



RESHAPING EUROPEAN DEMOCRACY

Boosting the Role of National Parliaments in EU Democracy

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In many ways, the European Parliament elections of May 2019 were encouraging for EU democracy: voter turnout increased, and euroskeptics did not make a decisive breakthrough. All the recent focus on the European Parliament elections, however, has diverted attention from an aspect of democratic reform that is still unduly overlooked. The EU's democratic legitimacy not only flows from the directly elected members of the European Parliament (MEPs) but also requires that national parliamentarians be involved. They often better understand their voters' hopes and fears and could help EU institutions address the problem of populism.

As European Commission President-elect Ursula von der Leyen prepares to take the helm, there is an opportunity to get national parliaments more invested in the affairs of the EU. Despite widespread reluctance to give national parliaments a greater say, von der Leyen should craft new ways for parliaments to be involved in EU decisionmaking. National parliamentarians can help her deliver on citizens' expectations and constructively shape the union's future if she treats them seriously.

BRUSSELS' ONGOING STRUGGLE WITH EUROSKEPTICISM

For a long time, the mainstream view has been that addressing the EU's waning legitimacy is primarily about expanding the competencies of the European Parliament, even though [turnout](#) in the European elections had fallen with each successive election until 2019. The new president-elect of the European Commission also seems to be of this opinion. Von der Leyen was not chosen from among candidates nominated by the European Parliament's political groups. When the lead candidates of this Spitzenkandidaten procedure—the leader of the European People's Party, Manfred Weber, and former commission vice president Frans Timmermans of the Party of European Socialists—failed to garner enough support, EU leaders opted instead for von der Leyen—who was not in the Spitzenkandidaten pool.

To soothe the European Parliament's anger over the decision to parachute her into the commission presidency, von der Leyen promised MEPs a *de facto* right to initiate legislation. According to the EU treaties,



the European Commission (with few exceptions) enjoys a monopoly on putting forward EU draft legislation. But von der Leyen promised MEPs that if a majority of them votes in favor of certain policy proposals, they will be put on the commission's legislative agenda. The incoming commission president made an enhanced partnership with the European Parliament a central tenet of her commitment to "a new push for European democracy," which she presented in her [political guidelines](#). She sees MEPs as vital allies in delivering on the promises she made to the public ahead of the vote on her candidacy.

But expanding the European Parliament's prerogatives might not be the best way to strengthen the EU's democratic legitimacy. Citizens in many member states worry that previous EU responses to the sovereign debt and migration crises have undermined their countries' right to decide domestic policy matters, such as how to run their budgets or who can enter their territory. For this and other reasons, some Europeans have turned to euroskeptic parties, which commonly pledge to end allegedly undemocratic diktats issued by Brussels. They might see von der Leyen's attempt to give more powers to the European Parliament as another example of overreach.

THE UNTAPPED POTENTIAL OF NATIONAL PARLIAMENTS

National parliaments, on the other hand, could help to bridge the gap between citizens and EU institutions. Opponents of this idea will argue that this is wishful thinking because public trust in national parliaments is low. Indeed, the most recent [Eurobarometer poll](#) shows that, whereas 44 percent of the public trust the EU, only 34 percent trust their national parliaments. But the survey also reveals that in Austria, Finland, and Sweden—member states with euroskeptic inclinations—people's trust in national parliaments tends to be higher than their trust in EU institutions. There is little reason to doubt that parliaments could help make citizens of member states more resilient to euroskepticism and

[facilitate](#) a "democratic reconnection" between the people and Brussels. Giving national parliaments a greater say could appeal both to EU enthusiasts and those uneasy about the expansion of EU powers.

The role of national parliaments has been on the EU agenda for a long time, but the cause has not advanced very far in practice. This is a missed opportunity for several reasons. First, parliaments could help the EU facilitate more frank discussions about the EU in individual member states. By thoroughly scrutinizing actions taken in Brussels by member state governments, they could make national executives more honest; populist governments are good at signing up for EU proposals one day and disingenuously claiming that Brussels imposed its will on them the very next day. Second, national parliaments can help EU institutions improve existing legislation so that it specifically and efficiently targets citizens' concerns. They could guide the EU's future policy agenda by encouraging action in certain policy areas and, at times, by discouraging the EU from intervening in other areas.

What National Parliaments Can Do Already

The EU has already furnished national parliaments with some tools to help shape the union's policymaking agenda, but Brussels has placed limits on these tools and overlooked national parliamentarians' potential to do more to shore up support for the EU.

The yellow cards of the EU's early warning system are one such tool. Since the Lisbon Treaty entered into force in December 2009, national parliaments have been able to object to the commission's legislative proposals when they think the principle of subsidiarity is undermined. This principle dictates that the EU only act when its member states cannot achieve a desired objective by acting individually. (Bicameral parliaments have one vote per chamber, and unicameral ones enjoy two votes.) When one-third of all the votes available to national chambers (or one-quarter of them on issues related to justice and home affairs) are cast against such a proposal, the commission is obliged to review the

respective draft and decide whether to maintain, revise, or withdraw it. Although these so-called yellow cards do not automatically compel the commission to ditch proposals, they allow national parliaments to convey public concerns about the EU's intervention into what the citizens and their parliamentarians might see as domestic matters.

National parliamentarians can also improve EU legislation through other channels. Unlike the Council of the EU and the European Parliament, they do not directly participate in adopting EU laws, but since 2006, they have been able to offer feedback through political dialogue with the European Commission on whether existing, planned, or future legislation serves or undermines the public interest. National parliamentarians also regularly exchange views with colleagues from other member states and their counterparts in the European Parliament during the so-called interparliamentary conferences or interparliamentary committee meetings and other workshops and seminars.

In these ways, parliamentary scrutiny of EU affairs can help facilitate honest debate about the division of competencies between the EU and its member states and—most importantly—about the desirability of certain European policies. But national parliaments' efforts to increase the EU's standing in the eyes of the European public will fail if the EU institutions do not listen to their often-critical feedback.

Limits on the Feedback of National Parliaments

Even though the Lisbon Treaty increased national parliaments' powers to some degree, some chambers have long felt that the commission in practice seeks to limit or ignore their input. In 2013, for instance, the commission under former president José Manuel Barroso pushed ahead with the creation of the European Public Prosecutor's Office, even though several parliamentary chambers issued a yellow card.

To be fair, things significantly improved under the current commission president. When Jean-Claude Juncker took over in November 2014, he **promised** to upgrade the body's relationship with national parliaments. Juncker appointed Timmermans—a notable supporter of a stronger role for national parliaments—as his first vice president and has frequently sent his commissioners to national capitals to talk with national lawmakers more often. In 2017, there were 215 such **visits and meetings** between commission representatives and national parliaments. This figure is around eight times more than the number of **interactions** between Barroso-selected commissioners and national chambers between January and October 2014. Juncker also invited national parliamentarians to join a newly established **task force** “on subsidiarity, proportionality and doing less more efficiently.” The task force comprised Timmermans; representatives of the European Committee of Regions; and members of the Austrian, Bulgarian, and Estonian parliaments.

In their submissions to the task force, however, some parliaments still complained that their influence is limited effectively to the pre-legislation stage. Some parliaments resent that they have no chance to scrutinize final legislation, which often varies from the earlier drafts they comment on. The Swedish parliament also **complained** that, in one case, the European Commission pressed ahead with inter-institutional legislative negotiations before the eight-week deadline for parliamentary feedback had even lapsed.

Moreover, parliaments can object to draft EU legislation only on the grounds of subsidiarity, a fact that limits their influence. Parliaments cannot show the commission a yellow card when they think that a proposal goes beyond what is necessary to achieve the objectives set out in the EU treaties (the so-called proportionality principle) or when they disagree with the substance of a draft law. This limitation discourages parliaments—which are used to actively shaping legislation at home—from engaging with the commission.



Some national chambers would also like to be able to ask the commission to put forward new proposals, amend laws, or repeal existing legislation. The EU treaties do not explicitly empower parliaments with this role, but many national chambers think that this should be possible in practice. The British House of Lords therefore suggested that if a group of national parliaments makes constructive policy and legislative recommendations, the commission should take them on board in its future work. This so-called green card procedure could also help correct the misconception among EU leaders and institutions (exacerbated by former UK prime minister David Cameron's idea to give parliaments a right to veto draft legislation) that national lawmakers are interested only in obstructing EU decisionmaking rather than in constructively contributing to better policymaking.

In 2015, the House of Lords and fifteen other national chambers tested the waters and **submitted** their first green card on reducing food waste. Although the European Commission incorporated some of their recommendations, it shied away from referring directly to the green card. What's more, the commission dismissed other **similar initiatives** pursued by national parliaments between 2015 and 2018, including a green card on corporate social responsibility.

The European Commission has taken a cautious approach to green cards because it worries that this new instrument could dilute its own monopoly on proposing new EU legislation. Von der Leyen might be even more reluctant to embrace green cards. She **promised** that the European Commission will respond with a legislative initiative to any European Parliament proposal that secures majority support from the parliamentary body's members. Granting national parliaments with de facto powers of a similar nature would upset MEPs.

This rivalry between the European Parliament and national parliaments has also cropped up at some of the twice-annual interparliamentary conferences where the two groups gather to discuss issues of joint interest. The European Parliament hoped that by sending bigger **delegations** to interparliamentary conferences on

common foreign and security policy as well as on EU economic governance, it would increase its influence over these policy areas, which, to a great extent, still remain in the hands of member states. But national parliaments disagreed with this idea; they thought that the number of MEPs in these conferences should be kept to a minimum, since it is member states, not the EU supranational institutions, that lead on EU's foreign policy and economic governance.¹

A NEW BEGINNING FOR NATIONAL PARLIAMENTS?

The May 2019 European Parliament elections did not bring any significant breakthrough in the EU's approach to national parliaments, despite media-driven fears of an imminent euroskeptic takeover. One euroskeptic figure, a member of the European Parliament from the Czech Republic named Jan Zahradil, **called** for national parliaments to be given the right to effectively veto EU draft laws or repeal existing legislation (a so-called red card). He suggested that if one-third of national parliaments oppose one of the commission's pieces of draft legislation within sixteen weeks, the European Commission should withdraw the proposal. Zahradil also argued that the same number of parliaments should be able to scrap any existing EU legislation.

However, national parliaments did not feature prominently in the manifestos of any of the leading contenders for the European Commission presidency. Even Timmermans did not actively champion this idea during his campaign, despite having previously called for national parliaments to have a more meaningful say. And von der Leyen did not mention national parliaments even once in her **political guidelines**.

Some pro-EU politicians likely fear that enhancing the role of national parliaments could be counterproductive. According to **research** conducted by the Center for European Reform in 2015, some EU capitals—like Berlin and Madrid—thought that then British prime minister David Cameron's plea to strengthen the role

of national parliaments by allowing them to collectively block commission proposals would—at best—slow down the EU decisionmaking process and—at worst—create chaos. Pro-EU figures believe such a move could play to euroskeptics' advantage.

This reasoning is wrong. Many national parliaments actually disagree with euroskeptic calls for a so-called red card procedure for blocking commission proposals, feeling that this tactic would damage their reputations, be counterproductive, or simply be inefficient. Some parliaments also believe that they stand a greater chance of killing off proposals they dislike by exerting pressure on their own governments (who could take action when a proposal reaches the European Council) rather than relying on a group of national parliaments with different political traditions and different interests in European matters.

Shifting the focus to more positive and proactive forms of input is likely to be more productive. While some national chambers—particularly those with euroskeptic majorities—might indeed seek to scrutinize whether the commission is right to attempt to regulate certain aspects of citizens' life, others prefer to focus on constructive policy recommendations. Out of 569 opinions submitted by national parliaments in 2018, only 37 were reasoned opinions that could potentially lead the issuing countries to show the European Commission a yellow card if they had support from the sufficient number of other parliaments.

A Few Ways to Empower National Parliaments

Growing political contestation of EU policies has prompted numerous member states to reform their parliamentary scrutiny of EU affairs, placing national parliamentarians on a better footing to fend off euroskeptics. For instance, Ireland, which suffered greatly from the global financial crisis and received financial assistance from the EU and the International Monetary Fund in 2011, shifted its parliamentary scrutiny procedures to select committees to get

members more interested and engaged in EU affairs. **Parliamentary communication** on EU issues is also rising in other countries like Austria and Finland, which are EU creditor countries and have citizens that are vulnerable to the euroskeptic narrative. This is a welcome development: greater parliamentary oversight of EU affairs offers a solid foundation for a more rigorous and considered debate about European affairs.

By showing that national levers of democratic accountability can also produce positive and concrete policy ideas at the EU level, national parliaments could help the pro-European bloc build public support for EU actions. This attempt, however, will succeed only if the European Commission and the European Parliament learn to listen to these parliamentarians' concerns in their own policy deliberations. National parliaments will have few incentives to spend time and energy nurturing balanced domestic discussions on European matters if they cannot see their efforts having a tangible impact. This is not to say that EU institutions should automatically take parliaments' collective objections on board every time. Indeed, some member states might be tempted to use their national parliamentary majorities to push for their own narrowly defined interests—on, say, issues related to the rule of law or migration. But the European Commission and the European Parliament should always carefully assess whether parliamentary recommendations could be of added value to the EU.

The new European Commission also should build on Juncker's work to bring Brussels and EU citizens closer together through another series of commissioner visits to national parliaments and public debates in EU capitals. In her mission letter to commissioner-designates, von der Leyen urged her colleagues to maintain the practice of meeting with national parliamentarians. This is a good starting point. The European elections have increased public turnout, but it would be premature to assume that this equates with increased public engagement on EU matters or with greater public support for the EU. National parliamentarians could be a bridge between von der Leyen and the European Parliament by feeding her and the new members of the European Parliament

constructive suggestions as the commission formulates a detailed legislative agenda. The commission president must be ready to take relations with national parliaments to the next level.

The EU treaties have not provided national parliaments with the right of legislative initiative, but there is nothing that prevents the European Commission from taking into account national parliaments' observations when debating individual policy proposals. The new parliamentary members in Brussels should consider implementing a so-called [joint green card](#) or [other avenues](#) whereby national and pan-European parliamentarians can collectively call on the commission to take action or revise existing legislation. Formally speaking, the European Parliament would probably have to submit such a joint green card, but as long as MEPs acknowledge and credit the contributions of national parliamentarians, national lawmakers should be open to this model of interparliamentary collaboration.

Brussels also should keep national parliamentarians informed about what happens to legislative proposals after the deadline for the subsidiarity check lapses. The European Commission has already committed to pushing for greater transparency of the EU legislative process. In October 2018, it [called on](#) the European Parliament and the Council of the EU to create a database to help national legislators track the legislative process. But setting up a database is not enough. Members of the European Parliament should proactively reach out to national parliaments during the EU legislative process. Opponents of this enhanced dialogue with national parliaments after inter-institutional policy negotiations between the commission, the European Parliament, and the European Council have argued that it could make EU decisionmaking too slow and drawn out. But it already [takes](#) the EU seventeen months, on average, to approve EU legislative acts at the first reading and

thirty-nine months at the second reading. A couple of extra weeks for consultations with national parliaments will not unduly bog down what is already a lengthy process.

CONCLUSION

The EU leadership reshuffle headlined by von der Leyen's appointment offers the chance to reset relations between EU institutions and national parliaments. She has promised to launch a conference on the future of the EU that will discuss ways to make the EU more democratic. A positive agenda for national parliaments based on fruitful collaboration with EU institutions should be one of the conference's priorities.

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NOTES

- 1 See the work of Valentin Kreilinger, who has outlined the evolution of the European Parliament's approach to national parliaments. Kreilinger refers to the joint parliamentary scrutiny group for Europol as a positive example of collaboration between MEPs and MPs. See Valentin Kreilinger, "A Watchdog Over Europe's Policemen: The New Joint Parliamentary Scrutiny Group for Europol," Jacques Delors Institute, June 12, 2017.

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