

The European Council and the Future of EU Democracy. Prospects of an Enhanced Multi-level Parliamentarism

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1. Introduction

The European Union's management of the financial and economic crisis has been dominated by intergovernmental decisions (Wessels 2016, pp. 187-219; Fabbrini 2015) and the furthering of technocratic structures (Schimmelfennig 2015). This has been accompanied by a demotion of parliaments both at the EU and national levels: On the one hand, with decisions on and implementation of stronger budgetary regulations, national parliaments were limited in their budgetary rights. On the other hand, the European Parliament (EP) was partly circumvented by the member states when taking the respective decisions.

Not only due to the current crises, the European Union (EU) is currently facing a legitimacy crisis of major relevance. Citizens' trust in the EU remains on a significantly low level: Currently, only 36 % of the EU citizens trust the European Union (European Commission 2016, p. 14), and 54 % do not think that their voices count in the EU (European Commission 2016, p. 18). This tendency coincides with an increased share of votes for EU-sceptic parties.

For a long time, the EU was able to draw its legitimacy from the positive output it produced—not from democratic mechanisms translating the citizens' will into political decisions at the EU level. This basis of legitimacy currently seems to be more questioned than ever.

This overall context contributed to the attempt to further develop the elections to the European Parliament by introducing so-called Spitzenkandidaten, i.e. pan-European lead candidates. A personalisation of the electoral campaign was meant to mobilise voters and to establish a direct link between the citizens and the EU level. The repetition of this experiment is now at stake. How will the European Council deal with this issue? Might the withdrawal of the United Kingdom, which has been a vital rival of this procedure, be a chance for a further development of EU democracy in general and EU parliamentarism in particular?

My research question is as follows: How will the European Council tackle the EU's legitimacy crisis in the coming years?

The basic assumption of this article is that the European Council has acted as the constitutional architect of the European Union. Matters of institutional evolution of the EU have been decided by the heads of State or government who will continue to shape the EU's institutional architecture (Wessels 2016). Meetings in the aftermath of the Brexit referendum in June 2016, such as the Bratislava and the Rome summits, indicate the European Council's willingness to go into the lead of the EU's future development. However, how do the European Council's conceptions regarding the further development of EU democracy look like?

The aim of this article is to structure the current reform debate and to assess the potential of the reform proposals which are currently on the table. After some brief theoretical considerations on possible modes of parliamentary representation of EU citizens, I will describe how the European Council has previously shaped the parliamentary dimensions of the EU's polity. Then, I will elaborate on the current reform debate and introduce the reform initiatives which have been launched so far with respect to the role of parliaments in the EU. I will then identify and examine the positions of the members of the European Council. Finally, I will conclude by assessing the actual potential of the proposals against the backdrop of the European Council's current conceptions.

2. Conceptual framework: Citizens' representation at the EU level

The Treaty on European Union (TEU) stipulates representative democracy as the basic functioning of the European Union (Art. 10 (1) TEU). More specifically, the treaty provisions define two channels of input legitimacy: via the European Parliament as the direct representative of EU citizens, and via the heads of States or government and the national governments which represent their peoples in the European Council and the Council.

Article 10, TEU

1. The functioning of the Union shall be founded on representative democracy.
2. Citizens are directly represented at Union level in the European Parliament. Member States are represented in the European Council by their Heads of State or Government and in the Council by their governments, themselves democratically accountable either to their national Parliaments, or to their citizens.
3. Every citizen shall have the right to participate in the democratic life of the Union. Decisions shall be taken as openly and as closely as possible to the citizen.
4. Political parties at European level contribute to forming European political awareness and to expressing the will of citizens of the Union.

From a federalist perspective, the channel via the European Parliament should be considered as the main basis of legitimacy of the Union. We would thus expect the European Council to provide the directly elected European Parliament with a relevant degree of competency in order to foster its role as the main representative of the Union's citizens. In practice, the step introducing this channel of input legitimacy was the introduction of direct elections to the European Parliament in 1979. From this theoretical point of view, the EU currently suffers

from a lack of input legitimacy which has to be overcome by a further empowerment of the European Parliament.

From an intergovernmentalist perspective, the nation states are and remain the legitimate basis of the Union. Via the member states, EU citizens do have an indirect, but sufficient democratic control of the EU level (Moravcsik 2001), which has been the traditional channel of input legitimacy since the beginning of EU integration. Theoretically, the European Parliament does not play any role with respect to the question of legitimacy.

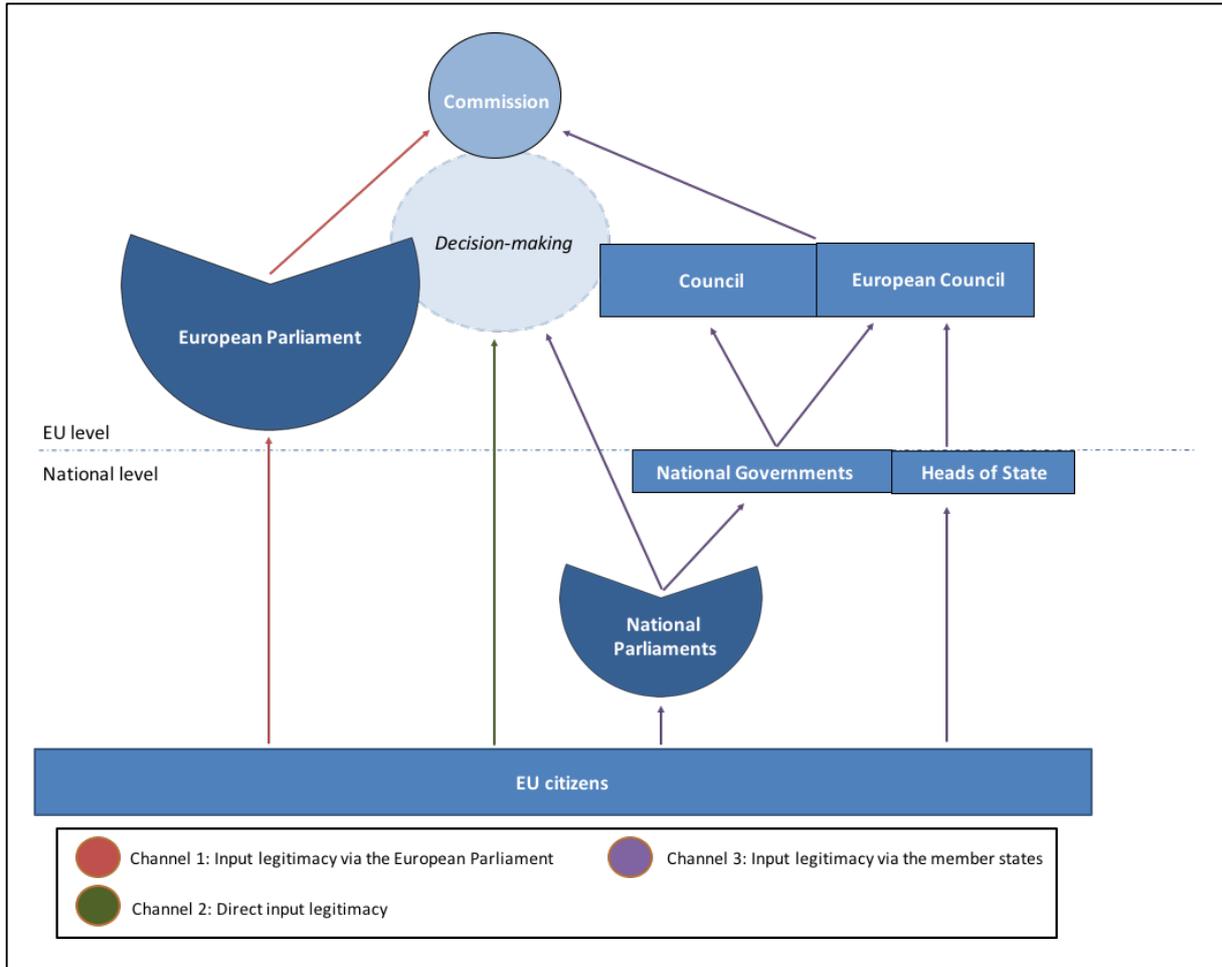
The European Parliament – despite its label – does not, according to this model, possess full parliamentary legitimacy and is, therefore, no rival to the European Council. The assembly of parliamentarians just serves as a forum for exchanging positions which at the end are irrelevant for making vital decisions in and on the EU (Wessels 2016, p. 14)

This perspective, consequently, contradicts the supposed democratic deficit.

A second element, which is not part of the intergovernmentalist literature, but still is in line with the argument of considering the member states as the basis of legitimacy of the EU, is the influence which citizens might exert via their national parliaments. On the one hand, national parliaments are meant to scrutinize their respective national governments. On the other hand, national parliaments can directly interfere in EU politics. Following the concept of the EU as a multi-level system (Marks, Hooghe and Blank 1996), national governments cannot be considered as the gate-keepers between the national level and the EU level anymore – in contrast to intergovernmentalist approaches, such as liberal intergovernmentalism (Moravcsik 1993). National parliaments can pass by national governments and directly affect EU decision-making.

Theoretically, a third channel of input legitimacy is possible: A direct involvement of EU citizens in EU decision-making. A first step into this direction was taken with the Lisbon Treaty introducing the European citizens' initiative (Art. 11 (4) TEU and Art. 24 TFEU). By means of collecting one million signatures within a twelve-month period, EU citizens can invite the European Commission "to submit any appropriate proposal on matters where citizens consider that a legal act of the Union is required for the purpose of implementing the Treaties" (Art. 11 TEU). So far, three initiatives have been successful, 18 attempts have failed due to insufficient public support and 14 initiatives have been withdrawn by the initiators (European Commission 2017a).

Figure 1: Three channels of input legitimacy



Source: Compiled by the author.

In the following, the focus will be on the role of parliaments. Which reforms regarding the role of parliaments in the EU are currently on the table? Which positions thereon can be found among the members of the European Council? The three following scenarios of parliamentary involvement in the EU's multi-level system will serve to structure the current debate:

First, national parliaments can be further empowered. On the one hand, national parliaments' scrutiny rights vis-à-vis the national governments can be strengthened. On the other hand, national parliaments can directly be involved in EU decision-making.

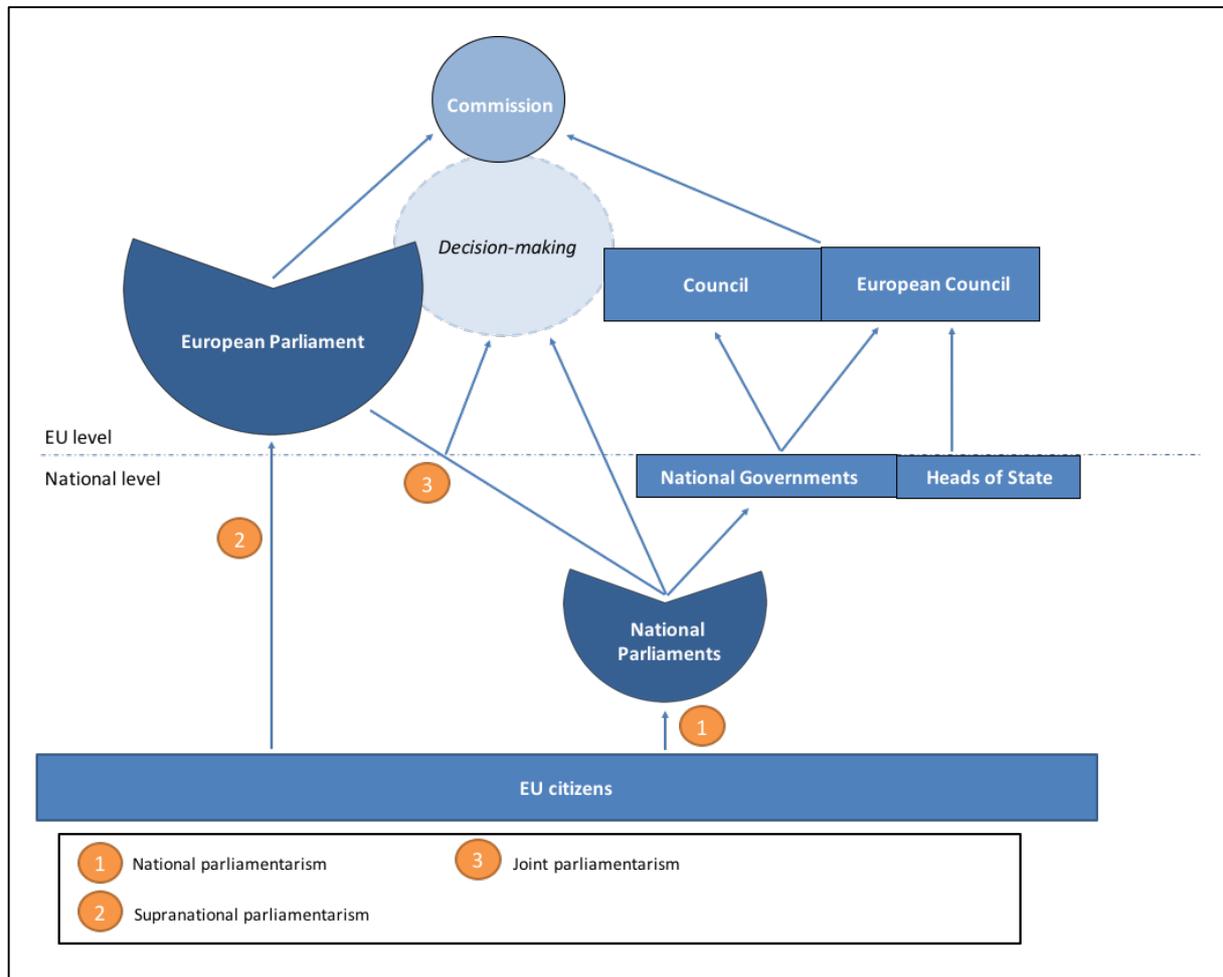
Second, the European Parliament's competences can be increased. Besides its legislative and budgetary powers, its role in the appointment of the Commission and the Commission's President can be consolidated.

Third, cooperation among parliaments across the levels constituting the EU's structure of governance can be fostered. The need for an enhancement of the joint parliamentary dimension has especially been advocated by Giscard d'Estaing who proposed the creation of a European Peoples' Congress.

I personally believe the democratic legitimacy of the Union will not be fully accepted by its citizens until a forum is created to bring together the two elements of legitimacy

in the Union - the national and the European one (Giscard d'Estaing cited in Spinant 2002).

Figure 2: EU multi-level parliamentarism



Source: Compiled by the author.

3. The previous role of the European Council: Architect of the EU as a parliamentary democracy?

In the last decades, the European Council has decisively shaped the EU's institutional architecture. Among others, the heads of State or government have fostered the parliamentary dimensions of the EU's polity: The European Parliament was created and has been strengthened with each treaty reform, and the national parliaments were given a say in EU decision-making. Has the EU thus been parliamentarised? Has the European Council been acting as a hidden but effective federator that has contributed to the shaping of the EU as a multi-level parliamentary democracy?

a. Empowerment of the European Parliament

The European Parliament's competences have been increased with each treaty reform – in particular by introducing and extending the ordinary legislative procedure which puts the EP

on an equal footing with the Council.¹ Concretely, the amount of treaty articles which stipulate a substantial involvement of the EP in the EU decision-making has been augmented (see Figure 3) - albeit there are still areas in which the European Parliament has no say or the member states still dominate, such as foreign policy issues or the multiannual financial framework (Wessels 2016).

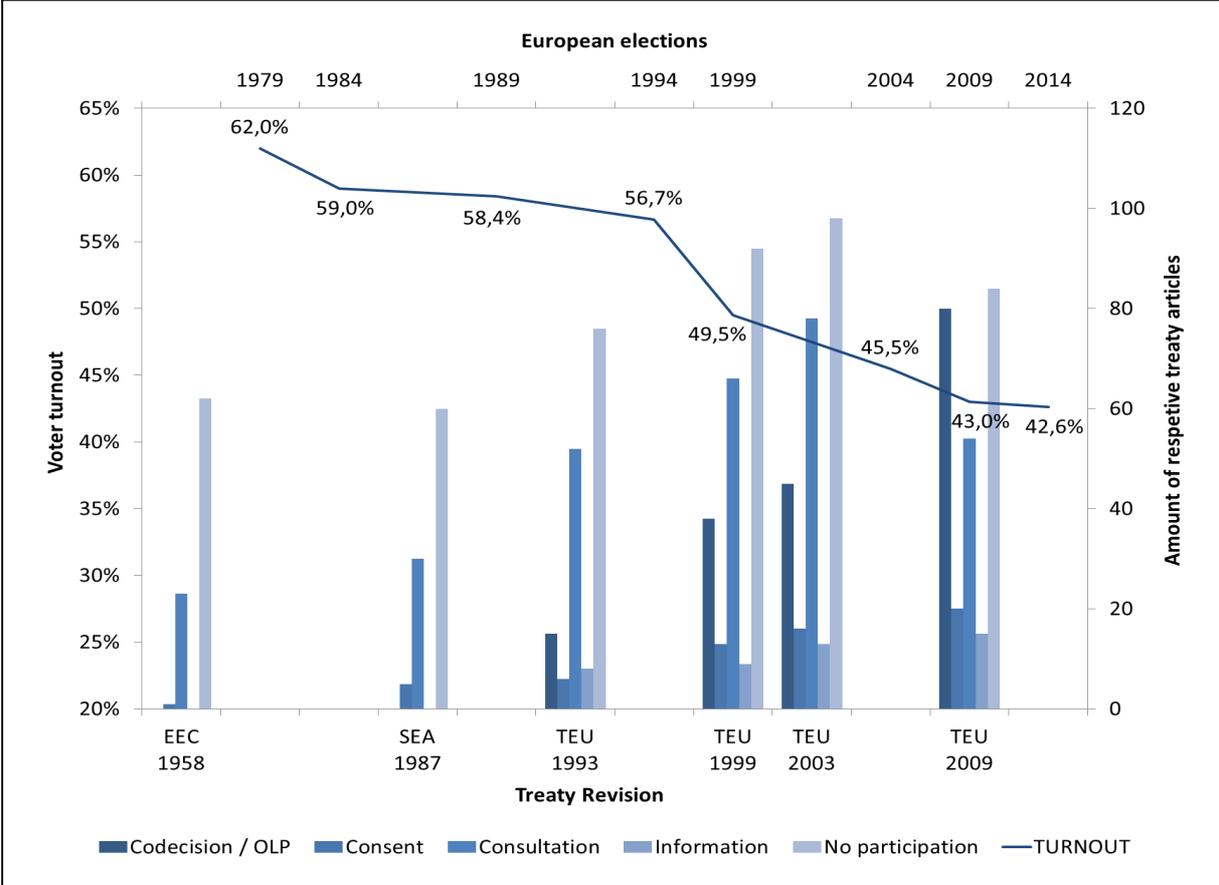
Besides the legislative and budgetary empowerment of the EP, the EP's involvement in the appointment of the European Commission has been constantly increasing since the Treaties of Rome (Müller Gómez and Wessels 2015). In most treaty revisions, the appointment procedure of the European Commission has been amended: "The intention has thereby always been to strike a balance between ensuring control of the member states on the process and a democratization of the procedure via a stronger involvement of the European Parliament" (Nasshoven 2010, p. 83). Starting from the right to dismiss the High Authority, the EP's competences increased to the right of being consulted, of giving its assent and finally of electing the Commission President. The Maastricht provisions can be regarded as the decisive step to a real link between the EP and the Commission (Maurer and Wessels 2003, p. 93, 158; Nasshoven 2010, pp. 83-87). It overcame the purely intergovernmental investiture procedure by legally fixing the EP's veto power.

The EP had always argued in favour of a dual legitimacy of the Commission (Maurer and Wessels 2003, pp. 90-91). Mainly after the first direct elections in 1979, the EP became intensively committed to increase its saying vis-à-vis the Member States. The Members of the European Parliament (MEP) adroitly over-interpreted their formal rights, for instance by introducing hearings of the designated Commission President and the further members of the European Commission (Maurer and Wessels 2003; Nasshoven 2010). A pattern of treaty changes being a result of former EP initiatives has been repeatedly observed in the amendments of the primary law. In this sense, "the European Parliament has played the role of a creeping constitutional architect" (Nasshoven 2010, p. 94).

In 2014, the Spitzenkandidaten procedure was experimented for the first time (Höing and Müller Gómez 2014). The European Parliament sought to assert its role against the heads of State or government. With the election of Jean-Claude Juncker in 2014, the EP at first sight again acted strategically securing itself a strong position in future elections of Commission Presidents.

¹ For an academic discussion of the reasons for which the European Council decided to empower the European Parliament, see König 2008 and Schmmelfennig 2010.

Figure 3 European Parliament: More competences – lower turnout



Source: Müller Gómez and Wessels 2017.

The constant empowerment of the European Parliament has not contributed to a higher interest of the citizens in EU politics (Rozenberg 2009) – with a record low voter turnout in 2014 (see Figure 3). The persistently low voter turnout raises doubts with regard to the legitimacy of the empowerment of the EP vis-à-vis the European Council, the members of which enjoy a relatively higher electoral basis than the EP (Kaeding 2015). Moreover, the success of the first application of Spitzenkandidaten procedure is more than doubtful. One major aim, the over-coming of the second-order effect, could only partly be achieved (Träger 2014; Hobolt 2014; Schmitt, Hobolt and Popa 2015; Müller Gómez and Wessels 2017). More importantly, instead of mobilising the electorate by politicizing the electoral campaign in partisan terms, the existence of lead candidates contributed to the polarisation of the citizens’ attitude towards EU integration. This polarisation coincided with an increased share of votes for EU-sceptic parties.

EU positive citizens applaud this development and evaluate the performance of EU democracy more positively than those who are more sceptical about the virtues of European integration and find themselves left out of the race of the lead candidates. Unfortunately, when viewed from the intended goals, the presence of lead candidates backfired, or at least had the unintended consequence of galvanizing those voters who are generally opposed to integration (Rohrschneider, Schmitt and Popa 2015, p. 20).

Despite the defeat by the EP in the nomination of Juncker, the European Council has continued to shape the agenda and policy-making of the Union by providing the respective impetus and guidelines – generally limiting the Commission’s agenda-setting prerogatives – and interfering in EU decision-making if necessary (Wessels 2014, pp. 69-75). The adoption of the so-called Strategic Agenda, in which the national leaders determined “five overarching priorities which will guide the work of the European Union over the next five years” (European Council 2014), in the aftermath of the 2014 elections is an early indication of the institution’s constant commitment (Müller Gómez and Wessels 2014).

b. Involvement of national parliaments

National parliaments have long been considered as the losers of EU integration (Maurer and Wessels 2001). They have been strengthened since the Maastricht Treaty which introduced limited information rights, which however represents a very indirect way of influence (Groen and Christiansen 2015, p. 46).

In contrast to the evolution of the European Parliament, the national parliament’s formal involvement (from an EU perspective) is rather recent. “[I]n the course of the 2000s the national parliaments were increasingly seen as one of the ‘key responses’ to the EU’s putative democratic deficit” (Groen and Christiansen 2015, p. 44). Their involvement should serve to foster the link between the EU level and the citizens (Groen & Christiansen, p. 46).

The current TEU now stipulates that “National Parliaments contribute actively to the good functioning of the Union” (Art. 12 TEU). First, the national assemblies have been granted broader rights of information with the entry into force of the Lisbon Treaty. In the framework of legislative procedures, the institutions of the EU now have the obligation to directly submit draft legislative acts, resolutions of the European Parliament and positions of the Council to the national parliaments (Art. 4 Protocol No. 2).

Second, the Lisbon Treaty introduced the so-called Early Warning Mechanism (EWM) which enables national parliaments to control the conformity of initiatives of the European Commission with the subsidiarity principle (Protocol No. 2). They can do so by submitting reasoned opinions to the EU institutions in which they explain why they consider the legislative initiative to violate the principle of subsidiarity. In practice, the Early Warning Mechanism has been proven ineffective (Hoppe 2016). In 2012, the Commission withdrew its legislative initiative after the national parliaments have issued a sufficient amount of reasoned opinions. But after 2013, the national parliaments’ use of the EWS declined decisively, which can be interpreted as the national parliaments’ surrender.

During the European Convention, further proposals were discussed. On the one hand, suggestions on further involvement of the national parliaments at the EU level were on the table, such as the creation of a new body composed of national parliamentarians which would directly participate in EU decision-making (Groen and Christiansen 2015, p. 50-53). Also, the introduction of a mechanism which would enable national parliaments to block EU legislation was discussed. This proposal, which was a reaction of the Dutch government to the rejection of the European Constitution by the Dutch people, was finally integrated in the Lisbon Treaty

in a much more moderate form, which is now known as the orange card (Groen and Christiansen 2015, p. 54-55).

On the other hand, there were voices arguing for a strengthening of mechanisms by means of which national parliaments can scrutinize their respective national government. At the end, the decision thereon was handed over to the member states without agreeing on a pan-European regulation (Groen and Christiansen 2015, p. 51). As a result, the national scrutiny rights of national parliaments differ decisively (Winzen 2012; Hefftler et al. 2013).

c. Inter-parliamentary cooperation

Besides these mechanisms, the European Council formalised by means of the Lisbon Treaty the inter-parliamentary cooperation between the national parliaments and the European Parliament (Art. 12f TEU; Art. 9-10 Protocol No. 1).² The Conference of Parliamentary Committees for Union Affairs (COSAC – Conférence des Organes Spécialisés dans les Affaires Communautaires) gathers representatives of national parliaments and the European Parliament. The meetings especially serve the exchange of information and of best-practice experience among the members of parliament. Further inter-parliamentary conferences take place on issues of foreign policy (Art. 10 Protocol No. 1) and economic governance (Art. 13 TSCG³).

Article 10, Protocol No. 1

A conference of Parliamentary Committees for the Affairs of the Union may submit any contribution it deems appropriate for the attention of the European Parliament, the Council and the Commission. That conference shall in addition promote the exchange of information and best practice between national Parliaments and the European Parliament, including their special committees. It may also organize interparliamentary conferences on specific topics, in particular to debate matters of common foreign and security policy, including common security and defence policy. Contributions from the conference shall not bind national Parliaments and shall not prejudice their positions.

Experience shows that the inter-parliamentary forums are not taken equally seriously by the participating deputies. Interviews have proven that even leading members of parliament are not aware of the purpose of the inter-parliamentary meeting they are attending.

4. What's next? The European Council and the future of EU parliamentarism

a. Current reform debate

A large part of the current debate has been focused on the functional benefits of EU integration. In which areas would further integration be beneficial and in which not?

² See an overview and academic discussion, see Hefftler and Gattermann 2015.

³ Treaty on Stability, Coordination and Governance in the Economic and Monetary Union (Fiscal Compact).

Discussions on further cooperation in the areas of defence policy, etc., seek, on the one hand, political and economic advantages, and, on the other hand, to deliver vis-à-vis EU citizens, i.e. improving the EU's output.

Here, I will exclusively look at reform proposals regarding the supposed democratic deficit and reforms which affect the input side of the EU's basis of legitimacy and the role of parliaments in the EU. In a first step, I will summarise the current debate by presenting the proposals put forward by the EU institutions; in a second step, I will look at the positions represented in the European Council.

In 2017, the European Parliament adopted two resolutions, prepared by Brok and Bresso (European Parliament 2017a), and Verhofstadt (European Parliament 2017b), respectively, which comprise demands for concrete reforms which would enhance the parliamentary dimension of the EU's polity. The proposals comprise both reforms that would require treaty amendments and changes which would be possible in the framework of the current treaty provisions, for instance by applying the passarelle clause. The European Parliament has been the only institution launching proposals implying the need of treaty changes.

Not surprisingly, the European Parliament particularly demands an empowerment of its own institution. Interestingly, its claims with regard to the role of national parliaments and of joint cross-level parliamentary scrutiny are proven to be very ambiguous. On the one hand, it is in favour of introducing a so-called green-card procedure, which would enable national parliaments to submit proposals for legislation to the Council. On the other hand, the European Parliament asks for a clear separation of areas of competencies between the national and the European parliaments. Concretely, the European Parliament

points out, in this regard, that national parliaments are best placed to mandate and scrutinise at national level the action of their respective governments in European affairs, while the European Parliament should ensure the democratic accountability and legitimacy of the European executive; [...] it therefore against the creation of new joint parliamentary bodies with decision-making powers (European Parliament 2017b).

Furthermore, the European Parliament adopted a specific resolution, which was prepared by Leinen and Hübner and in which it invites the Council to amend the European Electoral Act (European Parliament 2015b). Specifically, the European Parliament has been eager to constitutionally fix the Spitzenkandidaten procedure in order to secure its repetition in 2019 and onwards.

Summary: Demands and proposals launched by the European Parliament

1. Elections to the European Parliament

- Legal consolidation of Spitzenkandidaten procedure
- Possibility of creating a European constituency, in which the parties' lists would be headed by the European Spitzenkandidaten, in addition to the national lists
- Visibility of European political parties in the elections to the European Parliament (ballot papers, media)
- Common election day or at least Europe-wide end of elections

- Harmonisation of regulations, such as right to vote of citizens residing in third countries, registration of party lists, voting age, thresholds, vote by post etc.
- Enforcement of gender-balance
- Establishment of a European Electoral Authority
- Determination of electoral period by European Parliament

2. Role of the European Parliament in EU decision-making

- Extension of ordinary legislative procedure replacing the special legislative procedures
- Strengthening in issues of Economic and Monetary Union; strengthening of parliamentary oversight in areas such as external action and counterterrorism policies; application of consent procedure in the case of CSDP operations; introduction of co-decision for the negotiations of the Multiannual Financial Framework
- Right of legislative initiative
- Right of veto in the case of treaty amendments
- Increase of competency in the selection of office-holders, for instance regarding members of the Court of Auditors and staff of EU agencies

3. Role of national parliaments

- Enhancement and intensification of political dialogue between national parliaments and European Parliament
- Clear separation of competences between European Parliament and national parliaments; the latter focusing on mandating and scrutinising their national governments
- Improve of cooperation among national parliaments, in particular with respect to their role in the early warning mechanism
- Introduction of the 'green card'

3. Further proposals

- Further development of European citizens' initiative
- Reflection on the possibility of European referendums, for instance in the case of treaty amendments
- Extension of right to vote of EU citizens to all elections in the member state they reside
- Extension of qualified majority voting in the Council
- Right of legislative initiative for the Council and the European Parliament
- Designation of at least three candidates by the member states for the posts in the European Commission
- Transformation of the Council and the European Council into a Council of State
- Transformation of the European Commission into the executive authority/European government

Source: Compiled by the author, based on the European Parliament's resolutions.

The votes held in the European Parliament revealed the extent to which the European Parliament is split with regard to future reforms. The resolutions were all only adopted by very tight majorities (see Table 1). For instance, the Verhofstadt report, which goes beyond the current treaty revisions, was adopted with more than 50 % of the MEPs of the European Peoples Party (EPP) not approving it.

Table 1 Votes on reform resolutions in the European Parliament

Report	Approval	Rejection	Abstention	Coalition
Brok/Bresso	329	223	83	S&D, EPP, Greens/ EFA, ALDE

Verhofstadt	283	269	83	S&D, EPP, Greens/ EFA, ALDE
Leinen/Hübner	315	234	55	S&D, EPP, ALDE

Source: Compiled by the author, based on VoteWatch and European Parliament.

These voting results and the division of the European Parliament go in line with the first application of Spitzenkandidaten procedure: Not all European political parties participated at the Spitzenkandidaten experiment, and a large part of MEPs openly opposed this procedure (Höing and Müller Gómez 2014).

One of the most far-reaching proposals among the discussed treaty reforms has been the direct election of the Commission President, which would introduce a further channel of input legitimacy, however by circumventing the parliaments. Following a presidential model, the Commission President would be directly elected by and, consequently, directly accountable to the citizens. This proposal, which has gained adherents both in politics⁴ and in academia (Decker and Sonnicksen 2011; Müller Gómez and Wessels 2017) has not been taken up by the European Parliament – it would after all limit its own prerogative.

National parliaments formulated their reform proposals in the framework of the biannual COSAC reports. Recently, two main issues have been addressed (COSAC 2014). First, most national parliaments seek an improvement of the yellow-card mechanism. In particular, critics refer to the eight-week period within which national parliaments have to hand in their reasoned opinions and which is considered as too short. Second, most national parliaments are in favour of introducing a sort of green-card procedure. In contrast to the European Parliament's concept, the COSAC report understands the green card as an enhanced political dialogue between the national parliaments and the European Commission in the course of which a minimum number of national parliaments can suggest new legislation or the amendment of existing legislation. Consequently, the national parliaments supporting such a mechanism envisage an informal procedure, rather than a constitutionalised right of initiative.

When EU leaders agreed on a deal with the UK government which sought to keep the UK in the Union, the introduction of a so-called red-card procedure was discussed (European Council 2017a). The concept envisaged that 55% of the national parliaments' votes could stop EU legislation or force amendments of the Commission's proposal. The procedure has, however, already been criticised for not having any effect (Hagemann, S., Hanretty, C. and Hix, S. 2016) and is now apparently off the table.

The European Commission has been very cautious with proposals regarding institutional reforms. Its main concern has been how to improve the EU's output vis-à-vis its citizens. In its white paper on the Future of Europe, it presents five possible scenarios (European

⁴ For instance by the Future Europe Group, which comprised the Foreign Ministers of Austria, Belgium, Denmark, France, Italy, Germany, Luxembourg, the Netherlands, Poland, Portugal and Spain (Future of Europe Group 2012).

Commission 2017b). It clearly mentions the problem that citizens' trust in the EU has declined in the last decade. It also elaborates on the national governments' responsibility:

Blaming '*Brussels*' for problems while taking credit for success at home, the lack of ownership of joint decisions and the habit of finger-pointing at others have already proved damaging. Europeans are not immune to these stark images of disunity (European Commission 2017b).

In the white paper, the Commission (2017b) argues that "a clearer division of responsibilities helps European citizens to better understand what is handled at EU27, national and regional level."

The issue of legitimacy is, in particular, taken up in the section of a potentially multi-speed Europe. The Commission underlines that this scenario would further complicate transparency and accountability.

In its reflections on a further development of the Economic and Monetary Union (European Commission 2012), the Commission highlights the necessity to strengthen democratic legitimacy and accountability. Albeit the Commission emphasizes the crucial role of national parliaments and welcomes improvements with regard to inter-parliamentary cooperation, it considers the European Parliament as the sole assembly in charge for issues concerning the EU as whole.

It [...] is the European Parliament that primarily needs to ensure democratic accountability for any decisions taken at EU level, in particular by the Commission. A further strengthened role of EU institutions will therefore have to be accompanied with a commensurate involvement of the European Parliament in the EU procedures. [...] [T]he role of national parliaments will always remain crucial in ensuring legitimacy of Member States' action in the European Council and the Council but especially of the conduct of national budgetary and economic policies even if more closely coordinated by the EU. [...] The European Parliament, and only it, is that assembly for the EU and hence for the euro (European Commission 2012, p. 35).

Beyond that, at this stage, the Commission has not presented any concrete proposals with respect to mechanisms of input legitimacy.

The European Council has also been very reluctant regarding the legitimacy debate; like the Commission, it has focussed on how the EU can 'deliver' more effectively. In their recent conclusions, the European Council has tangentially touched the necessity of increasing the EU's input legitimacy and accountability mechanisms. In their conclusion from December 14th, 2012, for instance, the heads of State or government stated that

Any new steps towards strengthening economic governance will need to be accompanied by further steps towards stronger legitimacy and accountability (European Council 2012).

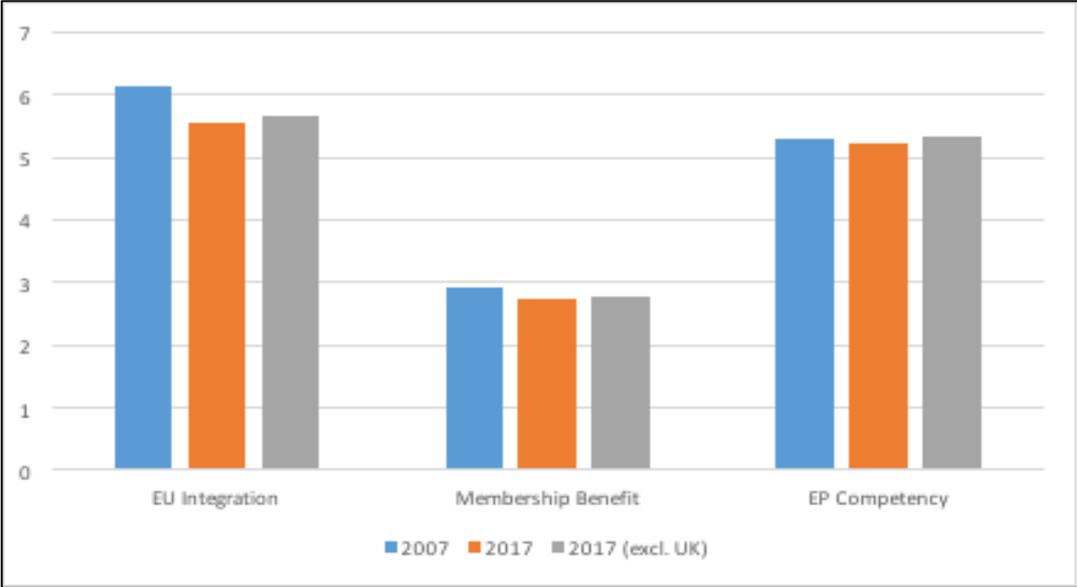
In other instances, the conclusions read that 'the objective remains to ensure democratic legitimacy and accountability' or that 'democratic legitimacy and accountability should be further explored'. Generally, the European Council has remained very vague regarding its vision of how to foster democratic legitimacy at the EU level.

At the EU27 summits in the aftermath of the Brexit referendum, particularly in Bratislava and Rome, the heads of State or government have kicked-off their reflections on the future of the Union. Besides the need “to listen and respond to the concerns expressed by our citizens” (European Council 2017b), the European Council – the UK excluded – has not essentially touched upon the topic of democratic legitimacy and accountability. This reserve might be due to two reasons: The European Council does consider the debate a relevant one, or the heads of State or government have not found any common ground.

b. The member states’ agenda and vision

Let us have a look at the positions within the European Council with regard to EU integration generally and the empowerment of parliaments specifically – first quantitatively, then qualitatively. For this purpose, I rely on the Chapel Hill Index (Hooghe, Bakker, Brigevich, de Vries, Edwards, Marks, Rovny and Steenbergen 2010; Bakker, Edwards, Hooghe, Jolly, Marks, Polk, Rovny, Steenbergen and Vachudova 2015), which provides quantitative data of party positions. The respective party position serves as a first indicator for the national leaders’ attitudes. Compared to 2007, when the Lisbon Treaty was signed, the average position in the European Council on EU integration in general is slightly worse today – even when excluding the position of the British Conservative Party (see Figure 4). The same applies to the national leaders’ opinion on the benefit of their country’s EU membership. As for the positions of the heads of State or government on the competency of the European Parliament, the current composition of the European Council is slightly more in favour of a powerful European Parliament than in 2007, when excluding the UK’s position.

Figure 4 Average position of the heads of State or government⁵



Source: Calculation by the author.

⁵ Explanation:
 EU integration: 7: strongly in favour, 1: strongly opposed;
 Membership benefit: 3 beneficial, 1: not beneficial;
 EP competency: 7: strongly in favour of EP power, 1: strongly opposed of EP power.

When looking at the individual countries, divergent changes become evident (see Figures 5). Whereas some member states preserved their positions, we can witness enormous changes in others.

Figure 5 Positions of the heads of State or government



Source: Calculation by the author.

Most striking are the developments in Greece, Hungary, Poland, where the current executives today oppose a strong European Parliament more than ten years ago, on the one hand, and the Czech Republic, Denmark, France and Slovakia, where the change of positions goes the other way around, on the other hand. The strongest adherent of a powerful Parliament has been and remains Luxemburg, followed by Belgium, Portugal and Italy. On the opposite side, Hungary and Poland reject a further empowerment of the European Parliament. However, with the UK leaving the Union, these two countries lose an important partner with respect to their conception of the European Union (Formuszewicz 2016, p. 556).

In general, the Visegrád group, which comprises Poland, Hungary, Slovakia and the Czech Republic, emerged as the leading faction advocating an intergovernmental idea of the EU: They consider the member states as the decisive basis of legitimacy of the Union, and are, at least partly, sceptical towards supranational institutions (Weichsel 2016, pp. 583-4; Fürst 2016, p. 568; Kralikova 2016, p. 571). Consequently, they strive for a strong role of the European Council and the relevance of national parliaments.

Democratic control over legislative and political processes of the EU at national level must be strengthened. More significant and definitive role of the national parliaments should be considered as it would enhance legitimacy of the EU decision making process. The European Council must play a key role, setting major political objectives. In particular, the European Council shall profoundly discuss issues of European agenda which are of major national interest to Member States (Government of the Czech Republic 2017).

As for the Spitzenkandidaten procedure, the first application caused a controversy among the heads of State or government: Several members of the European Council such as the German chancellor and the Swedish and Dutch prime ministers only after some hesitance decided to vote in favour of Juncker, the Hungarian and British heads of government were outvoted at the end. This actual application of a qualified majority voting in the European Council has to be recorded as a significant precedent (Wessels 2016, p. 80). After the appointment of Juncker, the heads of State or government declared that they would re-consider the appointment procedure of the Commission President for future elections.

Once the new European Commission is effectively in place, the European Council will consider the process for the appointment of the President of the European Commission for the future, respecting the European Treaties (European Council 2014).

This announcement was taken up in 2016 when several heads of State or government initiated a debate on the prevention of a repetition of 2014 to which most governments seem to have agreed (Kirchner 2016).

Still, there seems to be some hope for supporters of fostering parliamentarism at the EU level: We find Italy assuming a pioneer role and advocating a further strengthening of the parliamentary dimension at the EU level: First, the Italian prime minister (both Gentiloni and Renzi) backs the establishment of a European constituency for the election to the European Parliament. Based on current media reports, Italy suggests converting the 73 seats of the

European Parliament which have been allocated to the representatives of the British electorate by establishing a pan-European constituency (Barigazzi 2017). Second, the Italian prime minister supports the legal consolidation of the Spitzenkandidaten procedure. Third, the Italian government proposed to hold primaries for the nomination of the pan-European Spitzenkandidaten in the run-up to the 2019 elections in order to further develop and foster the Spitzenkandidaten procedure (Grasse and Labitzke 2016, p. 521).⁶

Italy seems to have been fighting a lonely fight, but new adherents of an enhancement of the parliamentary dimension might be in sight: Besides the Spanish government, French presidential candidate Macron and German chancellor candidate Schulz actively support the suggestion of creating a pan-European constituency and consequently introducing transnational party lists in addition to the existing national quotas (Barigazzi 2017; Foster 2017; Gobierno de España 2015). Besides the expected positive effects for EU democracy, the argument is that such a solution would be much less contentious than having to distribute the seats among the remaining EU27.

Beyond these concrete positions, member states have remained relatively vague. For instance, Belgium, the Netherlands and Luxemburg support the further involvement of national parliaments in EU politics and underline the need to respect the community method (Benelux 2016). Spain, which has been one of the strongest supporters of EU integration (Molina and Gratius 2016), advocates a strengthening of inter-parliamentary cooperation and of the European political parties – besides their support of the Spitzenkandidaten procedure and the introduction of transnational party lists (Gobierno de España 2015).

5. Concluding considerations

In previous treaty reforms, in particular with the entry into force of the Lisbon Treaty, the parliamentary dimensions of the EU have been fostered. Both the European Parliament and the national parliaments have been strengthened and inter-parliamentary cooperation has been enhanced by the European Council. Considering the European Council as a hidden federator which has shaped the EU as a multi-level parliamentary democracy would, however, not be sufficiently nuanced. Besides the fact, that the member states have always secured themselves a vital position in the EU's architecture, the steps taken with regard to the national parliaments and inter-parliamentary cooperation only have had very limited effects. Thus, reforms towards a further parliamentarised EU cannot be automatically expected as the response to the legitimacy crisis the EU is currently facing. Moreover, the current debate has been focused on policy-oriented results, not on institutional reforms.

The reform initiatives which have been launched by the European Parliament unsurprisingly envisage a strengthening of the parliamentary dimension at the EU level, for instance by consolidating the EP's role in the appointment of the Commission. Importantly, the European Parliament appears to be decisively split. In the past, the EP has strategically over-interpreted treaty provisions and pushed the European Council towards a stronger role for its own

⁶ For an academic analysis of this proposal, see Müller Gómez and Wessels 2017.

institution. But its current lack of unity reduces its negotiation position vis-à-vis the national governments.

Within the European Council, the constellation looks as follows: On the one side, we surprisingly find convinced advocates of a parliamentary vision of the EU. The front-runners have been Italy and Spain, which have clear visions and seem to be willing to enhance the European dimension of the EP elections and to foster the European Parliament's role in the investiture procedure of the European Commission. On the other hand, there is a camp dominated by the Visegrád Group that advocates an intergovernmental interpretation of the EU and considers the European Council as the vital decision-maker. Albeit the EU loses with the UK a decisive supporter of the intergovernmental method, there are still enough member states which will prevent a further parliamentarisation at the EU level, but which might be open to a strengthened role of national parliaments. The concrete proposals of how this could look like remain very vague. The same applies to inter-parliamentary cooperation which has been supported by various member states, albeit without any concretisation.

Since amendments of the European Electoral Act – as demanded by the European Parliament – require unanimity among the member states and the actual success of the Spitzenkandidaten experiment remains doubtful, it seems unlikely that Italy and Co can assert themselves. Still, it will be interesting to observe the future dynamics within the European Council due to the diverging conceptions.

For the future, debate, it will be, moreover, interesting to see how the European Council will respond to the EU-sceptic forces. Whereas several heads of State or government, like the cases of France and Italy demonstrate, might rash ahead and try to convince their citizens of the European project by furthering parliamentary democracy at the EU level, others might be more reluctant and prefer less integration and a less federal finalité of EU in order to accommodate the EU-sceptic movements.

A last point: Differentiated integration has been put on the table by various actors. This comprises concepts such as a multi-speed Europe or Europe à la carte. These possible scenarios (beyond the fact that differentiation is already reality) even more fosters the need of a debate on the EU's democratic legitimacy. Concretely, how should a European Parliament look like and act in a differentiated Union? Should only the MEPs originating from member states which participate in the respective areas have a say or should in all instances all MEPs be allowed to vote? This question particularly concerns the Euro area. The proposal of establishing a Euro committee within the European Parliament with particular rights has already been launched (European Commission 2012). In general, a even more differentiated Europe would further complicate transparency and accountability.

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