

### **The New European Parliament: Perspectives, Challenges and Tribulations\***

*With 43.2% the European Parliamentary elections in June 2009 had the lowest turnout ever in EU history, providing the EP with a weak mandate. The biggest winner was the centre-right EPP-ED party who, with almost 36% of all 736 seats, is by far the single largest group despite the withdrawal of the UK Conservative party from the group. The EPP now holds as many seats as the centre-left PES and liberal ALDE groups put together. The balance of power has clearly shifted to the right. The Greens succeeded in increasing their presence from 43 to 53 seats which makes them currently the fourth-largest group. Right-wing, Eurosceptic and populist parties were successful in Austria, Hungary, the Netherlands, Poland and the UK. Times of easy political deals between the two “political elephants”, the Christian-Democrats and the Socialists, are over due to the defeat of the latter and a further fragmentation of the political scene. Other coalitions of the willing will have to be found to drive decisions forth. How efficient can the new European Parliament be? What role can the Greens play? Will the increase of Eurosceptic representatives undermine the functioning and the credibility of the European Parliament? And what impact will the constellation of the EP have on the new Commission?*

On 30 June 2009 the Federal Constitutional Court of Germany ruled that “the European Parliament does not represent a sovereign European people.” This is why it would raise fundamental objections if the EP were to nominate a government equipped with powers comparable to those of governments of the nation states. The ruling raises fundamental questions over the role of the EP in the future and calls for the German national parliament, Bundestag, to take more control of what is happening in Brussels in terms of legislation. Very clear boundaries are drawn for the powers of the EP: it shall have no say over military affairs, taxation and spending, schooling and education, penal law and religious or family issues. After this ruling of the Constitutional Court it is clear that the European integration efforts have their limits. The CC came to this conclusion largely because it regards the EP a “second-order parliament”. One could list a number of shortcomings which the court has also listed. It is more helpful to list the shortcoming that we all know: the EP itself does not elect a government which is normally the main reason for voters to cast their vote.

Given all those shortcomings the turn-out (43%) was not at all that bad. This does not mean that the EP does not have a great problem with legitimacy: only a quarter of the population in some eastern European countries turned up to vote; in Slovakia the turn-out was as low as 19%. Because of this and if in the future the national parliaments

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\* Guest speakers were **Dr. Jochen Bittner**, journalist *Die Zeit*, **Reinhard Bütikofer**, Member of European Parliament (Greens) and **Dr. Julia De Clerck-Sachsse**, research fellow, CEPS. The debate took place under Chatham House Rule. The opinions expressed do not necessarily represent the opinions of the Heinrich Böll Foundation.

will involve themselves more in Brussels, some very tough questions may be asked. The European Parliament is given its last chance to prove its political relevance.

Preceding the next elections there will inevitably be a debate on the question whether an indirectly elected kind of European senate comprised of national parliamentarians would be preferable in order to give the European people more say on European affairs. There are already signs for this debate coming up. *The Economist* has raised the issue and various think tanks have suggested it would be a good idea to dust off this topic.

### **The new European Parliament**

For the first time a serious group of parliamentarians is represented in the EP that opposes the Lisbon treaty and is sceptical about further integration. This is a good thing because it forces the pro-integration parties to come up with better arguments and better justifications for European legislation. It is also good because the EP may lose some of its image as an NGO whose over-arching aim is “internal harmony and European integration”. European politics will become more controversial and thus more interesting for voters, for journalists and for the politicians themselves.

On the other hand one could argue that this outcome, the win of the Conservatives, the emergence of a new Conservative group and the greater distance between Socialists and Christian Democrats and Conservatives will not really change things: plus ça change plus ça reste la même chose. It looks like there will be a grand coalition in favour of Commission president Barroso which will also dominate the parliamentary agenda for the next legislative period. This has everything to do with the fact that the new Conservative group which consists of three parties and various individual members is quite fragile as it depends a lot on keeping the individual members on board.

The fact that the Liberal group did not want to be part of the grand coalition ruled out a strong coalition. We will see even more the sort of fluctuation from policy to policy which is characteristic for the EP but difficult to understand for the public as there is no clear position concerning left and right. There will be, inevitably, a stronger conservative dominance, especially concerning financial regulations; a more market liberal dominance, reinforced by the Swedish presidency that pushes in that direction.

The EU actors need to come to a consensus on the climate change negotiations in Copenhagen at the end of the year. There is a divide in the Liberal group between the more market and more social oriented forces (same within the Christian Democrats). Which means that even within the political groups the political positions are not really fixed. This has an impact on the election of the Commission presidency: it looks more and more clear that Barroso will gain enough support to see his mandate prolonged. It was more than welcome that there was some contestation, but as the Socialists seem to have made a U-turn on this issue – the case can be considered closed. In return they will receive more influence in the EP: the presidency in the second term, and key dossiers in the European Commission. This means that there will be no conservative style “government”, more of a mix.

It may be so that the voter turn-out is a record low, which is a serious problem, however, in the current context of crises participation in national elections is also

decreasing. Still, there is a huge domestic crisis for the EP: the lack of interest and the lack of understanding is a serious problem for the EP. It needs to find ways to politicise more. Debates should be scheduled at a time where most people can watch them and they need to be understandable to the public and no role-call of statements. Problematic in this regard is that the institutional development shows a clear trend to first-reading agreements which privileges finding agreements behind closed doors. The ruling of the German Constitutional Court has not only implications for the German position within the EU, but it also reflects a general trend. The ruling underlines that the national parliament is the ultimate authority, not the European Parliament. There will have to be a fundamental debate on the role of the EP.

### **A Fork in the Road**

One could argue that the European parliament has been off to a good start even though it has not yet come together. The controversy about the Commission presidency shows that there are strong enough forces within the parliament who refuse to do the Council's bidding. And even though the parliament has been described as having low legitimacy because of the low turn-out for the elections, in dealing with the European institutions, the parliament will assert itself without a bad conscience. Standing up to other institutions may actually be part of the solution of the problem of the EP.

Two forces have been strengthened: the anti-European forces and the Greens. It can no longer be business as usual as the Socialists and the Christian-Democrats would like it. Not only the Karlsruhe ruling but also the results of the European elections show that we've had it with bureaucratic incrementalism. We are at a crossroads and as the great baseball philosopher Yogi Berra famously said: "If you come to a fork in the road, take it." This will not only be a fight between bureaucratic incrementalism and democratic participation, it will also be a fight on the very concept of democratic participation.

This is where the ruling of the Constitutional Court comes in. The ruling is contradictory on different levels. There are immediate consequences: on the one hand it gives the green light to the Lisbon treaty, on the other hand it grants new opportunities to obstructionist tactics of the Eurosceptics, e.g. in the CSU, and they have not lost time to use them. Amendments have to be made in German legislation before the general election in September 2009. That is manageable. But there is also a long-term contradiction underlying this ruling which has more negative consequences. On one side it does force the German parliament and the Second Chamber to get involved which is a great opportunity as it will bring European issues to the attention of the average German voter. On the other hand the court has presented a national conservative perspective. When the Lisbon treaty talks about the Europe of citizens, the ruling omits that concept totally and only speaks of a Europe of peoples. This is not a co-incidence, this is a programme. The DNA of this ruling has been infected with Euroscepticism and it will be the basis for much constitutional litigation in the future, which is also the analysis of the German ministry of justice. That may be the most visible, practical effect. But it goes beyond that. The justices of the CC have not been as strict as has been said before: they do not explicitly exclude European legislation on taxation. They just have made it very hard to have any.

The European parliament has to develop a strong narrative about its role. It is not necessary to teach the voters that European decision-making is extremely important. What they do not know is what is or what should be the role of the EP. The EP has not been very successful in explaining its own role. This has to do with a lack in strategy that can be described as a refusal to play a role in the national capitals. It has been so self-centred that it basically forgot that in order to develop that narrative it has to play a role in Berlin and Paris etc. as well, not only in Brussels. If it does, it can play a positive role.

Who are going to be the players in the struggle to define where we are going from here? The EPP (European People's Party) is not only going to be an actor in this, it will also be the most important battlefield. Even though they are reiterating in form past grand coalitions, it is doubtful whether this is possible seen the fact that the Socialists are so deep in crisis politically and philosophically, that they are not the strong player they used to be. It looks more like there will be a tug of war between the Eurosceptics and Conservatives on one side and the Liberals and Greens on the other side. It remains to be seen who will have the most impact on Europe's future.



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