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Testing Output Legitimacy in the European Union

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**Ich widme meine Magisterarbeit meinen Eltern, ohne die sie wahrscheinlich niemals zustande gekommen wäre und den Heiligenkreuzer Mönchen, deren Gebet mich beruhigt und ermutigt hat.**



# Index

- I. Introduction ..... 5
- II. Legitimacy Theory and the European Union..... 10
  - a) What is Legitimacy? .....10
  - b) Era of the Permissive Consensus.....13
  - c) Maastricht and Input-Turn.....15
    - Democratic Deficit of the EU*..... 16
    - Criticism of the Democratic Deficit*..... 19
  - d) Legitimacy in the new Millennium .....21
  - e) New Approaches .....24
  - f) Output legitimacy.....26
- III. Testing Output Legitimacy ..... 30
  - a) Hypotheses .....32
  - b)Methods and Data .....32
  - d) Empirical Comparison of Citizen Preferences and the Allocation of Competences ..... 41
    - Money and Finance* .....42
    - Education, Research and Culture* .....44
    - Environment* .....45
    - Business Relations (Sectoral)*.....46
    - International Relations and Foreign Aid*.....48
    - Citizens and Social Protection* .....50
  - e) Assessment ..... 55
- VII. Conclusion ..... 60
- BIBLIOGRAPHY ..... 63

# I. Introduction

*“Historically, the process of European integration has proceeded on the presumption that the legitimacy of the European Union (EU) emanates from its capacity to deliver the wanted results.”* (Lindgren & Persson 2010, 450)

Recently, this presumption has once again gained importance as measures taken, to increase the input-legitimacy of the EU, such as the empowerment of the European Parliament and the Commission’s emphasis on stronger interaction with regional and local governments and civil society, have not proven to generate the wanted boost in the perceived legitimacy of the EU. The difficulty of ratifying the Lisbon Treaty in 2007, for example, raises the question, if despite the strengthening of the input side of legitimacy, the legitimacy of the EU’s output has not been improving at the same rate. In my Magister-Thesis I want to tackle this question, analyzing if the EU’s outputs concur with the preferences of its citizens.

“The concept of legitimacy refers to the acceptability of a social or political order. For an institution to be legitimate, it has to rest on the passive support (at a minimum) of the people whom its policies affect” (Lindgren & Persson 2010, 450). Traditionally democratic legitimacy is seen as a function of the representativeness of a political system (Pollack 2007), which is usually established by the election of representatives by the subjects that are to be represented – the European Union however is “ a unique political phenomenon, hard to classify with traditional political concepts“, as it is “neither a state, nor a supranational government” (DeBardeleben & Hurrelmann 2007, 2). In their paper on policy representation in the European Union, Jacques

Thomassen and Hermann Schmitt therefore draw upon an alternative definition of democratic legitimacy given by Luttbeg<sup>1</sup>, according to which a system of representation is democratic when “political leaders act in accordance with the wants, needs and demands of the public in making government policy” (Thomassen & Schmitt 1997, 165).

The key question, Thomassen and Schmitt go on to say, is then to what extent political leaders act in accordance with the will of the people. Using this definition, they reason that the effectiveness of political representation depends on the interaction between political parties and their voters – I however think, that as the MEPs are not the only political leaders of the European Union (The commission and the council play an equally important part in the EU-decision-making-process as the EP), the party voter congruence can not necessarily tell us truthfully if policy is formed and implemented in accordance with the wants, needs and demands of the European public.

In his article on the minimalist conception of democracy, Adam Przeworski names another way of assessing “whether or not a government is representative, in the sense that it acts in the best interest of the public: (1) if the people (or at least a majority of them; see below) has a will, then the government is representative if it implements this will (Przeworski 1999, 32-33)”.

Analyzing the concurrence of the EU’s output with the public will is therefore precisely what I propose to do in this thesis.

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<sup>1</sup> Luttbeg, N.R.(Ed.) (1974): Public opinion and public policy: Models of political linkage, 3<sup>rd</sup> Edit., Ithaca, NY: F.E. Peacock, cited in Thomassen & Schmitt 1997

Why is it important to assess the quality of representation in the European Union? For one thing, as David M. Farrell and Roger Scully explain in their book on parliamentary representation in the EU, since the early 1990s, public dissatisfaction with the European integration project has generally increased, and the previous 'permissive consensus' has been called into question. Historically it may have been true that the public would be willing to accede to whatever amount of integration political elites wished to give them, but this is clearly not true now (Farrell & Scully 2007). This trend of public dissatisfaction has grown so strong that it has received the title 'Euroscepticism' and an extensive body of literature dedicated to its analysis has evolved around it. For politicians to react appropriately to this trend they must know where it comes from – one possible source may be the malrepresentation of the wants and needs of the European People.

And secondly, and more importantly, assessing representation in the European Union has to do with democratic legitimacy. All the member states of the EU claim to be democratic systems – but can they be such, if the EU isn't? The competences of the EU have grown continuously over the decades, and there are areas, such as the customs union, economic and monetary policy, and competition laws in which the EU holds exclusive legislative power and the member states take no decisions and do not interfere (European Union 2010). If in these areas the EU decision-making mechanisms do not systematically cause EU output to be representative, then the EU cannot be called a democratic system (Przeworski 1999), and subsequently the member state's claim of democracy will be injured.

A lot of work has been published on the democratic weakness of the institutional structure of the European Union, especially on the underdeveloped competences of the European parliament (e.g. Thomassen & Schmitt 1997; Lord & Beetham 2001),



but what has been almost completely neglected is the assessment of the actual output of the Union. My research question is therefore:

*Do EU outputs concur with the preferences of the European citizens?*

In the EU, there is concurrence if the division of powers (or in other words the allocation of competences) is modelled according to the wishes of the European public, if the process of enlargement continues or halts with the preferences of the EU's citizens, and if the content implemented in traditional areas to some degree reflects the opinion of a majority of Europeans.

All of these relations between output and public opinion are extremely complicated to analyze, especially as very detailed data on public opinion is needed. Because of this, I will concentrate on one group of outputs, for which I have access to satisfactory data: the allocation of competences in the EU. Cerniglia and Pagani (2007) have empirically studied data on the citizen preferences towards the allocation of competences collected in the Eurobarometer surveys of the years 1998-2003 and I will compare the findings of their research with the findings of a paper by Alesina et al. (2001), which constructs indicators to measure the actual allocation of competences in the EU.

In the first part of this thesis I will review the most important findings of literature on legitimacy in the EU, reflecting the different conceptions of legitimacy and highlighting the recent turn of the debate towards the output side of legitimacy. I will proceed to describe the relationship between input and output legitimacy, showing, that at the moment the scope for improving input is very narrow and therefore the legitimacy of

EU output has become indispensable. Then I will continue with the empirical part of my thesis, first explaining my hypotheses derived from the theoretical review and then describing the methods and data used in the empirical analysis. Then I will test my hypotheses empirically and incorporate my findings into the current body of research on legitimacy.

## II. Legitimacy Theory and the European Union

### a) What is Legitimacy?

Legitimacy “addresses the fundamental problem of political systems – to find acceptance for exercises of governing authority that run counter to the interests or preferences of the governed”<sup>2</sup> (Scharpf 2007, 301). It is therefore a functional prerequisite of efficient and liberal forms of government and reduces the need for and the cost of controls and sanctions otherwise needed to enforce compliance of the governed.

Historically, there have been many different sources of legitimacy but today “democracy is virtually uncontested as a normative standard for assessing the legitimacy of political systems” (DeBardleben & Hurrelman 2007, 1). This proves an interesting relationship, as democracy is “a system of political decision making in which major decisions of public policy depend in some systematic way upon the opinions of the bulk of the members of the relevant political community” (Weale 1998, 50-51).

These members have given their consent to a selection of representatives that make policy decisions, to the rules and procedures through which these decisions are taken and to the institutions which organise their implementation. (Blühdorn 2009, 9). The idea is that if the policy decisions reflect the peoples’, the *demos*’, interests most of the time, the decisions that contradict them will be tolerated as well.

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<sup>2</sup> Luhman, N. (1969) cited in Scharpf 2007

Two distinct traditions of political philosophy shape current normative discourses in Western constitutional democracies: they are conventionally labelled 'republican' and liberal' democracy (Scharpf 2009).

The republican tradition, founded in Aristotle's political philosophy, has the polity as its first priority – the power of the government should be employed for the 'common good'. The obstacles to overcome are the virtuousness of the governors and the transformation of the 'volontés de tous' to a 'volonté générale'. Over time this theory of thought led to the invention of representative democracy, with its main features of public deliberation and electoral accountability, securing equality through universal suffrage.

The liberal tradition on the other hand is younger, starting with Thomas Hobbes and the early modern period. It places priority on the individual; the necessity of a governing state rests upon the need to protect individual interests. Defining features of liberal democracies are limitations on the governing powers through checks and balances and pluralist patterns of interest intermediation. Decisions should be based on "the consensus of interests affected rather than on majority votes" (Scharpf 2009. 319).

Legitimacy in Western democracies incorporates normative arguments from both of these theories of democracy: Constitutionally constrained governing powers, the protections of human rights and the access of plural interests to the policy-making process by which they are affected are typical liberal features of democracy; governing authority obtained by regular, free and equal elections in which policy choices are generated in public debates and through the competition of political

parties as well as institutions that work in an environment of democratic majorities or at least of a democratic *pouvoir constituant*, even if they are exempt from direct electoral accountability, are typical republican features found in most Western democracies (Scharpf 2009).

This demonstrates the versatility of legitimacy – Max Weber (1918) (Lord 2000) broadly distinguishes two categories of legitimacy: substantive legitimacy, referring to what governments do and procedural legitimacy, referring to how they get it done.

This input/output-oriented perspective has become very influential in recent legitimacy theory, especially in connection with the European Union (EU).

Input legitimacy, which is more comprehensive than procedural legitimacy, refers not only to public control through elections and other systematic processes and possibilities for participation, but also to political equality and a sense of identity among the governed. Output legitimacy depends on the performance in meeting the needs and values of citizens (Lord & Beetham 2001; Wiesner 2008).

These theoretical considerations have been developed with a distinct political system in mind: the nation state. When studying the legitimacy of the EU therefore, the analysis has to be adapted to this different kind of polity. The transformation of governing relationships has made it more complex to operationalize democratic standards and it is debatable whether democracy *is* realized and whether it *can* be realized (DeBardeleben & Hurrelman 2007, 1).

In this new multi-level governance system

“[d]emocracy needs to be rethought on the assumption that it has no primary locus and no single demos; the national state shares power with increasingly salient sub-national governments, with proliferating forms of network and partnership governance, with a variety of quasi public and private organizations, with NGOs, and with international agencies and other forms of supra-national governance.<sup>3</sup>” (DeBardeleben & Hurrelman 2007, p. 5)

The EU has to balance a double conflict of identity and common interests the conflict between individual interests and national common interests and the conflict between individual national interests and supranational common interests.

In the following I will describe the development of legitimacy theory concerning the EU.

### **b) Era of the Permissive Consensus**

At the beginning of the European Integration project, the need to address questions of legitimacy was not acute. For one, it was generally assumed, that the then European Community (EC) was indirectly legitimated through its member states, all legitimate governments themselves. Moreover, integration was largely an elite affair for which the public had little interest except for the efficient production of useful policy outputs. This reflects the then predominant functionalist understanding of integration – for Monnet, one of the ‘founding fathers’ of the Union, the community’s legitimacy and *raison d’être* was to generate Pareto-efficient outcomes, peace and prosperity (Craig 2011, 16; Lord & Beetham 2001; Lindgren & Person 2010).

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<sup>3</sup> Hirst, P.: Democracy and Governance’ in Pierre, J. (Ed.), *Debating Governance: Authority, Steering and Democracy*, Oxford University Press, Oxford, p. 24, cited in DeBardeleben & Hurrelmann 2007

In the 1970s Leon Lindberg and Stuart Steingold described this situation as the 'permissive consensus', assuming that the European population supports the broad goals of the integration project, and treats European institutions as 'an accepted part of the political landscape', there being therefore no danger of widespread and focused popular opposition (Hurrelmann 2007, 352).

Considering the initial limited popular participation in, and identification with, the EU and the consequent possibility of policy decisions that do not reflect popular wishes, there was however always the concern that public opinion about the future of Europe was somewhat fragile (Norris 1997). This concern was countered with the notion of deferred gratification, which admits to the fact that relying on a mixture of technocratic and indirect legitimation might not be ideal, but suggests that it could be easier to tackle complex questions of democratisation and identity formation after people had gained practical experience with the institutions in need of legitimation (Lord 2000)

Also, "in the case of the EU, uncertainty as to whether the European electorate is capable of feeling itself to be a 'people' whose popular sovereignty is acceptable to all led" (Lord & Beetham 1998, 25) and the fear that effective decision-making would be impeded, deferred the development of a traditional representative democratic institutional setting.

Yet, having been delicate all along, the breakdown of the 'permissive consensus' became evident in the early 1990s. The defeat of the proposal to adopt the Maastricht Treaty in the Danish referendum in 1992, a sharp fall in public support towards the EU across the standard indicators in the Eurobarometer, opposition by

intense minorities to farming and fisheries policies, a record apathy in voter turnout and gains for anti-Maastricht protest parties in France, Denmark and Spain all indicate that somewhere the interests of the EU elites and the EU population had parted (Norris 1997).

### **c) Maastricht and Input-Turn**

The debates over Maastricht drew the attention of politicians and scholars alike to matters of legitimacy in the EU. They demonstrated the vulnerability of the Union to popular countermobilisation and questioned the presumption of broad consent to the elite project claimed by the 'permissive consensus'. By pushing the EU towards being a political system of its own right, the necessity to secure public support for the expansion of the Union's powers and direct legitimacy from institutions that exercise these powers was heightened (Lord & Beetham 1998; Føllesdal 2006).

The introduction of majority voting, the strengthening of autonomous supranational institutions and new policy competences in questions of value such as fishing quotas and abortion rights undercut the old arguments of indirect legitimation and delivered outputs – the need for a basis of legitimacy that allowed the EU to please some and disappoint others became apparent (Føllesdal 2006, Lord & Beetham 1998; Lord 2000), also reflecting the intergovernmental turn in integration theory that had developed to come to terms with events that couldn't be satisfyingly explained by Functionalism: "Liberal intergovernmentalism seeks to explain the rationale for integration and the distribution of political authority within the Community. It raises



interesting questions as to the role of democracy within this schema, and the conception of democracy that flows from it.” (Craig 2011, 19)

The discussion on legitimacy has been vibrant since then, yet disagreement among scholars about the symptoms, diagnoses and prognosis for tackling whatever legitimacy deficit there might be, has not been resolved (Føllesdal 2006). There can be no single meaning of the ‘democratic deficit’ (Føllesdal & Hix 2006), as its quality depends solely on the normative standards of legitimacy applied in the analysis.

### *Democratic Deficit of the EU*

Lord and Beetham (1998) argue that one should apply the same standards to the EU as to liberal democratic states, independent of the Unions complexity and multi-level character. In this view government of, by and for the people is essential and achieved under certain specific condition. Government of the people addresses the rights and possibilities of citizens for participation and contestation, whereas universal and equal access to the elections of representatives guarantees government by the people. These representatives must be accountable, the election as well as all government processes must be transparent and subject to a rule of law and the separation of powers implemented. Government for the people refers to an output dimension inherent to representative democracy: decisions taken by the representatives should satisfy the majority of the represented (Wiesner 2008).

In the literature applying these standards to assess the legitimacy of the EU one can distinguish two threads of argumentation. One is demos-based and stresses the population’s lacking European democratic identity, the deficient European public

space and the underdeveloped European civil society. The other is institution-based and stresses the fact that the EU does not meet the criteria of modern representative democracy and the separation of powers (Wiesner 2008).

These two arguments go hand in hand. The fact that “European publics identify overwhelmingly more strongly with their member states than with the EU” (Lord 2000, 5) and the lack of ‘European elections’ and ‘European Parties’ (as the European Parliament elections are treated as mid-term national contests) lead to an insufficient influence of EU citizens’ preferences on issues on the EU policy agenda, causing an inadequate representation of citizens by the MEPs (Føllesdal & Hix 2006).

Even if this were not the case, citizen representation would still fall short of that in traditional representative democracies due to the comparative legislative weakness of the parliament towards the Council, as still only a smaller part of policies are passed under the co-decision procedure in which the EP has equal legislative power.

Also, the shift to multilevel governance has increased the number of access points for political participation, which leads to a more deliberative style of policy-making. Deliberation tends to privilege participants with superior resources, therefore again leading to unequal representation of citizens (DeBardeleben & Hurrelmann 2007, 7).

Another problem that appears when scrutinizing the EU through the eyes of representative democracy is the potential for judicial legislation, that “is greater in the EU than under any national constitution” (Scharpf 2007, 307). The Court’s responsibility to interpret the law of the Treaties and secondary European law was established intentionally, but the “boldness with which it would establish the doctrines

claiming ‘direct effect’ and ‘supremacy’ for European Law”<sup>4</sup> (Ibid, 306) was not foreseen. Also, member states and the European parliament have no say in matters of monetary policy determined by the ECB or the proposal of legislative initiatives or the prosecution of Treaty violations monopolized by the Commission. Together, these conditions constitute considerable deficits in the EU institutional system concerning the ideal of a separation of powers (Wiesner 2008).

Related to this fusion of powers throughout the institutions is the weak potential for sanctioning unpopular or failed policies (DeBardeleben & Hurrelmann 2007). As long as a policy is still supported by either the Commission (who has the monopoly of policy initiative) or by a small blocking minority in the council, it will remain in force and cannot be reformed (Scharpf 2009). The European governing elite is therefore far less accountable to its citizens than in most contemporary democracies.

The result of this confusing new form of polity, where the Commission is neither a government nor a bureaucracy and the council is part legislative and part executive and when acting as a legislator makes most of its decisions behind closed doors (Føllesdal & Hix 2006), is an opaqueness and a distance between the EU and its citizens that is hard to bridge. The unequal and insufficient representation of citizen preferences and the difficulty of reversing policy decisions, produce a polity drift from the voters’ policy preferences (Wiesner 2008). Also “[t]he shifting blame on to EU institutions, the displacement of national legitimation problems into the European arena without matching resources, and the cartelization of the interface between states and Union by bureaucratic elites, are all well-documented sources of delegitimation.” (Lord & Beetham 2001, 444)

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<sup>4</sup> De Witte, B. (1999): *The Evolution of Law*. Oxford University Press, Oxford

### *Criticism of the Democratic Deficit*

This diagnosis of a legitimacy deficit in the EU is not without controversy; some question the symptoms, stating that despite the falling support for European integration, public opinion is still highly in favour of it – others question the necessity of the Union to meet the same democratic standards as other contemporary democracies, being a rather different political system. The most prominent opponents of the ‘democratic deficit’ in the EU are Majone and Moravcsik.

Majone argues that as long as the majority of EU citizens are against forming a European federation, but support economic integration, EU parliamentary democracy cannot be expected to flourish. Economic integration without accompanying political integration can only work if politics and economics are kept as separate as possible – this depoliticisation is the price of keeping national sovereignty intact and reflects the preferences of the voters, thus being democratically justified (Majone 1998). In addition Majone claims that the EU is essentially a ‘regulatory state’ that addresses market failures “and so, by definition, is about producing policy outcomes that are Pareto-efficient (where some benefit and no one is made worse off), rather than redistributive or value-allocative (where there are both winners and losers)” (Føllesdal & Hix 2006, 537). If one accepts this ‘regulatory model’ of the EC, then, as long as the tasks assigned to the European level are precisely and narrowly defined, non-majoritarian standards of legitimacy should be acceptable to justify the delegation of the necessary powers (Majone 1998). Majone recommends keeping the institutional ‘democratic deficit’ in order not to impair the problem-solving capacity of the Union.

Moravcsik goes further than Majone, and presents a comprehensive critique of all dominant democratic deficit claims (Føllesdal & Hix 2006), coming to the conclusion that even when evaluated by the norms of existing nation-states and in the context of a multi-level system, there is little evidence that the EU suffers from a fundamental democratic deficit (Majone 2002). He argues that since the democratically controlled national executives play dominant roles in the EU institutions, indirect accountability is weak only in supranational areas where particular national governments could otherwise be on the losing side on an issue-by-issue basis. The EU however has responded to this difficulty by increasing the powers of the European Parliament in these areas. Moravcsik claims that “[c]onstitutional checks and balances, indirect democratic control via national governments, and the increasing powers of the European Parliament are sufficient to ensure that EU policy-making is, in nearly all cases, clean, transparent, effective and politically responsive to the demands of European citizens” (Moravcsik 2002, 605).

Majone and Moravcsik share their appreciation of EU policy-making being largely isolated from majoritarian democratic contests. Moravcsik<sup>5</sup> argues that regulatory policy-making benefits from being independent of democratic majority by cutting back the costs of universal involvement, by allowing the protection of minority rights from the ‘tyranny of the majority’ and by protecting policy-decisions from being captured by particularist interests (Føllesdal & Hix 2006).

Responses to Majone’s and Moravcsik’s positions are numerous. Majone’s claim of the EU’s actions merely being regulatory in economic issues is highly contested. Craig (2011, 39) points out that the EU “exercises significant power over political, social, and economic issues, ever more so with the increasing EU activity in relation

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<sup>5</sup> Morivcsik(2002) and Moravcsik(2004)

to the Area of Freedom, Security and Justice". Lord and Beetham (2001) argue that the EU is indeed very much a reallocative polity. Although it does so by legislation more than by budgets, the Union affects distribution of values, resources and entitlements between states, regions, generations, the sexes and forms of economic activity. Moravcsik's argument that the EU is legitimate because of the cooperation of national governments and the European parliament is criticised only to be true for the "political modes' of EU policy making in which the governments of member states have a controlling role, but it does not apply to the 'non-political modes' in which the Commission, the Court and the Central Bank are able to impose policy choices without any involvement of member governments, or the European Parliament for that matter"<sup>6</sup> (Scharpf 2007, 305).

Besides these arguments, Wiesner (2008) considers the results of EU referenda since Maastricht to be empirical indicators for the fact that Majone's and Moravcsik's models are not maintainable anymore.

#### **d) Legitimacy in the new Millennium**

In 2001 the first referendum on the Nice Treaty turned out negatively in Ireland; in Spring 2005 the constitutional process was brought to a halt by negative referendums in France and the Netherland, two founding members of the EEC; and the Lisbon Treaty, drafted and signed in 2007, was not ratified until 2009, again partly due to a negative referendum in Ireland. These treaties were all aimed at enhancing the efficiency and democratic legitimacy of the Union and at improving the coherence

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<sup>6</sup> Scharpf (2002)

of its actions (Treaty of Lisbon, 2007). The scope of parliamentary involvement in European legislation was continually increased and the use of the co-decision procedure extended to a growing number of policy areas, aimed at giving the parliament an equal stand with the Council. In the Treaty of Lisbon, national parliaments were recognized as part of the democratic system of the Union for the first time, receiving the role of 'watchdogs' of subsidiarity which allows them to issue concerns before a legislative proposal is considered in detail by the European parliament and the Council. In Lisbon, the involvement of citizens in the policy-process was also an important theme – the 'Citizen's Initiative' was included in the treaty, which gives citizens the possibility to call on the Commission to bring forward new policy proposals if at least a million citizens from a number of countries participate (European Union 2011).

Additionally in 2001, the European Commission issued a White Paper on European governance, reflecting the dual challenge that European leaders are facing: "On the one hand, Europeans want them to find solutions to the major problems confronting our societies. On the other hand, people increasingly distrust institutions and politics or are simply not interested in them" (European Governance 2001, 3). It tackles issues of democratic legitimacy, nevertheless stating that the Union is legitimate: "The Union is built on the rule of law; it can draw on the Charter of Fundamental Rights, and it has a double democratic mandate through a Parliament representing EU citizens and a Council representing the elected governments of the Member States" (European Governance 2001, 7)

Höreth summarizes the Commissions concluding goals to target the Unions legitimacy problems. He identifies two main targets of the White Paper's proposals.

The first one is to enhance the democratic character of European policymaking, the input dimension, by expanding participation and increasing transparency and consultation. The second one is to boost the problem-solving capacity and ability of European governance, thereby also increasing the output dimension of Union legitimacy (Höreth 2001).

Regarding these institutional developments in the Union an obvious question presents itself: why, with all this effort to strengthen democratic legitimacy, have the treaties had problems with popular acceptance?

One answer to this could be Hurrelmann's claim, that "[c]ontrary to what is often assumed, EU support can still be quite adequately described by the figure of a 'permissive consensus'. For better or worse, attempts to democratise EU institutions might undermine this form of support" (Hurrelmann 2007, 343). Hurrelmann argues that policy areas allocated at EU level possess relative little saliency in the population and therefore cannot mobilise European publics. Also, the Eurobarometer shows that EU citizens are not especially interested in the Union and its institutions, and possess a rather limited knowledge about it. Furthermore, the Eurobarometer data also reveals that citizens in both the old as well as the new Member States usually express considerable amounts of trust in EU institutions (Hurrelmann 2007).

He states that the permissive consensus is founded in the exact opposite of the democratic principles furthered by the Treaties: "not on democratic control but on depoliticisation, not on legal certainty but on ambiguity about constitutional principles, not on participation but on demobilisation." (Hurrelmann 2007, 354)



Hurrelmann believes this lacking enthusiasm for the Treaties' efforts to democratize Europe is grounded in the equally lacking social preconditions for democracy in the EU and the citizens' prevalent identification with their national democracies. He suggests that the loss of partial nation-state competences weighs more than European institutions that are suboptimal from a democratic point of view. The EU is thus faced with the problem of either continuing its quest to continuously converge towards a traditional representative democracy and risk, at least in the short-term, the support of the people; or to accept the democratic deficit as a necessary evil.

Whether one accepts this claim of the still existing 'permissive consensus' or not, "the idea that institutional reforms could significantly improve the democratic quality of the Union and, by thus strengthening its normative legitimacy, bolster support for the EU institutions – has also been cast into doubt" (Hurrelmann 2007, 343). In combination with the spreading disaffection with political parties, distrust in political elites and the erosion of civic virtues and capabilities even at the national level, this implies that democratic legitimacy in the traditional sense (legitimacy that derives directly from involvement and consent of the demos) is growing harder to achieve (Blühdorn 2009).

### **e) New Approaches**

Although there is a general tendency to accept that little is possible in the way of pushing the EU towards becoming a traditional democratic system, new models of input legitimacy have been sought by many researchers and practitioners alike. Following the Commission's 'White Paper on Governance', the thought that the EU

has evolved new modes of governance (NMG) that either compensate for its lack of democratic legitimacy, or offer more participatory and deliberative modes of democratic politics than the traditional electoral and representative forms of democracy observed in nation states, gained popularity (Bellamy & Castiglione 2011).

In particular, the 'stakeholder-participation model of input legitimacy' has been advocated, which aims to lessen the legitimacy gap of the EU through encouraging participation and deliberation among organized stakeholders around important European issues (Lindgren & Person 2010). "This is best understood as a plea to give citizens 'ownership' of the Union by treating them as the active subjects rather than the passive objects of the integration process (Bellamy and Warleigh 1998: cited in Lord 2000, 11).

These new modes of governance also mark a renewed influence of liberal democratic theory on the Union's polity; while the republican theory had instructed institutional development since Maastricht, liberal democracy resting on the quest for a consensus of interests is coming in useful in a time where republican development does not seem to be an option.

Still, the confinements of consensual decision-making cannot be significantly relaxed as long as there isn't a collective identity of the peoples of 27 member states that could legitimate Europe-wide majority rule (Scharpf 2009) And with the traditional forms of competitive party democracy and majority rule proving harder to establish and more attenuated at the Union level than in any of the member states (Bellamy 2010) some scholars of the EU have turned to their focus again; rather than

concentrating on 'traditional' inputs, their basic normative claim has become to see democracy in terms of improved outputs.

#### **f) Output legitimacy**

“Traditionally, the powers vested in the EU have been justified primarily by references to the output legitimacy it enjoys” (Lindgren & Persson 2010, 451). There is however no universally adopted definition of output legitimacy; common to all, is a technocratic and utilitarian weak emphasis put on the correctness of the process which generates output as long as the output is judged to be correct. What makes output correct or, in other words, legitimate, is contested, but two main arguments can be distinguished: one referring to the efficiency of output, the other to its representativeness.

The first argues that output is legitimate when it is perceived as efficient (Lindgren & Persson 2010) and when it benefits all (Føllesdal 2006). This argument is particularly common with critics of the democratic deficit, such as Majone. His view of the EU as a regulatory state means that the Union's activities are about addressing market failures and therefore, by definition, are about producing policy outcomes that are Pareto-efficient, where some benefit and no one is made worse off (Føllesdal & Hix 2006)

The second argument sees governance in the Union as 'government for the people', being “legitimate and even democratic in so far as the output of the political system corresponds fully to the collective preferences of its citizens” (Höreth 2001, 6).

Some sceptics of the developments bringing the EU closer to traditional democracies see these two definitions as being diametrically opposed. Majone claims that if EU policies were made by 'majoritarian' institutions, they would cease to be Pareto-efficient (Føllesdal & Hix 2006), hereby indicating that citizens' preferences do not concur with Pareto-efficient solutions. It is the underlying logic of Majone's argument, that increasing input legitimacy may impinge on the Union's decision-making efficiency and thus decrease the crucial output legitimacy (Lindgren & Persson 2010).

This perspective faces harsh criticism. First, Majone might wish that all EU market regulatory policies are or should be purely Pareto-efficient but currently the reality looks rather different (Føllesdal & Hix 2006). Second, 'high levels of performance can be equated with output legitimacy only if 'the people' and not experts define policy objectives" (Kohler-Koch & Rittberger 2006, 41). Third, even if it could be demonstrated that the Union was a Pareto-improving polity, for policy decisions to be neutral there would have to be no multiple equilibria, making it necessary for decision makers to choose between a range of Pareto-improving situations on no other foundation than their personal preferences (Lord & Beetham 2001). And last, it is almost certain that the outcome produced by 'enlightened technocrats' would be different from those generated in a deliberative democratic process through which voters' preferences are shaped (Føllesdal & Hix 2006).

Not all sceptics of the democratic deficit however assume that citizens' preferences are radically different or less efficient from those of the technocratic decision-makers. Moravcsik for example believes that because the governments are in charge of the EU and there is 'hard bargaining' in the adoption of all EU policies, it is unlikely for the EU to adopt anything which has negative effects on an important national

interest or social group, therefore there is little gap between the preferences of the elected governments and final EU policy outcomes and the EU is not undemocratic (Føllesdal & Hix 2006).

Despite the fact, that the nature of the relationship between input and output is disputed, and the development of the traditional democratic input mechanisms has been forced to come to a halt due to a missing European demos and patchy identification with the collective decision making unit (Lord & Beetham 2001) the high quality of output in the EU is still assumed by most researchers (e.g. Wiesner 2008; Kohler-Koch & Rittberger 2006). Yet the rise of complexity in the EU is bound to also have affected the output side of the policy process, possibly impairing the efficiency of policy delivery (Blühorn 2009).

“Eurobarometer data on support for the existence of the European Community and of one’s own country membership in it; World Values Survey data showing mistrust of other Europeans; reported mistrust of EU institutions; ‘variable implementation’ or non-compliance with Union directives; Top Decision-Makers Survey findings of disparities between elite and public support for membership; declining voter turnout for European Parliament elections; and a lack of parliamentary control of executive bodies at the EU level” (Føllesdal 2006, 443) as well as more recently the global economic crisis sapping support for the euro and lowering trust in the ECB (Jones 2009) are all indicators, that “legitimacy is not merely a normative issue: it is likely to become a political problem” (Føllesdal 2006, 448). In the long-term, compliance and support for the EU will only be possible, if both citizens and officials accept the legality and normative legitimacy of the regime.

As I have stressed repeatedly, further traditional republican democratisation is not an option as long as European citizens don't possess a strong collective identity; legitimate output is therefore all the more imperative.

### III. Testing Output Legitimacy

Surprisingly enough, despite the EU's historic claim of 'output legitimacy' and the large body of literature discussing its advantages and limits, there has been little systematic research on the empirical condition of the Union's output. Casado and Lefkofridi (2009) have analyzed the congruence between voters and elites, assuming this affects the representativeness of policy output; similarly, Steenbergen et al. (2007) have concentrated on the direction of the relationship between elites and masses, asking 'who's cueing whom'. Alesina et al. (2001) compare citizen preferences for the allocation of competences and the actual allocation of competences with normative criteria concerning the assignment of policies at different government levels, but concentrated on the latter. To my knowledge, as of yet, there has been no extensive empirical analysis of the quality of output – I will therefore try to shed some light onto the status of the EU's most prominent claim: its output legitimacy.

Considering the extensive criticism of the idea of 'output' being legitimate because of its efficiency there really is only one way of testing output legitimacy: one has to analyze output for its concurrence with citizen preferences.

To do that, it is first necessary to define what it is, that the EU actually does to create output. Very generally speaking the EU is active in the following areas: in the negotiation of treaties defining the division of powers and competences between the EU and its member states, in the process of enlargement (the expansion of the Union

to include new member states), and in drafting legislation in those policy areas where at least some competence is allocated at EU level.

Looking at these three different groups of possible output, there is concurrence if the division of powers (or in other words the allocation of competences) is modelled according to the wishes of the European public, if the process of enlargement continues or halts with the preferences of the EU's citizens, and if the content implemented in traditional areas to some degree reflects the opinion of a majority of Europeans.

As an analysis of concurrence between output and citizen preferences needs substantial data on the latter, I will concentrate on the allocation of competences, on which the Eurobarometer has been collecting citizen preferences since the late 1980s. Cerniglia and Pagani (2007) have analyzed this data in detail and I will draw upon their work strongly in the following assessment of output legitimacy. Concerning the actual allocation of competences in the EU, I will use indicators that Alesina et al (2001) constructed when trying to find out what it is that the EU actually does, which measure the actual involvement of the EU in different policy areas. This is not an exhaustive account of output legitimacy but rather the analysis of one small contributing factor of output legitimacy; in the following, when I will use the term 'allocation legitimacy', I am referring only to the legitimacy of the European Union derived from the allocation of competences according to citizen preferences.



## **a) Hypotheses**

Assuming that output and input legitimacy are mutually reinforcing (Eriksen and Fossum 2000; Verweij and Josling 2003; Zürn 2000) and considering the flawed input mechanisms of the EU as well as the “uncontrolled centralization of competences” (Knoll & Koenig 2010, 2) I suppose that the output (allocation of competences) of the European Union does not concur with the preferences of EU citizens. I also assume that the concurrence with citizen preferences will differ between the various channels (legal, judiciary and other non-binding acts) through which policy can be shaped, suggesting that some EU institutions are more responsive than others.

## **b) Methods and Data**

“From the outset, European integration was about the transfer of powers from the national to the European level, which evolved as explicit bargaining among governments or as an incremental drift” (Benz & Zimmer 2010, 5). Basic assumptions of intergovernmentalism and neo-functionalism have proved a starting point for an abundance of theories and explanations for the delegation of national sovereignty to supranational institutions. Certain theories of European Integration have proved more valid for certain policy areas, institutional settings, and certain times, but there is still no single most convincing concept that is generally applicable (Benz & Zimmer 2010)

One predicament of integration literature therefore remains the lack of a common concept of the meaning and an agreement on the measurement of EU powers.

The Treaties alone do not suffice to provide a method for assigning policy prerogatives among supranational, national and local policy authorities in the continent (Alesina et al. 2001) as “in a situation where contracts are incomplete and actors are competence maximizers, institutional development will occur not only at the initial moment of institutional choice, but in *ex post* bargaining among actors over how ambiguities in institution should be interpreted.” (Farell & Héritier 2007, 3)

“In any case, the concept of multi-level governance strongly challenges the assumption that any kind of vertical allocation of competences between levels can determine policy-making” (Benz & Zimmer 2010, 18). The problem is that every attempt to clearly divide competences in a multi-level system turns the allocation of competences into a zero-sum game in which there can only be winners or losers (Hurrelmann 2007).

To tackle this problem, Alesina et al. (2001) have constructed a set of indicators to measure the policy-making role of the EU in a selected number of policy domains.

#### *Allocation of Competences in the European Union*

Using the available information, provided mainly through EU on-line services, Alesina et al. (2001) derive simple quantitative measures of the EU involvement across policy areas. They accomplish this using a very simple method: they count the number of legal, judiciary, and other non-binding acts (“policy acts”) put forth by the EU, classified across policy fields, and assembling the results from various sources into summary indicators. Their approach has advantages and drawbacks. The key advantages of simple counting are transparency and objectivity. The disadvantage is

that individual policy acts can be more or less influential. If these differences are randomly distributed across policy chapters, however, one can rely on the law of large numbers to lessen the problem (the available sample sizes are indeed very large).

Alesina et al. distinguish nine broadly homogeneous policy domains - I however will only refer to the following six, when comparing the EU involvement in each to citizen preferences on the allocation of competences:

1. *Money and Finance*

This area includes monetary and exchanges rate policy, payments systems and financial market regulation and legislation, bank supervision, fiscal and tax policies, etc.

2. *Education, Research and Culture*

This policy domain includes youth policies, research, technology, preservation of the cultural heritage, etc.

3. *Environment*

This domain includes all measures taken to protect and attend to the environment.

4. *Business Relations (sectoral)*

This includes all policies designed to affect the behaviour and performance of the economic producing sectors. Alesina et al. break this domain into three sub-areas: Agriculture, Industry and Transport – I will only regard agriculture.

## 5. *International Relations and Foreign Aid*

This includes foreign policy, defence, and foreign aid.

## 6. *Citizens and Social Protection*

This includes home affairs, justice, consumer protection, civil rights, health, labor relations, etc.

Alesina et al. give a short overview over the different kind of instruments and processes that are used by the EU to formulate and to enact its policies and that they included in their count. These are interesting as EU involvement often differs strongly across the various instruments and I will analyze if the degree of involvement of some instruments is more likely to concur with citizen preferences than that of others.

## 1. The Treaties

The primary source of law and policy-making power in the EU are the Treaties. Treaties are composed at 'Intergovernmental Conferences' and have to be ratified by all member governments. Treaties, their annexes and Protocols constitute the ultimate source of authorization and legitimacy for EU institutions and their legislative and judicial control. There have been, however, important initiatives that have arisen in the EU context, that do not originate from or are mentioned in the Treaties. Important policy chapters often have only a very general foundation in the Treaties (e.g., transport). In other cases, explicit Treaty provisions remain ineffectual for a long time until the conditions for concrete action appear. But there are also cases, in which the

letter of the Treaty has a direct and undelayed effect – the goal of price stability, for example, has become a key element of the ECB's monetary policy (Alesina et al. 2001).

## 2. Secondary Legislation and non-binding acts

Secondary legislation includes a range of different binding and non-binding legal instruments. Three categories of secondary legislation can be distinguished:

*Regulations*, which are fully binding towards all parties, are directly applicable and don't need national application. *Directives* are binding towards all member states addressed and contain specific results that are to be achieved but leave the member states the choice of how to best implement them. *Decisions* are binding for all parties (not exclusively member states) addressed and vary in degree of specification.

In addition, the EU Commission issues a number of “softer” acts, or documents, of non-binding nature, such as White papers, that outline the goals of future legislative activity.

## 3. Enforcement via the Court of Justice

The ECJ has a double role of interpreting EU law and ensuring its application and enforcement. Governments as well as private agents and staff of the EU agencies can initiate a court case. Judicial rulings do not have legal status, but the Court has significant power to give content to existing laws and making them effective. Like European law overrules national laws, ECB decisions overrule national court decisions.

#### 4. International Agreements

The EU negotiates three kinds of international agreements: trade agreements, trade and cooperation agreements and association agreements. These agreements vary in their limitation to trade.

#### 5. The ECB

In comparison to other policy areas the competences of the ECB are very well documented in the Treaties and monetary policy-making is conducted in a distinct way, as the ECB is independent of other EU bodies and national Parliaments.

Alesina et al. assemble all the empirical evidence into summary indicators in order to get a better understanding of how active the EU is in the different policy domains. One can assume that the more active the EU is in a certain policy area, the stronger its actual competences in this domain are. For better understanding, I will reproduce a part of their explanation here:

To construct these summary indicators they proceed in two steps:

Table 10: Involvement of the EU in policy making: measures of intensity by policy chapter

	Basic Indicators (1)			Means (1)			Rank			
	Treaty	Legislation	Court	Arithmetic	Geometric	Leontief	Treaty	Legislation	Court	Mean
1 International trade	0.62	1.93	1.10	1.22	1.30	1.54	6.00	2.00	5.00	4.3
2 Common market	1.88	0.77	2.24	1.63	1.89	1.86	3.00	4.00	2.00	3.0
3 Money and finance	1.08	0.19	1.20	0.82	0.96	0.89	5.00	10.00	4.00	6.3
4 Education, research, culture	0.81	0.09	0.01	0.24	0.05	0.01	7.00	11.00	11.00	9.7
5 Environment	0.17	0.31	0.68	0.39	0.44	0.34	11.00	8.00	7.00	8.7
6 Business relation, sectoral										
6a Agriculture and fishery	0.34	4.46	1.69	2.16	2.21	2.36	10.00	1.00	3.00	4.7
6b Industry and energy	1.99	0.34	0.01	0.78	0.12	0.01	2.00	6.00	10.00	6.0
6c Transport	0.45	0.24	0.30	0.33	0.35	0.41	9.00	9.00	9.00	9.0
7 Busin. non-sect. (compet/subs/company law)	0.48	1.67	2.29	1.48	1.72	1.50	8.00	3.00	1.00	4.0
8 International rels & foreign aid (wout intl. Trade)	1.18	0.33	0.38	0.63	0.59	0.53	4.00	7.00	8.00	6.3
9 Citizens and social protection	2.19	0.66	1.10	1.32	1.37	1.54	1.00	5.00	6.00	4.0
Average:	1.00	1.00	1.00	1.00	1.00	1.00	6.0	6.0	6.0	6.0

(1): Indicators are normalised so that the columns average equals unity.

(Table10: Alesina et al. 2001)

First, they compile semi-aggregate indicators of policy involvement (broken down by domains) for each of the three main channels of policy making, i.e., the Treaties, the secondary legislation and the Court. Second, they combine these into overall indicators of policy involvement, using specific aggregation criteria, which can be retraced in the statistical annex at the end of this thesis.

The first index assumes that the EU policy services (the “output”) are provided with a production technology that is linear in the three “inputs,”  $i_1$  (the Treaties),  $i_2$  (secondary legislation) and  $i_3$  (Court activity). The second index uses the same technology for the first two inputs, while the first two and the third are aggregated using a Cobb Douglas technology. In the latter, the elasticity of substitution is constant and unitary, which implies that the rate of substitution between  $(i_1 + i_2)/2$  and  $i_3$  decreases as the use of  $i_3$  increases. This expresses the idea that the pair of inputs  $(i_1 + i_2)/2$  and  $i_3$  are to some extent complementary. In the third index, we push this idea further by assuming that the production technology is of Leontief type: there is no substitution at all between  $(i_1 + i_2)/2$  and  $i_3$  and the “output” is determined by the most scarce “input”. Finally, they also calculate a rank indicator, equal to the mean of the ranks of  $i_1$ ,  $i_2$  and  $i_3$ . The summary indicators provide a measure of the relative degree of involvement of the EU in the policy areas.

*Citizen Preferences towards the Allocation of Competences in the European Union*

In their study, Cerniglia and Pagani use data on citizen preferences, collected in the Eurobarometer. The Eurobarometer is a public opinion survey conducted on behalf of

the EU commission conducted between two and five times a year. Each survey consists in approximately 1000 face-to-face interviews per Member State (except Germany: 1500, Luxembourg: 600, United Kingdom 1300 including 300 in Northern Ireland). Respondents are citizens aged 15 and over residing in EU15. An identical set of questions is asked in each Eurobarometer, thus the questions are repeated over time.

Cerniglia and Pagani built a single data set joining 13 surveys in a pooled cross-section data set, consisting of 209,469 observations. These surveys are numbers 43.1 (which refers to 1995), 48 (1997), 49 and 50 (1998), 51 and 52 (1999), 53 and 54.1 (2000), 56.2 (2001), 57.1 and 58.1 (2002), 59.1 and 60 (2003).

In each survey, for different policy areas EU citizens are asked whether they think that the corresponding policy decisions should be taken by own country government or jointly within the European Union. The exact wording of the question in the survey is:

*“Some people believe that certain areas of policy should be decided by the (NATIONAL) government, while other areas of policy should be decided jointly within the European Union. Which of the following areas of policy do you think should be decided by the (NATIONAL) government, and which should be decided jointly within the European Union?”*

Although the exact meaning of ‘jointly’ is unclear, Cerniglia and Pagani interpret this answer as the willingness to transfer the concerned policy to the EU level. Other than that, they believe the question to give a useful overview of how European citizens wish the allocation of powers between the EU and member States to look like.



The policy areas over which the respondents are asked to express themselves change from survey to survey. There are 16 areas present in all the 13 considered surveys, 18 areas present since survey 50, 25 since survey 52, 26 since survey 56.2 and 27 since survey 57.121.

Cerniglia and Pagani also include an econometric analysis, using demographic and other background information available in the data set. I however will not use the findings of this analysis, as it doesn't have any explanatory value concerning the concurrence of citizen preferences and the allocation of competences.

To describe the preferences of European citizens regarding the allocation of competences, Cerniglia and Pagani form the integer of the balance of answers to the question relative to the preferred allocation of competences (PA), calculated with the following formula:  $PA = [(EU - N)(1 - DK/100)]$ , where EU represents the percentage of people stating that the corresponding area of policy should be decided jointly within the European Union, N the percentage of people stating that the corresponding area of policy should be decided by the national government, and DK the percentage of people who don't know to whom the competence should be assigned. The larger the integer, the higher the (percent) number of people that have expressed a preference for a jointly (or shared) responsibility, weighted for the undecided. The values range from -100 to +100; a value of +100 (-100) means a unanimous preference for shared (national) competence. As Cerniglia and Pagani have only calculated the integers for citizens of the different member states and not for the citizens of the EU, I have calculated them myself. The European Union is in the difficult situation of having to please the majority of citizens of its member states as well as the general majority of

EU citizens. This data and that of Cerniglia and Pagani can be found in the statistical annex at the end of the thesis.

In the following chapter I will combine the findings of Alesina et al. with those of Cerniglia and Pagani in a descriptive analysis, in order to shed light on the representation of citizen preferences in the allocation of competences in the EU.

#### **d) Empirical Comparison of Citizen Preferences and the Allocation of Competences**

In this empirical comparison of citizen preferences towards the allocation of competences between the national and the EU level and the actual allocation of these competences, I will proceed as follows:

I will first tackle each one of the six policy domains that I adopted from Alesina et al. (2001), describing the level and character of EU-involvement and then contrast this with the preferences of the Eurobarometer respondents, to find out if allocation and preferences concur. Also I will pay attention to such details as the equal representation of member states and the relation between the number of states for the allocation on one level and the percentage of EU citizens.

One concern in this comparison could be the different time-frames the Alesina et al. and Cerniglia and Pagani used for their analysis. This however does not distort my findings for two reasons: First of all, the preferences towards the allocation of competences have been remarkably stable in the years included in Cerniglia and Pagani's study (1995-2003). And second of all, the claim of output legitimacy is not

necessarily to respond to citizen preferences, but to concur with them – this can also mean that output is convincing ex post and citizen preferences follow its lead.

*Money and Finance*

Treaty Articles	Treaty Words	Regulations	Directives	Decisions	Court Judgments	Court Opinions
18	4335	138	77	138	105	123

Alesina et al. indicators show that the degree of EU involvement in the policy domain of money and finance was neither especially high, nor especially low until 2000. Policy making concerning monetary and exchanges rate policy, payments systems and financial market regulation and legislation, bank supervision, fiscal and tax policies and other related issues, happened mainly through primary legislation in the Treaties and court decisions – secondary legislation played an almost negligible role.

It was mentioned in 18 Treaty Articles and ranks fifth in the listing of Treaty-words per policy domain; there were 58 regulations, 77 directives and 138 decisions concerning money and finance in force at the time, making it second to last in the ranking of legislation intensity across policy domains. The court issued a total of 105 judgements and 123 Opinions on financial and money related issues. Other measures of policy intensity, such as international agreements, recommendations and opinions, staff size, etc. are relatively low for money and finance – solely two White Papers dedicated to this policy domain stand out.

“The existence of a single European currency requires a significant area-wide centralization of this policy domain not only in the strict field of monetary policy, but

also in related areas such as payments systems, money market infrastructures, etc. Financial market integration is gradually but powerfully pushing towards increasing area-wide co-ordination of supervisory practices and financial market policies. In the areas of budget policies and taxation, the two current issues regard budget co-ordination (beyond the Stability and Growth Pact) and tax harmonization” (Alesina et al. 2001, 20).

Currency	
1995	27,55
1997	14,88
1998	37,05
1999	22,8
2000	21,85
2001	32,64
2003	26,7

In the Eurobarometer data presented, there is only one question that falls into this policy domain and it concerns ‘currency’. The majority of European citizens has answered this question in favour of joint competences at EU level since 1995. The only member state whose citizens have opposed EU involvement in currency matters without disruption is the UK. Other countries that have opposed joint competences in currency matters are Finland, Denmark, Sweden and Austria.

*Education, Research and Culture*

Education, research, culture						
Treaty Articles	Treaty Words	Regulations	Directives	Decisions	Court Judgments	Court Opinions
14	1614	22	19	94	1	0

The EU involvement in Education, research and culture appears limited. The Treaties place a considerable emphasis on these issues, but the effect is weakened in the overall indexes by the lack of legislative and Court activity. Fourteen articles in the Treaties are devoted to matters of this policy domain, but only 22 Regulations, 19 Directives, 94 Decisions and one Court decision target it, ranking it last in both the list of legislative and the list of judicative intensity across EU policy domains. The EU does however devote a considerable amount of financial and staff resources to these issues and five Green Papers and one White paper concerning them have been published.

Education		Culture		Research	
1995	-38%	1995	-26%	1995	45%
1997	-29%	1997	-21%	1997	41%
1998	-25%	1998	-19%	1998	46%
1999	-28%	1999	-13%	1999	36%
2000	-29%	2000	-19%	2000	36%
2001	-26%	2001	-5%	2001	41%
2003	-33%	2003	-9%	2003	38%

The Eurobarometer data offer three requested allocation preferences that perfectly match the name of this policy domain; for education, for research and for culture. Concerning education EU citizens have been consistently against competences at EU level, with the Greeks and the Italians being the exception to the rule, repeatedly responding preferably for joint competences and Luxembourg responding preferably in 1995.

By contrast, research is one of two policy issues that has been allocated to EU level by citizen preferences from 1998 to 2003 without exception and with rather homogenous and strong values across all member states.

Culture has been allocated to the national level from the first survey included in this study to the last, but decreasingly so. Italians are the only nationality that wished for an allocation at EU level from the beginning to the end, in some years joined by other southern countries such as Spain, Portugal and Greece.

*Environment*

Environment						
Treaty Articles	Treaty Words	Regulations	Directives	Decisions	Court Judgments	Court Opinions
3	682	66	193	188	70	59

According to the data, the EU involvement in Environment is very limited in Treaties as well as secondary legislation and court rulings. Only three Articles in the Treaties target environmental issues, making it the least mentioned policy domain in the Treaties; also, judging from the EU treaties, the mandate of the EU is rather general.

There are 66 Environment-related regulations, 193 directives and 188 decisions, 70 court judgements and 59 court opinions. In other measures of policy intensity Environmental issues score relatively low as well, although 9 published Green Papers do stand out – only common market, citizen and social protection and non-sectoral business issues have are targeted in as many or more Green Papers.

Environment	
1995	32,01
1997	30,72
1998	31,68
1999	20,16
2000	19,2
2001	30,07
2003	26,7

European citizens have continuously had a quite strong preference to place environmental policy issues at the Union level in all surveys, tendency increasing both when looking at the EU population as a whole and when looking at the different nationalities. The only recurring exceptions are Finland, Sweden, Austria and the UK; in 1999 the Irish and the Danish were also opposed to joint competences in environmental matters.

*Business Relations (Sectoral)*

**Agriculture and fishery**

Treaty Articles	Treaty Words	Regulations	Directives	Decisions	Court Judgments	Court Opinions
7	1072	3733	484	2245	214	106

**Industry and energy**

Treaty Articles	Treaty Words	Regulations	Directives	Decisions	Court Judgments	Court Opinions
1	15228	70	45	380	2	0

**Transport**

Treaty Articles	Treaty Words	Regulations	Directives	Decisions	Court Judgments	Court Opinions
11	983	112	121	113	32	24

Sectoral business relations take up the largest share of EU policy-action in the group of policy domains developed by Alesina et al., mainly due to the vast amount of legislation on agricultural issues. Over 40 percent of the EU secondary legislation that was in force in 2000 concerns agriculture although in the policy intensity measured by Treaties it ranks second to last. The court plays a relatively large role in agricultural policy concerns, having issued 214 judgments and 106 opinions Agriculture also claims the largest share of EU financial resources and a significant portion of international agreements and non-binding legislation.

Industry and Energy score exceptionally high on Treaty involvement when looking at the number of words devoted to it, which is easily explained by the Steel and Coal and the Euroatom Treaties – with 70 regulations, 45 directives, 380 decisions and only two court judgements however, the actual EU involvement in industrial policy-making is rather small.

The same applies to Transport – although 11 Treaty Articles are concerned with Transport issues, with only 346 binding legislative acts and 56 court rulings the actual intensity of EU-policy-making in this field is very low.

Industry and Energy, as well as Transport are strongly targeted by non-binding legislation.

Agriculture	
1995	11%
1997	9,99%
1998	9,99%
1999	4,00%
2000	-1,00%
2001	3,00%
2003	7,59%

The Eurobarometer data offers no data on industry, energy and fishery but it does include a question concerning the allocation of agriculture. Looking at the overall EU population, EU citizens show a weak preference for allocation at the Union level, however in 2000, this preference reversed. 2000, as well as 1999, were also the only two years, where the majority of nationalities were opposed to joint competencies in agricultural matters. The UK, Finland, Sweden and Austria are the strongest opponents of this allocation and have wanted agriculture to be allocated at the national level in every survey; Denmark, Portugal, Spain and Greece have also repeatedly opposed joint allocation; Ireland opposed joint allocation only in 1999.



## *International Relations and Foreign Aid*

### **International relations and foreign aid**

Treaty Articles	Treaty Words	Regulations	Directives	Decisions	Court Judgments	Court Opinions
25	3494	222	1	258	44	28

The degree of EU-level involvement in the area of International relations is rather limited, according to the summary data. Although it has a quite high standing in the Treaties, secondary legislation and court rulings are very scarce.

Seven Treaty articles concern international relations and foreign aid. Binding legislative acts in this policy field are relatively few; there are 222 regulations, one directive and 258 decisions. The court issued 44 judgements and 28 opinions. Considering other measures of policy intensity, the number of international agreements concerning international relations and foreign aid is not nearly as high as that of international trade or sectoral business relations, but it is significantly higher than that of all other policy domains. Also, there was one white paper published targeting issues of international relations and foreign aid.

In the data on allocation preferences, there are three questions that fall into the policy domain of international relations and foreign aid: defence, foreign policy and humanitarian aid.

Defense		Humanitarian Aid	
1995	6,72	1995	
1997	5,64	1997	
1998	5,64	1998	44,98%
1999	1,9	1999	38,98%
2000	2,85	2000	38,98%
2001	5,76	2001	47,98%
2003	4,47	2003	42,98%

Foreign Policy	
1995	47,96%
1997	45,95%
1998	49,96%
1999	46,96%
2000	45,96%
2001	48,97%
2003	52,46%

The majority of citizens have wanted defence issues allocated at the EU level in all surveys. Here the differences between national preferences are especially high – while Finns, Swedes, British, Danes and Austrians particularly don't want any competences in defence located at the EU level, the Germans, the Italians, the Spanish, the Belgians, the Dutch and the Irish are for defence being allocated at the Union level.

Concerning foreign policy, a strong majority of EU citizens continuously responded in favour of competences allocated at the EU level from 1998 to 2003 and not one of the single nationalities ever voted against it in these surveys.

Humanitarian aid is a similar case – only the Finns, the Swedes and the Austrians ever rejected humanitarian aid being allocated jointly at the Union level. A significant majority of EU citizens would have preferred it to be allocated there throughout all surveys. In 2001 and 2002 not only the majority of EU citizens, but also all nationalities included in the survey preferred joint allocation.

#### *Citizens and Social Protection*

##### **Citizens and social protection**

Treaty Articles	Treaty Words	Regulations	Directives	Decisions	Court Judgments	Court Opinions
46	6647	257	178	527	123	85

The degree of EU involvement in citizen and social protection issues is “surprisingly strong, due to extensive Treaty provisions but also to a significant support of secondary legislation and particularly the Court of Justice. The latest Treaties have strengthened the base for EU social policies to include “human resource, social protection and social inclusion” (Maastricht) and employment promotion (Alesina et al. 2001, 20).

Issues concerning citizens and social protection are included in 46 Treaty articles, more than any other policy domain analyzed by Alesina et al. Yet it only ranks fifth and sixth in the listing of EU policy-intensity through legislation or the court. There is however a significant number of non-binding legislation devoted to citizen protection and social protection as well as the third largest share of EU expenditure.

Twelve questions included in the Eurobarometer data fall into this policy domain: health and social welfare, unemployment, immigration, political asylum, drugs, poverty, crime, police, justice, accepting refugees and juvenile and urban crime prevention.

Health & SW	
1995	-22,08
1997	-27,55
1998	-25,92
1999	-26,88
2000	-27,84
2001	-13,2
2003	-36,49

Health and Social Welfare are quite strongly located at national level in overall EU citizen preferences. Only two nationalities, the Greek and the Italians, repeatedly responded favourably to these competences being transferred to Union level. The

Portuguese and the people of Luxembourg responded favourably only in 1995. The greatest opponents of health and social welfare issues being jointly handled are the Scandinavian countries.

Unemployment	
1995	17,99%
1997	13,99%
1998	15,99%
1999	8,00%
2000	12,00%
2001	10,00%
2003	-9,10%

Unemployment is quite a different case; the majority of respondents as well as the majority of nationlaties have pronounced the preferences for unemployment policies to be placed at the European level in all surveys but the last. While a lot of the higher populated member states' citizens prefer a European handling of the issue, citizens of smaller states such as Denmark, Finland, Sweden, Luxembourg and the Netherland, but also of the highly populated United Kingdom, prefer keeping these policies at the national level. Portuguese and Austrians have preferred unemployment to be handled nationally repeatedly; the Belgians, the Germans and the French preferred national responsibility for unemployment policy only in 2003.

Imigration	
1995	19,99%
1997	13,99%
1998	19,99%
1999	3,00%
2000	-3,00%
2001	0,00%
2003	6,80%

Immigration is a split case; when looking at the EU population as a whole, citizen preferences allocate immigration policy at the Union level in all but two years the included in the analysis, but when examining the different member states there are considerable differences; the majority of nationalities only allocated immigration policy at Union level in four of the eight years included. While the citizens of Belgium, Spain, France and the Netherlands have continuously favoured EU policy making, citizens of Denmark, the UK, Finland, Sweden and Austria in this case clearly prefer national policy-making.

Political Asylum	
1995	17,99%
1997	14,99%
1998	17,99%
1999	8,00%
2000	-2,00%
2001	6,00%
2003	11,79%

European citizen preferences concerning matters of political asylum have constantly allocated policy competences on the EU level, except in 2000. The majority of nationalities however only allocated policy competence in this policy field on EU level in four of the eight years included in the analysis. The citizens of Denmark, the UK, Finland, Sweden and Austria have consistently opposed joint allocation, while the citizens of Italy Spain and France have consistently supported it.

Accepting Refugees	
1995	
1997	
1998	
1999	10,99%
2000	1,00%
2001	9,60%
2003	9,70%

Preferences on the allocation of competences in accepting refugees are very similar to those in political asylum. The majority of European citizens prefers an allocation on EU level, while the majority of nationalities only does so in 1999 and 2003. Here also the citizens of Spain, Italy and France that continuously and strongly prefer joint competences while citizens of Denmark, the UK, Finland, Sweden and Austria oppose joint competences.

Drugs	
1995	57,98%
1997	45,98%
1998	47,98%
1999	38,98%
2000	35,99%
2001	44,99%
2003	38,59%

Drug-issues are such, that the European people agree – all nationalities in all selected surveys highly favour the handling of drug-related policy on the Union level.

Poverty	
1995	
1997	
1998	34,98%
1999	26,99%
2000	29,99%
2001	35,99%
2003	17,09%

Crime	
1995	
1997	
1998	
1999	37,98%
2000	33,99%
2001	46,99%
2003	45,48%

Also for poverty and crime the respondents answers were rather homogeneously for the tackling the issue at Union level. European citizen preferences concerning policies targeting poverty continuously located competences at the EU level – only in 1999 citizens of Denmark and Sweden disagreed and in 2003 citizens of Finland disagreed. Concerning crime, the majority of European citizens as well as nationalities prefer policy competences to be allocated at the Union level – only in 1999 and in 2002 citizens of the UK opposed allocation of competences on this level.

Police	
1995	
1997	
1998	
1999	-29,99%
2000	-31,99%
2001	-28,99%
2003	-42,69%

Justice	
1995	
1997	
1998	
1999	-19,99%
2000	-23,99%
2001	-19,99%
2003	-33,29%

Police and justice on the other hand are quite uniformly preferred on the national level. In police matters, European citizens as well as all the nationalities prefer allocation at the national level in all years included in the analysis. In judicial affairs, only citizens of Italy, the Netherlands, Greece and Spain have preferred allocation of

competences at the Union level in some years. In 2003, the last year included in the analysis, all nationalities prefer allocation at the national level.

Juvenile Crime Prevention		Urban Crime Prevention	
1995		1995	
1997		1997	
1998		1998	
1999	-7,00%	1999	-18,99%
2000	-10,00%	2000	-18,99%
2001	-6,00%	2001	-15,99%
2003	-20,79%	2003	-29,59%

Juvenile and urban crime prevention are both considered better located at the nation level by the majority of EU-citizens as well as by the different member state nationalities.

**e) Assessment**

This analysis, although only descriptive, clearly points out a few interesting things. First of all, it calls into question the claim of intact output legitimacy (in this particular case allocation legitimacy) in the EU:

In the policy domain of *Money and Finance* EU citizens are for joint competences between the member states and the EU and the Union is, although not as strongly involved as in other cases, relatively active according to the data presented by Alesina et al. In currency matters at least, European citizens’ preferences concur with this allocation of competences – allocation legitimacy can therefore be assumed.



The EU's involvement in *Education, Research and Culture* is very limited. This concurs with citizens preferences on Education and Culture, but not on Research. Unfortunately this can only give us a rough idea of allocation legitimacy, as to draw a meaningful conclusion on the concurrence of competence allocation and citizen preferences from this data, it would be necessary to know the separate degrees of involvement in Education, Research and Culture each – not the collective involvement in all three areas.

*Environment* on the other hand is a very clear case: EU involvement is very limited, (only the court plays a relatively strong role in comparison with other policy areas) while citizens have stated a strong and consistent preference for an allocation of competences at the Union level. There is therefore little allocation legitimacy here.

Concerning *agricultural* issues, citizens have shown only a weak preference for Union handling of the matter while the actual involvement of the Union is very strong. In no other policy domain have there been as many secondary legislative acts as in agriculture, and the court was only more active in two other policy domains. The competence is therefore allocated at the right level, but the degree of involvement questionable.

Another clear case is the policy domain of *International Relations and Foreign Aid*: citizen preferences are distinctly for an allocation of this policy domain at the EU level. Actual involvement of the Union is however rather low – only the treaties attend to this policy domain with relative thoroughness. This discrepancy between citizen preferences and EU action implies a lack of allocation legitimacy.

*Citizen and Social Protection* issues make for a complex case: of the 12 Eurobarometer questions included in the article, citizens are clearly for handling on the EU level in 6 cases (unemployment, political asylum, accepting refugees, drugs, poverty and crime) and clearly for handling at the national level in six other cases (Health and social welfare, urban crime prevention, juvenile crime prevention, police and justice), while one case stays unclear: in immigration matters the majority of EU citizens prefers allocation of competences at the EU level but the majority of nationalities prefers allocation of competences at the national level.

Actual EU involvement in these areas is relatively strong in all main channels of policy formation (Treaties, legislation and court judgments) as well as in non-binding legislative acts and expenditure. As we cannot detect a general tendency of citizen preferences in this policy domain and Alesina et al. do not offer any information on the exact causes of the strong EU involvement but only the general involvement in all questions concerning citizen and social protection, unfortunately it is impossible to assess allocation legitimacy here.

In the six different areas I have analyzed in this comparison of citizen preferences towards competence allocation and the actual allocation in the EU there were two policy domains in which preferences and allocation concurred, two policy domains in which they differed and two in which it is not possible to make a valid judgement.

In the cases included in this examination therefore citizen preferences concur with the allocation of competences as often as they do not.

This definitely points out a scope for improvement in allocation legitimacy. This does not prove my first hypotheses, but it does not disprove it either – a lot of research can still be done, to get a more detailed and accurate picture of allocation legitimacy.

Secondly, I could not detect any pattern in the degree of involvement of the different policy channels. To completely discard this hypotheses however, also more research is necessary.

A few other things became apparent throughout my analysis:

One was the realization, that even if the majority of nationalities prefer one thing, the majority of EU citizens might prefer something else – this was the case for the policy domains of agriculture and immigration in some years. High allocation legitimacy can only be reached, if not only either the majority of EU citizens or the majority of nationalities concur with the allocation of competences, but if all three concur.

Also, the differences between the preferences of citizens of different member states can be very large; here also immigration is a good example, where the Finns, the Swedes and the Austrians are strongly opposed to the allocation of competences at the EU level and the Greek, the Italians and the Spanish are strongly in favour of allocation of competences at the EU level.

What impact do my findings on the allocation legitimacy have on the theoretical body of literature on the legitimacy of the Union? At the moment researchers are at a loss when confronted with the democratic deficit of the EU – there is no way of disposing of it, as the social preconditions necessary for a fully grown traditional democracy just aren't available currently and therefore any further action in that direction would only endanger the democratic legitimacy of the member states. On the other hand, the original and historic basis of the Union's legitimacy, it's efficiency in producing convincing policy outputs is starting to be questioned as well – my thesis supports

this doubt of the Union's claim of output legitimacy. But as I stated at the very beginning of this thesis, the concept of legitimacy is about the social acceptability of a political order (or any other order that pools power resources); as long as EU member state and citizens still comply with EU law, without having to be sanctioned, there is indirect legitimacy through the national governments and partial republican legitimacy through the EU institutions, the Union can never be wholly illegitimate.

But the partial discrepancy between EU-output and citizen preferences that I have detected should open our eyes to the severity of the need for new modes of government, that manage to include the preference of the union's citizens into the policymaking process.

## VII. Conclusion

In this thesis I have examined the EU's claim of output legitimacy theoretically and empirically. I will summarize shortly:

I first reviewed the most important developments in European legitimacy theories, that have lately led to a recurring turn towards the quality of output as a source of legitimacy for the EU.

While at the beginning of EU legitimacy research, the quality of EU output was not questioned, after ratification problems with the Treaty of Maastricht, legitimacy students started concentrating on the lack of input mechanisms, that may have caused these difficulties. Parallel to this research, the input mechanisms of the EU have been strengthened continuously up until the latest Treaty, the Treaty of Lisbon. Still the legitimacy of the EU was questioned – but now, the bolstering of input mechanisms was no longer a viable choice, as the confinements of consensual decision-making cannot be relaxed any more as long as there isn't a collective identity of the peoples of 27 member states that could legitimate Europe-wide majority – therefore scholars have returned to theories of output legitimacy, searching for ways of generating or increasing it, generally assuming however that it is quite intact.

This is the assumption that triggered my empirical interest – is the output legitimacy of the EU really intact? In my theoretical section, I explained that output is legitimate if it concurs with citizen preferences. My objective therefore was to find out if EU

output concurs with citizen preferences. I concentrated only on one small aspect of EU output: the allocation of competences.

My analysis shows, that the allocation of competences in the EU concurs with citizen preferences as often as it does not. This means that there is a definite capacity for EU output in the case of the allocation of competences to improve.

More research is definitely called for; knowledge about *what* output, generated through *which* channels does not concur with *whose* preferences could instruct future new models of input mechanisms, which are urgently needed to secure responsive representation of the wants and needs of European citizens and my analysis is incomplete in many ways.

First of all, the measure of EU-involvement in the various policy domains only approximately equates to the actual allocation of competences between the national and the Union level. Second, more detailed data on citizen preferences, not only on the allocation of competences but also regarding political content of the different policy areas, as well as a detailed and broken down account of the action taken by the EU in each of these areas would allow a more extended analysis of citizen preference and output concurrence.

Also my analysis was confounded by the data to a time period that ends in 2003 – since then, the member states have ratified a new treaty that has introduced a number of changes to the allocation of competences, as well as other output factors in the EU.

Nevertheless, output legitimacy, even though highly contested as a sole source of legitimacy for EU policy-making, has barely ever been questioned – there seems to be an unconscious agreement, that *what* the EU is doing is right, it's just a matter of *how* it's done. My descriptive analysis of the concurrence of citizen preferences with the allocation of competences in the EU does demonstrates that this might not be true.

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# Statistical Annex

Calculation of the Summary Indicators in Alesina et al. (2001):  
Integers calculated by Cerniglia & Pagani (2007)

of non-traditional policy areas, such as citizen and social protection. They can serve to justify staffing and budgets and show readiness to take on and centralize other policy responsibilities in the future.

The final two columns of the table reveal some familiar and some surprising facts as well. As well known, most of the EU budget goes into agriculture and regional and structural funds (here under citizen and social protection). These areas do not, however, correspond to those in which the Commission is most heavily staffed. By contrast, some of the policy domains with the main legislative activity are surprisingly modestly staffed. International trade, common market, non-sectoral business and even agriculture only account for a few percent each of total staff. Education and international relations and foreign aid seem rather favorably equipped with manpower. Administration (which includes notably Personnel/Administration and translation services) account for an astonishing 44 percent of the total Commission staff of 23000. In addition, the other institutions (notably the Parliament) employ another 9000 staff.<sup>27</sup>

## 6.2 Summary Indicators

The elementary indicators presented so far provide a somewhat fragmented picture of the intensity of EU policy involvement in each policy area. Moreover, each elementary indicator can be misleading because it measures such involvement from a specific angle and can be affected by measurement problems. Assembling all evidence into summary indicators can thus help us get a clearer overall sense of the results. To construct them, we proceed in two steps. First, we compile semi-aggregate indicators of policy involvement (broken down by domains) for each of the three main channels of policy making, i.e., the Treaties, the secondary legislation and the Court. Second, we combine these into overall indicators of policy involvement, using specific aggregation criteria. All results are presented in Table 10.

The first three columns present the semi-aggregate indicators on EU involvement via Treaties, secondary legislation and Court activity, respectively. In practice, we standardize all earlier detailed indicators for each of the channels - i.e., (i) Treaty articles and words; (ii) regulations, directives, decisions; (iii) Court decisions and opinions - in Tables 6-8 by dividing each cell by the column mean. In this way, attention is restricted exclusively to the relative weights across policy domains: the information on the absolute values of the elementary indicators is lost. Subsequently, we take the arithmetic means of the elementary indicators for each channel. This yields the three semi-aggregate indicators, referring respectively to the Treaties, to secondary legislation, and to Court activity. By construction, each of them has mean equal to one.

The three indicators assume quite different values for each policy domain. This supports the view that EU action in each field tends to take place through a different mix of policy instruments. For example, international trade and agricultural policies are enacted mainly through secondary legislation, with some

<sup>27</sup>By comparison, in Germany, the Parliament, Bundestag and Bundesrat, employ a total of 2200 and 190 staff respectively.



support from the Court; the direct input from the Treaty is minor. On the contrary, in the areas of money and finance and citizen and social protection the Treaty plays a greater role than secondary legislation; the Court is again important here. In general, the contribution of the Court (as measured by the third semi-aggregated index) tends to be characterized by lower variability across policy domains than the legislative. In turn, the first two are negatively correlated across policy domains, thereby seemingly confirming their complementarity. All this strengthens our earlier conjecture that there is substitutability between Treaty and secondary legislation as policy vehicles. The Court activity is positively correlated with both the legislative and the Treaty (though the second coefficient is very small). In our interpretation, it should be instead be seen rather as a complement of the first two.<sup>34</sup>

We then proceed to aggregate this information further. We use the production function analogy to construct three alternative indicators characterized, by construction, by different elasticities of substitutions among the basic indicators. They are, respectively, the arithmetic mean, a (mixed) geometric mean, and a so-called "Leontief" mean constructed as follows (and normalized to have mean equal one):

$$\begin{array}{ll}
 I_1 = (i_1 + i_2 + i_3)/3 & \text{Arithmetic mean;} \\
 I_1 = \sqrt{[(i_1 + i_2)/2]i_3} & \text{(Mixed) geometric mean;} \\
 I_3 = \min \{[(i_1 + i_2)/2]; i_3\} & \text{"Leontief" mean.}
 \end{array}$$

The first one assumes that the EU policy services (the "output") are provided with a production technology that is linear in the three "inputs,"  $i_1$  (the Treaties),  $i_2$  (secondary legislation) and  $i_3$  (Court activity). The second index uses the same technology for the first two inputs, while the first two and the third are aggregated using a Cobb Douglas technology. In the latter, the elasticity of substitution is constant and unitary, which implies that the rate of substitution between  $(i_1 + i_2)/2$  and  $i_3$  decreases as the use of  $i_3$  increases. This expresses the idea that the pair of inputs  $(i_1 + i_2)/2$  and  $i_3$  are to some extent complementary. In the third index, we push this idea further by assuming that the production technology is of Leontief type: there is no substitution at all between  $(i_1 + i_2)/2$  and  $i_3$  and the "output" is determined by the most scarce "input". Finally, we also calculate a rank indicator, equal to the mean of the ranks of  $i_1$ ,  $i_2$  and  $i_3$ .

The summary indicators provide a measure of the relative degree of involvement of the EU in the policy areas. Focusing on the arithmetic mean first, there are five areas where the indicator comes out larger than unity (call this "upper group"): in decreasing order they are *Agriculture* (way above all others), *Common market*, *Business (non-sectoral)*, *Citizen and social protection*,

<sup>34</sup>The data are as follows: standard deviation of the three columns, in order: .7, 1.3 and .8. The correlation coefficient between the first two is equal to -.32, between the second two .52. The positive correlation between Treaty and Court is just .00032. The number of cases in which the Court rules only on the basis of the Treaties appears therefore to be limited.

*International trade, Industry, Money and finance and International relations* are close to average (the latter somewhat lower). The "lower group" includes, in increasing order from the bottom, *Education, Transport, Environment*.

The other two types of mean provide some important qualifications to this ranking. First and foremost, the index value of *Industry* falls sharply if one moves from the arithmetic to the geometric mean, and even more to the Leontief mean. This reflects the fact that the sections of the Treaties relating to *Industry* (mainly Coal and Steel and Euratom Treaties) are not backed by corresponding secondary legislation and even less by Court activity. We are inclined to interpret this as meaning that EU policy in this area is not really operative. Second, the position of *International trade* and *Common market* within the "upper group" is strengthened further. On the contrary, the weight of *International relations* decreases significantly and moves towards the "lower group". We regard this result with some special caution, however, since Court activity may be less relevant for this particular policy chapter. Finally, in the "lower group," *Education* is reduced even further, while *Transport* and *Environment* remain roughly unchanged.

The rank indicator basically confirms all these judgements. We just note that, among the more borderline cases, the position of *International relations* is somewhat strengthened by the rank indicator.

## 7 Assessment

We now look at the findings of the quantitative analysis in the light of the normative claims as to the desirable policy allocation suggested in section 3. To facilitate comparison, we have inserted a summary of the evidence, coming from the summary indicators just reviewed, in the earlier table. This yields Table 11.

In the table, we have highlighted in bold the areas in which we find relative clearer evidence of discrepancy between our "normative" priors and the evidence. We shall turn to these areas later. Let us first review the other ones, on which there appears to be broad consistency between the two.

The key historical functions of the EU - *International trade and Common market* - seem on the whole to be properly allocated. The EU role is large on both, and rightly so. While there seem to be no doubt whether the EU should have a dominant role in these areas, there may be an issue of how such a role is performed. Though the analysis of this paper does not have much to say in this, it is worth recalling two caveats.

First, a free trade area is consistent with sound economic principles, provided its external trade policy is also consistent with them. Second, common market legislation should aim at ensuring effective mobility of goods, services, capital and people in the Single Market area, but does not need to go beyond that. Top-down harmonization of national practices can be equally at odds with economic principles as impediments to trade are. Free trade promotes welfare by allowing countries and regions to specialize while respecting local practices and preferences. In recent years, this principle seems to have been given increasing



**Table A1: Average PA by country - 1995**

	B	DK	D	GR	I	E	F	IRL	UK	L	NL	P	FIN	S	A	Mean	Max	Min	Median	StdDev
defense	33	-16	32	-30	34	11	19	-25	-8	54	55	23	-76	-58	5	4	55	-76	11	39
environment	34	27	53	36	38	44	45	21	29	49	68	30	14	17	13	34	68	13	34	15
currency	45	10	16	15	49	25	40	37	-12	44	44	18	-13	-12	6	21	49	-13	18	22
health and social welfare	-13	-59	-9	3	9	-9	-38	-10	-16	4	-1	16	-69	-44	-31	-18	16	-69	-10	25
media	8	-33	-6	5	21	4	6	3	-19	27	3	3	30	-31	-12	1	30	-33	3	19
unemployment	34	11	27	31	46	13	27	40	14	31	31	28	17	15	15	25	46	11	27	11
regional aid	50	44	45	32	36	49	28	63	44	64	22	44	24	19	31	40	64	19	44	14
education	-26	-33	-15	-17	13	-15	-23	-27	-40	5	-8	-4	-33	-10	-26	-17	13	-40	-17	15
research	59	57	48	51	64	56	68	64	45	69	58	43	54	39	43	55	69	39	56	9
foreign policy	55	31	55	26	55	44	57	43	29	54	55	42	8	10	31	40	57	8	43	17
culture	-6	-58	0	-16	19	-7	-15	-37	-18	5	-18	-10	-24	-43	-25	-17	19	-58	-16	19
immigration	28	-7	27	20	52	32	26	9	-14	22	41	25	-41	-14	-16	13	52	-41	22	26
political asylum	32	-3	27	24	46	33	32	22	-1	23	37	23	-20	-5	-12	17	46	-20	23	20
drugs	58	64	68	44	58	39	69	54	41	63	70	47	61	39	47	55	70	39	58	11

**Table A2: Average PA by country - 1997**

	B	DK	D	GR	I	E	F	IRL	UK	L	NL	P	FIN	S	A	Mean	Max	Min	Median	StdDev
defense	20	-25	26	-29	23	14	14	-42	-27	18	55	-35	-79	-59	-13	-9	55	-79	-13	37
environment	30	8	44	26	31	35	41	10	15	28	72	-11	-19	-7	1	20	72	-19	26	24
currency	26	-16	10	7	56	29	31	22	-27	27	31	-16	-44	-21	-1	8	56	-44	10	28
health and social welfare	-17	-78	-26	6	-1	-20	-46	-26	-43	-27	-20	-35	-77	-49	-38	-33	6	-78	-27	24
media	-4	-52	-15	-8	13	-1	-2	-1	-22	-8	-13	-26	5	-38	-27	-13	13	-52	-8	17
unemployment	25	-30	20	30	41	10	30	8	-22	6	9	-7	-18	-5	18	8	41	-30	9	21
agriculture	27	-6	28	16	14	3	14	1	-11	14	39	-21	-54	-16	-7	3	39	-54	3	23
regional aid	30	22	34	34	31	39	17	49	22	36	17	11	11	16	20	26	49	11	22	11
education	-28	-51	-36	-17	8	-23	-31	-38	-53	-42	-27	-37	-43	-27	-37	-32	8	-53	-36	15
research	45	32	27	41	56	49	56	51	19	61	63	17	20	13	38	39	63	13	41	17
foreign policy	41	15	51	24	50	42	59	38	16	45	65	13	6	2	30	33	65	2	38	20
culture	-14	-66	-30	-21	9	-15	-27	-39	-21	-19	-24	-36	-29	-56	-37	-28	9	-66	-27	18
immigration	20	-25	14	27	47	36	23	-2	-22	1	32	-10	-49	-22	-22	3	47	-49	1	28
political asylum	16	-25	14	21	40	30	19	-3	-17	-1	34	-12	-24	-14	-26	4	40	-26	-1	23
drugs	50	39	57	42	55	33	60	37	16	46	57	10	33	12	38	39	60	10	39	16



**Table A3: Average PA by country - 1998**

	B	DK	D	GR	I	E	F	IRL	UK	L	NL	P	FIN	S	A	Mean	Max	Min	Median	Std Dev
defense	28	-28	24	-32	21	14	11	-40	-31	35	48	-22	-75	-44	-1	-6	48	-75	-1	35
environment	40	12	43	31	29	36	38	9	12	29	69	6	-14	5	18	24	69	-14	29	20
currency	51	6	35	24	70	47	55	41	-11	55	66	6	9	5	32	33	70	-11	35	25
health and social welfare	-12	-73	-32	-7	5	-22	-39	-28	-40	-29	-23	-25	-74	-59	-20	-32	5	-74	-28	23
media	5	-54	-19	-13	3	-6	-14	3	-27	1	-26	-13	5	-38	-20	-14	5	-54	-13	17
poverty	35	7	32	43	51	54	37	28	17	27	20	17	13	12	30	28	54	7	28	14
unemployment	33	-25	17	19	40	11	21	10	-22	7	6	4	-19	5	30	9	40	-25	10	19
agriculture	34	6	25	-2	6	-8	13	6	-5	17	40	-13	-52	-16	-3	3	40	-52	6	22
regional aid	45	35	38	39	27	45	23	56	27	42	19	26	21	24	35	33	56	19	35	11
education	-16	-48	-34	-21	13	-21	-27	-33	-50	-30	-31	-40	-39	-23	-26	-28	13	-50	-30	15
research	55	34	30	48	60	59	54	53	22	56	52	31	21	23	45	43	60	21	48	14
information EU	52	26	53	35	54	53	58	48	37	52	55	28	33	26	38	43	58	26	48	12
foreign policy	53	13	51	24	59	50	55	45	23	51	64	23	14	7	37	38	64	7	45	19
culture	-6	-63	-29	-39	14	-12	-19	-32	-17	-9	-28	-26	-34	-53	-31	-26	14	-63	-28	19
immigration	26	-7	13	26	54	38	28	13	-15	21	34	1	-45	-12	-7	11	54	-45	13	25
political asylum	22	-12	10	15	47	36	23	7	-13	15	41	-3	-20	-7	-11	10	47	-20	10	21
drugs	57	44	59	37	54	42	57	38	22	35	52	24	28	19	52	41	59	19	42	14

**Table A4: Average PA by country - 1999**

	B	DK	D	GR	I	E	F	IRL	UK	L	NL	P	FIN	S	A	Mean	Max	Min	Median	Std Dev
defense	31	-33	13	-62	26	5	6	-43	-36	25	51	-22	-80	-53	-16	-13	51	-80	-16	39
environment	28	-7	28	9	24	25	21	-4	-4	15	66	1	-24	-17	3	11	66	-24	9	22
currency	58	-2	29	4	65	32	40	29	-31	49	59	10	1	-9	20	24	65	-31	29	28
humanitarian	54	5	25	25	62	42	49	35	21	27	54	28	-8	-24	8	27	62	-24	27	24
health and social welfare	-19	-76	-39	-17	5	-27	-42	-30	-44	-33	-32	-17	-78	-82	-39	-38	5	-82	-33	25
media	-7	-60	-32	-33	5	-17	-25	-14	-38	-11	-28	-17	2	-54	-33	-24	5	-60	-25	18
poverty	31	-11	26	17	51	32	27	18	6	20	18	16	1	-4	22	18	51	-11	18	16
unemployment	14	-39	9	8	36	1	13	-5	-29	-3	-1	7	-29	-13	18	-1	36	-39	1	20
agriculture	29	-4	17	-25	4	-5	0	-1	-16	5	34	-14	-55	-29	-11	-5	34	-55	-4	22
regional aid	50	21	28	20	31	42	11	41	15	42	19	25	13	9	24	26	50	9	24	13
education	-27	-59	-40	-37	9	-30	-33	-40	-57	-36	-40	-38	-51	-48	-37	-38	9	-59	-38	16
research	56	21	17	28	59	41	50	40	9	57	48	26	9	2	31	33	59	2	31	19
information EU	63	17	47	12	56	43	54	47	22	48	57	28	33	30	35	39	63	12	43	16
foreign policy	65	9	49	0	63	42	51	35	14	49	63	22	12	8	27	34	65	0	35	22
culture	-17	-67	-33	-48	12	-14	-17	-30	-20	-14	-30	-26	-34	-52	-36	-28	12	-67	-30	19
immigration	25	-28	2	0	55	21	21	-14	-30	9	42	-11	-62	-28	-25	-1	55	-62	0	31
political asylum	26	-29	0	-10	50	22	16	-7	-22	9	46	-11	-35	-21	-26	1	50	-35	-7	27
crime	60	34	50	2	42	45	51	11	-11	41	81	22	34	31	36	35	81	-11	36	23
police	-28	-55	-24	-56	-5	-22	-22	-36	-58	-12	-25	-41	-49	-59	-37	-35	-5	-59	-36	18
justice	-14	-72	-21	-52	13	-14	-15	-19	-40	-9	11	-30	-45	-55	-41	-27	13	-72	-21	24
accepting refugees	28	-43	4	-15	54	18	24	-31	-30	9	51	1	-58	-33	-28	-3	54	-58	1	34
juvenile crime prevention	-2	-53	0	-7	19	6	-4	-22	-49	7	-1	-1	-21	-45	10	-11	19	-53	-2	22
urban crime prevention	-5	-57	-11	-11	-7	-7	-15	-25	-49	7	-34	-7	-7	-44	10	-17	10	-57	-11	20
drugs	48	30	44	18	51	32	49	18	5	28	53	24	21	10	37	31	53	5	30	15
human beings exploitation	72	47	60	26	65	49	60	37	19	50	86	31	49	38	49	49	86	19	49	18

Table A5: Average PA by country - 2000

	B	DK	D	GR	I	E	F	IRL	UK	L	NL	P	FIN	S	A	Mean	Max	Min	Median	Std Dev
defense	23	-31	19	-40	20	2	7	-27	-30	25	37	-23	-76	-54	-10	-11	37	-76	-10	33
environment	25	4	35	18	28	32	29	12	-9	23	54	-4	-16	-8	-3	15	54	-16	18	20
currency	54	-10	19	27	59	37	34	29	-41	51	44	2	-11	-30	11	18	59	-41	27	31
humanitarian	48	13	33	31	63	50	54	38	17	22	41	18	-1	-20	5	27	63	-20	31	23
health and social welfare	-27	-67	-32	-9	-6	-23	-39	-26	-38	-27	-28	-25	-77	-79	-42	-36	-6	-79	-28	22
media	-16	-58	-27	-27	-6	-21	-22	-12	-32	-11	-26	-26	7	-53	-37	-24	7	-58	-26	17
poverty	24	6	33	20	51	46	36	23	3	23	17	4	7	5	19	21	51	3	20	15
unemployment	9	-20	13	15	40	8	17	0	-26	6	-2	-3	-27	-11	9	2	40	-27	6	18
agriculture	30	-1	20	-19	-1	0	4	5	-20	13	31	-18	-47	-30	-26	-4	31	-47	-1	23
regional aid	47	27	28	22	30	46	14	48	10	47	16	11	19	8	23	27	48	8	23	14
education	-36	-50	-33	-31	1	-22	-30	-35	-53	-33	-35	-43	-46	-46	-40	-36	1	-53	-35	13
research	51	21	23	29	63	52	52	47	8	60	50	18	13	6	29	35	63	6	29	20
information EU	60	16	48	23	55	48	58	51	23	52	56	13	34	31	32	40	60	13	48	16
foreign policy	63	10	50	14	63	48	56	42	10	48	58	15	24	3	29	36	63	3	42	21
culture	-23	-65	-28	-28	4	-10	-15	-30	-21	-13	-26	-35	-30	-54	-36	-27	4	-65	-28	17
immigration	16	-36	-17	-12	36	16	15	-24	-35	-10	29	-24	-67	-34	-46	-13	36	-67	-17	30
political asylum	18	-32	-12	-4	38	17	16	-18	-33	-6	34	-23	-45	-23	-41	-8	38	-45	-12	27
crime	51	33	49	10	33	48	51	17	-17	47	71	11	33	34	33	34	71	-17	33	22
police	-36	-55	-29	-41	-19	-26	-27	-41	-58	-28	-25	-40	-55	-65	-49	-40	-19	-65	-40	14
justice	-25	-70	-29	-38	-3	-18	-18	-24	-43	-22	0	-37	-49	-59	-48	-32	0	-70	-29	20
accepting refugees	25	-40	-4	-10	40	17	26	-34	-32	-14	34	-9	-64	-39	-42	-10	40	-64	-10	32
juvenile crime prevention	-12	-44	-3	10	11	6	-13	-27	-48	1	-7	-11	-26	-47	3	-14	11	-48	-11	20
urban crime prevention	-17	-51	-13	2	-14	-10	-23	-29	-48	-5	-34	-14	-15	-46	9	-21	9	-51	-15	18
drugs	44	34	46	16	51	35	50	24	3	33	45	14	30	17	36	32	51	3	34	15
human beings exploitation	65	47	60	27	64	56	62	45	20	53	79	22	45	41	46	49	79	20	47	17



Table A6: Average PA by country - 2001

	B	DK	D	GR	I	E	F	IRL	UK	L	NL	P	FIN	S	A	Mean	Max	Min	Median	Std Dev
defense	26	-16	14	-3	33	19	1	-31	-16	23	24	-28	-82	-56	-18	-7	33	-82	-3	33
environment	28	12	38	42	40	42	34	8	11	30	38	0	-17	6	3	21	42	-17	28	19
currency	53	7	39	51	73	47	43	32	-30	63	55	10	5	6	34	32	73	-30	39	28
humanitarian	56	24	39	54	65	58	56	47	35	39	43	26	0	9	13	38	65	0	39	20
health and social welfare	-25	-65	-28	27	4	-7	-39	-20	-26	-34	-30	-32	-77	-77	-37	-31	27	-77	-30	28
media	-10	-49	-27	11	0	-9	-13	-6	-22	-1	-24	-36	3	-49	-35	-18	11	-49	-13	18
poverty	30	20	37	48	53	48	32	31	26	30	13	15	3	25	25	29	53	3	30	14
unemployment	8	-25	13	40	41	16	8	6	-14	-10	-15	-6	-32	-4	9	2	41	-32	6	21
agriculture	35	10	23	16	20	27	10	5	-8	13	17	-8	-47	-12	-18	5	35	-47	10	21
regional aid	45	38	36	46	31	44	10	46	28	44	30	20	18	26	26	33	46	10	31	11
education	-40	-45	-32	11	6	-11	-26	-29	-45	-40	-45	-40	-56	-37	-33	-31	11	-56	-37	19
research	53	33	25	58	63	52	48	49	26	69	38	16	13	20	33	40	69	13	38	18
information EU	61	25	53	61	65	57	51	51	42	58	47	9	37	34	41	46	65	9	51	15
foreign policy	62	20	50	49	65	57	47	41	22	59	48	27	28	23	35	42	65	20	47	15
culture	-8	-62	-15	6	19	18	-4	-23	-11	-14	-22	-29	-28	-48	-28	-17	19	-62	-15	22
immigration	21	-31	-18	28	38	31	9	-22	-27	-8	20	-21	-67	-33	-39	-8	38	-67	-18	31
political asylum	25	-27	-14	33	42	33	14	-14	-22	9	23	-12	-39	-18	-35	0	42	-39	-12	27
crime	61	42	55	57	51	58	51	25	8	51	60	30	42	56	42	46	61	8	51	15
police	-40	-42	-29	-3	-10	-8	-25	-30	-49	-30	-31	-44	-56	-59	-47	-34	-3	-59	-31	17
justice	-21	-67	-29	0	3	1	-20	-20	-33	-25	-4	-40	-50	-51	-45	-27	3	-67	-25	21
accepting refugees	26	-38	-6	26	42	30	25	-26	-20	-11	19	-7	-65	-37	-31	-5	42	-65	-7	31
juvenile crime prevention	-15	-46	-3	40	21	25	-18	-17	-38	-8	-19	-13	-32	-40	4	-11	40	-46	-15	25
urban crime prevention	-16	-50	-15	35	-4	8	-21	-15	-42	-9	-29	-25	-14	-39	11	-15	35	-50	-15	22
drugs	47	45	50	55	59	47	52	37	23	20	29	19	31	27	40	39	59	19	40	13
human beings exploitation	71	65	65	61	72	62	65	58	45	63	61	40	55	58	55	60	72	40	61	9
terrorism	80	73	71	71	81	70	73	66	58	78	71	50	66	77	66	70	81	50	71	8

Table A7: Average PA by country - 2002

	B	DK	D	GR	I	E	F	IRL	UK	L	NL	P	FIN	S	A	Mean	Max	Min	Median	Std Dev
defense	22	-17	7	-23	28	24	0	-24	-22	33	20	3	-81	-60	-7	-6	33	-81	0	32
environment	23	1	28	30	38	47	28	13	9	25	39	17	-27	-4	2	18	47	-27	23	19
currency	61	5	37	47	68	57	41	43	-32	67	51	26	10	-6	34	34	68	-32	41	29
humanitarian	49	22	32	51	65	56	52	47	29	37	42	34	-5	-14	4	33	65	-14	37	23
health and social welfare	-27	-68	-36	9	-3	-3	-44	-22	-32	-28	-37	-7	-79	-82	-46	-34	9	-82	-32	27
media	-14	-52	-33	-2	-3	0	-27	-3	-30	-8	-33	-12	-3	-54	-40	-21	0	-54	-14	19
poverty	21	11	27	41	49	50	29	29	18	33	11	22	1	6	16	24	50	1	22	15
unemployment	4	-29	-3	31	32	22	5	5	-22	-13	-25	13	-37	-22	3	-2	32	-37	3	22
agriculture	21	2	22	10	3	19	0	2	-13	6	10	7	-47	-21	-14	0	22	-47	3	18
regional aid	38	30	28	45	25	52	6	50	23	53	30	23	10	14	16	29	53	6	28	15
education	-38	-50	-37	1	3	-5	-37	-25	-51	-34	-54	-21	-59	-54	-38	-33	3	-59	-37	20
research	49	27	24	59	64	60	47	49	22	66	37	24	11	4	31	38	66	4	37	20
information EU	60	27	50	55	62	61	57	52	35	55	46	26	38	39	36	47	62	26	50	12
foreign policy	62	20	51	36	65	61	55	48	21	57	51	34	31	14	34	43	65	14	48	17
culture	-8	-56	-18	0	22	19	-11	-10	-8	-6	-28	-4	-27	-51	-29	-14	22	-56	-10	22
immigration	18	-30	-22	29	47	34	17	-7	-30	-2	8	8	-62	-43	-32	-5	47	-62	-2	31
political asylum	18	-25	-13	31	44	40	18	2	-26	3	9	9	-35	-26	-25	2	44	-35	3	26
crime	51	37	49	52	51	65	48	32	-1	57	53	36	35	40	35	43	65	-1	48	15
police	-38	-51	-38	-24	-14	-5	-35	-31	-55	-26	-53	-19	-64	-66	-49	-38	-5	-66	-38	18
justice	-28	-69	-36	-19	-1	2	-28	-15	-39	-21	-32	-18	-56	-64	-46	-31	2	-69	-28	21
accepting refugees	16	-39	-7	19	45	38	27	-16	-30	-3	3	15	-58	-43	-31	-4	45	-58	-3	31
juvenile crime prevention	-17	-46	-15	36	16	24	-23	-17	-50	-6	-44	4	-39	-55	-4	-16	36	-55	-17	28
urban crime prevention	-20	-46	-26	30	-12	9	-30	-19	-50	-3	-55	3	-22	-53	6	-19	30	-55	-20	25
drugs	41	32	41	46	55	55	47	35	9	25	20	33	21	10	34	34	55	9	34	15
human beings exploitation	64	59	63	59	71	67	64	58	34	62	62	46	49	47	52	57	71	34	59	10
terrorism	73	71	72	67	82	76	71	70	47	80	73	52	66	69	61	69	82	47	71	9
ageing	14	-48	5	43	35	44	20	22	-9	11	-37	15	-39	-47	16	3	44	-48	14	32



Table A8: Average PA by country - 2003

	B	DK	D	GR	I	E	F	IRL	UK	L	NL	P	FIN	S	A	Mean	Max	Min	Median	Std Dev
defense	30	-19	17	-5	24	22	0	-21	-28	27	19	4	-79	-55	-14	-5	30	-79	0	32
environment	28	8	35	44	30	40	35	17	15	14	35	17	-19	5	-8	20	44	-19	17	18
currency	68	9	48	48	60	52	51	40	-39	56	48	31	25	-13	26	34	68	-39	48	29
humanitarian	53	28	34	51	59	56	52	44	36	22	43	35	-4	-10	5	34	59	-10	36	22
health and social welfare	-36	-67	-47	18	-12	-22	-53	-20	-36	-35	-43	-5	-82	-81	-49	-38	18	-82	-36	27
media	-18	-58	-31	-2	-4	-15	-29	0	-29	-18	-35	-10	-3	-49	-46	-23	0	-58	-18	18
poverty	11	5	18	45	35	36	16	28	13	7	2	21	-14	7	4	16	45	-14	13	15
unemployment	-9	-18	-11	42	21	7	-6	2	-26	-23	-31	11	-46	-12	-9	-7	42	-46	-9	22
agriculture	30	13	20	14	1	17	5	6	-12	-6	16	6	-50	-13	-22	2	30	-50	6	20
regional aid	42	28	28	47	12	41	0	43	25	32	27	29	9	22	17	27	47	0	28	14
education	-41	-40	-37	10	-5	-17	-42	-27	-53	-43	-56	-19	-59	-48	-43	-35	10	-59	-41	19
research	51	24	21	59	58	53	47	46	24	47	34	33	12	16	16	36	59	12	34	16
information EU	59	30	51	57	61	58	56	47	40	37	43	35	38	41	27	45	61	27	43	11
foreign policy	63	20	51	54	63	58	57	45	26	42	52	38	32	21	26	43	63	20	45	15
culture	-10	-60	-22	-1	20	13	-15	-18	-8	-19	-31	2	-30	-44	-37	-17	20	-60	-18	21
immigration	23	-28	-9	33	48	37	18	2	-29	2	18	14	-65	-36	-39	-1	48	-65	2	33
political asylum	26	-22	-3	37	47	44	18	3	-23	0	17	20	-31	-15	-32	6	47	-32	3	27
crime	58	44	55	55	47	61	51	30	4	35	63	42	36	55	28	44	63	4	47	16
police	-45	-58	-45	-18	-23	-21	-47	-38	-62	-34	-59	-18	-75	-71	-53	-45	-18	-75	-45	19
justice	-36	-68	-41	-14	-6	-17	-39	-22	-47	-31	-35	-15	-65	-63	-54	-37	-6	-68	-36	20
accepting refugees	26	-34	2	25	41	35	26	-14	-28	-13	11	23	-64	-38	-34	-2	41	-64	2	32
juvenile crime prevention	-26	-48	-24	44	2	2	-33	-20	-53	-28	-47	12	-43	-56	-10	-22	44	-56	-26	28
urban crime prevention	-26	-44	-33	40	-21	-15	-40	-19	-51	-16	-54	9	-29	-52	0	-23	40	-54	-26	25
drugs	41	43	42	50	45	42	46	33	14	9	30	36	23	28	26	34	50	9	36	12
human beings exploitation	68	61	67	61	67	65	64	52	43	50	72	49	50	58	39	58	72	39	61	10
terrorism	76	70	74	67	76	72	75	61	52	65	79	55	66	75	45	67	79	45	70	10
ageing	8	-51	-4	35	33	24	11	15	-10	-3	-39	22	-47	-45	2	-3	35	-51	2	29

## Eurobarometer Data on Preferences of EU-citizens

### Defence

Date	Should be decided by the (NATIONAL) government/mainly at national level	Should be decided mainly at European Union level	Should be decided jointly within the European Union/both at national and European Union level	DK - Don't know
12/1995	44%	0%	51%	4%
01/1996	49%	0%	44%	7%
05/1996	27%	29%	39%	5%
11/1996	44%	0%	51%	5%
04/1997	42%	0%	52%	6%
11/1997	44%	0%	50%	6%
05/1998	43%	0%	50%	6%
11/1998	44%	0%	50%	6%
04/1999	48%	0%	45%	7%
11/1999	46%	0%	48%	5%
06/2000	46%	0%	49%	5%
01/2001	48%	0%	47%	5%
11/2001	45%	0%	51%	4%
11/2003	45.30%	--	50%	4.80%

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### Environment

Date	Should be decided by the (NATIONAL) government/mainly at national level	Should be decided mainly at European Union level	Should be decided jointly within the European Union/both at national and European Union level	DK - Don't know
06/1995	27%	0%	69%	4%
12/1995	30%	0%	66%	3%
01/1996	26%	0%	69%	4%
05/1996	18%	30%	49%	3%
11/1996	32%	0%	65%	3%
04/1997	33%	0%	63%	4%
11/1997	32%	0%	64%	4%
05/1998	33%	0%	63%	4%
11/1998	30%	0%	66%	4%
04/1999	40%	55%	5%	0%
11/1999	37%	0%	58%	4%
06/2000	38%	0%	58%	4%
01/2001	37%	0%	59%	4%
11/2001	33%	0%	64%	3%
11/2003	33.90%	--	61.80%	4.30%

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## Currency

Date	Should be decided by the (NATIONAL) government/mainly at national level	Should be decided mainly at European Union level	Should be decided jointly within the European Union/both at national and European Union level	DK - Don't know
06/1995	35%	0%	58%	7%
12/1995	33%	0%	62%	5%
01/1996	39%	0%	54%	7%
05/1996	28%	29%	37%	5%
11/1996	40%	0%	54%	6%
04/1997	42%	0%	51%	7%
11/1997	38%	0%	54%	7%
05/1998	28%	0%	65%	6%
11/1998	28%	0%	67%	5%
04/1999	33%	0%	61%	6%
11/1999	35%	0%	59%	5%
06/2000	36%	0%	59%	5%
01/2001	39%	0%	57%	4%
11/2001	31%	0%	65%	4%
11/2003	32%	--	63.30%	4.60%

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## Health & Social Welfare

Date	Should be decided by the (NATIONAL) government/mainly at national level	Should be decided mainly at European Union level	Should be decided jointly within the European Union/both at national and European Union level	DK - Don't know
06/1995	54%	0%	41%	5%
12/1995	59%	0%	36%	4%
01/1996	56%	0%	39%	5%
05/1996	40%	18%	37%	5%
11/1996	61%	0%	34%	4%
04/1997	62%	0%	33%	5%
11/1997	62%	0%	33%	5%
05/1998	60%	0%	35%	5%
11/1998	61%	0%	34%	4%
04/1999	65%	0%	30%	5%
11/1999	62%	0%	34%	4%
06/2000	62%	0%	33%	4%
01/2001	64%	0%	32%	4%
11/2001	59%	0%	37%	4%
11/2003	67%	--	28.90%	4.10%

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## Media

Date	Should be decided by the (NATIONAL) government	Should be decided jointly within the European Community/Union	DK - Don't know
06/1995	46%	45%	9%
12/1995	54%	39%	6%
01/1996	53%	37%	9%
11/1996	52%	41%	6%
04/1997	52%	40%	8%
11/1997	50%	42%	8%
05/1998	52%	40%	8%
11/1998	55%	38%	7%
04/1999	58%	33%	8%
11/1999	58%	34%	7%
06/2000	58%	35%	7%
01/2001	60%	34%	7%
11/2001	56%	38%	6%
11/2003	59.70%	33.60%	6.80%
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## Unemployment

Date	Should be decided by the (NATIONAL) government	Should be decided jointly within the European Community/Union	DK - Don't know
12/1995	39%	57%	4%
01/1996	37%	59%	4%
11/1996	43%	53%	4%
04/1997	45%	51%	4%
11/1997	41%	55%	4%
05/1998	42%	53%	4%
11/1998	40%	56%	4%
04/1999	47%	48%	4%
11/1999	44%	52%	4%
06/2000	42%	54%	4%
01/2001	45%	51%	4%
11/2001	43%	53%	3%
11/2003	52.80%	43.70%	3.50%
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## Regional Aid

Date	Should be decided by the (NATIONAL) government	Should be decided jointly within the European Community/Union	DK - Don't know
06/1995	26%	67%	7%
12/1995	32%	61%	7%
01/1996	30%	62%	8%
11/1996	32%	63%	5%
04/1997	32%	61%	7%
11/1997	31%	61%	7%
05/1998	30%	63%	7%
11/1998	29%	64%	6%
04/1999	33%	59%	7%
11/1999	33%	60%	6%
06/2000	35%	59%	6%
01/2001	34%	60%	6%
11/2001	32%	63%	5%
11/2003	36.30%	57.50%	6.20%

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## Education

Date	Should be decided by the (NATIONAL) government/mainly at national level	Should be decided mainly at European Union level	Should be decided jointly within the European Union/both at national and European Union level	DK - Don't know
06/1995	55%	0%	40%	5%
12/1995	67%	0%	29%	3%
01/1996	58%	0%	37%	5%
05/1996	40%	18%	38%	4%
11/1996	59%	0%	37%	4%
04/1997	60%	0%	35%	5%
11/1997	62%	0%	33%	5%
05/1998	59%	0%	36%	5%
11/1998	60%	0%	35%	4%
04/1999	66%	0%	29%	5%
11/1999	62%	0%	34%	4%
06/2000	62%	0%	33%	4%
01/2001	64%	0%	32%	4%
11/2001	61%	0%	35%	4%
11/2003	64.30%	--	31.50%	4.10%

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## Research

Date	Should be decided by the (NATIONAL) government/mainly at national level	Should be decided mainly at European Union level	Should be decided jointly within the European Union/both at national and European Union level	DK - Don't know
06/1995	18%	0%	75%	6%
12/1995	25%	0%	70%	5%
01/1996	22%	0%	71%	7%
05/1996	14%	30%	51%	5%
11/1996	25%	0%	70%	5%
04/1997	27%	0%	67%	6%
11/1997	26%	0%	67%	6%
05/1998	24%	0%	69%	7%
11/1998	24%	0%	70%	6%
04/1999	30%	0%	63%	7%
11/1999	29%	0%	65%	5%
06/2000	29%	0%	65%	6%
01/2001	27%	0%	67%	5%
11/2001	27%	0%	68%	5%
11/2003	27.90%	--	66.30%	5.80%
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## Foreign Policy

Date	Should be decided by the (NATIONAL) government/mainly at national level	Should be decided mainly at European Union level	Should be decided jointly within the European Union/both at national and European Union level	DK - Don't know
06/1995	20%	0%	70%	9%
12/1995	22%	0%	70%	8%
01/1996	23%	0%	67%	10%
05/1996	22%	29%	43%	7%
11/1996	23%	0%	69%	7%
04/1997	23%	0%	68%	9%
11/1997	22%	0%	68%	10%
05/1998	21%	0%	70%	9%
11/1998	21%	0%	71%	8%
04/1999	23%	0%	68%	9%
11/1999	22%	0%	69%	8%
06/2000	23%	0%	69%	8%
01/2001	23%	0%	69%	8%
11/2001	22%	0%	71%	7%
11/2003	19.90%	--	72.40%	7.70%
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## Culture

Date	Should be decided by the (NATIONAL) government	Should be decided jointly within the European Community/Union	DK - Don't know
06/1995	50%	42%	7%
12/1995	60%	34%	6%
01/1996	57%	34%	9%
11/1996	56%	38%	6%
04/1997	55%	37%	7%
11/1997	56%	35%	8%
05/1998	53%	39%	8%
11/1998	56%	37%	7%
04/1999	59%	32%	8%
11/1999	52%	39%	8%
06/2000	56%	37%	7%
01/2001	56%	36%	7%
11/2001	49%	44%	6%
11/2003	51%	41.50%	7.50%

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## Immigration

Date	Should be decided by the (NATIONAL) government/mainly at national level	Should be decided jointly within the European Union/both at national and European Union level	DK - Don't know
06/1995	36%	58%	6%
12/1995	37%	57%	6%
01/1996	34%	59%	6%
11/1996	41%	54%	6%
04/1997	39%	55%	6%
11/1997	40%	54%	6%
05/1998	37%	57%	6%
11/1998	37%	57%	5%
04/1999	39%	54%	6%
11/1999	46%	49%	5%
06/2000	49%	46%	5%
01/2001	49%	46%	5%
11/2001	48%	48%	4%
11/2003	44.60%	51.40%	3.90%

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## Political Asylum

Date	Should be decided by the (NATIONAL) government	Should be decided mainly at European Union level	Should be decided jointly within the European Community/Union	DK - Don't know
06/1995	33%	0%	59%	8%
12/1995	37%	0%	55%	7%
01/1996	35%	0%	56%	9%
05/1996	25%	27%	41%	6%
11/1996	38%	0%	55%	7%
04/1997	38%	0%	54%	8%
11/1997	38%	0%	53%	8%
05/1998	36%	0%	55%	8%
11/1998	37%	0%	55%	7%
04/1999	40%	0%	52%	8%
11/1999	43%	0%	51%	6%
06/2000	48%	0%	46%	6%
01/2001	46%	0%	48%	5%
11/2001	45%	0%	51%	4%
11/2003	41.40%	--	53.20%	5.40%

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## Drugs

Date	Should be decided by the (NATIONAL) government	Should be decided jointly within the European Community/Union	DK - Don't know
06/1995	19%	77%	4%
12/1995	19%	77%	3%
01/1996	19%	77%	4%
11/1996	24%	73%	4%
04/1997	26%	69%	4%
11/1997	25%	71%	4%
05/1998	23%	72%	5%
11/1998	24%	72%	4%
04/1999	30%	66%	4%
11/1999	28%	67%	4%
06/2000	30%	66%	4%
01/2001	29%	68%	3%
11/2001	26%	71%	3%
11/2003	28.90%	67.50%	3.70%

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## Poverty

Date	Should be decided by the (NATIONAL) government	Should be decided jointly within the European Community/Union	DK - Don't know
04/1993	29%	66%	4%
11/1998	30%	65%	5%
04/1999	35%	60%	5%
11/1999	34%	61%	5%
06/2000	33%	63%	4%
01/2001	33%	63%	4%
11/2001	30%	66%	4%
11/2003	39.40%	56.50%	4%

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## Humanitarian Aid

Date	Should be decided by the (NATIONAL) government	Should be decided jointly within the European Community/Union	DK - Don't know
11/1998	25%	70%	5%
04/1999	29%	65%	6%
11/1999	28%	67%	5%
06/2000	28%	67%	5%
01/2001	28%	68%	5%
11/2001	24%	72%	4%
11/2003	26.10%	69.10%	4.80%

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## Agriculture

Date	Should be decided by the (NATIONAL) government	Should be decided jointly within the European Community/Union	DK - Don't know
06/1995	41%	52%	7%
12/1995	45%	50%	5%
01/1996	40%	53%	7%

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## Agriculture and Fisheries

Date	Should be decided by the (NATIONAL) government/mainly at national level	Should be decided mainly at European Union level	Should be decided jointly within the European Union/both at national and European Union level	DK - Don't know
05/1996	36%	21%	38%	6%
11/1996	44%	0%	49%	6%
04/1997	43%	0%	50%	7%
11/1997	41%	0%	51%	8%
05/1998	42%	0%	50%	9%
11/1998	41%	0%	51%	8%
04/1999	47%	0%	45%	8%
11/1999	44%	0%	48%	7%
06/2000	47%	0%	46%	7%
01/2001	45%	0%	48%	7%
11/2001	40%	0%	53%	6%
11/2003	42.50%	--	50.10%	7.30%

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## Crime

Date	Should be decided by the (NATIONAL) government	Should be decided jointly within the European Community/Union	DK - Don't know
11/1999	29%	67%	4%
06/2000	31%	65%	4%
01/2001	29%	67%	4%
11/2001	25%	72%	3%
11/2003	25.40%	70.90%	3.70%

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## Police

Date	Should be decided by the (NATIONAL) government	Should be decided jointly within the European Community/Union	DK - Don't know
11/1999	63%	33%	4%
06/2000	64%	32%	4%
01/2001	67%	29%	4%
11/2001	63%	34%	4%
11/2003	69.60%	26.90%	3.40%

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## Justice

Date	Should be decided by the (NATIONAL) government	Should be decided jointly within the European Community/Union	DK - Don't know
11/1999	58%	38%	4%
06/2000	60%	36%	5%
01/2001	62%	34%	4%
11/2001	58%	38%	4%
11/2003	64.80%	31.50%	3.70%

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## Accepting Refugees

Date	Should be decided by the (NATIONAL) government	Should be decided jointly within the European Community/Union	DK - Don't know
11/1999	42%	53%	5%
06/2000	47%	48%	5%
01/2001	44%	51%	5%
11/2001	43%	53%	4%
11/2003	42.90%	52.60%	4.60%

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## Juvenile Crime Prevention

Date	Should be decided by the (NATIONAL) government	Should be decided jointly within the European Community/Union	DK - Don't know
11/1999	51%	44%	4%
06/2000	53%	43%	4%
01/2001	53%	43%	4%
11/2001	51%	45%	4%
11/2003	58.30%	37.50%	4.20%

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## Urban Crime Prevention

Date	Should be decided by the (NATIONAL) government	Should be decided jointly within the European Community/Union	DK - Don't know
11/1999	57%	38%	4%
06/2000	57%	38%	4%
01/2001	59%	37%	4%
11/2001	56%	40%	4%
11/2003	62.70%	33.10%	4.20%

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## Terrorism

Date	Should be decided by the (NATIONAL) government	Should be decided jointly within the European Community/Union	DK - Don't know
11/2001	12%	85%	3%
11/2003	12.50%	83.70%	3.80%

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## Aging

Date	DK - Don't know	(NATIONALITY) Government	Jointly within the European Union
11/2003	9.20%	42.40%	48.40%

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# CURRICULUM VITAE

## Paula Thun-Hohenstein

Nationality: Austrian  
Date of Birth: 10 Feb 1988

### EDUCATION

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- 01-05/2009** Student exchange (ERASMUS) at Sciences Po Bordeaux, France
- 10/2006-04/2012** Magister program (equivalent of Master program) in Political Science at the University of Vienna, Austria
- 06/2006** High-school graduation with distinction at Landstraßer Gymnasium, Vienna, Austria
- 1994.2006** Landstraßer Gymnasium, GRG 3, Vienna  
International School of Brussels, Brussels  
Withrow Elementary School, Stillwater, MN, USA

### PROFESSIONAL EXPERIENCE

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- 02/2010-06/2011** Department of Methods in the Social Sciences, University of Vienna, Austria  
*Student assistant/AUTNES-project team member*
- Preparation of the Austrian SPSS data files for the 'The European Voter Database'
  - Preparation of the undergraduate lecture on qualitative research methods in the social sciences in the summer semester 2011 and design of exam questions for the final exam
  - Creation of databases on committee assignments in the Irish parliament and the Welsh National Assembly
  - Editing of scientific papers
  - Research on the political representation of immigrants in Europe
- since 11/2009** Do&Co International Event Catering, Vienna, Austria  
*Freelancer*
- 07-08/2008** Grameen Bank, Dhaka, Bangladesh  
*Internship program*
- Research on micro-finance institutions
  - Field visits: intensive study of the activities of the bank's area and branch offices, participation in center meetings, interviews with creditors, etc.
  - Participation in the Grameen International Dialogue Program
  - Written report on the functioning of the Grameen Bank and the internship program
- 03/2008-07/2009** Service employee at the organic restaurant „Die Burgermacher“
- 09/2007** ORF (Austrian state television), Vienna, Austria  
*Internship, editorial department of the programs „Bürgeranwalt“ and „Schauplatz Gericht“*
- Assistance during the production of episodes
  - Contribution to the preparation and development of content
  - Cutting and editing of previous shows
  - Research on law-suits and other cases presented in the show
- 06-07/2006 & 07/2007** Minopolis Kinderveranstaltungen GmbH, Vienna, Austria  
*Internship, marketing department*
- Management of a telemarketing campaign and other projects
  - Reception of clients
  - Research
  - Database maintenance
  - Hotline supervision
- 2006-2009** Freelance with MAK Art Society
- Event supervision

## ADDITIONAL QUALIFICATIONS

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- 07/2011** Essex Summer School in Social Science Data Analysis and Collection, participation in the course 'Applying Regression'
- 10/2007** UNIS (United Nations Information Service) Student Forum, focusing on international security

## LANGUAGE SKILLS

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**German:** native-speaker  
**English:** excellent  
**French:** fluent  
**Italian:** basic

## IT SKILLS

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**Software:** all Microsoft Office applications, especially Word, Excel and Powerpoint, SPSS, basic STATA

## EXTRACURRICULAR ACTIVITIES

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**Volunteering with the Missionaries of Charity, Dire Dawa/Ethiopia (09/2009)**  
Taking care of and entertaining old, sick and disabled people

**Parish of St. Rochus:**  
Teaching confirmation class (2010/11)

Youth choir (2005-2009)

Founding of the youth initiative JUGEND HILFT (2006)

Leading a children's group for girls age 8-13 (2002-2005)

**Short film „Eine Minute“, [www.eineminute.com](http://www.eineminute.com)**  
Costumes and props (12/2006-04/2007)



### *Zusammenfassung:*

Meine Magisterarbeit beschäftigt sich mit der Output-Legitimität der Europäischen Union (EU). Ich fasse zuerst die Entwicklung der Legitimitätstheorien in Bezug auf die EU zusammen, um zu zeigen, dass im Lichte der momentan stockenden demokratischen Entwicklung der EU der Output-Legitimität wieder größere Bedeutung zugemessen wird und untersuche dann empirisch ob diese überhaupt hält was sie verspricht, in dem ich die Präferenzen der EU-Bürger hinsichtlich der Kompetenzverteilung der EU mit der tatsächlichen Kompetenzverteilung in der EU vergleiche. In einigen Politikfeldern stimmen die Präferenzen und die tatsächliche Verteilung kaum überein – Output-Legitimität ist also nicht unfehlbar.

### *Abstract*

In my Magisterthesis, I compare citizen preferences towards the allocation of competences in the European Union (EU) with the actual empirical allocation of competences in order to test the quality of the Union's output legitimacy. I start with a literary review of legitimacy theory concerning the EU and find that, with the halting republican democratic development, there has been a re-discovering of output-legitimacy. However, my empirical findings suggest, that output-legitimacy might not be as strong as traditionally assumed.