affect the member state (Moravcsik 2002: 610) [38]. Moravcsik (2002) [38] presents many points contesting the notion of a significant deficiency in accountability inside the EU. The European Parliament has gained increasing influence with each treaty, enhancing its capacity to scrutinise and hold the European Commission and the Council responsible. Secondly, the democratically elected government of each member state governs the geographical and intergovernmental framework of the EU (Moravcsik 2002: 612). Third, representatives from each member state are held responsible in their individual legislatures. Fourth, the EU exhibits extensive representation of each member state in the legislative process, resulting in rigorous oversight by officials from all member states. Consequently, legislation is subjected to far more examination than that in member states (Moravcsik 2002: 612). Majone (1998) [37] asserts that a significant issue exists regarding openness and accountability inside the EU.

The adoption of the ECI marked the EU's first implementation of direct democracy. The primary distinction between representative democracy and direct democracy is in the former advocating for more voter engagement in the political process beyond just voting for a representative. The fundamental premise of participatory

democracy is to enhance equity in participation and broaden the avenues via which people may articulate their political views. It posits that people possess the capacity and capability to enhance their contributions to the political process. This input and enhanced engagement may facilitate discourse and identify shared interests. This results in a scenario where politicians may get insights from people and vice versa (Schiller 2007: 53) [45]. Theories of participatory democracy examine the prerequisites essential for the effective implementation of direct democracy, including social equality, engagement in diverse social situations, and equitable educational opportunities (Schiller 2007: 54) [45].

A primary argument against direct democracy is that voters lack the requisite competence to make informed decisions on particular topics. They would also lack the motivation to investigate and to align their interests with their decisions. Critics contend that referenda are too susceptible to manipulation by demagogues, resulting in the oversimplification of complex topics (Mendez *et al*. 2016: 8) [39]. While direct democracy may be attractive, it is not as effective as a mechanism for governance in large continental polities (Mendez *et al*. 2016: 10) [39]. Direct democracy fosters a more educated and active electorate, perhaps diminishing citizen 'incompetence' (Monaghan 2012: 285) [40]. Conversely, other research indicates that direct democracy does not result in increased voter participation or a more consistently engaged populace (Childers and Binders 2012: 101) [9].

Secondly, the self-interest of people would impede their ability to make reasonable judgements. This would result in self-serving legislation that may benefit residents in the short term but would ultimately harm state affairs in the long run. Restrictions are often placed on taxation matters, contrary to the self-interest of people. The assertion is that people would use direct democracy for immediate financial benefit. This assertion suggests that individuals are only driven by monetary incentives. Citizens are impacted by these actions and would therefore choose financial stability above short-term gains. This suggests that the representative is consistently devoid of financial incentives when voting on these matters, which is inaccurate (Verhulst and Nijeboer 2007: 69) [49].

Third, it would pose a danger to minority groups. The concern is that direct democracy may benefit the majority, perhaps resulting in the enactment of laws detrimental to minorities and infringing upon their basic rights and freedoms. The authors contend that this argument is really an indictment of democracy. This may be a barrier to voting on constitutional matters. Both representative and direct democracy may adversely affect the rights of minorities (Verhulst and Nijeboer, 2007: 71) [49].

Fourthly, the possibility of unlimited direct democracy may result in the emergence of special interest movements. They would advocate for legislation that serves just their interests, neglecting the welfare of the state and its population. This assertion may also be applied to representative democracy. Donations to political parties from private persons or companies are prevalent. Such donations may result in legislation that favours corporate interests over those of people. This argument may serve as an additional rationale for enhancing direct democracy and fostering a more educated and engaged public (Verhulst and Nijeboer 2007: 73) [49]. The issue of a financially robust private entity controlling the narrative poses a significant challenge to democracy, whether representative or direct. Public radio and television need to serve as a forum for educated discourse on national and international matters rather than primarily functioning as an entertainment medium (Verhulst and Nijeboer 2007: 74) [49].

Fifth, some types of direct democracy, such as citizen initiatives and citizen-initiated referenda, provide less scope for the complex nuances of policymaking and portray legislation in binary terms. This assertion is equally applicable to a representative democracy. Citizens are often confronted with a limited selection of political parties that articulate their positions in binary terms, and these parties typically oversimplify their platforms. Direct democracy enables people to vote on specific topics rather than delegating authority to representatives who advocate on their behalf. While it is true that referenda and citizen initiatives provide a binary choice, the mechanisms of direct democracy may be modified and structured to allow individuals to vote on many topics or alternatives inside a suggested 'package' of initiatives (Verhulst and Nijeboer, 2007: 77) [49]. The issue of associating a yes or no vote with the opposition to an alternative agenda, shown by the Dutch referenda against the trade deal with Ukraine, is an undeniable challenge. This symptom often arises from a policy goal that is unpopular among people. The phenomenon of the anti-vote is seen in representative democracies, as incumbent parties often experience electoral defeats after their legislative term (Verhulst and Nijeboer, 2007: 77) [49].

The Treaty of Lisbon, according to the concept of subsidiarity, established mechanisms to promote the involvement of national parliaments in EU policy development, enabling them to examine the Commission's legislative proposals via the subsidiarity inspection process. The Treaty of Lisbon includes a citizens' initiative right, enabling individuals to request the Commission to propose legislation in any area where it has the authority to act. In 2011, the EU implemented the European people Initiative (ECI) to enhance democratic involvement among people inside the EU (Anches 2014: 224) [2]. The ECI was included in a broader array of initiatives established by the Lisbon Treaty to mitigate the democratic deficit (DeVuyst 2007: 308) [10]. The first registered ECI, Fraternite 2020, was initiated on 9 May 2012 (Europe Day). To initiate a European citizens' initiative, a collective of organisers must be established, consisting of a minimum of seven EU people from seven distinct EU Member States. Upon attaining 1 million signatures and meeting the requisite minimum criteria in seven Member States, the Commission will determine the appropriate course of action. The decision-making procedures of the institutions are sometimes challenged for their insufficient openness, particularly with trilogues among the Council, the Commission, and the Parliament. The institutions release the final compromise document resulting from interinstitutional deliberations. The formal procedural norms governing the bargaining process have been enhanced. The Council convenes in public sessions to deliberate or vote on legislative initiatives. The first discussion on significant non-legislative ideas is public, and the Council often conducts public discussions on critical matters impacting the interests of the EU and its people (EUR-Lex 2022: 1-2) [14, 22].

The Conference on the Future of Europe, which officially finished on 9 May 2022 (Europe Day), was a grassroots initiative that enabled individuals to express their

expectations of the EU and have a more significant part in defining its future. The conference was a collaborative effort including the Parliament, the Council, and the Commission, functioning as equal partners alongside the Member States. A fundamental aspect of the conference was the establishment of citizen panels at the EU level and in various Member States, which conducted discussions and activities aimed at providing suggestions for the EU institutions during the conference plenary. The conference conclusions are detailed in a report that proposes 49 recommendations for the future of Europe, addressing several themes, including European democracy. The EU institutions offered their views on these ideas at a feedback session in fall 2022 (EUR-Lex 2022: 2) [14, 22].

Democratic Reforms in the EU: Addressing the Democratic Deficit and the Rule of Law Crisis

The European Union (EU) has often seen criticism about its alleged "democratic deficit", which denotes the apparent disparity between EU institutions and the public they serve. The EU has implemented a number of changes to improve democratic legitimacy, transparency, and public engagement. The Treaty of Lisbon, ratified in 2009, was the foremost initiative that implemented substantial institutional modifications.

1. The Lisbon Treaty and Democratic Reform

The Treaty of Lisbon represented a significant advancement in EU democratic reform, increasing the influence of the European Parliament and national parliaments in the legislative process. It provided the European Parliament with parity with the Council in the majority of legislative domains and enhanced its fiscal authority (European Parliament 2008). The pact established the European persons' Initiative, enabling one million persons from a minimum of seven-member states to propose new EU law, thereby fostering direct democracy (EUR-Lex 2019) [14, 17].

2. Rule of Law and Article 7 TEU

The EU enhanced measures to protect its fundamental ideals, especially the rule of law. Article 7 of the Treaty on European Union permits the suspension of the rights of member states that violate essential EU ideals, including democracy and human rights. This has been enacted in reaction to rule of law issues in Poland and Hungary (Kos, Ula Aleksandra 2023: 1; European Parliament 2015) [34]. In conjunction with Article 7, the European Court of Justice (ECJ) affirmed the Rule of Law Conditionality Regulation, allowing the EU to restrict financing to member states that violate democratic principles (European Law Blog, 2022). The EU has been facing rule of law transgressions by its Member States, particularly Hungary and Poland, for an extended period. Recent ECJ opinions have corroborated these infractions, notably in A.B. and others; C-791/19, Commission v Poland (Disciplinary Chamber); and Hungary, specifically C-564/19, IS. The rights of refugees, governmental opposition, and the press are constrained. Poland faces significant criticism for its judicial reform and the Disciplinary Chamber of the Supreme Court, which has the authority to revoke judges' immunity. The ECtHR (The European Court of Human Rights) has lately addressed these matters: On 3 February 2022, in the case of Advance Pharma SP. ZO. O v. Poland (application number. 1469/20), the ECtHR determined that the Polish Supreme Court failed to satisfy the stipulations of Article 6 ECHR (right to a fair trial). On 8 February 2022, the ECtHR issued an interim measure directing Poland to guarantee that the Disciplinary Chamber refrains from making any decisions on the immunity of a judge until the ECtHR resolves the complaints (ECTHR, application number. 6904/22, Case Wrobel v Poland). In October 2021, the Polish Constitutional Court rendered a controversial verdict deeming several elements of the EU Treaty invalid (Trybunał Konstytucyjny, K 3/21, as examined here). This case law egregiously contravenes essential tenets of EU law. Hungary and Poland are now undergoing rule of law procedures according to Article 7 TEU for alleged violations of essential EU principles.

To address breaches of the rule of law in its Member States, the Parliament and Council enacted the Regulation on 16 December 2020. The Regulation establishes a broad conditionality framework to safeguard the EU budget in cases of violations of rule of law standards. To accomplish this objective, the Council, upon a request from the Commission, may implement safeguard measures, including the suspension of payments charged to the EU budget or the suspension of the approval of one or more programs supported by the EU budget (refer to Article 5 of the Regulation). The EU may suspend payments to Member States if a breach of the rule of law in that Member State significantly impacts the EU's budget or financial interests (refer to Articles 4 to 6 of the Regulation). The justification for these restrictions is that adherence to the rule of law is essential for prudent financial management and efficient funding of the EU (refer to the Preamble to the Regulation). The rule has a restricted scope due to its need for a concrete connection to the EU budget. anticipated to significantly alter the compliance with the rule of law by the member states. Hungary and Poland obstructed the EU financial framework and the proposed Covid-19 assistance, totalling 1.8 trillion euros, by the end of 2020 by rejecting the notion of linking EU money to adherence to the rule of law. Ultimately, they concurred, although maintained the position that the Regulation was unlawful and declared their intention to pursue an annulment case. The Commission has essentially stopped the implementation of the new rule of law mechanism, which has been formally in existence since 1 January 2021, awaiting the ECJ's decision. The European Parliament initiated an action for failing to act against the Commission. The proceedings remain unresolved.

In March 2021, Hungary and Poland initiated their procedures for annulment against the aforementioned Regulation. They contended, among other points, that neither the TEU nor the TFEU provide a suitable legal foundation for the Regulation, that the method outlined in Article 7 TEU is evaded, that the EU's competencies are surpassed, and that there is an infringement of the concept of legal certainty. The ECJ completely rejected the annulment efforts of Hungary and Poland, according to the Opinion of Advocate General Manuel Campos Sanchez-Bordona (Progin-Theuerkauf, S. and M. Berger 2022) [43].

3. The Spitzenkandidaten (Process and Democratic Legitimacy)

The Spitzenkandidaten procedure was established to enhance the democratic legitimacy of the European Commission President by more closely associating the position with the European Parliament elections. The

method, aimed at enhancing transparency and voter impact, has been used inconsistently and remains contentious (European Parliament 2023; Navarro, Julien *et al*. 2018) [42]. Critics contend that the absence of a legislative mandate to adhere to the lead candidate's result undermines the genuine democratisation of EU executive posts.

To evaluate the democratising impact of the Spitzenkandidaten system, it is essential to situate it within the particular setting of the EU politics. The EU operates on a dual democracy structure (von Bogdandy 2007: 37) [47], which derives its legitimacy from both elected national governments and the directly elected European Parliament (EP). The collective interests of national and EU-wide electorates are embodied in a power-sharing framework where EU-level institutions represent distinct electorates. Majone employs a pertinent metaphor by illustrating core institutions as estates symbolising distinct interests: the Council embodies the will of the states, the EP reflects the will of the EU populace, and the Commission, as the initiator but not a co-decision-maker of EU legislation, represents the collective interests of the EU (Majone 2002). For the system to function, authorities are not divided but rather distributed across institutions that guarantee the consideration of all interests via veto powers. The checks and balances among the institutions provide reciprocal oversight of power utilisation, as seen when the European Parliament instigated the resignation of the Santer Commission in 1999 (Centre for European Reform 2024; Heidbreder, Eva 2023) [4,30].

a. Challenging the Principle of Dual Legitimacy

The Spitzenkandidaten system challenges several fundamental characteristics of this framework, therefore undermining the idea of dual legitimacy. Rather, it suggests a more unified rationale for direct legitimation. Two significant criticisms of the dual legitimacy logic are essential. The Commission's purported impartiality, indicative of political independence, is scrutinised both theoretically and practically due to its evident and unavoidable political influence (Follesdal and Hix 2006) [25]. Secondly, in reality, voters have persistently used EP elections to convey signals to national leaders, indicating that the second crucial legitimisation route of direct elections remains inadequately established (Hix and Marsh 2011). The Spitzenkandidaten system addresses both issues: it enhances the EU-centric nature of EP elections by personalising Spitzenkandidaten who advocate EU-wide party platforms, and it transforms the selection of the Commission president into an electoral decision, thereby shifting from a dual to a singular, direct legitimacy framework (Centre for European Reform 2024; Heidbreder, Eva 2023) [4, 30].

b. Spitzenkandidaten in Action

In 2014, the European Parliament successfully appointed the victorious Spitzenkandidat Jean-Claude Juncker as head of the Commission; but, in 2019, the European Council appointed Ursula von der Leyen, who had not participated as a Spitzenkandidat in the elections. To what degree do we see both unexpected and planned effects? Both instances demonstrate significant inter-institutional discord on the appointment of the Commission president. Nonetheless, the discord between the Council and the EP did not result in a complete impasse; rather, it intriguingly produced varied consequences. The central dispute is to the interpretation of Article 17(7) of the EU Treaty, which mandates the European Council to "take into consideration the elections to the European Parliament" when nominating the Commission president. The European Council perceives this as a continuation of prior practice, wherein it proposes a candidate from the predominant party group in the EP, whereas the EP interprets this to mean that the party-selected Spitzenkandidaten directly contend for the position of Commission president. In 2014, the heads of state and government ultimately acquiesced and nominated the Spitzenkandidat from the victorious party family. In 2019, they appointed an individual who has never served as a Spitzenkandidat. Following the elections, it was ambiguous in both rounds whether a Spitzenkandidat would assume office, and uncertainty persists on which institution would prevail in 2024, as the two interpretations vie within an unstable institutional context (Centre for European Reform 2024; Heidbreder, Eva 2023) [4, 30].

c. It needs more than a Spitzenkandidat

The dual legitimacy framework of the EU and the intrinsic challenges that hinder the Spitzenkandidaten system from achieving its objectives explain why the politicisation of EP elections does not result in inter-institutional impasses: The Spitzenkandidaten system alone is insufficient to foster party affiliations strong enough to supplant the inter-institutional balancing mechanisms. Consequently, these balancing mechanisms explain why the significant inter-institutional disagreement about the Spitzenkandidaten has not resulted in deadlock or legislative impasses.

In summary, as far, there is little evidence of a strengthening of cross-institutional political coalitions. The introduction of Spitzenkandidaten for the EP elections has had far less results than anticipated, both in terms of planned and unforeseen consequences. The Spitzenkandidaten system has resulted in increased institutional rivalry in the nomination of the Commission president, leading to a subsequent re-balancing among institutions to facilitate ongoing power-sharing (Centre for European Reform 2024; Heidbreder, Eva 2023) [4, 30].

4. Expansion of Legislative Powers

Following the Lisbon Treaty, the European Parliament has seen a considerable augmentation of its legislative authority. It currently functions as a co-legislator in almost all EU policy domains, facilitating enhanced democratic participation and accountability (European Parliament 2008). This transition has strengthened the Parliament's function as the representative institution of EU people.

5. Citizen Trust and Participation

Notwithstanding institutional advances, apprehensions over a democratic deficit persist. Citizens persist in voicing doubts over the EU's openness and responsiveness. Nonetheless, efforts like the Citizens' Initiative and the augmented legislative authority of the European Parliament seek to repair this trust deficit (EUR-Lex 2019) [19]. Rising voter participation in European elections may indicate heightened involvement; nonetheless, obstacles persist in enhancing the accessibility and comprehensibility of EU institutions for the common person.

The Rule of Law Crisis: A Persistent Challenge

Notwithstanding these aspirations, the EU has encountered an escalating rule of law challenge, especially in nations like

Hungary and Poland. Primary concerns include the erosion of judicial independence: Governments have been charged of diminishing judicial scrutiny and appointing loyalists to the courts. Restriction of Media Freedom: Independent media organisations have seen heightened pressure, consolidation of ownership, and political meddling. The erosion of human liberties has led to NGOs, academia, and civil society players encountering legal and financial challenges. The European Commission has initiated infringement actions, Article 7 proceedings and implemented the Rule of Law Conditionality Mechanism, which associates EU funding with adherence to rule of law criteria. Nonetheless, enforcement is politically intricate and sluggish, sometimes obstructed or weakened by the unanimity required within the Council

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Democratic Deficit: Old Problem, New Dimensions

The notion of a democratic deficit in the EU pertains to the perceived disparity between EU institutions and their constituents. Notwithstanding the Lisbon Treaty's initiatives, certain obstacles persist in perpetuating this impression. The European Parliament's Limited Role: Despite acquiring more powers, the Parliament is devoid of complete legislative initiative and is often marginalised in pivotal choices, particularly on foreign policy and crisis management. Nontransparent Decision-Making: The European Council and Council of the EU often function in manners that lack complete transparency and accountability to the electorate. Minimal Participation and Engagement: European elections often see low voter participation, with voters feeling alienated from EU politics and institutions. Discrepancy in Representation: Minor member states may wield excessive influence in certain policy domains, raising concerns over fair representation.

Electoral Reform and its Limits

Initiatives to change the electoral system have had inconsistent outcomes. The Spitzenkandidaten mechanism, established in 2014 to enhance the direct connection between European elections and the appointment of the Commission President, has encountered difficulties. In 2019 and maybe again in 2024, the process was marginalised, compromising attempts to bolster democratic credibility. Alternative suggestions, like transnational lists and the standardisation of voting regulations, have encountered opposition from national governments concerned about relinquishing control over electoral results. As of June 2024, electoral reform is incomplete and disjointed, inadequately addressing the problem of political accountability at the EU level.

Understanding the EU: Toward a more Resilient Democracy

Notwithstanding these problems, the EU has initiated measures to enhance accountability and public participation. The Conference on the Future of Europe, initiated in 2021, established new avenues for public engagement. Digital platforms and deliberative democracy procedures enable people to articulate problems and suggest improvements. Furthermore, the geopolitical disruptions of recent years, such as the COVID-19 outbreak and Russia's conflict in Ukraine, have underscored the need for unity and a government grounded on principles. The EU has shown increased readiness to use financial leverage and legal instruments to maintain rule of law norms; yet, the potential for this to result in enduring structural change remains ambiguous.

The Lisbon Treaty sought to mitigate the democratic deficit by augmenting the authority of the European Parliament (EP), improving transparency, and establishing the European Citizens' Initiative (ECI) (Craig 2010: 33–35) [7]. National parliaments were assigned an enhanced role in subsidiarity assessments. Scholars such as Follesdal and Hix (2006) [25] contend that although these reforms enhanced the circumstances, substantial power continues to be centralised in the European Council, thereby constraining democratic oversight (Hix 2006: 540). Lord (2011) [35] observes that intricate institutional frameworks persist in complicating citizen engagement and accountability (Lord 2011:396-397) [35].

The mechanisms of the EU, specifically Article 7 TEU and the Rule of Law Conditionality Regulation, have proven to be only partially effective. Article 7 has been activated but is impeded by the necessity for unanimous consent regarding sanctions (Blauberger and Kelemen, 2017: 325–326) [3]. The European Parliament has condemned the insufficient advancement and urged for organised hearings and recommendations (EUCRIM 2022) [23]. In 2022, the European Court of Justice affirmed the legality of conditionality measures, allowing the EU to withhold funds; however, enforcement is still politically limited (The Guardian 2022) [46].

The Spitzenkandidaten system, established in 2014, sought to enhance the direct connection between EU voters and Commission leadership by associating the position of Commission President with European Parliament elections. Hobolt (2015) [32] noted that this reform initially enhanced visibility and voter engagement (Hobolt 2015: 9) [32]. Nonetheless, the system was disregarded in 2019, compromising its credibility and revealing institutional hesitance to adopt more profound democratisation (Schimmelfennig 2014: 332-333) [44].

The Lisbon Treaty augmented the co-legislative authority of the European Parliament within the framework of the Ordinary Legislative Procedure (Hix & Hoyland, 2011: 154–156) [31]. However, the Parliament does not possess the authority for legislative initiative, and informal trilogues along with intergovernmental negotiations persist in constraining its influence (Curtin, 2014: 3–5) [8]. Despite its expanded role in budgetary and legislative domains, genuine parity with national parliaments continues to be unattainable.

Public confidence in EU democracy remains variable. The 2023 Eurobarometer survey indicated that trust in the EU remained relatively stable, yet exhibited significant variation among countries and was compromised by perceived double standards in the enforcement of the rule of law (European Commission 2023: 14). The erratic implementation of mechanisms in nations such as Poland and Hungary has engendered public scepticism regarding the EU's democratic integrity (AP News 2024). Participation in European elections is moderate, reflecting a continual disconnect between EU institutions and public involvement (Norris and Inglehart 2019: 127–129) [41].

Conclusion

The Lisbon Treaty established the groundwork for a more democratic and rights-oriented union, yet the progression

has been inconsistent. The crisis of the rule of law in specific member states and the ongoing democratic deficit at the supranational level underscore the necessity for more profound reforms and enhanced enforcement mechanisms. The EU must persist in enhancing its institutional framework, strengthening democratic principles, and guaranteeing the adherence to its core values throughout all member states. Only then can the European project restore citizen trust and assert its legitimacy in an increasingly uncertain global landscape.

As a result, the Lisbon Treaty has achieved minimal advancement in alleviating the democratic deficit due to persistent intergovernmental supremacy and inadequate enforcement of democratic standards. This possesses significant value. The Lisbon Treaty (2009) implemented reforms to bolster the democratic legitimacy of the EU by augmenting the authority of the European Parliament and formalising the function of national parliaments; however, intergovernmental supremacy persists, particularly via the European Council and the Council of the EU. These entities frequently make crucial decisions in secrecy, thereby constraining transparency and direct democratic accountability. The enforcement of democratic norms among member states is inadequate, as demonstrated by the EU's limited capacity to prevent democratic regression in nations such as Hungary and Poland. Consequently, despite the existence of procedural enhancements, the democratic deficit remains largely unaltered.

The EU rule of law mechanisms, such as Article 7 TEU and the Rule of Law Conditionality Regulation, are subject to political limitations and are applied inconsistently. This is firmly substantiated by both empirical evidence and expert evaluations. Article 7 TEU has demonstrated challenges in implementation owing to its stipulation for unanimity among member states, enabling mutual protection among regressive governments (e.g., Poland and Hungary obstructing actions against one another). The Rule of Law Conditionality Regulation, which associates EU funding with adherence to the rule of law, has encountered delays, legal obstacles, and inconsistent enforcement. Political factors frequently supersede legal principles, resulting in inconsistent application. Consequently, these mechanisms, despite their theoretical strength, are frequently undermined by political inertia and strategic alliances.

Likewise, electoral reforms since 2009 have slightly enhanced transparency but have not succeeded in establishing a significant EU-wide democratic identity. Reforms like the Spitzenkandidaten process and the heightened visibility of European political parties have improved transparency, enabling voters to link elections with prospective Commission Presidents. Nonetheless, these alterations have not garnered widespread support among EU citizens. Engagement in European Parliament elections continues to be influenced by national concerns, with minimal perception of a collective democratic arena. Furthermore, the Spitzenkandidaten process was not uniformly maintained (e.g., in 2019), thereby compromising its credibility. Consequently, reforms have gradually enhanced process transparency but have not succeeded in cultivating a transnational democratic culture.

Furthermore, public confidence in EU institutions remains tenuous due to perceived democratic disconnection and institutional opacity, despite formal enhancements in electoral processes. This is predominantly accurate. Although certain electoral and institutional reforms (e.g., enhanced EP powers, more organised campaigns) have been implemented, public confidence in EU institutions remains inconsistent and precarious, especially in member states experiencing increasing Euroscepticism. A significant number of citizens perceive the EU as technocratic, remote, and intricate, with decision-making regarded as opaque and unresponsive to public engagement. The disparity between formal democratic processes and citizens' perceptions of their influence fosters enduring mistrust and disengagement. The absence of explicit accountability in EU governance exacerbates this disconnection, perpetuating the strain on democratic legitimacy.

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