

The European Parliament on the wrong track

Cure for the "sick democracy" of European parliamentarism

1. Summary

- Thanks to the amending treaties, the influence of the European Parliament (EP) has grown steadily since its creation. 42 years ago it has gone astray and today no longer represents the democratic functioning of the European Union, but its institutional self-interests.
- The transformed institution does not meet the democratic standards. The European Parliament elections, even after a long period of time, still remain behind the national and local elections. The declining turnout shows that voters do not feel the real impact of the elections in their own lives and do not expect the representation of their individual and community interests from their MEPs, but rather from their national MPs and governments.
- The European politician and the European citizen have drifted apart. The majority of directly elected MEPs, who are incompatible with national functions, now only seek to satisfy the public of a narrow social group in Brussels, and are also able to assert institutional self-interest over the interests of nation states. In order to achieve its ambitions, it uses the blackmail potential acquired by the treaty amendments and the loopholes in the EP's Rules of Procedure and the EU Treaties.
- The false track of the European Parliament means a dead-end for the institutional reform of the European Union. The only way out is that if the European Parliament and the European citizens find each other again. This requires a reunification of the national and the European representation.
- According to the Nézőpont Institute, the solution to the democratic deficit of the European Parliament lies in the national parliaments:
 - ▶ **The right to delegate MEPs should be returned to national parliaments**
 - ▶ **The number of MEPs should be reduced**
 - ▶ **The ban on dual mandates should be lifted**
 - ▶ **The red card procedure should be introduced**

2. The history of the rise of the European Parliament

The development history of the European Union to date has been characterized by a tendency of growing influence of the European Parliament (EP). Thanks to the agreements on amending the Basic Treaty of the EU, it has acquired new powers, which have strengthened its role in the European decision-making. The growing influence used more and more resources, and thanks to the continuous membership expansions, the number of representatives also increased tenfold. In its more than four decades of history, the EP has proved to be a skilled self-interest lobbyist, constantly increasing its institutional powers.

The predecessor of the current EP was created in September 1952 as an institution of the European Coal and Steel Community. At that time, it was called the European Parliamentary Assembly, and it started with 78 members. Initially, its members were not politicians, but mainly steel and coal industry experts, delegated by national parliaments. In terms of its function, it acted mainly as a monitoring body, leaving the legislation to the Council. From 1958 onwards, it was required to represent Euratom and the European Economic Community, so its name was changed first from the General Assembly to the European Parliamentary Assembly and then in 1962 to the European Parliament. This was the beginning of the re-ideologisation of the EP, and due to the dual mandate the still national representatives were grouped not only by Member State but also by ideology.

In terms of its powers, from the 1970s the EP was able to decide on certain areas of the Community budget, and since 1975 their vote has been required for the whole budget. The extension of the European Parliament's powers has accompanied the amendments of the European Treaties. Its influence has gradually increased with the adoption of the Single European Act (1986), the Maastricht Treaty (1992), the Treaty of Amsterdam (1997), the Treaty of Nice (2004) and the Treaty of Lisbon (2009).

The Single European Act increased the EP's powers in certain legislative areas (such as the 'cooperation procedure') and made accession and association agreements subject to the EP's consent. The Maastricht Treaty introduced the 'codecision procedure' (known as the 'ordinary legislative procedure' since the 2009 Lisbon Treaty), under which the EP acquired new powers, becoming an equal decision-maker with the Council in certain areas. In this form of decision-making, the EP can already act as a decision-maker whose consent is essential when decisions are taken. The strength of the parliamentary majority is shown by the fact that, since Maastricht, all members of the European

Commission are subject to a vote of approval by the EP, the EP appoints the Ombudsman, and through the joint decision making model, the EP has achieved the co-legislative role it had sought for decades. The Maastricht Treaty gave the EP powers in only 15 areas, but the Treaty of Amsterdam added 23 more. The Treaty of Nice extended its powers in a further 5 areas, and the Treaty of Lisbon made the EP a real co-legislator by introducing the 'ordinary legislative procedure' and extending it to new areas, thus creating a legislative body on an equal footing with the Council.

The European Parliament seems to have come a long way. Although the institution was not yet included in the Schuman declaration, today 80 percent of the European laws are passed with the consent of the EP.

3. Diagnosis: the "sick democracy" of the European Parliament

The argument behind the EP's growing influence is essentially to promote democratic decision-making. As the leaders of the European Union, which was established and operates as an international organisation, have often perceived the lack of democratic legitimacy, they preferred to address this legitimacy deficit by strengthening the seemingly democratic European Parliament. However, it is questionable to what extent the transformed institution meets the "democratic standards", and what purpose it serves in reality. Indeed, the EP's functioning shows signs of deviating from its original intentions.

3.1. Weak legitimacy: low interest in parliamentary elections

Interest in European Parliament elections has faded over the last four decades. Although direct elections to the EP have been held in every five years since 1979, citizens of nation states have become increasingly disinterested in these second- or third-class elections compared to national elections. At community level, interest has fallen by a third. While nearly 62 percent of Europe's population went to the polls when direct elections were introduced, in 2014 only less than 43 percent did so. The migration crisis on the continent turned attention again to the EP elections in 2019, but the 51 percent turnout remained below the interest of the late 1970s. The low turnout at EU level is an indicator in itself, but some results directly raise concerns over the strength of the empowerment. In 2014, for example, 18.2 percent of voters in the Czech Republic and only 13 percent in Slovakia participated in the European elections.

The low turnout not only reveals the low level of importance voters attribute to the institution, but also reveals serious imbalances that further question the health of the representative system. We are not referring to the differences arising from different country sizes, which have been made fairer by the application of degressive proportionality, but to the distorting effect of low participation rates, which is also noticeable in Member States of almost the same size. In 2019, nearly 114,000 votes were enough to win a seat in the Czech Republic, a country of more than 10 million people. In Greece, a similar size, it took twice as many, nearly 270,000 votes to win a seat.

In the light of the arguments above, due to the low turnout and the resulting imbalances, the legitimacy and fairness of the European Parliament elections is questionable. The low turnout is due to the fact that voters do not feel the real impact of the European elections on their own lives and that they expect the defence of their individual and community interests from their national MPs, rather than from MEPs. European and national representation were not separated before the treaty changes, but today two separate political divisions have been created, often in conflict with each other,

3.2 Away from the electorate: a supranational Brussels bubble has been created

The separation of national and European representation was gradual. Initially, national parliaments delegated representatives to the European Parliamentary Assembly, then direct elections were introduced in 1979, and finally the possibility of a dual mandate was abolished from 2004.¹ The unexpected consequence of the abolition of the dual mandate is the considerable divergence between the European politician and the European citizen. Since the ban, it is no longer possible for popular and well-known figures, who also serve in national parliaments, to promote national interests to Europe and European interests to the nations. The abolition of the dual mandate has led to the creation of a supranational political class in Brussels which is separated from and floating above the nations.

Of course, there is an overlap between national parties and European parties, but there is also a clear dichotomy. European political groups formed by national parties tend to express their positions in a different voice than national parties. This is because the European political class, detached from national contexts, wants to respond to the public of Brussels.

The result of this separation is that MEPs no longer intend to accommodate European policy with the interests of Member States, but often set European policy against governments that represents national interests. In the past, it was difficult to imagine that one of the main themes of the European Parliament's campaign would be to punish Member States that oppose the values of the parliamentary majority. This is what happened in 2019, when the left-wing majority in the European Parliament called for the launch of the Article 7 procedure, definitively dividing and splitting its main opponent, the European People's Party.

Previously, it was out of question for any European institution to assert its own interests over the interests of nation states. This happened in 2020, when a left-wing majority in the European Parliament rejected the agreement reached at the EU summit on the European

budget and the recovery fund. In the midst of a crisis, it became clear that the ideological considerations of the Brussels bubble were overriding the hard-won compromises of cooperating states.

3.3. Role confusion: the EP pretends to be a legislative power

To achieve its ambitions, it uses the blackmail potential of its powers gained through the treaty changes and the loopholes in the EP's Rules of Procedure² and the Treaty on the Functioning of the European Union (TFEU).

As an equal decision-maker, on important issues it is able to enforce the incorporation of political instruments in line with the values of the parliamentary majority into the functioning of the Union. Another clear example of this is the link between the rule of law mechanism and the use of EU funds. In order to impose its own will, the EP not only blocked the adoption of the budget, but introduced a mechanism that relies on the vague wording of the treaties. In the absence of a concrete, accountable definition of the rule of law, the parliamentary majority has adopted a political sanctioning instrument that allows the parliamentary majority to initiate the suspension of EU funds on a political basis.

It was due to the flexible interpretation of parliamentary rules, when the left-wing majority could not obtain a two-thirds majority to vote on the report condemning Hungary. Under Article 354 TFEU, "For the purposes of Article 7 of the Treaty on European Union, the European Parliament shall act by a two-thirds majority of the votes cast, representing the majority of its component Members."³ Turning their backs on the rules of parliamentarianism, abstentions were ignored, thus obtaining a simple majority to initiate the Article 7 procedure.⁴

The European Parliament's relationship with the European Commission and the European Council has clearly reveals that it has further ambitions within the institutional system: to assume the image of a real legislative power. Accordingly, the EP is cherishing ambitions of achieving not only new sanctioning instruments but also new roles. Since 2014, it has been trying to create the tradition of the 'Spitzenkandidat' system, sort of imitating the nomination of the head of government by the Parliament. Although there is neither legal basis, nor consensus has been reached on the procedure, and the European Council continues to decide on the candidate for President, promoting this practice would further strengthen the Parliament's political position in the long run.

The European Parliament's political self-assertiveness within the political system points in the direction of the concept of the 'United States of Europe', which has a unified demos and an own government which is responsible to the legislature. However, the EP is not legally a parliament but a co-legislator of Commission proposals; it does not nominate and elect a head of government but accepts the Council's proposals, and Europe has neither been transformed into a melting pot of nations. In order for the European Parliament to be a real parliament and to be able to elect a head of government, in addition to that Member States should give up their sovereignty, another treaty change would be necessary. The problems of the European Union might be reduced by another reform, but the changes should certainly not be along the same direction as before. Previous institutional reforms are often described as 'deepening', but in reality they have resulted in dissension within the diverse community of European nations.

4. National cure for the European crisis

Some still think the solution is deeper integration and nations melting together in a united European state. For example, German parties before the elections in September 2021 are campaigning with further strengthening the transnational character of the European Parliament. CDS/CSU would introduce a uniform European electoral system; this idea is also supported by FDP. The free democrats demand that the confidential long nights of Council sessions should be replaced with public meetings, characteristic of parliaments. That is, they would increase the power of the European Parliament at the expense of member states.

Based on the discussion above, however, it is clear that 42 years ago the EP took a tempting wrong turn; today it serves its own self-interests, rather than the European Union's democratic operation. The European Union entered the dead-end street of institutional reform of the European Parliament when it started curbing nation states' representation in favour of the EP.

The solution is a reunification of national and European interest representation:

4.1. The right to delegate European parliamentary members must be given back to national parliaments

In order to achieve this, the right to delegate members of the European parliament must be given back to national parliaments, in a manner similar to the Consultative Assembly of the Council of Europe. European politics and European citizens can only meet again if citizens elect their European representatives through elections they find meaningful, and if their representatives in Europe are well-known to them and can be called to account, if necessary. National parliaments have always played an essential role in law-making, as they were the ones to transpose European decisions into national law. The selection method of the members of the Consultative Assembly of the Council of Europe can be a model here; it is included in Hungarian law in paragraph a) Article 25 of the Act LXXI of 1991:

“The Consultative Assembly shall consist of Representatives of each Member, elected by its Parliament from among the members thereof, or appointed from among the members of that Parliament, in such manner as it shall decide, subject, however, to the right of each Member Government to make any additional appointments necessary when the Parliament is not in session and has not laid down the procedure to be followed in that case. Each Representative must be a national of the Member whom he represents but shall not at the same time be a member of the Committee of Ministers.”⁵

Naturally, delegation by national parliaments would not only mean the delegation of the parliamentary majority of the time. The Council of Europe Assembly also has members from parties that are not in power. Another benefit of delegation by national parliaments is that there would be no European parliamentary cycle. The make-up of the new EP would change more dynamically, just like that of the Council of Europe, so voters' one-time decision would not be set in stone for five years.

4.2. The number of MEPs must decrease

Indirect legitimation would be cutting significant costs. Currently, the European Parliament takes up one-fifth of the European Union's institutional budget, over €200 million of which covers the salary of MEPs.⁶ This expense would be significantly reduced if the new forum had fewer than the current 705 members. The potential introduction of a daily allowance-based compensation would make the system more performance-based.

4.3. The ban on dual mandates must be lifted

Concurrently, dual mandates should be allowed again. Beyond copying the institutional solution of the Council of Europe, this would also mean returning to basics. Up until 2004, every member state could place the members of its national parliament on the European parliamentary elections' party list (for the United Kingdom and Ireland, this was the case until 2009). The principle of incompatibility was introduced in the European legal system by the 2002/772/EC, Euratom: Council Decision of 25 June 2002 and 23 September 2002. A clear benefit of the dual mandate is that voters would have a much wider view of European issues through the personal connections between national and the European parliaments. The direct national suffrage would also ensure MEPs' legitimacy. The work of the new EP would become more democratic, with greater transparency, greater accountability, and a stronger mandate.

4.4. A red card procedure must be introduced

Finally, in order to strengthen the interest representation of nation states, representatives should be given the right to stop the law-making procedure of the European Union, that is, a red card procedure should be introduced. This is not a new idea. The suggestion of giving national parliaments the right to evaluate or to veto EU proposals was discussed 20 years ago during the debates about the European constitutional treaty. The current Treaty of Lisbon also expressed the requirement for national parliaments to play a bigger role in the European Union's activities. A potential institutional interconnectedness and the right to veto would mean major progress in this regard compared to the current role of evaluation.

5. Footnotes

¹ <https://eur-lex.europa.eu/legal-content/HU/TXT/PDF/?uri=CELEX:32002D0772&from=HU> (Downloaded: 14.09.2021.)

² https://www.europarl.europa.eu/doceo/document/RULES-8-2018-07-31-RULE-178_HU.html?redirect#def1 (Downloaded: 14.09.2021.)

³ <https://eur-lex.europa.eu/legal-content/HU/TXT/?uri=CELEX:12016E354> (Downloaded: 14.09.2021.)

⁴ <https://curia.europa.eu/jcms/upload/docs/application/pdf/2020-12/cp200151hu.pdf> (Downloaded: 14.09.2021.)

⁵ Act LXXI of 1991 amending the Statute of the Council of Europe, signed in London on 5 May 1949 and amended in accordance with the Protocols of the Secretary General of the Council of Europe of 22 May 1951, 18 December 1951, 4 May 1953, 30 May 1958, 3 November 1961, 6 May 1963, 24 May 1965, 14 October 1970, 17 February 1971, 9 December 1974, 2 October 1976, 9 January 1978, 20 January 1978 and 27 November 1978 of 1978, 1978, 1978, 1978 and 1978/1978.

⁶ <https://eur-lex.europa.eu/budget/data/DB/2022/hu/SEC01.pdf> (Downloaded: 14.09.2021.)