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The history of European electoral reform and the Electoral Act 1976. Issues of democratisation and political legitimacy

Olivier Costa

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The history of European electoral reform and the Electoral Act 1976

Issues of democratisation and
political legitimacy



STUDY

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and the Electoral Act 1976

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Study

This study has been written at the request of the Historical Archives Unit of the Directorate General for Parliamentary Research Services (DG EPRS).

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Summary

The reason why the possibility of a direct election of a European assembly was initially raised has never been fully addressed. It seemed self-evident that an ambitious system of European integration should involve a directly elected assembly and, conversely, that the direct election of such an assembly would favour the process of political integration at the supranational level. The prospect of such an election was consequently included in the Treaties of Paris and Rome, and Members of the Assembly soon began to take advantage of it with gusto. The introduction of a common electoral system has been a long and complex process, one which is still ongoing.

From a scientific point of view, the direct election of the European Parliament is a fascinating feature of European integration in many respects. In 1979, citizens directly elected a supranational assembly for the first time in history, and this achievement actually remains a uniquely European political feature. The Act of 1976 is also a key event if one wants to think about the political nature of European integration and the place of politics within the European Union regime. Finally, European elections remain the most symbolic event in EU political life, and constitute a central and growing means of legitimation not only for the EP, but also for the Commission, since MEPs 'elect' its president and approve the College.

In this paper, we first briefly address the question of democracy within the EU. Subsequently, we come back to the long process that led to the first direct European elections, and show that the 1976 Act was to become a disputed issue in the national public spheres of the Member States. We make a first assessment of the 1979 elections, before examining the strategy developed by the newly elected MEPs to increase their power and establish a uniform electoral procedure. Finally, we analyse the impact of the direct European elections on the EU political system itself as well as on its legitimation.

It appears that the adoption of the 1976 Act allowing for the direct election of MEPs was not just a technical decision: it contributed hugely to the deepening of European integration, to the transformation of the EU regime in general and to its legitimation. However, forty years later, the European Parliament still suffers from problems of democratic representativeness linked to the diversity of national electoral rules. European electoral campaigns remain mostly national, and largely focused on non-EU issues.

Solutions exist. The Hübner and Leinen report adopted in November 2015 suggests a full list of reforms that would give a new dimension to the direct elections and further institutionalise the *Spitzenkandidaten* approach. The election of some MEPs on transnational lists would be an even stronger improvement. However, this would require a new treaty change, as well as several constitutional reforms at the national level. In the current political situation, few leaders seem to be ready for such a step, even if the needs of the EU in terms of legitimation and participation have never been as evident as today.

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LIST OF KEYWORDS, ABBREVIATIONS AND ACRONYMS

Keywords

European Parliament
European elections
European citizenship
Electoral campaign
Democracy
Representation
Electoral reform
European parties

AFCO	Committee of Constitutional Affairs
Coreper	Permanent Representatives Committee
COSAC	Conference of Parliamentary Committees for Union Affairs of Parliaments of the European Union
EC	European Communities
EC-9	European Community (9 Member States)
ECSC	European Coal and Steel Community
EDC	European Defence Community
EEC	European Economic Community
EP	European Parliament
EPP	European People's Party
EU	European Union
F	France
IGC	Intergovernmental conference
MEP	Member of the European Parliament
NATO	North Atlantic Treaty Organization
NL	The Netherlands
SOC	Socialist Group
TEU	Treaty on European Union
TFUE	Treaty on the Functioning of the European Union
UK	United Kingdom
UN	United Nations

INTRODUCTION

*'The political significance of direct European elections lies in the fact
that they are to take place'
Schelto Patijn¹*

The reason why the possibility of a direct elected European assembly was initially raised, as early as during the conference of The Hague in 1948, has never been fully addressed². It seemed self-evident that an ambitious system of European integration should involve a directly elected assembly and, conversely, that the direct election of such an assembly would favour the process of political integration at the supranational level. The prospect of such an election would consequently be included in the Treaties of Paris and Rome, and members of the European Community (EC) Assembly soon began to take advantage of it with gusto. The introduction of a common electoral system was a long and complex process, one which is still ongoing: European elections are still organised on the basis of national law, only partially harmonised, and exclusively at national (or sub-national) level.

From a scientific point of view, in many respects, the direct election of the European Parliament (EP) is a fascinating aspect of European integration. In 1979, citizens directly elected a supranational assembly for the first time in history, and this remains a uniquely European political feature³.

¹ This is the first phrase of the introduction by Schelto Patijn of the document: European Parliament, 'Elections to the European Parliament by direct universal suffrage. Report, resolutions and debates of the European Parliament', DG for Research and Documentation, July 1977, p. 8.

² The idea in itself was not new. We find proposals of that kind as early as 1693. See Niccoll, W., 'Pour la constitution en 1693 d'un Parlement européen composé de délégations nationales siégeant en hémicycle avec une pondération de vote', *Revue du Marché Commun*, 1986, pp. 592-593.

³ The possibility of a direct election was also opened for PARLASUR, the Mercosur Parliament, created in 2002, which had its first session on 7 May 2007. Paraguay organised direct elections in 2008, and Argentina on 25 October 2015. Brazil and Uruguay are working on electoral laws, but there are no concrete perspectives in this regard.

The Act concerning the election of the representatives of the Assembly⁴ by direct universal suffrage, adopted by the Council on 20 September 1976⁵, is also a key event if one wants to consider the political nature of European integration and the place of politics in the EU regime; it is in fact the main 'political' decision in the history of the EC prior to the adoption of the Maastricht Treaty. Finally, European elections remain the most symbolic event in EU political life, and constitute a central and growing means of legitimacy, not only for the EP, but also for the European Commission.

In this paper, we will first briefly address the question of democracy within the EU. We will then return to the long process that led to the first direct European elections⁶, and show that the 1976 Act was to become a disputed issue in the Member States' national public spheres. We will make a first assessment of the 1979 elections, before examining the strategy developed by the newly elected Members of the EP (MEPs) to increase their power and establish a uniform electoral procedure. We will finally analyse the impact of these direct European elections on the EU political system itself as well as on its legitimacy.

⁴ On 30 March 1962, the Assembly decided to harmonise its name in the various official languages and opted for *Parlement européen* in French and *Parlamento europeo* in Italian. English was not an official language of the EC at that time, but was already used. That designation was made official by the Single European Act of 1986 (Article 2) (Jacqué, J.-P., 'Parlement européen', *Répertoire communautaire Dalloz*, December 2011, Art. 2). In this study, we will use the use the wording 'Assembly' before 30 March 1962, and 'European Parliament' after.

⁵ Act concerning the election of the representatives of the Assembly by direct universal suffrage, OJ L 278, 8.10.1976, p. 5.

⁶ To do so, we will refer extensively to the documents gathered in the compendium of archival material provided by the European Parliamentary Research Service (Historical Archives Unit): '40th Anniversary of the 1976 Act on Direct Elections to the European Parliament: a compendium of archival material', *European Parliament History Series*, October 2015, European Parliamentary Research Service, Luxembourg.

CHAPTER I.

DEMOCRACY AND LEGITIMACY AT EU LEVEL

The direct election of the European Parliament can either be considered as a purely technical issue, or a mere symbol, favourable only for federalists. Forty years after the adoption of the Act, one might also think that the direct election of the EP did not have the expected impact: participation in EU elections remains low, compared to national legislative elections; and campaigns also remain mainly national. Furthermore, national parliaments did not lose their centrality in political life and there is no European public sphere as such. Today, the EP is still confronted with the pivotal role of the Commission, and faces the increasing role of the European Council. Added to this, citizens remain unfamiliar with the EP, its Members and its competences, and few MEPs are prominent politicians at the national level.

However, one can suggest a contrasting view on the issue of direct EU elections. They are, indeed, a central element when reflecting upon the creation of a European supranational democratic system, and addressing the question of EU legitimacy. After the Conference of The Hague in 1948, it was obvious that national leaders were not ready for truly federal integration. To avoid, however, the predominance of strictly intergovernmental cooperation, the only remaining option was the 'sectorial' approach that gave birth to the European Coal and Steel Community in 1951 and to the European Defence Community in 1954. The main question for federalists was thus: how to start building a European polity? Considering the reluctance of most national leaders towards any federal initiative, citizens' lack of awareness of European affairs, and the monopoly of national parties on politics, the direct election of a European assembly appeared the best tool to favour European political integration.

This indeed refers in many respects to the existence or the construction of a democratic regime. A reflection on the components of such a regime exceeds the scope and objectives of this paper. Let us simply recall that, whatever the precise definition given to the notion, a democratic regime always requires the following constituents (or their functional substitutes): a people and objectives (*demos* and *telos*); a constitution; a shared belief in the sovereignty of the people and in the principle of government based upon consent of the governed; a State of law and constitutional limits on government; a balance between majority rule and minority rights; equality of citizens before the law

and the guarantee of basic human rights; free and fair elections; social, economic, and political pluralism; civil liberties, such as freedom of speech, information, and demonstration...; shared values of tolerance, pragmatism, cooperation, and compromise.⁷

Comparative politics show that building a real democratic regime is far from simple, and that institutional engineering is not enough for this to succeed. European federalists were acutely aware of this difficulty. However, the EC benefited from the fact that each Member State was already a democratic regime, ensuring a high standard of human rights' protection and enjoying vivid democratic societies. With such a background, organising direct elections for the EP seemed to be an efficient means to establish democracy at European level or, at least, to increase the legitimacy of the European Communities so as to allow for deeper integration. Organising direct elections was a way to assert the existence of a European people; to favour the adoption of a constitution; to affirm the sovereignty of citizens regarding the process of European integration; to increase control over the Commission; to impose majoritarian logic and political pluralism as alternatives to diplomatic negotiations and bureaucratic rationality; to assert the existence of a European citizenship and of the necessity for the EP to take care of human rights and civil liberties.

In sum, organising the direct election of the EP was a way to impose the idea of a political representation of European citizens at the supranational level. Before 1979, doubt existed as to what the EP actually represented: European peoples? National parliaments? Member States? Citizens? Organising a direct election of the EP was a way to clarify that and, further, to assert the existence of a European *demos*. Indeed, as explained by Hannah Pitkin⁸, to represent is simply to 'make present again', to make citizens' voices, opinions, and perspectives 'present' in the functioning of the European political system. The direct election of the EP was expected to have a deep impact on the nature of the EC, in the short and long term. It is thus crucial to pay close attention to the multifaceted character of modern parliamentary democracies to better understand the efforts deployed by the EP for almost 60 years regarding its direct election.

⁷ See, for instance Lefort, C., *Democracy and political theory*, Vol. 225, Polity Press, Cambridge, 1988.

⁸ Pitkin, H., *The Concept of Representation*, University of Press, Los Angeles, 1967.

CHAPTER II. THE LONG PATH TOWARDS DIRECT ELECTION

Like many other proposals discussed in The Hague in 1948, the idea to have a European assembly directly elected by citizens was not immediately implemented. Nevertheless, it contributed to the debate over the potential direct election of the EC parliamentary assembly⁹. The idea was notably supported by Altiero Spinelli and Henrik Brugmans, who considered that the legitimacy of European integration was indeed a fundamental issue¹⁰. No consensus could be reached on the issue but, in 1951, the possibility to provide for such a direct election was also included in the European Coal and Steel Community (ECSC) Treaty: 'Article 21: The Assembly shall be composed of delegates whom the parliaments of each of the member States shall be called upon to designate once a year from among their own membership, or who shall be elected by direct universal suffrage, according to the procedure determined by each respective High Contracting Party.'¹¹

Since the first meeting of the ECSC Assembly, the issue of electoral reform has played an important role in governing its internal activities: it was one of the first to be debated, and discussions on this topic lasted many years. The Members of the Common Assembly started to work on the possibility of organising direct elections at the European level even before the first official meeting of their assembly. Indeed, on 10 March 1952, the Ministers for foreign affairs asked them to form an Ad Hoc Assembly to draft a statute for a new political community, within the frame of the Treaty establishing the European Defence Community (EDC)¹². The work of the Ad Hoc Assembly was interrupted by the rejection of the EDC Treaty in 1954, but it led to the first concrete

⁹ Smith, J., *Europe's elected parliament*, Vol. 5, A&C Black, 1999.

¹⁰ Viola, D. M. (ed.), *Routledge handbook of European elections*, Routledge, 2015, p. 4.

¹¹ This article is often misquoted in the literature, since it was later amended by Article 2(2) of the 'Convention of 25 March 1957 on Certain Institutions Common to the European Communities'. It was modified and a third point was added to Article 21: '3. *The Assembly shall draw up proposals for elections by direct universal suffrage in accordance with a uniform procedure in all Member States. The Council shall, acting unanimously, lay down the appropriate provisions, which it shall recommend to Member States for adoption in accordance with their respective constitutional requirements*'.

¹² Piodi, F., 'Towards direct elections to the European Parliament. Paper written to mark the 30th anniversary of direct elections (June 1979)', CARDOC Journals No. 4, March 2009, DG for the Presidency, Luxembourg, 2009, p. 10.

reflections on the possibility of introducing universal suffrage at the European level¹³. It also induced discussions on the issue within the ECSC Parliamentary Assembly itself, even if no text was adopted.

The objective to establish the direct election of the Parliamentary Assembly was later repeated in the European Economic Community (EEC) Treaty (Art. 138.3), adopted in 1957. After its entry into force, the members of the Committee on political affairs and institutional matters decided to create a Working Party on European Elections (12 January 1959). In May 1960, the Parliamentary Assembly of the Communities voted the first resolution on the organisation of direct elections, drafted by Fernand Dehousse¹⁴. The Assembly¹⁵ identified five main problems to address in the report: the electoral procedure; links with national parliaments; provisions concerning incompatibility; number of MEPs; and transitional arrangements. The report was largely supported, since only a limited number of MEPs were opposed to direct elections. However, there was a clear disagreement between those who considered that direct elections should be accompanied by an extension of the Assembly's powers, and those who thought they would augment as a consequence of direct elections.

The draft Convention proposed an Assembly of 426 members (three times more than the existing Assembly), elected by universal suffrage for a term of five years¹⁶. A transitional period was proposed, during which one third of the members would continue to be delegated by national parliaments. During that time, the electoral system was to be chosen by each member state; after which, the Assembly would decide on a common one¹⁷.

¹³ Ad hoc Assembly, Constitutional Committee, 'Report on the working programme of the Constitutional Committee', Rapporteur: Fernand Dehousse, Historical Archives of the European Parliament (HAEP) archives (AH AA RH/CCON.1952 AH-X002/52 0080).

¹⁴ Piodi, F., *op. cit.*, pp. 9-25; 'Résolution portant adoption d'un projet de convention sur l'élection de l'Assemblée parlementaire européenne au suffrage universel directe', OJ, 2.6.1960, pp. 834-839 (Dehousse report).

¹⁵ When talking about 'the Assembly' or 'the EP', we do not suggest that all the members shared the same views, and that there were no cleavages among them. We take a formal point of view, taking into account the positions adopted by the institution or its committees through a vote of its members, or by its representatives (rapporteur, negotiator) or leaders (President, committee chair).

¹⁶ Piodi, F., *op. cit.*, p. 18.

¹⁷ *Idem.*

The Assembly adopted a quite technical approach on the issue. In the third part of the report, entitled 'The political dimension of the election', the report underlines the 'opportunity and the importance of the election in the current structure of Communities': 'The project of the Working Group is totally based on the political opportunity and usefulness of the election. The Group has never considered that its task was to examine election's problems from an academic and abstract point of view. Composed of politicians, it has been constantly guided by a real objective of political efficiency. Its method has mirrored that: large consultations, a tight agenda, and a concrete conclusion' (paragraph 22)¹⁸. This pragmatic approach will be common to all subsequent reports of the Assembly devoted to this topic. The Assembly thus never fully justified the principle of direct elections from a theoretical or philosophical point of view. There was no discussion about the meaning of representation at the supranational level or the relevance of the notion of a 'European people'. The Assembly solely argued that the process of European unification could not succeed without direct citizen participation, and that therefore it was necessary to elect its members directly.

Later, discussions with the Council and Coreper, as well as exchanges with national leaders – representing the governments or the chambers – also focused on technical issues, and never fully tackled the true principle of organising an election at the supranational level. This approach was a consequence of the difficulty of address fundamental political questions at the supranational level, since they were – and remain – framed and defined in diverse ways in the different Member States. Notions such as 'representative democracy', 'people', 'general interest' or 'nation' do not have the same meaning in each country, and they are interconnected in various ways.

The project of direct elections has always been connected, to some extent, to the question of the Assembly's powers. In 1960, the Dehousse Report already stated that such elections would endow it with a 'legitimacy and strength from which it will draw political power' (paragraph 28). However, the rapporteur and the members of the committee feared that the success of reform could be threatened if linked to the question of power. Thus, they decided to consider

¹⁸ Our translation from French: '22. *Le projet du groupe de travail repose tout entier sur l'opportunité et l'utilité politiques de l'élection. Le groupe n'a jamais pensé que sa tâche était d'examiner les problèmes de l'élection sur un plan académique et abstrait. Composé d'hommes politiques, c'est un souci réel d'efficacité politique qui l'a sans cesse guidé. Sa méthode en a été le reflet : de larges consultations, un calendrier précis, une conclusion concrète.*'

direct elections solely as an incidental means of attaining a strengthening of the Parliament's powers, and did not claim for an immediate increase in these. The EP confirmed this position and strategy in later reports, including the Vedel report on EP powers¹⁹.

Another fundamental issue was the determination of the degree of 'uniformity' of the electoral procedure. As early as in 1960, it appeared impossible to the Assembly that a uniform electoral system could be introduced, considering the positions expressed by national leaders in the Council. With the Dehousse Report, the Assembly thus decided that a 'uniform procedure' was not necessarily synonymous with a 'uniform electoral system'.

Despite the EP's choice to postpone the adoption of a totally integrated electoral system, and notwithstanding several parliamentary resolutions calling for action, the Council was not able to adopt the reform. Five Member States were ready to take the draft Convention into consideration, but France was reluctant. This resulted from changes in French politics, with the election of Charles De Gaulle as President in 1958, who preferred a more intergovernmental approach to European integration – developed in the Fouchet Plan (November 1961 and January 1962).

The political situation within the Council, as well as the difficulties in European economic integration, thus finally encouraged the EP to focus on other institutional issues, such as the unification of the executive bodies. The question of direct elections was discussed, from time to time, but remained secondary.

De Gaulle's resignation from the Presidency of the French Republic in April 1969 was followed by a strong mobilisation of European federalists, who wanted to seize the occasion to deepen and expand European integration. Negotiations for enlargement with the United Kingdom, Denmark, Ireland and Norway were further revived.

The EP also tried to reinvigorate the goal of direct European elections by exercising new pressure on national leaders. In December 1969, at The Hague Summit, the Heads of States and Governments discussed the issue again, and promised that it would soon be examined by the Council. This was not a strong or precise statement as such, but the summit also led to the creation of a

¹⁹ 'Report of the Working Party on the Enlargement of the Powers of the European Parliament', *European Communities Bulletin*, Supplement 4/72, March 1972.

working group 'on the Enlargement of the Powers of the European Parliament' chaired by the French MEP (and famous constitutionalist) George Vedel. The Vedel Report²⁰, published on 25 March 1972, confirmed the initial strategy defined by Fernand Dehousse: the objective was to organise direct elections as soon as possible, first of all on the basis of different national systems; then later, the EP would have the necessary legitimacy to request a single electoral law. The Vedel group acknowledged the existence of a link between the direct election of the EP and its competences but, like Fernand Dehousse, it accepted that the former of these two objectives was to be achieved first.

The President of the Commission, Sicco Mansholt, agreed that an increase in the power of the EP was necessary. The EP obtained substantial budgetary power under the new treaties of 1970 and 1975. However, in 1976, it 'still has nothing to say on the policy we are developing. It is first notable that agricultural policy was developed with no influence of the EP. Also, in social and economic matters, the Parliament has no influence. It has given its advice, but decisions have been taken through negotiations between Member States²¹. A majority of MEPs shared these views, and considered that they would need more 'democratic legitimacy'²² to obtain a significant augmentation in their influence on decision-making. The President of the EP, Georges Spénale (SOC, F), therefore acknowledged that the powers of the institution were 'nearly at the limit of what an assembly, that is not elected by universal direct suffrage, can expect'²³.

²⁰ 'Report of the Working Party on the Enlargement of the Powers of the European Parliament', op.cit.

²¹ Mansholt, S., *Actes du colloque 'Le parlement européen, pouvoir, élection, rôle, futur'*, Institut d'Etudes Juridiques Européennes, 24-26 mars 1976, Liège, Collection scientifique de la Faculté de Droit de l'Université de Liège, p. 301.

²² It is important to underline that the notion of 'democratic legitimacy' or 'representative legitimacy' is highly disputed, especially at European level. On the one hand, the federalists and a majority of MEPs considered that their direct election should lead to an increase of the formal powers of the EP or, at least, an increase of its influence in the interinstitutional negotiations. On the other hand, promoters of a more intergovernmental integration, or some actors within the Council or the Commission, thought that electoral reform should have no direct impact on sharing of power between the institutions, since the treaties were not reformed on this occasion. Generally speaking, the concept of legitimacy is always a relative one, which leads to subjective approaches, often linked to institutional interests. Rittberger, B., 'The Creation and Empowerment of the European Parliament', *JCMS: Journal of Common Market Studies*, Vol. 41 n° 2, 2003, pp. 203-225.

²³ Spénale, G., *Actes du colloque 'Le parlement européen, pouvoir, élection, rôle, futur'*, op. cit., p. 120 ('être presque à la limite de ce que peut obtenir une assemblée qui n'est pas élue au suffrage universel!').

The EP considered the possibility of suing the Council for 'failure to act', even though it admitted that the proposal of June 1960 could no longer constitute grounds for a decision, and therefore needed an update²⁴. In the early 1970s, several legislative proposals, dealing with the unilateral organisation of direct elections at the national level, were discussed by parliaments in Belgium, France, Italy, Luxembourg and The Netherlands. They seemed, however, rather difficult to implement, notably because the treaties referred to a 'uniform procedure', to be applied across all Member States.

At the EC level, the reform process remained locked, thanks to the attitude of the new French President Georges Pompidou, who, surprisingly, decided to follow the line of his predecessor²⁵. He considered that the creation of a 'real European Parliament' would engender that of a 'real European government'. In consequence, he rejected the idea of a quick adoption of the electoral act. It is worth noting that the decision of President Valéry Giscard d'Estaing, who replaced Pompidou in May 1974, to support direct elections would bring forward his proposal to create the European Council...

Federalists had no choice other than to believe in the potentially positive effect of the EC's enlargement to the United Kingdom. They expected its leaders to support the project of direct elections, because of the centrality of parliamentary democracy in the UK's domestic political tradition. When the accession of the UK, Ireland and Denmark was enacted, in January 1972, MEPs prepared a new proposal for the Council. However, Harold Wilson's government, which replaced that of Edward Heath in March 1974, proved to be rather unsupportive towards European integration in general, and to the EP's empowerment in particular. However, some events in national political life had positive effects on this process two months later. Helmut Schmidt, who replaced Willy Brandt on 14 May 1974, and Valéry Giscard d'Estaing, who succeeded Georges Pompidou five days later, soon developed a very

²⁴ The idea of such an action was however not dropped: see Kundoch, H.G., 'Le recours en carence comme moyen juridique de promouvoir l'élection directe du Parlement européen', *Cahiers de Droit européen*, 1975, p. 425.

²⁵ Georges Pompidou was considered to be more favourable to European integration than Charles De Gaulle. When the latter resigned, in April 1969, federalists were quite positive about the election of Pompidou as the new French President. Contrary to his predecessor, he indeed refrained to veto the first enlargement of the EC, as well as the adoption of a new treaty regarding the European budget. However, his position on the direct election of the EP appeared to be less progressive. Cf. Kolodziej, E. A., *French international policy under de Gaulle and Pompidou: the politics of grandeur*, Cornell University Press, Ithaca and London, 1974, 598 p.

constructive relationship and decided to use it to support the development of European integration, including the direct election of the EP.

Taking this favourable political situation into consideration²⁶, the EP adopted a new report in November 1974, drafted by Schelto Patijn on behalf of the Political Affairs Committee²⁷. This document was structured in two parts. The first one dealt with the reform itself: method to run direct elections, justification, possible date, etc. The second part summarised the political debates which had surrounded this project since 1960 and the potential difficulties it could face. Once again, the approach was mainly technical, and the report did not address fundamental questions, such as the meaning of representative democracy at the supranational level. Globally speaking, the Patijn report was less ambitious and more realistic than the Dehousse report, and required a lower level of electoral uniformity.

Following this, on the occasion of the Paris Summit (9-10 December 1974), under the chairmanship of Valéry Giscard d'Estaing, the Heads of State or Government announced their intention to organise direct European elections in 1978. MEPs decided to seize this opportunity, and one month later, on 13 January 1975, a report by Mr Patijn, containing a draft Convention, was published. The document was composed, first, of the resolution itself, including all details about the implementation of European direct elections (term, number of seats, electoral systems...). Further, the report encompassed comprehensive explanatory statements, underlining the differences to the report of May 1960, as well as considerations about potential political and technical problems.

²⁶ Political Affairs Committee, *Direct elections to the European Parliament: some working hypotheses*, Rapporteur: S. Patijn, 3.4.1974, PE 36.643, HAEP (PE0 APRP/POLI.1961 A0-0368/74 0260). See also: Parlement européen, Commission politique, *Rapport fait au nom de la commission politique relatif à l'adoption d'un projet de convention instituant l'élection des membres du Parlement européen au suffrage universel direct*, Rapporteur : S. Patijn, 12.11.1973, HAEP (PE0 AP RP/POLI.1961 A0-0368/74 0270).

²⁷ Political Affairs Committee, *Draft report on the submission of a new Convention on direct elections to the European Parliament*, Rapporteur S. Patijn, Part I, Draft convention, 31.10.1974, PE 37.881/I/rev., HAEP (PE0 APRP/POLI.1961 A0-0368/74 0210); Part II, 6.9.1974, PE 37.881/II, HAEP (PE0 AP RP/POLI.1961 A0-0368/74 0220). See also: Millar, D., *Note to John P. S. Taylor on meetings held in Paris by Schelto Patijn on direct elections*, Directorate General for Research and Documentation, 5.11.1974, HAEP (PE0 AP RP/POLI.1961 A0-0368/74 0280).

Finally, it concluded with a comment on the proposals by the committee of legal affairs (Lautenschlager opinion)²⁸.

The Patijn report was discussed in plenary²⁹ and adopted in the form of a resolution on 14 January 1975³⁰. During the debate, it appeared that the representatives of the EP (mainly the rapporteur) and the Commission (its President, François-Xavier Ortoli) agreed on most of the issues: the necessity to hold elections simultaneously in all Member States, to forbid the 'dual' mandate, to respect the deadline and to limit the number of seats. An agreement also existed regarding the possibility of later establishing a uniform procedure. Within the Assembly, however, there were divergent voices: the European Conservative Group requested retention of the dual mandate³¹, whereas the Group of European Progressive Democrats criticised the idea of organising direct elections in the absence of an increase of the EP's powers.

The Patijn report was sent to the newly created European Council and discussed at its Rome meeting, in December 1975. Despite pressure from the EP³², negotiations took some time, due to divergences regarding the national breakdown of seats and to difficulties encountered by the British labour government with its 'eurosceptic' members³³.

²⁸ Parlement européen, Commission juridique, *Opinion of the Legal Affairs Committee on the legal aspects of election of the members of the European Parliament by direct universal suffrage*, Rédacteur de l'opinion : H. Lautenschlager, 8.1.1975, HAEP (PE0 AP RP/POLI.1961 A0-0368/74 0020).

²⁹ Debates of the European Parliament, sitting of 14 January 1975, HAEP (PE0 AP DE/1974 DE19750114-01 9900, PE0 AP DE/1974 DE19750114-02 9900), pp. 35-93; Minutes of the sitting of 14 January 1975, OJ C 32, 11.2.1975, pp. 12-19.

³⁰ Parlement européen, Commission politique, *Rapport fait au nom de la commission politique relatif à l'adoption d'un projet de convention instituant l'élection des membres du Parlement européen au suffrage universel direct*, Rapporteur: S. Patijn, 13.1.1975, HAEP (PE0 AP RP/POLI.1961 A0-0368/74 0010).

³¹ Millar, D., *Note of meeting of Labour members of UK delegation with Schelto Patijn*, 20.10.1975, Directorate General for Research and Documentation, HAEP (PE0 AP RP/POLI.1961 A0-0368/74 0280).

³² Spénale, G., President of the European Parliament, *Letter to Garret FitzGerald, President-in-office of the Council of Ministers of the European Communities, on the need for a speedy decision by the Council of Ministers of the Communities of the draft Convention on elections to the European Parliament by direct universal suffrage*, 19.6.1975, HAEP (PE1 P1 401/CONS CONS-1976-020 0260).

³³ Bruch, R., Head of the President's Cabinet, *Note ad acta on the conciliation with the Council on 2 March 1976 in Brussels*, 15.3.1976, HAEP (PE1 P1 401/CONS CONS-1976-020 0230). See also: Millar, D., *Note of meeting of Labour members of UK delegation with Schelto Patijn*, 20.10.1975, Directorate General for Research and Documentation, HAEP (PE0 AP RP/POLI.1961 A0-0368/74 0280).

On 11 March and again on 7 April 1976, the EP adopted resolutions to denounce this delay and urge the Council to adopt the act³⁴. The President of the EP, Georges Spénale, also continued to put pressure on the Council³⁵. On 16 June 1976, the EP voted a new text pressing the Council to establish a number of seats between 350 and 400³⁶, and a final text on 13 September 1976, criticising the Council's inability to adopt the act³⁷. This vote was followed by intense contact between the leaders of the EP and the Council³⁸. Finally, the European Council was able to approve the act on 20 September 1976³⁹.

Like the MEPs, national leaders did not say much about the political and theoretical grounds of their decision, considering it self-explanatory. In his statement to the EP on 15 September 1976, Laurens-Jan Brinkhorst (NL), President-in-Office of the Council, simply underlined three functions of European direct elections: democratisation, the EC's identity, and deeper integration: 'It is clear that Europe wishes to give European integration and hence the role of Europe in the world an identity of its own. It is first and foremost a triumph for democracy, a social form in which we all believe. At the same time it should be a real breakthrough towards increased cooperation at European level and a deepening of the concept of European integration with

³⁴ Fellermaier, Bertrand, Durieux & Kirk, *Proposition de résolution [...] sur l'élection directe du Parlement européen en 1978*, 10.3.1976, doc. 44.114, HAEP (PEO AP PR B0-0011/76 0010) ; Fellermaier, Bertrand, Durieux & Kirk, *Proposition de résolution [...] sur l'élection au suffrage universel direct du Parlement européen*, 5.4.1976, HAEP (PEO AP PR B0-0045/76 0010).

³⁵ Spénale, G., *Letter to Aldo Moro, President of the Council of Ministers of the Italian Republic, on direct elections of the European Parliament*, 14.5.1976, HAEP (PE1 P1 403/ETAT ETAT-1976-020 0050).

³⁶ Fellermaier, Bertrand, Durieux & Kirk, *Proposition de résolution [...] sur l'élection du Parlement européen au suffrage universel direct*, 15.6.1976, HAEP (PEO AP PR B0-0174/76 0010) ; Debates of the European Parliament, sitting of 16 June 1976, HAEP (PEO AP DE/1976 DE19760616-02 9900), pp. 126- 134 ; Minutes of the sitting of 16 June 1976, JO C 159, 12.7.1976, p. 23.

³⁷ Patijn, S., *Proposition de résolution [...] sur l'élection du Parlement européen au suffrage universel direct*, 13.9.76, HAEP (PEO AP PR B0-0288/76 0010) ; Debates of the European Parliament, sitting of 15 September 1976, HAEP (PEO AP DE/1976 DE19760915-04 9900), p. 169.

³⁸ Thorn, G., Prime Minister of Grand Duchy of Luxembourg, *Letter to Georges Spénale, on the election of the European Parliament by direct universal suffrage*, 5.7.1976, HAEP (PE1 P1 403/ETAT ETAT-1976-020 0060); Spénale, G., *Letter to Johannes Marten den Uyl, President-in-office of the European Council, on the future election of Parliament by universal suffrage*, 7.7.1976, HAEP (PE1 P1 221/RICS RICS-19760712 0010); Moro, A., *Letter to Georges Spénale on the future direct election of Parliament*, 8. 7. 1976, HAEP (PE1 P1 403/ETAT ETAT-1976-020 0050).

³⁹ *Act concerning the election of the representatives of the Assembly by direct universal suffrage*, OJ L 278, 8.10.1976, p. 5.

which all of us in the various Institutions and at different levels of responsibility are concerned.⁴⁰

Because of delays in the ratification of the Act in the UK, the first direct elections were finally organised between 7 and 10 June 1979.

⁴⁰ Minutes of the sitting of 15 September 1976, OJ C 238, 11.10.1976, pp. 24-25.

CHAPTER III.

A DISPUTED ISSUE IN NATIONAL PUBLIC SPHERES

As has been seen, the idea of European direct elections did not give rise to sophisticated theoretical debates in the European Community sphere. The MEPs involved in the process have chosen, since the very beginning of their reflections, to consider direct elections as a due procedure, and they did not extensively discuss their meaning. They adopted a pragmatic view on the issue and concentrated on its practical aspects. Neither did national leaders engage in refined debate: as in the EP, controversies within the Council and the European Council focused on technical questions, such as the number of seats, the date of elections or the proscription of the 'dual' mandate⁴¹.

Further, the promoters of the reform considered it as undisputable, as the electorate was favourable to the idea of direct elections, according to public opinion polls⁴². In 1975, at EC-9 level, 25% of the respondents were 'completely in favour' and 39% 'in favour on the whole' to the prospect; only 10% were against and 8% totally against the direct election of the EP. While respondents were very supportive of the project in Italy, Luxembourg, the Netherlands and France, they were more reluctant in Denmark, the UK and, to a lesser extent, in Ireland; however there was no majority of opponents in any case. One could discuss the meaning of these figures, considering the very low level of information citizens had on the issue in 1975, but the supporters of the reform could claim they were acting on behalf of EC citizens.

Nevertheless, the adoption of the 1976 Act prompted sophisticated political and scientific debates in the Member States during the three years that were necessary to organise the first European elections. Before the adoption of the Act, media coverage of the issue had been quite low; although media coverage

⁴¹ For instance: Council of the European Communities, *Note on the election of the members of the Assembly by direct universal suffrage — Report of the Group to the Permanent Representatives Committee*, 20.2.1976, HAEP (PE1 P1 401/CONS CONS-1976-010 0010).

⁴² 'Attitude towards the election of EP by a popular vote', *Eurobarometer* no 4, October-November 1975; Millar, D., Head of Division, *Note the President of the European Parliament on the Eurobarometer survey no 4 (October-November 1975) on direct elections*, Directorate General for Research and Documentation, 28.11.1975.

accounted for the difficult negotiations of the Act within the Council, and for the political divisions on the topic, especially in France and the UK⁴³.

Most politicians, commentators and citizens only became aware of the imminence of European elections after the adoption of the Act. By the end of 1976, discussions developed in national public spheres, the media and the academic community about the opportunities and consequences of such an election. The EP attracted a degree of interest never seen before, especially in France⁴⁴ and the UK⁴⁵.

⁴³ For a global overview of the press reaction to the Act, see: 'La presse internationale devant l'accord des Neuf. *L'Unita* l'approuve, *L'Humanité* pas', *Le Peuple* (Brussels), 15 July 1976. See also: Interview of Robert Pontillon (French socialist party), 'Le PS dit 'oui' au suffrage universel européen', *Le Nouvel Economiste* (Paris), n° 13, 12 January 1975; 'Direct elections: arguments FOR and AGAINST. A document presented by the NEC to the Labour Party Annual Conference', *Blackpool*, 1976, The Labour Party; 'Le Parlement européen: des objections de fond', *L'Humanité* (Paris), 12 January 1975; 'Le elezioni del Parlamento: Accordo di Bruxelles dissenso dei francesi', *La Stampa* (Rome), 22 September 1976.

⁴⁴ Numerous articles were published in the media and scientific journals at that period of time. Here are some of the books that were published in France about direct elections in 1978 and 1979: Bordiot, J., *Le Parlement européen: une imposture, une utopie, un danger pour la démocratie*, La Librairie Française, Paris, 1978; Burban, J.-L., *Le Parlement européen et son élection*, Bruylant, Bruxelles, 1979; Haber, J.P., *L'Assemblée européenne: mode d'emploi pour les premières élections européennes*, France Empire, Paris, 1979; Sidjanski, D., *De la démocratie européenne*, Stanke, Paris, 1979; Manzarès, H. & Quentin J.P., *Pourquoi un Parlement européen ?*, Berger Levrault, Paris, 1979; Centre européen universitaire de Nancy, *La signification politique de l'élection du Parlement européen au suffrage universel direct*, Université Nancy II, 1978. Several journal special issues were also devoted to the topic: 'Le Parlement européen', *Après-demain*, Paris, n° 212-213, March-April 1979; 'Le Parlement européen', *Pouvoirs*, n° 5, 1978, PUF; 'L'élection du Parlement européen au suffrage universel direct: décision du Conseil, acte et annexes', *Europolitique*, n° 357, 26 September 1976; 'Les élections européennes', *Revue française de Science politique*, numéro spécial, vol. 29, n° 6, December 1979.

⁴⁵ Here are some papers and books published in the UK in preparation of European direct elections. Not all of them deal specifically with the UK, because of the 'international' role played by British publishers: Stewart, M., 'Direct Elections to the European Parliament', *Common Market Law Review*, Vol. 13, n° 3, 1976, pp. 283-299; Herman, V., & Lodge, J., 'Democratic legitimacy and direct elections to the European parliament', *West European Politics*, Vol. 1, n° 2, 1978, pp. 226-251; Fitzmaurice, J., *The European Parliament*, Saxon House, 1978; Morgan, R., & Allen, D., 'The European Parliament: direct elections in national and Community perspective', *The World Today*, Vol. 34, n° 8, 1978, pp. 296-302; Forman, J., 'Preparations for Direct Elections in the United Kingdom', *Common Market Law Review*, Vol. 15, n° 3, 1978, pp. 347-357; Blumler, J. G., 'Communication in the European Elections: The Case of British Broadcasting' *Government and Opposition*, Vol. 14, n° 4, 1979, pp. 508-530; Cook, C., & Francis, M., *The first European elections: a handbook and guide*, Macmillan, 1979; Wallace, D., 'Direction elections and the political dynamics of the European Communities', *JCMS: Journal of Common Market Studies*, Vol. 17, n° 4, 1979, pp. 281-296.

The media coverage accounted for the very strong reactions to the Act among some parties, especially the British conservatives and the French communists and Gaullists⁴⁶.

The debates dealt with the legal and political aspects of direct elections, and, more broadly, with the process of European integration and the question of supranational democracy. The perspective of electing the EP raised many questions on the nature of European integration, the future of national sovereignty, the impact of European elections on national polities, and the possibility of a democratic society beyond the State or the Nation.

For some journalists, academics and politicians – be they optimistic europhobes or, on the other side, pessimistic federalists – the direct election of the EP was just a technical issue, since the institution's powers were to remain unchanged⁴⁷. They were quite sceptical about the capacity of European elections to mobilise citizens, and considered that they would have no real impact on the EC institutional system.

For others – be they anxious nationalists or over-confident federalists – direct elections would, on the contrary, radically modify the institutional balance of the EC⁴⁸. They believed in a dramatic increase in the EP's influence and thought that national leaders would be constrained by acknowledging the sovereignty of the assembly in the treaties.

⁴⁶ 'Direct elections for EEC approved by ministers', *Financial Times* (London), 21 September 1976; 'Le meilleur et le pire', *D'Letzeburger Land* (Luxembourg), 24 September 1976; 'A l'Assemblée de Strasbourg: l'élection européenne divise le groupe gaulliste et le groupe communiste', *Le Monde* (Paris), 13 March 1976; 'L'élection du Parlement européen: un piège redoutable', *L'Humanité* (Paris), 29 November 1976; 'Les étrennes de Giscard: la liquidation de l'indépendance nationale', *L'Humanité* (Paris), 1 January 1977; 'Giscard non si arrende ai gollisti: non si rinviando le elezioni europee', *Corriere della Sera* (Rome), 10 June 1977.

⁴⁷ For academic sceptical views: Hermet, G., Rose, R., & Rouquié, A. (eds.), *Elections without choice*, Halsted Press, 1978; De La Serre, F., Smouts, M. C., Bibes, G., & Ménudier, H., 'Une élection nationale à prétexte européen', *Revue française de science politique*, Vol. 29, n° 6, 1979, pp. 986-1014; Holler, M. J., & Kellermann, J., 'Power in the European Parliament: What will change?', *Quality & Quantity*, Vol. 11, n° 2, 1977, pp. 189-192; Herman, V., & Lodge, J., 'Democratic legitimacy and direct elections to the European parliament', *West European Politics*, Vol. 1, n° 2, 1978, pp. 226-251.

⁴⁸ For an anti-federalist view: Bordiot, J., *Le Parlement européen: une imposture, une utopie, un danger pour la démocratie*, La Librairie Française, Paris, 1978. For a federalist approach: Sidjanski, D., *De la démocratie européenne*, Stanke, Paris, 1979. For an optimistic academic analysis: Cotta, M., 'Direct elections of the European Parliament: A supranational political elite in the making', *European Elections*, n° 81, 1979, pp. 122-126.

Many politicians and EC experts explained that its direct election would *de facto* transform the EP in a constitutional assembly – be it expected or feared⁴⁹: 'From now on, and today's vocabulary ['European Parliament'] is a prefiguration of this future, Europe will be federal, the Rome Treaty will have been its pre-constitution, and the Assembly will be its constituent body'⁵⁰.

Advocates of national sovereignty⁵¹, as well as more radical federalists⁵², considered that European elections would soon empty national elections of their meaning, that citizens would progressively lose interest in national politics, and that national parliaments would be deprived of both their competences and centrality.

In short, direct elections were considered by many as the first step to the creation of a European federal state, capable of provoking a switch in citizens' allegiance from their respective state to the EC. As early as the mid-1970s, this idea was strongly contested by politicians and scholars attached to the Nation as the only possible frame for democracy. In a research paper, French constitutionalist Georges Vedel – who chaired several committees dealing with

⁴⁹ Herman, V., & Lodge, J., 'Is the European Parliament a Parliament?', *European Journal of Political Research*, Vol. 6, n° 2, 1978, pp. 157-180; Spinelli, A., 'Reflections on the institutional crisis in the European community' *West European Politics*, Vol. 1, n° 1, 1978, pp. 77-88.

⁵⁰ 'À l'avenir, et le vocabulaire d'aujourd'hui préfigure cet avenir, l'Europe sera fédérale, le traité de Rome aura été sa préconstitution et l'Assemblée sera sa constituante'. Dabezies, P. & Portelli, H., 'Pourquoi le «Parlement» européen?', *Pouvoirs: le Parlement européen*, n° 2, Paris, PUF, 1977, p. 5.

⁵¹ Bordiot J., 1978, *op. cit.*; Sartre, J.-P., 'Les militants socialistes et la construction européenne', *Le Monde* (Paris), 10 February 1977, and a federalist reply by Spinelli, A., 'Une décision historique', *Le Monde* (Paris), 18 February 1977; Kobbert, E., 'Die Furcht vor einem starken Parlament', *Frankfurter Allgemeine Zeitung: Zeitung für Deutschland* (Frankfort), 6 March 1976; Laurens, A., 'Le Conseil constitutionnel met des limites à la supranationalité tout en acceptant l'élection au Parlement européen au suffrage universel', *Le Monde* (Paris), 1 January 1977; 'Vielleicht das Ende der Gemeinschaft', *Der Spiegel: Das Deutsche Nachrichten-Magazin* (Hambourg), 23 July 1979, pp. 32-33; Ansart, G. (communist MP and candidate to the European elections), 'Indépendance et souveraineté de la France au coeur du grand débat européen', *Le Dauphiné Libéré* (Grenoble), 7 June 1979.

⁵² Sidjanski, D., 1979, *op. cit.*; 'La CEE chiede una 'nuova politica' per l'Europe', *Corriere della Sera* (Rome), 19 February 1975; 'Im Mai 1978 wird das EG-Parlament gewählt', *Rheinische Post* (Düsseldorf), 20 September 1976; 'Election de l'Assemblée de Strasbourg au suffrage universel direct. Faire l'Europe des citoyens', *Le Courrier de la Bourse* (Brussels), 7 July 1976; 'L'élection du Parlement européen', *Le Soir* (Brussels), 12 August 1976; 'Nouveau progrès pour l'Europe: un Parlement élu par tous', *La France – La Nouvelle République* (Bordeaux), 21 September 1976; 'Verso l'Europa dei popoli: Perfezionata l'accordo sul Parlamento europeo', *Il Popolo* (Roma), 21 September 1976; 'Parlement européen: Le baptême du feu (interview of A. Spinelli)', *Vision: Le magazine économique européen*, n° 84, 11-1977, pp. 39-41; Colombo, E. (President of the EP), 'L'enjeu', *30 jours d'Europe*, n° 245, 12-1978; Giscard d'Estaing V., 'L'élection rapprochera l'Europe de ses citoyens', *30 jours d'Europe*, n° 212, 03-1976, p. 37; Benckiser, N., 'Europäische Brise', *Frankfurter Allgemeine Zeitung: Zeitung für Deutschland* (Frankfort), 20 February 1976, p. 1.

the future of EC institutions – tried to demonstrate that European elections were pointless, since it was not possible to establish democracy at supranational level⁵³. His argumentation was common to many opponents to these direct elections⁵⁴. Vedel starts his demonstration by acknowledging that democracy is a way of organising a society that cannot be forever restricted to nations only. However, he considers that it is not possible to apply democracy to the European Community, since there is no legitimate way to overcome the national frame of European societies. According to him, this would imply the abandoning of democratic principles. The existence of a supranational consensus in favour of the creation of a European democratic regime would be impossible to prove in his opinion: now that the nation is the frame for democratic legitimacy, it is not possible to consider a decision as legitimate which abolishes national sovereignty. One could hypothesise upon the existence of such a supranational consensus, but not verify it by using the mechanisms of democracy as organised at national level. Even the adoption of a new treaty or a reform of the constitution could not lead to the legitimate establishment of a supranational democracy, since the majoritarian rule can only be used in the frame (the nation) that gives it its legitimacy: a majority of citizens cannot decide to overcome this frame, because it would not be respectful of the rights of the minority.

By the end of 1978, discussions on the usefulness, consequences and legitimacy of the direction elections progressively gave room to more concrete considerations on their stakes and outcomes. Examining several collections of press cuttings⁵⁵, running from 1975 to the end of 1979, we can draw the following observations.

First, as theorised later by Reif and Schmitt⁵⁶, European elections were mainly considered in terms of domestic politics, competition between national parties and the popularity of national leaders. Globally speaking, little attention was

⁵³ Vedel, G., 'Les racines de la querelle constitutionnelle', *Pouvoirs : le Parlement européen*, n° 2, Paris, PUF, 1977, pp. 23-36.

⁵⁴ About the attitude of the French Gaullists: Maricot, B., *Le RPR et la construction européenne se convertir ou disparaître ? (1976-2002)*, L'Harmattan, Paris, 2010.

⁵⁵ Archives of the European Parliament (Luxembourg), of the Centre Virtuel de la Connaissance sur l'Europe (www.cvce.eu) (Luxembourg) and of the European University Institute (Fiesole). Thanks for the valuable support of their staffs.

⁵⁶ Reif, K., & Schmitt, H., 'Nine second order national elections. A conceptual framework for the analysis of European election results', *European Journal of Political Research*, Vol. 8, n° 1, 1980, pp. 3-44.

paid to the general European context or the implications of the elections' results for the EC political system. A systematic analysis of the press of the nine Member States during the year before the elections shows that most of the articles (around 60%) dealt with the positions of the various parties and candidates regarding the election. Many other articles (around 30%) explained the poll or discussed its consequences. Finally, only a few articles (around 10%) were devoted to European issues and policies.

In most Member States, the debate between promoters of and opponents to European integration remained lively during the electoral campaign⁵⁷: some journalists and politicians were very involved in the mobilisation of citizens and the explanation of the challenges and stakes of European elections⁵⁸, while others called for electors to boycott the elections⁵⁹. All those discussions were largely connected to the national socio-economic situation in each country, the popularity of its government, or to the antagonism between the main national parties.

EC experts were aware, even before the election, of the difficulties to develop a trans-European campaign, and of the risks linked to a national/local focus on the capacity of the EP to impose itself as a central institution in the EC system⁶⁰.

⁵⁷ Bibes, G., de La Serre, F., Ménudier, H., & Smouts, C., *L'élection européenne en France, en Grande-Bretagne, en Italie et en République fédérale d'Allemagne*, Presses de la Fondation nationale des sciences politiques, Paris, 1979.

⁵⁸ Gillessen, G., 'Unbedingt zur Wahl gehen', *Frankfurter Allgemeine Zeitung: Zeitung für Deutschland* (Frankfurt), 7 June 1979, p. 1; Van Helmont, J. (Comité d'action pour les Etats-Unis d'Europe), 'Elections européennes et pouvoirs nationaux', *Le Monde* (Paris), 6 July 1976; 'The need for Euro-voters', *The Financial Times* (London), 9 May 1979, p. 18; 'The need to vote', *The Financial Times* (London), 6 June 1979, p. 18; 'Les ultimes appels à trois jours du scrutin', *Le Dauphin Libéré* (Grenoble), 7 June 1979.

⁵⁹ 'Tom-Dom: les indépendantistes appellent au boycott', *Rouge* (Paris), 8 June 1979; 'Le CDCA appelle à voter blanc', *Le Télégramme de Brest et de l'ouest* (Morlaix), 7 June 1979; 'Mme Bouchardeau (PSU) appelle les électeurs à voter nul', *Le Monde* (Paris), 8 June 1979.

⁶⁰ *Rapport sur l'état d'avancement, dans les neuf Etats membres de la Communauté, de la campagne d'information lancée*, Services d'information du Parlement européen et de la Commission, January 1979, http://www.cvce.eu/obj/elections_directes_rapport_sur_l_etat_d_avancement_de_la_campagne_multi_media_mars_1979-fr-2be9d6cc-b653-4fd5-bae1-bef8581fc1b5.html; Wilkin, F., 'Une échéance se précise pour l'Europe: l'élection directe du Parlement européen le premier dimanche de mai 1978', *Le Soir* (Brussels), 7 November 1975; 'Aperte ieri la campagna d'informazione sulle elezioni europee', *Corriere della Sera* (Rome), 21 February 1979; 'Getting the message to EEC countries', *International Daily News* (London), 21 February 1979; 'Not informeert scholieren over Europese zaken', *NRC – Handelsblad* (Amsterdam), 26 April 1979; 'Reclame Europese verkiezingen misleided', *NRC – Handelsblad* (Amsterdam), 18 April 1979.

Journalists⁶¹ and political scientists⁶² underlined the existence of a domestic drift, and the incapacity of politicians and the media to address European elections at the European scale. To explain this situation, they emphasised the absence of a common electoral system, the impossibility for nationals of one Member State to stand for election or to vote in another, the absence of cross-border constituencies, and the necessity to empower European parties⁶³. The question of the EP's powers was also discussed, especially in Belgium, Italy and Germany, where numerous politicians and experts considered that direct elections would only make sense when accompanied by the empowerment of the assembly⁶⁴.

⁶¹ Gouzy, J.-P., 'Le compte à rebours', *L'Europe en Formation: Revue mensuelle des questions européennes et internationales* (Paris), n° 220-221, July 1978, pp. 1-2; Gouzy, J.-P., 'L'heure de vérité', *L'Europe en Formation: Revue mensuelle des questions européennes et internationales* (Paris), n° 230, May 1979, pp. 1-2; 'Les premières élections européennes (Juin 1979): les campagnes', *Le Monde. Dossiers et documents* (Paris), June 1979; 'Neunfache Nüchternheit', *Frankfurter Allgemeine Zeitung: Zeitung für Deutschland* (Frankfurt), 12 June 1979; 'Les élections européennes: l'échéance des 'présidentielles' aura finalement masqué le vrai débat', *La Voix du Nord* (Lille), 8 June 1979; 'La campagne européenne chez nos voisins: désintérêt en Grande-Bretagne', *Le Journal du Centre* (Nevers), 6 June 1979; 'Men and Matters: Blackout for that other election', *Financial Time* (London), 3 April 1979; 'Italy faces deadlock after poll', *The Irish Times* (Dublin), 8 June 1979; 'La campagne européenne chez nos voisins. Italie: une election en cache une autre', *Le Journal du Centre* (Nevers), 5 June 1979; 'Les Italiens n'ont-ils pas d'autres chats à fouetter?', *Le Républicain Lorrain* (Woippy), 1 June 1979.

⁶² Inglehart, R., & Rabier, J. R., 'Europe Elects a Parliament: Cognitive Mobilization, Political Mobilization and Pro European Attitudes as Influences on Voter Turnout', *Government and Opposition*, Vol. 14, n° 4, 1979, pp. 479-507.

⁶³ Nothomb C.-F., 'Un parti populaire européen', *Le Soir* (Bruxelles), 20 November 1976; 'Europas Parteien der Mitte rücken enger zusammen', *Frankfurter Allgemeine Zeitung: Zeitung für Deutschland* (Frankfurt), 25 April 1978; 'Neuf partis adhèrent à la fédération libérale européenne', *La Libre Belgique*, 29 March 1976; 'Europa-Programm der Liberalen', *Frankfurter Allgemeine Zeitung: Zeitung für Deutschland* (Frankfurt), 23 April 1977.

⁶⁴ Bibes et al., 1979, *op. cit.*: 'Le rapport Vedel propose d'associer le Parlement européen au pouvoir législatif exercé par le conseil des ministres', *Le Monde* (Paris), 21 April 1972; 'Europa braucht bedeutende Parlamentarier', *Neue Ruhr Zeitung* (Essen), 20 September 1976; 'Un rêve est né', *La Libre Belgique* (Brussels), 19 July 1976 (the elected EP will be granted with more power, or will manage to get them); 'Elections européennes: le gouvernement n'entend rien changer aux pouvoirs de l'Assemblée de la Communauté', *Le Monde* (Paris), 22 September 1976; 'E' ancora lunga la strada per Strasburgo', *La Voce Repubblicana* (Rome), 22 September 1976; 'Europa tra rilanci e occasioni perse', *La Stampa* (Rome), 19 September 1976; 'Ein Janusgesicht', *Luxemburger Wort* (Luxembourg), 22 September 1976; 'Le Parlement européen a-t-il un avenir?', *Le Monde* (Paris), 7 December 1978; 'Le rôle de l'Assemblée européenne', *Le Progrès* (Lyon), 8 June 1979; 'Un Parlement aux pouvoirs mal définés', *Forum International* (Paris), 8 June 1979.

The media also paid attention, but to a lesser extent, to typical European issues, like agricultural policy⁶⁵ or budget questions⁶⁶. Two particular topics however became central to the debate. The first concerned the question of gender equality and the representation of women. This was quite a new issue at that time, and newspapers were underlining the existence of various pieces of EC legislation promoting gender balance⁶⁷. Most journalists guessed that the EP, once directly elected, would encourage a deepening of those policies. Newspapers also accounted for the mobilisation of feminist groups, which considered European elections a chance to promote their ideas and an opportunity for women to get elected.

The media also paid significant attention to the discussion about environmental issues, such as the quality of air or water, waste management, and the danger of civil nuclear power⁶⁸. Those questions were part of EEC competences, and journalists and politicians were already aware of the cross-border dimension of environmental problems. Environmentalists were very active in the campaign and contributed to set the media agenda.

⁶⁵ 'Les agriculteurs candidats aux élections européennes s'expliquent', *Sud-Ouest* (Bordeaux), 7 June 1979; 'Paysans: pour une Europe nouvelle', *Liberté* (Lille), 7 June 1979; 'L'agriculture française et l'Europe', *Le Havre – Presse* (Le Havre), 8 June 1979; 'Le Centre National des Jeunes Agriculteurs mise sur la CEE', *Forum International* (Paris), 8 June 1979; 'L'agricoltura è la meno favorita del rapporto dell'Italia con la CEE', *Corriere della Sera* (Roma), 10 June 1979.

⁶⁶ 'Perché Londra farà saltare il nuovo sistema monetario europeo', *Corriere della Sera* (Rome), 17 November 1978; 'Il fondo regionale CEE ridotto di 155 miliardi', *Corriere della Sera* (Rome), 17 February 1979.

⁶⁷ 'Nel Parlamento europeo Simone Veil vuol creare un "gruppo" femminile', *Corriere della Sera* (Rome), 17 June 1979; 'Elections européennes, échos: Femmes socialistes', *Liberté* (Lille), 7 June 1979; 'Les femmes: une majorité dans l'Europe nouvelle', *Luxemburger Wort* (Luxembourg), 29 March 1979; 'Women issue European manifesto', *Irish Times* (Dublin), 28 March 1979.

⁶⁸ 'Un memorandum del PCI alla CEE sui problem dell'Europa verde', *Corriere della Sera* (Rome), 10 February 1979; 'Gli ecologi preannunciano un'offensiva "europea"', *Corriere della Sera* (Rome), 4 April 1979; 'Europe Ecologie: "La circulation en Manche, c'est un problem européen"', *Ouest-France* (Rennes), 7 June 1979; 'Milieubeschermers dienen zich aan Eucropa: meer democratie', *De Volkskrant* (Amsterdam), 8 May 1979; 'L'énergie nucléaire sera au coeur de la campagne d'Europe-Ecologie', *Le Monde* (Paris), 14 April 1979.

CHAPTER IV.

THE CONTRASTING RESULTS OF THE FIRST DIRECT ELECTIONS

The first direct elections in 1979 were a disappointment for federalists, and a relief for opponents of European integration, partisans of an intergovernmental approach, and promoters of the centrality of the Commission. Voter turnout, which varied significantly from one country to another, was low on average, and much lower than expected⁶⁹, despite the media coverage the event enjoyed. Electoral campaigns mainly focused on national issues, as a result of the strategy of national parties, of the absence of a visible stake at supranational level, and of the lack of interest journalists and citizens demonstrated for EC affairs⁷⁰. More generally, the high abstention rate was a result of the inadequacy of national public spaces to stimulate constructive dialogue on transnational issues.

The newly elected MEPs were hesitant to admit that there was a gap between the alleged support of citizens for the direct election and the empowerment of the EP on the one hand, and the reality of voters' involvement on the other. In 1982, Piet Dankert (SOC, Netherlands) told his colleagues who had just elected him as President of the EP: 'It is in 1984 only, when the first real European elections will take place, that we will know if the majority of European voters are supporting this Assembly. It is only then that we will know if our formal legitimacy has transformed in a political legitimacy, opening us the road to authority and, maybe, power'.

However, the following elections again did not mobilise citizens as expected. Turnout declined further, and the electoral campaigns remained strongly focused on national issues. The EP did not impose itself as an institution which counted in national public spaces, able to claim the support of citizens to gain more competences or influence. More generally, the direct elections did not have the expected effect on the European integration process; the attention paid to this event declined rapidly, and federalists had to admit that there was no window of opportunity for a major federal leap.

⁶⁹ Patterson, B. (ed.), *Direct elections to the European parliament: report of an allparty study group commissioned by the European Movement*, European Movement, British Council, 1975.

⁷⁰ Chabot, J.L., *Elections européennes, suffrage partisan*, Presses Universitaires de Grenoble, Grenoble, 1980; RFSP, Vol. 29, n° 6, Dec. 1979; Hollich, J.C., 'The European election of 1979 in France: a masked ball for 1981', *Parliamentary Affairs*, n° 4, 1979, pp. 459-469.

The direct elections nevertheless had an impact on the EP itself. They especially contributed to the increase in its independence at three levels: organic, institutional and political.

First of all, the EP gained the organic autonomy necessary to substantiate its claim to being a supranational institution, through cutting the tie with national parliaments. This independence however implied a price to pay: it suddenly placed the EP in a situation of competition with national parliaments in terms of expression of sovereignty and the incarnation of European citizens⁷¹. National MPs soon became concerned about this, claiming a monopoly in the representation of their respective people, and considering that the European elections were simply a matter of procedure. This issue was new: before 1979, the representation of national parliaments within the EP through their 'dual' mandate indeed limited such disputes. Another negative consequence of the novel independence the EP enjoyed at this level was the loss of control over the Council, which had previously been possible through the influence of the MEPs in national chambers.

Direct elections also allowed the EP to increase its institutional independence towards the Commission. Until that point, the latter was a key mediator in the relationship between the Parliament and the Council, notably regarding MEPs' efforts to gain more power and further integration. The newly acquired 'democratic legitimacy'⁷² of the EP allowed it to directly express its views to the Council and to develop a more balanced connection to the Commission.

The direct election had a third and final positive effect for the EP by granting it real political independence, and by clarifying its role and status. The election made obvious that the EP existed to represent European citizens, and not European nations or Member States' legislatures as prior to 1979. Whilst the Assembly was composed of national MPs, it was possible to support such an 'inter-parliamentary' vision of the EP. Also, even if the direct election came with no formal empowerment of the EP, it impacted the interpretation of the treaties by the Court of Justice. The judges indeed acknowledged in 1980, in the 'isoglucose' case, the compulsory nature of the consultation procedure for the Council⁷³. They considered it a key-factor in the 'institutional balance'

⁷¹ Costa, O., & Latek, M., Paradoxes et limites de la coopération interparlementaire dans l'Union européenne, *Journal of European Integration*, Vol. 23, n° 2, 2001, pp. 139-164.

⁷² See note 22.

⁷³ Cases *Roquette vs. Council*, 138/79, 29/10/80, *Rec.* p. 3333 and *Maizena GmbH vs. Council*, 139/79, *Rec.*

mentioned in the EEC Treaty, and as an expression of the fundamental democratic principle (even if 'limited' at EC level) that should allow citizens to participate in the government through a representative assembly. Therefore, even if the direct elections were not accompanied by a formal change in the EP's competences, the Court considered that the treaties should be reinterpreted with reference to the principle of democratic representation. This approach later had a major impact on the cases of the Court dealing with inter-institutional disputes, and contributed to the strengthening of the EP.

p. 3393. Jacobs, F. G. Isoglucose, 'Two powers of the European Parliament upheld by the Court', *Common Market Law Review*, Vol. 18, n° 2, 1981, pp. 219-226.

CHAPTER V.

THE EP IN SEARCH OF MORE POWER AND A MORE UNIFORM ELECTORAL PROCEDURE

Since 1979, MEPs have generally pursued two objectives. On the one hand, they have tried to increase their influence on EC policy-making and to obtain formal modification of the treaties regarding the status and competences of the EP. On the other hand, they have developed initiatives to deepen European integration. To do so, they have used a double strategy of 'small steps' in day-to-day inter-institutional relations (through the development of informal practices and the negotiation of inter-institutional agreements), and the claim for constitutional change, thus the adoption of a new treaty. Those two objectives and two strategies have encountered interference, and rendered the EP's positions somewhat ambiguous. Nevertheless, MEPs have succeeded in imposing practical and legal changes, so as to increase their own competences and to support the deepening of European integration.

For MEPs, the adoption of the act of 1976⁷⁴ was only a first step. Following the strategy announced by the Dehousse, Vedel and Patijn reports, they considered that direct elections as such were indeed the priority, but that the introduction of a uniform electoral procedure remained the final goal. However, contrary to the 1975 Patijn report⁷⁵, that saw the maintenance of national electoral systems as a transitional measure to be reformed before the second direct elections, the 1976 Act postponed this objective indefinitely. The electoral system was mostly left to national law, and there were few incentives for Member States to work on a common approach.

After the first European elections, the promoters of a mainstreamed electoral system have mainly focused on the aspect of proportionality, in order to limit the distortions in the composition of the EP linked to the diversity of national rules. One important issue was the impact of British electoral results on the general political balance within the EP. Given the fact that the UK was the only country using a 'first-past-the post' system, a limited change in the balance

⁷⁴ Annexed to Council decision 76/787/ECSC, EEC, Euratom, OJ L 278, 8.10.1976, pp. 1-11.

⁷⁵ Parlement européen, Commission politique, *Rapport fait au nom de la commission politique relatif à l'adoption d'un projet de convention instituant l'élection des membres du Parlement européen au suffrage universel direct*. Rapporteur: S. Patijn, 13.1.1975, HAEP (PE0 AP RP/POLI.1961 A0-0368/74 0010).

between the main parties could lead to major changes in the composition of the British delegation ('swing' effect), and thus in the global balance between the EP groups.

For a long period, British authorities nevertheless refused to introduce a proportional system for European elections. They feared a possible impact on their party system and did not want to create a precedent that could have reinforced the supporters of proportional representation for national elections. However, divergences regarding the generalisation of the proportional rule also existed within the EP itself. While the Seitlinger report (1982)⁷⁶ failed due to the opposition of the British government, the Bocklet report (1984)⁷⁷ was actually blocked due to MEPs' divisions⁷⁸. After the 1989 elections, this was also the case for two draft reports by Karel De Gucht (Liberal, Belgium).

In 1992, the Maastricht Treaty granted the EP the right to give assent to Council decisions on uniform procedure. It also institutionalised the concept of European citizenship and, as part of it, gave citizens the right to stand for election and to vote anywhere within the EU for European and local elections, following a key point of the Seitlinger report. More generally, the new treaty increased the competences of the EP substantially.

To deal with the constant opposition of the UK within the Council concerning proportional representation, and thus a single electoral system, the EP has progressively reduced its ambitions in this regard. The second De Gucht report (1993) proposed to focus only on the principle of proportionality, allowing national systems to remain in place⁷⁹. Nevertheless, the Council blocked this report once again.

The appointment of Tony Blair as UK Prime Minister finally offered the possibility for real change, and allowed a widening of the EP's mandate for reform of electoral law. The intergovernmental conference (IGC) that led to the

⁷⁶ Report drawn up on behalf of the Political Affairs Committee on a draft uniform electoral procedure for the election of Members of the European Parliament, Rapporteur: J. Seitlinger, HAEP (PE1 AP RP/POLI.1979 A1-0988/81).

⁷⁷ 'Bocklet Report' (doc. PE 111.992) presented in September 1984 to the Political Affairs Committee.

⁷⁸ Grunert, T., 'The European Parliament in Search of a Uniform Electoral Procedure', in Noiret, S. (ed.), *Political Strategies and Electoral Reform: Origins of Voting Systems in Europe in the 19th and 20th Centuries*, Nomos Verlagsgesellschaft, Baden-Baden, 1990, pp. 493-496.

⁷⁹ European Parliament, *Resolution on the draft uniform electoral procedure for the election of Members of the European Parliament*, OJ C 115, 26.04.1993, pp. 121-138.

Amsterdam Treaty indeed agreed to amend Article 138.3 of the EC Treaty (now Art. 223 TFEU), as follows: '1. The European Parliament shall draw up a proposal to lay down the provisions necessary for the election of its Members by direct universal suffrage in accordance with a uniform procedure in all Member States or in accordance with principles common to all Member States.'

Taking advantage of the easier approach of 'common principles' proposed by the Amsterdam Treaty, the EP adopted the Anastassopoulos Report (1998)⁸⁰ proposing common principles for European elections. It also suggested the idea of electing 10% of the MEPs on transnational lists for the first time. The objectives were to increase the political importance of the event, to support the emergence of European political parties and to fight electoral campaigns' focus on national issues.

This report led to a first reform of the 1976 Act in June 2002⁸¹. The Council rejected the idea of transnational lists, but agreed on the generalisation of the proportionality principle, and abolished the 'dual' mandate – i.e. it was no longer possible for an MEP to also be a member of a national parliament. It also decided that elections would take place over two days (instead of four), and would be organised in May (and no longer in June), in order to favour participation. The reform left Member States free to impose a threshold of a maximum of 5% of votes, to opt for open or closed lists, to use single transferable voting or preferential voting, and to create regional constituencies. It also left them in charge of deciding how to fill vacancies. This text was far from the EP's expectations, as expressed in the Anastassopoulos report, but did finally introduce some common principles to European elections.

Since then, the EP has not succeeded in obtaining further significant changes to unify the electoral rules. Nevertheless, the treaties and secondary legislation have been modified on many points, resulting in a strong reinforcement of the EP within the EU regime in general. Indirectly, those changes – especially those provided by the Treaty of Lisbon⁸² – have given a new dimension to the principle of parliamentary representation at the EU level.

The EP is indeed now described as composed of 'representatives of the Union's citizens' (Article 14.2 TEU), and no longer of 'representatives of the peoples of

⁸⁰ Adopted on 15 July 1998, OJ C 292, 21.9.1998.

⁸¹ Council decision 2002/772/EC.

⁸² Costa, O. & Saint-Martin, F., *Le Parlement européen*, La Documentation française, Paris, 2011, 230 p.

the States brought together in the Community' (Article 189 ECT). The representative nature of the EU political system is also strongly underlined by 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 ...'. This is a major change in the definition of the EU political system by the treaties, and provides solid arguments to MEPs in order to claim more powers – as was already the case regarding the appointment of the Commission's President in 2014. The EP has gained much centrality in the regime, and European elections are now the main event in EU political life, not only impacting the composition of the EP, but also the choice of the Commission's President.

However, no progress was made regarding the introduction of a uniform procedure for EP elections. The question of the breakdown of seats between Member States also remains to be addressed, despite the mobilisation of the Committee on Constitutional Affairs (AFCO) on this issue. The distribution has indeed been revised regularly by the European Council, as a result of the accession of new countries, of the reunification of Germany, and of the perspective of new enlargements. But it has always been the result of political bargaining, sometimes in conjunction with other issues, such as the voting rules of the Council during the Nice European Council. Until now, the European Council has always rejected the idea of a 'formula' allowing sharing of the seats in an objective and understandable way; taking into account for instance the population of Member States.

The EP has tried to take advantage of the Lisbon Treaty to reactivate the idea of a reform of the electoral rules. On 21 July 2009, the AFCO committee asked Andrew Duff (ALDE, UK) to draft a new report on the issue. In his work, Duff called again for a treaty revision in order to create a pan-European constituency to elect some of the MEPs. Citizens would get two ballots to cast: one linked to their national or regional constituency, and the other to the European one. The objective was to favour a truly European campaign, to fight the monopoly of national parties on European elections, and to grant a greater role to their European counterparts⁸³.

⁸³ See also: Duff, A., Pukelsheim, F. & Oelbermann, K.-F., *The Electoral Reform of the European Parliament: composition, procedure and legitimacy*, Directorate General for Internal Policies, Policy Department C, Citizens' Rights and Constitutional Affairs.

This time again, resistance came from the inside, and the EP was unable to find a common ground on the issue. The AFCO committee adopted a new text on 19 April 2011, but the plenary assembly once more referred the report back to the committee⁸⁴. The committee approved a second version of the report on 26 January 2012, but it appeared that there would be no majority in the plenary to vote on that version, because of the EPP group's opposition⁸⁵. The AFCO committee thus withdrew the report in March 2012.

Essentially, the Duff reports appeared to be too federalist for some MEPs, and were thus unable to engender the necessary majority in the plenary. This demonstrates that, even in the 2010s, potential reform of electoral rules remains a very sensitive issue, connected to fundamental questions, such as the existence, or not, of a European people, the true nature of the EU political system, and the definition of its regime. For MEPs who consider the EU a kind of 'super international organisation', to be ruled by intergovernmental bodies, there is no need of a pan-European constituency; it is even nonsensical. Those members also consider that the EP does not need to be more representative or more political: it should remain an institution focusing on scrutiny and control.

A third version of the Duff Report was finally adopted by a large majority of MEPs on 4 July 2013⁸⁶. However, it no longer included the idea of a pan-European constituency, and mainly addressed the practical details of the upcoming European elections (22 and 25 May 2014), such as the publication of the candidates' lists, and their commitment to take their seat, or gender balance. The main innovation of the report was the encouragement offered to European parties to nominate their candidate for the presidency of the Commission, which finally led to the *Spitzenkandidaten* procedure⁸⁷.

⁸⁴ *Report on a proposal for a modification of the Act concerning the election of the Members of the European Parliament by direct universal suffrage of 20 September 1976* (2009/2134(INI)), Committee on Constitutional Affairs, Rapporteur: A. Duff, 28 April 2011, PE 440.210v04-00, A7-0176/2011.

⁸⁵ *Second report on a proposal for a modification of the Act concerning the election of the members of the European Parliament by direct universal suffrage of 20 September 1976* (2009/2134(INI)), Committee on Constitutional Affairs, Rapporteur: A. Duff, 2 February 2012, PE 472.030v03-00, A7-0027/2012

⁸⁶ *Report on improving the practical arrangements for the holding of the European elections in 2014* (2013/2102(INI)), Committee on Constitutional Affairs, Rapporteur: A. Duff, 12 June 2013, PE 508.212v02-00, A7-0219/2013.

⁸⁷ Peñalver García, N. & Priestley, J., *The Making of a European President*, Palgrave, London, 2015.

After the May 2014 elections, the EP started to work on the file again. For the AFCO committee, Danuta Hübner (EPP, Poland) and Jo Leinen (S&D, Germany) authored a draft report proposing a new reform of the 1976 Act on direct elections⁸⁸. The report calls for action before the next elections (May 2019), and proposes various solutions to stimulate the participation of citizens, to underline the transnational dimension of the vote, and, more generally, to enhance the democratic nature of the European elections. The resolution includes no less than 26 proposals, requesting various kinds of action (regulatory, legislative, constitutional, informal...) from different actors (Member States, EU institutions, European and national political parties, media...) and with different time horizons. The main aspects concern:

- enhancing the visibility of European political parties;
- introducing a common minimum deadline for electoral lists;
- asking political parties to adopt democratic and transparent procedures for the selection of candidates;
- introducing an obligatory threshold (3% to 5%) for the allocation of seats in single-constituency States and constituencies of less than 26 seats;
- ending elections in all Member States by 21:00 on the Sunday of the elections' weekend and banning early announcement of the results;
- setting a common deadline for the nomination of lead candidates by European political parties (*Spitzenkandidaten*);
- limiting campaign expenditure;
- allowing postal, electronic and internet voting in all member states;
- harmonising the minimum age of voters at 16;
- adapting the rules for Commissioners seeking election to the EP;
- granting the EP the right to fix the electoral period;
- ensuring good media coverage during campaigns, as well as media pluralism and neutrality;
- increasing the representation of women as well as of ethnic, linguistic and other minorities in European elections;
- establishing a European Electoral Authority;

⁸⁸ Hübner, D. & Leinen, J., *Draft report on a proposal for amendment of the Act of 20 September 1976 concerning the election of the Members of the European Parliament by direct universal suffrage*, 2015/2035. See also the 'In-depth analysis' provided by the European Added Value Unit, European Parliamentary Research Service, September 2015 – PE 558.775, 30 p.

- making the office of an MEP incompatible with that of member of a regional parliament in all Member States.

Since the report did not include the most controversial proposal, i.e. the creation of a transnational constituency to elect some of the MEPs, it was voted by the plenary on 11 November 2015 without great opposition⁸⁹. In the current context of the EU crisis, it is however unlikely that the European Council will manage to amend the 1976 Act before the elections in 2019.

⁸⁹ European Parliament, *Resolution on the reform of the electoral law of the European Union*, 11 November 2015 (2015/2035(INL), P8_TA-PROV(2015)0395).

CHAPTER VI.

THE IMPACT OF DIRECT EUROPEAN ELECTIONS ON THE EU POLITICAL SYSTEM

Forty years after the adoption of the Act of Direct Elections, the impact of this reform remains ambiguous. Some goals were reached, others were not; but EU elections also had some unintended consequences.

The first objective of introducing the direct election of the EP was to constrain political parties to address European issues, which had not previously been a central concern for most of them. In this respect, the reform immediately proved a success. In view of the 1979 elections, parties had to prepare political manifestos, dealing largely with EC affairs, and to develop their views on the role of the EP and the future of European integration. European elections have further encouraged national leaders and media to pay attention to new issues, such as environmental protection – that soon became a central topic in the EP's deliberations – and gender equality. One of the key consequences of the first direct elections of the EP was indeed the increased representation of women. The overall level was still limited (16.6% in July 1979), but much higher than in the national chambers; this proportion was constantly increased, and reached a level of 37% in 2014. The EP's commitment to gender issues has also been proven by the election of Simone Veil as its first President in July 1979, and by the creation of a standing committee on Women's Rights.

Another objective was to increase the salience of EC politics in its Member States. This worked, to some extent. Progressively, the importance of European elections has risen, and electoral campaigns have led to stronger political debates at national level. However, they were not focused on the electoral programmes of the different parties, and the issues currently discussed within the EP, but on the European polity itself, the desirable degree of European integration and the legitimacy of its institutions and policies. Additionally, even this dimension of the discussion has always been mainly framed in national terms⁹⁰. Today, the campaigns for European elections are obviously more determined by European issues than in the past, but this process of Europeanisation happens at first through the national channel, because

⁹⁰ Van der Brug, W. & Van der Eijk, C. (eds.), *European Elections and Domestic Politics: Lessons from the Past and Scenarios for the Future*, University of Notre Dame Press, Notre Dame, 2007.

European integration has become an important issue in national politics. In sum, 'Europe' does not seem to be more important in European elections than in national ones⁹¹, and European elections remain 'second order elections', highly influenced by domestic politics, as Reif and Schmitt theorised in 1980⁹².

Obviously, the 1976 Act did not produce the expected effects on the engagement of citizens and media towards the EP and the EU in general⁹³. European elections have gained increasing attention over time, but the media focus remains on national politics⁹⁴; European elections have thus not generated, as expected, a European public sphere. Furthermore, the knowledge of the electorate of EU affairs did not progress significantly⁹⁵, despite electoral campaigns that systematically include a pedagogic dimension concerning the role of the EP and the missions of the EU. Empirical analyses have shown that the mobilisation of citizens on European elections and EU issues remains limited⁹⁶; hence, the turnout in EU elections has continually decreased since 1979, only stabilising in 2014. Some researches suggest that European elections may even have a negative impact on the mobilisation of voters, since voters can come to the conclusion that if media pay so little attention to this event, it is because the EP and the EU are unimportant or apolitical. In certain cases, the impact of European elections may all the more be negative for the whole representative system, since they may induce a habit of non-voting in first-time voters, that later impacts domestic elections⁹⁷.

Promoters of direct elections also expected that they would strengthen the support of citizens for the project of European integration in general, by

⁹¹ De Vreese, C. H. & Boomgaarden, H. G., 'Effects of News Media Coverage on Public Support for European Integration', in Van der Brug, W. & De Vreese, C. H. (eds.), *(Un)Intended Consequences of EU Parliamentary Elections*, Oxford University Press, Oxford, 2016, 296 p.

⁹² Reif, K.-H. & Schmitt, H., 1980, *op. cit.*

⁹³ For a global, and very updated approach of this question, see: Van der Brug, W. & De Vreese, C. H. (eds.), 2016, *op. cit.*

⁹⁴ De Vreese et al., 2016, *op. cit.*, p. 237.

⁹⁵ Maier, M., Maier, J., Baumert, A., Jahn, N., Krause, S. & Adam, S., 'Measuring citizens' implicit and explicit attitudes towards the European Union', *European Union Politics*, Vol. 16, n° 3, 2015, pp. 369-385.

⁹⁶ Vliegthart, R., Schuck, A. R., Boomgaarden, H. G. & De Vreese, C. H., 'News coverage and support for European integration, 1990–2006', *International Journal of Public Opinion Research*, Vol. 20, n° 4, 2008, pp. 415-439.

⁹⁷ Franklin, M.N. & Hobolt, S., 'How Elections to the European Parliament Depress Turnout', in Van der Brug, W. & De Vreese, C. H. (eds.), 2016, *op. cit.*, p. 77.

providing them with information on European affairs, and proving that the EC/EU is a democratic system. Since the beginning of the 2000s, scholars have, however, formulated the hypothesis that the electoral campaigns actually have unintended consequences, and may even increase euroscepticism and support towards anti-EU parties. Recent researches show, on the other hand, that neither effect, positive or negative, can be measured, and that campaigns for the European elections basically do not impact citizens' attitudes regarding the EU. Nevertheless, the EU is confronted with an increasing level of euroscepticism – due to other factors – and thus, more than 20% of MEPs are 'eurosceptics' today. From a democratic point of view, this can be perceived as positive: it shows that the EP efficiently mirrors the various opinions of European citizens regarding European integration, and that it is a truly representative assembly, and not a club of federalists, disconnected from social and political reality. However, the rise of the eurosceptics has constrained the EPP, S&D and ALDE groups to create a coalition (the 'block') that negatively impacts the image of the EP, at least in countries where bipolarisation of political life is the norm.

The impact of the direct election of the EP on the EU political system in general is more obvious and more in line with what was expected. Globally speaking, the elections have favoured the empowerment of the EP, by increasing the legitimacy of the MEPs' claim for more competences, and by encouraging national leaders to consider the rise of the assembly's power as the main solution to the EU 'democratic deficit'.

However, there are several limits. The EP's role in EU policy-making remains limited by the centrality of the Commission and the institutionalisation of the European Council. MEPs have their say in the decision-making process, but they have strong difficulties to impose their views on the Commission – the latter favouring 'evidence based policy-making' and contacts with stakeholders – and the Council and European Council – which impose intergovernmental bargaining at all the stages of decision-making process. In recent times, the European Council has gained a central position in EU policy-making; it now plays a key role in agenda setting, which is detrimental to the EP's influence⁹⁸. The connection between the EP and the Commission has improved, thanks to the *Spitzenkandidaten* procedure, but the Commission is also paying much

⁹⁸ Puetter, U., *The European Council and the Council: New intergovernmentalism and institutional change*, Oxford University Press, USA, 2014.

attention to its relation with the European Council, and is promoting an approach of policy-making (the 'better regulation strategy') that grants priority to expertise and impact-assessment, and does not leave much room for politics.

Forty years after the 1976 Act, it is still quite ineffective for MEPs to claim their representativeness in their interaction with Commissioners and Ministers. On the one hand, the Lisbon Treaty makes clear that the EU is grounded on the principle of a 'representative democracy' (Art. 10 TEU) but, on the other hand, it considers that the Council and European Council are 'indirectly' representative, it institutionalises the European Council, and it confirms the central role played by the Commission. The EU political system thus remains based on several logics of legitimation, which necessary limit the influence of the directly elected EP.

Regarding checks and balances, the appraisal is also mixed. The EP has increased its capacity to control and scrutinise the Commission, and the appointment of Jean-Claude Juncker as its President has created a new kind of relationship between the two institutions. However, the EP's ability to interact with the Council and European Council is still limited, and many organs of the EU (executive agencies, European Central Bank, European External Action Service...) evade the EP's control to a large extent.

Direct election also had only a limited impact on the EP's role in European politics. Public opinion polls show that citizens are not particularly aware of the activities and competences of the EP, and that national parliaments typically remain the key actors in political life. National parliaments' role in European integration suddenly declined after 1979, but they are gradually becoming increasingly involved again – especially through COSAC and the new system of subsidiarity checks⁹⁹. Today, some national parliaments are even requesting the capacity to propose EU legislation – the so-called 'green card' initiative led by the House of Lords¹⁰⁰ – or to veto it – the so-called 'red card', agreed by European leaders on 19 February 2016. The creation of a 'European Senate of national chambers', that would jeopardise the direct election of the EP, has also been regularly proposed since 1979, and has regained interest recently as a

⁹⁹ Hefftlar, C., Neuhold, C., Rozenberg, O. & Smith, J. (eds.), *The Palgrave Handbook of National Parliaments and the European Union*, Palgrave Macmillan, 2015.

¹⁰⁰ See: <http://www.parliament.uk/business/lords/media-centre/house-of-lords-media-notice/2015/june-2015/lords-eu-committee-launches-green-card-pilot/> (accessed 2.11.2015).

means of legitimising deeper integration of national budgetary and fiscal policies¹⁰¹.

Despite these various shortcomings, we can also underline several positive changes in the EU political system that can be linked to the EP's direct election. The promoters of the reform were not very explicit on their precise objectives but, *a posteriori*, we can consider that the 1976 Act has produced important and positive changes at two levels.

The first evolution concerns the EP itself, since direct election has dramatically increased its degree of 'institutionalisation'. After June 1979, the EP ceased to be an occasional gathering of a limited number of national MPs, mainly focused on their national mandate. The EP instead became a real chamber, composed of more than 400 members who, mostly, did not retain a national mandate. Directly elected MEPs proved to be far more involved in parliamentary work than their predecessors, and impatient to increase the powers and activities of their institution. The electoral legitimacy of the EP has played a major role in the process of its empowerment. As predicted by Dehousse, Vedel and Patijn, this new electoral legitimacy has sparked a strong mobilisation among MEPs to achieve greater power – starting with the Spinelli report (1984)¹⁰² – and has forced national leaders to take the assembly seriously. This stronger institutionalisation of the EP, as well as its increased representativeness, have also boosted the assembly's capacity to engage in dialogue and negotiation with the Council and the Commission – as exemplified today by the very frequent trilogues¹⁰³. Finally, direct elections have improved the visibility of the EP in the public space, even if this aspect remains limited.

The elections, however, not only impacted a given institution, but the political system as a whole. The 1976 Act has contributed, in some ways, to partially fix the EU's democratic deficit by ensuring better representation of citizens at the European level. It also heralded, more than 15 years before the Maastricht Treaty, the existence of a European citizenship; today, the right to vote and to be elected remains its most visible and valuable element. From a symbolic perspective, the 1976 Act has acknowledged the fact that European integration is not simply a process involving diplomats, bureaucrats and stakeholders, but

¹⁰¹ Piketty, T., 'A New Deal for Europe', *The New York Review of Books*, 25 February 2016.

¹⁰² *Draft Treaty Establishing the European Union*, OJ C 77/33, 14.2.1984.

¹⁰³ Reh, C., Héritier, A., Bressanelli, E. & Koop, C., 'The informal politics of legislation explaining secluded decision making in the European Union' *Comparative Political Studies*, Vol. 46, n° 9, 2013, pp. 1112-1142.

also citizens' representatives. To some extent, it also gives grounds to claim the existence of a 'European people'.

More generally, it can be said that the direct election of the EP has led to a process of 'parliamentarisation', 'politicisation' and 'constitutionalisation' of the EU regime.

Parliamentarisation

The Parliamentary Assembly of the Communities was created for three reasons. First, it aimed at maintaining a certain institutional balance between the institutions. Second, its creation responded to an institutional mimicry of other international organisations established at that time (United Nations, Western European Union, Council of Europe, NATO, etc.), each of which had a parliamentary assembly. Finally, the Assembly was called to contribute to the legitimation of the Communities through control: it was important to submit the High Authority (and later the Commission) to a process of democratic control, at least formally¹⁰⁴. It soon appeared that European integration was in need of more legitimacy, and that there was indeed a 'democratic deficit'. MEPs played a key role in this diagnosis, and soon began to impose the idea that the direct election of their assembly, as well as its empowerment, would provide the best (if not only) solution to this problem. The EC as a whole has undergone a process of 'parliamentarisation' thanks to the increase of the EP's powers and to the transformation of the relationship between the European institutions – be it concerning the appointment modalities of the Commission or the budgetary and legislative procedures. From 1970, with the act on budgetary powers, the EP became progressively more involved in European policy-making. MEPs have since continued to promote the empowerment of their institution by combining considerations about the legitimacy of the EU, the deepening of European integration and the evolution of their own competences. The process continues today, with the acknowledgement of the EU as based on 'representative democracy' (Art. 10 TEU) and the *Spitzenkandidaten* procedure.

Politicisation

After its first direct election, the EP increasingly welcomed a broader spectrum of political parties and experienced a process of political polarisation. Several

¹⁰⁴ Rittberger, B., *Building Europe's Parliament: Democratic Representation beyond the Nation-State*, Oxford University Press, Oxford/New York, 2005.

cleavages developed, between left and right, pro- and anti-European parties, as well as specific divisions on issues such as trans-Atlantic-relations or environmental protection. European elections have progressively increased the visibility of the left-right cleavage, but, contrary to the predictions made by some scholars¹⁰⁵, it has not completely overshadowed the others. Recently, the rise of eurosceptics in the EP has, on the contrary, induced a stronger collaboration between the Christian democrats, the socialists and the liberals. However, one should not consider that the division of MEPs and groups on the question of European integration is a non-political one, especially since it plays a growing role in national politics. In 2014, this process of politicisation reached a new level, with the *Spitzenkandidaten* procedure and a new political equilibrium between the Commission (chaired by an EPP candidate) and the EP (chaired by a socialist candidate). It remains, however, limited by the intergovernmental logic that dominates the European Council, and by the priority the Commission gives to evidence-based policy-making.

Constitutionalisation

The direct election of the EP has, finally, made it a key actor in the EU's constitutionalisation process. Even before 1979, many commentators considered that the EP would become a constituent assembly, the only organ capable of launching a reflection on the deepening of European integration and the establishment of a truly federal system. As early as in 1980, the EP indeed started to work on an ambitious project for a European Union, which was adopted just before the end of the term (Spinelli Report, February 1984). It was followed by numerous resolutions dealing with the reform of the treaties (Spinelli 1985; Puchades 1986; Martin and Herman 1992; Mendez de Vigo and Tsatsos 1997; Duhamel 2000; Mendez de Vigo and Seguro 2001...). Later, the EP was directly involved in the constitutional process, with its participation in the Convention on the Future of Europe: this was a clear acknowledgement of its capacity to bring more legitimacy to a reform of the EU treaties, as well as to make use of its own expertise in the field. The Treaty of Lisbon further increased the formal role of the EP: the 'ordinary revision procedure' (Art. 48 TEU) allows it to submit proposals for amendment of the treaties; the EP is subsequently consulted by the European Council on the opportunity to launch a revision; and finally, the EP is represented within the Convention in charge of proposing

¹⁰⁵ Follesdal, A. & Hix, S., 'Why there is a democratic deficit in the EU: A response to Majone and Moravcsik', *JCMS: Journal of Common Market Studies*, Vol. 44, n° 3, 2006, pp. 533-562.

amendments to the treaties. This role is still limited, but it does not mirror the overall influence of the EP on the constitutional process in the EU. The assembly is indeed the only institution that provides a constant reflection on the reform of the treaties and the future of European integration. Its proposals thus have an indirect influence on the revision of the treaties, because they contribute to frame the discussions and negotiations on the matter by imposing a number of concepts, ideas and solutions.

CHAPTER VII.

DIRECT ELECTIONS AND EU LEGITIMACY

If we come to consider the question of the legitimacy of the EU, the impact of the 1976 Act is clear. From a 'systemic' point of view¹⁰⁶, the EU can be seen as a political system, that builds its legitimacy towards citizens in three ways: through 'inputs', i.e. various forms of direct and indirect participation of citizens; through 'outputs', i.e. policies and decisions that are aimed to satisfy citizens and stakeholders; and through internal mechanisms of control that provide democratic guarantees to citizens and ensure respect of the law. Using this very simple approach, it is easy to understand that the 1976 Act has played a major role in the legitimation of the EU.

Regarding 'inputs', the EU elections are the principal channel for citizens' participation, not only in the choice of MEPs, but also in the selection of the President of the Commission. The EP mirrors the diversity of European society in its composition, and proves that the EU is not only driven by bureaucrats, diplomats and lobbyists.

Direct elections have also improved 'output' legitimacy, by ensuring that EU decisions and policies are obliged to take into account citizens' expectations and needs. In the day-to-day activities of legislation, control and deliberation, MEPs present their own views (in the name of the citizens), which are often quite different from those of the Commission and the Council, or their national counterparts. Because of their representative mandate, MEPs are more concerned by the satisfaction of citizens' needs and expectations (EU citizens in general, their national fellow citizens, or their constituents) than members of the other institutions.

Finally, when it comes to 'intra-systemic' legitimation, the direct election of the EP has also played a key role. It has increased the EP's capacity to control and scrutinise the activities of the Commission and the Council, and to promote norms of good governance – such as transparency, accountability, subsidiarity and openness. Further, the empowerment of the EP has placed the respect of democracy and human rights – that are key issues for MEPs – at the heart of the European polity and its policies.

¹⁰⁶ Easton, D., *A Systems Analysis of Political Life*, John Wiley, New York, 1965, 507 p. For an application to the EU: Scharpf, F. W., *Governing in Europe: Effective and democratic?*, Oxford University Press, Oxford, 1999.

Besides this triple contribution, direct elections additionally support legitimacy of the EU by increasing the 'meaning' of this political body. Through representation, as noted by Pitkin, it is possible to make real what was just fiction before. With direct election, the EP has given birth to that which it was supposed to represent – European peoples yesterday, European citizens today and, perhaps, the European people tomorrow.

CONCLUSION

The adoption of the 1976 Act allowing for the direct election of MEPs was not simply a technical decision: it has hugely contributed to the deepening of European integration, to the transformation of the EU regime in general and to its legitimacy. However, forty years later, the European Parliament still suffers from problems of democratic representativeness linked to the diversity of national electoral rules. European electoral campaigns remain mostly national, and largely focused on non-EU issues.

Solutions exist. The *Spitzenkandidaten* procedure, successfully introduced by the five main European political parties in 2014, has already contributed to raise media interest in EU elections and to 'dramatise' them, increasing their attraction for the electorate. Turnout is stabilised, and may increase in 2019. The Hübner and Leinen report adopted in November 2015 suggests a full list of reforms, including the unification of the electoral rules claimed by the EP since 2002, that would give a new dimension to direct elections and further institutionalise the *Spitzenkandidaten* approach. The election of some of the MEPs on transnational lists would be an even stronger improvement. Given the obvious disapproval of the Council, Hübner and Leinen have decided not to include this in their report – but it was nevertheless introduced in the resolution adopted in plenary meeting, in relation to the *Spitzenkandidaten* procedure¹⁰⁷.

Even within the EP, and even among MEPs who are favourable to the deepening of European integration, the topic of electoral reform is a sensitive one. Rapporteurs have always claimed the contrary, and adopted a technical approach to the file, but discussions around the direct election of the EP have also addressed very political issues. In a political system, in which important questions linked to the nature of the EU, to the existence of a European people or to the logic of legitimacy are seldom raised, dealing with the EP's electoral

¹⁰⁷ European Parliament, *Resolution on the reform of the electoral law of the European Union*, 11 November 2015 (2015/2035(INL), P8_TA-PROV(2015)0395. Point Q: 'whereas the establishment of a joint constituency in which lists are headed by each political family's candidate for the post of President of the Commission would greatly strengthen European democracy and legitimise further the election of the President of the Commission'. And, Annex: Proposal for a Council decision adopting the provisions amending the Act concerning the election of the members of the European Parliament by direct universal suffrage: 'Article 2a : The Council decides by unanimity on a joint constituency in which lists are headed by each political family's candidate for the post of President of the Commission.'

rules is seen as a unique occasion to do so. It thus always leads to complex debates and negotiations. The concrete modalities of elections as well as political cultures are very diverse among the Member States; MEPs, who mainly evolve politically at the national level, logically tend to give a priority to the solutions they know best, which does not simplify the debate.

The issue is all the more complex as integrating national rules regarding European elections and creating a pan-European constituency would require a new treaty, as well as several constitutional reforms at the national level in the Member States. In the current political situation, few leaders are ready for such a step, even if the needs of the EU in terms of legitimacy and participation have never been as evident as today.

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