

## 5. *Digital Democracy & AI*

### **BRUNESSEN BERTRAND**

Title: *A European digital sovereignty?*

Abstract: The theme of European sovereignty is making an unexpected comeback in European political discourse, thanks to a redefinition of European digital policy.

More than digital technology itself, it is its ubiquity that is basically at stake, behind the idea of sovereignty: digital sovereignty concerns at the same time defense policy, economic policy, trade policy, the defense of democracy and European values, the regulation of the internal market, and cyber security. Taken as a whole, these different areas, which in their own way challenge the integrity of European competences and its autonomy, end up constituting something fundamental and existential for the European Union and its Member States: its independence, its ability to retain control over its most fundamental competences and to apply the values that are the basis of its *raison d'être* and its identity.

In addition, there is the brutal realization, perhaps for the first time, of the limits of each state in the face of these challenges. While the rhetoric about being stronger together has always sought to cement a form of European solidarity, the real awareness of the added value of belonging to the internal market has never seemed to be an unsurpassable horizon either. The economic advantages have always been weighed against the political constraints of belonging to the European Union, and this equation is by no means self-evident in a context of resurgent populism fuelled by the desire to "regain control. As far as defense and security issues are concerned, the Member States have never been able to dissociate this question from that of the transatlantic relationship, and it has therefore never been the subject of a truly autonomous European approach. For the first time, the digital age has created a real rupture, with the realization, common to all Member States, of their individual inability to exist, to defend their values, their model, their economy and their citizens, alone in cyberspace: the economic domination of American and Chinese platforms, the technological power of the United States and China have revealed, in a rather cruel light, the impotence of European soft power to exist and to defend its choices, and this observation is even more scathing on a national scale.

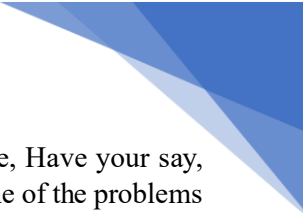
### **FRANCESCA MARTINES**

Title: *Digital platforms in the European Union: for a contribution to the creation of a transnational public sphere*

Abstract: In addition to the representative dimension of democracy (Article 10 TEU), the European legal system recognises bottom-up instruments of participation, which introduce a (limited) form of participatory democracy into the EU legal order. Besides strengthening the so-called input legitimacy of the Union, those instruments (consultation, citizens' initiative, petitions, platforms for debate) can contribute to the creation of a transnational European public space.

The term "public space" refers to a space that is open to all those who wish to access it and participate in its activities. In a physical dimension, it can be the squares and streets where, for example, young people meet to demonstrate for a cleaner environment and against the lack of action on climate change. In a virtual dimension, it can be the digital platforms where, for example, support for initiatives, petitions, etc. is gathered.

It is clear that the creation of "transnational" public spheres faces objective difficulties, such as the lack of cultural and linguistic homogeneity, the possibility of equal and effective access for all citizens who wish to participate, the ability of supranational institutions to respond to the needs and demands of citizens, the concept of democracy and its mechanisms in the European legal system, and the question of the real capacity of public opinion to effectively influence political decisions in a non-national context.



The platforms considered in this paper (e-Petition, Ask the EP, European Citizens' Initiative, Have your say, the multilingual platform of the Conference on the Future of Europe, Futurium) highlight some of the problems that make the creation of a transnational public sphere difficult, but at the same time offer some solutions, for example to the problem of multilingualism in the EU. Above all, however, these platforms, precisely because they are bottom-up in participation, but created and managed by the institutions and linked to their functions, fulfil - however imperfectly - the need to connect citizens with the institutions, in particular with the Parliament and the Commission, which play a crucial role in setting the political agenda. Since the creation of a transnational public space requires a rethinking of the forms of democracy and public spaces, bottom-up participation, made more immediate by institutionalised platforms, can facilitate the creation of "strong" publics, (Bohman).

The paper will highlight positive and critical aspects of platforms and suggest some possible improvements to make platforms more responsive to the needs of more constructive bottom-up participation.

### **AGNÈS DÍAZ CASTELLANO**

Title: *Why is the European Union using Crowdlaw and still does not know it?*

Abstract: Last year, the European Commission completed a year-long process called the "Conference on the Future of Europe". This project consisted of a massive online and face-to-face consultation of citizens and a debate on seven different areas considered strategic for the future of the institution. This is not the first time that the EU has introduced legal innovations involving citizens in order to overcome its legitimacy and democratic criticism. Indeed, the institution has a long history of citizen and expert participation, with some examples such as "Fit for Future" or "Have your Say". However, the implementation of participatory mechanisms using forms of technology at the supranational level is not much discussed. At the EU level, the lack of institutionalisation or strategy in this regard leads to difficulties in analysing their impact.

In the context of legal innovation, Beth Noveck (2017) developed Crowdlaw, a methodology that serves as an umbrella for all practises in the legal and policy-making process that use forms of crowdsourcing. Crowdlaw is defined as any form of "online public participation that uses new technologies to tap into diverse sources of information, judgement and expertise at any stage of the legislative and policy-making cycle to improve the quality and legitimacy of the resulting laws and policies" Alsina and Martí (2018). Crowdlaw is thus any practical exercise in public participation that aims to harness society's collective intelligence through technology.

When discussing Crowdlaw experiences, scholars tend to focus on the national sphere. In the Crowdlaw literature, there is only one example that can be considered supranational, namely the initiative to combat the Zika epidemic in Latin America, which brought together different institutions from different countries and levels of government. However, I believe that this does not reflect reality, as there are many practical examples in the supranational field that fall perfectly within the scope of Crowdlaw, such as for instance, the Conference on the Future of Europe. This is an online platform created specifically created for the participation of citizens and experts and the debate on seven areas of particular importance for the European Union. The Conference on the Future of Europe fulfils all the requirements of Crowdlaw theory because of its characteristics, this is the use of citizens' expertise through technology.

Looking at initiatives such as the Conference on the Future of Europe from a Crowdlaw perspective can help us understand whether these forms of legal and political innovation are an appropriate tool to address the organisation's legitimacy and democracy problems while improving the quality of its decisions. By incorporating Crowdlaw's theoretical background into the analysis of ongoing developments at the communitarian level, we have some tools to help assess their impact. By analysing the existing experiences, we also have the possibility to assess whether these kinds of methods are indeed appropriate tools that should be further promoted within the European institutions.

Key words: democratic innovation, quality of policy and legislation, participatory policymaking, Crowdlaw, European Union

