Wilfried
Martens Centre
for European Studies

The European Parliament's role in EU digital governance: Aspiration and reality

Kai Zenner

Abstract

Despite its enhanced legislative powers, the European Parliament still struggles to be recognised as an authoritative and reliable political actor. Its current role in EU digital governance serves as a good example to illustrate both the aspirations of the parliamentarians as well as their actual impact. Confronted with a horizontal policy issue that affects all sectors of the analogue and digital world parliamentary working methods have proven to be unfit for purpose. The European Parliament has so far been unable to assume leadership to guide the EU through the digital transformation process. Yet, its aspirations are not pulled out of thin air. Intellectual freedom, swift decision-making channels, and an open and pragmatic debating culture make it, in fact, predestined to define an overarching and balanced digital agenda for the EU. Before this is achievable, however, it is necessary to execute comprehensive internal reforms to overcome a list of structural, financial, political and external deficits.

Keywords

Digital transformation, Horizontal policy issues, European Parliament, Working methods, Existing deficits, Necessary reforms

Introduction

The European Parliament (EP) is a fascinating political actor. On the one hand, it has gradually extended its powers of decision-making over the past five decades. Starting as a mere assembly in 1952, each successive EU treaty has increased the EP's role, eventually transforming it into today's co-legislator, with powers almost equal to those of the Council of the EU (Csernatoni and Lațici 2020). The *Spitzenkandidat* procedure and the claim for a right of initiative emphasise the new aspirations of the Members of the

Corresponding author:
K. Zenner, European Parliament, ASP 15E140, Rue Wiertz, 1047 Brussels, Belgium.
Email: kai.zenner@ep.europa.eu

European Parliament (MEPs). For them and their staff, the EP offers extensive intellectual freedom, swift decision-making channels and (mostly) hands-off political leadership, as well as an open debate culture and pragmatic togetherness. Compared to many national parliaments where, as illustrated by Koschnick (2019), political initiatives come directly from ministries or political parties, and party discipline is omnipresent, the independent mandate of each MEP is still worthy of its name.

On the other hand, the EP is sitting on a backlog of long-overdue reforms relating to its composition and its internal procedures, while facing traditionally low election turnouts (von Ondarza and Schenuit 2018, 2). The principle of degressive proportionality, which ensures that small member states have a minimum level of representation, results in a situation in which a Luxembourg MEP represents about 80,000 inhabitants, while his or her German counterpart is responsible for more than 800,000. Some extremely emotional debates in the past, such as on the failed Transatlantic Trade and Investment Partnership, and the fact that the political groups could not agree on a *Spitzenkandidat* after the 2019 election, have not helped to convince EU citizens that the EP is an authoritative and reliable political player (Russack 2019, 10).

Every MEP or staff member has probably already met representatives of the other European institutions or of the member states who have mentioned that they cannot take the EP seriously. Despite its significant gain in legislative powers, they argue that it continues to function like a start-up: chaotically and unpredictably. A harsh assessment? Yes—but this article argues that, as with many things in life, there is also some truth in this overstatement. The initiative of the von der Leyen Commission to make the EU fit for the digital age offers an excellent case study to expound this argument in more detail.

The digital challenges faced by the EU

Although this hollow phrase has been recited endlessly, it remains accurate: after the end of the Cold War, the world became multipolar and our lives became much more complex. Decision-makers of the past had only a few sources of information and, subsequently, took their decisions by choosing one out of two or three credible courses of action in order to address a clearly defined issue. Today, instead of a lack of information, there is an overload. Moreover, decision-makers are frequently confronted with horizontal topics that require them to take into account various interconnected players and related subtopics on a global scale in both the analogue world and in cyberspace. As explained by Stockdale-Otárola (2017, 28), it therefore becomes difficult to even agree on what the actual problem is, where it is rooted, who is responsible and how to address it best. The digital transformation of the EU falls into this category of overarching issues. Despite its excellent starting position in the late 1990s, Europe has not been able to keep pace with the US or China, has developed major deficiencies and has so far not been able to respond adequately to the following eight key challenges:

- *Mastering digital geopolitics*. Confronted with strategic dependencies, critical cyber-attacks and authoritarian regimes that are dominating the work of

international bodies and standardisation organisations, the EU needs to toughen its digital foreign policy (Aktoudianakis et al. 2021).

- *Building a resilient and sustainable digital economy*. Without a comprehensive action plan for its digital industry, the EU has fallen behind in the development of emerging technologies and high-performance infrastructure; has become dependent on foreign energy supplies, software and hardware; and has a huge digital investment gap compared with the US or China (Demetzis 2021).

- *Solving the EU data challenge*. While access to, and the sharing and reuse of data, as well as data analytics are crucial for emerging technologies and a genuine data economy, the EU struggles with vast amounts of unutilised data, a lack of common data spaces, excessive data protection rules and restrictions on international data transfers (Batura and Peeters 2021).

- *Establishing a level playing field*. The existing methods of enforcement and oversight are no longer applicable to a cyberspace that is dominated by digital gatekeepers which decide how to rank and present the infinite amount of information, while capturing most of its value (Renda 2021, 3).

- *Promoting digital expertise*. Besides the lack of globally leading digital companies, digitally skilled employees, and excellent testing and competence centres, the EU does not feature enough public–private partnerships or knowledge transfer from research to business (Castro and McLaughlin 2021).

- *Digitally transforming the state and society*. The digital expansion of public services has stalled, while the public sector and society have become increasingly vulnerable as the sharp rise in disinformation campaigns and election interference has shown (Renda 2021, 4).

- *Addressing new ethical questions*. Authoritarian regimes are already applying digital technologies to control, monitor and score their citizens; within the EU the dominance of platforms and the unprecedented technological capabilities available to states and societies are giving rise to ethical questions (Lilkov 2020, 17).

- *Ensuring reliable and future-proof law making*. Although legal certainty is crucial for digital innovation, EU policymakers regularly respond too late to new technological developments, eventually coming up with already outdated laws that also contradict the existing legislation (Metzinger 2020, 36).

The anachronistic working methods of the European Parliament

How is the EP dealing with the horizontal issue of transforming the EU digitally? How is it addressing the eight key challenges? Twenty-nine months after the 2019 election, the policy output can—at best—be described as mediocre. A coherent and comprehensive digital agenda for the EP is still missing, while the legislative proposals of the European

Commission are often respectfully escorted through. Instead of offering creative and disruptive ideas, in most cases MEPs table minor and expected amendments. If *Politico* is reporting from the EP, it focuses on personal statements, competence conflicts or yet another non-legislative resolution. Why are MEPs still struggling to assume political leadership and hence missing the opportunity to shape the EU's digital transformation? Four categories of persistent deficits stand out: structural, financial, political and external.

The structural deficits are closely linked to the EP's Rules of Procedure. Traditionally, Annex VI assigns a clearly definable topic to the competent committee, while a few other designated committees assist with short opinions. However, this approach no longer works for horizontal issues. For example, with regard to artificial intelligence (AI), no less than 13 of the EP's 20 committees were able to make a credible claim to be involved as it is no longer possible for one committee to have a complete overview of all developments or the expertise to address all affected sectors. The Data Strategy, presented by the European Commission in 2020, is another example. For an overarching and future-proof data concept, several committees with equal rights would have needed to work closely together. In reality, the lead committee, Industry, Research and Energy, dominated the discussions. As a result, in-depth consideration of areas such as intellectual property rights, single market rules, international data flows and data protection are largely missing from the final report (European Parliament 2020).

The ambiguity of Annex VI has two concrete effects. First, finding agreement on how to allocate a report at the Conference of Committee Chairs becomes very difficult and can block the legislative work for up to five months, as happened with the Digital Services Act. Second, even after such an allocation, fruitful cooperation is regularly not possible and the opinion-giving committees are largely ignored. It becomes a very frustrating and time-consuming endeavour for everyone except the lead committee. Consequently, the final parliamentary position regularly lacks thematic diversity and political coherence.

The urgent need to reform the Rules of Procedures is also visible in other areas. Requests to postpone deadlines to do more research or to continue political discussions are normally declined. The rules do not allow much flexibility. This in turn heavily limits the ability of MEPs to draw on the European Parliamentary Research Service (EPRS) or policy departments as the supporting materials these branches provide are usually not ready in advance of the deadline. For example, regarding AI liability, while political agreement for the Legal Affairs Committee's report was reached on 18 September 2020, an EPRS study on the same topic was only published seven days later (Evas 2020). The fierce competition between committees generally prevents both better use of the EPRS as well as anticipatory and comprehensive legislative planning. Long-term projects, such as formulating a cross-committee plan to make our digital economy more resilient, are not feasible under these circumstances.

The second deficit is financial. The secretariats of the committees as well as the political group advisers are massively understaffed and have to deal with numerous legislative files in parallel. Instead, for instance, of carrying out extensive research on digital platforms, their workload forces them to draw back to positions established during previous terms. Burnout is the consequence, leading to even more work for colleagues.[1] The staffs of MEPs are—compared to those of US Congress members—rather small, consisting mostly of young professionals and trainees who only stay for a short period. Even the EPRS does not have enough manpower to scientifically prepare the most important legislative files, supervise the political negotiations and monitor the ultimate implementation of the laws. The result for the EP is a loss of quality and less room to develop innovative new policy ideas or overarching concepts.

Although the technical as well as office equipment was massively upgraded after the 2019 elections, it is still another factor that compromises parliamentary work. Compared to other political institutions, the equipment (i.e. databanks, collaborative tools, connectivity) lags miles behind, constantly leading to technical problems in official sessions.

The political groups in the EP are responsible for the third deficit. Believing that it is an excellent way of getting good publicity and pushing forward their political ideas, they tend to agree upon too many own-initiative reports and resolutions. Not only are such parliamentary activities time-consuming and the cause of new conflicts of competence, but they regularly lead to contradictory statements. Returning to the example of AI: after seven overlapping own-initiative reports on the same technology in 2020 alone, no political actor understands anymore what the EP's position on AI really is. The reports assessed AI-related ethical issues, for instance, very differently. To make matters worse, in the same year, the political groups decided to launch the Special Committee on Artificial Intelligence in a Digital Age. However, its mandate does not allow it to address the new AI Act of the European Commission or any topic covered by the seven previous AI reports.

The distribution of rapporteur and shadow rapporteur roles within the political groups can also lead to problematic outcomes. To fulfil certain quotas, an expert who might have already worked on a topic for 10 years and has a clear workable plan in mind is sometimes forced to pass on the role. Likewise, all political groups have problems with MEPs who are permanently absent. Despite their absence, these MEPs are, however, still rewarded with more and more responsibility over the years. As a result, other MEPs or group advisers have to cover for them, preventing them from fulfilling their own tasks.

Last but not least are the external deficits. The EP struggles with an information gap compared with the European Commission and the member states, as both are usually reluctant to share their empirical data. They do however use that very same data to justify their policy suggestions, thus making it impossible for the EP to verify their reasoning. If they do share the data, it is often too complex and the parliamentary resources too limited to review it adequately. In interinstitutional negotiations, the EP therefore often

has no other option but to trust the word of the Commission or the member state in question. Neither parliamentary hearings nor EPRS studies have the depth of knowledge to fill this information gap. In order to form an opinion on complex issues such as cybersecurity risks in 5G networks, MEPs are regularly forced to rely on their favourite newspaper or on input from stakeholders.

Another major problem in terms of ensuring a comprehensive policy approach is the lack of competences on the EU level. The European treaties do not permit the EP to come up with a binding and comprehensive digital agenda. This would interfere with the competences of the member states on topics such as digital geopolitics or digital education. Likewise, the European treaties stand in the way of plans to reform the composition of the EP and its ambition to have a genuine right of initiative. Despite President von der Leyen's support for the latter, proclaimed in her speech on 16 July 2019 (European Commission 2019), the legislative proposals of the European Commission on topics such as AI or the Digital Services Act look quite different from the prior own-initiative reports of the EP.

Conclusion

Remember the previous observation that there is a reason why certain Commission officials and national representatives are condescending towards the EP? Why they describe it as chaotic and unpredictable? The four persistent deficits—elaborated in the previous section—indicate why this overstatement still exists. However, the aspiration of the EP to shape Europe's digital transformation is not pulled out of thin air. The extended legislative powers, the intellectual freedom of its MEPs and the swift decision-making channels would in principle allow to address horizontal policy issues. With its open and pragmatic debating culture, the EP is, in fact, predestined to define a balanced and comprehensive digital agenda for the EU. Yet, in order to improve its current performance, it needs swift reforms. Encouragingly, in April 2021 the EP started a process to rethink the parliamentary democracy (Sánchez 2021). The preliminary results show an awareness of many of the deficits described above. Moreover, promising countermeasures have been proposed. However, much will depend on how the EP copes with internal and external resistance. To have a stronger impact on the EU's digital governance and to become a political player that the Commission and Council take seriously, the following points seem crucial.

To address the structural deficits, the EP should, first and foremost, reshape the setup of standing committees. A regularly reviewed Annex VI (Rules of Procedure) could help to assign clearly definable topics to just one lead committee. Instead of opinions, the coordinators of the political groups of the other designated committees could table amendments with the lead committee. Horizontal topics would, however, be processed exclusively in new ad hoc committees. Named after the political priorities of the European Commission (i.e. the Green Deal, a Europe fit for the digital age), each ad hoc committee would exist for the whole term and incorporate MEPs from all standing committees. To tackle the 'pacing problem', the digital ad hoc committee would need to apply flexible

working methods from the digital economy (Choi and Andresen 2020, 9–10). Temporary project teams formed of MEPs from different areas could reflect on the legal questions posed by new technological developments, making sure that the discussed policy solutions are not outdated. The adjusted Rules of Procedure should also offer more procedural flexibility to allow in-depth discussions, more consultations and an impact assessment of the final compromise amendments. Furthermore, the adjustments would give the EPRS and policy departments more time to scrutinise the risk of regulatory overlaps and prepare comprehensive supporting materials before the legislative work starts. The changes would minimise competition conflicts, free up resources, and strengthen the EP's policy output in terms of consistency and political support.

A higher budget is required to counter the financial deficits. MEPs, political groups, committee secretariats and the EPRS should be enabled to hire significantly more staff and pay higher salaries in order to secure highly qualified people who will stay for longer. At the same time, the EP should try to pool administrative tasks and responsibilities in order to speed up proceedings (CDU 2021, 7). Clear and realistic performance goals could help to maintain efficiency and workspace morale. Strong investment and a relocation of financial resources would also be necessary to offer better equipment and legislative assistance. Measures such as substantial legal advice during the legislative drafting process or the assignment of external experts would help to establish a quality level that is appropriate for the representative body of 477 million EU citizens.

The political groups are key to tackling the political deficits. Legislative work should become the new priority, while the number of own-initiative reports and resolutions should be massively reduced. More effort should be put into preparing the Joint Declaration with the Council and the Commission. The EP could strengthen its own position by introducing annual work programmes and a list of legislative priorities for the whole term. The political groups should also mandate the drafting of a strategic agenda or conceptual papers (i.e. an understanding of the European path to digitalisation) and pledge that their legislative work is principle-based, technologically neutral, innovation-friendly and future-proof. Another common goal should be to draft less new legislation and instead concentrate on evaluating, monitoring and adjusting already existing laws (CDU 2021, 4). To better deal with the dynamic digital sector, alternative governance approaches to our legislative toolbox should also be considered, such as regulatory sandboxes, embedding rules in code and public–private partnerships. Changes to the ways rapporteurs and shadow rapporteurs are assigned by the political groups seem equally crucial. The appointments should take place prior to the publication of the legislative draft by the European Commission so that the appointees can engage during the drafting process and find interinstitutional compromises on key issues *ex ante*. An MEP's track record and experience in the respective field should also be taken more into account when appointing rapporteurs. The proposed points would help to streamline the different working streams and would allow the EP to become a strategic political player that takes a long-term policy approach.

Solving the external deficits might be the most challenging task as this depends entirely on other political actors. To close the information gap, the EP should be closely

involved in impact assessments and in the European Commission's public consultation. Member states should also be encouraged to share and to explain their empirical data. After successfully removing the structural, financial and political deficits, the EP should eventually push for a treaty change. It will only become truly capable of determining the digital governance of the EU once it has a genuine right of initiative as well as legislative competences in all affected sectors (Madiega 2020, 8). At the same time, such a treaty change could be used to implement long-overdue reforms of its composition. The Conference on the Future of Europe could serve as a kick-off event. The execution of all the proposed reforms would ultimately turn the EP into the strong co-legislator that a successful digital transformation of the EU requires.

Note

1. Some committees slightly adapted their working guidelines before the 2021 summer break as a response to continuous complaints over the workload and sessions outside of working hours.

References

Aktoudianakis, A., Vandenbussche, T., & Van der Loo, G. (2021). *The EU–US Trade and Tech Council: Mapping the challenges and opportunities for transatlantic cooperation on trade, climate, and digital*. European Policy Centre. Brussels.

Batura, O., & Peeters, R. (2021). *European Union data challenge*. Briefing requested by the European Parliament, 28 July. https://www.europarl.europa.eu/RegData/etudes/BRIE/2021/662939/IPOL_BRI(2021)662939_EN.pdf. Accessed 30 August 2021.

Castro, D., & McLaughlin, M. (2021). Who is winning the AI race: China, the EU, or the USA? 2021 Update. *Center for Data Innovation*, 25 January. https://datainnovation.org/2021/01/who-is-winning-the-ai-race-china-the-eu-or-the-united-states-2021-update/. Accessed 28 August 2021.

CDU (Christlich Demokratische Union Deutschlands). (2021). *Deutschland mobilisieren, damit Gutes bleibt*. 9 June. https://www.cducsu.de/themen/deutschland-modernisieren-damit-gutes-bleibt. Accessed 22 August 2021.

Choi, M., & Andresen, S. (2020). *Das Neue Ministerium*. 18 December. https://work.4germany.org/project/das-neue-ministerium-fellows-2020/. Accessed 22 August 2021.

Csernatoni, R., & Lațici, T. (2002). Empowering the European Parliament: Toward more accountability on security and defence. *Carnegie Europe*, 20 July. https://carnegieeurope.eu/2020/07/20/empowering-european-parliament-toward-more-accountability-on-security-and-defense-pub-82309. Accessed 22 August 2021.

Demertzis, M. (2021). The four pillars of a digital strategy. *Bruegel*, 16 March. https://www.bruegel.org/2021/03/the-four-pillars-of-a-digital-strategy. Accessed 28 August 2021.

European Commission. (2019). Opening statement in the European Parliament plenary session by Ursula von der Leyen, candidate for president of the European Commission. Strasbourg, 16 July. https://ec.europa.eu/commission/presscorner/detail/en/SPEECH_19_4230. Accessed 2 September 2021.

European Parliament. (2020). *European strategy for data*. 2020/2217 (INI), 25 March. https://www.europarl.Europa.eu/doceo/document/TA-9-2021-0098_EN.html. Accessed 2 September 2021.

Evas, T. (2020). *Civil liability regime for artificial intelligence: European added value assessment*. EPRS Study PE 654.178, 25 September. https://www.europarl.europa.eu/RegData/etudes/STUD/2020/654178/EPRS_STU(2020)654178_EN.pdf. Accessed 2 September 2021.

Koschnick, W. (2019). Volksparteien: Selbsttötung per Fraktionszwang. *Heise.de*, 15 January. https://www.heise.de/tp/features/Volksparteien-Selbsttoetung-per-Fraktionszwang-4271103.html. Accessed 22 August 2021.

Madiega, T. (2020). *Digital sovereignty for Europe*. EPRS Ideas Paper, PE 651.992, 2 July. https://www.europarl.europa.eu/RegData/etudes/BRIE/2020/651992/EPRS_BRI(2020)651992_EN.pdf. Accessed 23 August 2021.

Metzinger, T. (2020). Towards a global AI charter. In G. Kolliarakis & I. Hermann (eds.), *Anticipatory governance for artificial intelligence* (pp. 33–8). DGAP Report no. 9, 19 April. https://dgap.org/sites/default/files/article_pdfs/dgap_report_no._9_april_29_2020_60_pp.pdf. Accessed 23 August 2021.

Renda, A. (2021). Making the digital economy 'fit for Europe'. *European Law Journal*. doi:10.1111/eulj.12388.

Russack, S. (2019). *EU parliamentary democracy: How representative?* Centre for European Policy Studies. 17 May. https://www.ceps.eu/ceps-publications/eu-parliamentary-democracy/. Accessed 22 August 2021.

Sánchez, E. (2021). MEPs rethink EU Parliament future after Covid-19 pandemic. *EUobserver*, 17 May. https://euobserver.com/democracy/151846. Accessed 23 August 2021.

Stockdale-Otárola, S. (2017). Navigating wicked problems. *OECD Insights*, 6 June. https://www.oecd.org/naec/complexity_and_policymaking.pdf. Accessed 22 August 2021.

Von Ondarza, N., & Schenuit, F. (2018). Reforming the European Parliament. *SWP Comment*, 20 February. https://www.swp-berlin.org/en/publication/reforming-the-european-parliament. Accessed 22 August 2021.

Author biography

Kai Zenner *is Head of Office for MEP Axel Voss (European People's Party Group) in the European Parliament. Describing himself as a digital enthusiast, he focuses on emerging technologies, data sharing and the EU's digital transition. He graduated in politics (University of Edinburgh) and in law (University of Münster). Before moving to the European Parliament, he worked as a research associate at the European office of the Konrad Adenauer Foundation in Brussels.*