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# Asymmetric ratification standards and popular perceptions of legitimacy

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## ABSTRACT


The ratification of EU agreements is characterized by the application of different democratic procedures across member states. Building on the democratic theory of legitimate global governance, I argue that citizens benchmark their national procedure against highly visible direct democratic ratification votes held in other member states. If citizens experience unequal influence on EU decision-making, the perceived legitimacy of the EU regime erodes. I test this argument with a research design that combines a population-based survey experiment and a quasi-experiment. First, a survey experiment in Germany reveals that information about asymmetric ratification standards decrease fairness perceptions and satisfaction with EU democracy. Second, a natural experiment around the 2005 French vote on the EU constitutional treaty shows that the referendum decreased satisfaction with EU democracy in states with pending and indirect ratification. These findings suggest that asymmetric access of citizens to EU decision-making can decrease popular support for EU governance.

**KEYWORDS** Direct democracy; European Union; experiment; legitimacy; ratification; referendum

## Introduction

Ratification of EU agreements is characterized by the differential application of direct democratic and parliamentary procedures across member states. The consequences of these asymmetries in ratification standards on legitimacy have so far received no attention in empirical research. This paper argues that asymmetric ratification standards can erode the political legitimacy of the European Union, adding a novel horizontal dynamic to the discussion on the democratic deficit in supranational governance. Following arguments from the normative theory of European *democracy*, this paper outlines a horizontal benchmarking mechanism that expects citizens to

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downgrade their assessment of European democracy as they witness the use of asymmetric ratification standards. I argue that an EU referendum abroad sets a precedence for democratic ratification and has the potential to effectively veto meaningful ratification decisions at home. While witnessing a salient EU referendum abroad, EU citizens benchmark their domestic ratification procedures against the highly visible direct democratic vote. This benchmarking can fuel perceptions of unequal access to EU decision-making, which in turn erodes the perceived legitimacy of EU governance.

I investigate this argument with a mixed-methods research design, combining insights from a population-based survey experiment with a natural experiment. In a first step, I employ a survey experiment within a representative sample of the German population to test for the existence of the theoretical mechanism. In the survey experiment, respondents are randomly exposed to information on asymmetric ratification in the EU. I find that asymmetric ratification standards decrease fairness perceptions, which translates into lower satisfaction with EU democracy. Having identified the horizontal benchmarking mechanism, I test the external validity of my argument with a natural experiment in the case of the French referendum on the EU constitutional treaty in May 2005. Using an EU-wide survey conducted before and after the French vote, I estimate the causal effect of the referendum vote on regime evaluations across Europe. The empirical analysis finds that EU citizens adopt a more negative evaluation of the European regime as they learn about the French rejection of the constitutional treaty. In line with the horizontal benchmarking argument, this effect is driven by citizens from member states that are most strongly deprived of meaningful access to ratification.

This article demonstrates that EU citizens care about asymmetries in access to European decision-making processes. Europeans benchmark their domestic rules and procedures against the highly visible and salient direct democratic tools used in other EU states. Citizens excluded from meaningful access realize their diminished influence on EU decision-making. As a result, the selective use of EU referenda can have negative EU-wide externalities on citizens' perceptions of EU democracy. This leads to a situation in which a referendum, a political instrument with high democratic legitimacy, may undermine legitimacy across Europe due to its selective application to a minority of EU citizens. These findings provide first empirical support to the democratic normative critique of the European Union's political legitimacy (cf. Cheneval & Schimmelfennig, 2013).

This text proceeds as follows. First, I will review the state of research on the political effects of referenda, focusing on recent evidence regarding public opinion. Following that, I present a theoretical discussion on democratic legitimacy in the EU. Then I will provide two empirical studies on the effects of asymmetric ratification on EU regime evaluations. I start with the

survey experiment (Study I) to investigate the causal mechanism. This analysis is followed by the quasi-experiment (Study II) to test for the external validity of the argument. I end with a summary and some reflections on implications for democratic legitimacy of international agreements.

## The political effects of referenda

Over the past decades, European integration has gained increasing relevance for electoral politics. As EU integration has gradually expanded into core competencies of member states, issues of EU integration have become politicized (Hooghe & Marks, 2009). The most visible manifestation of politicization are EU referenda (Grande & Hutter, 2016). Since the Treaty of Maastricht, member states make regular use of referendums to ensure public consent for EU integration steps (Hobolt, 2006). EU referenda increase the salience of European integration and induce intense domestic political competition over European issues (Hooghe & Marks, 2009).

Existing research focuses on two major effects of EU referenda. First, scholars have analyzed how referenda shape bargaining processes between decision makers on the European level. This research engages with questions on why member states initiate a referendum vote and how this shapes their bargaining power vis-à-vis other states (Christin & Hug, 2002; Closa, 2007; Hug & Schulz, 2007; Simon & König, 2002). Other research is concerned with the political effects of EU referenda within the voting population (Hooghe & Marks, 2009). Here, scholars investigate how European referenda politicize electorates (De Vries, 2009; Hobolt *et al.*, 2020). Moreover, recent research investigates the perceived legitimacy of EU referenda within the voting population (Arnesen *et al.*, 2019). However, current research is limited with respect to the effects of EU referenda on EU-wide public opinion. Here, the Brexit vote sparked new interest in transnational dynamics and provided first insights on Euroscepticism (De Vries, 2017). Yet, we currently lack understanding of how referenda shape citizens' perceptions of political legitimacy across the EU. Do direct democratic votes on EU integration affect European citizens' evaluations of political rules and procedures?

This research question requires a look at the comparative literature on the relationship between direct democracy and political behavior.<sup>1</sup> Research suggests that direct democracy can improve regime evaluations, representation, and political participation (Bowler & Donovan, 2002; Gherghina, 2017; Leemann & Wasserfallen, 2016; Olken, 2010). However, these effects are far from consistent, as direct democracy can also induce distrust and reduced participation (Dyck, 2009; Freitag & Stadelmann-Steffen, 2010; Marien & Kern, 2018). Further, it has been shown that the perceived

legitimacy of EU referenda depends on domestic contextual factors such as turnout, majority size, and outcomes (Arnesen *et al.*, 2019).

Understanding the political effects of referenda becomes even more complex if we consider direct democratic votes on EU agreements. Member states have very different preconditions and standards for the ratification of European agreements, and EU referenda are therefore only conducted in a subset of countries (Hug & Schulz, 2007). While it is clear that a referendum shapes politics in the population that is called to the ballot, referenda could also have EU-wide effects (Walter *et al.*, 2018). Often, national EU referendums are highly visible events across Europe that significantly shape the fate of European integration. Here, the recent Brexit vote is a case in point (De Vries, 2017). However, given the current literature, it remains puzzling how the *selective use* of referenda shapes EU regime evaluations.

## Updating legitimacy beliefs under asymmetric ratification standards

### *The role of transnational dynamics for democratic legitimacy beliefs*

The democratic legitimacy of international regimes, and the European Union in particular, has traditionally been discussed with respect to the state of democracy at the national or supranational level. On the one hand, the delegation of sovereignty to the supranational level has been portrayed as democratically legitimate, as it merely reflects processes of delegation in national democracy (Moravcsik, 2006). In this perspective, democratic legitimacy should be ensured primarily at the national level. On the other hand, scholars have used a liberal democratic standard of evaluating the democratic quality of the EU. In this view, the EU has a serious democratic deficit, due to executive dominance, weak parliamentary control, little electoral competition, complex decision-making, and policy-drift from voter preferences (Follesdal and Hix 2006). These accounts, however, miss the role transnational dynamics play for the legitimacy of supranational democracy.

This gap is filled by the 'demoi-cratic' theory of legitimate governance in the EU. The theory posits that the horizontal relationship between multiple *demoi* is of primary concern. Nested in a philosophical literature on democracy across borders, it argues that transnational democracy is legitimate as long as it effectively minimizes the violation of (national) citizen rights due to international processes (Cheneval, 2011). Demoi-cratic theory depicts the EU as a system of multiple *demoi*, in which sovereign member states are the primary source of legitimacy, but constrain each other by considering the rights of other *demoi* in the Union (Cheneval & Schimmelfennig, 2013). Accordingly, it argues that the international integration of liberal democracy

generates the need for supranational rules and procedures that ensure the effective protection of joined demoicratic rights. While the institutional implications of democracy are still underspecified (Crespy & Ladi, 2019), democratic theory makes some explicit statements on legitimate representation.

Specifically, democracy demands equal access of all *demoi* to collective decision-making (Cheneval & Schimmelfennig, 2013). Yet, the asymmetric application of direct democracy in the form of selective EU referenda is a case of unequal access that is highly problematic from a democratic perspective and may weaken the legitimacy of European integration. A democracy requires equal rights for all citizens to make constitutional choices. Yet, '[t]he phased timing of ratification, the unequal application of representative or direct democracy, and the fact that some referendums are called by governments at their own will and others by constitutional dispositions distort an adequate representation [...]' (Cheneval & Schimmelfennig, 2013, p. 344). While this claim is normatively justified and theoretically plausible, it has so far remained untested empirically. Here, empirical social science research can explore to what extent rules and procedures have the consequences suggested in normative accounts (cf, Moravcsik, 2006).

### **Horizontal benchmarking**

A potential negative effect of asymmetric ratification on legitimacy, as suggested by democratic theory, can emerge for two reasons. First, publics called to a popular vote have a direct influence on the political process. This direct democratic channel frequently entails veto power over the fate of EU agreements (Simon & König, 2002). This is not only an issue for citizens governed by indirect ratification procedures. The unequal timing of referendum votes can also preempt other national publics to have a meaningful say in a direct democratic vote. Consequently, citizens not called to a popular vote have no direct influence on the implementation of an international agreement and are potentially deprived of meaningful opportunities to voice their opinion.

Second, direct democratic ratification holds the political procedures used abroad to a higher democratic standard. This argument can be contested on normative grounds, as representative democratic arrangements can also be viewed as legitimate (Moravcsik, 2006). However, in the eyes of voters, direct democracy usually does support political legitimacy (Bowler & Donovan, 2002; Gherghina, 2017). What matters is that, in the public eye, direct democracy is *perceived* to be of a higher democratic standard. As a result, the sporadic use of referenda in some member states sets a precedent for a more democratic and legitimate decision-making process, against which the perceived legitimacy of the domestic ratification procedures can appear inferior.

These two implications of asymmetric ratification standards are likely to affect citizens' evaluations of EU decision-making procedures. While witnessing a foreign referendum, new information is generated in a process of *horizontal benchmarking*. Under horizontal benchmarking, citizens compare the state of their domestic ratification procedure with the procedures used in other states that are subject to the same agreement. The primary reference points for such comparisons are highly visible and salient referendum votes. A referendum in another member state provides new information on the unequal application of rules and procedures, as well as information on unequal power and influence of national publics. Therefore, as citizens witness direct democratic votes abroad, perceptions of unfair access to EU decision-making might increase. This perceived inequality in political representation is likely to erode beliefs on legitimate decision-making.

The criteria of comparison citizens use can refer to the procedure (indirect/direct ratification), as well as the ratification stage (pending/completed ratification). This is in line with democratic theory, which diagnoses unequal access due to the timing of referenda and the types of ratification procedures (Cheneval & Schimmelfennig, 2013). Timing can hinder meaningful participation if a referendum abroad effectively vetoes an agreement and pre-empts any domestic deliberation and participation. Moreover, a referendum can increase perceptions of unfair access in states with indirect ratification procedures, as citizens could perceive that a lower democratic standard is applied to them. Taken together, this suggests that the potential for decreasing legitimacy perceptions is highest in populations that are disadvantaged concerning the procedural *and* temporal dimension.

### *Do people pay attention to foreign referendums?*

A central assumption of my argument is that an EU referenda reverberates in European publics, shaping people's evaluations of EU governance. I maintain that this is a plausible assumption, which, however, rests on a set of contextual factors that can serve as scope conditions for my argument. First, attention most likely depends on the salience of specific referendum votes. Events that are highly consequential for European politics, such as the Greek bailout referendum or the Brexit vote, will attract more attention than, for instance, opt-out votes from a specific policy, such as the Danish 2015 referendum on European police cooperation. Second, studies on public perceptions of EU democracy have shown that criteria used to evaluate EU governance vary across time and space (Ehin, 2008; Rohrschneider & Loveless, 2010). While procedural criteria remain a central part of EU regime evaluations, they might be pushed back in contexts of economic crisis. While these points provide important qualification for my argument, recent empirical studies on the Greek bailout referendum as well as the Brexit vote demonstrate



strong transnational dynamics in European public opinion (De Vries, 2017; Walter, 2020; Walter *et al.*, 2018).

### **Alternative explanations**

The equal representation required under a democratic perspective expects adverse effects of a foreign referendum on EU regime evaluations. However, the democratic perspective is not without tensions here. The freedom of sovereign *demos* to decide on their own procedures squares well with the basic idea of democracy. People might appreciate the use of asymmetric ratification standards and respond positively to information on the EU allowing and respecting direct democratic votes abroad. However, the democratic account argues that this national sovereignty finds its limits as soon as it restricts democratic rights in other EU states. As I argue above, this is the case as an EU referendum can impede meaningful access of other *demos* to EU decision-making. However, it stands to question how this turns out in empirical investigations of EU regime evaluations. Only if people *perceive* the foreign vote as an unfair restriction to their own democratic right, EU support should decrease. On the other hand, EU citizens might actually improve their evaluations of the EU regime as they witness a referendum abroad, if they do not perceive asymmetric ratification as unfair. Therefore, the activation of fairness heuristics might play a central role in the transnational public opinion effects of asymmetric ratification.

Moreover, asymmetric ratification might reflect more strongly on the national regime, rather than the European one. People might blame national rules and politics for not being able to vote directly on a European agreement. In fact, national procedures are responsible for the nature of the domestic ratification process. Under this account, European regime evaluations might still suffer, as people extrapolate their dissatisfaction from the national to the European level (Harteveld *et al.*, 2013). Yet, the cause would be disenchantment with the domestic regime. I can test the effects of asymmetric ratification on national regime support in both studies and do not find any effects.

Another alternative explanation of the effects of a foreign referendum on EU regime evaluations rests on a learning or spillover mechanism (cf, Walter, 2020). EU citizens might not respond to unequal representation in EU decision-making, but simply update their evaluations given new information on aspects of EU integration. A negative EU referendum, for instance, might signal problematic aspects of EU integration, such as an elite-citizen gap or shortcomings in the agreement under ratification, which result in decreasing regime support. Such spillover effects would be independent of fairness perceptions and should work rather homogeneously across *demos*. It is therefore crucial to investigate the plausibility of my proposed mechanism. I therefore

start the empirical part with a survey experiment that investigates the link between asymmetric ratification standards, fairness perceptions, and EU regime evaluations.

### **Study I: A population-based survey experiment in Germany**

Study I presents a population-based survey experiment with a representative sample of the German population. The goal of this study is to investigate whether asymmetric ratification standards affect fairness perceptions and EU regime evaluations in the way the horizontal benchmarking argument suggests. In line with previous research, I expect that the perceived fairness of political procedures is an integral part of political system support (Linde, 2012). Yet, in contrast to previous research, study I provides novel insights for this claim with respect to transnational dynamics in the EU.

Germany is a good case to investigate the existence of the horizontal benchmarking mechanism, as the German population is one of the few *demoi* in the EU that is by constitutional law never allowed to directly vote on EU agreements.<sup>2</sup> The German context, therefore, can be seen as a representative case as the issue of asymmetric ratification clearly applies to the German *demos*. Moreover, the German context can be seen as a hard test case, as German respondents might already have internalized asymmetric ratification. Therefore, any informational treatment on asymmetric ratification might not be news to many respondents.

### **Research design**

The survey is conducted with a representative sample of about 1'000 German respondents in January 2020. Representativeness is ensured with respect to gender, age, education, and the federal state of residence. The survey is administered by GAPFISH (<https://gapfish.com>). The survey experiment randomly allocates respondents into a treatment and control group. The control group is provided with a few sentences explaining that EU agreements are usually ratified by national parliaments.<sup>3</sup> Hence, the control group does not receive any information about unequal access to EU decision-making. In contrast, the treatment text explains to respondents that while Germany always ratifies agreements via parliament, 'citizens in other member states can use referenda to directly vote on EU agreements'. This treatment is a piece of information on unequal access that mirrors the mechanism outlined in the theory section. Online Appendix B shows that randomization was successful, as the treatment and control groups are balanced on the socio-demographic variables.

After the treatment and control condition that shortly explained the ratification process of EU agreements, respondents are asked about their fairness

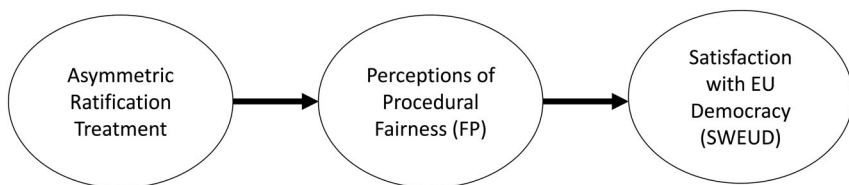
perceptions (FP). This question reads: ‘How fair do you think the ratification process of EU agreements is?’ Respondents could answer on a Likert scale with the values ‘very unfair’, ‘somewhat unfair’, ‘neither fair, nor unfair’, ‘somewhat fair’, and ‘very fair’. I then collected respondents’ satisfaction with EU democracy (SWEUD). The question reads: ‘How satisfied are you with the way democracy works in the European Union?’ Respondents could answer on a Likert scale with the values ‘very unsatisfied’, ‘somewhat unsatisfied’, ‘somewhat satisfied’, and ‘very satisfied’.

For simplicity and ease of interpretation, I present ordinary least (OLS) square regression estimates of the treatment effect. Given the ordinal nature of the Likert scales, I provide ordered logit models in the Appendix. The order logit models align with the OLS results. Further, I employ mediation analysis to see how fairness perceptions translate the treatment into EU regime support. Following the approach proposed by Imai *et al.* (2011), the mediation analysis calculates direct and indirect effects of experimental treatments and provides adequate uncertainty estimates using a simulation approach (e.g., post-estimation simulations). Of central interest for my argument is the average causal mediation effect (ACME), which the treatment might have on SWEUD through FP. This is distinct from the average direct effect (ADE) that the treatment might have on SWEUD. [Figure 1](#) presents the expected mediation effect.

Two main concerns apply with a mediation analysis for experiments. First, other (unknown) potential mediators might causally affect FP, introducing post-treatment bias. I provide a set of robustness checks and a sensitivity test to address this concern. However, inference for mediation analysis always comes with the untestable assumption that the mediation relationship is not confounded. Second, the mediation analysis assumes that causality runs from FP to SWEUD. This is a second assumption that cannot be validated within the design.

## Results

The findings of the population-based survey experiment are reported in [Table 1](#). Model 1 presents the treatment effect on the perceived fairness of EU



**Figure 1.** Mediation model.

**Table 1.** OLS regressions of fairness perception (FP) and satisfaction with EU democracy (SWEUD).

	FP 1. (1)	SWEUD 2. (2)
Treatment	-0.150** (0.062)	0.109** (0.046)
FP		0.364*** (0.023)
Constant	3.226*** (0.044)	1.402*** (0.082)
Observations	1,019	1,019
$R^2$	0.006	0.193
Adjusted $R^2$	0.005	0.192

Note: \* $p < 0.1$ ; \*\* $p < 0.05$ ; \*\*\* $p < 0.01$ .

ratification processes. The coefficient is negative and statistically significant at the 5%-level. This means that the treatment group reports a significantly lower level of fairness than the control group. Receiving information on unequal access to EU decision-making significantly decreases the probability of rating the EU ratification procedure as fair. On average, information on asymmetric ratification standards decrease ratings on the five-point fairness scale by 0.15 points. This is a small treatment effect. Evaluations of effect sizes usually relate the treatment effect to the variability in the data. The standard deviation of FB in the pooled sample is at 0.99. A standard measure of effect size is Cohen's  $d$ , which evaluates the treatment and control group means over the sample standard deviation. The Cohen's  $d$  for the effect reported in Model 1 of Table 1 is 0.15, which suggests a small effect size.<sup>4</sup>

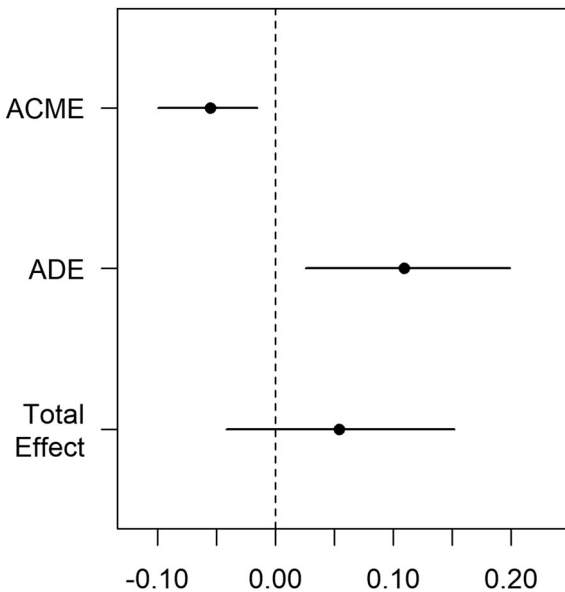
This small effect, however, is not surprising given the rather weak informational treatment and the artificial setting of the survey experiment. Moreover, if we assume that the German context is a hard test case, the estimated effect is likely to be a lower bound. Germans have never been able to directly vote on EU agreements and most probably know that this is due to the national constitution and not the EU regime. Still, the experiment does show that information on asymmetric ratification in the EU can cause a drop in procedural fairness perceptions. Moreover, even though the effect is small, it is strong enough to materialize under the moderate sample size.

Model 2 of Table 1 provides insights on whether the treatment effect could translate to EU regime evaluations. It estimates the treatment effect on SWEUD, controlling for FP. In this model, the fairness perception is a mediator. Part of the treatment effect on SWEUD goes through the fairness perception. Everything in the treatment that is not captured by fairness perceptions is reflected in the treatment coefficient. Model 2 shows that fairness perceptions have a positive and statistically significant effect on EU regime evaluation. Perceiving ratification processes as fair does substantially increase

satisfaction with EU democracy. This suggest that there might be an indirect causal effect of the treatment on SWEUD via FP. Moreover, Model 2 shows that the treatment improves evaluations of EU democracy, once fairness perceptions are held constant. This means that respondents who have not bought into a fairness heuristic reacted positively to the information that other countries hold referendums.

Two main insights emerge from Table 1. First, information about unequal access to EU decision-making does lead to a more negative evaluation of the fairness in the political process. Second, information about asymmetric ratification standards can have heterogeneous effects on EU regime evaluations. Depending on whether respondents follow a fairness heuristic or not, direct democratic votes abroad can improve or erode SWEUD.

However, the regressions in Table 1 do not provide a systematic mediation analysis. A mediation analysis needs to account for the estimation uncertainty involved in the combination of the mediator model (estimating FP) and the outcome model (estimating SWEUD). Figure 2, therefore, presents results from a mediation analysis, estimating the ACME and ADE using 1000 simulations. It shows that, via FB, there is a statistically significant negative indirect effect of asymmetric ratification standards on SWEUD. About 60 per cent of the treatment effect in the experiment is mediated via fairness perceptions. The ADE effect of the treatment is positive and statistically significant as



**Figure 2** . Direct and indirect effects of asymmetric ratification treatment on SWEUD.

well. Due to the opposing direct and indirect effects, the total treatment effect on SWEUD is not statistically significant from zero.

The mediation results are robust to the inclusion of socio-demographic control variables, e.g., gender, age, and education (see Online Appendix D). I also conduct a sensitivity test for the presence of unobserved pre-treatment confounders that might affect the mediator and the outcome, as recommended by Imai *et al.* (2011). The sensitivity analysis evaluates how the estimates change with varying levels of correlation between the residuals of the mediator and outcome models. The results are shown in Online Appendix E. To conclude that the true ACME is insignificant, we would have to assume an unobserved confounder that affects both FP and SWEUD in the same direction and makes the correlation between the two error terms greater than 0.4.

Overall, the German survey experiment demonstrates that information about unequal access to EU decision-making can erode EU regime support. This adverse effect of asymmetric ratification is driven by a perceived unfairness in the decision-making process. Moreover, the experiment highlights that asymmetric ratification standards can have heterogeneous effects. On the one hand, there is a negative effect on EU regime support through eroding fairness perceptions. This is in line with the democratic perspective, as information on asymmetric ratification appears to depress procedural fairness perceptions. On the other hand, there is a positive effect on EU regime support once fairness perceptions are held constant. This demonstrates the potential limits of the democratic account, as not all citizens seem to care about equal access of *demoi* to EU decision-making. Which of these mechanisms prevails in a real-world setting cannot be answered by Study I.

Moreover, the estimated effect size of the ACME seems rather small. The survey experiment creates a rather artificial setting with a relatively weak treatment and the experiment misses a lot of potentially amplifying processes, such as real world implications or elite cues. In fact, as any experiment, Study I falls short on the real-world consequences of asymmetric ratification. Most likely, the activation of fairness heuristics is highly context dependent. Individual characteristics and societal contexts – such as domestic institutions and politics – might moderate this link. For instance, asymmetries might become more salient as *demoi* are deprived of meaningful access to ratification processes on the temporal (decision preempted by another *demos*) and procedural (higher democratic standard used by another *demos*) dimension. In the next section, I therefore provide a second study that covers a real world setting, with varying levels of asymmetries across *demoi*.

## Study II: Testing external validity

### *Ratification of the European constitution: A quasi-experiment*

Study II uses the case of the failed European constitutional treaty from 2005 as a quasi-experiment. The European Union constitutional treaty can be regarded as a typical case of asymmetric ratification standards. The constitutional treaty required ratification in each EU member state and 10 states called public votes. Such a typical case provides a good setting to demonstrate the existence of novel mechanisms, such as the horizontal benchmarking dynamic hypothesized above. More specifically, Study II relies on the French rejection of the constitutional treaty as an exogenous shock to EU regime evaluations. The treaty establishing a constitution for Europe resulted from a long political process that was intended to produce a substantial integration step with high symbolic character. Yet, the constitutional treaty had to be ratified in all EU member states and a number of states were planning referenda votes to do so. Table 2 presents the member states that had planned a national referendum and the stage of ratification at the time of the French vote. The first public vote on the EU Constitution took place in the form of a non-compulsory and non-binding referendum in Spain (20 February 2005). The Spanish population accepted the constitutional treaty by a large margin (Closa, 2007).

The next and first binding vote on the EU constitution took place in France on 29 May 2005. Due to its binding character, the French vote was the first referendum with formal veto power. While French opinion polls had predicted a comfortable majority in favor of the constitutional treaty during the months after announcement of the referendum in March 2004, acceptance decreased markedly from February 2005 onwards (Hainsworth, 2006; Marthaler, 2005). In the run-up to the French vote, opinion polls predicted a tight race (Marthaler, 2005). Unexpectedly, the French referendum resulted in a clear 55 per cent rejection of the constitutional treaty. This result was supported by a rather high turnout of 69 per cent. Consequently, the French rejection was a fundamental blow to the EU constitution, signaling a sudden death of the project across Europe (Hainsworth, 2006). The high level of uncertainty around the French vote and its clear and consequential results provide a good setting for a quasi-experiment.

Table 2 highlights that at the time the French voted, ratification of the EU constitution was at very different stages across member states. This might

**Table 2.** Ratification stages for the EU constitution on 29th of May 2005.

	Already ratified	Ratification pending
<b>No referendum – Indirect</b>	AT, DE, GR, HU, IT, LT, SI, SK	BE, BG, CY, EE, FI, LV, MT, RO, SE
<b>Referendum – Direct</b>	ES	LU, NL, CZ, DK, IE, PL, PT, UK

affect horizontal benchmarking and fairness perceptions within these populations. First, fairness perceptions and unequal access should be of minor concern for populations in member states that were following a direct democratic ratification procedure. States with a planned referendum did follow the same democratically highly regarded procedure as the French. Second, the stage of ratification might affect the degree of horizontal benchmarking. Populations that have not deliberated and decided on the constitution might feel more deprived of their democratic rights than populations that had ratified already at the time of the French vote.<sup>5</sup> These considerations lead to the expectation that perceptions of unfairness should be most pronounced among the nine member states with indirect and pending ratification.

### **Data**

I track European regime evaluations around the date of the French referendum vote using data from the Eurobarometer (EB) 63.4. The EB 63.4 went into the field between the beginning of May and mid-June 2005, surveying nationally representative samples across all member states of the European Union ( $N \approx 30,000$ ). It is a uniquely suitable source as the EB 63.4's fieldwork has been conducted over the weeks before and after the French referendum. This allows me to employ the quasi-experimental regression discontinuity (RD) design to establish the causal effect of the EU referendum on regime evaluations (Muñoz *et al.*, 2020). I am dropping non-member states from the sample, such as Turkey and the Turkish part of Cyprus. Moreover, I am omitting France and the Netherlands from the analysis. The Dutch rejected the EU constitution via referendum just a few days after the French. Because France and the Netherlands are the two countries serving as benchmark, I exclude them to ensure exogeneity.<sup>6</sup> With this strategy, I follow existing regression discontinuity designs from public opinion research (Minkus *et al.*, 2018). Moreover, this ensures that the estimates are restricted to the referendum effects outside the voting population, as the horizontal benchmarking mechanism would suggest. The EB 63.4 records the interview day, which will serve as the running variable in the regression discontinuity design. Eurobarometer also surveys public opinion on European regime evaluations. For the dependent variable, I use a survey item on SWEUD. As in Study I, the item has a four point Likert scale (very/fairly/not very/not at all satisfied).

### **Method**

For estimation, I employ the local randomization approach to regression discontinuity designs. Local randomization explicitly imposes conditions such



that units within a small window around the cutoff are randomly assigned into treatment and control group (Cattaneo *et al.*, 2019). Due to this strong assumption, the local randomization approach to RD designs is more restrictive than the continuity-based approach (de la Cuesta & Imai, 2016). Yet, local randomization is the most natural framework for RD applications with discrete running variables and few mass points (Cattaneo *et al.*, 2015). This applies to my analysis as the running variable – day of interview – is measured discretely. The canonically used continuity-based RD design assumes continuous running variables for local polynomial methods to be valid. Here, discrete running variables are not an issue as long as there are enough mass points (Cattaneo *et al.*, 2019). The EB 63.4 was in the field for 37 days. Yet, on the first day, only one person was interviewed. I therefore ignore the first interview day for my analysis. This means that the running variable effectively clusters within 36 mass points, which is a rather small number of observations.

A crucial step in local randomization RD designs is the definition of the window around the cutoff. Researchers have to define the range in which local randomization appears to hold. Cattaneo *et al.* (2018) propose a method that uses a set of predefined covariates to assess balance between treatment and control under increasing window sizes. Intuitively, researchers subsequently widen the window around the cutoff (e.g.,  $\pm 1$  d,  $\pm 2$  days,  $\pm 3$  days from the referendum) and check whether treatment and control groups remain balanced on a set of covariates. The largest window that still ensures balance between treatment and control group is selected for estimation. This approach is of particular use when there is a lack of observations around the cutoff point. Yet, the large EB survey provides several hundreds of observations the day before and after the French vote. I therefore can avoid the complex window selection procedure by simply focusing on a window of  $\pm 1$  days around the French vote. This has the additional advantage that a  $\pm 1$  day window most closely resembles the discontinuity around the cutoff (Cattaneo *et al.*, 2019).<sup>7</sup>

As a robustness check, I estimate the treatment effect with a wider window selected on covariates. I have chosen age, gender, education, and ideological left-right self-placement as covariates, as these variables can be considered background conditions that are unlikely to be affected by the treatment. The results of the window selection procedure is presented in Online Appendix F. It suggests that balance holds within a window of  $\pm 4$  days. I suspect that most of the potential imbalanced in the EB come from missing data.

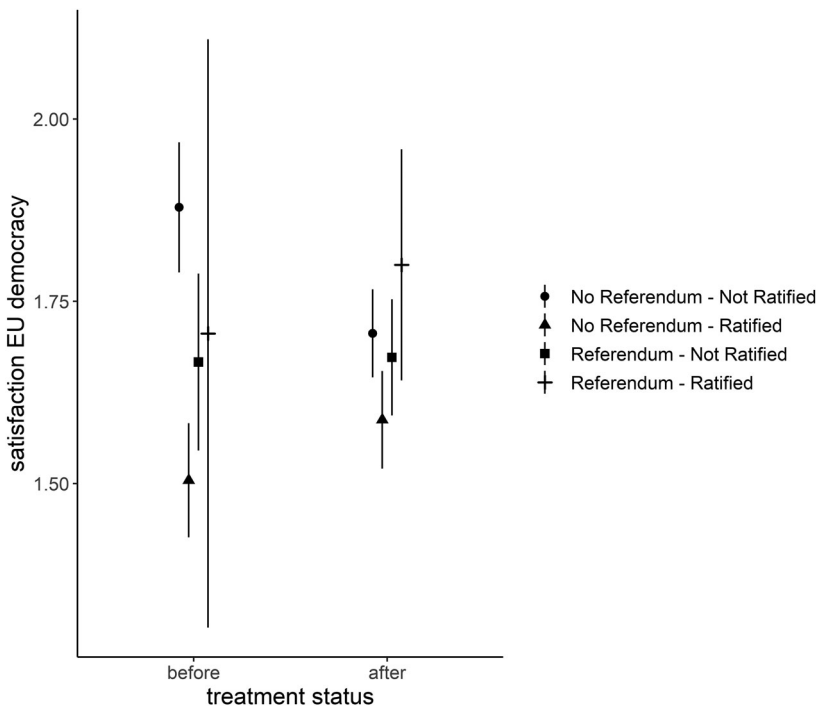
## Results

I start the analysis with a balance test for observations around the day of the French referendum. Table M1 in the Online Appendix shows that

respondents surveyed one day before and after the French referendum are statistically indistinguishable with regard to background conditions (left-right self-placement, gender, age, education). Moreover, Figure M1 presents the sorting test developed by McCrary (2008). Based on the density of the interview day variable, I do not find evidence for systematic sorting of respondents below or above the threshold.

Figure N1 in the Online Appendix provides a visual description of the discontinuity in satisfaction with EU democracy. It plots smoothed lines for the time trends before and after the French referendum, subsetting countries by the ratification stages presented in Table 2. Considering the grey-shaded 95% confidence intervals, it appears that SWEUD discontinuously drops in countries with pending and indirect ratification. These are the *demoi* most strongly deprived of meaningful access to decision-making. In contrast, there does not appear to be a relevant discontinuity in SWEUD for the remaining countries.

Indeed, the same patterns emerge in the local randomization estimation presented in Figure 3. A tabular presentation of the estimates can be found in Online Appendix G. Figure 3 shows that there is a significant



**Figure 3.** Local randomization RD estimates of SWEUD across ratification status ( $-1/+1$  window).

Note: 95% confidence intervals displayed.

decline in EU regime satisfaction among citizens residing in member states with indirect and pending ratification. This is the largest group in [Table 2](#), comprising nine member states from all parts of the European Union. It also is the group of states with the highest potential for unfairness concerns. Here, unequal access unfolds via the ratification procedure as well as the timing of the referendum. In contrast, I do not find a statistically significant treatment effect in the other three country groups. It is also worth noting that effects in [Figure 3](#) are either negative or null. There is no evidence at all for a positive effect of the French referendum on EU regime evaluations.

Overall, the analysis suggest that the French rejection of the EU constitution did affect regime evaluations across Europe. Observing that the French population can directly vote on the constitutional treaty decreases the popular evaluation of the European regime. This shows that another EU state's direct democratic vote can influence people's evaluation of European democracy. The French vote has highlighted the asymmetric influence national publics can exert on EU decision-making, and citizens translate this information into reduced support for European democracy. The finding that the referendum only decreased satisfaction with EU democracy in member states with asymmetric access across time and procedure supports this interpretation. Study II, therefore, offers some external validity to the fairness perception mechanism discovered in Study I.

An alternative interpretation of the negative effect of the French vote on SWEUD could rest on a learning or spillover mechanism. Under this account, EU citizens are not responding to unequal representation in EU decision-making. Rather, citizens simply update their evaluations given new information on negative aspects of the international agreement. In such a scenario, EU citizens would primarily react to the negative outcome of the constitutional vote. However, such a learning mechanism should work homogeneously across respondents. The effect heterogeneity uncovered in [Figure 3](#) suggests that some reaction to the democratic procedure might be at play.

Moreover, one could argue that asymmetric ratification should reflect primarily on citizens' evaluations of national democracy, rather than the European. Under this perspective, the absence of a national EU referendum could decrease peoples' evaluation of national democracy. Online Appendixes J and L present estimates of national satisfaction with democracy for Study I and II. I do not find any negative effects of asymmetric ratification on national regime evaluations.

I provide various robustness checks for Study II in the Appendix. Here, I show that the findings hold under multivariate OLS regression, the continuity-based RDD approach, and a generalized linear model that controls for alternative cross-level interactions. Additionally, the Appendix discusses a number of assumptions behind an RD design that rests on unexpected events during survey fieldwork (Muñoz *et al.*, 2020).

## Conclusion

How do asymmetric ratification procedures affect public support for global governance? Based on a novel argument about transnational dynamics in EU regime evaluations, this paper has analyzed the effect of selectively held direct democratic votes on the perceived legitimacy of EU decision-making. Following the *demoi*-cratic theory of legitimate EU governance, I expect that asymmetric ratification standards should erode legitimacy. Analyzing data from a survey experiment and a quasi-experiment, I find that asymmetric ratification can have negative externalities for the perceived legitimacy of supranational democracy. There is a chance that populations without meaningful access to EU decision-making benchmark their domestic ratification procedure against the higher, direct democratic standard used abroad. The direct democratic vote abroad, in turn, provides information about unequal access, which can nurture perceptions of unfairness that translate into reduced regime support.

A survey experiment in Germany demonstrates that information about asymmetric ratification depresses perceptions of procedural fairness in EU decision-making. While this is in line with *demoi*-cratic arguments on equal access of national *demoi*, the experiment also shows that a foreign referendum can improve EU regime evaluations if people do not follow a fairness heuristic. I expect that the salience of fairness heuristics depends on contextual factors, such as the extent of asymmetries. Using a quasi-experimental design with EU-wide survey data over the period of the French referendum on the EU constitutional treaty, I do find a negative effect of the French vote on EU regime evaluations among *demoi* that are most strongly deprived of meaningful access to EU decision-making. I interpret this as real-world evidence for the adverse potential asymmetric ratification standards can have for EU regime support.

However, I can only assume that the fairness perceptions investigated in the survey experiment play a role in the quasi-experiment. Future research should provide additional evidence on the contextual factors that might shape the salience of transnational fairness perceptions. The potentially heterogeneous effects of asymmetric ratification standards on regime evaluations remain an interesting empirical puzzle. More empirical research on the conditions under which asymmetric ratification is perceived as unfair might also be informative for normative theories of *demoi*-cratic governance.

The findings of this article have important implications. While referenda are frequently depicted as tools for improving the democratic quality of political systems, the selective use of referenda in the European Union can erode perceptions of the EU's democratic legitimacy. As such, this paper makes a unique contribution by highlighting that equal access to EU decision-making is not only a democratic ideal highlighted by normative accounts

of European democracy (Cheneval & Schimmelfennig, 2013). The empirical evidence provided above suggests that citizens care about equal and fair access, which appears to affect how people evaluate the EU regime. The social relevance of these asymmetries in EU-level representation, however, will be up for discussion in future research.

## Notes

1. see Donovan (2019) for a recent overview.
2. Besides Germany, only the Belgian population is not able to vote directly. All other member states have some rules to enable direct democratic votes on EU agreements, see <https://epthinktank.eu/2016/11/30/ratification-of-international-agreements-by-eu-member-states/referendum/> [accessed 05 August 2019].
3. See Online Appendix A for a complete presentation of the treatment and control text.
4. The ordered probit models in the Online Appendix C report a similarly small effect with an odds ratio of 0.78.
5. Alternatively, one could also argue that negative regime evaluations might emerge in states that already ratified the treaty, as the French rejection invalidates their approval. This expectation gives more weight to the negative outcome than the process. I cannot clearly disentangle the outcome from the process in Study II. However, I estimate the effect of the French vote across different ratification stages below. In contrast to this alternative argument, I do not find negative effects on EU regime support in countries with completed ratification (e.g., Spain).
6. Around the days of the French referendum, the Netherlands can be seen as a part of the treatment. After the French rejection, people across Europe learned that the French rejected the constitution and that the Dutch are about to vote on it (and probably reject it) as well. This is also because media reports frequently mentioned the Dutch referendum in connection to the French rejection. I therefore assume that the upcoming Dutch referendum is part of the benchmark.
7. A  $-/+1$  day window also avoids the additional assumptions imposed by a window selection procedure with respect to the selection of covariates and  $p$ -value thresholds.

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No potential conflict of interest was reported by the author(s).

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