

ELECTIONS TO THE EUROPEAN PARLIAMENT AS A CHALLENGE FOR DEMOCRACY

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Preface: Eighteen Views on the Legitimacy Crisis and the Elections to the European Parliament

I.

There is a crisis in Europe [...] that is deeper than the euro crisis [...] and that is a legitimacy crisis. [There] is not only the low turnout in the elections to the European Parliament, but it is a decreasing turnout. [...] it is certainly not a sign of confidence in the principle institution, which is meant to be *vox populi*.¹

This observation of Prof. Joseph H.H. Weiler, President of the European University Institute in Florence, made at the *State of the Union* conference on 9 May 2013, illustrates quite well the first of our concerns that has been a driving force for the present book.

A few further concerns of ours were captured too, *inter alia*:

[...] If there is a majority of voters who vote centre-left, you expect to see that translated into policy, into legislation. If there is the majority that votes centre-right, you expect that translated into preferences, into policies, into laws. And in Europe that is simply not the case. [...] You can have a majority of voters to the European Parliament of the centre-left or centre-right and you cannot track that that impacts political preferences of the Union.

[...] we have to realize that the word “democracy deficit” is not a good proxy for our problem. It is “political deficit”. [...] It sounds a contradiction, but the Union needs to be politicized. When people go and vote they need to feel that they are making a real choice about the destiny of Europe.²

Some two months later, on 4 July 2013, the European Parliament (EP; the Parliament) itself – in its *Resolution on improving the practical arrangements for the holding of the European elections in 2014* – struck a similar chord:

¹ J.H.H. Weiler, intervention at the *State of the Union* conference, Florence, 9 May 2013. <http://stateoftheunion.eui.eu>

² Ibid.

[...] the resolution of the current crisis of governance in the EU requires a fuller democratic legitimization of the integration process.

[...] electoral campaigns continue to focus primarily on national issues, pushing debate on specifically European issues into the background, which has a negative impact on the level of participation in elections to the European Parliament.

[...] repeated opinion polls suggest that a large majority would be inclined to vote if they were better informed about the European Parliament, the political parties, their programmes and candidates; whereas all media outlets are therefore encouraged to bring maximum attention to the elections.³

Few readers would disagree.

II.

The present book constitutes the second volume in a series of peer-reviewed publications on democracy and European integration, edited by the Centre for Direct Democracy Studies (CDDS) at the Faculty of Law of the University of Białystok, Poland.⁴ Similarly to the first volume, more than twenty scholars from across Europe, predominantly young researchers, have kindly responded to the Centre's invitation to share their views on the elections to the EP.

The main motivation for this book came from a long-running debate – yet recently spirited – on the place of the European Parliament in the democratic life of the European Union (EU; the Union). The 18 chapters of this volume analyse a wide range of challenges for democracy posed by the EP elections. If we were to make a “word cloud”, it would be dominated by keywords such as democratic deficit, legitimacy crisis, low turnout, second-order elections, alternative voting methods, lack of European public space, non-existence of European parties as well as the need for a uniform electoral procedure.

The timing of this book is rather felicitous as the eighth direct elections are just a couple of months ahead (22–25 May 2014).⁵ Furthermore, the importance of these elections is unprecedented: especially in the times of legitimacy and financial crises, on one hand, “voters across Europe will judge what [the

³ European Parliament, *Resolution on improving the practical arrangements for the holding of the European elections in 2014*, Strasbourg, 4 July 2013, P7_TA-PROV(2013)0323.

⁴ The first book was: E. Kuzelewska and D. Kloza (eds.), *The Challenges of Modern Democracy and European Integration*, European Integration and Democracy Series, Vol. 1, Aspra-JR: Warsaw-Białystok 2012, 249 pp.

⁵ Council Decision of 14 June 2013 fixing the period for the eighth election of representatives to the European Parliament by direct universal suffrage (2013/299/EU, Euratom), OJ L 169, 21.06.2013, p. 69.

EU and its institutions] have achieved together in the last 5 years”⁶ and, on the other, “the next five years can determine the future of our continent for many decades to come”.⁷

This book is divided into three parts. The first part explores the European Parliament as an institution, focusing predominantly on the elections thereto. In the opening chapter Rafał Trzaskowski MEP and Joanna Popielawska examine, from a historical perspective, the efforts of the Parliament to develop a uniform electoral procedure. The authors overview the path the EP elections went from the 1957 European Economic Community and Euratom Treaties through the 1976 Act and the 2002 Council Decision until the recent proposal of Andrew Duff MEP.⁸ They conclude that throughout the years the Member States and the EU institutions have created a basis for a common system and agreed on quite a lot of common rules, yet a truly uniform election procedure – despite a number of efforts and proposals – still faces opposition, predominantly due to assertions of national sovereignty.

In the second chapter, Davide Denti analyses whether the political groups in the EP do form a party system. Having examined whether these party groups can be considered political parties and, subsequently, whether they form a party system, the author concludes that development of a moderate pluralistic party system may enable a further evolution of the political system of the EU analogous to the domestic model of parliamentary democracies, thus fostering the democratic legitimacy of the Union. Yet this development faces challenges such as sub-system dominance by national parties.

Elena Cîncea in chapter three considers whether “electoral engineering” can contribute to remedying the democratic deficit of the EU. The author observes that the introduction of direct universal suffrage was the first necessary step in this direction, yet still more is needed. She argues for, *inter alia*, a uniform electoral procedure and a stronger involvement of the European parties. These developments could generate genuine European political competition, mobilize the European electorate and – at the same time – bring the EU closer to the citizens. The need for a European polity is very timely as – in the context of economic and financial crises – the political legitimacy of the EU is being questioned.

In chapter 4, Magdalena Półtorak overviews gender quotas in the EP elections. Thus far, seven EU Member States have introduced them on the basis

⁶ J.M. Durão Barroso, *State of the Union address*, Strasbourg, 11 September 2013, SPEECH/13/684.

⁷ J. Buzek, *Foreword*, in this volume.

⁸ References in Chapter 1.

of generally applicable law (“hard quotas”), while political parties in three Member States apply them voluntarily, based on, *inter alia*, their statutes or gentlemen’s agreements (“soft quotas”). The author concludes that female representation in the EP is usually higher than in national parliaments, perhaps due to the second-order nature of the EP elections. Furthermore, she observes that the applied solutions vary considerably, e.g. with regard to the values of gender quotas or sanctions, and thus argues for harmonisation of “certain guidelines for the electoral law in terms of enhancing balanced gender representation in the EP”.

In the fifth chapter, Tomasz Dubowski explores the relationship between the citizen, the Parliament and the EU External Action. The author is particularly interested in the EP as a specific “link” between the interests of an individual and the conduct of – broadly understood – the Union’s foreign affairs. Assuming that an individual has a vital interest therein, he concludes that the influence of an EU citizen on the EU External Action is visible and the former is not excluded from shaping the latter. However, the relationship between each of these three, i.e. an individual, the EP and the External Action, is not homogenous and is driven by different dynamics.

Franciszek Strzyczkowski in the sixth chapter discusses the theoretical debate on the phenomenon of gradual empowerment of the European Parliament. Having described the historical development of the Parliament’s powers, including the recent treaty changes introduced after Lisbon, the author elaborates on the first attempts of theoretical conceptualization of the problem: when, how and under what conditions such an institutional empowerment takes place. Next, he presents two main competing schools arguing why the Member States decide to delegate their sovereignty and what are the reasons thereof, i.e. rational choice theory and sociological institutionalism. As a conclusion, the author expresses the necessity for further theoretical inquiry into the concept of democratic deficit as a key motive for the governments of the Member States to continue improving capacities of the EU representative bodies.

The second part examines national systems for the EP elections in selected Member States of the EU. These countries are presented here in alphabetical order in accordance with their names in their official languages. In chapter 7, Maaïke Geuens studies the EP elections on two levels: the EU and Belgium. For the former, she argues for genuine European political parties and that media should pay attention to European issues. For the latter, she considers the benefits and drawbacks of compulsory voting as well as coinciding regional and European elections. She concludes that these characteristics generally re-

sult in a higher turnout, but do not automatically imply a higher interest or satisfaction rate among Belgian citizens.

In chapter 8, Helena Bončková evaluates whether the EP elections in the Czech Republic can be considered second-order elections. Since there is “less at stake” in such elections, they are characterised by low turnout, fall in support for government parties, success of smaller and/or radical parties and a higher number of invalid votes. These features are checked against the results of the 2004 and 2009 EP elections in the Czech Republic. She concludes that the theory of second-order elections has proved to be a useful framework for analysing the Czech EP elections results, although some conclusions may be rather uncertain.

In chapter 9, Francisco J. Vanaclocha and Rubén Sánchez Medero offer the first of two analyses of the Spanish elections to the EP. The authors argue that the Spanish design of these elections supports three ideas: the highest possible proportional representation; the need for the representation of plurality of territorial identities as well as the resemblance of the essence of the electoral system to the Congress of Deputies. They examine how these principles were applied in the six Spanish EP elections already held. They conclude that the Spanish elections to the EP function “without provoking conflicts or being questioned by any relevant political entity”, achieve a satisfactory level of proportional representation and hardly present “any problems for the existence of an effective plurality of electoral offers”. However, these elections conform to a limited model of second-order elections.

The tenth chapter, authored by Guillermo Cordero and José Ramón Montero, constitutes in this book the second analysis of the Spanish elections to the EP. The authors start by recalling the criticisms from nationalist and regionalist parties that, *inter alia*, a nationwide constituency for these elections, although reinforcing proportionality, favours major national parties and thus is disadvantageous to smaller ones. In examining the validity of this claim, they draw on electoral results data and simulate absolute gains and losses of seats for each party in three different models: one if Spain were divided into five districts, another if it were split into 19, and – finally – if current arrangements were supplemented by a two-tier allocation of seats. Ultimately they come to the conclusion that such criticism from nationalist and regionalist parties should be considered ill-founded.

In chapter 11, Georgia Christina Kosmidou analyses Greece. The author starts with an analysis of the Greek electoral system to the EP, arguing it is one of the most proportional in the EU. Having investigated the exercise of voting rights and financing methods of political parties, she finally turns to problems

caused by “insufficient transposition” of the EU rules on the EP elections. Among other issues, the deprivation of the Greeks living outside the EU of the possibility to vote seems to raise the most controversies. She concludes her chapter by discussing the prospects of the EP elections. For the EU level, she argues that various proposed reforms would be ineffective without the support of the EU Member States. For the Greek level, she offers some recommendations *de lege ferenda*, of which solving the above-mentioned deprivation of voting rights seems to be the most urgent.

In chapter 12, Bernhard Kitous focuses on France. The author, having analysed the impact of the French centralized and multi-layered governance system on the elections to the EP, argues – following Arendt, Etzioni and Westen – for the recognition of citizens’ emotions and motivations, on the one hand, and for simplification of the governance system, on the other, so that the ordinary citizen understands elections in general and the EP elections in particular.

In chapter 13, Davide Denti investigates Malta, where politics is characterised by high polarisation along party lines and mobilisation of voters in a small society. The author argues that using for the EP elections the same electoral system as in domestic ones renders them more familiar to the voters and fosters turnout, but also sacrifices participation opportunities and accuracy of representation, due to the lack of cross-party vote.

In chapter 14, Andrzej Jackiewicz scrutinizes Poland. Concerned about low turnout in national and European elections in his country, the author analyses the new 2011 Electoral Code, regulating all types of elections, in order to see how the principle of universal elections is addressed therein. He argues that some 30% of eligible voters are faced with the so-called forced absence, i.e. when a voter is willing to cast her vote, yet she is unable to do so due to reasons beyond her control. To that end, the author examines if traditional as well as newly introduced alternative voting methods – such as two-days voting, the use of a proxy or voting by mail – can remedy such a situation. As a precondition, voters must be aware of these new solutions. The author concludes that these novelties certainly set the direction for Polish elections yet their efficacy will be tested for the first time during the 2014 EP elections.

Davide Carrino in the fifteenth chapter discusses Sweden, taking low turnout in Swedish EP elections – in comparison with national ones – as a starting point. The author, having highlighted the evolution of EP elections therein, compares electoral laws for EP elections and those for the *Riksdag* – the national parliament – and concludes that the former are distinguished by a higher degree of uncertainty and greater room for new, small and anti-establishment

parties. The success of the *Piratpartiet* in 2009 can be given here as an example. In his analysis of political participation in the European elections in general, which are characterised by low turnout in the new Member States and by general political apathy, he argues that the recent Duff's proposal sets the right path in the long term, but can be excessive in the present-day political conditions in Europe.⁹ Finally, inspired by the Italian system, he proposes to create 28 constituencies with the threshold as low as 2%, but in which the winning party takes the "majority prize".

In chapter 16, Bogusia Puchalska offers a view from the United Kingdom (UK). The author discusses the origins of British euroscepticism and the causes and effects of electoral apathy in the EU. To that end, she identifies the three main weaknesses of European polity: the lack of European public space, the non-existence of European-wide political parties, and the limited presence of European media. She mentions also the marginal attention to EU issues in the schools' curricula. These critical observations are complemented by positive suggestions of electoral procedural reforms, such as the use of an open-list system, which might make the elections more attractive to voters. She concludes with two observations. Firstly, the Eurozone crisis might make the 2014 EP elections "a protest vote of no confidence in the EU as a whole". Secondly, as British party politics has recently taken a decisively Eurosceptic turn in the wake of the UK Independence Party's growing popularity, it is this party who is likely to win the majority of the EP seats in 2014. Under this scenario, the prospects of Europeanizing the EP elections will recede even further away, at least in the UK.

The third and the final part is devoted to comparative issues. In chapter 17, Elżbieta Kuźelewska and Izabela Kraśnicka compare e-voting mechanisms in Estonia and in the United States in order to see what the EP elections can learn from the experience of both. The authors argue that – with the exception of Estonia – this idea has not been yet commonly applied throughout the EU in the EP elections. However, the build-up of a comprehensive system for e-voting for Europe cannot be recommended for the time being due to cost-benefit considerations, technological issues and reasons of political legitimacy.

In the eighteenth and ultimate chapter, Marko Babić focuses on the EU's impact on party systems in Serbia and Montenegro – respectively the largest and the smallest republic of the former Yugoslavia, which prior to 2006 constituted a single state. Presently, one of their political goals is EU membership. From the viewpoint of a candidate country, the dynamics of the accession

⁹ Reference in Chapter 15.

process is characterised by interactions of various actors, of which the most important role is played by the state. However, as the author argues, a quite crucial role is also played by political parties. To that end, the author examines their membership in the European party federations and their interactions with the EU institutions. By analysing the stance of Serbian and Montenegrin parties on European integration, the author concludes that political parties in both countries converge towards classic European ideological patterns and these parties have been rapidly integrating with the European party federations.

III.

In producing such a volume there are many people the editors need to thank. We would like to express our gratitude to all authors that contributed to this book for their fresh look on the elections to the European Parliament as a challenge for democracy. We thank Prof. Jerzy Buzek MEP for kindly providing this book with a foreword. We also would like to thank the reviewers, the series editors and the peer-reviewers whose comments were invaluable. Furthermore, throughout the gestation of this book we have received valuable help from Davide Denti and Marco Benatar; we thank them all. Last but not least, we are, of course, indebted to the Faculty of Law of the University of Białystok for its intellectual and financial support.

In respect of the diversity of nationalities, disciplines and perspectives represented in this book, the editors and the publisher have left the choice concerning the use of reference systems to the authors of the contributions. In addition, in recognition of the professionalism of the authors, the editing of the contributions has been truly light-handed.

The editors welcome any comments and suggestions at *ekuzelewska@gmail.com* and *dariusz.kloza@interia.pl*, respectively.

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