

European Democracy: A Note on Theory and Practice

Introduction

A commonplace assumption is that the operations, procedures and administration of the European Union all work under agreed formulations – as laid down in various Treaties, with wide endorsement of the roles of EU institutions and their relationship with individual Member States, underpinned by the general embrace of the “Acquis Communautaire”. The Acquis represents the accumulated legislation, legal acts and court judgements, which constitute the accepted body of European Law.

The reality is very different. The European Union has a legacy of serial aspirations, loosely held together by a series of Treaties, the last of which in Lisbon in 2007 and 2009 as the Treaty on the Functioning of the European Union (TFEU) which had been subject to referenda in the Netherlands, Ireland and France. So instead of a structure for supranational democracy, the EU signifies the homogenisation of peoples rather than people. There is no overarching “European Constitution” and throughout Europe there is no single view of the European Union, with each Member State having different aspirations, so that all this offers only a slender theoretical or practical basis for the operation of EU institutions, especially the Council of Ministers and Commission, when these seek to intervene within Member States. Arising from all this, there are big problems in enforcing any sanctions, as shown below, in supporting TFEU Article 2 on promoting European values using Article 7, which, as explained later, which seeks to isolate the rest of the European Union from an individual Member State.

This contribution, based on the author’s personal experience and significant external contributions, seeks to show that, especially after the June 2024 European Parliament Elections, the fragility of institutions hitherto bound together by a broad neoliberal consensus of Christian and Social Democrats, is now disintegrating. Until the outcome of the European Parliament Elections in June, all of this has been held in place, not by any agreement between Member States but by an underlying political consensus between the two biggest political groups in the Council of Ministers and Parliament – the European People’s Party (mostly former Christian Democrats) and the Party of European Socialist and Democrats (mostly former Social Democrats). On current projections, the EPP has 188 MEPs and the Socialists and Democrats 136. For the author, while politically these two main political groupings have much in common, often with their staffs moving seamlessly between groups, though they both subscribe to an economic and social neoliberal approach, they no longer command a majority in the Council of Ministers or Parliament.

No matching democracy

This lack of democratic underpinning for EU institutions is important for understanding the emergence of new European political groupings described below. The European Parliament functions as a consultative assembly, though it does have the power to approve the President and members of the European Commission. The Commission forms the EU’s “civil service” and the Council of Ministers its Cabinet.

The Parliament’s political groups function as a conduit for the distribution of various research and administration funds – a super sized version of “Short Monies” for House of Commons political parties. Since to be recognised as an EP Parliamentary Group to receive these funds needs 23 MEPs from seven different Member States, as shown by Ursula der Leyen’s confirmation vote, it is very difficult for groups to persuade all their group members to align their votes. Though this “grand coalition” of

Christian and Social Democrats has previously prevailed, the June Election delivered a Parliament which has shifted to the Right, with its predominance of this “grand coalition” increasingly challenged.

The main result of the June 2024 European Parliament Elections is that the combined EPP and S&D membership of 324 no longer forms a majority out of 720 members. They are now challenged by the new Patriots for Europe Group, led by the Hungarian Fidesz and France’s National Rally with 84 members as the third largest group. There is also a Renew Europe (liberal) group with 77 and European Conservatives and Reformists (Georgia Meloni’s Brothers of Italy and Poland’s Law and Justice) with 78. There are two groups of Greens. The right wing Greens/European Free Alliance have 53 and the Nordic Green Left Group has 46. Alternative fur Deutschland is now part of a new Europe of Sovereign Nations Group with 25 MEPs, mostly from East Germany. The confirmation vote for the President of the European Commission shows that Ursula von de Leyen could not have been elected with the support of EPP, S&D and Renew votes, but also needed a majority of more right wing Greens. All this was opposed from Patriots for Europe, European Conservatives and Reformists and European Sovereign Nations groups. So while von der Leyen was rescued by the Greens, as an indication of forthcoming mutual hostilities, she had not organised any meeting with any of these three groups and actually attacked Hungary during her speech. Since this 190 member opposition block now represents a quarter of the Parliament and will now aim to form a blocking minority in the Council of Ministers, her major task will be keeping Green votes onside against more vocal opposition.

As a precautionary aside, for the author it is significant that a majority in the Council of Ministers first agreed on which political grouping would deliver the Presidency of the European Parliament, which carries wider significance through the participation of this office beyond the Parliament in EU institutional procedures. This is the equivalent of the Speaker being nominated by the Cabinet, to be ratified by a vote in the House of Commons.

The Constitution of the European Union

The nearest to a “Constitution” for the EU which could be agreed is represented in the TFEU, which, with the Treaty of the European Union came into force as the Treaty of Lisbon in 2009. Lisbon sets out the decision making procedures and main policies of its institutions, especially the Council of Ministers, Commission and European Parliament. Not only had previous Lisbon versions been subject to referenda in France, the Netherlands and Ireland, now that the EU has 27 Member States, it is most unlikely, politically and constitutionally, that there could be sufficient agreement to revise any of this to endow EU institutions with greater powers, especially those which might bestow competence to intervene in the internal affairs of Member States. Underlying all this, the three largest economies operate on very different bases. France has a strong central state, in control of more than 40% of GDP. Germany’s Constitutional Court imposes a “debt brake” which limits borrowing to 0.35% of GDP. Italy has a significant economic and social North-South divide.

Constitutionalising Neoliberalism

Various EU Treaties effectively constitutionalise in European terms the ‘Washington Consensus’ of 1981 (Williamson, 2009), within which the predominant roles of the main state and private actors were not disputed. “the reduction of state aid is deemed to be a crucial component in the broader project of creating a single European market, undistorted by local political or producer interests.....Despite the fact that state aid rules were only weakly enforced until the late 1980s, and lacked any formal implementation procedure until 1999, they represent a clear case of liberal market principles being enshrined in statute” (Davies, 2013). “As scholars have noted, the 1950s and 1960s were the high point of ‘embedded liberalism’” (C. Bickerton et al., 2015, p. 707).

As further summarised by Bickerton (C. Bickerton, 2022):

“Nowhere else have the rules of market integration been given constitutional status without any matching powers granted to electorally accountable bodies -----the dominant agenda-setting institution is the European Council, composed of heads of state and government. ... The idea of tying the outcome of European parliamentary elections to the identity of a new College of Commissioners—in the hope of injecting something like partisan politics into the technocratic machinations of the EU ‘executive’—was batted away by national leaders...It has provided an outlet for anger but without any real prospect of social or political change”

European Initiatives

The following recites a short summary of the more important European initiatives, including “cohesion”, the social dimension and monetary union, none of which has ever been completed.

The EU’s ‘social dimension’ was initially discussed in a context in which Members favoured a market approach (Dodo, 2014) and began to emerge during the 1960s, as the ending of the post War Keynesian “Trente Glorieuses” produced significant unemployment (Pawin, 2013). To produce any EU social policies which gradually emerged after the original 1957 Treaty of Rome, agreed by an initial six Member States, a German market led approach was preferred to a French social interpretation. The first Social Action Programme was completed in 1974 and the social dimension was included in the Single European Act (SEA) of 1986. After Jacques Delors as Commission President published his Charter of Fundamental Social Rights in 1989, under the Maastricht Treaty of 1992, this became appended as the “Social Chapter”, from which John Major as UK PM secured an “opt out”.

If the 1970s and 1980s saw the framing of an EU social dimension, the 1990s were dominated by completion of an “internal market”, the basis of the current EU Single Market, for which task in 1984 Margaret Thatcher appointed Sir Arthur Cockfield as one of the UK’s Commissioners. In 1985, Cockfield’s White Paper identified 300 measures for completion of a single market and set a deadline of December 31 1992. While MEPs were given additional funding allocations to denote and promote this completion of the internal market, especially for services and capital markets, much of this is still incomplete.

Though the SEA expanded qualified majority voting, so that Member States could be outvoted, its significance was underestimated. The author recollects that House of Commons SEA voting on both sides was subject only to a “two line whip, under which MPs could “pair” and thus absent themselves from attendance.

Convergence and Cohesion

The 1980s and 1990s also witnessed the gradual integration of Eastern Europe, which is still incomplete. The collapse of former Soviet regimes in Poland, Hungary, East Germany and Czechoslovakia culminated in the demolition of the Berlin Wall in 1989. In May 2004 ten new countries joined the EU: Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia, and Slovenia. Though these new Eastern European Member States have been recipients of the highest levels of various EU Structural Funds, including the “Cohesion Fund” for public infrastructure, to which Member States like the UK have never had access, wage levels and living conditions still lag behind. As examples of significant funding, legal disputes between the EU Commission and Hungary have centred on the unlocking of €22bn in Cohesion Funds. Poland has been in dispute with the Commission over €76bn. “According to the committed allocations of structural funds, German regions received around €25bn

of Structural Funds in the financial perspective 2007 to 2013... East German Länder manage the highest amount of Funds (around €12bn (48.8%) (Dettmer & Sauer, 2019, p. 172). "Among the German states, the East German Länder receive by far the greatest amount of funding" (Dellmuth, 2011, p. 6).

Despite these significant receipts of the highest level of EU funding by newer Central and Eastern European Member States, there are still major imbalances (Borner, 2024):

"Within the European Union, wage differences among Members States kept decreasing until recently, as part of the catch-up process of the Member States joining since 2004. Moreover, there has been a pronounced difference in the transformation paths between the former Deutsche Demokratische Republik (DDR, East Germany) and other post-Soviet states. In Poland in 2022, employees earned an average of €5 per hour, while the average in today's east Germany was €19.08 (against €23.22 in the West)".

No wonder Borner concludes that "these transnational resonances among structural and political transformations in Europe have not changed the mindsets of those politicians who still frame their ideas within the national container," about which more follows below.

The 1992 Maastricht Treaty laid the basis for an EU Monetary Union without political and fiscal union, including the Euro as a single currency. The 1990s saw the gradual creation of a central monetary policy. The European Central Bank was created in 1998. The Eurozone began in January 1999 with notes and coins circulating from 2002. Member States Bulgaria, Czechia, Hungary, Poland, Romania and Sweden have still not joined the Eurozone, though these are supposed to join when necessary conditions have been completed. Denmark secured an opt out under Maastricht.

2009 Treaty on the Functioning of the European Union

All these practical details for alignment, convergence and cohesion are magnified by difficulties in reaching the required agreements for EU Treaties between Member States. After Maastricht, the Treaty of Amsterdam in 1997 and Treaty of Nice in 2001 sought further to remove outstanding differences: "At Maastricht it was decided that major new areas of EU activity would be developed without conceding substantial powers to the European Commission or the Court of Justice of the EU (CJEU). Far from rejecting or revising this principle, the Treaties of Amsterdam, Nice and Lisbon confirmed it" (C. Bickerton et al., 2015, p. 703)

In 2009 the Lisbon Treaty (the Treaty on the Functioning of the European Union) sought to enshrine a shared competence between the EU and Member States. But rather than forming an EU Constitution, this merely sought to clarify the roles of EU institutions while avoiding more domestic referenda. In this context, any attempt to definitively fix a constitutional form of the Union at this time must be considered premature (Crowe, 2008, p. 207). Lisbon only moderately bolsters the Treaties' functions. To the originally proposed Constitutional Treaty it adds little and represents a decisive setback symbolically (Reh, 2009, p. 625):

Streinz also outlines the narrow basis on which the TFEU was accepted (Streinz, 2008, p. 184):

"The major consideration to delete the project "Constitution" and to replace it by a Reform Treaty was to avoid new referenda in France and the Netherlands and to avoid referenda in Britain where the government had promised a referendum on a "European Constitution" only. Most Member States are likely to try to avoid having

a referendum on the Treaty of Lisbon and will aim to ratify it after the permission of their national parliaments”.

Long years of wrangling and indecision have revealed big differences between political vision and public opinion within and across the Member States. These usually been resolved through a widespread perception that the "future of Europe" in reality translates as "Brussels knows best - like it or lump it" (Dogan, 2008, p. 702).

This ultimate aim of EU cohesion through creation of a single market was questioned from its outset (Amin & Tomaney, 2002, pp. 28, 39)

“In addition to the extent that the single market project hasten heavily influenced by a neoliberal approach there has been a strong emphasis on the removal of market distortions and the reductions of ‘burdens’ on business, with obvious implications for the creation of a ‘Social Europe’.....

“The question to be raised is how well ‘hollowing out’, neoliberalism or a ‘Europe of regions’ will work in terms of securing European cohesion. The idea of a permanent weakening of the nation state’s ability to operate a successful macro-economic or industrial policy has stark implications for the less favoured regions”.

Discontent in Central and Eastern Europe

These “stark implications” and significant historical differences for new Central and Eastern European Member States are not widely understood or reported. For Central and Eastern Europe, this extension of EU liberalism and the effective exclusion of economic policy from their national democratic processes has eroded any rationalist foundations of liberal policies, so that elections no longer offer a grand choice between competing worldviews but have become referenda on the elites This has ended any grand ideological narratives. The hegemony of “third way” centrism has profoundly transformed their contemporary democratic politics (Krastev, 2016, p. 62)

Despite wide media coverage, immigration levels have been only one source of discontent. Though many more factors underpin any illiberal surge, including the financial crisis of 2008, ideology is perhaps the most prominent. For many in these new Member States, “liberalism became an ideology of power and empowerment. It created its own peculiar universe, with its own rules and rationality”. As the flagship of the liberal project, the European Union has been attacked by nativist politicians for its “porous borders, oppressive currency system, cosmopolitan culture and bureaucratic politics detached from ordinary citizens” (Zielonka & Rupnik, 2022, p. 1076). In Victor Orbán’s words, this is “a new era of political thought, because people want democratic societies and not open societies’ (Zielonka & Rupnik, 2022, p. 1077). As illiberal leaders promote a Europe of ‘sovereign nations,’ liberals promote ‘an ever-closer union’. The battle between these two groups contributes to the demise of the normative and institutional system that secured peace in Central and Eastern Europe after 1989 (Zielonka & Rupnik, 2022, p. 1091)

European integration was regarded the jewel of the liberal project, with the EU as the embodiment of integration. It was hailed as an effective instrument for handling globalisation, an experiment in transnational democracy and a vehicle for strengthening Europe’s global position. But rather than these, emerging narratives in Central and Eastern Europe focus on the ‘national interest’, secured borders, protection of ‘our’ producers and religious roots. “Globalisation, multiculturalism, multilateralism and European integration are under fire” (Zielonka, 2024)

There are other significant differences for Central and Eastern European Member States. While Western Europe's attitudes toward the rest of the world have been shaped by colonialism with its emotional legacy, Central and Eastern Europe's states have come from the disintegration of empires and accompanying outbreaks of ethnic cleansing that went with it (Krastev, 2016, p. 93).

It is Central and East Europeans' deeply rooted mistrust of a perceived EU cosmopolitan mindset that stands out most sharply. "They have no confidence in those whose hearts are in Paris or London, whose money is in New York or Cyprus, and whose loyalty belongs to Brussels. Being cosmopolitan and at the same time a "good" Bulgarian, Czech, Hungarian, Pole, or Slovak is not on the cards...For these smaller states, integration with Europe and "structural adjustment" meant that major economic decisions such as the size of the budget deficit were effectively removed from the arena of electoral competition (Krastev, 2016, pp. 93, 94).

EU Limited Powers to Intervene

Despite several attempts to reach agreement, the powers of central EU institutions to intervene in Member States are limited under the 2009 Lisbon Treaty. Article 2 refers in vague general terms to European values to be upheld and Article 7, apart from requiring Member State unanimity, does not mandate anything like intervention within a Member State. Rather, the core of Article 7 consists of a mechanism to insulate the rest of the EU from the government of a particular Member State deemed to be in breach of fundamental values. "(I)t enables a kind of moral quarantine, not an actual intervention" (Müller, 2015, p. 144). As an example of the limits to any power of central intervention, under Article 285 of the Treaty on the Functioning of the European Union (TFEU) the Commission eventually took Hungary to the European Court of Justice for age discrimination in removing its judges. But the judges were never fully re-instated"Despite its nominal legal success, Europe appeared impotent in getting at the real issue, which was political and had nothing to do with the discrimination of individuals" (Müller, 2015, p. 147)

Because of these effective limitations on EU central intervention powers, Muller suggests a new a 'Copenhagen Commission' —"a body, in other words, with a mandate to offer comprehensive and consistent political judgments", comprising legal experts and statesmen and stateswomen with a proven track record of political judgment ...effectively to raise an alarm across whatever there is by way of a common European political space (Müller, 2015, p. 150). But any agreement to progress this will today be impossible among 27 very different Member States.

Conclusions

From recent events, personal experience and external theoretical contributions the author has sought to show that, far from simply marking a rightward shift in EU politics, the European Parliament Elections and the confirmation vote for the President of the European Commission has once more revealed the disintegration of the "grand coalition" of European Christian and Social Democrats which has underpinned the development of the European Union since its formation. The EU's attempt to constitutionalise neoliberalism is increasingly resisted by newer Members States which view all this as the extension and empowerment of European and global elites. Just as it was necessary for the Parliament's confirmation for President of the European Commission to reach beyond a combination of EPP, S&D and Renew MEPs to find support from right wing Greens, an opposing block of 190 MEPs now forms a quarter of the Parliament and may soon achieve a blocking minority in the Council of Ministers. Ursula von der Leyen has yet to secure the Parliament's endorsement of her College of Commissioners, where Commissioner appointments are already an ongoing political contest.

Apart from media misinterpretations, several other factors have “bedevilled work on European integration”, especially the “appearance of the EU as something separate from and lying above national societies in Europe. This appearance of externality is in fact only appearance” (C. J. Bickerton, 2012, p. 182). The author’s contribution, especially in its description of recent events, has shown continuing moves away from centrality. After Maastricht, EU integration has largely taken place without supra-nationalism, so that new institutions have only concentrated the powers and activities of national governments and their representatives (C. Bickerton et al., 2015, p. 717).

Bickerton also identifies an EU technocracy – the spawning of regulatory agencies “based on trust in elites.” These now include the European External Action Service to provide support for the EU in foreign affairs, the European Defence Agency, and European Union Institute for Security Studies. The latest invention, the European Political Community, an idea from France’s Emanuel Macron, serves to integrate EU defence and other capabilities through the wider involvement of non Member States.

The emergence of populism thus stands as an ideology and discourse that pits ‘the people’ against these elites, which increasingly challenges the place traditionally held by the main political parties of Left and Right. From Marine Le Pen in France to Geert Wilders in the Netherlands, we see traditional political alliances rubbing up against—and in some cases assimilating—new anti-establishment populist leaders and movements (C. J. Bickerton, 2012, p. 185)

All of this raises fundamental issues for the future of the European Union, especially how it might continue underpinning its 1989 version of neoliberalism. “But one thing is clear. The European project as we know it cannot long survive in an environment dominated by populist governments. The critical question, then, is who has more staying power, the EU or these regimes?” (Krastev, 2016, p. 98) “The EU may or may not be part of Europe’s future. Having the confidence to embrace this uncertainty should be the first step towards the political reinvention of Europe” (C. J. Bickerton, 2012, p. 190).

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