



Working Paper Series

Democracy and governance in the EU - toward a more democratic Union

- edition 1.0 -

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December 2017, Bucharest, Romania

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Abstract:

The necessity to reform the European Union toward a more democratic construction has been a constant presence in the recent period, if we just take into consideration the speeches from the highest levels of EU officials. "Our Union needs to take a democratic leap forward" has just declared in his State of the Union speech the President of the European Commission Jean-Claude Juncker².

We have the same feeling of the need for democratization coming up from the Member States. For instance, the French President Emmanuel Macron with his ambitious plan for European reform stated in his Sorbonne speech that "each EU member state would hold democratic conventions to debate citizens' priorities. Their ideas would feed into a broader process involving the EU institutions and governments that want to overhaul Europe. Coalitions of willing governments would then integrate faster, with a revitalized Franco-German engine driving the process forward"³.

A similar feeling comes also from the new Member States where for instance in Romania's case, officially endorsed documents speak about the democratic refoundation of Europe. "The priority vision would be, therefore, that of the European Union's Democratic refoundation, and the question would be: when, alongside who and how?"⁴

In it is in this context that the paper would focus on the possible solutions envisaged both in Brussels and the national capitals toward creating a more democratic Union. A possible solution provided by EU officials and MEP's is the creation of the transnational lists for the European Parliament. Following Brexit the idea of utilizing the empty spaces left by the departure of the British MEPs has gained more and more traction. Yet the discussions are high and more wide that this topic, ranging from the status of the representative democracy in the EU to national level discussion on designing a uniform EU wide electoral procedure.

Keywords: *transnational lists; European Union; democratic deficit*

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A. The transnational lists for the European Parliament – past, present and future evolutions

A.1. Past efforts

The idea of transnational lists and of a transnational constituency is not a new one as it emerged a couple of years ago, before the Brexit debate reignited the old flame⁵. Ironically it was an initiative of the British MEP Andrew Duff (ALDE, UK) who, in the context of the fall in EP election turnouts since 1979 (from 63% to 43% in 2009 and 43,9% in 2014⁶) proposed a drastic reform.

"A radical change in electoral procedure will increase turnout, enhance the European dimension of the election campaign and galvanize the development of European political parties"⁷.

Thus, in a 2012 document he called for a transnational constituency of 25 MEPs, while all others would continue to be chosen through national lists - a pan-European list, composed of candidates drawn from at least one third of the Member States.

"Proposes that 25 MEPs be elected by a single constituency formed of the whole territory of the European Union; pan-European lists would be composed of candidates drawn from at least one third of the States, and may ensure an adequate gender representation; each elector would be enabled to cast one vote for the EU-wide list in addition to their vote for the national or regional list; and seats would be allocated without a minimum threshold in accordance with the D'Hondt method; further, proposes that an electoral authority be established at EU level in order to regulate the conduct and to verify the result of the election taking place from the pan-European list;"⁸.

This will be continued by the adoption in November 2015 of a *Resolution by the European Parliament* calling for the electoral law reform of the EU, supporting the idea of a common list. "Decides to reform its electoral procedure in good time before the 2019 elections, with the aim of enhancing the democratic and transnational dimension of the European elections and the democratic legitimacy of the EU decision-making process, reinforcing the concept of citizenship of the Union and electoral equality, promoting the principle of

representative democracy and the direct representation of Union citizens in the European Parliament, in accordance with Article 10 TFEU, improving the functioning of the European Parliament and the governance of the Union, making the work of the European Parliament more legitimate and efficient, enhancing the effectiveness of the system for conducting European elections, fostering common ownership among citizens from all Member States, enhancing the balanced composition of the European Parliament, and providing for the greatest possible degree of electoral equality and participation for Union citizens”⁹.

However, this Resolution didn't gain enough political traction to impose the idea of transnational lists as some European political families voted against it, such as the Greens.

“The resolution, which was the brainchild of rapporteurs Danuta Hübner (EPP, Poland) and Jo Leinen (S&D, Germany), was passed by 315 votes to 234, with 55 abstentions.

It looks however that neither the Green/EFA group, nor the leftist GUE-NGL group has backed the resolution. It is not a surprise that the conservative ECR group and the anti-EU EFD and ENF groups have voted against.”¹⁰.

The subject of transnational lists was however not specifically mentioned given the political situation of the moment. “For European lists, we need a convention (to) discuss with our colleagues in the national parties and governments. The Parliament has shown it is unable to come forward and make a clear proposal.” as John Leinen stipulated in an interview¹¹.

A 2. The Brexit opening

The Brexit situation other than its direct economic, status and social impact had also struck a cord as regards the need to reform the European Union. It is with this process that the 73 seats of the British MEP's have become the instrument as well as the opportunity to reform the European Union Parliament and transforming our Union into a more democratic institution.

How can this happen? The possible solution is the reemergence of the “transnational lists” topic as a sign of further upgrade of the European democracy.

“Pan-European lists would be a game changer as they bring greater visibility to European parties and their programs. In addition, the lead candidates for the post of President of the Commission would be on the ballot in all Member States. European electoral lists therefore contribute to a more democratic European Union.”¹²

We have seen also this in an *April 2017 resolution of the European Parliament, Brexit related*, where it reaffirmed its commitment to reforming the electoral legislation on the basis of the above mentioned resolution.

“Commits itself to finalising in time the legislative procedures on the composition of the European Parliament under Article 14(2) of the Treaty on European Union and on the electoral procedure on the basis of its proposal under Article 223 of the Treaty on the Functioning of the European Union annexed to its resolution of 11 November 2015 on the reform of the electoral law of the European Union”¹³

Yet the current debated document, a *draft Report on the Composition of the European Parliament* that would decide on what to do with the 73 former UK seats is also going to take into consideration, eventually, the subject of transnational lists and though currently it seems politically unlikely such a list will be introduced by 2019, it might be taken in consideration into the ongoing debate.

„(3) From the European elections after the adoption of the legal basis for transnational lists, a number of representatives in the European Parliament should be elected in a joint constituency comprising the entire territory of the Union;”¹⁴

This provision is also suffering a series of amendments that are yet to be discussed. Some MEP’s proposed that this article to be deleted such as Paulo Rangel and György Schöpflin and Gerolf Annemans while other want to be amended like follows:

“(3) *Following the creation of the legal basis for transnational lists trough the adoption of the European Electoral law, the number of representatives elected in a joint constituency comprising the entire territory of the Union should be defined according to the number of Member States of the European Union.*” (Jo Leinen, Mercedes Bresso, Ramón Jáuregui Atond)

(3) *Following the Council Decision amending the Act concerning the election of*

the members of the European Parliament, a number of representatives in the European Parliament will be elected in a joint constituency comprising the entire territory of the Union; (Guy Verhofstadt)

(3) From the 2019 European elections, 50 Members of the European Parliament should be elected in a joint constituency comprising the entire territory of the Union; (Pascal Durand on behalf of the Verts/ALE Group)

(3) From the 2019 European elections, a number of representatives in the European Parliament should be elected in a joint constituency comprising the entire territory of the Union; (Jérôme Lavrilleux)

(3) From the European elections after the adoption of the legal basis for transnational lists, a number of representatives in the European Parliament should be elected in a joint constituency comprising the entire territory of the Union; *The distribution of these seats should be carried out in accordance with the principle of proportional representation.* (Helmut Scholz)¹⁵

We are dealing here with a very interesting situation as the Hubner - Pereira have a conservative approach stating that until Brexit is becoming official and UK leaves the EU then we can speak about transnational lists. "We have a situation where Brexit, the fact that one of the member states will be leaving the European Union, is strongly limiting the legal and political certainty of the whole process,"¹⁶.

Thus their proposition is a rather moderate one - reallocate out of the 73 British seat a total of 22 for the remaining Member States and leave the other 51 for future decision.

This argument is strongly contested by Guy Verhofstadt that stipulates "It's the first time this is happening in my life, that member states are now urging us to build up this pan-European democracy and we are hesitating to do so"¹⁷

Yet the Members of the parliament's constitutional affairs committee have yet to fully stipulate that transnational lists are to be desired¹⁸

A. 3. How the transnational lists may work

After the above-mentioned debates, we need to maintain hope. These lists would only strengthen the European dimension of the European Parliament elections and would enhance the democratic control of the citizens on the European Parliament.

But we must get a step ahead and ask the hard questions. What if the transnational lists are being adopted. What's next? The key question would be: **Who would run, how, and who would end up being elected?**¹⁹

A. 3.1. The difficulty in finding the right candidates

One of the main issues that comes into mind is **Who would run?**

The transnational lists would require candidates that are well known at the European level, yet they are somehow in short demand. It may be easier for a politician with national prestige to get elected through a national constituency instead of a transnational one.

Yet maybe those who are known at the European level may be a part on a transnational party list. But would all have the same level of popularity? Would all be fit for this type of lists? Also given its uncertainty there is the risk of having a lot of unknown figures, as the political parties may preserve some of their best candidates for the more certain national constituencies.

A.3.2. How would the campaign unfold?

If the above-mentioned question is to be resolved then comes up the issue for the Member States citizens reaction to this type of lists. Would they vote for foreigners or for their own nationals? Also, the question of the type of list system is also relevant: a) closed list system - seems to be the most safe as it may guarantee a correct geographical repartition and the best internal selection of candidate while a b) semi-open or open system although more open to the public could

generate geographical imbalances - for example the Poles may favor their own nationals.

This type of campaign is a campaign that needs the involvement of national parties as they have a better knowledge of the national constituencies. A stronger relationship will be both in the benefit of national as well as of European level parties as they would need to synchronize their actions. Moreover, European parties may get involved in national campaigns while national parties' resources can be used in other countries.

A.3.3. Who would end up being elected?

This type of campaign would be above all a European campaign and not solely a national campaign. Thus, the parties would need to find a more European user-friendly candidate that would speak at least several European languages and have the social skill to adapt to new environments. Moreover, it would refresh the ranks of the European Parliament with new faces of relatively unknown parliamentarians.

[A.4. What can go wrong. Critics of the transnational lists](#)

Whilst most of the authors and politicians speak about the need of having transnational lists an author such as Pierre Jouvenat speaks about the need to find another alternative - "attributing all of the votes to European political parties all the while maintaining national quotas, national and regional constituencies"²⁰. The transnational lists, in his opinion, would reinforce a false distinction between the "European" and "national" level. The solution in his opinion would be the development of an EU transnational partisan system²¹.

Also, Richard Corbett, a British Labor MEP and EU constitutional expert, predicted that transnational lists would not win unanimous backing from EU leaders, even if the UK abstained from the vote. "On the one hand, it could add to the European dimension of a European election ... On the other hand, it creates two categories of MEPs, those with constituencies to go back to and those who

don't, and [the latter] could be seen as very remote from people, that is the danger," he said²².

Why the transnational lists matter? A pro domo argument instead of Conclusions

As this debate rages on in the European Parliament other national politicians have become staunch supporters of these lists as they can provide the much needed relief that the European idea deserve. Thus the French president Emmanuel Macron²³ stands behind this idea as it can transmit a message of unity and confidence in the European project. France has a more ambitious proposal saying that at least 50 seats can be made available for the transnational lists providing the electors with the opportunity to vote twice for a MEP chosen on a national list and also for an MEP elected on a transnational list.²⁴

What is certain is that the current system needs a reshuffle given the various degree of representation of various Member States. For instance, a British MEP has an average number of citizens allocated per seat of 895,085 people while a Maltese MEP has a constituency of just 72,401 people. The largest ratio population/seat is held by the French who have a total of 900,833 people while a MEP from Luxembourg has just 96,042. While Hungary and Sweden have the same population share of 1,9%, Hungary has one more MEP than Sweden²⁵.

Given these disbalances Brexit seems to provide the necessary boost to the idea of transnational lists to bring the European issues to the core of the public debate as almost 1/10 of the total seats would be put into display for an European wide electoral process. We can also hope for a more robust participation on behalf of the citizens that may be attracted by the novelty of this type of elections. For instance, in those EU countries where the nationals tend to trust more the European institutions that the local ones that might be a good incentive for voter mobilization. Also, it will increase the citizens control over the MEP as each citizen may ask questions and have control over the MEP's elected on transnational lists.

Solving the inequality issue is one of our most importance and all the propositions so far have had their ups and downs. In 2011 one of the most intriguing proposition, based upon a series of mathematical propositions, the so-called

Cambridge Compromise, had the advantage of a clearer allocation but without the advantages of the transnational lists²⁶. This formula can also be complemented with the transnational lists as they are not incompatible.

“The time for such a radical reform is now. The introduction of European lists would at a stroke Europeanise the European elections and re-invent the Parliament. It would put the EP back on the right side of EU law in so far as its composition would respect the principle of degressive proportionality. It would install a genuinely uniform element in Parliament's electoral procedure and properly reflect the function of the MEP as representative of all the Union's citizens. European lists coupled with CamCom would settle the controversy over seat apportionment. The Spitzenkandidat experiment would be saved for 2019 and reinforced. The Germans could have their threshold. The European political parties would come of age, followed by the media.”²⁷

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¹ The views and opinions expressed in this article are those of the author alone and do not necessarily reflect the official policy or position of any organization he is connected to.

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²¹ Pierre Jouvenat, TRANSNATIONAL LISTS: A FALSE GOOD IDEA, The New Federalist, 15 September 2017, "In the current party system, it would be preferable to attribute all seats to European parties, for at least seven good reasons:

1. The whole electoral process becomes a joint undertaking of the European party and its national-level partners. Europe-wide campaigns are conceived and coordinated at the European level, but implemented in a decentralised manner by national-level parties which take care of the logistics. This would reinforce synergy within political families.

2. This way, electoral campaigning would inevitably be centred around European issues and platforms. Campaign materials and voting ballots, issued under the aegis of the European parties, would inform voters about which national party or parties have their support. This would be opposite of the system that has prevailed thus far.

3. A German citizen, for example, would not vote for CDU, but for EPP. This would be guaranteed to have a psychological effect. An excellent way to stop voting on the national governments in place, even with national-level constituencies. The voters would finally realise which issues are at stake in the election, and that for the elections to all seats.

4. The voters would vote for candidates based nearby, whom they are likely to know. Even if an MEP represented the entirety of EU citizens, as an elected official they would have to be accountable to their electorates, which could only happen in a local constituency. A limited number of well-known candidates would render preferential voting, or even a closed list system, possible. Within the system of national-level constituencies, one could explore the possibility of voting for a candidate living in another country.

5. The seats in the Parliament would be allocated according to the electoral performance of European, not national-level, parties, according to the method of "double proportionality". This would reduce, to the extent that it's feasible, the dependence of MEPs on their national-level organisations. The MEPs would henceforth be associated with a given European party rather than a multitude of national-level parties. The Parliament would gain legitimacy from this.

6. The same electoral procedure would apply to all MEPs. The homogeneity of the Parliament would be preserved.

7. Lastly, this alternative to transnational lists should meet with less resistance in the Council. National quotas are preserved and the states retain their prerogatives related to the electoral process, in the absence of the much-awaited "uniform procedure" provided for by the Treaties. Indeed, how could the member states refuse, in the context of European elections, the idea that the European-level parties should be in the frontline?"

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²³ « C'est pour cela que je veux défendre pour les prochaines élections européennes des listes transnationales. Nos amis britanniques décident de nous quitter, n'essayons pas de nous réattribuer nation par nation les quelques places qu'ils libèrent au Parlement européen, non ! Considérons qu'enfin nous pouvons avoir un débat européen, des listes européennes, une vraie démocratie européenne qui vivra à travers les pays et demain si nous voulons une zone euro plus intégrée, un cœur d'Europe à l'avant-garde, donnons plus de forces démocratiques, mettons en place un Parlement de la zone euro qui permettra de construire les règles d'une responsabilité démocratique de celles et ceux qui prendront des décisions, ce qui n'est pas le cas aujourd'hui » Discours du Président de la République, Emmanuel Macron, à la Pnyx, Athènes le jeudi 7 septembre 2017, <http://www.elysee.fr/declarations/article/discours-du-president-de-la-republique-emmanuel-macron-a-la-pnyx-athenes-le-jeudi-7-septembre-2017/>

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