

Rethinking and Reshaping Europe. Proposals for a Refounding of the EU

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Mehr Demokratie e.V. (More Democracy)

Arbeitskreis Europa und Welt (Research Committee Europe and World)

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The New Europe: Democratic, Lean, Decentralised

Despite the conflicting interests that may exist in our daily lives, we, the citizens of Europe, share many common tasks and issues. Therefore, we wish to commonly find solutions and to be able to help each other. We all live in the same house, our "European House". Therefore, we have to talk to each other about the construction plan for this house. The construction plan consists of the basic principles and values and the institutional and procedural rules according to which democracy on European level should work.

We are aware that the current EU is already today an entity of its own type. It is the only transnational unit with legislative competence. There weren't any models for the development of a European democracy. There won't be any models either for the further advancement of a European democracy. We need to be creative and invent something completely new, just as the nation state was invented more than 200 years ago.

A redesign process of the EU will only succeed if it differs significantly from the path followed so far. We will need to discuss a redistribution of power between the four political levels (municipalities, regions, nation states, EU). The objective must be to transfer competences back to levels closer to the citizens. We see both the EU and the nation states have duties in this decentralizing process. The power accumulated at EU level requires stricter legitimisation than before. We therefore propose the following pillars for our European house:

1st Pillar: EU Constitution Adopted by the Citizens

The weight, the density and the frequency of decisions being made at EU level, that have a massive influence on all of our lives, require political power at EU level – within an EU Constitution – to be better legitimised than today.

a) The Constitution as the "Foundation" of the New European Union.

The unification of Europe must take place on the basis of common principles, as commonly set out in a constitution. This constitution is based on the customary principles of human rights, freedom and democracy, the rule of law and the separation of powers. The EU Charter of Fundamental Rights should be part of this new constitution. This Constitution will erect an additional political level. However, the member states will not lose their international sovereignty.

b) A Citizens' Convention as the "Builder" of the New European Union.

The new Europe is more than a union of governments too reluctant to surrender their power. The new EU requires a large political mobilisation of citizens, civil society, parties and parliaments and a wide-ranging political debate with a possibility for the citizens to get involved.

The objective of such a mobilisation should be to convene a directly elected constitutional

convention, called by the citizens of the EU – thus a Citizens' Convention. A directly elected convention has the best chance to overcome the concerns and blockades from all political directions and creating a true European Constitution. The outcome must subsequently be submitted to the sovereigns, thus the citizens, in a Europe-wide ballot.

The constitutional process should be transparent and fully supported by digital media. The draft constitution could include voting alternatives. For instance, a final decision on controversial questions would not have to be made in the Constitutional Convention, but could alternatively be submitted to the citizens of Europe. We have included more detailed information in our position paper on the Constitutional Convention.

The citizens would have the final say in the Europe-wide ballot. The draft constitution will be either accepted or rejected by simple majority. In addition to a Europe-wide majority of the voters, a qualified majority of all member states is needed to adopt the constitution. For instance, a majority of two thirds, three quarters or four fifths would be conceivable. The decision on the figure of this qualified majority would be based on the consideration "legitimation" versus "practicability."

If this double majority is not achieved, the constitution will be rejected and a new deliberation and negotiation will begin. If the double majority is achieved, the constitution will enter into force in all member states. Subsequently, the member states where the constitution was voted down will have to decide whether they wish to take advantage of the right to leave and engage in other contractual relationships with the EU.

The entire convention process must be set out in a Convention Treaty to be agreed upon by all participating states before the convention process can begin.

2nd Pillar: Democratically Legitimised Institutions

A large and filigree entity such as the EU requires a well thought balanced power structure. In our opinion, the classic solutions "presidentialism" or "parliamentarism", how they are established in the member states in one form or another, cannot simply be transferred to EU level.

The enormous power of a directly elected head of state, more or less able to act as a "temporary king", lets a presidential system like in the US look little desirable for the EU. Power blockades between the parliament and the president are a further price to pay in a presidential system.

However, a parliamentary system with a majority government elected by the parliament does not seem appropriate for Europe either. There is a risk that the national governments will oppose the European government and that the division between the majority and the opposition will follow national or regional borders, for instance, between southern and eastern Europe or between old

and new EU member states.

Therefore, our proposal follows the Swiss model. Switzerland, the only state in the world without a "proper government" (Nassim Taleb), has established a direct connection experienced by every citizen between the sovereign, the municipalities, the cantons and the Federation.

a) EU Parliament

The starting point for our considerations is the EU Parliament how it functions today. It is the best legitimised institution of the EU. We like the relatively open character of the debates, which are not distorted by the question "are you for or against the government?" This character should be absolutely retained. However, we believe that the EU Parliament should be given the right of initiative in the legislative process and the exclusive budgetary right.

b) A European Senate instead of the Council of Ministers

As all federal states, a new EU will also require a second parliamentary chamber which represents the member states, so that the smaller, less populated states do not fall behind. However, this chamber should not consist of representatives of the national governments, as it is currently the case in the Bundesrat (Federal Council) in Germany or in the current European Council. This intermingles the executive and legislative bodies. These representatives often emphasise the interests of their national governments, whose primary objective is to survive the next elections at home. Finding the best possible solution for the European citizens is only their second priority.

Therefore, we suggest a European Senate as second Chamber of States, which is composed of directly elected representatives (Senators) of the nations resp. regions.

c) An EU Collegial Council instead of EU Commission

At the helm of the EU's executive body – as the European Administration – we propose a Collegial Council, which resembles the model of the Swiss Federal Council rather than the current EU Commission with its members delegated by the national governments. As one of the main concerns of Europe is to represent a variety of nations, regions and traditions, the creation of a majority government, which polarises public opinion, is not an appropriate instrument.

According to the Swiss model, the Collegial Council would be elected every four years in a joint meeting of the Parliament and the Senate (European assembly). The council would be composed of members proposed by the different parliamentary fractions, according to their size – similar to the way committees are currently selected in parliaments. The council as a whole will make the decisions, while the individual members are simultaneously responsible for a specific EU department (equivalent to a ministry). The Chairperson would change annually by resolution of the European Assembly.

3rd Pillar: Introducing Direct Democracy

We are lobbying for citizens' initiative and citizens' referendum at EU level. They are fundamental citizens' rights in modern democratic states, so they should be part of the new constitution. We believe that direct democracy in particular helps to prevent the European political level shutting itself off from the rest of society and becoming bureaucratized.

a) Initiative

The citizens must get the mandatory right to put topics on the political agenda at EU level. They need the right to vote on these subjects if they can't penetrate the institutional structure of the EU. For this purpose the European Citizens' Initiative should become part of a fully valid EU Citizens' Legislation. Thus, the initiators would have the right to strive for an EU-wide ballot, if the Parliament had rejected their Citizens' Initiative.

b) Referendum

The citizens should retain the final say in the legislative process. If a minimum number of citizens demand a "facultative EU referendum," a law decided by the EU Parliament will be put at the ballot. It will only enter into force if the citizens approve it in an EU-wide vote. A third of the nation states should also be given this opportunity. It should be compulsory for constitutional amendments to be put to the vote in an EU citizens' referendum ("compulsory EU referendum").

c) Double Majority

For the EU-wide citizens' decisions, the principle of double majority applies. Thus, in addition to a majority of the voters, a qualified majority of the states must be reached for a referendum and/or public vote to be valid.

4th Pillar: Decentralisation and Regionalisation

Such a large entity as the EU – comprising more than 30 peoples, almost as many member states, countless regions with diverse languages, dialects and cultures – should be as decentralised as possible.

a) An Institutional Structure of an Own Type

The new Europe cannot be a nation state. To us, decentralisation as the fundamental principle of the structure of the state, means that the competences are located at the levels at which they are best processed and managed. In a classical nation state, the power is centralised at the highest level and is only reluctantly given back to the lower levels.

A joint Europe must be an individual construct, which consistently develops from the citizens, with a decentralised structure. Switzerland and as well the extensive municipal democracy in Scandinavia are the most appropriate models for this.

We are therefore lobbying for a strengthening of the municipalities and the regions resp. federal states and for locating the competences at the lowest level possible. We believe that the relevant rules in Denmark or Sweden, where most political decisions are made in the municipalities, are exemplary. The citizens have to manage the fundamental issues of public provisions at the most local level, in a direct exchange of opinions and interests.

b) Catalogue of Competences

The competences at EU level are set out in the constitution in a catalogue of competences. The competence structure should be easier to amend than is currently the case. "Shared competence" (in accordance with Art. 4 TFEU) should be avoided as far as possible, so that the voters will know who is responsible for which policy when they vote. In our view, only few competences would be allocated at the EU level, but these competences should be as comprehensive as possible.

c) Taxes and Finances

Decentralisation also requires that each level has its own revenue, of which it can freely dispose. The numerous funding programs of the EU, which involve the EU level in many details at local level, should be replaced step by step by a fiscal equalisation system. It may be organised similarly as within the nation states between regions (Federal States) and municipalities. This would allow autonomous and democratic decisions in the municipal, regional or national parliaments on how the income from taxation should be spent. We believe the vertical fiscal equalisation of the EU should go directly to the regions, to strengthen their position towards the nation states. Naturally, this requires that the regions have their own parliaments, which can decide on the allocation of the resources.

d) Voluntary Cooperation and Withdrawal

The growing political cooperation between the European states should be voluntary. Thus, it will be possible that only some of the Member States can develop a joint policy in certain areas they agree upon. Consequently, when such a policy comes before the EU Parliament, only MPs from states involved will vote. For instance, if a law concerns the Euro or the Schengen region, all non-Euro, non-Schengen states would only have an advisory function.

Member States should have the right to leave the new EU at any time if a majority of their citizens demands this in a public referendum. Agreements or constitutions without the right to leave are undesirable from a democratic perspective.

We understand decentralisation in a way that allows any administrative unit (municipalities, counties, regions, states) to separate from a superordinate unit – through a citizens' initiative and a citizens' referendum. If applicable, they may merge with another administrative unit.

Additional Issues

Our Position Paper primarily provides indications on democracy, rule of law and the separation of powers. The central issue is to control the power of state and politics. If we want a citizen-friendly development of the European institutions, we must take into consideration that additional problems and power centres exist. Examples of this include:

- the high market concentration in the media, be it print, television, or social media, the commercialisation and some restrictive media legislation, which threaten to limit the freedom of the media
- increasing encroachment of governments on the judiciary branch as currently seen in Poland and Hungary
- the huge influence and disproportionate power of internationally operating commercial enterprises ("global players") who strongly influence the legislation for their own benefit; a development that destroys social equity in our societies and drives an increasing number of people into poverty
- the power of globally operating banks and investors, who are capable to push even governments of large states to decide for their benefit
- the growing gap between the richer north and the poorer south of the EU, which has been aggravated by certain construction deficits of the Euro
- the role of the EU in international trade policy and in international agreements such as TTIP and CETA.

A constitutional framework for Europe should take these problems into account and provide frameworks and limitations for policies at European level. Mehr Demokratie discusses these questions, particularly in the Research Group Europe and World. For us, one major aspect plays the most important role: How to ensure the influence of the citizens in such an environment? The status of this discussion will be published soon.