European Committee of the Regions

Report of the High Level Group on European Democracy

Brussels, 31 January 2022

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About the High Level Group

The European Committee of the Regions established a High Level Group on European Democracy (HLG) in order to support its political and institutional mission in the Conference on the Future of Europe and to develop innovative ideas on improving European democracy and reinforcing the impact and influence of local and regional authorities and the CoR in the European process. The HLG is chaired by President Emeritus of the European Council Herman Van Rompuy, and is composed of six other members: former European Commissioners Joaquín Almunia and Androulla Vassiliou, former Members of the European Parliament Rebecca Harms and Maria João Rodrigues, the President of the European Youth Forum, Silja Markkula, and Tomasz Grosse, Professor at the University of Warsaw. The HLG is supported by Žiga Turk as its Executive Secretary, and a group of Senior Expert Advisers including Jim Cloos, Jacques Keller-Noëllet, John Loughlin, Anna Terrón I Cusi, and Wim van de Donk. The mandate of the HLG coincides with the duration of the Conference on the Future of Europe, leading to the delivery of this report to the European Committee of the Regions.

Executive Summary

The Conference on the Future of Europe should itself be an exercise in democracy. Above all, it must be about the future of our democracy. Only a Union that is a vibrant democracy, trusted and supported by its Member States, regions, cities, towns, civil society, businesses and, last but not least, citizens, can play a much-needed stronger role on the global stage. Trust in this key pillar of our society is under severe pressure - even in crisis - in Europe and beyond.

When we talk about European democracy, we are talking about democracy within Member States as well as in and of the Union itself. Trust has been eroded at all levels of governance. Legal proceedings are pending against two countries for violation of the Treaties. We must protect and empower people better. Many citizens do not feel sufficiently protected by all authorities against all kinds of threatening developments that have become more evident since the outbreak of the "multiple crisis" in 2008. Trust must be restored. Citizens want more input in decision-making and demand better output and better results from policies in all areas that are of immediate concern for their lives today and tomorrow. Ambitious promises and expectations must be balanced with what is possible and deliverable. Rights must go hand in hand with responsibilities at all levels, from the citizen all the way up to the Union. For example, Member States should not expect the advantages of the Union if they undermine its functioning. Fear must be transformed into hope.

The digital revolution, in particular the strong development of social media, has radically changed the functioning of our democracy. It offers a myriad of new possibilities to communicate with each other and to access infinite information. But the internet has also undermined the traditional quality assurance of information, lowered the standard of debate and filled the public space with a deluge of simplistic slogans, fake news and polarisation. It has replaced the real communities that bound real people together, caring for each other, with virtual bubbles that do not give their members a rooting in anything real.

More than ever, a strong civil society is needed to form a counterforce against fragmentation and primitive individualisation. More than ever, the truth needs a chance to stand against the lie. More than ever, there is a need for fairness and social cohesion, recognising that the pandemic and other crises are affecting people so differently. More than ever, reliable public institutions are needed to strengthen trust in politics and politicians. National and European legislation must better protect against this divide and promote our way of life and social cohesion, so that no person and no place is left behind.

Democracy within the EU is special because it is a Union of citizens and of States. This dual nature cannot be compared with the organisation of national democracies. Nor can the EU be considered an international organisation. It has its own institutions with democratic legitimacy to take supranational legislative decisions, and a European judiciary that takes precedence over national ones in areas within its own competences. As the Union is neither an international organisation nor a nation state, issues of citizens' trust, executive efficiency and global impact cannot be solved by pretending it is one or the other.

Instead, work needs to be done to strengthen European democracy, including the European political parties. The problem of EU democracy is, of course, a consequence both of its size - resulting in a lack of proximity - and of its diversity - resulting in a lack of the sense of belonging. Within a demos, its members are willing to exhibit a higher level of solidarity and trust. However, with increased business and work commuting, a common currency, tourism, cultural exchanges, Erasmus schemes, and even continental sport events, a European identity is slowly emerging. Distances are getting smaller and we are getting to know each other better. However, this process cannot be rushed. The younger generation who grew up in a more open and mobile Europe makes us hopeful for the future ahead.

This strengthening of European democracy can be achieved first and foremost within the current Treaties, through a dynamic interpretation of the texts. There is still a lot of untapped potential here, not least to increase the effectiveness of decision-making, for example by making better use of qualified majorities. Health, digitisation, climate, security and other issues require a joint and sustained European approach if they are to be effective. In the spirit of subsidiarity, the joint and multi-level European approach means involving in these efforts the levels of government that best serve the interests of the citizens and that can best tackle the problems, including the sub-national levels. We must also get more young people involved, not just in elections but in all forms of shaping, executing and reviewing policies, as well as in civil society.

Citizens themselves must be given more opportunities to get involved in determining the direction in which the Union wishes to go, through new forms of responsible participation and constructive involvement. All levels of power can learn from the experience of the COFE in this respect (digital panels; citizens' platforms and others). Under no circumstances should the Conference itself be a one-off event. It must become a structured and regular way of reaching out to citizens.

The strengthening of European democracy at large must come from the bottom up, through a greater democratic empowerment of citizens and through local and regional elected representatives, in whom many citizens have greater confidence than in other political representatives. Moreover, local and regional politicians constitute a group of over one million elected people who can bridge the distance in an organic way and improve proximity, both between the people and “Brussels” as well as among the peoples of Europe. The EU must finally move towards real 'multilevel governance' in which all levels of government cooperate with each other and with the European level. Admittedly, each country organises its sub-national structures differently and this is fully a matter of national sovereignty. However, in the name of the principle of subsidiarity, local and regional authorities could be more and better consulted, especially at the beginning of legislative processes, and better involved in the implementation of policies in areas where the Union has competencies. They can provide valuable feedback on the quality and efficiency of the solutions so that they can be improved, and they can more easily involve citizens in the functioning of democracy at all levels.

The European Committee of the Regions (CoR) has an indispensable role as a coordinator and facilitator in all of the above. The CoR itself must play an ambitious role, within the current Treaties, in the preparation, decision-making, implementation, and feedback phases of European legislation. To this effect, an interinstitutional agreement must be reached with the European Parliament, Council and European Commission so that the positions of the Committee, and the regional and local authorities it institutionally represents, can be better taken into account. The CoR itself must also reconsider its own functioning in this light, so as to improve its efficiency and impact.

A stronger EU, inside and outside, is a more democratic EU, and vice versa. The basic requirement for translating these ideas into action is to make this COFE a success, and a strengthened European democracy must emerge that genuinely reflects Europe's unique multi-level governance and brings citizens on board. If necessary, more time may be needed for this than originally anticipated. Things should not be rushed. Much is at stake.

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1 REPRESENTATIVE DEMOCRACIES UNDER PRESSURE EVERYWHERE

Democracy as a form of government and as a set of values has proven to be an extremely efficient way of organising societies since the scientific revolution. It provides a very good balance between, on the one hand, individual freedom and creativity, and, on the other, an order that allows for efficient collaboration among these individuals. This resulted in an unprecedented growth of freedom and prosperity. Soon after the end of the Cold War it seemed that the transition of just about any system into a liberal democracy was just a matter of time and that the history would end there.

Since then, however, democracies have been faced with numerous challenges. It turned out that rapid economic and military developments are also possible in non-democratic systems, such as China. Some countries have proven very unwelcoming to Western-style liberal democracy for a variety of historical reasons. In addition to these challenges to the belief in the supremacy of liberal democracy as a political system, western democracies are also witnessing their dominance melting away in global scientific, economic, and military affairs. Internally, the democratic states are faced with several kinds of discontent from their own citizens.

This chapter summarises the pressures on democracy in general and shows how even its underlying values are under threat. Furthermore, it shows how it is being challenged as a form of government, partly because democratic procedures are not generating as much legitimacy as they used to, as citizens have ever-increasing expectations of what democracy ought to provide. Finally, but not the least important, communication technologies that enable all kinds of human collaboration have changed dramatically since the invention of the internet.

1.1 Democracy as a set of values and system of government

Democracy assumes a certain civilizational and cultural foundation on which it can flourish. At its core are values. This section discusses how these are under pressure.

1.1.1 Origins and evolution of democracy

Democracy was born in Athens at the beginning of the 6th century BC. Solon introduced a degree of equality between the citizens of the city and then Cleisthenes involved the people directly in running the government. A distinction was thus already made between democracy as a value (Solon) and democracy as a system of government (Cleisthenes). Based on these premises, the history of modern democracy can be said to be indissociable from that of Europe, with some major *levers* such as Judaeo-Christian universalism, the Renaissance and the Reformation, the Enlightenment, and Tocqueville's theory of liberal democracy. There were also some major historical events, such as the 1688 English 'Glorious' Revolution, the 1776 American Revolution, the 1789 French Revolution, the 1848 revolutions in Europe, the battle for universal suffrage and fundamental freedoms (freedom of the

press, freedom of association, freedom to organise, etc.) followed, after 1945, by the battle for economic and social rights.

Democracy is rooted in the idea of the dignity of the human person, understood as someone rooted in a community of persons and opening out to other persons in an organic way. Ancient forms of democracy, such as that of Athens, limited membership of this community to Greek male adult citizens who enjoyed the full freedoms of citizenship, but excluded others such as women, children, slaves and foreigners. Modern democracy has its roots in the Judaeo-Christian concept that every single human being has an innate dignity. This concept was developed further by the Enlightenment idea, emphasised particularly by Kant, that dignity is expressed through the exercise of reason through personal autonomy. This implied the right to participate in public affairs, but was at first confined to property-owning males over a certain age. It was only gradually that this right was widened to include all the adult citizens of a nation.

The societal arrangement that provides the context for citizenship and the right to participate in public affairs is the community known as the **nation,** and the institutional setting for this exercise is **the state.** States and nations have existed for long periods of history. Entities such as the Holy Roman Empire were multinational, and this is the case with the (still) United Kingdom. According to historians such as Leah Greenfeld[1] and Linda Colley[2], the **modern** nation came into existence during the Reformation and subsequently as a result of the 1648 Westphalian settlement. Jean Bodin developed the concept of state sovereignty, which he conceived to be one and indivisible, and Westphalia strengthened this notion of sovereignty by stating that sovereign states should not interfere in each other's affairs, which underlies the modern system of international relations. It is only at the French Revolution, however, that the couple **nation-state** was invented, leading to the ideology of modern **nationalism** which argues that each nation ought to have its own state and that the borders of the state should be coterminous with those of the nation[3].

The nation-state has adopted several political forms: federal, unitary, regionalised, decentralised, etc. Furthermore, it is not necessarily democratic. It included states like Nazi Germany, Fascist Italy, Francoist Spain, Salazar's Portugal and the Greek Junta, not to mention the numerous communist regimes and dictatorships that have existed and still exist. Nevertheless, **liberal representative democracy is one of the forms it took; a truly European invention that is part of our common heritage.**

The pressures related to the nation-state are twofold: on the one hand, the individual nation-state is not a sufficiently large entity for economic and social collaboration, and therefore nation-states are joining into larger entities such as the European Union. On the other hand, some see this as an attack on arrangements that they see as 'natural' and that seem to have worked for centuries.

1.1.2 Early forms of democracy

There is, however, nothing very natural about democracy, as a look at history shows; we should not narrow our perspective too much. There were many manifestations of democracy or pre-democracy

[1] L. Greenfeld, Nationalism: Five Roads to Modernity (Harvard University Press, 1992)

[2] L. Colley, *Britons: Forging the Nation 1707–1837* (New Haven and London: Yale University Press, 1992).

[3] J. Breuilly, *Nationalism and the State,* Manchester University Press, 1985.

before it was finally related to (modern) cities and states. In his recent book 'The Decline and Rise of Democracy'[4], Stavasage reveals an intriguing genealogy of 'democratic life', for instance in the American territories, with structures that were 'more democratic than what the European conquerors knew in their home countries' (Stavasage, 2020:3). Most of these were more or less 'political' forms of participation, closely intertwined with the communities they served.

These 'early' forms of democracy differ quite substantially from those we call 'modern', but they can still teach us how important the notions of 'community' and 'participation' were since the beginning of history. First, these kinds of early democracy show a much greater variety than the 'standard-model' of democracy that originated largely from the European continent. Already in those days, rulers had to accept that they were invited to take these communities more seriously to the extent that they had more 'exit' options. When rulers found themselves in a weak position relative to those they governed, early democracy flourished, Stavasage found. So there seems to be a pay-off between strong democracies and weak authorities. This perspective opens the possibility of seeing democratic rule from the point of view of the communities that shape it: with high - and sometimes also quite inclusive - patterns and practices of participation, of ownership and a sense of belonging. Stavasage is explicitly hinting at the possibility of looking for inspirational ideas in small and 'early' democracies in order to prevent modern and large-scale, 'backsliding' democracies from sliding even further.

It might be worthwhile taking inspiration from the communitarian aspects of earlier democratic and civic cultures (the sense of belonging, the sense of participation) in order to analyse and strengthen the capacities of contemporary regional and local democracies. It would be a mistake to see the soul of European democracy as only at work in Strasbourg, Brussels and the different national capitals. European democracy is not only a multilevel democracy, it is also a multi-perspective democracy, in which there should be room for the 'local' and 'cultural' dimensions. Democratic participation cannot flourish without a commitment to a real community. Neglecting this could well be one of the reasons for the democratic crisis.

Improving the democratic spirit of European citizens might also happen in the often-neglected domains of civil society like 'third sector' organisations and micro-democracies in which citizenship is taught, practised and growing outside the formal domain of political democracy. This is exactly the sphere that was, for too long, put in the shadow of the dominant state-market dichotomy that so prominently shaped the discourse of European governance, and overshadowed the once fertile grounds of Tocquevillian communities and civic organisations as a breeding ground for a specific kind of democratic spirit and practices that largely contribute, in their specific way, to the *bonum commune* (the common good).[5]

1.1.3 The tasks of democracy

Democracy can be defined by what it is (Section 1.1.4) and by what it does (here). It fulfils three main tasks:

[4] S. Stasavage, The Rise and Decline of Democracy. A global history from antiquity to today (Princeton and Oxford, Princeton University Press, 2020).

[5] See i.a. Raghuran Rajan, The Third Pillar. How Markets and the State leave the community behind.

- to guarantee respect for a number of *values that in turn support it;*
- to ensure the organisation and workings of political power; and
- to meet the needs of citizens, as freely expressed through universal suffrage.

These three strands are intricately linked and the absence of one of them is sufficient to cast doubt on whether a government is genuinely democratic.

The temptation to play on words has recently spread beyond the circle of Marxist-Leninist countries to which it had previously been confined under the label of 'peoples' democracies'. For example, Russia's or Turkey's backsliding from democratic orthodoxy has inspired political scientists to coin the term 'democratorship'. This term refers to a *hybrid political reality*, in which the appearance of democracy remains more or less intact, while through largely hidden processes the authorities attack civil liberties and the rule of law to control public opinion, get rid of their opponents and stay in power through constitutional chicanery. Even within the EU in what some term 'illiberal democracies', attacks on freedoms – mainly the freedom of the press and the independence of the judiciary - have led to legal action by the European Commission.

These examples all show that the two expressions of democracy – *a system of values and a system of government* – are inextricably linked and that one cannot exist without the other. It is with this in mind that the issue of the *different forms of deliberative*[6] *democracy* will be addressed, it being understood that all the variants referred to below respect basic democratic *principles* and *values* thanks, among other things, to the vigilance of the European Court of Human Rights.

1.1.4 Principles of liberal representative democracies and their challenges

Liberal representative democracy has its origins in the European Enlightenment and is based on a number of principles and practices. These are summarised[7] as follows in the left column with their related challenges listed on the right:

	Principle	Challenges
1	Widespread political participation by adult citizens, including members of minority groups that include racial, ethnic, religious, linguistic, and economic minorities.	The interest in participation is dwindling.
2	Secret ballots and frequent regular elections.	The interest in participating in elections, both actively and passively, is shrinking.
3	Broad freedom of individuals to form and support political parties, with each party free to present its views and form a government.	New technologies make it increasingly easy for citizens to create new parties – the permanence and track record of parties is thus reduced; the share of votes going to traditional mainstream parties is getting smaller across Europe.
4	Governments that can alter, interpret, and enforce laws to suit (within limits) the majority's preferences.	There are temptations in some countries to remove limits to majority rule. The constitutional foundation, human rights charters, and principles such as the

[6] What participatory and representative democracy have in common is the open and free deliberation in society. Issues are debated, positions are explained, compromises and solutions are searched for.

[7] https://www.encyclopedia.com/international/legal-and-political-magazines/liberal-democracy

		rule of law or the division of powers are threatened as they can changed by a sufficiently large majority.
5	Effective guarantees of individual and minority rights, especially in areas such as freedom of speech, press, conscience, religion, assembly, and equal treatment before the law.	Particularly in relation to the internet, freedom of expression is challenged due to disinformation campaigns, fake-news and influence operations of foreign actors. In the woke culture, freedom of thought, expression and associated are limited by the 'cancel' culture and peer pressure.
6	Limited governmental powers, which are kept in check by constitutional guarantees including separation of powers	There are temptations in illiberal democracies that executive, legislative, and judicial powers are not separated but concentrated in one political party, claiming it has a commanding majority.

1.1.5 Key features of liberal representative democracy

Liberal representative democracy has three key features - **legitimacy, accountability and transparency** - with each feature facing a number of issues:

Feature	Challenges
Legitimacy: elected representatives derive their legitimacy from their election by the constituency they represent (as opposed to legitimacy derived from any other source - the divine right of kings, the party, brute force). On the question of legitimacy, governance theorists such as Fritz Scharpf have argued that, if governance leads to better policy results, this provides 'output' legitimacy (which is government for the people) even if there is a lack of 'input' legitimacy (government of the people). This applies especially to the governance and democracy of the European Union.	Elections per se do not seem to generate the kind of legitimacy they used to. Another problem of governance (rather than government) is that it involves specific 'stakeholders' and 'interest groups' who may represent only sections of society rather than society as a whole. The question is, how can representativeness be strengthened in a governance system, thereby strengthening its legitimacy from a democratic perspective?
Accountability: the representatives of the people are accountable to the people. The most obvious way the people exercise this accountability is through the ballot box, but they may also be held accountable by the courts or by other levels of government - the system of checks and balances.	This system is under attack in many countries. As Benz and Papadopoulos express it: 'What kind of resources do constituencies have to check the activities of decision-makers [in governance systems] and to make them effectively accountable to the outcomes of policy-making in governance?'.
Transparency: by not working in secret and by sharing information, decision-makers can be held to account by their citizens, ensuring the avoidance of corruption.	Particularly on the internet this feature is degenerating into voyeurism, yellow press, digging up dirt and scandals … at the expense of serious political debate. Influence networks are often obscure and closed to the outside world and their inner workings are not always visible to the outside world.

All three of these features are challenged today by populists, and by other citizens. On the grounds of a divide – whether real or alleged – between the elites and the people, traditional representative democracy is increasingly challenged in favour of the *direct* and *permanent* involvement of citizens in the democratic process in various forms: a vote by referendum before (a citizens' initiative) or after the event (a referendum to either confirm or veto the result). This implies widespread participatory democracy in various shapes and forms. This has led, among other things, to the demand for a greater

role for local and regional authorities in the name of *proximity* to the citizen and for leaders to be made more accountable (their term in office being less secure, as it will depend on the results).

1.2 The Crisis of Democracy

With the end of the Cold War in the early 1990s, the idea of western liberal and representative democracy seemed to have won a final victory. It was only a matter of time, many thought, before the whole world would follow suit and become democratic. The title of Fukuyama's famous book said it all: *The End of History* had arrived. For the EU, whose project was rooted in the belief of humanity marching towards post-modernity, this sounded almost too good to be true. And it turned out to be just that.

It was always rather naïve to envisage a slow triumphant march of liberal democracy towards a radiant future. Even well before the 1990s there were a number of questions about its future development. Can it ensure an efficient fight against threats to the future of the planet? What about the rise of extreme right-wing parties in a country like France? What about the effects of the 'woke' movement on democracy? What about the power of the 'fourth power', the press? How does the universalist message of Western democracy square with its recent colonial past?

Now, thirty years on, democracy seems to be in crisis across the world. At least the kind of democracy as we have known it: a democracy that operates within a nation-state, respects the expression of different views and interests and allows arbitration between them, through political representatives chosen by elections. A democracy where the objective of the political game is to search for the best common interest, which is not the same as the interests of all.

This crisis cannot be without effect on the European Union, which has always struggled with how to translate the principles of classical democracy to its *sui generis* nature, where the distance between the governing bodies and the citizens is naturally wider than it is within a nation-state. let alone within a region or local community. To many people, what happens in the EU's meetings in Brussels, Luxembourg or Strasbourg is more difficult to comprehend than what goes on in their own countries.

So, what has happened? To answer that question, we must look at the symptoms revealing the crisis of democracy and the possible causes. The distinction is not always crystal clear. It is sometimes difficult to say whether something is a cause or a symptom, and some symptoms will in turn become new causes. We should add that the crisis of democracy takes on various shapes and forms across the globe and even within the EU. Every unhappy community is unhappy in its own way. But there are general underlying trends that are generally recognised as being behind the crisis.

1.2.1 Symptoms

The crisis of liberal representative democracy manifests itself first of all in a number of factual developments that are easily observable and measurable:

1. Voter participation in general tends to slide downwards. This is true even in Europe, which traditionally has higher participation rates than for instance the United States. It certainly applies to the European Parliament elections, even if we saw a slight uptick in participation in

2019. Participation rates are particularly low in central and eastern Europe, which only acceded to free and fair elections comparatively recently. Many young people believe that the political elite does not give them sufficient space to be involved in the decision-making process and that their opinion is not taken seriously into consideration. The argument could be made that voters do not bother to vote because they are overall content with how things develop. But the more likely reason, apart from simple 'voter fatigue', is a growing dissatisfaction with the process and the feeling that "my vote doesn't really matter anymore". Hence the calls for more 'direct democracy', for instance in the shape of referendums.

2. The political landscape is more and more fragmented and volatile. The number of political parties is increasing, new parties are constantly created then disappear again. The traditional mainstream parties are struggling and their share of the votes is growing smaller and smaller.

3. Dissatisfaction with the functioning of democracy leads to growing distrust in elected bodies and sometimes to calls for direct democracy. Because citizens' consultations are not always well-defined in their functioning and their relation to representative democracy, they can lead to frustration on the part of citizens who do not see a direct response to their suggestions and grievances. This in turn triggers protest movements, demonstrations and at times violence in the streets. The movement of the *Yellow Vests* in France is particularly striking in this respect. Like other such movements it has a strong element of a rebellion against the élites. We also see an opposition between the people *'from Nowhere',* to use the term of David Goodhart, who feel at ease everywhere with their diplomas and skills, as opposed to the people *'from Somewhere'* who are firmly rooted in their home milieu and have neither the will nor the capacity to 'go global'. In some countries, the growing complexity of the world leads to a renewed call for a 'strong state' and a 'strong man' to restore order around the values of the 'silent majority'. A sign of the times is the call by some to delete the adjective 'liberal' from 'liberal democracy'.

4. Krastev in *After Europe* sums up the various elements described here by talking about three paradoxes that we simply mention at this stage without elaborating on them more fully:

   - The Eastern European paradox: rather than seeing the virtuous 'Brussels effect', in some countries we see growing 'illiberalism' and a call for the return to traditional values related to the traditional family and "Christianity". And we witness pro-European voters electing euro-sceptic governments.

   - The Western European paradox describes a situation where a lot of people are clamouring for democracy, but without actively taking part in elections or institutions, either standing or voting, nor accepting the tenets of representative democracy.

   - The Brussels paradox reveals a growing rejection of the notion of meritocracy that has very much been a core element of our liberal democracies and that is so well illustrated by the European civil service where recruitment is based on very difficult entry exams. Perhaps the rejection could also be related to the unsatisfactory application of meritocratic principles.

At the same time, we witness a number of behavioural features that are spreading. Mentalities are evolving, and there is an anthropological dimension to the crisis of democracy.

1. At the level of individuals, there seems to be a breakdown of civility, dialogue and tolerance, which not only manifests itself in the new social media but is reinforced by algorithms favouring polarisation. What is certain is that the new tone and manner of 'discussion' lowers the quality of democratic debate, which requires compromise, the respect of the rights of minorities, and the acceptance of arbitrage at the political level.
2. Linked to this, we see a transformation of citizens into consumers of rights and services, divorced from the search for a common vision and common goals. The state is no longer seen by many as the framework for finding the balance between conflicting interests but as the machine that must satisfy individual or 'community-based' desiderata. Phenomena like the 'woke culture' reflect a trend to 'take matters into one's own hands' and to deal with perceived slights directly, by cancelling the culpable party.
3. At the level of society and politics, there is a worrisome trend towards playing what Levitzky and Ziblatt, in *How democracies die,* call 'institutional hardball': you use the legal rights you have ruthlessly, to the hilt, regardless of the consequences for others. A well-functioning representative democracy requires 'mutual toleration' and 'institutional forbearance', which function as guardrails against the collapse of a common vision and the search for compromise. The violent protests against COVID measures are a worrying symptom of this.
4. There is another related phenomenon that Van Reybrouck describes in *Contre les élections*. This concerns the way democracy is being played out nowadays: the reign of money in electoral campaigns, artificial polarisation to demonise the other side, constant manipulation and a media frenzy around questions of image, 'petites phrases' and short-termism, the emergence of a political caste of full-time political actors, the feeling of exclusion of young aspiring politicians, a growing discrepancy between the qualities needed to be elected and those that are needed to run a country. The phenomenon is not new of course; Mark Twain already remarked that '*If we want to learn what the human race really is, at bottom, we need only observe it in election times.'* What would he say today? Van Reybrouck's thesis is that all of this is due to the over emphasis on elections as the key element of democracy: *'We are in the process of destroying our democracy by limiting it to elections…'*

1.2.2 Causes

What has led to this situation? While there is no uniform explanation, we can try to identify a number of key factors.

1. At a meeting with President Santer in 1995, Chancellor Kohl talked about the progressive weakening of social structures like political parties (particularly the big mainstream parties, churches and trade unions. 'If they collapse, we will have a real problem of democracy', he added. Kohl's words were premonitory, as today's developments show. The advantage of those structures is that they provide some form of filter and discussion forums for conflicting demands and interests. They also ensure a minimum of stability and support to the functioning of democracy and society. This is also a point forcefully made by Levitzky and

Ziblatt. In the U.S, after the Civil War, the Democrats and the Republicans found common ground on key issues and acted as filters to keep extremists within their own families at bay.[8]

2. One of the roots of the problems we encounter certainly lies in the socio-economic transformations that have taken place in Western countries since the 1960s. New challenges arose with the oil crises, the crisis of the welfare state, the arrival of neo-liberalism and globalisation. There seems to be growing unrest and dissatisfaction among the voters who look for short-term fixes, often on the basis of grand promises and the advance of sectoral demands.
3. Globalisation is a fact and has had many positive consequences: freedom of movement with lower plane fares, growing trade, new opportunities, a new middle class in developing countries. But it has also led to more negative outcomes at least for parts of the society and for weaker states. Growing inequality within societies as documented in countless studies (but also at times the simple perception of growing inequality) has torn societies apart and created resentment on the part of the less favoured classes, including an embattled middle class. A point worth making is that when liberal democracy first emerged, its elected representatives could redistribute 5% of GDP; now we talk more about 50% of GDP. So people are even more unhappy with what they perceive as unfair re-distribution.
4. One of the results is the growing rejection of the elites who are the big beneficiaries of open borders and a global world. Globalisation has created fears of disenfranchisement and loss of one's 'identity' and autonomy. Democracy functions within nation-states; but what if the latter no longer seem to be able to steer things, to take decisions, to run their economy as they see fit?
5. These developments are certainly accelerated by the digital revolution and the rise of new social media. They allow individuals to communicate directly and to make their anger and frustration known, without any filters or barriers. They also allow people in any region of the world to see how others live. They also facilitate the spreading of fake news and divisive messages and thus the manipulation of the democratic process, as witnessed in the *Cambridge Analytica* scandal.

1.2.3 Solutions

It is hard to draw sweeping conclusions from this analysis**.** We would however already now warn against what one may call false good solutions. As Einstein once said, '*For every problem there is a solution that is clear and simple and wrong."'*

At this stage we will just mention a few of those with their simplistic slogans:

- Direct democracy ('It is the fault of representative democracy')
- The technocratic temptation ('It is the fault of democracy')

[8] Unfortunately, this mutual understanding was based on the disenfranchisement of Blacks across the Southern states. It started breaking down at about the time when President Johnson pushed through his Great Society legislation which radically changed the political landscape and led to growing polarization between the Democrats losing the south and a more and more right-wing Republican party.

- Populism ('It is the fault of the elites and their political representatives.')
- Illiberal democracy ('It is the fault of the opposition and the minorities')

We must also be aware of the aspects of the woke culture with the slogan 'It is the fault of the others who have to be silenced' that also can be characterised as simplistic.

While the picture emerging from the analysis looks a bit gloomy, this is because we have been exclusively focusing on flaws and weaknesses in our system and worrisome trends. This is a precondition for asking the right questions and eventually recommending measures to reform our democracy and adapt it to the modern world.

1.3 Challenges of meeting people's expectations

Democracy is accepted if it works in the way in which sovereignty and ultimate power are with the people (input democracy) and if it delivers results to those people (output democracy). The results can be tangible or intangible.

1.3.1 Intangible outputs

Citizens expect that democracy will give them freedom, participation, representation, and equality - equal rights - for all. A democratic society has as its starting point the existence of different preferences among its citizens, and we trust that it will be able to generate agreements in the most inclusive way possible. Democratic societies must be systems of cooperation.

The government is also expected to be subject to the rule of law, to make decisions about the common good in accordance with the preferences of the majority while respecting the interests of minorities, to be permanently accountable to the representatives of the citizens, and to submit periodically to their approval, leaving power peacefully when it loses voters' confidence.

In Europe, the guarantees of freedom, respect for individual rights, and equality in political participation inherent in a democratic system have also been linked to the provision of security, in the broadest sense of human security, and to an expectation of advances in social equality.

In terms of the results that we demand of our democracy, we can raise the question of whether the European Union increases the protection of its citizens. We understand this protection as the defence of their freedoms within a framework of the guarantee of human security, looking at whether it fosters social welfare or, on the contrary, breaks old national protection frameworks without contributing to creating more robust ones. And we can raise some questions about how (and if) the EU can help to resolve the tensions around the idea that sovereignty suffers today both within states and in the international arena, and how it can contribute to reinforcing the ability to make decisions about the common good in a globalised world.

1.3.2 Tangible outputs

Tangible outputs are about the political system delivering opportunities for development, material progress, pursuit of happiness etc.

Social protection and equality among all citizens were not originally constitutive elements of liberal democracy in its beginnings, but particularly in Europe they have come to be inextricably associated with it since the post-world war period. Yet, qualitative data and research indicate a long-running decline of public perception in relation to protection and social cohesion, sharpened by the 2008 Great Recession. Importantly, in this context the EU is seen as an agent of globalisation rather than as a protective shield against its risks and it must find ways and means of rectifying this image.

Despite formal adherence to the 'European social model' in the broadest - and weakest - sense of this expression, the Union is not credited with its defence in concrete terms. The imbalances between the Community's economic policy and notably the single market on the one hand, and the labour markets and national social protection systems on the other, are dramatic. Added to this is the awareness of competing in a global economy with actors for whom the social dimension is not a factor to be considered. All citizens can witness how private actors (and states) that have amassed huge financial resources in a way that would simply be unlawful in the EU, have also acquired the power to define economic trends or set new labour market conditions. Some of them coming from dictatorships and states with deplorable ethical standards have even appropriated highly symbolic sectors such as culture and sports.

The challenge of governing globalisation and improving our relative position in the multipolar world requires greater strength**. The attribution of competence and capacities to the EU level must be guaranteed when results can only be achieved at this level, or where some additional action is necessary at EU level (in the context of shared competences) in order to achieve the agreed objectives**. Using all the resources provided by the Treaties, which are considerable, would allow for significant progress. The recently adopted European Pillar of Social Rights for all European citizens is a first step in this direction. The protection of the environment and the fight against climate change are among the big success stories of the EU, but tackling global warming will require even greater joint efforts across all levels than any other environmental challenge, and will create new challenges for our democratic processes, not to mention the efforts needed across the rest of the world.

For the first time in this century, a profound crisis, the COVID-19 pandemic, may represent an opportunity to move forward. Internal solidarity in the international arena has been strengthened, the common management of access to vaccination can become a success story. The economic decisions to support recovery are unprecedented, in quantitative terms, but also institutionally and politically. A qualitative leap towards a sustainable development model in line with the UN's Sustainable Development Goals (SDGs) is being promoted strategically by the Union around the digital and green agendas, reinforcing human security and therefore potentially boosting the legitimacy of the European multi-level model. The international dimension of such an agenda is being defined now, both at the political level and with the allocation of the new external action and development single fund (NDICI – Global Europe).

It is too early to talk about impact and results. Success would clearly contribute to strengthening the capacity of our democratic system to achieve better common good in the globalised world, while failure would seriously jeopardise the credibility of the Union.

The impact of the proposed action on social justice must be a central consideration to ensure success. But this is so far the weakest link of the chain.

Improving multilevel governance in the European Union can reinforce it as a democratic system. Governance has a role to play; networks can be broadened and (proactively) reinforced. This can help to reduce the costs of participation and foster EU democracy. **The principle of subsidiarity needs to work both downward and upward to deliver the results we expect from such a democracy.** The fulfilment of the promise of sustainable and fair development in a global world, including social protection, is what European democracy will be measured against.

1.4 Digital challenges

Like any other system involving human beings, democracies very much depend on the ability to communicate. Past advances in communication technology have had an important impact on how human societies were organised. Paper, press and mass media have been instrumental to the emergence and functioning of democracy. This is also the case now: the internet is today offering radically different ways of communicating and this is creating new challenges to our democratic systems.

1.4.1 Creating consent

The function of any political system is to **enable peaceful, voluntary collaboration of a group** (having internal cohesion and a common interest) so that as many human resources as possible are directed towards making the community thrive and ensuring that as few people as possible are idle or busy with non-productive work. Idle are those whose abilities and talents are not used. Non-productive activities are coercion, internal conflict, necessary and important conflict suppression (such as policing), and necessary and important conflict resolution (such as the judiciary system).

Until very recently, the main output of human collaboration was material, concerned with activities such as food and fuel production and manufacturing goods. Societies became organised to maximise the productivity of these activities and have created institutions – such as bands, tribes, villages, city states, empires, nation-states, and unions of states - to enable voluntary collaboration in achieving these goals. Democracy is such an institution. It helps achieve the goals by fulfilling its three tasks: to guarantee respect for a set of values, to ensure the organisation and workings of political power, and to meet the needs of citizens.

All these institutions have been integrated, coordinated, and governed with the help of communication – by sharing or exchanging information. Myths, legends, religion, and culture represent information that **integrated** values in a society. Habits, calendars, and peer-to-peer communication allowed for the **coordination** of activities in a society. Laws, decrees and decisions were information that **governed** a society.

For this reason, **innovations in the means of communication have an impact on the institutions people are building**, both on the size and the kinds of institutions. The intellectual revolution of ancient Greece would not have been possible without the ability to write down the ideas of the previous generations so that the next could build on them. The Roman Empire would not have been possible without a network of roads that allowed for fast communication not only of troops and grain, but also of money, news, trade information, the Christian gospel, and, of course, commands. The Gutenberg revolution provided technology for a larger-scale democracy.

Democracy is a very efficient way of organising a society because it creates the **consent to be governed** and thus minimises the overheads required by the use of force. Consent requires communication – to inform those governing about the issues and problems of the governed, and for the governed to be informed about the ideas, plans and decisions of those governing and to allow for their participation in decision-making. As information theory makes very clear, shared values, context, and concerns make communication easier. If more people are better informed, more brain power can be involved. However, information and communication can also create and amplify **dissent**. This is why free and open deliberation is important to confront various ideas and views, more so in communication-rich societies[9].

Due to their less developed forms of information technology, early democratic processes were limited to small communities and groups – like decisions on which craftsman would preside over a guild. With the invention of inexpensive paper and press, the governing structure could start operating based on a trustworthy paper trail, written decisions, transparent minutes, etc. Hierarchies in representative democracy could depend on reliable communication between different levels. Moreover, people would be better informed and a broader shared context and concern could be established than what had been possible by oral means. Also, people could be informed through written laws and codes (on general matters), books (on general knowledge) and newspapers (on current affairs). It was only after paper and print became generally available that political systems in Europe started to change from medieval, aristocratic, feudal, hierarchical systems into large-scale democratic ones.

Democracy requires good vertical communication – between the governed, those governing and the layers in between. Democracy also requires good horizontal communication among all members of society to establish shared context and concern. Technologies built around paper, press and traditional media broadcasting provided for both these dimensions.

The internet initially promised even more of this process of democratisation. When it began to develop in the hippy atmosphere of southern California, it seemed to open the perspective of some kind of techno-utopia where well informed and well-connected citizens could use technology to make democracy more direct, to have better communication among themselves and with their representatives, and to express their preferences more directly. The internet did indeed deliver some of this; citizens can be much better informed, they can connect to others much more easily, and they have the possibility to take much more informed decisions. But the initial promises of a techno-utopia have not really been fulfilled.

1.4.2 Democracy in the paper age

Paper and the printing press were scarce. **Scarcity of communication** access was driving **quality** on the one hand and **cohesion** on the other. Not everyone could publish books or get airtime on TV. This was reserved for a few – ideally for the elite. A system of **gatekeepers** – editors – made sure that some ideas were printed and others not. One person might have one vote, but not every person was in a position to influence that vote. Scarcity – the number of newspapers, TV channels and radio stations was limited – was also contributing to **cohesion**. Only mass media was able to create a **shared concern**

[9] Habermas calls this "discourse theory of democracy" - https://doi.org/10.1017/UPO9781844654741.008

and a shared context - the whole nation watched the same TV news and had roughly the same idea of what was going on.

Information and communication are a necessary **but not a sufficient condition** to create a democracy. The centralised use of information technology also empowers centrally directed and non-democratic regimes, at least until the power of technology is available to 'the people' and 'the people' are willing to use it. This willingness may differ in different cultures, though. It is more evident in more individualistic societies such as the West, and less so in more collectivistic ones in Asia.

Scarcity of communication also **favoured representative democracy**. Only exceptionally could citizens communicate directly with the governing layers, for example through referendums and elections. Communications richer in substance were limited to representatives. This created a filtering of ideas and hopefully also the meritocratic selection of these representatives.

In a democracy indeed each person has one vote, but that is informed by a media elite that worked closely with a political elite. With the consent of the people and by the decision of the people, democracy would actually be run by an alliance of the intellectual and political elites. Democracies spanned a single communication space – where people would speak the same language and where they would be exposed to the same information. Together these factors enabled a common deliberation of the democratic community.

Through a meritocratic selection of people and ideas, representative democratic systems were possible in which the people is the sovereign, but where there is still a positive selection of both people and ideas that lead. Scarce and edited communication through a limited number of channels also supported the model of stable and relatively large political parties, each having access to a few media outlets of a compatible ideology. Yet this was not a perfect or fully fair system.

1.4.3 Democracy in the digital age

The internet replaces information and communication scarcity - which had been a key element driving positive selection in democracies - with abundance. Every person still has one vote, but every person can also have one TV station (on YouTube), one newspaper (on WordPress), and can be an editor (recommending reading of Facebook). The symbiosis of the old political parties and the old media is very much something of the past, as are the hierarchies and meritocratic selection that were a result of deliberation in a common communication space and gone is a system in which the more capable have more say. With one exception: **technological companies now have unprecedented power.**

The internet has individualised communication and access to information, and by doing so has contributed to the further **destruction of communities** that represented the fundamental elements of societies larger than a family. There is less and less need for the individual to be embedded in a real-life community, like a village or a local factory's trade union, in order to get or give help and support. The internet has also created inequalities between the digitally literate, mainly the young and professionals from urban areas, and those who are older, often from rural areas and digitally illiterate.

The internet is also destroying the notions of distance and **locality**. Previously, people communicated with others from within their village, parish, town district or social class. Through mass media the

communication space was expanded to those speaking the same language, with the internet is tearing down these boundaries, too. Communication with people in the next building is now just as easy as with those on another continent. Even the language barrier is disappearing with automated and live translation.

The internet is not only disrupting the media, it is also contributing to the **disruption of political parties** already challenged by changes in the social structures of industrial societies. Political parties are in fact information-based organisations, too. It is through information (newsletters, programmes, speeches …) that they are established and through which they work. The symptoms of the crisis of the democratic political party include the declining share of votes for traditional parties (in proportional systems) and the ease of setting up new political parties.

Personalised algorithms (fuelled by widespread and readily accelerating forms of Artificial Intelligence) that determine an individual's media and news consumption (often echo-chambering your own views) might seriously endanger the Habermassian notion of a 'public' and 'common' sphere, and indeed risk its further "balkanisation". This trend is amplified by excessive information supply that creates difficulties when it comes to the selection of credible sources and may create confusion.

The meritocratic elites of the mind who had a bigger voice in traditional democracies are weakened. Those in a position to steer societies according to their own values and convictions are today the small number of **leaders of large internet companies**. By tweaking their algorithms and by editing the news feeds in services like Facebook, Twitter and YouTube, and by adjusting the search results of Google, they can nudge societies in the direction they think appropriate. At least in the EU, regulation has to be put in place to mitigate this situation and check their power. The DSA and the DMA are a step in this direction.

The current situation is not new – an elite has always been in a position to shape the culture of a society by appointing media editors and by sponsoring works of culture and art. But until today, the members of such elites were people tightly embedded in local communities and the social lives of a city or state. The current elites of influence, by contrast, are a handful of enterprising internet tycoons who can, with a few tweaks of the algorithm, influence elections and policies.

When there was a radical change of communication means such as the Gutenberg revolution in the past, the existing hierarchies and elites could be challenged. But what followed was not the disappearance of these two social institutions, but rather their restructuring. In contrast, a new infrastructure for democracy has yet to be developed by the internet civilization, finding ways to establish the ordering of ideas and people according to their merit. In the meantime, sound public debate has to be supported by backing quality media, giving more space to experts and facts than laymen's opinions. Social media must be complemented by a stronger role for the professional press.

1.4.4 SWOT Analysis

The communication infrastructure that traditionally underpinned democratic societies and enabled democracies to function has changed dramatically. It is unlikely that the change can be reversed. The new communication environment brought about by the digital revolution is analysed below:

Strengths	**Weaknesses**
Abundance of information, access to knowledge for all. Easy communication with anyone. Easy measurement of public opinion. No gatekeeping of ideas.	No gatekeeping of the media. No selection through representation. Disinformation. Information bubbles. Destroyed common spaces of deliberations. Atomisation of society without individual responsibility. "Big Brother" authoritarianism.
Opportunities	**Threats**
Better informed people take more personal responsibility. Direct democracy, e-referendums, public consultations. Participatory governance. Global collaboration and networking. Global community building.	Concentration of power in a few companies. Technology as a tool for soft authoritarianism. Brave New World. Use of technology to support anarchy. Loss of balance in society between public and private, local and global.

The internet has made more information and knowledge available to the citizen than ever before. This does empower the citizen, but they also feel this 'power' is a mirage resulting from the illusion of being informed and knowledgeable. Hence there is a risk of the common deliberation space within a nation-state being replaced by individualised information consumption and the creation of tribes of like-minded people on social media. In contrast to the historic communities, the "bubbles" on the internet do not create a sense of belonging, duty or responsibility that would provide a basis for solidarity and trust among members, and where the sum of that trust would be a basis for trusting in larger communities. Shared context is weaker, there is less of a shared concern, and the nation or language space provides less of a boundary. New hierarchies and elites are yet to be formed.

We have to understand the challenges we are facing. The national, regional and local communities that sustained the values underpinning democracy are disappearing. Democracies themselves are left to protect the values on which they are based. Yet despite these more negative consequences of the arrival of the internet, the opportunities are also enormous. The internet has vastly improved collaboration in just about every field, from science to art. We must find ways to put it to good use in the political sphere as well.

1.5 Challenges as opportunities

It is a cliché to call every crisis an opportunity, but in cases of responsive systems, this indeed is the case. Democracy is a political system that explicitly acknowledges that the use of force should be minimised and that those governing should be 'of the people and for the people'. It is built into the democratic political and governing structures that the system should respond to pressures and challenges. The result of this is that democracy has been adapting to challenges since its beginnings. While some principles have remained the same since the Glorious English, American or French revolutions, the policies of today are dramatically different from those of three or four hundred years ago. This gives reason for optimism about how democracies could adapt to the challenges set out above. Last but not least, the very Conference on the Future of Europe is an effort to improve democracy in Europe and to respond to these challenges.

In particular, the digital challenge could be seen as one that makes locality and regionality obsolete – with its destruction of the concept of space, distance and local community. But the process of the individualisation of Western society happened much earlier, with the migration from villages and small towns into the cities and with impersonal social services replacing local charities, neighbourly help and wider family cohesion. If social media on the internet has demonstrated anything, it is the need of people to connect with others, to socialise. There are many things lacking in the social media dimension of the digital revolution, but it provides proof that people still want to connect with other people.

The digital arm of the COFE demonstrates how the internet can be used to reach out to people, bridging vertical distance and the hierarchies of power, as well as the horizontal, geographical and linguistic distances among the people of Europe. All organisations, but perhaps the CoR in particular, could rely on people's need to connect and offer a digital layer of community building on the excellent network of local and regional polities. One of the pioneers of computer science, Marvin Minsky, said, a 'computer is like a violin'. It depends on the player and what he will make of it. This is also true of the internet, governance and politics. New internet-based infrastructure for our democracy is needed, but it will not emerge on its own. It is a task for technological and social scientific research, but also for practical experimentation and political courage, and initiatives such as the current EU democracy action plan.

In this context, education has an important role to play in furthering the understanding and development of democracy through teaching and research. The university in particular is a European invention that has spread throughout the world, and universities are 'naturally' European in the way the practice and teach European citizenship. During the Covid-19 pandemic, we recently rediscovered the fundamental value of truth and science and, given the new challenges democracy is facing, universities have an even greater responsibility in resisting attempts to undermine the permanent search for truth, the value of science and the importance of reason and free scientific enquiry. Our civilisation depends on these fundamental values and education is a way to protect them.

2 EUROPEAN INTEGRATION: A SUCCESSFUL EXPERIMENT IN DEMOCRACY CONFRONTED WITH NEW CHALLENGES

2.1 Introduction

The preceding chapter looks at democracy in general. It is now time to turn to the more specific issue of **European Democracy**. The European Union is composed of democratic states. The democratic nature of these states is what we call 'democracy ***in*** Europe'. At the national level, the predominant model of democratic organisation in Europe is that of a parliamentary system where governments are formed on the basis of an elected majority within parliament. At the same time, Member States have adopted various ways of organising local and regional democracy, depending on whether they are federal or unitary states and to what extent they are regionalised and decentralised. The general description of representative democracy applies here: the ways in which democracy is organised at the national and sub-national levels is a matter for the Member States themselves. However, since they are also part of the European system of governance, the way these levels relate to the EU is also a matter of general European concern.

The focus of our attention here is primarily on how democratic the European Union itself is, what we call the 'democracy ***of*** Europe'. In order to assess this, it is necessary to look at the foundation and development of the EU as a political and governance system. The first part of this chapter is therefore devoted to how the European integration project, created after WWII, introduced a new way of looking at relations between states. European integration was founded on the values and concepts of liberal democracy, human rights and the rule of law. The second part looks at how the EU itself functions as a kind of 'transnational democracy' and what challenges it faces today. To conclude, it is suggested that, over the years, the EU has developed a new sophisticated system of democratic governance that is unique in the world, and which is based on the dual nature of the EU: a union of states and of peoples.

2.2 The nature of European integration

2.2.1 A new departure after WWII

The European Union was founded after the Second World War to bring an end to the recurring bouts of warfare between European states and to lay the foundation for an ever-closer union of its peoples, based on respect for human rights and democracy, and developing economic prosperity. European states had been at war with each other for centuries. Within the space of 75 years, Germany and France had confronted each other in the Franco-Prussian War, the First World War, and the Second World War. Countless millions of lives were lost, accompanied by immense destruction of property. The rise of Stalinism, Fascism and Nazism had destroyed any notion of human rights and democracy. Europe had become the theatre of genocide.

Even before the war ended with the defeat of Germany and Japan in 1945, thinkers were asking what kind of Europe should replace the one which had led to cataclysm, destruction, and immense suffering. Among these thinkers were those who drew on the political ideals of the European Movement which, since the 19th century, had promoted a vision of Europe based on the ever-closer union of its peoples. Europe's Founding Fathers, Schumann, Adenauer and De Gasperi, came from this movement and, after the war, had the opportunity to implement their vision. They were supported in their endeavours by the Frenchman Jean Monnet, who brought his technocratic skills to bear in the implementation of the Founders' vision. Monnet's idea was first to bring the materials necessary for waging war - coal, steel, and atomic energy - under the control of a supranational authority, the High Authority, a precursor of today's European Commission, working closely with the Council of Ministers composed of the representatives of the governments of the Member States. This led to the founding of the European Coal and Steel Community (ECSC) in the early 1950s.

More radical ideas were part of the early debates, including those of European federalists such as Alexandre Marc and Denis de Rougement who saw European unity as an aspect of a wider revolutionary transformation of European societies along personalist and radical federalist lines (what they termed *le fédéralisme integral*), but they were rejected as too revolutionary by the leading statesmen of the time. The failure of the European Political Community and the European Defence Community in the French Assembly in 1954 put an end to any idea of moving towards the model of a United States of Europe. The Conference of Messina in 1955 put the emphasis on economic integration and led to the creation two years later of the European Economic Community and EURATOM, with the signing of the Rome treaties. The underlying tension between supranational and intergovernmental elements has remained a feature of European integration ever since. We will come back to the progressive development of a new European model that amounts to a novel mix of both elements.

2.2.2 An integration based on values and the rule of law

Whatever the configuration promoted by the different protagonists, and however jagged the trajectory of European integration, the project has been based on several distinctive features that European states have held in common. Among these are the heritage of Greco-Roman law and philosophy, the Judaeo-Christian understanding of the dignity of the human person and the reworking of these values during the Reformation, the Enlightenment, and the Industrial Revolution. Sadly, they also shared the experience of the continual wars referred to above.

The European Union has helped to end these cycles of conflict, war and repression. This is perhaps its greatest success. Since 1945, there has been no major war in Western Europe. Indeed, the EU was a powerful factor in ending the centuries-old conflict in Northern Ireland, and it had an important role in the transitions from dictatorships to democracies in Southern Europe – in Spain, Portugal and Greece. It has also been an important factor in helping to end the Balkan Wars in the 1990s in the sense that entry into a peaceful and prosperous EU has been a strong magnet for the members of the former Yugoslavia. The EU was also important in providing a model for the former communist countries of East and Central Europe following the collapse of the Soviet Union in the early 1990s.

However, the EU has been about more than simply ensuring peace, as important as this element has been. Besides ensuring there would never be another European war, the great moral vision of the

Founding Fathers was to promote human rights, the rule of law and liberal democracy based on the notion of the absolute dignity of every single human being. The notion of the dignity of the human person had been trampled on by Nazism and Fascism but also by Communism. The 'peoples' democracies' imposed by the USSR were far from democratic. True democracies need a functioning system of law and human rights. The Council of Europe created in 1948 provided the foundation for these concepts through its various conventions and charters, but the European Union has gone further by developing its own system of law through the European Court of Justice.

A model of economic and social progress

The European model also brought about economic prosperity and solidarity. There is little doubt that Europe's post-war recovery, assisted by the Marshall Fund, laid the foundation for the prosperous welfare states of the post-war period. This recovery initially favoured what Alan Milward called 'the European rescue of the nation-state'. Nation-states did indeed continue to exist as democratic states, and the EU guaranteed their continuing existence. But the new grouping of states at the heart of Europe - the original six – also helped each other to grow and prosper. The appeal was such that the Community attracted more states and began to grow, starting with the UK, Ireland, and Denmark in 1973, followed by Greece in 1981 and Spain and Portugal in 1986, Austria, Finland, and Sweden in 1995, and from 2004 onwards, opening to central and eastern Europe, Cyprus, Malta, Romania, Bulgaria and Croatia. Belonging to the EU was seen as a recipe both for transition to democracy and for prosperity and social protection.

European integration has thus been a powerful force for social and economic development and there is little doubt that the creation of a Single Market in 1993 and the subsequent adoption of a single currency have brought about significant economic benefits to its Member States and citizens. This can be seen especially in those countries on the European periphery such as Ireland, Greece, Portugal and parts of Spain and Italy that have been supported in their development through European regional and cohesion funds. In this group of Member States, Ireland is perhaps the most striking example of such a transformation, having evolved from being one of Europe's poorest countries to one of its richest. Such economic benefits became evident once again after the enlargement round that integrated countries that had freed themselves from Communism at the beginning of the 21st century. The successes of the European project in this regard can be measured by the keenness shown by some of its neighbours - the remaining Balkan states and even Turkey and Morocco to join it.

The EU has struggled in the face of globalisation, which has brought both benefits and challenges, but there is little doubt that the EU acts as a kind of shield allowing its members to better face the external challenges. Without a more integrated Europe, it would have been much more difficult for individual countries, even strong economic powers such as Germany, to confront those challenges.

2.2.3 Regional and local democracy: a key factor of European democracy

As mentioned in chapter 1, liberal representative democracy developed with the arrival of the nation-state. European 'transnational democracy' has introduced a new way of complementing this. But, since the 1980s, there has been a greater awareness of other expressions of democracy such as regional and local democracy. The Congress of Local and Regional Authorities of Europe, a branch of the Council of Europe, has produced important texts such as the European Charter of Local Self-

government that recognise the democratic legitimacy of local government, whose prerogatives sometimes need to be protected against encroachments by the national (or regional) levels of government. In the EU, the subsidiarity principle, which is enshrined in the Treaties, has taken this further, as described below and in Chapter 3. There has been growing awareness of the need to close the trust gap between the EU institutions and the citizens. In this context, there have been calls for subnational authorities and regional and local politicians, as the political actors closest to the citizens and who enjoy the highest trust rates, to be involved in the process of EU policy making. At the time of the Maastricht Inter-Governmental Conference, a vast mobilisation of regions across Europe attempted to include some form of 'Third Level' of EU governance, which would give regions an entrenched constitutional place at the EU decision-making table. This failed partly because it would have obliged Member States to go for a far-reaching harmonisation of government structures.

The compromise was to create the European Committee of the Regions (CoR) as a consultative body with the same constitutional status as the European Economic and Social Committee (EESC). Nevertheless, the CoR has developed along very different lines than the EESC. First, it is composed of directly elected regional and local politicians and, as a result, has a democratic legitimacy that the EESC lacks. Second, following the Lisbon Treaty, its institutional role and functions have gradually increased in importance and it is now, with the European Parliament and national parliaments, a 'guardian' of the principle of subsidiarity with the right and duty to defend subsidiarity and its own prerogatives before the European Court of Justice. Third, the CoR represents the level of democracy that is closest to European citizens. Although there is little likelihood that its constitutional status will be radically altered (this would require a major Treaty change) there is still room for enhancing its role within the parameters that have been laid down by the existing Treaties.

Finally, mention should be made of various experiments in cross-border cooperation across Europe that have modified the central position of the nation-state and encouraged a wider European perspective on public matters. These have the potential for further experimentation in democratic governance and finding new ways of tackling issues that transcend borders. In this area, the CoR has shown not only creativity but also a considerable impact on European legislation. The creation of the 'European Groupings of Territorial Cooperation' (EGTC) as legal entities in 2006 was the direct result of a legislative proposal of the CoR that allows regions and local authorities to work together across borders in their areas of competence without prior authorisation of the EU Member States. It has been a major step in furthering European integration. Today, more than 80 EGTCs exist. Another interesting example is the 1998 Good Friday Agreement in Northern Ireland which created a set of institutions, partly modelled on those in the EU, designed to overcome the conflicts within Northern Ireland between the Republic of Ireland and the United Kingdom. What made this agreement possible was the simultaneous membership of the EU by both Ireland and Britain. This allowed the protagonists of the conflict to develop new ways of thinking about concepts such as national sovereignty, territory and, indeed, borders. Of course, this is now threatened because of Brexit and the difficulties of the land border between both parts of Ireland.

2.3 The birth of a new form of European Transnational Democracy

Democracy at the European level is a system of checks and balances, reflecting the dual nature of the EU: a union of states and peoples as well as citizens. This system arose progressively over the years, following Jean Monnet's method of small steps and functional reform.

History could have gone a different way if the projects of a Political Community and a Defence Community that were set up alongside the European Coal and Steel Community in the fifties had succeeded. In that case, the EU might have developed in the direction of a federal state in the shape of the United States of Europe. Thinkers like Altiero Spinelli tried to revive this idea in the 80s. While this did not lead to a fundamental change of direction, it undoubtedly had an effect in terms of strengthening the federal elements that are part of the EU system, like the passage towards full co-decision for the European Parliament together with the Council. However, the strong pushback from de Gaulle and many others emphasising the key role of the nation states in the European integration process has led to a constant creative tension within the system, leading to the development of a new form of political entity.

The EU is not a state like France and Germany, but neither is it a simple international organisation like NATO or the UN. It departs from the realist Westphalian model of international relations, which sees states as possessing a Bodinian model[10] of absolute indivisible sovereignty. This understanding of the state at best allows for the setting up of organisations among sovereign states, commonly referred to as inter-governmentalism. The Monnet approach avoided this by concentrating on how functions such as coal and steel production could be shared across states via the pooling of sovereignty. This led to a series of pragmatic steps based on the objective of an ever-closer union of peoples. The Monnet method thus avoided the conflicts about sovereignty that characterised 'high' politics and allowed for the creation of a new unique legal order.

2.3.1 A remarkable journey towards a new legal order

It is important to recall the key steps that have transformed the Union into a new legal order over the years:

- The creation of the ECSC in 1952 introduced the notion of shared sovereignty. This is a clear departure from the Westphalian and Bodinian model which sees sovereignty as indivisible, supreme and absolute and linked exclusively to the nation-state. The management of coal and steel policies was transferred to the new Community with a major role for the newly established supranational 'High Authority', the precursor of today's Commission. The latter was called to work closely with the Council of Ministers, composed of the representatives of the national governments. A Parliamentary Assembly (later the European Parliament) played a consultative role. An independent Court of Justice was created to interpret the law in areas of Community competence.

[10] Bodin's central idea is that **sovereignty must be absolute, perpetual, and undivided**. He recognised that his rejection of mixed sovereignty ran counter to the political theory of Aristotle and Polybius and apparently contrary to Greek and Roman political practice. https://arcade.stanford.edu/rofl/jean-bodin-sovereignty

- In 1963, the European Court of Justice, in the *Van Gend & Loos* case, stated that the European Community had created a new autonomous legal order of international relations. A year later, in *Costa versus ENEL*, the Court underlined the direct effect of EC legislation and insisted on the primacy of EU law over national law in Community matters. This jurisprudence has been tacitly accepted by the Member States even though it has led at times to questioning by some of the constitutional or supreme courts in Germany, France and two or three other countries. Today, the constitutional tribunal of Poland again raises this issue, albeit in a different fashion.
- In 1979, the first direct elections to the European Parliament provided a new conduit for citizens across Europe to make their voices heard in the shaping of European integration. The precise modalities of how the elections are conducted are left to the Member States. Issues like decreasing voter participation are similar to those experienced in local and national elections.
- The Maastricht Treaty charted the course towards a new single currency, which was a revolutionary move towards more integration. It also created a new European citizenship, which is additional to, and does not replace, national citizenship. The Maastricht version of citizenship was focused on cross-border activities only. The Treaty was also important because it added the Social Protocol, with an opt-out clause for the UK. Finally, it followed the example set by the Single European Act of 1986 in introducing more Qualified Majority Voting (QMV), in increasing the role of the EP, and in adding new competences.
- The Amsterdam Treaty continued in this line. It introduced the concept of democracy directly into the Treaty.
- The Charter of Fundamental Rights, solemnly proclaimed at the 2000 European Council in Nice, symbolises the emancipation of the citizen in the framework of the Union.
- The Lisbon Treaty highlighted the importance of democracy and the rule of law. It went a step further by introducing a new procedure to sanction serious breaches by Member States of the values referred to in Article 2 TEU (new Article 7 TEU). This leaves Westphalia behind and reinforces the need for a positive definition of what the EU is. Lisbon also generalises co-decision as the default mechanism for adopting legislation. This procedure requires a proposal by the Commission (sole right of initiative) and agreement between the Council (QMV) and the EP (majority voting).
- In recent years, the ECJ has developed its own interpretation of what the EU is. In its jurisprudence, it states that citizenship of the Union is intended to be the fundamental status of nationals of the Member States, thus removing the cross-border limitation. National laws cannot deprive citizens of the rights that go with EU citizenship. In the *Puppinck* and *Junqueras* cases of 2019 it declared that the EU is an autonomous democracy, which is one of the core values on which the EU is founded.

2.3.2 A transnational democracy

The EU is in fact a new kind of legal order that can be defined as a form of transnational democracy based on states on the one hand and peoples as well as citizens on the other. The organisation of democracy within the states and the functioning of democracy at the EU level are different, although both are democratic: national democracy is mostly based on a parliamentary majority system (with

some EU Member states having a presidential or semi-presidential system), while the EU functions as a system of checks and balances where the voices of the states are expressed via the Council and the European Council by the national governments (democratically elected of course) while citizens are given an additional possibility to influence the work of the EU via the directly-elected EP. The Commission is a supranational and independent institution that defends the common European interest and has three principal roles: the sole right of legislative initiative, the guardian of the Treaty, and the executive body in some areas. This arrangement has allowed the Union to develop in a most remarkable way over the past decades. It is moreover a system that lends itself to progressive reform and improvement.

The EU has thus departed from the Westphalian system of international relations that has dominated public discourse since the 17th century. Because the development towards a very different model of relations within the EU has been gradual, based on a pragmatic approach, so far the significant departure of the EU from the Westphalian model has not really been conceptualised in a clear and generally accepted fashion. It has not found its right place in the "either-or" world of public discourse and academic research: it is neither a federal state nor an international organisation. Neither category aptly catches the essence of the Union. This way of looking at the Union has made it very difficult to communicate correctly about it. As de Tocqueville once famously remarked "it is often easier to make something new than to find the appropriate term for it."

In the light of these developments, it is legitimate not only to talk about a Union of liberal democratic states (Democracy ***in*** Europe) but also about a transnational democratic Union (Democracy ***of*** Europe). It is time to align the theory to the practice, rather than trying to squeeze the practice into an artificial theory. This would allow for a more serene debate based on a sound understanding of what the EU is today and open the way for a serious discussion of possible further steps and reforms to reinforce democracy in and of Europe.

2.3.3 The need for an informed debate on future developments

The description of the present situation does not preclude a possible future change of direction including possibly towards a more federal Europe. This would necessitate a fundamental change of the present Treaties and the functioning of the European Union. It should be done in the open, and not by assuming that the present construction is federal in nature and 'interpreting' the treaties in that direction. The idea of the *Spitzenkandidaten* mechanism is a good example of this kind of approach. It arose before the 2014 EP elections for three reasons: to make those elections more relevant for the voters; to give more visibility and legitimacy to the President of the Commission; and to increase the weight of the EP in the inter-institutional power game. It worked to some extent because, with Jean-Claude Juncker, the European People's Party chose a candidate who had for years been part of the European Council. In 2019, the new President was not one of the *Spitzenkandidaten*. The European Council considered that there was no automatic link between the elections to the EP and the designation of the President of the Commission. The Treaty (TEU Art 17.7) reads as follows: '*Taking into account the elections to the European Parliament and after having held the appropriate consultations, the European Council, acting by a qualified majority, shall propose to the European Parliament a candidate for President of the Commission. This candidate shall be elected by the European Parliament by a majority of its component members*.' The Treaty thus foresees that the European Council chooses a candidate based on a range of criteria and that this candidate then needs

the endorsement of the EP. This is another reflection of the dual nature of the EU. Creating an automatic link between the EP elections and the choice of the Commission President would move the EU closer to the functioning of democracy at the national level. This debate will certainly continue in the coming years.

The EU should be judged against the yardstick of what it is according to the Treaties rather than what proponents of federalism, or for that matter pure sovereigntists, think it should be. The notion of a 'democratic deficit' in the EU is based on the belief that the EU can only be democratic if it becomes more like a state and if the European Parliament becomes the primary source of democratic legitimacy in the construction, or, looking at it from the sovereigntists camp, if it reverts to a simple intergovernmental organisation. Both views underestimate the degree to which the EU has managed to create a new legal order.

2.3.4 The principles of subsidiarity and proportionality

In a Union of states and peoples it is important to well define the responsibilities of the various layers of governance. That is why the principles of subsidiarity and proportionality enshrined in the treaties are so important. We will focus mainly on the former. In areas of non-exclusive EU competence, the EU can only act if the objectives of the proposed action cannot be sufficiently achieved by national or local institutions. It is important to point out that the principle of subsidiarity is a two-way street and that it is complemented by the principle of proportionality. If the national level is not the adequate level to handle an issue, it is logical to deal with it at the EU level. Subsidiarity is about acting at the level that provides the most efficient response to a problem and should be as close as possible to the citizens. This raises the issue of the interaction between the EU, national, regional, and local levels, which is called the system of multilevel governance. How to further develop these principles is elaborated in Section 3.2.3.

2.4 Conclusion

The EU is a unique construction that arose in reaction to the lessons learned from the two World Wars. It is based on core values like liberal democracy, the rule of law and human rights. Its governance structure is defined by a democratic model that is exercised in two ways: all the Member States are functioning democracies, the great majority of which are based on parliamentary majorities; at the EU level, transnational democracy is expressed by a system of checks and balances catering for the dual nature of the EU, a union of states and of peoples (or in fact citizens).

The perception of the EU by many citizens, however, is a different one. There clearly is dissatisfaction with the way European democracy functions in practice. To a large extent this dissatisfaction is related to the same problems as in nation-state democracies. This should instil some realism into the hope that European democracy can be improved by becoming more like a nation state democracy. That is why it is so important to start with an explanation of why the EU is as it is, why it has the institutions it has, and which checks and balances it needs to cater for the interests of all. This would make it easier to reinforce legitimacy and democracy by working on more traceable political processes which involve all the various layers of governance in Europe. It is necessary to be far more robust in challenging the assault on the EU's legitimacy, while at the same time ensuring a better and more transparent functioning of the European model of democracy.

3 WAYS AND MEANS OF STRENGTHENING DEMOCRACY IN THE EU

3.1 General Answers

3.1.1 The scope for action

Having better assessed the very nature and scale of the so-called *democratic deficit*, the ways and means of enhancing the Union's democratic legitimacy will be explored while keeping in mind the following factual considerations**.**

National states are and will remain, at least for a long time, the centre of democratic life. The large diversity of their *democratic systems and political traditions*, guaranteed by the treaties as far as they respect basic principles, is an expression of the general motto "unity through diversity" and cannot be called into question.

There is a general feeling among the members of the HLG that the answer to the problems that "democracy **in** the EU" and "democracy **of** the EU" are confronted with – especially representative democracy - must be found in the framework of the present treaties for two main reasons**.** Firstly, the extreme difficulty of getting any consensus in an IGC on the content of any substantial change to the present treaties, as well as the risk - if by chance such a result would be attained – of likely rejection by the people in referendums some Member States would be obliged to organise. The scars of past failed Treaty reform referendums are not yet healed. But secondly, the main reason why this hazardous route has to be avoided lies in the fact that there are other ways of dealing with the present difficulties.

In conclusion, it appears that, for different reasons, with regard to both "democracy in Europe" and "democracy of Europe", the margin for introducing Copernican - or even significant structural changes - is very narrow. **This is why the reflection has turned towards more realistic and pragmatic improvements based on general objectives that are compatible with the legal and political constraints that are not likely to disappear**. Treaty changes are not an end in themselves (while some very limited changes could be envisaged at the end). There is scope for improving substantial aspects of EU governance within the existing framework by getting more from what is already there and making it work better. Therefore, we should start by looking at possible reforms within the present system and do so with an emphasis on strengthening the links and synergies between the various layers of governance, including the local and regional ones. The following lines of thought could be pursued in this context.

3.1.2 Reducing the gap between the citizens and the decision makers (input democracy)

A common feature of the various efforts towards improving democracy is to reduce the growing gap between the rulers and the governed and to put the citizen once again at the very heart of the democratic process**.** To this end, it is necessary to restore the feeling that the citizen is an integral part

of decision-making and that their voice matters, contrary to the sense of helplessness and alienation from politics that prevail today. The realisation of this objective means that the citizen must be empowered both to shape their future and to be protected against the misappropriation of democracy that some see as, among other causes, linked to the new digital world (see above). Ironically, the fact is that today many citizens demand more democratic participation, but at the same time vote for parties that see democracy purely as an instrument to gain power, without agreeing to its underlying values, thus endangering our open society. The root causes of this paradox have to be identified and addressed.

One of these causes is the negative feed-back loop between social exclusion and political participation. Social disparities are a handicap for the good functioning of democracy because people from disadvantaged backgrounds are often not sufficiently equipped to participate in the political debate (which is often too abstract or too distant for them) and are tempted by abstention or simplistic solutions. This is why the excluded tend to abstain in electoral and other platforms of public debates and consultation and why this absence hinders the possibility of putting their demands onto the political agenda. As for the middle classes, if they do not give up the political scene, they are too often tempted by the trap of electoral overbidding and populism.

To overcome those handicaps, democracy has to be more *inclusive.* How? The first answer lies in the development of a *social policy* that effectively responds to various current challenges in society. Even if Member States are at the forefront of coping with these challenges, they must be able to rely, to a certain extent, on determined and targeted action by the EU, whose *social dimension* does not meet the expectations and the objective needs linked with the impact of other EU policies on citizens.

At the same time, it is important that political leaders and officials use language and concepts likely to be understood by everyone. EU affairs and political processes have to be more traceable, both internally and at EU level. It is also important to enable citizens to express themselves in their own words and receive feedback in the same plain and direct way. This inclusiveness should also be sought throughout the lifetime of the citizen through better *education, training and information.* In this respect, a determined fight against disinformation and aggressiveness, as well as the development of a culture of dialogue and moderation is of the utmost importance, including outside the political structures, in particular in the education sector and in private companies. As far as *information* is concerned, it is important to keep in mind that too much information kills understanding and that quality matters more than quantity. Language that citizens understand must be used. The EU should listen to citizens and citizens must be in a position to understand what is said and/or decided at the European level.

The promotion of European values should be developed in close partnership with local and regional authorities, by relying on the common European cultural heritage and through education. European civic education modules should be developed and deployed at all levels of education, and Erasmus and Creative Europe-type programmes should be adapted to different needs, ensuring modalities for everyone and focusing on enhancing European democracy and the capacity to make the most of digital tools.

Finally, among the stakeholders of all these efforts to restore the true and original meaning of democracy, one cannot forget the political parties which have a decisive role to play in explaining to

the citizen the economic and political realities of today's world and showing, in this context, the irreplaceable value of the European project. Among them, there is of course a specific role for the *European political parties* to mobilise citizens in support of the European cause.

3.1.3 Responding to the concerns and the needs of citizens (output democracy)

Beyond institutional quarrels inaccessible to ordinary people, EU policies have first and foremost to be geared towards responding to the concerns, needs and interests of its citizens. This does not necessarily mean a change in the respective competences of the EU, its Member States and the subnational levels. There is indeed sufficient flexibility in the interpretation of the present system to allow an adaptation of EU action to the reality on the ground (*dynamic interpretation).* In this respect, lessons should be drawn from the handling of recent events such as the 2008 Great Recession and the current COVID-19 pandemic. The adoption of a massive recovery package, the development of joint procurement of vaccines and the rapid issuance of an EU Covid vaccine certificate have shown that innovative and efficient action can be taken within the present institutional framework *if the political will is there to do so.*

With this in mind, there is a need for further work on the EU's resilience and capacity to act. In the specific case of health, the idea of a *Health Union* should be further explored, as well as some *dynamic interpretation* of the treaties in the field of security and defence policy, strategic autonomy (*e.g.* in economic, energy and digital policy), migration and asylum policy and climate policy.

More generally, opinion polls conducted regularly by the Eurobarometer, as well as a recent poll among elected local politicians, show us that the primary concerns and expectations of our citizens in their day-to-day life are wages, jobs and social justice. This cannot be ignored and, although Member States are at the forefront on most of those issues, the EU has an important role to play by creating an environment conducive to the progress necessary in order to secure citizens' support. Showing in practice that democracy can deliver at all levels of political decision-making is key to the success of the present exercise. If at some stage this requires some limited treaty change, this could be envisaged (as for instance with Article 136 TFEU during the euro crisis).

3.1.4 Improving the Union's decision-making capacity

In order to deliver, the EU must be able to decide. That is why the EU should take a fresh look at its governance and its procedures. This should encompass a well-functioning executive capacity and a close interplay between Brussels, the national and the regional levels. Some blockages can be removed by using potentialities offered by the present treaties ('les passerelles') to extend QMV in certain strategic areas. Other instruments or procedures included in the present treaties, like increased differentiation, reinforced cooperation or constructive abstention (this concept is coming back in current discussions on the 'boussole') could also help in finding quick and flexible solutions to overcome blockages, provided there exists a minimum of common will to use them.

In order to establish this political will, a political undertaking by the Member States to work in this direction could be one of the outcomes of the COFE. *A contrario*, the objective of fostering the decision-making capacity pleads for a certain caution in the temptation of adding new constraints like additional mandatory consultation requirements.

3.1.5 Enhancing the role of regional and local authorities in general

All the above-mentioned priorities should be applied to all levels of governance to renew the European multilevel system of governance. Increasing citizens' proximity to decision-makers by enhancing the influence of the local/regional level in policy cycles must be a constant concern of political leaders. At the same time, it is important to keep in mind that the design of internal decentralisation falls within the exclusive competence of the Member States, with the consequent inevitable heterogeneity. Direct democracy and local democracy are understood and experienced differently in different Member States. Regardless of the different traditions and cultures of the Member States in this respect, it is generally recognised that power-sharing between the centre and regional/local levels (*multilevel governance)* is a source of scale savings, while at the same time allowing for a better adaptation of legislation to the needs of sub-national authorities.

Closer to the citizen by definition, more efficient, and more accountable, *multilevel governance* (with its four interlinked levels - the EU, Member States, the regional and local levels) is a distinctive feature of European democracy that must be kept in mind and encouraged as a privileged instrument in any development arising from these reflections. This general instrument (MLG) must be used on the basis of a *common methodology* to be defined and developed in close cooperation with the European Committee of the Regions, whose specific role must be recognised and duly supported in applying these principles on the ground (platforms etc.). By this logic, all debates held at local or regional level whose scope extends beyond the Member State concerned must be connected in one way or another with the debates that happen at the European level. The European multilevel system of governance, the upward and downward interaction between the different levels, should be stronger and better organised. Furthermore, the European Groupings of Territorial Cooperation (EGTC) addressing problems of common concern should be encouraged and supported.

3.1.6 Enhancing the direct involvement of the citizen in the democratic process

Increased direct citizen engagement in democratic processes (i.e. the introduction of elements of *participatory democracy*) is often cited as an effective response to the declining trust in democratic institutions. New forms of participatory democracy should form part of the solutions to strengthen the resilience of institutions against increasing pressure on democratic models of governance and values.

In this context, the following *concrete initiatives* are worth looking at:

- Creating *panels* to discuss initiatives and ideas for reforms, which is *inter alia* a means to enable citizens to express themselves in their own words. Their findings should be made public and transmitted to the responsible authorities. In the same spirit it could also be useful to explore the idea of *local hubs* to disseminate and discuss EU issues at the regional and local levels, provided they are organised using digital tools, maybe combined with existing infrastructures, and avoiding bureaucratic burdens. It is important however, in both cases, to be very clear that the final decision-making responsibility lies with the elected political authorities.
- Reflecting on the means to improve the use of the *European Citizens' Initiative* (ECI), which has not worked very well so far, whether due to the very limited number of initiatives or the

themes addressed or insufficient information and understanding about the aims and the benefits of each initiative. Improvements can possibly be achieved by lowering the thresholds to make use of this procedure. At the same time, some risks linked to such a lowering have been pointed out, like distracting the ECI from its purpose for the benefit of particular interests. Another idea would be to link the *European Citizens' Initiative* procedure with a specific *deliberative process* to allow for a preliminary and contradictory examination of the feasibility and adequacy of the initiative by a panel of European citizens.

- Emphasising the importance of associating the local and regional levels *in the implementation of EU policies* or initiatives having a regional dimension, such as structural policies, education, culture, social services housing, environment etc., while respecting the rights of the Member States to organise their own decision-making procedures. This association will highlight the positive features of each level, the potential effects of EU measures on the local and regional economies, and possible cross-border projects and cooperation. In general, better inserting the European affairs dimension into the institutional frameworks of the Member States can help to address some of the blind spots of the system.
- Using the experience and lessons drawn from the *Conference on the future of Europe*. The COFE is an excellent forum for defining new and better ways of ensuring participatory/deliberative democracy and establishing an *ongoing dialogue* with citizens. In particular, the concrete proposals from the European Citizens' Panels must be duly assessed and considered in the follow-up and implementation of the Conference's outcomes and recommendations. In this context, one could imagine the creation of permanent or semi-permanent EU mechanisms modelled on the one used in the Conference on the Future of Europe (perhaps in a simplified form), provided they will be found to have worked well. While these innovative procedures are important in revitalising democracy, it must be kept in mind that they are additional and complementary to representative democracy, which is and will remain the key mode of our democratic functioning.
- As regards representative democracy, besides the aforementioned general objective of narrowing the gap between the citizen and the decision-makers and to better educate and inform the citizen, it could be interesting to explore how to improve its functioning, for example by using new e-facilities more systematically in voting processes. In this context, the question of more ambitious reforms also arises, such as the lowering of the voting age to 16 years whose merits should be examined.

3.1.7 Reassessing the role of civil society and the media

While the treaties recognise civil society's role in the EU's good governance and stress the need for the EU to have an open, transparent and regular dialogue with societal organisations, it seems that, to some extent, civil society is becoming marginalised. This is regrettable given that, when democracy is under pressure, the media, journalists, and civil society in general, are those most targeted.

Free, plural and quality press at all levels, including the local level, is a key infrastructure for democracy, and even more so in an era of pervasive internet-based social networks and powerful platforms financed by advertising and executed by untransparent algorithms.

It is therefore necessary to examine what new challenges civil society organisations are now facing, how those challenges are affecting their efficacy and even their very existence, and how they can react to them. Among those challenges are funding access, the legal framework and regulatory pressure, participation (lack of access to policy-makers) as well as, in certain-cases, harassment and intimidation.

3.2 The specific role of the European Committee of the Regions

A consequence of the probability of the unchanged treaties scenario is to exclude *de facto* any *formal substantive involvement* of the European Committee of the Regions, or any Local and Regional Authorities, in the EU decision-making process (like co-decision, vetoing, green card procedure, a 'tri-cameral' structure, etc.) beyond what already exists today. At the same time, it has to be pointed out that the CoR has the undeniable advantage (1) to be composed of elected representatives, which gives it the same democratic legitimacy as the other major institutional players in the EU system, (2) to be directly connected to and, to a certain extent backed by, all local and regional authorities in the EU, and (3) to be the voice and the natural spokesperson of the regional and local authorities. This privileged position has to be used, on the one hand, to create a unique influential network mobilising the more than one million locally-elected politicians and, on the other hand, to consolidate its position in the institutional game.

3.2.1 The CoR as the heart of an exceptional network of locally-elected politicians

The current debate on democracy in and of the EU provides an opportunity to recognise and enhance the central role that the European Committee of the Regions could play as both a *coordinator* and a *communicator* between the sub-national levels, the citizens and the EU. This task consists above all of circulating information in both directions (upwards and downwards) i.e. by making the EU institutions aware of the citizen's state of mind, choices and expectations and by informing citizens of the various general challenges faced by the EU as well as specific proposals to answer their concerns. For the sake of efficiency, this pivotal role, more or less informal until now, could be better framed and structured by giving the CoR the necessary means to establish permanent points of contact and coordinating bodies. It will promote a greater ownership and understanding of what the EU does and enable politicians in local and regional institutions to be more effective ambassadors of the EU.

3.2.2 The CoR as a political institution, with an upgraded role

Looking at the **four main stages of the legislative policy-making cycle**, some examples of how to better engage the CoR in the short to medium-term, which could be implemented through inter-institutional agreements, include:

a) at the preparatory stage:

- Greater involvement of the CoR in the annual and multi-annual planning, agenda and priority-setting processes, such as those foreseen under the inter-institutional agreement on better law-making (IIA) – e.g. the annual Joint Declaration on Legislative Priorities or the multi-annual Joint Conclusions on policy objectives and priorities.

b) at the decision-making legislative stage:

- When consulting the CoR, the consulting institutions should be required to respect the CoR's institutional competences, under the principle of sincere cooperation, notably by giving clear reasons for adopting or not adopting the CoR's main recommendations;
- The CoR should be more involved in the design of policies and legislation in areas like EU asylum and migration policies and activities, CAP and fisheries, environmental, climate and energy policies, as well as any other issues that have significant financial obligations attached to them;
- The CoR should have a greater and more meaningful participation in the European Semester process, which is growing in importance as part of the EU's overall policy coordination and has implications for all levels of governance.

This greater *upstream* involvement of the European Committee of the Regions in the preparation, shaping and drafting of legislation is considered as essential to consolidate and strengthen its role. A decisive step must be taken in this area by adopting ambitious measures, which could be applied initially in the form of pilot projects or tests.

c) at the implementation stage:

- The principles of multi-level governance and partnership should be expanded and incorporated into the legislative and regulatory provisions of all policies that have a regional impact, as they currently are within EU Cohesion policy. This would ensure their more consistent application in a larger number of policy areas. The CoR has called for the codification of the principles of multi-level governance and partnership in an *inter-institutional Code of Conduct*, and for them to be reflected in the Inter-Institutional agreement on Better Law-Making.

d) at the evaluation stage:

- More direct feedback on the implementation of EU policies and legislation at local and regional level would improve their quality and legitimacy and would promote simplification and inter-regional knowledge-sharing when implementing and further developing EU policies. The CoR's RegHub initiative, consisting of a network of regional hubs reviewing EU policy implementation, fills this gap and EU institutions and decision-makers have welcomed its work. With the necessary resources, this model could be scaled up, and the CoR could play a stronger role in more systematically upstreaming the return of experience 'from the ground' into the EU policy-making process.
- Impact assessments carried out before a revision of EU rules or programmes should be more focused and timelier in taking on board input from the regional and local levels.

3.2.3 "Active subsidiarity" as a general means of achieving those objectives

Alongside the national parliaments, the CoR has an important role in ensuring the respect of the principle of subsidiarity. National parliaments are involved in the subsidiarity process via the *Early Warning System.* The European Committee of the Regions can bring an action for annulment to the

European Court of Justice on the grounds of subsidiarity being breached. It is however difficult to legally measure whether Member States can better achieve a policy's objective rather than the EU. The Court's control of subsidiarity action thus remains rather theoretical. Therefore, it would maybe make more sense if the CoR could also be part of the Early Warning System that provides a more political route towards ensuring subsidiarity.

A second route that could be pursued would be to work on the basis of what some analysts have called *active (or constructive) subsidiarity*. One theoretical option could be to *rewrite the subsidiarity provisions of the Treaty*, with the local level being assumed as the primary level of policy responsibility unless clear reasons and evidence for EU-level action are presented and considered convincing. But this approach has little chance of success considering the existence of very different opinions around the substance, the extreme political sensitivity of the matter and the more or less agreed renunciation of modifying the treaties. Therefore, it is better to follow a more *realistic* option aimed at consolidating the position of the Committee of the Regions as a *stable actor at the pre-legislative stage* (see above). To this end, the CoR needs to negotiate the terms of an ambitious *inter-institutional agreement* with the European Parliament, Council and European Commission including a clear mention of the principle of systematic *local/regional impact assessments* for all policy areas. This clause will be of the utmost importance to allow the effectiveness of the 'political' subsidiarity checks and even, to a certain extent, to give the ECJ new means of ruling in full knowledge of the facts. In general, the European Committee of the Regions should work to establish regularised access avenues to the European Commission, a permanent European Committee of the Regions/European Commission joint working group being the best way to achieve this special access.

More generally, the principle of subsidiarity should be reinforced by better incorporating sub-state and national authorities in the legislative and policy implementation cycle as a whole. In full respect of EU decision-making processes and in full respect of the different national systems, the inclusion of all levels of government in European affairs has to be granted. As the Charter for Multilevel Governance (CoR 2014) underlines, this can foster an EU mind-set in our political bodies and administrations.

3.2.4 Improving the output of the CoR and its role in the overall European decision-making process

The reinforced position of the CoR in the legislative process must logically go hand in hand with the improvement of *the quality of its opinions,* which have to be as evidence-based as possible, underpinned by solid, context-sensitive research, including studies, surveys, consultations, etc. Moreover, the CoR has to be more creative about how and to whom the opinions are disseminated. Opinions that are delivered quickly and contain high-quality information are seen as valuable by other EU institutions, are more likely to end up in the text of the final policy output. In addition, the CoR must be provided with adequate human and financial resources to enable it to carry out this enhanced role effectively in the decision-making process.

The dialogue with national parliaments/COSAC, which are the natural allies of the CoR, must be developed and become more structured. Indeed, both share the same distinctive quality that they are composed of elected representatives who are best placed to understand the complex relationship between the Union's sphere of action and national realities. To this end, the European Committee of

the Regions should have regular and formal contacts and conduct negotiations with national parliaments through its network, as well as with COSAC, its main interlocutor at European level. Working together could lead, among other possibilities, to joint reporting on the issues of citizens' fundamental concerns and common reflection on ways to accommodate them through European initiatives.

Another concrete measure in view of enhancing the collaboration between the two levels of democratic life in the Member States (national and regional) could be to better articulate the European Committee of the Regions with the Early Warning System. This would require *inter alia* extending the period of eight weeks given to national parliaments to produce a reasoned opinion on subsidiarity (Protocol 2, TEU - Art 6), thus allowing local administrations and the CoR more time to lobby and channel their opinions to national parliaments and COSAC.

After all, European legitimacy is the sum of democratic legitimacies that reinforce each other. The EU is more than its 27 Member States. It is also its 242 regions and 90,000 local authorities, with over 1 million local and regional elected representatives who can provide an essential link between the EU and its citizens. Within the different constitutional frameworks regulating the division of powers, a proper application of multi-level governance and subsidiarity is key to ensuring that shared competences are exercised at the level or levels most capable of producing added-value for citizens and through coordinated, effective and efficient decision-making processes.

Reflecting this multi-level nature of European democracy, some improvements can be made within the current treaties which can strengthen the links and synergies between the various layers of governance. In doing so, it is important to ensure that local and regional authorities, and the European Committee of the Regions that represents them, can participate structurally in the shaping of European policies throughout the legislative cycle, with the objective of increasing the added-value of EU legislation for citizens.

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European Committee of the Regions

The European Committee of the Regions (CoR) is the EU's political assembly of 329 regional and local representatives from all 27 Member States. Our members are elected presidents of regions, regional councillors, mayors and local councillors - democratically accountable to more than 446 million European citizens. The CoR's main objectives are to involve regional and local authorities and the communities they represent in the EU's decision-making process and to inform them about EU policies. The European Commission, the European Parliament and the Council have to consult the Committee in policy areas affecting regions and cities. It can appeal to the Court of Justice of the European Union as a means of upholding EU law where there are breaches to the subsidiarity principle or failures to respect regional or local authorities.

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