



JEAN MONNET

THE EU AND THE WORLD: NEW CHALLENGES AND TRENDS

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Obliging European Parties to Participate in the Transnationalization
of European Politics

By

Maria José Schmidt-Kessen and Luís Moitinho de Almeida

Universidade Católica Portuguesa – Católica Global School of Law.

PORTUGAL



Maria José Schmidt-Kessen

m.schmidtkessen@gmail.com

Luís Moitinho de Almeida

luismoitinho87@gmail.com

1. Introduction/Abstract

The present paper presents an outline for a proposal to enhance the effective exercise of European Union (EU) citizens' political rights to vote and to stand as candidates in elections to the European Parliament (EP) and in municipal elections in their Member State of residence.

In the past low levels of turnout at EP elections have been a cause for concern in this context. During the current global economic crisis, which is turning into a political crisis for the EU, there is even more reason to encourage EU citizens to make use of the political rights conferred upon them by European law. As there is increasingly evidence of a growing *anti-european* discourse which instrumentalizes the EU as the "bad guy" responsible for unpopular national measures, the citizens should be made ever more aware that they actually possess the capacity to influence policy choices made at the European level. The EU Commission has also shown an interest in the enhancement of the political rights of the EU citizenry with plans to turn the year of 2013 into the "European Year of Citizen".

In our opinion, one possibility of enhancing the effective exercise of EU citizens' political rights would be to enact a measure that makes it mandatory for Member-States' national political parties to disclose their affiliation with a particular 'Europarty' whenever possible. This disclosure would take place in all political advertisement, and would be included in the voting ballots, in EP and municipal elections. A non-compliance with the disclosure obligation could be enforced by cutting the funding of the respective Europarty.

Before presenting our proposal we will briefly place it in the context of the general struggle to make the EU a participatory democracy. Subsequently the proposal itself, its advantages and disadvantages will be discussed.

2. A Citizens' Union?

The vanishing link between EU citizens and politics made in Brussels

Ever since the establishment of the EU one of the greatest challenges has been the question of how to include the people in the EU political processes. To ensure a minimum level of participatory democracy, the European Parliament came to be elected directly, the Member States' citizens became an EU right of suffrage and the role of the Parliament in the legislative process was strengthened to finally become in most policy areas an equal player to the Council. This could sound like a happy story, but reality is rather sad. The ideas to make participatory democracy a cornerstone of the European political system have not worked in practice. Most EU citizens have a apathetic attitude towards EU politics, as evidenced by the ever decreasing participation in the EP Elections. This apathy is either a cause or a result of a general lack of knowledge and information about the EU and the importance of EU politics in the everyday life. This state of affairs seems to be beneficial to national politics, which can manipulate the opinion of their citizenries by either blaming the EU for unpopular measures or by hailing themselves of having achieved something in Brussels for their citizenries. The result is a responsibility *à la carte* for national politicians, whenever something good happens it was them, whenever something bad happens, it was the EU. The current crisis is a prime example for this problem.

The methods chosen by national governments to combat the crisis have been to (a) blame the negative repercussions on the other Member States for either not having done their economic "homework" (Southern Europe) or for being selfish (Northern Europe) and (b)

to come together and invent all types of common economic weapons against the evil financial markets like bazookas, firewalls, austerity packages, and fiscal compacts. Behind the stage however, national governments have used the opportunity to try to push through national interests as much as possible. Not only can the effectiveness of these “methods” be put into question. More importantly, these processes have taken place to the exclusion of two actors, namely the EU institutions and the EU citizens, which should definitely be in the picture, if we want to call our Union a “democratic” one.

In the current crisis EU citizens have seemed to understand themselves predominantly as part of national citizenries supporting their national governments as main actors on a stage play which is taking place in a very distantly felt Brussels. Consequently, the political process in the EU is understood as a zero-sum game, conducted by national governments, in which each national government is struggling to prevail over the other governments.ⁱ Current national political discourse is fostering these nationalist tendencies by campaigning in elections with anti-European ideas, the recent French elections being a prominent example. As a result the image of the EU has suffered in its entirety as recent Eurobarometer results show.ⁱⁱ This situation could only be remedied by changing the perceptions EU citizens presently have of EU policy making and about the role of national governments and of EU institutions in it.

To achieve a change in perception of the EU citizenry, a EU public opinion would have to exist as a precondition. A pan-European public opinion can only be achieved by a large-scale informational effort, which would be capable to make people understand which are the *European* interests at stake generally and in particular in this economic crisis. Citizens would have to understand how these interests can be pursued within the political structure of the Union. This information could be disseminated by a pan-European media,ⁱⁱⁱ by a new forms of regional information centres specifically set up to inform European citizens about European issues,^{iv} or finally, by the European political parties.

Generally, a principal *raison d'être* of political parties is their shaping function of political will among the citizens of a polity and their mouthpiece function for the expression of political will. The German Constitution for example obliges German political parties to participate in the “formation of the political will of the people”.^v In a similar way this function is demanded of European political parties in Article 10 (4) TEU. The provision states that “political parties at European level contribute to forming European political awareness and to expressing the will of citizens of the Union”. It is a duty of the European political parties to inform the EU citizens about the relevance of the subjectively distant processes happening in Brussels and Strasbourg. Only if the European parties though national parties take real and effective action in this direction, will the European citizenry be capable of seeing beyond the blurring nationalist fog produced by national politicians.

The link between EU citizens and politics made in Brussels can be strengthened again, if firstly, policy is made by ordinary legislative procedure, so jointly by the Parliament and the Council, and not by intergovernmental escapades. To insure that the EU citizenry is involved in this process, secondly they need to be informed about European interests and politics by European parties. EU citizens need to be made aware about how their interests are affected and can be defended on the European level by the EP. This task should be turned also into a responsibility of European political parties. This will thirdly, lead to a renewed awareness of a common fate of all European citizens, which is a necessary precondition to overcome the current crisis.

EU Citizenship context

The creation of the EU citizenship by the Maastricht Treaty was another effort in the democratization process of the EU. Some of the most important rights given to all EU Citizens are the right to vote and to stand as candidates in elections to the EP and in municipal elections in their Member State of residence^{vi}. Indeed, as the European Commission's proposal puts it, these rights are of primary importance, *since they provide Union citizens with the means to participate in the democratic life of the Union, whilst at the same time contributing to their integration into the society of the Member States of residence.*^{vii}

Nevertheless, the results of the exercise of these EU Citizens' *basic political rights* have been frankly disappointing, as can be seen, for example, in the last available data on the percentage of non-national EU citizens who enrolled to vote in their residing country compared to the total non-national EU citizens residing there. Indeed, except for Ireland the percentage falls always below 25%.^{viii}

To change this state of affairs, the European Commission has recently proposed^{ix} to turn 2013 into the "European Year of Citizens", to mark the 20th birthday of the establishment of EU citizenship under the Maastricht Treaty.^{xi} The main objective of the Commission and the EP is to raise the level of information and the awareness of European Citizens on their political rights.^{xii}

Creating a pan-European political consciousness

One of the reasons many commentators point to, is the inherent difficulty EU citizens, even if being resident for a considerable amount of time in a EU Member-State, have in deciphering the "local political panorama". Obviously, one has to take into account that, most of the times, one is acquainted only to their home country political scene of, and are unable to understand the *nuances* and the context of local political parties and candidates.

The problem of EU citizens not being able to identify with any politics beyond the national political arena has become apparent in the crisis Europe is going through: No joint pan-European effort can be undertaken to overcome the crisis, because political stakes are only understood in the national context, not in a holistic European one.

An integration between the European parties' political arena and the national political parties' arena would need to take place to change the mindset of national politicians and national citizenries into a 'European' one. An initial step towards such an alignment of national and European parties could be to oblige national parties to disclose their Europarty affiliation. Thereby national citizens could gain an awareness of how their political parties act beyond the national arena on the European level.

3. Our proposal

a. Outline

Because of the problems and challenges the EU *demos* faces, and in the context of the celebration of the 20th birthday of the EU Citizenship and the adoption of a EU public policy in that regard, both of which we just referred, we focus on one of the shortcomings of the effective exercise of EU citizens' political rights. Those shortcomings are the lack of information, awareness and interest either in the EP political process or in the municipal electoral process of their place of residence.

We believe that to counter this, it is necessary to promote the identification of national political parties (at the EP level and at the municipal level) with the 'Europarties' they are part of, if it is the case. Thereby integrating links between the national political party system

and the European party system could be established. Accordingly, we propose that in both municipal and supranational elections, political parties should disclose their ‘Europarty’ affiliation in political campaign advertisement means and events, as well as in other ‘official’ declarations or statements that will feed to the public.

Before going any further in detailing our proposal, we just wish to underscore that this regulatory strategy is not unknown to EU public policy making and legislative activity. Indeed, placing a disclosure obligation on national parties is in line with a long-lived and recurrent regulatory tradition, as can be seen from a long list of EU public policies with such disclosure requirements when communicating with the broad public – e.g. corporate law, consumer protection (tobacco, financial products, etc.), etc.

Going back to our proposal, let us describe how we intend to implement it, i.e. what is the legal/institutional design we project.

The main object of our proposal would be to create a disclosure obligation, which would be mandatory and would entail sanctions if not abided by. It would be an effective mechanism to be part of a larger public policy to promote EU Citizen’s political rights. To enact such mechanism we therefore propose two separate legislative actions:

- a) An amendment of Regulation No. 2004/2003 (regulation based on Article 224 TFEU, relating to the rules governing political parties at European level, and in particular their funding), subjecting ‘Europarties’ to financial sanctions if their members fail to disclose their affiliation in EP or municipal elections..^{xiii}
- b) The creation of a new instrument under Article 223 TFEU establishing a disclosure obligation in EP elections. The provisions mentioned in Article 223 TFEU in relation with a uniform procedure or the establishment of common principles for the election of EP Members, to be proposed by the EP and adopted by the Council could and should contain such mandatory disclosure requirements;

Given the abovementioned proposed changes in EU legislation, it would not be necessary to alter national legislation to implement the core of this proposal, its operative part: the ‘sanction’ system that would result from an amendment of EC Regulation n.º 2004/2003.

On the other hand, it would not only be necessary for Member-States to enact new electoral legislation, but would also require their explicit approval, in accordance with their constitutional requirements, if a uniform procedure or the establishment of common principles for the election of EP Members is to be adopted. This regulatory change would have a more symbolic nature, and serve to proclaim in a more official manner the obligation of political parties to disclose their Europarty affiliation, and therefore have public opinion and the public at large control the respect for such obligations. Due to constitutional limitations and the consequent complexity, we do not propose a similar solution for municipal elections.

b. Pros

In support of our proposal, we can identify three lines of argument. The first one is about the role it can play in providing information and enhancing democratic participation. Another line of argument concerns the role it can play in guaranteeing the coherence of the political discourse of national political parties both domestically and at a European level. Lastly, we also highlight the simplicity and justifiability of the adoption and the implementation of this proposal.

Perhaps one of the most important hindrances that EU citizens face in effectively exercising their basic political rights is their difficulty and, in some cases, lack of interest in fully grasping the *nuances* and idiosyncrasies of national domestic politics, in particular the political parties' programs, principles and political orientation, especially in the field of EU policy. Also, municipal elections reveal at times more parochial concerns, and show even less interest in addressing the concerns of foreign nationals residing in the municipality.

A mandatory disclosure obligation to state the Europarty affiliation of national parties running for the EP and municipal elections would allow EU Citizens to have a reference point from which they can understand the main principles and policies those parties adopt at a European level. Non-national EU citizens are, thus, able to apprehend the principles and policies a particular party is likely to adopt at a supranational or even municipal level.

Moreover, it also allows an overall increase in EU Citizens' (both national and non-national) political literacy in EU matters. Indeed, only with the entire knowledge of what is the 'real' political program of a given party running for EP elections (which can only be obtained by cross-referencing the party's electoral program with the Europarty's program or agenda) can EU Citizens fully grasp the meaning of the decision they take when they cast a voting ballot. Let us not forget that EP elections are the 'ugly duckling' of electoral moments that take place in EU countries.

Therefore, this measure would also contribute to creating a democratic habit of understanding the European political party constellation, which is, obviously one of the prerequisites for citizens to responsibly exercise their political rights, and to freely choose their political inclination. And, in our humble opinion, it is only through the creation of such a new political *habitation* that at the end of the day the necessary *forum* that allows a particular community to call itself a 'polity' can occur.

In addition, if the cards are set on the table, and the electorate is able to, within a reasonable time and effort, understand the EU's political constellation, political parties will have to ensure that they adopt a coherent discourse. In effect, in the compromises they make with the electorate, and the ones they make with their fellow Members in the Europarty they belong to, there will be an increasing control by the media and the electorate, which could temper some opportunistic and populist discourses to take place.

Lastly, this legal mechanism is a middle ground for a political understanding. It is a more formal arrangement, rather than a material change to the way these elections work, therefore political parties retain their independence and their freedom to disagree with the 'Europarty' they are part of. Also the national context maintains its (necessary) relevance in the moment of presenting candidates for the elections at stake. In addition, this measure will tend to be financially neutral and could easily pass the subsidiarity and proportionality tests EU measures have to go through. In consequence, even eurosceptics can find compromise position they can accept and justify to their constituents.

c. Cons

Despite what we previously mentioned, some remarks can *a priori* be made to this proposal. Before detailing what such criticisms can be, we would just like to say that in our conclusions, we will attempt to refute them, or to accommodate our proposal in accordance to the relevant remarks we came up with.

First of all, the criticisms can amount to the probability of political parties facing reputation costs with a measure like this one. One could even go on and claim that no political bargain

could be struck. The nature of this remark focus itself on the difficulty national political parties may face to detach themselves from the Europarty they are in, in particular if that Europarty has political responsibilities in EU institutions (namely, the European Popular Party and the European Socialist Party). Consequently, and in particular at a time where the populist/nationalist/anti-European is being successful, national political parties may be cautious and not desiring to expose too much their 'European flank' to their electorate.

Another criticism stresses the EP could not monitor the abidance of the disclosure obligation within reasonable costs, at least in time and human capital due to an information asymmetry problem (large number of EU Members), which would make it difficult to monitor effectively the compliance of each and every Europarty member.

Finally, there can also be implementation problems. On the one hand, the adoption of a uniform procedure or common principles for the election of EP Members can result in nothing. Indeed, there have been numerous attempts by the EP to push forward for any of these solutions, but the Council is reluctant in changing the *status quo*. To a lesser extent, Europarties and the national political parties that form them, can also be reluctant to change Regulation 2003/2004, and to face some financial sanctions if they are unable to discipline their members, and to serve as the EU watchdogs for this purpose.

On the other hand, it has previously been shown (e.g. *Treaty Establishing a Constitution for Europe*) that in a anti-European context of general discontent a mass hysteria against the EU can appear, leading to an exaggeration of the content of the regulatory change at stake and a general disinformation campaign. Ultimately, this may in turn result in the failure of the adoption of the legislation, since there can a risk of misportraying this proposal and presenting as subjecting national party politics to EU party politics.

4. Conclusion

Throughout the present paper, we have gone through how the political process (and political opportunism) has lost touch with the EU's *demos*, due to a populist vein of national politics that preys on the misunderstanding and fears of the electorate *vis-à-vis* a complex and uncertain world. This constitutes a preoccupying risk at a moment in time where unity in action and solidarity within the EU are needed more than ever to face with a chance of success the current economic and political crisis.

To curb it, we made this proposal of adopting a legal mechanism that guarantees that a certain threshold of minimum necessary information is provided to the EU electorate, in particular to EU Citizens living and voting abroad, in EP and municipal elections. The proposal, which consists in mandatory disclosure of 'Europarty' affiliation by national political parties in such electoral acts, would allow EU Citizens to have the necessary information to exercise their most basic political right (to vote) in a truly conscious and free manner. To do so, a simple amendment of the European Parties Regulation would be necessary, but also its symbolic adoption in the instrument establishing a uniform procedure or common principles for EP elections can be envisaged.

One of the criticisms we identified as possible is that of an implementation problem or the lack of political support to this proposal. We rebut it by remembering that this mechanism can be implemented in a two-step process. First, and this being the decisive regulatory innovation, by a change in the European Parties regulation, which would predict the disclosure of Europarty affiliation either as a pre-requisite for funding, either as an obligation whose failure to comply with, would allow for the retention of a certain amount of the funding to those same Europarties as a sanction. Later, in the particular case of EP

elections, by a new piece of legislation, the common procedure/common principles in the EP elections process that would have a more symbolic meaning, as it would proclaim the obligation to disclose political affiliation as a material constitutional obligation.

Concerning the political support to this measure, it is not for us to say whether it is possible to obtain or not, but we can at least highlight some features that gives us some leeway to believe it is not a difficult bargain to strike. Not only is this proposal as ideologically-neutral as it can get, and hence can be legitimated in accordance to a large segment of political tendencies, but it also is neutral in financial costs to the EU budget, and even to the political parties' budgets (the political propaganda and/or political official documents would appear anyway). The question that remains is whether there will be sufficient conditions to convey a non-distorted message about the regulatory change that will take place, and if no populist opportunistic streak will appear and refrain political parties and governments to make a deal to promote this regulatory change.

With respect to the claim of the lack of effectiveness of this measure, in particular due to an information asymmetry problem in demonstrating the compliance with the disclosure mechanism that would increase monitoring costs to an undesirable level, we have some remarks to oppose and to propose.

This institutional design can allow for political parties to monitor themselves. Indeed, among a single Europarty, its Members may not feel keen to lose funding due to one of its Members disregarding the disclosure obligation, and will act accordingly. In addition, political parties, albeit not for the most honourable reasons, will also have an incentive to monitor and report on their adversaries' compliance. Lastly, if need be and perhaps at a later stage, some competences could be given to national bodies to contribute to the monitoring of political parties disclosure obligations' compliance.

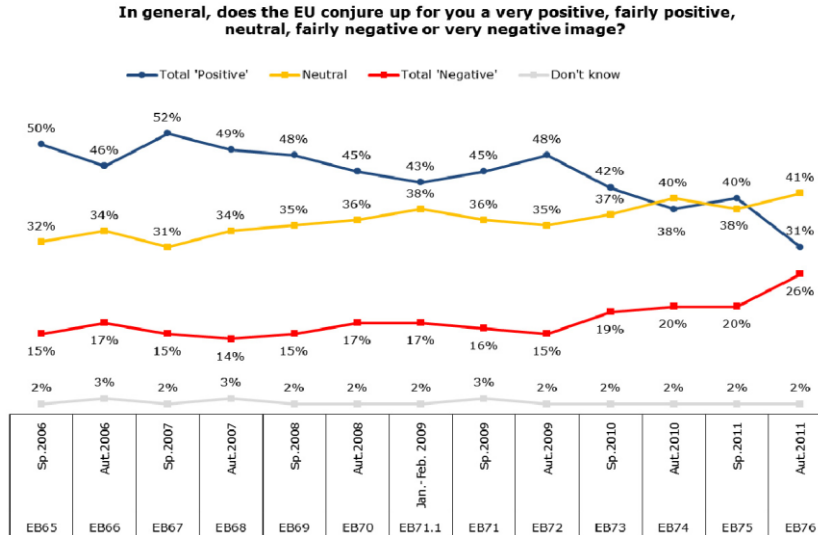
Still regarding the information asymmetry problem, part of this problem could be dealt with by mandating Europarties to deliver a 'dossier' with a sample of political advertisement and official communications material that was issued in relation to EP or municipal elections that took place in the foregone year, to demonstrate an *a priori* compliance with the disclosure obligations they have. The retention of funds sanction would, then, only take place if through a third party complaint or communication, or *ex officio*, the violation of the disclosure obligation would be known.

In conclusion, let us begin by saying that this proposal does not claim to solve on its own the lack of effective exercise EU citizens' basic political rights, nor to change the overall opinion on the EU and the EU institutions. Nonetheless, we believe that it strikes a nervous point, as if it was an acupuncture needle, that can have a broader effect in making the EU 'body' function in more 'healthy' way. Indeed, with a small change, with reasonably low costs, one can allow EU Citizens to reach relevant information to the exercise of their basic political rights with no unreasonable costs in effort or time, therefore allowing non-national EU Citizens to understand the national political panorama and feel free to vote in their country of residence. In addition, also for national EU Citizens or EU Citizens in general it gets easier to understand the EU political constellation and the full implications of their vote. Doing so, it will foster the much needed and desired (informed) public debate on EU matters, which in turn is a prerequisite for a *polity* to effectively exist in a given place. At last, it will serve as a means to ensure the coherence of the political discourse and to bridge the compromises the political parties make *vis-à-vis* their electorate and *vis-à-vis* their fellow Europarty Members, therefore legitimizing the EU political system as a whole.

End Notes

i J. Habermas (2011): *Zur Verfassung Europas – Ein Essay*. Suhrkamp, Berlin p. 123

ii



(source: Standard Eurobarometer 76 Autumn 2011)

iii see the paper of our Danish colleagues Samira Massoudi and Christian Martin Møller

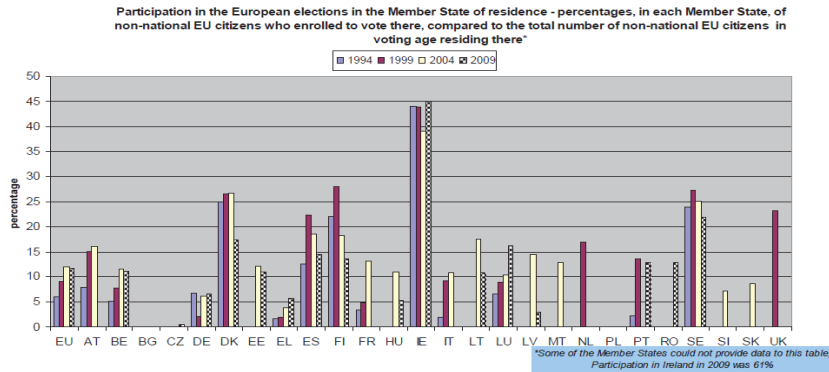
iv see paper of our Slovenian colleague Matevz Malcic

v Article 21 first sentence *Grundgesetz*

vi Article 19.º of the Treaty Establishing The European Community (TEC).

vii Page 1 of the proposal's explanatory Memorandum.

viii



Source: Report on the election of Members of the European Parliament and on the participation of European Union citizens in elections for the European Parliament in the Member State of residence {COM(2010) 603 final}

ix European Commission Press Release - European Commission proposes to make 2013 the "European Year of Citizens" (Reference: IP/11/959; Date: 11/08/2011)

x European Commission Proposal for a Decision of the European Parliament and of the Council on the European Year of Citizens (2013) (COM (2011) 489 final, Brussels, 11.8.2011)

xi Presently, it is provided for in article 20 of the Treaty on the Functioning of the European Union (TFEU).

xii According to a post-election public survey (Flash Eurobarometer No 292), the Commission found that the three top measures that could boost citizens' motivation to vote were:

- a) more information provided on the impact of the European Union on their daily life (84%);
- b) more information provided on the programmes and objectives of candidates and parties in the European Parliament (83%);and
- c) more information provided on the European Parliament elections themselves (80%).

xiii More specifically, this could be done through an amendment of Article 6 (Obligations linked to funding).