



Fixing the Relationship between the European Union and its Youth

The Case for the Creation of a European Youth Parliament

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Abstract

This paper proposes the introduction of a European Youth Parliament within the political system of the European Union. It departs from five contemporary problems of the European Union from sociological, legal, and philosophical perspectives: A restrictive understanding of the *demos*, the citizenry of the European Union; the violation of the fundamental rights of children and adolescents; a vicious cycle of political apathy amongst young people; a youth-hostile and discriminatory political culture; and an uneven distribution of the power over decisions and the consequences from them between the different generations. In light of these problems, I present five different arguments to justify guaranteeing youth a privileged position in the political decision-making process of the European Union. Finally, I show that a European Youth Parliament that legitimately represents the European youth, has a meaningful influence, and is legally solidified, is an appropriate means to realise this and can help in the emancipation of an unrepresented group of society.

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Fixing the Relationship between the European Union and its Youth

The Case for the Creation of a
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Preamble

The idea of a European Youth Parliament came to me while I was sitting in Strasbourg in March 2017 during the European Youth Convention, at the very same time when I had just sent my application to Maastricht University for the Liberal Arts & Sciences degree at University College Maastricht and was eagerly awaiting a response. A few days later, I was invited for an interview and subsequently accepted. In a certain sense, a cycle closes itself with this thesis. It fills me with a sense of pride and humility that I had the privilege of learning and writing about precisely the questions and societal challenges that have preoccupied my mind for the past years. At the same time, what I wrote about and what I found is not a completed project or a door closing behind me. It is much more the call and opportunity to continue this work. And this thesis to me shall act as a vow – I can only hope that my future self will keep to it.

Opening Act: Setting the Scene for a European Youth Parliament

In an impromptu conversation in the Emmy-nominated series *The Politician* (Murphy et al., 2020), state senate candidate Dede Standish, her chief of staff Hadassah Gold, and average adult citizen Andi Mueller – who are, as it happens, stuck in car traffic in New York City – converse:

“[Dede Standish]: I love the environment. I have fought for it, and I am really delighted to know that the young people are energized about it, but they shouldn't be in charge. They should be part of the conversation, of course, sure, but they should not be in charge, they just shouldn't be! Passion is wonderful. I also have experience. I am very experienced. And I have discipline. And passion without experience and discipline is chaos! [Hadassah Gold:] Anarchy, okay?” (Murphy et al., 21:30)

Even though it originates in the United States, I think that it is this monologue which perfectly encapsulates prevailing societal spirit and the prejudices young people – children, teenagers, adolescents, young adults – face, and the attitudes expressed whenever a young voice speaks up on European politics. Engagement for something? Wonderful! Want to be listened to? We can arrange that. But dare someone speak of giving actual weight and power to younger persons, and it seems like the continent were to go up in flames. This youth-hostile political culture is the first among five problems of the European Union (EU) recognised in this paper. I argue that these problems can be comprehensively addressed through the creation of a European Youth Parliament.

The idea of youth-specific representative bodies is not completely new. Within Europe there is a number of *youth parliament* organisations^a on a national level with a varying degree of entrenchment in the national political system (Jalta et al., 2021). I am not the first to propose such a Youth Parliament on a European level either. In fact, the idea of the creation of a European Youth Parliament traces back to Georges Rencki, who proposed such a body in 1951 (see Heister, 2015). Under the name “Assemblée européenne des Jeunesses politiques” [*European Assembly of Political Youth*], it assembled once in 1952. This initiative, however, could not sustainably embed itself in the only slowly emerging institutions of the European Coal and Steel Community and dissolved (Heister). Next to this historical event, the usefulness of representative assemblies by young people to consult decision-makers has also most recently been affirmed by the Council of Europe (see Council of Europe Committee of Ministers, 2012, Appendix, III para. 3) and in the Youth Strategy of the European Union (Council of the European Union, 2018). Opposed to that, it has to my knowledge neither in the academic, nor in the political or civic field been undertaken to specify criteria that a European Youth Parliament should fulfil to effectively address the contemporary problems of youth in the EU. This is the gap in research and political theory that this paper will address. It attempts to defend the following thesis statement:

The creation of a European Youth Parliament can guarantee European youth a privileged position in the political decision-making process of the European Union and thereby address five important contemporary problems.

a The international non-governmental organisation “European Youth Parliament” which understands itself as *peer-to-peer educational programme* (EYP, n.d.), is neither addressed, nor relevant to this paper.

Before we can even attempt to discuss or defend this thesis statement, it is prudent to specify the terms used in it. The *political decision-making process of the European Union* is well defined by the public law of the European Union, primarily the Treaty on the Functioning of the European Union and the Treaty on European Union^b. The *five important contemporary problems* will be discussed extensively in Section 1. At this stage the definition of a *European Youth Parliament*, and a specification of the terms *European*, *youth*, and *privileged position* need to be established.

I define a *European Youth Parliament* to be a body of such nature that it (1) can bring forward a legitimate claim to represent exclusively the European youth, that (2) has the power and rights to meaningfully influence the European political decision-making process, and that (3) has a legally solidified and quasi-constitutional status engrained in treaties among the Member States of the European Union or in the *acquis communautaire*^c. I argue that a European Youth Parliament which fulfils these three criteria can guarantee a privileged position for European youth in the EU political decision-making process: The legitimate claim criterion guarantees that the European Youth Parliament gives European youth specifically and no other group a say and an influence. If a European Youth Parliament were to represent groups or persons other than those before-mentioned, it would not fulfil the legitimate claim criterion any more and thereby not be a European Youth Parliament in the sense of this paper. The meaningful influence criterion ensures that there is an advantage to the privileged position: The European Youth Parliament does not have just any say, but one which has a specific influence against all other entities involved in the EU political decision-making process. Thereby, it is granting youth, the group that it legitimately represents by virtue of criterion 1, a say and an influence that is privileged. The legal solidification criterion ensures that the privileged say and influence is protected so that it is not abolished easily or through the rule of the dictate of the majority, moulding the privileged say and the privileged influence (criterion 2) that European youth (criterion 1) has into a privileged position for European youth in the political decision-making process.

b The language of *decision-making* has also been used in legal texts with regards to the rights of the child, e.g. in Council of Europe Committee of Ministers (2012)

c Term for the body of law of the European Union (Hilf, 2009)

Opening Act: Setting the Scene for a European Youth Parliament

Criterion 1 (Legitimate claim)	Criterion 2 (Meaningful influence)	Criterion 3 (Legal solidification)
The European Youth Parliament can bring forward a legitimate claim to represent exclusively the European youth.	The European Youth Parliament has the power and rights to meaningfully influence the European political decision-making process.	The European Youth Parliament has a legally solidified and quasi-constitutional status engrained in treaties among the Member States of the European Union or in the <i>acquis communautaire</i> .

Table 1: Criteria for a European Youth Parliament

After the definition of the understanding of a European Youth Parliament, the terms *European*, *Youth*, and *Privileged Position* deserve further clarification. *European* persons shall be understood as people having their life focus in a place on the European continent that is either politically belonging to the EU, or otherwise strongly affected by the political decision-making process of the EU. *Youth* shall be understood as including children, teenagers, adolescents, and young adults insofar as they identify and can reasonably be perceived as identifying as youth. I deliberately do not set a fixed lower or upper age limit as any such attempt would result in an arbitrary definition, which is not in line with the spirit of this paper. *Privileged* entails that the position is advantageous if compared to the position of everyone but youth in the sense that it grants a specific exclusive right or power to the group *youth* that persons who are not a member of the group *youth* do not have^d. The term *position* entails that the right(s) or power(s) that the group *youth* are granted are not merely temporary or tied to a particular event, but that the privilege is of a stable nature. For the curious reader, I have shown several ways in which the definitions brought forward in this paragraph might be criticised and, in turn, defended in Appendix A.

Having clarified the thesis statement, what comes next? In the upcoming sections, I elaborate on the five contemporary problems. Then, I bring five justifications forward why a guarantee of a privileged position for youth in the EU political decision-making process is necessary and beneficial. Finally, I shall verify to what extent the European Youth Parliament as defined above can indeed respond to the problems that I introduced in the beginning. And I expect that at the end of this paper even Dede Standish, Hadassah Gold, and the EU's most powerful themselves will be convinced that a little more anarchy might be just what we need.

^d Whether people outside the group youth have specific exclusive rights or powers is not relevant to this term, unless everyone but youth had another advantage by virtue of them not being a member of the group youth. In such case, the position of the group youth would not be *privileged*, but only *different* from non-members of the group, which is not in the spirit of this claim.

Section 1: Problem Analysis

The creation of a European Youth Parliament can guarantee European youth a privileged position in the political decision-making process of the European Union and thereby address five important contemporary problems.

Though comparatively, there is rather little research on youth representation in politics (Stockemer & Sundström, 2019), there have been different approaches by scholars of various disciplines to argue why the current relationship between European youth and the institutions of the European Union is concerning. To name two examples, Holt (1974) argued that the exclusion of children from the right to vote in general is problematic since matters affect them more deeply than adults. Stockemer and Sundström (2018) have motivated the importance for youth to be represented in European legislature by analogy from previous research which found the representation of minority groups in legislatures to be important^e. And the importance of youth participation in general is stressed in a ubiquitous amount of studies and legal findings (Janta et al., 2021). However, the five problems I identify are closely linked and require a comprehensive strategy, which is why simply copying the problem analysis from another scholar and starting from there is not enough. The first problem I have already mentioned in the introduction is the *youth-hostile political culture* in the EU. Second, there is a *vicious cycle of political apathy* against which current methods of political education and political participation by the European institutions are ineffective. Third, there is an *intergenerational imbalance of power and consequences* regarding political decisions, which is not only an abstract problem of political philosophy, but also posing a threat to the environmental stability of the planet. Fourth, one can argue that under a moral conception as well as under international law, there is a *violation of fundamental rights of children and adolescents* in the EU due to their exclusion from elections and other political processes. And fifth, the *restrictive and incoherent delineation of the European Union demos* can be seen as a problem for the EU's democratic character.

e For example, due to their potential to act as spokespersons for their groups and their potential to add relevant topics and set different foci in the political discourse (cf. Celis et al., 2008; Childs, 2004), or due to their potential as catalysing factor for emancipation of the respective out-group in other fields of society (cf. Banducci et al., 2004).

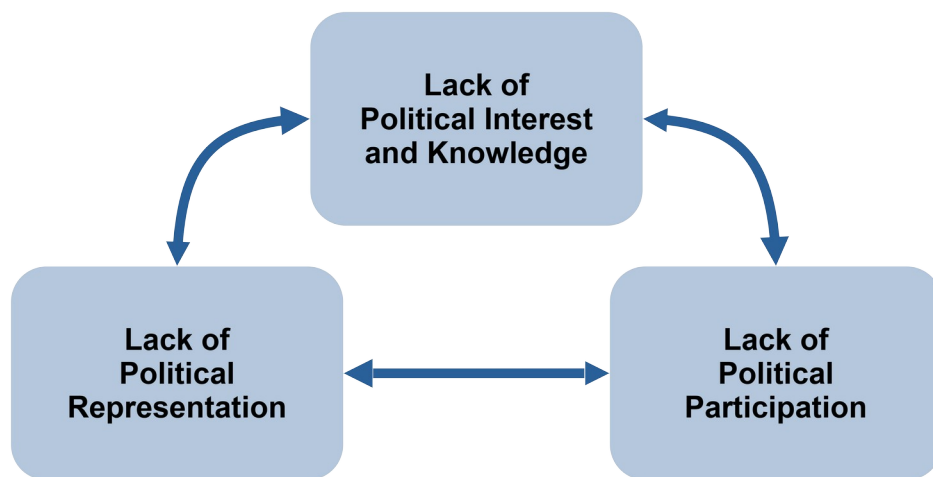
1.1: Youth-Hostile Political Culture

In EU politics, a cultural climate prevails which is hostile against young political actors. Be it in the European Parliament (von Lieben, 2018), the French National Assembly (Mediavilla, 2018), the German Bundestag (Lehner, 2020), German local politics (Godeck, 2019), or elsewhere (Inter-Parliamentary Union, 2021) – the experiences that Members of Parliament under the age of 30 report are quite the same: Those who do manage to get elected face difficulties getting heard and taken serious or are treated in a derogatory manner by their colleagues and institution officials. They are being discriminated against because of their age. The report on youth participation in national parliaments issued by the Inter-Parliamentary Union (2021) coins this phenomenon the “old is gold” syndrome. Bear in mind that these reports stem from young politicians in their (late) 20s and are thereby also only symptomatic for the problems adolescents face: If 29-year-olds are already regarded as too young and incompetent, what about 13 year-olds, who are not even half their age?

Next to that, life-cycle challenges also contribute to a disadvantageous environment for young people who wish to get involved in politics. Adolescents and young adults are likely to follow and complete an education path, seek employment, and prioritize financial stability (Inter-Parliamentary Union, 2021) which all shackles their willingness to commit to a political office in lieu of continuing (higher) education or advancing their career outside of the more volatile political realm. The structure and environment of political work is excessively demanding whilst not equally rewarding (Lehner, 2020). Electoral cycles mean that on the one hand, it is possible to lose one’s job after a certain number of years and does not have work stability, on the other hand, it requires a commitment to one activity that goes far beyond the term of most entry-level job contracts. There is no guaranteed work stability, and at the same time political office entails solely committing to the job for most often 4-5 years. For adolescents, this is a significant amount of time, after which it can be harder to continue higher education or find relevant job offers outside of the political realm (Inter-Parliamentary Union). Adding onto this are further problems such as missing financial capacities and resources to run a political campaign or opportunities to advance in political parties (OECD, 2020). So, due to this various life-cycle challenges that are inherited from the cultural environment surrounding political office, assuming political responsibilities is at no point of time as hard as during young adulthood.

1.2: The Vicious Cycle of Political Apathy Continues

The effects of a youth-hostile political culture are not contained within the political institutions, but form part of a larger societal problem, succinctly described by Stockemer and Sundström (2018) as the *vicious cycle of political apathy*. Declining political participation, a lack of political interest and knowledge, and a lack of representation are continuously reinforcing one another (see Figure 01). This in turn leads to a dis-attachment and disillusion of youth with the political process, resulting in loss of any remaining political agency of theirs and, by extension, a decline in legitimacy of a system in which its citizens are not invested. The likelihood of a person to become disinterested depends again on factors such as their social capital (Mahatmya & Lohman, 2012), their level of education (Stockemer & Sundström, 2018), and their age and country (Kitanova, 2020). Whilst, especially more recently, some politically sophisticated youth activists try to fight for their rights in new social movements (Hänel & Pohl, 2019), even for them the identification with traditional political actors is low (Binder et al., 2021).



*Figure 1: Vicious Cycle of Political Apathy
(adapted from Stockemer & Sundström, 2018, p. 471)*

This disengagement of young people with political institutions poses a threat to the EU, and it has recognised it as such. In fact, “Connecting EU with Youth” is the first of the eleven European Youth Goals that were specified under the present EU Youth Strategy (Council of the European Union, 2018b). Targets such as guaranteeing *meaningful youth involvement* or *introducing and increasing education about Europe and the EU* are very much

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in the spirit of addressing these concerns. But executive actions, campaigns, projects, and events cannot implement that. Political youth participation as facilitated by EU agencies and units under its current strategies cannot offer political representation, which is a key element of the vicious cycle of political apathy (OECD, 2020). Therefore, I characterise the nature of such events and activities organised by EU institutions or youth organisations as rather performative. This is not to be meant in a derogatory way or as saying that they are useless: In the performative practice of political participation, young people can for example express themselves, practice democratic debate and deliberation, learn and exchange themselves with other young Europeans which are all effects beneficial for the individual education and life-orientation (Breeze et al., 2021; Day et al., 2015) or can contribute to satisfaction with the government (OECD, 2020). But after all, European Youth Events, euroscola, European Parliament simulations, or other practices of youth participation and youth consultation can by design not address the element of political representation and thereby remain within a performative realm. Youth are, save for the individual enthusiasm that might be sparked by such events, not being empowered: They do not gain or possess any actual power but must remain satisfied with the possibility that their opinion might potentially convince or coincide with the opinion of someone powerful. And so, the vicious cycle of political apathy continues.

1.3: Intergenerational Imbalance of Power and Consequences

That youth become more apathetic towards politics is even more problematic considering that there is an intergenerational imbalance between the power over decisions and the consequences that different generations experience based on these decisions. There is a demographic generational mismatch between those who inhabit politically privileged positions and the general population. Now, of course any political body cannot perfectly demographically represent a group unless every member of the group were to be a member of the political body. However, the current composition of European legislatures and executives does not even begin to approximate an appropriate generational representation. For example, the average age of a Member of the European Parliament (MEP) of September 2020 is 51 years; the youngest MEP born in 1998 from Denmark (Sabbati, 2020) is an outlier in terms of her age. The shocking absence of young citizens from the European Parliament in a longitudinal study has been investigated in Stockemer & Sundström (2019), who have found

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radical measures and institutional reform to be necessary. A point that has not been addressed in literature so far is also that members are only elected every five years, which means that even the youngest MEP at the beginning of their term will have grown five years older by the end of their term, which is a significant timespan for young adults.^f

Up until here, I have shown one side of the problem: Power is not demographically accurately distributed. There is, however, a much bigger side to this problem: The consequences of decisions made by politicians in privileged positions do not affect all generations equally. In times of approaching fossil resource depletion (Höök & Tang, 2013) and human industry approximating the planetary boundaries (see Rockström et al., 2009; Steffen et al., 2015; Leach et al., 2013), this entails that decisions made in the present have a radical effect more than ever before which can irreversibly alter and scar the conditions of living of future generations for millennia to come (see IPCC, 2021). Under such conditions, a political system in which the voice of young and future generations is not heard is failing its citizens and its planet. Whilst the environmental consequences of current policy-making are the most tangible place where contemporary decisions have a much larger impact on younger people, there are also political decisions not directly related to the environment that affect the younger generations particularly. The welfare state in the hand of a group of older seniors can economically drain a state so that the general living conditions of the following generations worsen (see Hinrichs, 2007). Similarly, a decision to go to war affects younger citizens who are more likely to be pulled into this war, much more than older citizens (see Holt, 1974).

The power imbalance between generations is accelerated by the demographic change of European societies. The share of old people is steadily rising across all EU Member States whilst the share of young people continually declines (eurostat, 2021). In the current system, this means that a large part of the population which is, simply put, likely to die relatively soon and never will experience the long-term consequences of short-sighted decisions can hold the younger generations hostage by voting for representatives who favour unsustainable decisions that provide benefit and comfort in the short term but have disastrous consequences in the long term. And they do so. The older the citizens, the less aware societies are of the environmental concerns (Baiardi & Morana, 2021; Franzen & Vogl, 2013), and the less

^f For officials in European governments or other high ranking European political posts I could not find a reliable source of statistically sound comparative evidence. The lack of young people in public administrations in national administrations has been shown in OECD (2020).

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interest they show towards them (Marquart-Pyatt, 2008). Likewise, taken by age group the older one gets, the less important fighting climate change is as a political priority (Zalc et al., 2019). That old people do not care as much about the climate crisis as youth is sadly not only an insinuation, it is an observable fact.

1.4: Violation of Fundamental Rights of Children & Adolescents

That the intergenerational imbalance leads to environmental policies wherein the rights of children are being violated has already been affirmed by the highest courts in Germany (Escritt, 2021) and the Netherlands (Meijer et al., 2019). But apart from the generational power imbalance under which children and adolescents suffer, their fundamental rights to be heard and to protection from discrimination are arguably being violated. Parliaments, state legislature, local councils across the continent have some form of minimum voting age that prevents children and teenagers from exercising their democratic right to vote or run as a candidate. Hence, what is called the ‘*universal right to vote*’ is not actually universal. At the same time, the right of children to be heard, and the right to protection from age-based discrimination are both principles of international law. So, there is not only a moral, but also a legal argument to be made that EU Member States are in violation of international treaties and conventions when they refuse children and adolescents to participate in the European Parliament (EP) elections^g.

In Appendix B, I have closely examined three relevant agreements of international law, namely, the United Nations Convention on the Rights of the Child [CRC], the European Convention on Human Rights [ECHR], and the Charter of Fundamental Rights of the European Union [CFR] under consideration of relevant secondary legislation and jurisprudence. Under the CRC, one can argue that the EP elections are a matter affecting the child, and that Article 12 CRC is being violated by the inaccessibility of children to their right to be heard in this matter. Under the ECHR, one can argue that the restriction on the right to protection from discrimination under Article 14 in conjunction with Article 3 (1) of the First Protocol or under Article 1 of the Twelfth Protocol is disproportionate. As the effort required to bring forward a substantive argument under the CFR exceeds a reasonable scope, considering that this deliberation is not the main concern of this thesis, I could only show

^g Persons with passports of EU Member States below the ages of 16 (Austria & Malta), 17 (Greece), or 18 (other Member States) years are not allowed to participate in the EP elections (Sabbati et al., 2019).

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which steps would be necessary to argue a violation of both the right of the child to be heard under Article 24 and a violation of the right to protection from discrimination under Article 21 (1), but not eventually bring these claims forward.

Apart from the interpretation of the provisions of international law, one could also argue it to be simply morally wrong to restrict children's rights to participate, and postulate that these fundamental rights are, in fact, being violated. It is legitimate to do so in bringing this argument forward, since I as author of this paper am not a court, nor any other adjudicatory body that is called upon to interpret the law. I have shown interpretations in favour of this argument either way, so that now, having a strong claim in hand, we can proceed to establish and analyse the last problem.

1.5: Restrictive and Inconsistent Delineation of the European Union Demos

The exclusion of children and adolescents from elections touches upon another question that is relevant to democratic theory. Political thought knows the term of the *demos* as describing the citizenry that is composing a certain political entity, and within this paper, it is intended to mirror the Athenian meaning as *the collective term encompassing all citizens and identifying who it is who acts when the European Union as a whole acts*^h. So, who is it, i.e., who are the citizens of the European Union? Under a closer consideration of contemporary regulations, we start noticing that the EU demos appears to be composed restrictively and inconsistently due to a myriad of age and residence barriers. Children and adolescents who do not enjoy a right to vote are traditionally not seen as part of the demos due to their lack of qualification to equally participate in the democratic process (see Dahl, 1989). Applied to the contemporary EU, that however means that whether one is part of the EU demos depends not only on one's age, but also on whether one happens to reside in a particular country or not.

^h Adapted from Saxonhouse (2001): "*Demos thus serves as the collective term encompassing all citizens and identifying who it is who acts when the city as a whole acts.*" (Saxonhouse, 2001, p. 268)

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For example, picture a person with a German passport^{i,j,k} who has their primary residence in Austria. They become part of the EU demos as soon as they turn 16 years old: They are eligible to cast a vote for the Austrian Members of the European Parliament if they so desire (Bundesministerium für Digitalisierung und Wirtschaftsstandort, 2016). But if they then were to move to Germany before turning 18, their membership in the EU demos would cease to exist, and they would only become a member of it at an age of 18 years again, when they are allowed to vote for the German Members of the European Parliament (Bundesrepublik Deutschland, 2020). Are they then a EU citizen who is part of the EU demos or not? A nightmare for political philosophy! And a true challenge to the principles of the European Union: After all, membership in the EU demos, i.e., EU citizenship in its fullest sense, being revoked due to a move between Member States is not specified or foreseen by EU law and goes directly against the spirit of what was once solemnly proclaimed as the Charter of Fundamental Rights of the European Union (2000).

Then, there is yet another problem: Even a significant number of adult citizens who have passed all age barriers to participate in any elections in their Member State or the EU are excluded from voting in the EP elections based on their place of residence. Picture a person with an Irish passport and their place of residence in Switzerland. Would they be regarded as EU citizens who are a member of the EU demos by their peers and in their environment? Probably so! After all, they possess an Irish passport. However, they have no right to participate in the elections to the European Parliament based on Irish national legislation excluding residents abroad from voting, and Switzerland not being a EU Member State (cf. Sabbati et al., 2019). Therefore, we cannot regard them as full members of the EU demos, and their EU citizenship is severely limited. EU law however does not foresee for EU citizens being limited in their status as EU citizens and losing their right to vote in the EP elections

i Within this paper, I shall speak of *persons with passports* instead of *citizens* or *nationals* on multiple occasions.

It shall be read as equivalent to *persons who possess identification documents issued by the state that confer the enjoyment of citizen rights*. (It does not suffice to end this definition after *identification documents*, since a person might possess over identification documents that do not confer the enjoyment of citizen rights, e.g., a driver license).

j I avoid the term *citizens* due to possible ambiguity between persons who have citizens' rights in the fullest sense of a specific state entity, and persons who do not have those rights even though their identification documents suggest they should (e.g., persons with a passport but without voting rights).

k I avoid the term *nationals* because of its ambiguous and loaded meaning that extends beyond the pure conferral of citizen rights by a state to a person (e.g., a person with a passport by a specific state entity might choose not to identify as national of that state). Similarly, discussions on European nationality would require extensive historical reflection, which is not possible within the scope of this paper.

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due to a change in place of residency; another problematic case of legal-political-philosophical restrictiveness and inconsistency in the delineation of the demos of the European Union.

1.6: Intermission – On the Debate of the Minimum Voting Age

Now, we have established the five important contemporary problems that the European Youth Parliament seeks to address. At the same time, it would be inconsiderate to directly proceed to the justifications for the European Youth Parliament without first briefly examining one of the academically and politically most discussed measures with regards to youth participation in European politics for the past decades: The amendment of the minimum voting age. Proposed alternatives to the status quo range from a slightly lower voting age of 16 years instead of 18 years^l or lower voting ages such as 12 years^m, over a ‘deferred right to vote’ⁿ, or the replacement of minimum voting ages with a procedural test for minimum electoral competence^o, up to the case for the abolishment of voting ages altogether^p.

However, lowering, replacing, or abolishing the minimum voting age does not resolve a single one of the outlined problems satisfactorily. Solutions proposing to do so primarily address the violation of fundamental rights (Section 1.4) or the restrictive and inconsistent delineation of the EU demos (Section 1.5). However, minimum voting age discussions only relate to active suffrage. How would we deal with the fact that different states have highly varying regulations as to when a citizen can run as a candidate of the European Parliament (Sabbati et al., 2019), or their other legislative and executive bodies? While the EU demos under a Europe without minimum voting ages would be more inclusive and more consistently delineated than now, it is still not clear who may unlimitedly participate in the European political process – which includes more than just the EP elections – and who not.

All such proposals furthermore cannot effectively respond to the other problems we have established. Active voting rights do neither guarantee political representation or political interest and knowledge required to break out of the vicious cycle of political apathy, nor do

^l See Damon, 2009; Fournier, 2015; Faas & Leiniger, 2020; Winkelmann & Zimmermann, 2020; cf. Cowley & Denver, 2004

^m See DBJR, n.d.; Hurrelmann, 2016

ⁿ System in which children have a right to vote from birth on, but where it is exercised by their parents on their behalf up to a specified age. (See Knödler, 1996; Schmitter & Trechsel, 2004)

^o See Cook, 2013

^p See Holt, 1974; Peschel-Gutzeit, 1999; Hinrichs, 2007; Bücken, 2021

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they address a youth-hostile culture in politics, nor do they account for the fact that ageing generations of adults who are less affected by decisions hold an unjustified power over the future of the youngest. A shift of the voting rights to parents through a deferred right to vote also does not even necessarily translate to more altruistic policy in the interests of the child (cf. Kamiyo et al., 2020). The same goes for other well-meant proposals such as youth quotas as proposed during a European Youth Event (European Parliament, 2016b cited in Stockemer & Sundström, 2019) which could not be shown to have any relevant significant effect so far (Inter-Parliamentary Union, 2021; Stockemer & Sundström, 2018). So, while acting upon the minimum voting ages is a noble cause, it is not sufficient to address the problems that the European Union faces.

Section 2: Justifications for a Privileged Position for European Youth in EU Politics

*The creation of a European Youth Parliament can guarantee European youth **a privileged position in the political decision-making process of the European Union and thereby address five important contemporary problems.***

Let us circle back to the Thesis Statement. After we have clarified what the problems facing the European Union are, the next question ahead is: Why should European youth be guaranteed a privileged position in the political decision-making process of the European Union in the first place? How does this address these problems? In the Opening Act, I have shown that a European Youth Parliament which fulfils the criteria of legitimate claim, meaningful influence, and legal solidification can guarantee a privileged position for European youth in the EU political decision-making process. Now, there are five different justifications that I present in which it becomes clear why such a privileged position can address the analysed problems.

2.1: Justification of Education for Democratic Citizenship

One of the goals of modern education in the liberal democracies of the European Union is to contribute to what is called democratic literacy or education for democratic citizenship. I argue that a privileged position for youth in the EU political decision-making process is a good way to increase the democratic literacy of youth. Education for democratic citizenship entails the preparation of adolescents for a responsible life in a free society, and such education is a recognised right under the Convention on the Rights of the Child (1989)^q. The Council of Europe Charter on Education for Democratic Citizenship and Human Rights Education (Council of Europe Committee of Ministers, 2010) shows the need for a comprehensive approach thereto:

“ ‘Education for democratic citizenship’ means education, training, awareness-raising, information, practices and activities which aim, by equipping learners with knowledge, skills and understanding and developing their attitudes and behaviour, to empower them to exercise and defend their democratic rights and responsibilities in society, to value diversity and to play an active part in democratic life, with a view to the promotion and protection of democracy and the rule of law.” (Council of Europe Committee of Ministers, 2010, Article 2 para. a).

Not only in the Charter, but also in other legislative texts and documents by institutions of the Council of Europe or the European Union can we find such an understanding of democratic citizenship to have a strong participatory character. It expressly must not be constrained to the regular compulsory schooling education system (Council of Europe Committee of Ministers, 2006). Bearing these conceptions of democratic literacy education in mind, it becomes clear that the challenges and trends identified in Section 1.2, the vicious cycle of political apathy, are indicators of a failure of successful education for democratic citizenship. Democratic citizenship education and the elimination of the vicious cycle of apathy are codependent: If we want to break the vicious cycle of political apathy, we

^q “States Parties agree that the education of the child shall be directed to [...] the preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin” (Convention on the Rights of the Child, 1989, CRC Article 29 1.d)

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need successful democratic citizenship education. And if we want to have an effective democratic citizenship education, the causes of the political cycle of apathy need to be eliminated.

We have already established that the vicious cycle knows the dimensions of political interest and knowledge, political participation, and political representation. As was briefly mentioned, contemporary strategies address increasing political participation and political interest and knowledge. I have argued before that political representation, however, remains unaddressed and, where participatory practices are claiming to do so, are only performative. Even if one were to argue that it was not, the opportunities to participate in political participation and political representation methods are vastly differing across cultural and socio-economic contexts which leads to a lack and disparity of accessibility of such processes (Kitanova, 2020). Now, as basic as that might sound, the only way to fix the lack of political representation of all youth is to actually allow youth to be represented. On the one hand, legal barriers prevent that for a vast majority of youth (see Section 1.4), on the other hand, even when they pass the legal barriers to theoretically try to run as representatives, a youth-hostile political culture (see Section 1.1) is in the way of realising political representation. As a consequence, we need to change the laws in a way which allows for youth representation, and, in the best case, counters the destructive effects of a youth-hostile political culture. A good way to do so is to institutionalise the political representation of youth. Youth needs their own spaces and working methods in order to learn and practice democratic citizenship (Council of Europe Committee of Ministers, 2006). In that sense, a particular body which allows youth to have their own space which at the same time guarantees political representation is an optimal solution! Since an institutionalisation of representation always entails the conferral of specific rights and powers to the representing organ, that basically means in other terms guaranteeing youth a privileged position in the EU political decision-making process.

This institutionalised privileged position can finally be a means of democratic citizenship education that can address the dimension of political representation to youth within the vicious cycle of political apathy. It is an opportunity for young citizens to familiarise themselves with democratic processes. Also, a privileged position for youth in the political decision-making process, by definition, avoids the pitfall of only performative

representation. Due to the position being integrated in the EU political decision-making process, and the position having specific rights and powers as established in our definition of the term *privileged*, it does not run risk of being just another voice that politicians hear when making decisions. It can help realise things that others cannot: Youth is here given the opportunity to actively engage in meaningful and power-bearing contexts and can grasp political culture as more than voting in elections. Uniquely when youth is granted a privileged position those contexts will not remain purely performative or educative but bear agency and influence.^r

2.2: Interest-Egalitarian Justification I (Discrimination)

In the following four justifications, we lay less focus on what is good for the individual citizen in their education, and more focus on what is good or just for society in Europe. Both this and the following interest-egalitarian justification will show how, if we posit as a principle of justice that *individuals be treated equally with regard to their interests* (see Christiano, 2002, p. 35), we need to guarantee a privileged position for youth in the EU political decision-making process. That is because our principle of justice demands that the political system of the EU needs to be set up in a way that allows youth to be treated equally regarding their interests as adults. But when looking at the political landscape of the EU, based on our problem analysis one can argue that youth are systematically excluded from political bodies (see Sections 1.1, 1.4, and 1.5).

A culture in which young citizens who want to engage themselves in the political discourse are ridiculed, mocked, and discouraged is an ageist political culture, with vastly different treatment of citizens with regard to their interests. So, if we truly want to attribute young citizens equal treatment regarding their interests as adult citizens, a mere formal equality of being able to exercise the same active voting rights as adults is not enough to

^r The argument can be made in a similar, yet weaker way as concerning *youth participation* instead of *youth representation*. After all, political participation of young people is ““fundamental to social organisation and cohesion” (Council of Europe Committee of Ministers, 2006, para. 10)”, “not limited to areas and issues which only concern youth” (ibid., para. 12), and “not restricted to asking their opinions but must include empowering them to be actively involved in a creative and productive manner” (ibid.). The difference, however, is that non-performative youth participation can be realised in many different ways, whereas it is significantly more difficult to realise non-performative youth representation (see Section 1.1, 1.2 for relevant barriers). For more legal background on *youth participation*, see also Committee on the Rights of the Child (2009), Council of Europe Committee of Ministers (2012), Council of Europe Parliamentary Assembly (2009).

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combat this discrimination. However, the mere problem of a youth-discriminatory culture is also not enough to warrant the claim that youth should have a privileged position in decision-making processes or that we should introduce a new institution. So far, this problem, under the presented egalitarian supposition, primarily suggests a change in culture is necessary so that all citizens have actual equal opportunity to participate in politics. But: The shifting consistency of the discriminated group leads to a limitation in possible emancipation, which makes traditional tools of emancipation unavailable to youth and, so I argue, establishes the need of a privileged position in the decision-making process. Discrimination based on young age will automatically at some point terminate and change its nature, as age is a fluid characteristic that at no point is fixed in time for an individual. Children or adolescents will sooner or later be liberated from their discrimination as child or adolescent. However, this liberation from this form of group-based discrimination will always occur on an individual level through the getting older of the individual child or adolescent to the point where they are seen as adult citizens. By the time they are free from this form of discrimination, however, other children and adolescents have been born and now face the same discrimination as the children of the previous generation faced before.

Why is cultural change alone, then, not sufficient? Even if an entire generation of young people would effectuate such massive cultural change that they would not be discriminated against any more, there is no guarantee that this achievement of non-discrimination transfers to the next generation of children and adolescents, and that they themselves not become offenders of the same discrimination they previously suffered. As the liberated grow up, the discrimination ceases to concern them and thereby also their interest in ending said discrimination significantly reduces. By the time they have the means, power, and skills to lobby against the discrimination, it is questionable if they even desire to do so. Likewise, a new generation of children and adolescents would be powerless if at any given point of time the cultural environment changed to their detriment. Any cultural state in which children and adolescents enjoy the same rights as adults is therefore fragile, and cultural change alone cannot ensure that children and adolescents have an equal opportunity to participate. Which means that, if we want to ensure that, as accepted as premise in the beginning, they are treated equally with regards to their interests as the dominant group of adults, then they need a protected right to have specifically their voice heard in deliberations.

In other terms, they need a privileged position in the political decision-making process as can be realised through a European Youth Parliament.^s

2.3: Interest-Egalitarian Justification II (Lobbying)

Let us depart from the same premise as in the previous justification: *individuals be treated equally with regard to their interests* (see Christiano, 2002, p. 35)^t. There is a second reason why, based on this premise, youth should be guaranteed a privileged position in the political decision-making process of the European Union. Children and adolescents possess over unequal resources to participate in the public discourse and audibly and effectively express their opinion and preference when compared with the rest of the population in the contemporary EU. I argue that youth needs to inhabit a privileged position in the political decision-making process of the EU in order to achieve an equal treatment with regard to their interests due to their lack of access to typical lobbying resources.

This argument from an egalitarian perspective mainly concerns the availability of resources to influence political decisions. Whether seen as beneficial or detrimental to the quality of the EU's democratic system, it features a vivid lobbying culture. In comparison to the resources adults have at their disposal, children and adolescents however have nearly no capacities for any such lobbying. Adult citizens often dispose over income, time, a professional network, the backing of corporate or private economic capital, rights and skills to publish and distribute information on a large scale. Children do not possess over any such resources except for the allowances made to them by their parents, and the opportunities they have to influence the political decision-making are largely limited to contacting stakeholders or organising in form of public protests. But in a reality in which no money combined with limited possibilities are facing off against a gigantic sum of capital, resources, and employees dedicated to lobbying for the purposes and interests of adults and legal entities, children are at a significant disadvantage. Given the magnitude and diversity of adult lobbying forms, it is impossible to staff children and adolescents with equal lobbying resources – nor would it be

^s In parallel to the argumentation here, Christiano (2002) has also recognised the interest in recognition, i.e. being taken seriously by others, in conflicts of justice (see p. 46f.). One can reasonably interpret this interest in recognition as also an interest under democratic matters. The privileged position for youth then would enshrine the guarantee of recognition for a societal group which has been refused that interest.

^t This second interest-egalitarian justification runs even closer to an application of the original logic of Christiano, who also specified that equal treatment with regards to interest entails “that individuals be given equal resources with which to understand, elaborate, and pursue their interests.” (Christiano, 2002, p. 44)

useful given the express nature of lobbying as a liberal culture that emerges from citizens, not from the state. Therefore, in order to ensure a representation of children and adolescents in the political decision-making process that brings about equality in the opportunity to participate in the political life, a privileged position for youth in the political decision-making process, such as an own European Youth Parliament, is needed.

2.4: Outcome-Utilitarian Justification

It is appropriate to presuppose that when implementing or amending a democratic system, we seek to advance a common good. The question political thought has encountered is as to how this common good can precisely be captured. I argue that, considering the problem of the uneven distribution of power over decisions and consequences from those decisions (see Section 1.3), it is time for reassessment of the common good. A classical utilitarian justification of majority rule runs something like this: We can approximate the common good through opting for the maximal achievable societal utility in making political decisions^u. Further, societal utility equals the sum of individual utility across all individuals affected by a political decision. Individuals in political decisions choose the options that are in their interest, i.e., that bring them the most individual utility. And the weight of individual utility in a political decision should be of the same amount for all individuals. Under these assumptions, advocates of majority rule tend to argue that the best possible way to ensure the maximum societal utility that is achievable for outcomes of political decisions is to implement the decision that is preferred by a majority of individuals. If we apply this logic to a demos in which children and adolescents are included in a decision with only two possible outcomes, if outcome A is chosen by 5 adolescents and outcome B is chosen by 5 pensioners, both outcomes have equal societal utility.

This justification takes a different approach and adopts a new understanding of the term societal utility. Our starting point is the same: We can approximate the common good through opting for the maximal achievable societal utility in making political decisions (**OU-I**). And of course, it is desirable to advance this common good. But if the outcomes of decisions have vastly different consequences for different generations (see Section 1.3), the understanding of societal utility as the sum of individual utility is not viable any more. Instead, societal utility as a concept needs to encapsulate the long-lasting consequences of the

^u Within this justification, one can therefore also simply read *utility* as *goodness*.

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decision in question, and more specifically, the influence this decision has on the realms of agency^v that remain open to individuals affected by this decision for their remaining expected lifetime^w (**OU-II**). Particularly, it needs to account for the fact that decisions for which outcomes might contribute to irreversible changes in the planetary environment have the power of considerably limiting the realms of agency of those who will still be alive when these irreversible changes happen. On the other hand, individual utility also includes, but is not limited to, the concept of the realms of agency that remain open to the individual concerned for the remaining expected lifetime (**OU-III**). The longer the remaining expected lifetime, the more important the realms of agency are for the individual utility. We maintain the assumption that individuals are rational agents and, in political decisions, choose the options that are in their interest, i.e., that bring them the most individual utility (**OU-IV**).

The last premise needed for this argument is that younger individuals have a higher remaining expected lifetime than older individuals (**OU-V**). If we discount diseases, accidents, and the standard deviation in the time of death, any European individual A will outlive any European individual B who is older than them. Individual A will therefore also have to live with the consequences of the outcome of a decision made now for longer than individual B. Likewise, individual A will suffer from the consequences of any permanent and irreversible incision in the environment longer than individual B. The former's agency is severely limited for a long rest of their lifetime, whilst the latter might even already be dead by the time the consequences from a decision contributing to such permanent incision in the environment enter.

Now, if individual utility also includes the concept of the realms of agency that remain open for the remainder of the expected lifetime and this concept is more important for individual utility the longer the remaining expected lifetime (see premise OU-III), then the longer the remaining expected lifetime, the more does the individual utility coincide with societal utility (see premise OU-II). Children and adolescents generally have a larger expected lifetime (see premise OU-V), so the individual utility of those coincides to a larger extent with the societal utility than the utility of older individuals in political decisions (**OU-VI**). As we presume that persons generally are rational agents (see premise OU-IV), this means that

^v See thereto also the Cosmopolitan Principle of Sustainability in Held (2004)

^w And, by extension, also future generations. Therefore, this justification can also be made under a consideration of intergenerational justice, though this would require a closer investigation of the concepts related to the field of intergenerational justice and exceed the scope of the paper.

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children and adolescents are more likely to opt for outcomes that increase societal utility than older individuals (OU-VII). Bearing in mind that we can advance ‘*the common good*’ through increasing the societal utility of our political system (see premise OU-I), this means that a privileged position for children and adolescents in the political decision-making process can increase societal utility and thereby is a desirable outcome (OU-VIII).

“*But what if children and adolescents do not make informed choices? Children might make choices that are worse than the choices adults would make or them!*”, a critic might voice as concern. This, in fact, would constitute a problem. After all, our understanding of societal utility within this justification is not that utility is whatever the child wants. However, as Holt (1974) argues, learning how to be integrated in decision-making processes will increase the capability of children to make better choices later on. Even if a choice would be bad, this constitutes a learning experience, and the respective person is unlikely to make the same choice that is considered a mistake by them again. As more people learn to avoid making bad decisions, the overall quantity of bad decision decreases, and the outcome gets objectively better. And even if they did not, this is not a problem that would be encountered by our following justification.

2.5: Effect-Egalitarian Justification

The effect-egalitarian argument runs somewhat close to the utilitarian argument, though it lays its focus on *justice* rather than on *goodness*. It essentially can be seen as, given current societal norms, a more radical understanding of the principle of *due weight* under what was established as the Right to be Heard in Article 12 of the Convention on the Rights of the Child (1989). Similar to the utilitarian argument, we suppose that decisions that are made in the present have a greater effect on children and adolescents than on adult individuals, because it limits their realm of possibilities for acting in the future. However, while the outcome-utilitarian argues that attributing a privileged position in the political decision-making process to youth is necessary because it will increase the utility of the European political system, a proponent of what I call the effect-egalitarian argument argues that simply by virtue of the larger effect that current decisions have on their future, children and adolescents are entitled to a privileged position in the political decision-making process. It would be unjust to treat citizens who are unequally affected by the consequences equally. In place of the premise of

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equal treatment with regards to individuals' interests, a different premise comes into play: *All individuals should be treated equally, with regard to the extent to which they are affected by a decision, in the consideration of their expressed interests.* The interest of younger citizens always outweighs the interest that older citizens have in any given political decision of the EU, simply by the virtue of the child being expected to lead a longer life and thereby being affected more strongly.

In this case, we are fully ignorant of which decisions children and adolescents favour or which decisions are favoured by adults: For all this argument cared, children might make choices that are more detrimental to future generations than the choices adults would have made; it remained their right to make these choices as it will be them enduring these choices for the longest. One can also make this argument with an outcome-utilitarian addition. In this case, one would argue that giving youth a privileged position based on their greater affectedness by political decisions is not only *just*, but that it also benefits *the common good* of the European Union. I have included a brief elaboration as well as a comparison of the elements of the outcome-utilitarian justification, the effect-egalitarian justification, and the effect-egalitarian justification with outcome-utilitarian addition in form of a table in Appendix C. For the reader interested in an overview of how all of the justifications relate to the specified problems, such a figure can be found in Appendix D.

2.6: Intermission – On the Contemporary Position of Youth in EU Politics

Before we go on and assess the capability of the European Youth Parliament to implement such a privileged position as we have established necessary, a question needs to be handled and quickly answered: Does European youth not already have a privileged position in the political decision-making process of the European Union? The answer is as simple as brief: No. Actions under the EU's Youth Strategy (see Council of the European Union, 2018b) or the activities of the Youth Outreach Unit of the European Parliament might attribute youth a particular position in the policies of the European Union, but none of those are of such a nature that they attribute specific exercisable rights and powers to youth as we have established in our understanding of a privileged position in the Opening Act.

Section 3: The European Youth Parliament and the Identified Problems

The creation of a European Youth Parliament can guarantee European youth a privileged position in the political decision-making process of the European Union and thereby address five important contemporary problems.

In the Opening Act I have shown that a European Youth Parliament with legitimate claim, meaningful influence, and legal solidification can guarantee a privileged position for youth in the EU political decision-making process. But does that solve the initially recognised problems? Admittedly, the criteria I have specified do not yet provide a manual as to how to precisely create a good version of a European Youth Parliament in reality. But it would also be frivolous of me to provide such a manual without an extensive discussion of political theory and the methods of youth participation. It is not feasible within the realm of this paper to give a comprehensive answer to this question: The decision how to build this body, how it is supported, its manner of deliberation, are in themselves political choices. These choices reflect preferences for different political priorities: Should a European Youth Parliament maximise the degree to which it is inclusive and representative if measured by some scale? To what extent and in which manner do we allow it to impact the political decision-making process? Which is its main objective? Setting all these questions aside for future considerations, what we can still do is assess in how far we would judge any European Youth Parliament as specified so far to be capable of addressing the initially established problems. Thereby we practically undertake an examination of the usefulness of the three criteria (legitimate claim, meaningful influence, legal solidification) that we defined in the beginning. If we found there to be a failure in addressing the problems, our version of the European Youth Parliament could likely not act as an appropriate means to guarantee youth a privileged position in the EU political decision-making process.

3.1: RE: Youth-Hostile Political Culture

A European Youth Parliament, as addressed in the interest-egalitarian justifications in Sections 2.2 and 2.3., is a safeguard for young people against a youth-hostile political environment. It

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acts as a safe space in which they are protected from age-based discrimination and as means of emancipation, championing their rights and embodying that a new attitude towards the engagement of young people in politics is necessary. It can help establish children and adolescents as credible political actors. By the legal solidification criterion, it can also assist in guaranteeing that this right not be taken away. It fulfils the criteria of granting youth its safe space and independent working methods as set out in international standards (Council of Europe Committee of Ministers, 2006).

3.2: RE: The Vicious Cycle of Political Apathy Continues

The vicious cycle of political apathy consisted of three elements – the lack of political representation, the lack of political interest and knowledge, and the decline of political participation. It is important to highlight the fact that the vicious cycle of political apathy is bidirectional: Its three elements continuously each reinforce one another. This also means that any approach which only tackles one or two elements of the vicious cycle cannot succeed in breaking it apart. And this is also why it is so important to find an effective method to tackle the lack in political representation. A European Youth Parliament according to the specified criteria will directly address this factor. It can thereby complement the numerous strategies that are already being undertaken by institutions of the Council of Europe, the European Union, and by youth organisations to address the lack of political interest and knowledge and the lack of political participation. That an extension of political rights can, in fact, lead to a spark in political interest has also been shown by Zeglovits & Zandonella (2013). More importantly, a European Youth Parliament is finally a body which can include, represent, and address all young Europeans, exceeding the limits that youth organisations have in their reach. It is a unifying element for all young European citizens, and can help transnational and transcultural understanding. Admittedly, how the lack of political interest and knowledge and the decline of political participation are addressed to a large extent depends on the implementation of the European Youth Parliament and cannot be assessed based on the three established criteria.

3.3: RE: Intergenerational Imbalance of Power and Consequences

The European Youth Parliament, and this is one of the features that sets it most distinctly apart from contemporary methods of youth participation, addresses the problem of intergenerational

imbalance in its core. As argued in the justifications in Sections 2.4 and 2.5, having a privileged body which, by virtue of the meaningful influence criterion, finally were to act within the public political institutions instead of on their fringe would mean giving a larger say to those more affected, or, to be precise, give them any say at all. How strongly the intergenerational power imbalance is addressed to a large part depends on the European Youth Parliament's implementation. Depending on how it is realised, the European Youth Parliament might end up holding all the cards, or only a few of them.

3.4: RE: Violation of Fundamental Rights of Children & Adolescents

I have held that the exclusion from children and adolescents to take part in the political process, and, particularly, the exclusion from their right to vote, constitute a violation of their fundamental rights to be heard and their right to protection from age-based discrimination. The European Youth Parliament implements the right to be heard in a very strong and tangible, and in an on an international level so far unseen way. Through the meaningful influence criterion, not only is the right to be heard realised for European youth, but also a right to meaningfully affect the outcome of political decision-making processes. On the matter of the right to protection from age-based discrimination, a finite answer whether the European Youth Parliament can resolve that issue is more difficult. Whether children and adolescents should have the right to vote has not been extensively discussed in this paper and is not of central relevance to the European Youth Parliament. A European Youth Parliament could exist in a society in which age barriers to the European Parliament elections continue to exist, or are struck down. Even if they were not, it would be harder to argue than under the current situation that the right of children and adolescents to protection from discrimination was violated. This is since the legal question of violation of the provision of protection from discrimination under the European Convention on Human Rights primarily boiled down to the question whether the difference in treatment between those below age barriers and above age barriers was justifiable (see thereto Appendix B). Depending on how the criteria of meaningful influence and legal solidification are implemented, it could become considerably harder to argue that a difference in treatment to participate in the EP elections was not justified precisely through the existence of the European Youth Parliament. For example, in an implementation scenario in which the European Youth Parliament were to have further

reaching powers and privileges than the European Parliament itself, the right to participate in the European Parliament elections is arguably of significantly less importance to a child or adolescent than the right to be legitimately represented in the European Youth Parliament.^x

3.5: RE: Restrictive and Inconsistent Delineation of the European Demos

When we posed the question of the delineation of the EU demos, we asked the question “who is it, when the European Union acts?” (in the sense of “on whose behalf does the European Union act?”) and showed that the answer is a bit inconsistent as it is restrictive. Through the integration of a European Youth Parliament under the specified criteria in the institutional environment of the European Union, Europe’s youth would get access to be counted as part of the citizenry of the European Union. Admittedly, through the inclusively phrased definitions of *European* and *youth*, the delineation of the precise group of individuals to be included in and represented by the European Youth Parliament has not been set. To what extent the delineation of *European youth* as the group that concerns the European Youth Parliament is in itself inconsistent, exclusive, or arbitrary, is a question which depends on the specific implementation. We can for now hold that the introduction of a European Youth Parliament will not and cannot finally resolve the problem of an inconsistent delineation of the EU demos, but, no matter the implementation, it will result in an advance in citizens’ rights for those who are currently (partially) excluded from the EU citizenry. If the European Youth Parliament is involved when the European Union acts, it is no longer only those who may currently participate in European Parliament elections, on whose behalf the European Union acts; it is at least the citizens of the EU and its youth.

x In such case, it would be more likely that adult citizens would bring a claim forward that their fundamental right to protection from discrimination were to be violated. Individuals who would bring forward such claims are cordially invited to return to Section 2 where they can find five elaborate arguments as to why such a difference in treatment can be justified.

Closing Act: The European Youth Parliament, Democracy, and the Path Ahead

I have argued for possible justifications for a privileged position for youth in the political decision-making process of the European Union, and for the establishment of a European Youth Parliament. But if we add a European Youth Parliament into the fabric of the EU institutions, do we not disturb democracy? Could it be possible that we inadvertently harm democracy instead of improving it? Throughout history, very different models have been used to interpret the concept of democracy (cf. Held, 2006). While a comprehensive approach investigating the compliance of a European Youth Parliament with democratic ideals under various historical and contemporary models of democracy might be worth investigating in the future, within this paper I will limit myself to a brief investigation under one of the in recent history more frequently cited models for democracy, Robert Dahl's (1989) criteria for the democratic process. Dahl specifies five criteria that ought to be met by an ideal democratic process: Effective Participation, Voting Equality at the Decisive Stage, Enlightened Understanding, Control of the Agenda, and Inclusiveness. How does the introduction of any European Youth Parliament as far as we have defined it so far influence the performance of the democratic system of the European Union in respect to those criteria?

The introduction of a European Youth Parliament will likely improve *effective participation*^y in the European Union. Children and teenagers, of whom we conceive as citizens, currently neither have an adequate nor an equal opportunity for expressing their preferences, questions, or reasoning. In fact, the justifications brought forward in Sections 2.2 and 2.3 were to ensure effective participation of a non-effectively-participating group in the first place. On the other hand, the existence of the European Youth Parliament does not impinge upon the effective participation of other citizens. Measured by this criterion of a democratic process, the European Youth Parliament therefore constitutes an improvement of

y "Throughout the process of making binding decisions,. citizens ought to have an adequate opportunity, and an equal opportunity, for expressing their preferences as to the final outcome. They must have adequate and equal opportunities for placing questions on the agenda and for expressing reasons for endorsing one outcome rather than another." (Dahl, 1989, p. 109).

it. Whether there is *voting equality at the decisive stage*^z depends on the implementation of the respective European Youth Parliament. If, say, the European Youth Parliament, had a veto right on all legislative initiatives by the Council of the European Union and the European Parliament, the attainment of such voting equality were heavily violated, as there would be a heavy skew towards young people. If however the European Youth Parliament had rights of initiative, or right to give solicited and unsolicited advice on legislative initiatives, there would be no effect on the voting equality at the decisive stage at all. There may certainly be an effect on the voting equality at the deliberative stage, though this is not of concern to Dahl. A European Youth Parliament will likely improve the performance of the EU democratic system in terms of *enlightened understanding*^{aa}. After all, the European Youth Parliament would act as a communicator and translator of the political deliberations into the lifeworlds of young people and thereby increase the knowledge and understanding that young citizens have of the matters to be decided. Over time, this translates to a more educated adult demos that can better understand the various processes that deliberations on political matters run through within the European Union. Unless our European Youth Parliament was to become the only actor able to put legislative initiatives forward etc. there would likely be no effect on the *control of the agenda*^{ab}. In fact, it is reasonable to say that the EU performs very poorly there, insofar as the sole right of legislative initiative lies with the European Commission, not even the European Parliament. However, the attainment of the control of the agenda criterion too depends on the implementation of the European Youth Parliament. For example, if the meaningful influence of the European Youth Parliament consisted in being the only body allowed to put legislative initiatives on the agenda, then the control of the agenda would not lie with all citizens and the criterion would be violated too. Finally, in proposing the introduction of a European Youth Parliament, we have essentially rephrased Dahl's *criterion of inclusiveness*^{ac}. We reject the word *adult* in favour of conceiving of our demos as

z "At the decisive stage of collective decisions, each citizen must be ensured an equal opportunity to express a choice that will be counted as equal in weight to the choice expressed by any other citizen. In determining outcomes at the decisive stage, these choices, and only these choices, must be taken into account." (Dahl, 1989, p. 109).

aa "Each citizen ought to have adequate and equal opportunities for discovering and validating (within the time permitted by the need for a decision) the choice on the matter to be decided that would best serve the citizen's interests." (Dahl, 1989, p. 112).

ab "The demos must have the exclusive opportunity to decide how matters are to be placed on the agenda of matters that are to be decided by means of the democratic process." (Dahl, 1989, p. 113)

ac "The demos must include all adult members of the association except transients and persons proved to be mentally defective." (Dahl, 1989, p. 129)

“including all members of the association except transients and persons proved to be mentally defective”. So, what can we conclusively say of the European Youth Parliament under a consideration of Dahl’s theory of the democratic process? Overall, as far as the European Youth Parliament was specified in this paper, it seems to have a strong potential to improve the democratic process. To what extent it can live up to this potential remains a question of its specific implementation.

To conclude, this paper has shown not only the existence of youth-directed prejudice, but five different problems of the political system of the contemporary European Union, and how current strategies and methods are insufficient to address these problems. It went on to specify how guaranteeing European youth a privileged position in the political decision-making process of the European Union can be a reasonable way to address these challenges, and introduced the concept of a European Youth Parliament to implement such a guarantee for a privileged position. A European Youth Parliament that fulfils the three criteria of legitimate representation, meaningful influence, and legal solidification, so it was shown, can in fact address these problems and overcome obstacles encountered by traditional means of youth participation. What I could not provide within this paper is an assembly manual for the European Youth Parliament. Discussing the best possible ways to implement the European Youth Parliament is a task that remains open for further scholarly and political debate. This thesis thereby should be seen as an initial impulse inviting actors across the spectrum from civic society, political practice, ranging to legal, sociological, and political research, to embark on the journey of a serious consideration how we can build a political framework that works best for the next generations: Building a European Youth Parliament is an interdisciplinary and inter-sectoral avenue which thrives best under a holistic consideration and deliberation. Youth must not only be heard or consulted, they must be given power. In the spirit of Robert Schuman I proclaim^{ad}: *Une solidarité Européenne ne se fera pas d’un coup, ni dans une construction d’ensemble. Elle se fera par une promesse aux les générations suivantes d’un vie autodéterminé en paix et dignité dans une terre fonctionnelle.*^{ae}

ad Adapted from the original quote in the Schuman declaration: “L’Europe ne se fera pas d’un coup, ni dans une construction d’ensemble. Elle se fera par des réalisations concrètes créant d’abord une solidarité de fait.” (European Union, 2020)

ae *European solidarity will not be made all at once, or according to a single plan. It will be built through a promise to the following generations of a self-determined life in peace and dignity on a functioning planet*

References

- Act concerning the election of the members of the European Parliament by direct universal suffrage (2002). [Consolidated text]. [http://data.europa.eu/eli/dec/1976/787\(2\)/2002-09-23](http://data.europa.eu/eli/dec/1976/787(2)/2002-09-23)
- Baiardi, D., & Morana, C. (2021). Climate change awareness: Empirical evidence for the European Union. *Energy Economics*, 96. <https://doi.org/10.1016/j.eneco.2021.105163>
- Banducci, S. A., Donovan, T., & Karp, J. A. (2004). Minority representation, empowerment, and participation. *The Journal of Politics*, 66(2), 534-556. <https://doi.org/10.1111/j.1468-2508.2004.00163.x>
- Binder, A., Heiss, R., Matthes, J., & Sander, D. (2021). Dealigned but mobilized? Insights from a citizen science study on youth political engagement, *Journal of Youth Studies*, 24:2, 232-249. <https://doi.org/10.1080/13676261.2020.1714567>
- Breeze, M., Gorrington, H., Jamieson, L., & Rosie, M. (2021). Educational outcomes of political participation? Young first-time voters 3 years after the Scottish Independence Referendum, *Journal of Youth Studies*. <https://doi.org/10.1080/13676261.2021.1980517>
- Bundesministerium für Digitalisierung und Wirtschaftsstandort (2016). Art. 23a. Bundes-Verfassungsgesetz [Austrian Federal Constitution]. *BGBI. I Nr. 106/2016*. <https://www.ris.bka.gv.at/eli/bgbl/1930/1/A23a/NOR40188239>
- Bücker, T. (2021, March 16). *Ist es radikal, Kinder wählen zu lassen?* [Is it radical to allow children to vote?]. Süddeutsche Zeitung Magazin. <https://sz-magazin.sueddeutsche.de/freie-radikale-die-ideenkolumne/wahlrecht-kinder-89995>
- Bundesrepublik Deutschland (2020). § 6 *Wahlrecht, Ausübung des Wahlrechts*. Gesetz über die Wahl der Abgeordneten des Europäischen Parlaments aus der Bundesrepublik Deutschland (Europawahlgesetz - EuWG) [Law on the Election of the Members of the European Parliament from the Federal Republic of Germany]. <https://www.gesetze-im-internet.de/euwg/EuWG.pdf>
- Celis, K., Childs, S., Kantola, J., & Krook, M. L. (2008). Rethinking women's substantive representation. *Representation*, 44(2), 99-110. <https://doi.org/10.1080/00344890802079573>
- Charter of Fundamental Rights of the European Union (2016). *Official Journal of the European Union C 202/02*, 389-405. http://data.europa.eu/eli/treaty/char_2016/oj
- Childs, S. (2004). *New Labour's women MPs: women representing women*. Routledge. <https://doi.org/10.4324/9780203330876>
- Christiano, T. (2002). Democracy as Equality. In Estlund, D. (Ed.) (2002). *Democracy*. Blackwell Publishers Ltd.
- Committee on the Rights of the Child (2003). *GENERAL COMMENT No. 5 – General measures of implementation of the Convention on the Rights of the Child (arts. 4, 42 and 44, para. 6)*. CRC/GC/2003/5. <https://undocs.org/CRC/GC/2003/5>
- Committee on the Rights of the Child (2009). *GENERAL COMMENT No. 12 – The right of the child to be heard*. CRC/C/GC/12. <https://undocs.org/CRC/C/GC/12>
- Convention on the Rights of the Child (1989). United Nations. *General Assembly Resolution 44/25 of 20 November 1989*. A/RES/44/25. <https://undocs.org/A/RES/44/25>
- Cook, P. (2013). Against a minimum voting age, *Critical Review of International Social and Political Philosophy*, 16:3, 439-458. <https://doi.org/10.1080/13698230.2013.795707>
- Council of Europe (2000). *Explanatory Report to the Protocol No. 12 to the Convention for the Protection of Human Rights and Fundamental Freedoms*. European Treaty Series, No. 177. <https://rm.coe.int/09000016800cce48>
- Council of Europe Committee of Ministers (2006). *Recommendation CM/Rec(2006)14 of the Committee of Ministers to member states on citizenship and participation of young people in public life*. [https://search.coe.int/cm/Pages/result_details.aspx?Reference=Rec\(2006\)14](https://search.coe.int/cm/Pages/result_details.aspx?Reference=Rec(2006)14)

References

- Council of Europe Committee of Ministers (2010). *Recommendation CM/Rec(2010)7 of the Committee of Ministers to member states on the Council of Europe Charter on Education for Democratic Citizenship and Human Rights Education*. [https://search.coe.int/cm/Pages/result_details.aspx?Reference=CM/Rec\(2010\)7](https://search.coe.int/cm/Pages/result_details.aspx?Reference=CM/Rec(2010)7)
- Council of Europe Committee of Ministers (2012). *Recommendation CM/Rec(2012)2 of the Committee of Ministers to member States on the participation of children and young people under the age of 18*. [https://search.coe.int/cm/Pages/result_details.aspx?Reference=CM/Rec\(2012\)2](https://search.coe.int/cm/Pages/result_details.aspx?Reference=CM/Rec(2012)2)
- Council of Europe Committee of Ministers (2020). *Resolution CM/Res(2020)2 on the Council of Europe youth sector strategy 2030*. <https://rm.coe.int/0900001680998935>
- Council of Europe Parliamentary Assembly (2009). *Promoting the participation by children in decisions affecting them*. Recommendation 1864 (2009). <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=17721>
- Council of Europe Treaty Office (n.d.). *Chart of signatures and ratifications of Treaty 009*. <https://www.coe.int/en/web/conventions/full-list?module=signatures-by-treaty&treatynum=009>. Retrieved on September 01, 2021.
- Council of the European Union (2018a). *COUNCIL DECISION (EU, Euratom) 2018/994 of 13 July 2018 amending the Act concerning the election of the members of the European Parliament by direct universal suffrage, annexed to Council Decision 76/787/ECSC, EEC, Euratom of 20 September 1976*. Official Journal of the European Union L 178/1. <http://data.europa.eu/eli/dec/2018/994/oj>
- Council of the European Union (2018b). *Resolution of the Council of the European Union and the Representatives of the Governments of the Member States meeting within the Council on a framework for European cooperation in the youth field: The European Union Youth Strategy 2019-2027*. Official Journal of the European Union C 456/01. [https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:42018Y1218\(01\)](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:42018Y1218(01))
- Court of Justice of the European Union (2005). Judgment of 22 November 2005, *Mangold*, C-144/04, EU:C:2005:709. <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62004CJ0144>
- Court of Justice of the European Union (2013). Judgment of 26 February 2013, *Åkerberg Fransson*, C-617/10, EU:C:2013:105. <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62010CJ0617>
- Court of Justice of the European Union (2014a). Judgment of 6 March 2014, *Siragusa*, C-206/13, EU:C:2014:126. <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62013CJ0206>
- Court of Justice of the European Union (2014b). Opinion of Mr Advocate General Jääskinen delivered on 17 July 2014, *Kaltoft*, C-354/13, EU:C:2014:2106. <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:62013CC0354>
- Cowley, P., & Denver, D. (2004). Votes at 16? The case against. *Representation*, 41:1, 57-62, <https://doi.org/10.1080/00344890408523289>
- Dahl, R. A. (1989). *Democracy and Its Critics*. Yale University Press.
- Damon, J. (2009, June 02). *Il faut abaisser le droit de vote à 16 ans: L'accès aux décisions collectives serait un signal fort envers les jeunes* [The voting age needs to be lowered to 16 years: Accessing the collective decisions will be a strong signal towards youth] . Le Monde. https://www.lemonde.fr/idees/article/2009/06/02/il-faut-abaisser-le-droit-de-vote-a-16-ans-par-julien-damon_1201240_3232.html
- DBJR (n.d.). *#wahlalterssenken* [lowerthevotingage]. Retrieved 2021, September 10 from <https://www.dbjr.de/xtra/wahlalterssenken>
- Day, L., Percy-Smith, B., Ruxton, S., McKenna, K., Redgrave, K., Ronicle, J., & Young, T. (2015). *Evaluation of legislation, policy and practice on child participation in the European Union (EU)* [Final Report]. European Commission Directorate-General for Justice and Consumers. <https://doi.org/10.2838/45596>

References

- Dewhurst, E. (2020). *Age discrimination law outside the employment field*. European Commission Directorate-General for Justice and Consumers. <https://doi.org/10.2838/214317>
- Dogan, M. (2004). Conceptions of legitimacy. *Encyclopedia of government and politics*, 1, 110-119.
- Escritt, T. (2021, April 29). *Germany must tighten climate law to protect young people's future, court rules*. Reuters. <https://www.reuters.com/business/environment/germany-must-further-tighten-climate-change-law-top-court-rules-2021-04-29/>
- European Commission (2020). *Annex to the Joint Communication to the European Parliament and the Council – EU Action Plan on Human Rights and Democracy 2020-2024*. JOIN/2020/5 final. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52020JC0005>
- European Convention on Human Rights (2013). [as amended by Protocols Nos. 11, 14 and 15 supplemented by Protocols Nos. 1, 4, 6, 7, 12, 13 and 16]. *European Court of Human Rights*. https://www.echr.coe.int/Documents/Convention_ENG.pdf
- European Court of Human Rights (1987, March 02). *Mathieu-Mohin and Clerfayt*, no. 9267/81, ECHR 1987 [Judgment]. <http://hudoc.echr.coe.int/eng?i=001-57536>
- European Court of Human Rights (2005, October 6). *Hirst* [GC], no. 74025/01, ECHR 2005 [Judgment]. <http://hudoc.echr.coe.int/eng?i=001-70442>
- European Court of Human Rights (2009, December 22). *Sejdić and Finci v. Bosnia and Herzegovina* [GC], nos. 27996/06 and 34836/06, ECHR 2009 [Judgment]. <http://hudoc.echr.coe.int/eng?i=001-96491>
- European Court of Human Rights (2016, September 15). *British Gurkha Welfare Society v. United Kingdom*, no. 44818/11, ECHR 2016 [Judgment]. <http://hudoc.echr.coe.int/eng?i=001-166691>
- European Court of Human Rights (2017a, January 24). *Khamtokhu and Aksenchik v. Russia* [GC], nos. 60367/08 and 961/11, ECHR 2017 [Judgment]. <http://hudoc.echr.coe.int/eng?i=001-170663>
- European Court of Human Rights (2017b, July 25). *Carvalho Pinto de Sousa Morais v. Portugal*, no. 17484/15, ECHR 2017 [Judgment]. <http://hudoc.echr.coe.int/eng?i=001-175659>
- European Court of Human Rights (2021, May 11). *Caamaño Valle*, no. 43564/17, ECHR 2021 [Judgment]. <http://hudoc.echr.coe.int/eng?i=001-210089>
- European Union (2020, May 07). *La déclaration Schuman du 9 mai 1950* [The Schuman declaration of May 9, 1950]. https://europa.eu/european-union/about-eu/symbols/europe-day/schuman-declaration_fr
- eurostat (2021). *Demography of Europe – Statistics Visualised | 2021 edition*. https://ec.europa.eu/eurostat/cache/digpub/demography/img/pdf/Demography-InteractivePublication-2021_en.pdf
- EYP (n.d.). *About us* [Webpage]. Retrieved 2021, July 19 from <https://eyp.org/about-us/>
- Faas, T., & Leininger, A. (2020). *Wählen mit 16?: Ein empirischer Beitrag zur Debatte um die Absenkung des Wahlalters* [Voting at age 16? An empirical contribution to the debate on the lowering of the minimum voting age]. Otto Brenner Stiftung. https://www.polsoz.fu-berlin.de/polwiss/forschung/systeme/empsocz/forschung/Projekte/Jugendwahlstudie-2019/AP41_Wahlalter16.pdf
- Fournier, B. (2015). Voter à 16 ans: une idée pour contrer l'apolitisme des jeunes? [Voting at 16: An idea to counter the political apathy of youth?]. *Les Politiques Sociales*, 3-4(2), 119–119.
- Franzen, A., & Vogl, D. (2013). Two decades of measuring environmental attitudes: A comparative analysis of 33 countries. *Global Environmental Change*, 23(5), 1001-1008. <https://doi.org/10.1016/j.gloenvcha.2013.03.009>
- Gerards, J. H., Schiek, D., Waddington, L., & Bell, M. (2007). The Grounds of Discrimination. *Cases, Materials and Text on National, Supranational and International Non-Discrimination Law*, (5), 33-184.
- Godeck, D. (2019, June 06). *Junge Menschen in der Politik: Die Ausnahme-Politiker*innen* [Young people in politics – The exceptional politicians]. taz. <https://taz.de/Junge-Menschen-in-der-Politik/!5597702/>
- Hänel, L., & Pohl, I. (2019, June 08). *Germany's youth wake up to their political power*. Deutsche Welle. <https://p.dw.com/p/3K3FJ>

References

- Heister, M. W. (2015). *Der Studentensturm auf die Grenzen 1950: Für ein föderales Europa: Fakten - Probleme - Hintergründe – Konsequenzen* [The student's march against the borders 1950: For a federal Europe: Facts, Problems, Consequences]. Iduso.
- Held, D. (2004). *Global covenant: the Social Democratic Alternative to the Washington Consensus*. Polity.
- Held, D. (2006). *Models of democracy*. Polity.
- Hilf, M. (2009, July). Acquis communautaire. *Max Planck Encyclopedias of International Law [MPIL]*.
<https://opil.ouplaw.com/view/10.1093/law:epil/9780199231690/law-9780199231690-e1717>
- Hinrichs, K. (2007). Faut-il accorder le droit de vote aux enfants? [Must children be granted the right to vote?]. *Revue Philosophique De Louvain*, 105(1-2), 42–76.
- Höök, M., & Tang, X. (2013). Depletion of fossil fuels and anthropogenic climate change—A review. *Energy policy*, 52, 797-809.
- Holt, J. C. (1974). *Escape from childhood*. New York: EP Dutton.
- Hurrelmann, K. (2016). Für eine Herabsetzung des Wahlalters [In favour of lowering the minimum voting age]. In: Gürlevik A., Hurrelmann K., Palentien C. (eds) *Jugend und Politik*. Springer VS, Wiesbaden.
https://doi.org/10.1007/978-3-658-09145-3_14
- Inter-Parliamentary Union (2021). *Youth participation in national parliaments*. <https://www.ipu.org/youth2021>
- IPCC (2021). Summary for Policymakers. In: *Climate Change 2021: The Physical Science Basis. Contribution of Working Group I to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change* [Masson-Delmotte, V., P. Zhai, A. Pirani, S. L. Connors, C. Péan, S. Berger, N. Caud, Y. Chen, L. Goldfarb, M. I. Gomis, M. Huang, K. Leitzell, E. Lonnoy, J.B.R. Matthews, T. K. Maycock, T. Waterfield, O. Yelekçi, R. Yu and B. Zhou (eds.)]. Cambridge University Press.
<https://www.ipcc.ch/report/ar6/wg1/>
- Janta, B., Bruckmayer, M., de Silva, A., Gilder, L., Culora, A., Cole, S., Leenders, E., Schuurman, M., Hagger-Vaughan, A. (2021). *Study on child participation in EU political and democratic life* [Final report]. European Commission Directorate-General for Justice and Consumers – Unit C2 Fundamental Rights Policy <https://doi.org/10.2838/388737>
- Jenks, C. (2005). *Childhood: Second Edition: Vol. 2nd ed*. Routledge.
- Kamijo, Y., Tamura, T., & Hizen, Y. (2020). Effect of proxy voting for children under the voting age on parental altruism towards future generations. *Futures*, 122, 102569.
<https://doi.org/10.1016/j.futures.2020.102569>
- Kitanova, M. (2020). Youth political participation in the EU: evidence from a cross-national analysis, *Journal of Youth Studies*, 23:7, 819-836. <https://doi.org/10.1080/13676261.2019.1636951>
- Knödler, C. (1996). Wahlrecht für Minderjährige—eine gute Wahl? [Voting rights for minors – a good choice?]. *Zeitschrift für Parlamentsfragen*, 27(4), 553-571. Nomos Verlagsgesellschaft mbH.
<http://www.jstor.org/stable/24228847>
- Leach, M., Raworth, K., & Rockström, J. (2013). Between social and planetary boundaries: Navigating pathways in the safe and just space for humanity. *World Social Science Report 2013: Changing Global Environments*, 84-89. UNESCO. <https://doi.org/10.1787/9789264203419-10-en>
- Lehner, J. (2020, August 10). „Du musst arbeiten wie ein Eichhörnchen auf Speed”: Fünf junge Abgeordnete verraten, worauf es ankommt, um in der Politik Karriere zu machen [“You have to work like a squirrel on methamphetamine”: Five young politicians reveal what’s important to pursue a career in politics]. Business Insider. <https://www.businessinsider.de/politik/bundestagswahl/du-musst-arbeiten-wie-ein-eichhoernchen-auf-speed-fuenf-junge-abgeordnete-verraten-hier-worauf-es-ankommt-um-in-der-politik-karriere-zu-machen-a/>
- Mahatmya, D., Lohman, B.J. (2012). Predictors and Pathways to Civic Involvement in Emerging Adulthood: Neighborhood, Family, and School Influences. *J Youth Adolescence* 41, 1168–1183.
<https://doi.org/10.1007/s10964-012-9777-4>

References

- Marquart-Pyatt, S.T. (2008). Are There Similar Sources of Environmental Concern? Comparing Industrialized Countries. *Social Science Quarterly*, 89:1312-1335. <https://doi.org/10.1111/j.1540-6237.2008.00567.x>
- Mediavilla, L. (2018, May 29). Quatre jeunes députés racontent leur année à l'Assemblée [Four young deputies tell about their first year in the National Assembly]. Les Echos START. <https://start.lesechos.fr/societe/engagement-societal/quatre-jeunes-deputes-racontent-leur-annee-a-lassemblee-1176590>
- Meijer, B., Blair, E. [Ed.], Hardcastle, E. [Ed.] (2019). *Dutch court tells government to step up climate change fight*. Reuters. <https://www.reuters.com/article/us-climate-change-netherlands-idUSKBN1YO12A>
- Murphy, R. (Writer), Falchuk, B. (Writer), & Brennan, I. (Writer and Director). (2020). The Voters [TV series episode]. In Murphy, R., Falchuk, B., Brennan, I., Woodall, A. M., Platt, B., Paltrow, G. [Executive Producers], *The Politician*. Netflix.
- OECD (2020). *Governance for Youth, Trust and Intergenerational Justice: Fit for All Generations?*, OECD Public Governance Reviews, OECD Publishing. <https://doi.org/10.1787/c3e5cb8a-en>
- Peschel-Gutzeit, L. M. (1999). Das Wahlrecht von Geburt an: ein Plädoyer für den Erhalt unserer Demokratie [Voting rights at birth: A plea for the preservation of our democracy]. *Zeitschrift für Parlamentsfragen*, 30(2), 556-563. Nomos Verlagsgesellschaft mbH. <https://www.jstor.org/stable/24231340>
- Rath, C. (2016, May 28). *Bundesverfassungsgericht: Kein Wahlrecht unter 18* [Federal Constitutional Court: No voting rights below 18 years]. Badische Zeitung. <https://www.badische-zeitung.de/bundesverfassungsgericht-kein-wahlrecht-unter-18>
- Rockström, J., Steffen, W., Noone, K., Persson, Å., Chapin III, F. S., Lambin, E., ... & Foley, J. (2009). Planetary boundaries: exploring the safe operating space for humanity. *Ecology and society*, 14(2).
- Sabbati, G., Sgueo, G., & Dobрева, A. (2019). *2019 European elections: National rules*. European Parliamentary Research Service. [At a Glance – Infographic | Members' Research Service]. PE 623.556 [https://www.europarl.europa.eu/RegData/etudes/ATAG/2018/623556/EPRS_ATAG\(2018\)623556_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/ATAG/2018/623556/EPRS_ATAG(2018)623556_EN.pdf)
- Sabbati, G. (2020). *Members of the European Parliament from February 2020*. European Parliamentary Research Service. [At a Glance – Infographic | Members' Research Service]. PE 646.202. [http://www.europarl.europa.eu/RegData/etudes/ATAG/2020/646202/EPRS_ATAG\(2020\)646202_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/ATAG/2020/646202/EPRS_ATAG(2020)646202_EN.pdf)
- Saxonhouse, A.W. (2001). demos. In Clarke, P. A. B., & Foweraker, J. (2001). *Encyclopedia of democratic thought* (1st ed.). Routledge.
- Schmitter, P.C. & Trechsel, A.H. (Coord.). (2004). *The future of democracy in Europe: Trends, analyses and reforms*. Council of Europe Publishing.
- Spaventa, E. (2016). *The interpretation of Article 51 of the EU Charter of Fundamental Rights: the dilemma of stricter or broader application of the Charter to national measures*. European Parliament Directorate-General for Internal Policies. PE 556.930. <https://doi.org/10.2861/666862>
- Stearns, P.N. (2016). *Childhood in World History* (3rd ed.). Routledge. <https://doi.org/10.4324/9781315561363>
- Steffen, W., Richardson, K., Rockström, J., Cornell, S. E., Fetzer, I., Bennett, E. M., ... & Sörlin, S. (2015). Planetary boundaries: Guiding human development on a changing planet. *Science*, 347(6223). <https://doi.org/10.1126/science.1259855>
- Stockemer, D., & Sundström, A. (2018). Age representation in parliaments: Can institutions pave the way for the young? *European Political Science Review*, 10(3), 467-490. <https://doi.org/10.1017/S1755773918000048>
- Stockemer, D., & Sundström, A. (2019). Young deputies in the European Parliament: a starkly underrepresented age group. *Acta Politica* 54, 124–144. <https://doi.org/10.1057/s41269-018-0078-0>
- Treaty on European Union (2016). [Consolidated Version]. *Official Journal of the European Union* C 202/01, 1-46. <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:C:2016:202:FULL>

References

- Treaty on the Functioning of the European Union (2016). [Consolidated Version]. *Official Journal of the European Union C 202/01*, 47-200. <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:C:2016:202:FULL>
- von Lieben, M. (2018, March 01). *Europa-Parlament – Junge Abgeordnete fordern mehr Macht und Mandate* [European Parliament – Young Deputies demand more power and mandates]. Deutschlandfunk. https://www.deutschlandfunk.de/europa-parlament-junge-abgeordnete-fordern-mehr-macht-und.795.de.html?dram:article_id=411942
- Ward, A. (2018). The Impact of the EU Charter of Fundamental Rights on Anti-Discrimination Law: More a Whimper than a Bang? *Cambridge Yearbook of European Legal Studies*, 20, 32-60. <https://doi.org/10.1017/cel.2018.11>
- Winkelmann, T., & Zimmermann, J. (2020). Mehr Demokratie wagen? Wählen mit 16 Jahren [Daring more democracy? Voting with 16 years]. *GWP–Gesellschaft. Wirtschaft. Politik*, 69(4), 25-26. <https://doi.org/10.3224/gwp.v69i4.09>
- Wray-Lake, L. (2019). *How Do Young People Become Politically Engaged?*. *Child Dev Perspect*, 13:127-132. <https://doi.org/10.1111/cdep.12324>
- Young-Bruehl, E. (2012). *Childism: confronting prejudice against children*. Yale University Press.
- Zalc, J., Becuwe, N., & Buruian, A. (2019). *The 2019 post-electoral survey: Have European elections entered a new dimension?*. European Parliament Directorate-General for Communication. PE 640.156. <https://doi.org/10.2861/259606>
- Zeglovits, E. & Zandonella, M. (2013). Political interest of adolescents before and after lowering the voting age: the case of Austria, *Journal of Youth Studies*, 16:8, 1084-1104. <https://doi.org/10.1080/13676261.2013.793785>

Appendices

References made within the appendices are also included in the general *References* section.

Appendix A: Criticism and Defence of the Terms Used in the Thesis Statement

At first, equating *European* with *belonging to the European Union* within this thesis might appear reasonable, given the fact that it directly addresses the political decision-making process of the European Union. However, the entire thesis focuses on the inclusivity of an under-represented and under-privileged group. Young citizens growing up in countries on the European continent that do not belong to the European Union but which nevertheless are intricately linked with the EU and its Member States through international treaties, international organisations, or shared borders, are heavily influenced by the decisions made in the EU, without being represented in it. Arguing for the inclusion of an under-represented societal group in politics, but then excluding a part of that group based on their passports would be philosophically preposterous.

“If you are so concerned about inclusivity of young Europeans other than EU citizens, why don’t you simply refer to the territorial scope or the institutions of the Council of Europe (CoE)?”, a critical reader might ask. “After all, the CoE covers more states and more people! And it’s further already in the field of youth participation! Just look at the Advisory Council on Youth or the Youth Delegates to its Congress of Local and Regional Authorities.” Of course this is true. However, even though it covers more people, the CoE has no legislative authority and little impact on the daily lives of European citizens. EU legislation on the other hand is responsible for a vast amount of rules governing the environment in which citizens of EU Member States and neighbouring countries which are bound to (part of) these rules through international treaties and agreements live. Without diminishing the impact and importance of youth inclusion and the existing youth sector strategy within the CoE (Council of Europe Committee of Ministers, 2020), it is therefore useful to turn to the EU institutions and processes whilst including other young European citizens.

“Inconsistent delineation of the European demos was one of the problems you introduced us to! Aren’t you just making it worse by including such wishy-washy definitions of *European* or *youth* in your argumentation? Just limit yourself to the EU, make the Member

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States agree on a single low minimum age for the European Parliament elections, and your problem is solved! Stop trying to make things more complicated than they need be!”, chimes in an attentive critic. And they make a good point: Open definitions of *European* and *youth* without precise empirical criteria specifying the applicable scope of these terms don’t help. However, the problem I recognised focused not only on the inconsistency, but also on the restrictiveness of the delineation of the EU demos. An open definition addresses at least such restrictiveness through allowing more people to contribute to the results of political activity of the EU. A final resolve of inconsistencies in the delineation of the EU demos either way also depends on the various age barriers set forth by local, regional, or national institutions.

“European, fine, youth, fine – But why do you say *in the political decision-making process of the European Union*? Isn’t that needlessly confusing? Let’s just say *in EU politics*. Or *in the EU institutions*. Or anything else, but not this strange array of words...”, proposes another critic. They make a good point as well: My claim seems to be a bit strange. Nevertheless, the political decision-making process of the European Union is exactly what we need to aim for if we want to address the problems introduced above. If we were to address just *EU politics*, we’re not particularly precise what part of politics we mean. Are we talking about state institutions? The field of non-governmental organisations? Parties? A similar problem arises with *EU institutions*: Which institutions would we be talking about? A legislative youth body? A judicial youth committee? An executive youth agency? If we were to say *in the EU legislative process*, we would face a different problem: There are highly important political decisions relevant to EU citizens which extend beyond legislation – think of the election or appointment to political offices such as the European College of Commissioners. Those are not legislative decisions, yet they are outcomes of the process of political decision-making in the European Union. Thus, *political decision-making process of the European Union* is the most accurate term that I found to encompass the field and activity in which I argue youth must be guaranteed a privileged position in.

“What the hell do you need a privileged position for?” asks the last critic. If you arrived at this question, that’s an indicator that it is a good time to turn back to Section 1, in which I show five problems of the contemporary European Union.

Appendix B: Legal Deliberation on the Compliance of Age Barriers for the European Parliament Elections with International Fundamental Rights Law

This appendix investigates the legal ramifications and a possible non-compliance of age barriers for the European Parliament elections^{af} with international fundamental rights law. For this purpose, it examines three relevant agreements of international law, namely, the United Nations Convention on the Rights of the Child, the European Convention on Human Rights, and the Charter of Fundamental Rights of the European Union.

Who is Responsible for the Law Governing the European Parliament Elections?

Before we discuss the possible violation of international law by the age barriers for the European Parliament elections, it is prudent to investigate what the law of the European Parliament elections is and how it is constitutionally enshrined in the public law of the European Union. By the stipulation of Article 14 para. 3 of the Treaty on European Union [TEU] (2016^{ag}), “The members of the European Parliament shall be elected for a term of five years by direct universal suffrage in a free and secret ballot.” Article 223 para. 1 of the Treaty on the Functioning of the European Union [TFEU] (2016^{ag}) holds that the provisions necessary for the election of the Members of the European Parliament are laid down by the Council after obtaining the consent of the European Parliament. This has been realised through the Act concerning the election of the members of the European Parliament by direct universal suffrage (2002)^{ah}. Neither the EU treaties, nor this Act specify any minimum age

af Children and adolescents are also excluded from other public elections, which can be likewise be investigated as possible violation of the principles of non-discrimination under the provisions of international law analysed in this appendix. Whilst, because of the relevance of local, regional and national authorities in the political decision-making process of the European Union (see above), age barriers for local, regional, and national public elections are admittedly relevant to this paper, a comprehensive analysis thereto would require extensive investigation and discussion of the national legislation of the Member States of the European Union. This is unfortunately not possible within the scope of this thesis. An attempt to judicially strike down age barriers of national elections based on national law has unsuccessfully been made in Germany (Rath, 2016).

ag A more recent consolidated version of the Treaty on European Union and the Treaty on the Functioning of the European Union has not been published in the Official Journal of the European Union at the time of the publication of this paper. Since the publication of the Treaties in *OJ 202*, only such provisions have been amended which are not of relevance to the focus this paper, which is why a usage of the consolidated version of *OJ 202* is viewed as sufficient in this context.

ah This Act has most recently been amended in a Council Decision of 13 July 2018 (Council of the European Union, 2018a). However, this Council Decision has at the time of the publication of this paper not entered into force yet, since it is still awaiting the approval by the Member States of the European Union in accordance with their respective constitutional requirements (Council of the European Union, 2018a).

requirements or stipulations. The age barriers to participate in the elections to the European Parliament are thereby the sole product of national legislation in the Member States of the European Union.

Procedural Arguments

United Nations Convention on the Rights of the Child: The Right to be Heard

It is possible to argue a violation of the UN Convention on the Rights of the Child [CRC] (1989), although this argument needs quite some deliberation and debate. Foremost, the European Union itself is not a party to the CRC. However, all Member States of the European Union are, and all Member States have implemented age barriers to the European Parliament elections, which makes the investigation of a possible non-compliance with the CRC thereby interesting to examine.

Article 12 para. 1 CRC stipulates: “States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.” It is reasonable to say that a large part of children^{ai} in the sense of the CRC are capable of forming their own views; yet, their right to express those views is limited i.a. by the barrier to participate in the European Parliament elections, where the views of the children are given no weight at all. In general, it is hard to distinguish where the views of a child on political matters are being given weight in such a manner as is constitutionally engrained and protected, and highly questionable whether children have the opportunity to express themselves in the manner that Article 12 CRC foresees for them.

I have examined to what extent the European Parliament elections can be interpreted as a *matter affecting the child* below.

Even if we consider the European Parliament elections as a *matter affecting the child*, is the CRC being violated by Member States of the European Union? After all, the CRC mentions *States parties* and *Governments* as entities relevant to the Rights of the Child, not institutions of international organisations that the parties to the CRC are a member of. Does EU law fall within the applicable scope of the CRC? There are two ways to argue so.

ai It is important to note the definition of children under the CRC: “[...] a child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier.” (Article 1 CRC). In order to avoid ambiguity, this usage of the term *children* is applied within this appendix for the discussion of the legality of the age barriers for the European Parliament elections.

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First, the obligation of States parties and Governments is not only to *listen* to the child, groups of children, and children altogether, but also according their views *due weight* (Committee on the Rights of the Child [CRC-C-GC12], 2009, para. 15). In matters where the Member States have conferred legislative competence to the institutions of the European Union^{aj}, giving due weight to the views of the child thereby arguably entails giving them due weight in the political decision-making process of the European Union. As soon as we come to understand the European Parliament elections as a matter affecting the child, it is clear that due weight is not given to their views in these elections^{ak}.

Second, para. 21 CRC-C-GC12 clarifies, that the legal obligation of States parties lies not only in listening to the views of the child, but also in implementing and guaranteeing this right. Accepting that European Parliament elections qualify as a matter affecting the child where they have a right to be heard, it can be argued that age barriers to participate in the European Parliament elections are an unjustified limitation to this right. Even more pointedly, para. 21 CRC-C-GC12 mentions particularly age barriers as restrictive against the spirit of the CRC. As was elaborated upon above, the age barriers to participate in the European Parliament elections have not been set forth by the law of the European Union, but by each Member State itself. In this interpretation, the Member States, who are States parties to the CRC, can be argued to be in violation of Article 12 CRC in their implementation of EU law.

To summarise, taking the General Comment No. 12 by the Committee on the Rights of the Child into account, insofar as European Parliament elections can be understood as a *matter affecting the child* in the sense of Article 12 para. 1 CRC, age barriers to participate in the European Parliament elections maintained by Member States of the European Union can be argued to violate the right to be heard under Article 12 para. CRC.

^{aj} See Article 3 and Article 4 of the Treaty on the Functioning of the European Union (2016)

^{ak} Here it is important to note the difference it makes to view the *European Parliament elections* as a matter affecting the child as opposed to just viewing *EU legislation* or *EU political decision-making* as a matter affecting the child. Addressing the latter, the Member States could reference easily to their contribution to EU legislation and EU political decision-making within their work in the Council of the European Union and the European Council. If they already accord due weight to the views of children there, which is notably harder to disprove, the claim that they violate Article 12 CRC by not permitting children to partake in the European Parliament elections is weak.

European Convention on Human Rights: The Right to Protection from Discrimination

A violation of the fundamental rights of children under the Convention for the Protection of Human Rights and Fundamental Freedoms, better known as the European Convention on Human Rights, to which all Member States of the European Union are a party to, is equally worth investigating. Protocol No. 1^{al} to the European Convention on Human Rights [ECHR] (2013), affirms in Article 3 the right to free elections. Since the European Union it is not a signatory to the ECHR, the question arises as to whether elections to the European Parliament fall within the scope of Article 3 Protocol No. 1 ECHR. In its first case judgment on Article 3 of Protocol No. 1 ECHR, *Mathieu-Mohin and Clerfayt*, the European Court of Human Rights [ECtHR] has already specified: “Article 3 (P1-3) applies only to the election of the “legislature” [...] The word “legislature” does not necessarily mean only the national parliament, however; it has to be interpreted in the light of the constitutional structure of the State in question.” (ECtHR, 1987, para. 53). In *Matthews*, it then deliberated on precisely this question and concluded that “no reason has been made out which could justify excluding the European Parliament from the ambit of the elections” (ECtHR, 1999, para. 44). Thereby, the elections to the European Parliament can be ascertained to be covered by Article 3 Protocol No. 1 ECHR.

Article 14 ECHR specifies that “rights and freedoms set forth in this Convention shall be secured without discrimination based on any ground such as [...], birth^{am} or other status.” (Article 14 ECHR). That age is a characteristic which falls under the protection of Article 14 has been consistently affirmed by the ECtHR (Dewhurst, 2020), though it has remarked in *British Gurkha Welfare Society* (ECtHR, 2016), para. 88, and reaffirmed in *Carvalho Pinto de Sousa Morais* (ECtHR, 2017b), para. 45, that it “has not, to date, suggested that discrimination on grounds of age should be equated with other “suspect” grounds of discrimination” (ECtHR, 2016, para. 88).

Still, by virtue of Article 5 Protocol No. 1 ECHR, Article 14 ECHR applies to Article 3 Protocol No. 1 ECHR: The right to “free expression of the opinion of the people in the

al The First Protocol to the ECHR has been ratified by all Member States of the European Union (Council of Europe Treaty Office, n.d.) and is therefore fully applicable.

am The term of discrimination based on birth is quite ill-defined in national and international law (Gerards et al., 2007). By courts, it has been upheld to be interpreted as discrimination based on certain characteristics such as whether the birth has happened in or out of wedlock (ibid.). A case in which a court has interpreted discrimination based on age as discrimination based on birth is unknown to me.

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choice of legislature” (Article 3 Protocol No. 1 ECHR) shall be secured without discrimination based on any ground, including age. Does the maintenance of age barriers to participate in the European Parliament elections then amount to a discriminatory application of Article 3 Protocol No. 1 ECHR? In *Sejdić and Finci v Bosnia and Herzegovina*, the European Court of Human Rights elaborated on the definition of discrimination under Article 14 ECHR in conjunction with Article 3 Protocol No. 1 ECHR:

“The Court reiterates that discrimination means treating differently, without an objective and reasonable justification, persons in similar situations. “No objective and reasonable justification” means that the distinction in issue does not pursue a “legitimate aim” or that there is not a “reasonable relationship of proportionality between the means employed and the aim sought to be realised”” (ECtHR, 2009, para. 42).

The question on the compliance of age barriers imposed in the European Parliament elections with the ECHR, hence, depends on whether the claim of age barriers as objectively and reasonably justified can be effectively rebutted^{an}.

Going even further than the applicability of Article 14 ECHR to Article 3 Protocol No. 1 ECHR, Article 1 of Protocol No. 12 ECHR contains a General Prohibition of Discrimination applicable to *any right set forth by law*, and not only the rights under the Convention. Article 12 para. 2 Protocol No. 12 ECHR even stresses that one specifically enjoys this right of protection from discrimination against the state. The right to participate in the European Parliament elections unambiguously is a right set forth by law, and it is unambiguously denied to children by the state. Discrimination under Article 1 Protocol No. 12 ECHR is generally to be understood in the same sense as in Article 14 ECHR (Council of Europe, 2000, para. 18), so here the exact same question as above arises whether the exclusion of children to participate in the European Parliament elections amounts to discrimination. It further needs to be noted that only 10 Member States of the European Union have currently ratified Protocol No. 12 ECHR, so this general right of protection from discrimination is only enjoyed against these states^{ao}.

an Whilst this paper and this appendix do not simulate a court proceeding, the burden of proof in such proceedings lies with the respondent, in this case the state, once a difference in treatment has been established (Dewhurst, 2020).

ao Croatia, Cyprus, Finland, Luxembourg, Malta, The Netherlands, Portugal, Romania, Slovenia, Spain (Dewhurst, 2020)

Charter of Fundamental Rights of the European Union: The Right to be Heard and the Right to Protection from Discrimination

Lastly, the Charter of Fundamental Rights of the European Union [CFR] (2000) applies to the European Union, which is neither a party to the European Convention on Human Rights [ECHR], nor to the United Nations Convention on the Rights of the Child [CRC]. In the Charter, we can find provisions that both pertain to the right to be heard as we know it from the CRC, and to the general prohibition of discrimination as we know it from the ECHR.

The Rights of the Charter

We can find a provision similar to Article 12 para. 1 CRC in Article 24 para. 1 CFR, which to a certain extent mirrors the CRC article: “Children [...] may express their views freely. Such views shall be taken into consideration on matters which concern them in accordance with their age and maturity.” (Article 24 para. 1 CFR) If we were to argue that here, too, the participation in elections to the European Parliament is a matter concerning the respective children, there might be a case that here, too, this Charter would be violated.

It has been shown above that the age barriers are not contained within EU law, and it is therefore not laws, institutions, or bodies of the European Union who were to be in violation of Article 24 para. 1 CFR. Even then, the Act at hand is not specified as a directive, thus, it is debatable whether national legislation concerning the European Parliament elections is an independent element of national constitutional law, or whether this legislation is implementing the aforementioned Act in the sense of Article 51 para. 1 CFR, which will be discussed later.

The EU acquis contains a prohibition of age-based discrimination in Article 10 Treaty on the Functioning of the European Union [TFEU] (2016) *in defining and implementing its policies and activities* (TFEU, Article 10), and a general prohibition of age-based discrimination in Article 21 CFR. Furthermore, the Court of Justice of the European Union [CJEU] has confirmed in the *Mangold* case that “the principle of non-discrimination on grounds of age must [...] be regarded as a general principle of Community law” (CJEU, 2005, para. 75). However, the only legislative action concerning age-based discrimination beyond the principles in TFEU and CFR has been taken solely concerning the field of employment and occupation (Dewhurst, 2020).

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The Scope of the Charter

Article 51 para. 1 CFR defines the Charter as “addressed to the institutions and bodies of the Union with due regard for the principle of subsidiarity and to the Member States only when they are implementing Union law.” Thereby, even if we might find the implementation of age barriers as against the spirit of the Charter, it might not amount to a violation, since such violation might lie outside of the scope as defined in Article 51 of the Charter.

The Applicability of the Charter

In the *Åkerberg Fransson* judgment, the CJEU held that “any provisions of the Charter relied upon cannot, of themselves, form the basis” for jurisdiction of the CJEU (2013, para. 22), yet has given a broad interpretation to the required connection (Spaventa, 2016). The opinion of Advocate General Jääskinen in the *Kaltoft* case stated that there needs be a requisite link, that can be established by the identification of a “specific and identified provision of Member State law [...] falling within the (substantive) scope of an equally specific and identified provision of EU law, whether it be found in an EU legislative act, or in the Treaties themselves.” (CJEU, 2014b, para. 22). In *Siragusa*, the Court has interpreted *implementing Union law* as follows:

“In order to determine whether national legislation involves the implementation of EU law for the purposes of Article 51 of the Charter, some of the points to be determined are whether that legislation is intended to implement a provision of EU law; the nature of that legislation and whether it pursues objectives other than those covered by EU law, even if it is capable of indirectly affecting EU law; and also whether there are specific rules of EU law on the matter or capable of affecting it” (CJEU, 2014a, para. 25)

In the same judgment, it has highlighted the importance of the objective of ensuring that fundamental rights in EU law “are not infringed in areas of EU activity, whether through action at EU level or through the implementation of EU law by the Member States.” (CJEU, 2014a, para. 31). The nature of European Parliament elections being an EU activity can be assumed to be more easily argued than national electoral law to the European Parliament elections being an implementation of EU law.

Finally, it is prudent to observe that rather discouraging to a possible case challenging age barriers due to age-based discrimination under Article 21 CFR is that in discrimination

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cases before the CJEU under Article 21 CFR, among which cases related to age-based discrimination, the Court has repeatedly chosen not to refer to the Charter (Ward, 2018). Similarly, as concerns the applicability of Article 24 CFR, although it has not to date been held as such, the CJEU might re-emphasise the reasoning of the *Glatzel* case, in which it emphasised the non-applicability of a provision of the Charter in light of absence of further legislative measures (Ward, 2018). The existence and relevance of further legislative measures pertaining to Article 24 CFR which also relate to the European Parliament elections should therefore be proven to increase the sway of any such argument.

Conclusion

In order to argue a claim on the right to be heard under the United Nations Convention on the Rights of the Child, it needs to be proven that elections to the European Parliament are a matter affecting the child.

In order to argue a claim on the right to protection from discrimination under the European Convention on Human Rights, it needs to be shown that the difference in treatment between those who passed the age barrier to participate in the European Parliament elections, and those who did not, lacks *objective and reasonable justification*, and therefore constitutes discrimination under both Article 14 of the Charter in conjunction with Article 3 Protocol No. 1, and under Article 1 Protocol No. 12 of the Charter.

Arguing a claim under the Charter of Fundamental Rights of the European Union, even though it knows both the right of the child to be heard, and the right to protection from discrimination based on age, is considerably more difficult. Based on the jurisprudence reviewed above, the following needs to be paid attention to for arguing both a violation of the right of the child to be heard under Article 24, and the right to protection from discrimination based on age under Article 21. They should be argued separately by taking into account this non-exhaustive list:

1. Identify (a) specific provision(s) of EU law pertaining to the case beyond the Charter (*Kaltoft* opinion)
2. Identify (a) specific provision(s) of Member State law pertaining to the case (*Kaltoft* opinion)
3. Check *Siragusa* criteria:
 1. Present relevant legislation intended to implement (a) provision(s) of EU law

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2. Argue that this legislation is not of such nature that it pursues objectives other than those covered by EU law, and if so, only to a limited extent that is not precluding the CJEU from interpreting it as implementing EU law in the sense of Article 51, para. 1 CFR
3. Present specific rules of EU law on the matter or capable of affecting it
4. Show character of European Parliament elections as being an *EU activity*, and thereby an activity in which the protection of fundamental rights needs to be guaranteed by the CJEU (*Siragusa*)
5. Show supplementary relevant legislation in order to avoid *Glatzel* case scenario.

Substantive Arguments Concerning the Congruity of Age Barriers to the European Parliament Elections with CRC and ECHR

As concluded in Appendix B, further substantive arguments would need to be made before one were to bring a solid and conclusive case in front of the relevant adjudicatory bodies. Within this section, substantive arguments under the Convention on the Rights of the Child and under the European Convention on Human Rights will be brought forward. An elaborate substantive argument concerning a violation of the Charter of Fundamental Rights of the European Union is outside of the scope of this paper and requires a comprehensive argument as shown in the paragraph above.

Is there a Violation of the Convention on the Rights of the Child?

As was ascertained in Appendix B, in order to investigate a possible violation of the age barriers to the European Parliament elections under the Convention on the Rights of the Child [CRC], it needs to be shown that the European Parliament elections are a *matter affecting the child* in the sense of the CRC. This shall be performed by presenting evidence rejecting the claim that European Parliament elections were *not* a matter affecting the child under Article 12 CRC.

We can investigate this through taking a closer look at General Comment No. 12 of the UN Committee on the Rights of the Child [CRC-C-GC12] (2009), i.e., the text by the authoritative body of experts responsible and empowered to monitor the implementation of the CRC, which elaborates on Article 12 CRC. At first, para. 27 CRC-C-GC12 affirms that in the original version of the CRC, “no general political mandate was intended” (CRC-C-GC12,

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para. 27). At the same time, within the same paragraph it is upheld that “The practice [...] demonstrates that a wide interpretation of matters affecting the child and children helps to include children in the social processes of their community and society. Thus, States parties should carefully listen to children’s views wherever their perspective can enhance the quality of solutions.” (CRC-C-GC12, para. 27). This commitment to a wide interpretation is reaffirmed in para. 87 CRC-C-GC12 which specifically mentions health, economy, education, environment as problems of interest to the individual child, groups of children, and children in general. In light of this, EU legislation and EU political decision-making can be seen as a matter affecting the child under Article 12 CRC. Strikingly, that EU policy-making and its implementation are a matter affecting the child has been specifically affirmed by the European Commission in its Action Plan on Human Rights and Democracy 2020-2024 (see European Commission, 2020, section I.B.).

But even then, it has not been shown yet that not only EU policy, but European Parliament elections in particular are a matter affecting the child. As a general principle, it shall here be posited that if matter A is affecting the child, and matter B is fundamental to matter A, matter B is also affecting the child. It can be argued that the European Parliament elections are fundamental to EU policy-making and, if the posited principle is accepted, thereby also a matter affecting the child under Article 12 CRC. This argument seems relatively clear and does not require at this point much more deliberation, especially given the main focus of this paper.

However, even beyond this argument there are legal documents that support the character of European Parliament elections as being a matter affecting the child. For one, the Committee of Ministers of the Council of Europe calls upon its Member States to “increase the opportunities children and young people have to participate in public life and democratic bodies, including as representatives” (Council of Europe Committee of Ministers, 2012, Appendix III para. 3) in its Recommendation on the Participation of Children and Young People Under the Age of 18, which i.a. particularly refers to the right of the child to be heard. *Representatives* here can reasonably be interpreted as enjoying passive suffrage in elections; by analogy, the passive suffrage in the European Parliament elections. An interpretation of European Parliament elections as falling within the scope of matters relevant to the child under Article 12 CRC is thereby reasonable.

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Next to this, we can find that the Committee on the Rights of the Child ascertains: “It is important that Governments develop a direct relationship with children, not simply one mediated through non-governmental organizations (NGOs) or human rights institutions.” (Committee on the Rights of the Child, 2003, para. 12 as cited in CRC-C-GC12, para. 88). It can be argued that the most direct relationship a government has to its citizens in contemporary European societies are through its direct election or indirect election via the parliaments; in the same manner, the most direct relationship the European Commission entertains to the European people is arguably through the elections to the European Parliament. Following this logic, the exclusion of children to partake in this most important and direct relationship can also be reasonably argued to go against the spirit of the CRC.

Is there a Violation of the European Convention on Human Rights?

As concluded in Appendix B, in order to constitute a violation of the European Convention on Human Rights [ECHR], we need to show that the difference in treatment between those who passed the age barrier to participate in the European Parliament elections, and those who did not, lacks *objective and reasonable justification*, and therefore constitutes discrimination under both Article 14 of the Charter in conjunction with Article 3 Protocol No. 1, and under Article 1 Protocol No. 12 of the Charter. This is a challenging endeavour, given that in *Hirst*, the Court has listed that “for example, the imposition of a minimum age may be envisaged with a view to ensuring the maturity of those participating in the electoral process” (ECtHR, 2005, para. 62).

It is possible to continue arguing a violation of the ECHR even in light of that: Neither in *Hirst*, nor in any of the other 16 cases which were admitted and judged in front of the ECtHR applying Article 3 Protocol No. 1 ECHR in conjunction with Article 14 ECHR^{ap}, was the point of age discrimination ever raised. Likewise, the example given in the *Hirst* judgment has been phrased in a manner that is ambiguous as to its meaning. In both English and French^{aq} version of para. 62 of the *Hirst* judgment, the Court has phrased the possibility of envisaging minimum ages in the specified way using a passive voice and emphasising the

^{ap} In chronological order from oldest to newest: *Mathieu-Mohin and Clerfayt*, *Matthews*, *Aziz*, *Melnychenko*, *Hirst*, *Sukhovetsky*, *Georgian Labour Party*, *Sejdić and Finci*, *Özgürlük ve Dayanışma Partisi*, *Oran*, *Zornić*, *Danis and Association of Ethnic Turks*, *Partei Die Friesen*, *Cernea*, *Cegolea*, *Caamaño Valle*. Retrieved from the HUDOC database of the Court of Justice of the European Union, <https://hudoc.echr.coe.int>, on September 15, 2021.

^{aq} “On peut par exemple envisager de fixer un âge minimum [...]” (ECtHR, 2005, para. 62)

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hypothetical state of an arising of such a situation. This usage indicates that there is sufficient doubt that *may*, in para. 62, is used in a permissive sense. Next to that, this example of minimum ages to participate in elections has not in any way been motivated or elaborated upon, and was not a finding of the Court, but an illustrative point used for the general motivation of a margin of appreciation for states as regards Article 3 Protocol No. 1 ECHR in conjunction with Article 14 ECHR. By its phrasing it did not comprehensively ascertain that, where implemented, the view to ensuring the maturity of those participating in the electoral process, was fulfilling the criteria of being an objective and reasonable justification.

Other than that, it also needs to be considered that in making its judgments, it is a general principle of the ECtHR to consider the development of relevant international law between the signatories to the ECHR^{ar}. Since 2005, there have been notable developments in the field of rights to protection from discrimination^{as}. For these reasons, even in light of minimum ages being listed as potentially legitimate differences in treatment in *Hirst*, it is worth investigating how age barriers to the European Parliament elections can be shown to be differences in treatment that lack objective and reasonable justification.

It is difficult to find a justification that can be criticised as not being objective and reasonable, since justifications for age barriers to participate in the European Parliament elections or in other elections are not comprehensively set forth in law or other publications and deliberations by states. Most states know of age barriers simply as a traditional feature that they overtook from their previous systems, without them ever requiring justification that has been used to support these legal provisions. Further, it is not possible within the context of this paper to analyse justifications brought forward per Member State of the European Union.

But we do not necessarily need to. The ECtHR has specified the criteria for assessing the interpretation of Article 3 Protocol No. 1 ECHR in conjunction with Article 14 ECHR in *Mathieu-Mohin and Clerfayt* and consistently upheld them since as: “that the limitations imposed on the exercise of the rights under Article 3 of Protocol No. 1 do not curtail the rights in question to such an extent as to impair their very essence and deprive them of their effectiveness; that they are imposed in pursuit of a legitimate aim; and that the means employed are not disproportionate” (ECtHR, 2021, para. 56).

ar See ECtHR, 2021, para. 52 for relevant authorities.

as See in particular the following sources which specifically elaborate on restrictions such as age barriers: Council of Europe Parliamentary Assembly, 2009; Council of Europe Committee of Ministers, 2012

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One can agree that age barriers are imposed in pursuit of a legitimate aim: Ensuring that only those who have achieved a certain level of political maturity may participate in the political process. However, the means can be seen as disproportionate if there is a better way to guarantee political maturity that is not as incisive into the rights of the individual. Cook (2013) argues precisely that and proposes to replace any form of a minimum voting age in democratic elections by a procedural test for minimum electoral competence. Such a procedural test, Cook argues, is a better indicator for political maturity than an age threshold. As there is a better alternative to age barriers using what Cook describes as procedural test, the age barrier can hardly be seen as proportionate.

Finally, it is worth to note that in its most recent judgment on Article 3 Protocol No. 1 ECHR in conjunction with Article 14 ECHR, *Caamaño Valle*, the Court found that, also in the context of these Articles, “that if a restriction on the right to vote applies to a particularly vulnerable group in society that has suffered considerable discrimination in the past, such as the mentally disabled, then the State’s margin of appreciation is substantially narrower” (ECtHR, 2021, para. 55). It does not require much argumentation to establish children as a particularly vulnerable group, and in consideration of this group having been the subject of considerable discrimination in the past^{at}, hence, it can additionally be argued that in interpreting the ECHR, a narrow margin of appreciation should be applied.

at See (Young-Bruehl, 2012; Stearns, 2016; Jenks, 2005, and sources cited therein)

Appendix C: Effect-Egalitarian Justification with Outcome-Utilitarian Addition

It is also possible to formulate the effect-egalitarian justification with an outcome-utilitarian addition. However, I hold such a formulation to be argumentatively weaker than the effect-egalitarian justification in its pure form, and than the outcome-utilitarian justification in its pure form, which is why I have solely included it in the appendix. See the following table for a comparison. Deviations from the justifications in the previous columns are marked in bold.

Classical Utilitarian Justification of Majority Rule [CU]	Outcome-Utilitarian Justification of a Privileged Position for Youth [OU]	Effect-Egalitarian Justification of a Privileged Position for Youth [EE]	Effect-Egalitarian Justification with Outcome-Utilitarian Addition [EE-OUA]
(CU-I) We can approximate the common good through opting for the maximal achievable societal utility in making political decisions.	(OU-I) We can approximate the common good through opting for the maximal achievable societal utility in making political decisions.		(EE-OUA-I) We can approximate the common good through opting for the maximal achievable societal utility in making political decisions.
(CU-II) Societal utility equals the sum of individual utility across all individuals affected by a political decision.	(OU-II) Societal utility as a concept needs to encapsulate the long-lasting consequences of the decision in question, and more specifically, the influence this decision has on the realms of agency that remain open to individuals for their remaining expected lifetime.		(EE-OUA-II) Societal utility equals the weighted sum of individual utility across all individuals affected by a political decision.
	(OU-III) Individual utility includes, but is not limited to, the realms of agency that remain open to the individual concerned for the remaining expected lifetime. The longer the remaining expected lifetime, the more important the realms of		

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	agency are for the individual utility.		
(CU-III) Individuals in political decisions choose the options that are in their interest, i.e., that bring them the most individual utility.	(OU-IV) Individuals in political decisions choose the options that are in their interest, i.e., that bring them the most individual utility.		(EE-OUA-III) Individuals in political decisions choose the options that are in their interest, i.e., that bring them the most individual utility.
(CU-IV) The weight of the individual utility in the consideration of a political decision should be the same for all individuals.		(EE-I) The weight of the interest an individual has in a decision, i.e., the weight of their individual utility, should equate the weight of the consequences this decision has on the individual.	(EE-OUA-IV) The weight of the interest an individual has in a decision, i.e., the weight of their individual utility, should equate the weight of the consequences this decision has on the individual.
	(OU-V) Younger individuals have a higher remaining expected lifetime than older individuals.	(EE-II) Younger individuals have a higher remaining expected lifetime than older individuals.	(EE-OUA-V) Younger individuals have a higher remaining expected lifetime than older individuals.
	(OU-VI) Following from (OU-II) + (OU-III) in conjunction with (OU-V), Due to their higher remaining expected lifetime, the individual utility of younger individuals coincides to a larger extent with societal utility than the individual utility of older individuals in political decisions.	(EE-III) Since a younger individual is more likely to live longer than an older individual, the consequences of any political decision for a younger individual are higher than for an older individual.	(EE-OUA-VI) Since a younger individual is more likely to live longer than an older individual, the consequences of any political decision for a younger individual are higher than for an older individual.
	(OU-VII) Following from (OU-IV) + (OU-VI), Younger individuals are more likely to opt for outcomes that increase societal utility than older individuals.	(EE-IV) Since the consequences for a younger individual of any political decision are higher, the weight of the individual utility of younger individuals in any political decision should be higher than the weight of the individual utility of older	(EE-OUA-VII) Since the consequences for a younger individual of any political decision are higher, the weight of the individual utility of younger individuals in any political decision should be higher than the weight of the individual utility of older individuals.

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		individuals.	
(CU-V) The best possible way to ensure the maximum societal utility that is achievable for outcomes of political decisions is to implement the decision that is preferred by a majority of individuals.	(OU-VIII) In order to increase societal utility and approximate the common good, youth should be guaranteed a privileged position in the political decision-making process. (Following from (OU-I) + (OU-VII))	(EE-V) In order to ensure a better realization of the EE-I principle , youth should be guaranteed a privileged position in the political decision-making process.	(EE-OUA-VIII) In order to increase the societal good , youth should be guaranteed a privileged position in the political decision-making process.

Table 2: Comparison of argument components of different justifications.

Appendix D: Overview of the Relationships Between Justifications and Problems

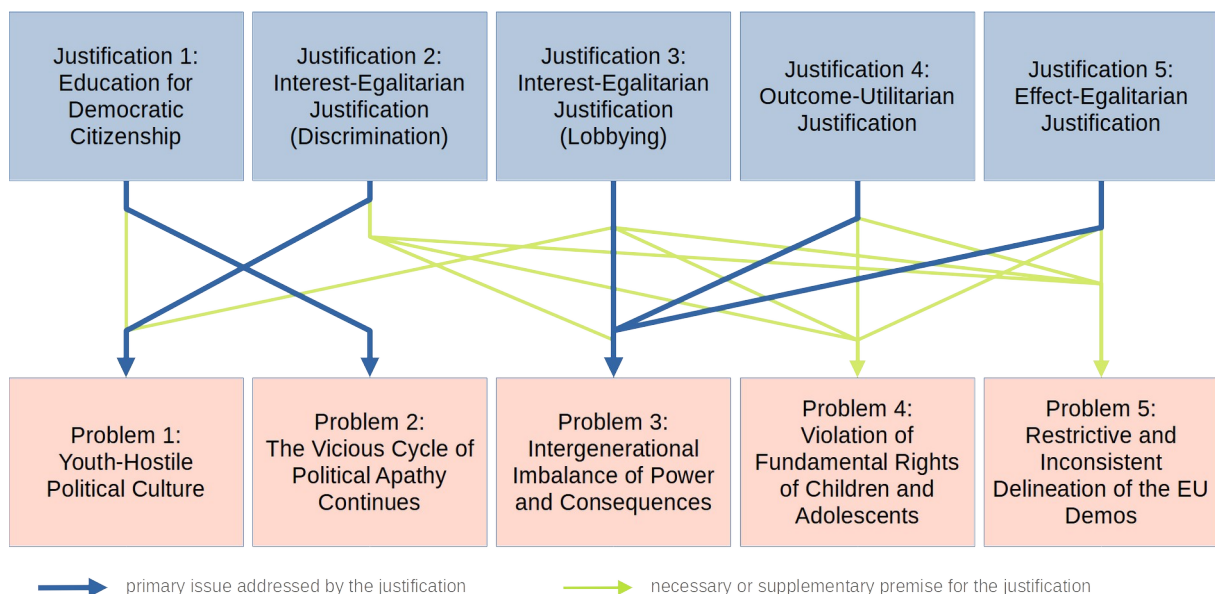


Figure 2: Overview of the Relationships Between Justifications and Problems

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