
Democracy and the EU: Implication of democratic framework in the EU affairs. The role of European citizen

JUHO KIVIHUHTA

TALLINN UNIVERSITY OF TECHNOLOGY, ESTONIA

JUHO.KIVIHUHTA@LIVE.FI

Abstract: *The concept of an EU citizen has developed over the years with not just economic, right to reside in other Member States but also rights in the democratic processes. The processes of decision making, passing legislation and legal proceedings are proceeded between the institutions of the European Union, that function according to the powers assigned to them. The opportunity to influence decisions for an EU citizen arises from three ways of participation that have developed in the provisions of the treaties. The EU citizens can affect the democratic process through their national elections, in the elections of the European Parliament and by proceeding a merited legal claim to the Court of Justice of the European Union. The author analyzes official information along with journal writings to introduce the aspects of the topic. The author analyzes the relevant developments in the treaties that create the current legal rights of the EU citizen. The author covers the EU organizations relevant for the paper, their composition and their functioning in the Union. Also, the author analyzes features and mechanisms that take place in the democratic process along with the democratic deficit.*

Keywords: *EU citizenship, democratic process, EU citizens' electoral rights*

INTRODUCTION

The European Union is composed of multiple different organs with different functions. Originally the European Union that started out as a Union for trade between Germany and France has reached its union of a single market to 28 states, additionally to the Member States there are members such as Iceland and Norway who are a part of the European Economic Area but not a part of the other functions of EU.¹ The European Union is also additionally a legislator and a political entity, both of which have developed over the years, mostly concerning legislation in the single market. The union is a political structure with political decision making and at the ground level of influence is at least legally the Member State and the European citizen. In this paper the author will introduce the democratic framework that currently rules the Union. The author will then proceed to introduce and analyze the effects that this framework has on the functioning of the Union. Once the basics of the have been introduced the author will analyze the role of the European citizen, or to be more precise, the Member State citizen that has European union citizenship through their citizenship in their Member State. Their role in the democratic process is not obvious at all, due to different functions of the union, treaty provisions and their right to vote for a representative in the European Parliament. The aim of the paper is to define the democratic framework according to which the decisions are made in the Union, the different institutions and parties to the decisions and lastly introduce the ways this system works under the democratic principles and how the individual European citizen can have their voice heard in the structure. The questions that it mainly aims to answer is that whether the European citizen can affect directly or indirectly the functioning of the Union or is the citizenship of EU only a grand declaration without any actual practical application.

¹ Countries in the EU and EEA Accessed: 21.11.2018 <https://www.gov.uk/eu-eea>

DEVELOPMENTS

The democratic framework in the European Union consists multiple organs and decision making is mainly done by the European Parliament and the Council. The newest development in the field of the Treaty of Lisbon that extended the decision-making powers of the Parliament and created some additional elements to the system, but first let's take a look at the what was achieved in the Treaty of Maastricht. The treaty of Maastricht created the concept of EU citizenship and created a larger field for the powers of the Parliament also affecting to Councils voting procedure to majority voting.² The Maastricht treaty gave more say to the Parliament in the democratic process, and created the possibility for EU citizens to run for the parliament or vote for candidates into the Parliament.³ In terms of creating a democratic framework this puts the Union into a completely new perspective in the authors opinion. The fact that actual democratic features are presented to the citizens that reside in the Union area is great. The legal right to affect the functioning using these rights would actually create a democratic element. The Union has grown and in this manner the integration of democratic rights and ensuring in the legal field that a person does have the rights is important. This affects the functioning of EU affairs a lot, and the perspective changes when a truly democratic method is laid down in the law there is a greater possibility for integration of European people, because it puts them on the same line. I will later review the functioning in a more detailed manner where it is unfortunately the case that not everyone is on the same line, but the important part is that a legal change was made that created equal right and unifying right to the citizens of EU. As a personal note the author considers having rights that unify people on the level of citizens is extremely important for the idea for further integration, it has the democratic spirit in that citizens are able to get their voices heard.

Another key development in the EU is the Lisbon Treaty or the Treaty on the Functioning of the European Union (TFEU). This treaty introduced a lot more of democratic aspects to the Union, that affected the Parliament Council and the how the Member States interact with them. The treaty came into force in 2009. It was a project of the Union that started as a project to create a constitution for the Union. Due to voting procedures an official constitutional treaty never came in to force in the EU, however the treaty of Lisbon did, and it affected the functioning in a manner that could have some constitutional elements, like changing how the powers that govern decision making interact with each other and how the power is divided between them.⁴ The treaty also changes the prior three pillar approach, first being legislation directives, second pillar is common action, joint action and the third pillar is common positions framework positions.⁵ The changes included the third pillar into the first one and thus discontinuing to have the third one.⁶

The more specific institutional changes in the EU, that were brought into force by the Lisbon treaty were: The Parliament composition was changed to represent the EU citizens, with the change that EU citizens could vote for their Members of European Parliament (MEP), increased the Parliament policy areas with 40 new areas and created the maximum limit of MEPs that is 751. The European Council consisting of heads of states or heads of government, became

² Eichenberg, R. Dalton, Russell. Post-Maastricht Blues: The Transformation for citizen support for European Integration, 1973-2004, *Acta Politica* 2004, 42. P 128-152, 139.

³ The citizens of the Union and their rights, Achievements, B 2 Accessed: 21.11.2018,

<http://www.europarl.europa.eu/factsheets/en/sheet/145/the-citizens-of-the-union-and-their-rights>

⁴ The Treaty of Lisbon, History, Accessed: 21.11.2018 <http://www.europarl.europa.eu/factsheets/en/sheet/5/the-treaty-of-lisbon>

⁵ Sieberson, S. The Treaty of Lisbon and its Impact on European Union's Democratic Deficit, *Columbia Journal of European Law*, Vol 14:3, 2008. P 446-465, 449.

⁶ *Ibid.*

formally recognized as an EU institution. And finally, the Council of the European Union, formed of ministers of the Member States, applied a new voting rule for their passing legislation, 55% of the voters need to agree and the agreement needs to represent 65% of the EU's population.⁷ The renewed decision-making process takes into consideration the basic principle of democracy which is that the direction of the majority will be taken. Especially the requirement that it needs to represent 65% of the population inhabiting the Member States seems to be a very democratic requirement and as representative of the democratic principle of the EU.

The developments in the European Union can clearly be seen as leaning towards a more democratic direction. To put it more clearly the developments have allowed for the democratic process, or has created the ability of voters to affect the political decision by voting for their candidate in a powerful way. Considering the decision making of the European Parliament, the voter can vote for their national MEP according to their interest to represent them in the Parliament and thus originally keeping a part of the decision making in the hands of the voter. The voter also, by affecting their national elections affects the composition and decision of the European Council and the Council, heads of states are voted to their position in the Member States by their nationals and the ministers are also generally selected from among the candidates that are elected into the national parliament. Even though there might a bit longer of a reach from the voter's ability to affect these positions they are still selected by the democratic process, the participants of these institutions take part in majority voting type systems that are quite democratic in that sense. There can be drawn a link between the representatives and their election that they are chosen by the vote of the majority and operate under a system of majority voting. The developments and the treaties have certainly created at least in principle a quite a democratic outlay in the decision making of the Union.

IMPLICATIONS ON THE DEMOCRATIC PROCESS

The European Parliament and its Members form political groups within the Parliament and are not divided by nationality, currently there are 8 groups and a MEP can decide to stay unattached to these groups and still remain in the parliament.⁸ The democratic aspect affects this part of EU decision-making greatly because as said the MEPs are voted in by the EU citizens. The Parliament is involved in passing legislation with Council of EU, the legislation that is proposed by the Commission.⁹ This I see as a fundamental democratic aspect to the Union, the MEPs discuss matters and affect legislation that is separate from the functioning of national parliaments. National parliaments do have an option to interact with the Parliament, something that will be reviewed in the paragraph but in essence the MEPs are separate from national parliaments. The democratic decision making is emphasized since it creates a separate function from national parliaments to the decision making. It does go both ways since national parliaments are also voted by the citizens and their legislative bodies in their countries so there are many layers to the system.

One of the measures that affects the decision-making of the European Parliament is the involvement of national parliaments through a function that is known as Early Warning

⁷ The Treaty of Lisbon Summary, Accessed: 21.11.2018 https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=legissum%3Aai0033#keyterm_E0003

⁸ The Political Groups in the European Parliament, Accessed: 21.11.2018 <http://www.europarl.europa.eu/about-parliament/en/organisation-and-rules/organisation/political-groups>

⁹ European Parliament, What does the Parliament do? Legislative, Accessed 19.11.2018 https://europa.eu/european-union/about-eu/institutions-bodies/european-parliament_en

Mechanism, which allows for the national parliaments inspect legislation and to see whether it is harmonious with the principle of subsidiarity.¹⁰ The aim of the mechanism is to create a more legitimate and democratic way to make decisions without creating new bodies in to the EU order.¹¹ The function of the national parliaments is not allowed to create new legislation or disallow a law to be drafted or passed, on its own, but it can obtain these powers in co-operation the Commission when the Commission is proposing legislation, or the European Parliament or the Council.¹² The power is not absolute in that sense that it does not disrupt or alter the processes of the institutions by simply creating a new power, but the ability to co-operate with one of the institutions does have an effect. It does seem like quite a strange approach to have more power to the national parliaments since it does not give an actual power to them. But like stated previously the aim is to create legitimacy, this having an aspect of the national parliaments simply being taken for a ride and not having any say in it, their ability to be heard is increased.

The EU citizenship and its function were a new development in the matter, however Parliament has had a directly elected MEPs since 1979.¹³ Through these changes the European parliament has become increasingly powerful, has acquired a co-legislative position alongside the Council, except when agriculture is concerned.¹⁴ This shows democratic process in the Union has been greatly different in the past. The Parliament is stronger foothold in the matters of EU even though not a full Parliament of the area meaning that they are still co-legislator, which does not give the EU citizens the electoral power to vote for their candidates in the Parliament and have the people deciding for their matters in this way, such that is usual in a nation. Of course, this is a good example of the fact that the EU is not one nation but a collection of its Members who are going forward to a more democratic direction in this regard or this is the impression the author of this paper has gotten from the development of the treaties.

The parliament is on an electoral level representative of the EU voters, however there are aspects to it create an interesting gap in interests of voters and MEPs. The interests of the voters and MEPs differentiate greatly in topics such as further integration of the European Union, the MEPs leaning towards integration than the voters.¹⁵ This is probably an unavoidable phenomenon in any democratic process at least to some extent. It does express some level of difference in approach to matters regarding MEPs and the voters, however in terms of democracy and the voters being represented in the Parliament according to their interest as an election would imply, does not become fulfilled. The democratic process does have implications in the affairs since the MEPs are elected with democratic means, this somehow does not seem to constitute a democratically successful end in this manner.

The democratic legitimacy of the Parliament is subject to criticism. There are two factors having an effect of democratic deficit, these are the formation parliament as a party system which is assumed to be derived from national democratic systems, the second one is that the Parliamentary representatives might not be competing for European issues on the elections to the Parliament but rather on national issues and their elections to the parliament would have an element of citizens disappointment in the functioning of the national government and therefore

¹⁰ Cooper, I. A Virtual Chamber for the European Union? National Parliaments After the Treaty of Lisbon, West European Politics, Vol 35, No, May 2012, p 441-465, 441

¹¹ *Ibid.* p 446.

¹² *Ibid.* p 448.

¹³ The European Parliament, Historical Background, Introduction, Accessed 22.11.2018
http://www.europarl.europa.eu/ftu/pdf/en/FTU_1.3.1.pdf

¹⁴ Eriksen, E. Oddvar, J. Democracy Through Strong Publics in the European Union? Journal of Common Market Studies, Volume 40, No 3, p 401-424, 411-412.

¹⁵ Mair, P. Thomassen, J. Political Representation and government in the European Union, Journal of European Public Policy, 17:1, January 2010, p 20-35, 28.

electing the MEP is based on the national issues more than EU.¹⁶ As for the first part of deficit, the structure of dividing into parties might not be such a negative thing. It seems to be always happening that most political systems operate under the assumption that there are likeminded persons that than formulate a joint direction or decision on a matter. It seems like more an appropriate way to have 751 people be somehow organized among themselves so that directions are more large scope among parties but individuals of those parties can express their personal opinion on a matter as a separate representative still going the direction of their party. The second part seems more damaging, it can be used to cloud the vision of the voters based on some internal issue and the might not be linked to the actions of the MEP in the Parliament that much. The MEP representing the things they promise might not happen either way but it would seem to be a more transparent approach to engage in the election with the opinions that are likely to be evaluated once in Parliament so that the process would seem less foggy.

Next the topic of the discussion will be the other institution passing legislation in the European Union that is the Council of the European Union. The institution is formulated of the ministers of Member States and they are the second party to the adopting new laws to the EU legislation.¹⁷ Their part of being involved in the EU legislation and being ministers of countries they are also involved in the developments of national legislation. They are along with the Parliament the key decision-making body of the EU.¹⁸ The interesting part about the Council of European Union is that in comparison it to the Parliament it is quite small in its representative size. This could be seen as that they have a lot smaller group to discuss in compared to the Parliament which is 751 persons. They are of course making the decision together with the Parliament but framing it in a way that it is two institutions where one is a lot larger than the other it seems somewhat odd that they are as involved in the decision-making. Council also has a larger gap regarding the voter, since it is not one step away from the voter as it is in the Parliament, but ministers are parts of the governments of the Member States and depending on the Member States are appointed to their position. It might not be a considerable gap since they are already elected officials but there is no more of a link between the vote and the Council member.

CJEU AND THE ECHR

When talking about democratic decision being realized it is important to talk about the enforcement decisions and making sure that proper actions are taken in the different institutions. The role of the Court of Justice of the European Union is important in this sector. With the compilation of 1 judge per Member State the CJEU power is not limited only to dealing with decision regarding EU law in Member States but matters can be proceeded to them if EU has not taken proper action in one of their institutions.¹⁹ The decision of the Court of Justice are major impact when there is discussion of actions taken in the internal market, their role is extremely visible in these matters and considering democracy the function is extremely important. Inside a democratic framework where legitimacy and justice are important, the role of a court is foundational as a place where disputes can be settled.

¹⁶ Ibid., p 21

¹⁷ Council of the European Union, What does the Council do? Negotiate and adopt EU laws, Accessed: 21.11.2018 https://europa.eu/european-union/about-eu/institutions-bodies/council-eu_en

¹⁸ Accessed: 21.11.2018 https://europa.eu/european-union/about-eu/institutions-bodies/council-eu_en

¹⁹ Court of Justice of the European Union, What does the Court of Justice Do? Ensuring the EU takes action, Accessed: 21.11.2018 https://europa.eu/european-union/about-eu/institutions-bodies/court-justice_en

In terms of rights of an individual in a democratic process, it is important to ensure that any individual in their nation has the right to participate in the political process and have their human rights protected, which ensured by the European Court of Human Rights. The basic rights of an individual are set out in the EU Charter of Fundamental Rights.²⁰

EUROPEAN CITIZEN'S ROLE

The European citizen has multiple options how they can vote on issues regarding the affairs of EU. Being an EU citizen is quite an astonishing development in the world, EU not being a country but an agreement between Member States. Based mostly on the common good of having a single market but that it provides a political voice for citizen, even though the author is not a historian he does not think an arrangement like this has existed before in the world or the cases would be rarity, but this I cannot state as a fact. These political rights of the citizen, along with other freedoms ensured by EU such as free movement of people. The unique feature is that there is no clear constitution which is what differentiates the arrangement, there of course being other differences but this being an important one.

Firstly, we must to discuss how they can affect matters through their national elections. EU citizens can affect the matters of the Union on their national level, by voting for the candidate of their choice, from the elected candidates then is formed the national parliament from which political arrangements of opposition and government are made but most importantly for this paper the ministers are elected. The elected ministers are in communication with the through the Council of European Union. This is one of the ways a European citizen is involved with the decision of the EU. There in lies a connection between the individual citizen and the Council of the European Union. The ability to have the Member State to affect the political and legal decision is extremely important since the parliaments of nations represent the fair electoral decision in democratic states and there is a connection to a higher institution in this manner. Having a nation that has a democratic foundation is a prerequisite for membership in the EU which ensures again that rogue or tyrannical governments cannot be a part of the community.

Secondly, the European citizen can vote for their MEPs to represent them in European affairs, at least this is the founding idea behind it even though there is criticism whether this is actually the case. The problem however, is more of practical nature because in case MEP candidates ride the wave of being against unpopular decision made by a Member State government under the election this is for the European citizen to decide if they will enable this type of game playing with the political system. One does not matter like in democracies but the important thing considering the individual citizen is that the framework behind the structure has the potential of creating this type of a result. Approaching the matter from this aspect the European citizen does have quite a bit of democratic responsibility placed on him or her because the Parliament is one of the institutions making the decision passing the laws. The problem of a democratic deficit being realized as a MEPs being voted in because of a stance against national political decision making I consider as a feature of the system, but an inherently distinct quality. Politics is not considered the game of honesty anyway even though it seems that this is something that the majority vote forgets when the candidates are campaigning. Nevertheless, European citizens do have the possibility of voting for their candidate to represent their interests in the European Parliament and when new legislation is discussed there are movements to contact your

²⁰ EU Charter of Fundamental Rights, Accessed: 21.11.2018 <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:12016P/TXT&from=EN>

MEPs. This is something that was going around the internet when the Parliament was considering new legislation regarding copyright laws in the European Union, which was then approved in the Council and after the first rejection it was approved in the Parliament.²¹ There is a democratic aspect that EU citizens could vote for their representatives in the parliament to vote towards their interest, regarding how effective this is arguable, but the democratic element behind it that the EU citizen is one step away from having a possibility to contact a member of the quite big institution is extremely democratic at its core.

The third way a European citizen can have their say in the democratic framework, or to put in other words to have their say how the community is approaching the tasks it is dealing with is the CJEU or the European Court of Human Rights. A European citizen can bring a claim against their state or a claim can be brought against the other EU institutions in the CJEU and this is important in the democratic process. The reason behind the importance is that a European citizen can have their voice heard in a fair hearing of CJEU in case their rights have been violated, or a company can do this as well. It is an important part of a democratic society that everyone has the right to demand a fair hearing if their rights have been violated and it is an extremely democratic element of the European Union that an individual can have their case heard in the CJEU or the European Court of Human Rights. ECHR deals with human rights violations and they have a large spectrum in severity of violations which are all important for democracy. Specific democratic rights involving politics can be pursued all the way to ECHR. Considering Eu as a community of not just market but political co-operation as well the rights of the citizen have been emphasized in this aspect greatly.

CONCLUSIONS

The European Union has created a democratic framework that affects the entire Union. Through different treaties like the Maastricht Treaty or the Lisbon treaty democratic processes have been altered and there is a more cohesive and developed democratic system in place currently. The Member States have been ensured their platforms, opportunities and tools to operate in the framework. There different institutions of the EU that operate in the sphere of proposing legislation, passing legislation and creating the political directions for the Union that can use their power. There is the court system that handles matters that involve EU elements and do take matters seriously and give judgements where a person is up against their nation when a for example a directive has not been implemented correctly like the Francovich case.²² So in the midst of it all the citizen is not forgotten.

The electoral problems involving the citizens and their ability to affect EU affairs are multiple, whether it is a democratic deficit in the system or something that is misused are important problems which might be solved with more integration or not. The framework ensuring the citizen's rights is the important part when analyzing EU as a community. It does form a sort of society of Member States where the states themselves have a say in the process and they have tools like the early warning mechanism or heads of states assembling together to discuss the current political directions the Union should take. The division of powers between the courts, Commission, Council of the European Union and the Parliament are important factors in well assembled society to decrease possibilities of abuse of power, how well this is handled is arguable but the fact that the treaties have created a system that is in its foundation based on this is

²¹Julia Reda, Eu copyright reform/expansion, point 3, Accessed 21.11.2018 <https://juliareda.eu/eu-copyright-reform/>

²²Court Decision 21.11.1991, **Francovich, Joined cases C-6/90 and C-9/90**

important. While Member States, the Council of the European Union and Parliament interact with each the citizen has not been forgotten but they have been created rights which can have an impact in the Union and they can participate in the political process of the Union through national elections, European Parliament elections or through the courts. This is a great standing for the individual because they are not only members of their national state but European citizens, which is something that might not be as noticed or engaged in as it would allow.

To sum it up the democratic framework of the European Union is quite complex in its nature, and might not function to the fullest of its ability. The framework does however include all the functions of a society of nations where the citizens are not replaced with nations but are a part of the process.

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