Democratic empowerment in the European Union: an introduction

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Democratic empowerment via institutional designs that extend the political rights of European citizens to participate in policy making stands at the centre of this book. We move beyond the concept of the democratic deficit within the European Union (EU), paying attention to the possibilities and barriers for democratic empowerment of European citizens. We focus especially on three major and more general themes: first, the positive and negative effects of the EU institutional design on the political rights of its citizens. Second, challenges for democratic regimes over the world in the twenty-first century in the context of regionalism and globalisation. Third, the constraints of neoliberalism and capitalist markets on the ability of citizens to effectively achieve their political rights in order to shape policies, politics, social choices as well as in the economic and financial spheres.

What is democratic empowerment? Democratic empowerment involves the concepts of political participation, citizenship and democracy. It refers to the act of providing new opportunities of participation in policy making for citizens. In a way, democratic empowerment is reflected by the expansion of the right to participate in policy making, which is perhaps the most important political right. It is a key dimension in determining the quality and institutionalization of democracy. Empowered citizens are, thus, citizens who are equipped with various ways to participate in politics and policy making. These opportunities include old forms of participation, such as voting, party membership and petition signing, but also new forms of participation (Barber 2003). Those new forms, be it public consultations in policy making, round tables, public debates etc., provide new developments in the political world of our era. Democratic empowerment of European citizens has been occurred in this context.

According to Dahl (1994), the history of democracy consists of ‘three great transformations’: the transformation of non-democratic city states
Democratic empowerment in the European Union

into democracies; the emergence of the large-scale national states as representative democracies; and democracy at the transnational level. The democratization of transnational systems in the context of the EU is perhaps the most pure. The EU, though not a state, has created its own logic and meaning to the concepts of democracy, citizenship and political participation. However, it has often been accused of not fulfilling the expectations that those concepts arise in one’s thoughts. By focusing on the processes of democratization and empowerment of European citizens, this book seeks to illustrate the third transformation in the history of democracy, its challenges, barriers and uniqueness.

1. EUROPEAN CITIZENSHIP AND DEMOCRATIC EMPOWERMENT

The Maastricht Treaty introduced two major clashes of the democratic nature of the EU. The first is well known as the notion of the EU ‘democratic deficit’ (Follesdal and Hix 2006; Lord 2015; Majone 2005; Moravcsik 2002; Papadopoulos 2003). The treaty, also labelled as the Treaty of the EU, unified the three pillars of the union: the existing European Community and the two new pillars – the Common Foreign and Security Policy and cooperation in the field of justice and home affairs (European Parliament 2017). Debates over the EU democratic deficit have dealt extensively with the effects of such moves over the sovereignty of the member states and the legitimacy of EU bodies. However, at the same time, the EU introduced the notion of European citizenship defined by rights, duties and political participation.

Citizenship is an ever evolving and expanding concept, used both to extend and deepen democratic norms, institutions and practices and to limit them for outsiders. The concept of European citizenship, however, is more vague, inorganic and more contentious than the notion of citizenship itself. European citizenship is superimposed on national citizenship, is intrinsically embedded in the multiplicity of national citizenship regimes and infused by global citizenship trends such as human rights regimes (Granger 2017). Regarding Dalton (2008), European citizenship reflects engagement rather than duty. It involves activities which are linked to liberal or communitarian norms of citizenship, such as being active in political and civil groups and general political activity, rather than norms of social order, such as reporting a crime, obeying the law, serving in the military, etc. – activities which are beyond the competencies of the EU.

However, a sense of identity is an important pillar of participation, and in a way it is a slippery concept with regard to the EU. On one hand,
An introduction

according to the latest Eurobarometer survey, 67 per cent of Europeans stated that they feel they are citizens of the EU – 5 per cent more than in 2010 and 8 per cent more than in August 2013 (European Commission 2015). In another survey, 87 per cent of Europeans asserted that they are familiar with the term ‘citizen of the European Union’ and more than half mentioned that they know what the term means (European Commission 2016). On the other hand, the relationship between the EU and European citizens as measured in similar surveys was less positive. For example, the level of citizens’ confidence in EU institutions has declined sharply since 2000. While 59 per cent of European citizens expressed their confidence towards the European Parliament (EP) in 2002, around 40 per cent declared similar attitudes in 2013 and 2014. Similarly, 53 per cent of Europeans expressed positive opinions about the European Commission, while less than 40 per cent did so in 2013 and 2014 (Eurostat n.d.).

The juxtaposition of European citizens’ attitudes on European identity with their level of confidence in EU institutions calls for more attention. If European citizens feel more European than they have ever felt before, we may assume that their feelings towards the EU are stronger. As this book shows, the EU has been aware of these issues and has invested a good deal of effort in tying its relations with European citizens by empowering their right to participate. These new channels of participation reflect a predominantly integrative notion of democracy, which aims at ‘transforming individuals into citizens; that is, increasing the ability of each individual to internalize a holistic perspective on societal governance and develop their social and intellectual capacities’ (Sørensen 1997: 557). Unlike integrative theories of democracy, that emphasize democracy as a ‘means of distributing political power and influence and of regulation conflict within society . . . designing democratic institutions which serve integrative aspects of empowerment is participation’ (ibid).

2. BARRIERS TO DEMOCRATIC EMPOWERMENT

The problems and the challenges of democratic empowerment in the EU should be understood in a much larger context of ‘democratic crisis’ and ‘democratic empowerment’ more generally. When considering the options for democratic empowerment in the EU, one should notice that the barriers of participation in policy making are not necessarily unique to EU decision making. Both the EU and member states of the EU have been affected by general political developments that serve as barriers for empowerment. Yet, these barriers seem to be more amplified at the EU level than at the national level: (a) constitutionalism that enables and limits
Democratic empowerment in the European Union

participation simultaneously; (b) the dictation of policy making by the markets that limits the discretion of policy makers in the economic sphere; (c) the rise of expertise that limits participation on behalf of supposed public ignorance; and (d) the cost of participation.

The first structural constraints on participation derived from the constitutional conception of democracy. Under the constitutional framework, all decisions have to be made according to a set of norms, laws, hierarchies of rules and procedures. While debates on the EU and its constitutional apparatus are mainly attributed to the interactions between the EU and its member states, it has many implications on citizen participation. In a way, constitutional frameworks both enable and limit participation in politics, and they go hand in hand with the processes of legalization and juridification. On one hand, constitutional frameworks determine the rules and principles by which citizens are able to participate. On the other hand, they may constrain participation – but even more importantly, they may set the limits on the extent of participation. Thus, constitutional frameworks determine the boundaries of participation by emphasizing the constitutional limits and commitments within their own borders.

A second structural constraint on participation derives from the role of markets in contemporary democracy. Long before neoliberalism made its mark, Lindblom (1982: 331) argued that the market is limiting or even imprisoning democracy by the reiterate statements made by the US administration that ‘we cannot have growth, cannot have price stability, and cannot have full employment unless we stop undermining business incentives’. Similarly, Dryzek (1996: 3) claimed that ‘states in capitalist economies are becoming less democratic to the extent that public policy becomes dictated by the need to compete and flourish in the transnational political economy’. Participation in EU decision making, even if extended to either national or individual levels, is then limited by the market-based conception. This is true at the national level of almost all EU member states, but even more so at the EU level in the heyday of market integration.

Another structural constraint on participation emphasizes the growth in the role of knowledge in policy making and the rise of experts and regulocrats as privileged actors (Levi-Faur 2005). Claims on public ignorance on basic issues and topics are used both to justify the creation of eurocracy and regulocracy and to manipulate the public in directions that are convenient to policy makers and elites. The rise of the regulatory state at the national and EU level only extends the impact of these structural constraints (Majone 1999; Levi-Faur 2005). However, this change is less about the types of actors and more about the ‘change in the nature of power’ (Radaelli 1999: 759). Where the role of experts in policy making is amplified, the relative power of those who lack their knowledge is
supposed to shrink. Thus, citizens in the EU, but also everywhere else, are less capable in taking part in policy making. Put another way, there is a discrepancy between expert knowledge and citizen participation, which limits citizens’ ability to take part in the democratic process.

The final barrier over participation in decision making at the EU and the national level stems from the inefficiency of participatory reforms. Participation is costly, especially in its new forms (Barber 2003), and might be even more unequal than traditional forms (Newton and Geissel 2012). The inequality of such forms can be distinguished by access to them (i.e. internet access) and by their nature (i.e. public consultation, debates, etc.). Overall, the new forms require considerable resources – time, money and some form of political expertise, constant updating and learning. This is of course applicable not only to the EU, but the scale in territory, geography and citizen numbers of the EU makes the issue even more prohibitive in promoting democracy.

3. DEMOCRATIC EMPOWERMENT AND BARRIERS TO DEMOCRATIC EMPOWERMENT IN THE EU

The book outlines two themes related to democratic empowerment in the EU. First, it presents new channels of participation in EU policy making. The second theme illustrates the problems and the challenges of democratic empowerment in the EU. While the EU has invested efforts to strengthen its link to European citizens by expanding their right to participate, its success can be measured only in the long run. Do new forms of participation create citizens that are more engaged in European politics? Do they promote EU legitimacy and trust among European citizens? These two questions imply that democratic empowerment has mostly two facets. First, it revolves around citizens’ intention and actual participation in politics. Second, it deals with policy makers’ tendency to enhance these citizens’ intentions and be responsive to them.

3.1 Empowerment via New Channels of Participation

Five chapters in this book present new forms of participation. Some are direct forms of participation, while others are indirect forms of participation. For example, it is useful to note that European citizens participate in EU decision making not only directly, but also indirectly through national parliaments. Since the Treaty of Lisbon, national parliaments have become more involved in the formulations of EU legislation, especially with regard
Democratic empowerment in the European Union
to the function of oversight (Kaniok, Chapter 2). Another so-called indirect form of participation is attained by national referenda on EU issues, since 'Citizens who get to vote in a Treaty referendum have greater control over the European constitutional project than those who do not' (Cheneval and Ferrin, Chapter 6).

In addition, some forms of participation require collective actions of citizens, while others are encouraged by individuals. For example, the European Citizens Initiative (ECI) allows European citizens to set the political agenda of the EU by collecting signatures in support of policy proposals. In order to execute the ECI, a few conditions have to be met – most of them emphasize the collective nature of the initiative. Consequently, each initiative has to be supported by at least 1 million citizens from at least seven of the European member states (Mendez et al., Chapter 4). In contrast, writing a feedback on EU decisions to the European Ombudsman is an individual action as any citizen can question EU decisions (Inglese and Binder, Chapter 5). Finally, forms of participation can be expanded to new arenas such as the legal arena. In other words, participation is not only bounded to political spheres. If we view European citizenship as economic citizenship rather than political, we may also view regulation by litigation as a form of empowerment (Struenck, Chapter 9).

Table 1.1 organizes the new forms of participation presented in the book by five characteristics: (1) whether the new forms occur at the national or supranational level; (2) whether they engage citizens directly or indirectly in policy making; (3) whether they require individual action or collective action; (4) whether they are bounded to the political arenas or other arenas; and (5) whether they are led by European citizens or by their representatives. As Table 1.1 shows, each form of participation presents unique

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<td>Political</td>
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<td>Legal/ economic</td>
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features. However, most of the forms presented in the book take place at the supranational level; they are indirect, they are taken by individuals rather than by groups of people, they occur at the political arena and are mostly led by European citizens rather than by their representatives. Although this illustration is not representative to all new channels of citizen participation in the EU, it provides an overview to the topic and hints at potential barriers attached to participation in EU policy making.

3.2 Barriers to Democratic Empowerment

We have presented some major barriers to democratic empowerment that are not unique to the EU, but the book emphasizes other barriers that are more related to the EU than any other political entity. Most of these barriers focus especially on institutional barriers. For example, elections for the EP have often been considered as ‘second-order election[s]’ and ‘fewer voters may consider them sufficiently important to cast ballots’ (Reif and Schmitt 1980: 9). As a result, there is low representation of socially weak citizens in the EP (Seubert et al., Chapter 3).

Another barrier is the role of the markets in European integration. For example, interactions between technocratic elites and political decision making have become a barrier to participation of citizens, especially in the case of financial crisis (Csehi and Puettet, Chapter 10). Also, competition laws have an influence on democratic empowerment, as private firms have sought to challenge new laws by tightening their connections and their relative power vis-à-vis governments, civil society actors and citizens (Gerbrandy and Fransen, Chapter 8). Indeed citizens might favour participation in the financial area rather than in the political one, as financial citizenship is more inclusive than political citizenship (Haber and Levi-Faur, Chapter 11). But barriers can also be inherent at the individual level, as illustrated by Bakker et al. (Chapter 7). As political culture is a necessary condition for political participation, its absence in the EU might be a barrier for participation.

Let us conclude this introduction by presenting each of chapters. Chapter 2 by Petr Kaniok deals with the involvement of national parliaments in the political system of the EU. More specifically, the chapter focuses on the analysis of the ability of national parliaments to establish a collective institution in order to carry out tasks which were assigned them by the Lisbon Treaty. The treaty empowered parliaments with specific rights to control proposals of EU legislation, turning them into a new collective actor of the EU political system. Thus, national parliaments have since 2009 been de facto collective institutions involved in the EU decision-making process. The main contribution of this new institution
Democratic empowerment in the European Union

should have been and should be to deliver more democracy and more legitimacy for the EU. Establishing this new actorness can be seen as an innovative effort to decrease the democratic deficit in the EU. At the same time, even when the Lisbon Treaty was adopted, it was clear that if national parliaments should function in this way, they had to overcome huge diversity in various aspects – for example their size, position within the domestic political system, administrative capacity, etc. – in order to create an effective collective institution. Here, the question is how they have so far been successful and how the national parliaments’ collective actorness has been working.

Chapter 2 carries out such an analysis. It particularly analyses the collective actorness of EU national parliaments in the period of 2010–14 using their participation in the so-called Early Warning System in order to find out whether parliaments succeeded in establishing an effective collective institution, which factors are shaping it and what their influence means for national parliaments’ contribution to EU democracy and legitimacy. As its main finding, the analysis reveals that national parliaments failed in the period 2010–14 to establish an effective collective institution. This failure substantially affected parliaments’ ability to deliver more democracy to the EU political system and is explained by huge institutional variety across chambers and parliaments. Moreover, the analysis finds that if cooperation takes place, it is particularly shaped by technocratic and expertise factors limiting the involvement of political actors.

Chapter 3 by Sandra Seubert, Oliver Eberl and Daniel Gaus deals with political inequality in the EU and the role the EP can play in the process of democratic empowerment of EU citizens. This chapter provides a combined empirical and normative-theoretical analysis of political inequality in the EU related to low voter turnout in EP elections. The empirical analysis of the elections in 2004–14 shows that low turnout is related to social inequality of voting. Socially weak EU citizens are overrepresented in the group of non-voters. This in turn creates inequality in the democratic representation of social interests in the EP and in European politics. On this basis it is argued that political equality as a precondition for democratic empowerment of EU citizens needs institutional reform and politicization of social issues. It is widely held that the political inequality among EU citizens is related to the EU’s current institutional architecture. Despite the EP’s growing competences, it remains secondary to the national governments’ role in the EU’s political process. Based on empirical findings it is suggested that reforms of the EU’s electoral law are necessary, but not enough. In order to overcome political inequality among EU citizens due to low turnout, an institutional reform to transform the second-order character of EU elections and a politicization of EU politics have to go hand in hand.
The authors’ argument suggests that the way ahead for empowering European citizens lies in further empowering the EP to the level where Council and Parliament share political authority in the EU equally, with neither of them having the final decision-making power. The EP as the cornerstone of a transnational politicization of social and economic issues in the EU will need transnational party lists and transnational social movements to back up the parliamentary process. But democratic empowerment demands more than this: breaking the international structure of political authority means putting the EP on a completely equal footing with the authority of national executives. Only by becoming a European (co-)legislator that is on a par with the European Council in all political matters can a European Parliament create the dynamic needed to address problems of justice related to economic and social interaction in a common market. This means equality not only with the Council in the ordinary legislation procedure but also with the European Council in changing EU treaties. Democratic empowerment also includes the de-constitutionalization of the treaties as a necessary condition for a politicization of economic and social issues in the EU.

Chapter 4 by Fernando Mendez, Roman Zwicky and Daniel Kübler deals with the ECI from a comparative perspective. In this chapter the authors take stock of the EU’s most recent democratic innovation, the ECI, with a view to evaluating its potential to live up to its democratic potential. In doing so they adopt a threefold strategy. First, they unpack the institutional features of the ECI to situate it within a broader universe of relatively well-understood mechanisms of direct democracy. Second, on the basis of an analysis of all ECI initiatives to date, they present some general trends regarding its use and function. The third, more speculative analysis looks at possible institutional trajectories for the ECI based on a largely comparative analysis. The findings suggest that the ECI is far from being unique and that some of the problems that surround its functioning are common to other systems. In addition, despite its novelty, they can already detect some general patterns as well as indirect effects on member states. Whether the instrument could ever fulfil its democratic potential, let alone empower European citizens, remains very much an open question, however. The evidence thus far presents a mixed picture.

Chapter 5, by Marco Inglese and Tom Binder, discusses the European Ombudsman. One alternative open to individual citizens to question or even challenge government decisions in Europe is provided by the institution of the European Ombudsman. This chapter introduces the institution of the European Ombudsman by means of an extensive description of general features (goals, powers, formation and functioning) and short presentation of historic figures (how often it has been used, for what purposes,
Democratic empowerment in the European Union

with what results). What follows is an assessment of the European Ombudsman’s potential to contribute to the democratic empowerment of EU citizens. A thorough evaluation of the institution’s reach, in terms of both plaintiffs (what type of plaintiffs address the Ombudsman, where do they come from, etc.) and substance (what type of complaints are forwarded to the Ombudsman, against which institutions/agencies, on what grounds, etc.) forms part of this assessment. Another aspect that will be discussed in this context are potential barriers hindering citizens’ access to the Ombudsman. Finally, the flip-side of the coin will also be investigated: the European Ombudsman’s negative potential to contribute to the democratic deficit of the EU. In this regard, the Ombudsman’s position within the trias politica is explored. In conclusion, it is argued that the European Ombudsman has a positive impact on the democratic empowerment of EU citizens while also being able to influence the legislative agenda of EU institutions, thereby increasing their democratic accountability.

Chapter 6 by Francis Cheneval and Mónica Ferrín deals with direct democracy in the EU. One of the solutions proposed by scholars to deal with the alleged democratic deficit of the EU is to favour direct participation of EU citizens in decision making at the European level. In this chapter, we address the viability of EU referenda as a mechanism of direct democracy. So far, the use of direct democracy in relation to EU issues has been residual, and referenda on EU issues have always been held at the national level. And yet, there is insufficient evidence supporting the critiques against direct democracy at the European level. In this chapter the authors propose, therefore, a model for a European referendum that is: (1) held on EU internal issues of primary law; (2) mandatory; (3) simultaneous in all member states; (4) binding; and (5) simple regarding its subject matter. Empirically, they show that current practices of referenda on EU issues in European member states produce distortions in democratic functioning, due to the ad hoc way in which the referenda are held. First, optional referenda favour that the incumbent government call for a referendum only on issues for which they receive strong support. As such, optional government-induced referenda are used as strategic instruments, i.e. as plebiscites. Second, optional referenda allow some member states to have a stronger negotiation power than others, especially when they are not held simultaneously. Third, optional referenda produce discrimination among EU citizens since only a few of them are given the right to participate. The Swiss case is used as a paradigmatic example from which we draw a number of lessons for the EU.

Chapter 7 by Wieger Bakker, Marlot van der Kolk and Viktor Koska deals with education for a civic culture in the EU. Various scholars have stressed that political participation requires the backing of a political
culture, a set of beliefs, attitudes, norms, perceptions and a sense of identity, an expression of one’s membership in a political community. This seems to be problematic in Europe. Its nation states, however, have over time developed vested traditions that promote citizenship, by socializing and educating people in a ‘civic culture’. This chapter compares different traditions in educating for citizenship in a selection of (old and new) member states of the EU and shows how such an approach and practice could contribute to or hinder the development of a European civic culture.

Chapter 8 by Anna Gerbrandy and Rutger Fransen deals with competition law and the EU democratic deficit. The chapter discusses the constraints imposed by competition rules on the process of democratic empowerment of citizens in the EU. In particular, it examines the various ways in which civil society and individual citizens are involved in the increasing push for responsible business conduct (RBC) initiatives and how the current approach to the application of EU competition rules has had a restrictive influence on the implementation of these initiatives. This task first involves understanding the EU competition rules that are relevant for cooperation mechanisms between firms when seeking to attain public aims (in particular, for environmental protection and sustainability). In doing so, the chapter identifies barriers which EU citizens, including companies, face when implementing RBC initiatives. Second, the chapter examines this so-called ‘competition law problem’ through the underlying theories on European integration, the role of private firms as political actors and the relationship between member states and the EU when implementing national policy goals through RBC initiatives. Finally, the chapter provides an outlook on how to ensure a focus on the ‘market’, and concludes that Europe does hinder the movement toward greater democratic involvement of EU citizens in setting social and environmental policy goals.

Chapter 9 by Christoph Struenck deals with regulation by litigation as a form of empowerment. Do consumers and companies increasingly litigate to better enforce or even create consumer rights? This trend may empower individual citizens as consumers vis-à-vis companies, or the other way around. In the process, however, national democratically accountable political actors might lose power, and hence their voters. Nevertheless, there is barely any evidence on public-interest litigation in the EU. In this chapter, patterns of consumer litigation are scrutinized. Relying on the framework of adversarial legalism, frequencies, goals, resources and achievements of litigation in six member states are highlighted. Contrary to influential concepts of ‘Eurolegalism’, public-interest litigation in Europe is still very much entangled in national institutions. However, public-interest litigation is no equivalent for comprehensive policy making.
What it can best achieve is better enforcing rights, thereby raising awareness and saliency. This is an alternative way to empower citizens.

Chapter 10 by Robert Csehi and Uwe Puetter asks how financial market constraints and technocratic decision making impact on European political citizenship and democracy. Financial market constraints coupled with technocratic elements of EU decision making can impose limitations on political choice both at the EU and member state levels, in particular in times of crisis. This constitutes an important challenge for the meaningful exercise of European political citizenship. It is important to pay closer attention to the actual processes of policy formation and involved groups of actors. By referring to concrete instances of EU responses to the euro crisis in a number of different case studies, this chapter advances an analytical framework which highlights the nexus between financial markets, a transnational technocratic elite and political decision makers in a changed EU economic governance framework. Through the analysis of official documents, media reports and semi-structured interviews in several EU member states, the chapter shows the dominance of executive actors at the EU level and member states’ decision making and the influential role of a transnational technocratic elite. In particular, the exercise of parliamentary control at the national level is challenged.

Chapter 11 by Hanan Haber and David Levi-Faur deals with the financialization of EU citizenship. The promotion of European citizenship and participation of citizens in EU decision making are key aims of the EU. However, while considerable attention has been focused on citizenship in the political sphere, less has been said about the meaning of citizenship in the economic, social and financial spheres. Following the literature on the financialization of everyday life, this study focuses on the meaning of citizenship in the financial sphere. The authors illustrate the image of an ideal European financial citizen, as reflected in (and shaped by) EU regulation. The chapter compares this image in two EU directives, on credit (2008) and on payment accounts (2014), and highlights the influences which shaped them, with a particular focus on new forms of citizen participation. The chapter argues that the image of the ideal financial citizen reflected in these directives is that of a confident, empowered and active citizen, ‘making markets work’. At the same time, this image is complemented by the image of a vulnerable citizen, both shielded from the market and encouraged to participate in it. The chapter concludes by arguing that financial citizenship is at the same time more demanding and more inclusive than political citizenship. While it requires high levels of human capital, time and attention to detail, it is open to those with the will to participate in the market.

Chapter 12 by Keren Winter-Dinur, Nir Kosti, David Levi-Faur and Guy Mor reflects on the future of the EU from the perspective of democratic
empowerment following the experience of Brexit. It examines the salience of the democratic deficit in the public discourse surrounding Brexit and finds it to be surprisingly low compared to issues such as immigration, the economy and sovereignty. This exposes the limitations of the new forms of democratic empowerment in containing national-based Euroscepticism. The new channels of participation are found to undermine national sovereignty and are therefore inadequate in ensuring EU ‘input legitimacy’, which demands requisite representation of national interests in policy making. In the current European political climate, the new forms of democratic empowerment may not be perceived as compensating for insufficient national representation and participation in the EU through national channels. Also, the chapter suggests that the EU’s ‘legitimacy deficit’ in the eyes of the British voter is not reducible to a democratic deficit; rather, it is substantively based on a perception of the EU as contravening basic British national interests and the interests of those adversely harmed by processes of liberalization. Democratic empowerment initiatives cannot ensure EU legitimacy as long as the EU’s ‘output legitimacy’ is inadequate. The chapter therefore argues that while democratic empowerment is necessary for EU legitimacy, prosperity and continued integration, it is not a sufficient condition.

REFERENCES


