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LEGITIMACY: A GROWING NECESSITY FOR THE FUTURE OF EUROPE

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Abstract.

The European Union's political legitimacy is often discussed with respect to its democratic deficit with particular emphasis placed on the gap that exists between the democratic nature of national authorities and that of the European Institutions. In an attempt to improve the effectiveness and transparency of the Union and develop strategies to improve its communication and engagement with the citizens, the European Commission has issued a White Paper on European Governance in 2001. Its aim is to achieve a more efficient, democratic form of partnership between different levels of governance in Europe whilst increasing the legitimacy of the Union's Institutions. A number of proposals have been made that draw on the principles of openness, participation, accountability, effectiveness and coherence, essential to any democratic system. A process of involvement whereby citizens become active subjects rather than the passive objects of the integration process has thus started.

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Introduction

European integration has evolved from being an essentially technical undertaking to a more political one. Although the Schuman Declaration of 1950, the foundation for the European Coal and Steel Community, specifically mentions the eventual establishment of a “federation of Europe”, the constituent Member States preferred to limit their view of the European project to a means of increasing mutual trade, economic growth and global competitiveness. Indeed, initial attempts at developing a political union failed due to the fact that Member States regarded them as a threat to national autonomy. Since then, whilst focusing attention on the quest for efficiency and on close cooperation exclusively at the European level, the Member States have comparatively given little consideration to the political realm, which according to the Schuman plan, was meant to develop almost inevitably out of economic integration. Thus, the now European Union has for many years been regarded primarily as a useful technocratic tool for achieving economic goals.

However, in the late 1980s and early 1990s, following the “non-political phase of the Community”, the European project started adopting a more social attitude (Christiansen, 1997). It switched from the essentially market-oriented Single European Act of 1985 to the sensitive issues of establishing a single currency, a common foreign and security policy and enhanced external co-operation as provided in the Treaty on the European Union of 1992. Together with the creation of the concept of European citizenship and of a single European currency, the issues raised at Maastricht touched at the heart of national sovereignty.¹ The policy remit of the Union has expanded in such a way as to affect areas that were traditionally attributed to national state sovereignty and thus gained a variety of new competencies. However, it was at this stage that the lack of public support in the European project started to be perceived through Denmark’s narrow rejection and France’s narrow acceptance of the new Treaty. Thus, although the system had worked so far, the ever-expanding scope of European competencies meant that the European Union could no longer rely on the legitimacy it borrowed from Member States to consider itself fundamentally democratic and legitimate. The legitimacy of the Union was being questioned in terms of the operation of its Institutions, especially the European Parliament and its role.

The main problem lies in the fact that the Union is not a state, although it may be considered as a polity in formation based on a combination of supranational integration and intergovernmentalism.² It does not yet have sufficient political identity or a concrete political domain with which its citizens can identify strongly. Hence, it cannot easily adapt standards of democracy as developed for the nation-state and expected from national authorities. Moreover, Union citizens regard its Institutions as being remote at times, leading to a further decrease in the degree of acceptance of an integration process which has often been decided upon behind closed doors. The Union’s political identity and democratic legitimacy in terms of accountability and representation have thus been a major point of discussion among scholars and politicians in the past decade.

The political legitimacy of the Union just referred to, is often discussed with reference to its democratic deficit. Particular emphasis is placed on the gap that exists between the democratic nature of national authorities and that of the European Institutions, especially when powers that traditionally fall under nation-state sovereignty are delegated to institutions that are not directly responsible to the voters. Despite it being the only institution directly representing the citizens of the Union, the European Parliament is nevertheless in a secondary position with the political legitimacy of the Union just referred to, is often discussed with reference to its democratic deficit. Particular emphasis is placed on the gap that exists between the democratic nature of national authorities and that of the European Institutions, especially when powers that traditionally fall under nation-state sovereignty are delegated to institutions

1. The Treaty of European Union also shifted the focus of the debate on achieving “an ever closer Union” through integration to what Europe should aim at becoming – a federal or state-based union.

2. Under the intergovernmental approach, the European Union would be democratized through the elected institutions of its Member States, whereas under the supranational approach, entirely new democratic institutions would be established at the European level.

that are not directly responsible to the voters. Despite it being the only institution directly representing the citizens of the Union, the European Parliament is nevertheless in a secondary position with respect to the Commission and the Council of Ministers, irrespective of the fact that its powers have been increasing steadily over the years. Thus, it becomes necessary to consider the possibility of including civil society alongside the traditional discourses of parliamentary representation, power-separation and decision-making mechanisms in the process of opinion formation and decision-making in the institutional setting of the Union. Moreover, the Union has been criticised for trading institutional accountability and transparency with efficiency in policy-making and implementation. Dealing with issues in technical terms tends to favour the expert over the politician. Public debate has thus in the past also been given second priority, contributing to the decrease in democratic control.

It follows that the process of integration has led to the establishment of a political system at European level which is undergoing major changes with the prospect and challenges of enlargement, the recent adoption of the Euro and the concerns on foreign and security policies. The Union has recognised the need to find a proper translation for the demand for public accountability in an institutional setting of transnational policy-making whilst preserving national diversity through democracy, effective integration and the maintenance of Member State autonomy. In so doing, it is also seeking to find a balance between centralising power at the European level and maintaining efficient decision- and policy-making in a system of multi-level governance. As complex and multifaceted as it is, the Union is an unprecedented entity whose “identity, legitimacy and democratic quality are contested” (Erikson, 2001). However, the answer does not lie in a choice between intergovernmental national sovereignty and supranational European institutions, but in creating a structure of multilevel governance, where “local, regional, national and supranational institutions all have their part to play in achieving the goals of democracy and effective, coherent governance” (Petersen, 2002).

A fully functioning political infrastructure mediating between decisionmakers and Union citizens is not yet available. Thus, the issue of finding a proper arrangement for European Governance arises. Governance is not seen as a goal in itself, nor does it equate with rule by government authorities. It is a mechanism through which various actors can deal with several types of issues, arriving at mutually satisfactory decisions and policies through co-operation. Since much of European Union approaches boil down to steering - setting rules for efficient problem solving – it needs to find a way of legitimating such arrangements by allowing popular sovereignty to wield influence on the process of policy-making. Thus, in order to improve the effectiveness of the Union and develop strategies to enhance its communication and engagement with the wider European publics, the European Commission has issued a White Paper on European Governance, seeking to strengthen its effectiveness whilst increasing the democratic legitimacy of the Union’s Institutions.

The White Paper makes a number of proposals that draw on the principles of openness, participation, accountability, effectiveness and coherence, essential to any democratic system. It proposes ways of improving, amongst others, the involvement of the Union’s citizens, policy-making and implementation and the transparency of its Institutions. Participation of and consultation with all levels of government and of civil society is meant to link the Union more closely to its citizens and make the policy-formation process more inclusive and more accountable. The public’s confidence in the Union’s decisions and actions is meant to be improved by producing more efficient legislation and by ensuring more transparent and clearly delimited functions of the Institutions.

The Democratic Requisite for Legitimacy

A central concept in the western liberal tradition of government, legitimacy transforms the exercise of power into acceptable political authority. It may be defined as “a shared expectation among actors in an arrangement of asymmetric power such that the actions of those who rule are accepted voluntarily by those who are ruled because the latter are convinced that the actions of the former conform to pre-established norms” (Schmitter, 2001).

Thus, legitimacy is usually associated with nation-states having fixed territorial boundaries, the citizens of which exhibit a unique identity. Such nation-states would have polities based on formal constitutions and can exercise their own sovereignty over other claimants to authority. Political legitimacy can be partly measured through the acceptability of the efficiency and the procedure of acts of government. In this respect, Scharpf (1998) and Schimmelfennig (1996) distinguish between input legitimacy and output legitimacy. The input side of legitimacy can be acquired through, amongst others, the democratic selection of office holders by politically equal citizens, electoral approval of policy programmes and public consultation. On the other hand, meeting public needs and values and ensuring efficient and effective policies indicated by public opinion, secure output legitimacy. Thus, the degree of political legitimacy partly depends on the performance of the authorities and the extent to which they conform to the fundamental liberal democratic values of consensus, representation, transparency and accountability. Moreover, another fundamental aspect is that of political identity, the absence of which may lead the citizenry to question the right of institutions to make decisions on their behalf (Beetham, 1991).

In the case of the Union, the lack of citizen consensus in its decisions together with the low voter turnout at European Parliamentary elections suggest the perception of the existence of a legitimacy deficit in the Union. However, the Union is neither a nation-state nor does it fully have its characteristics. It can be described as “polity in formation” (Schmitter, 2001). The prospects of further enlargement and the further expansion of the Union’s activities, together with the inevitable modification to the weights of its decision-making system make the European project an attempt to create a large-scale integrated polity out of previously independent ones. Its success depends on the legitimacy this new polity can acquire in view of the fact that respective Member States would be losing complete control over the integrated policy areas (Weiler, 1999:3). However, it is difficult to apply the standards expected from national authorities to the European Union, hence some contest the existence of a legitimacy deficit in the Union simply by pointing out its non-state character (Goehring, 2002:5).

Originally, the main Institutions of the European Economic Community were the European Commission and the Council of Ministers. Whereas the Commission is bureaucratic in nature and is made up of Commissioners appointed by Governments of Member States, the ultimate decisionmaking authority is to this day the Council of Ministers, representing national Governments. Additionally, the European Council brings together the Heads of States or Government of Member States, its responsibility being to “provide the Union with the necessary impetus for its development and [...] define the general political guideline thereof” (Treaty on the European Union, Art.4). In this conventional institutional perspective, Union citizens provide legitimacy and authority to the European Parliament, the assent of which is required for appointing the members of the Commission, through direct elections. Due to its composition, the Parliament, for which the protection of democracy and parliamentary status is of prime importance, bypasses to a certain extent the national political arena, while its political groups cut across national borders. Since over the years it was found necessary to increase the powers of the Parliament as well as its credibility with the public, it became involved in the co-decision procedure together with the Council of Ministers. The latter, concerned with advancing integration and political representation, provides the arena in which individual state representatives seek to protect their national interests. The Commission, on the other hand, is responsible for the initiation and administration of policies and produces and supervises legislation and its implementation together with the European Court of Justice, but is independent of the said Member State interests or popular pressure in its pursuit of Communitarian goals.

The Union has, perhaps due to the nature of its Institutions, relied for many years on the process of indirect legitimation, whereby the citizens of respective Member States elect their representatives in national parliaments, which in turn elect their own representative at European level. Direct elections to the Parliament then provided a more direct chain of legitimation in 1979, although it was not held to be an adequate model of representative democracy due to the fact that the Parliament does not have scope to exercise control over all aspects of Union decision making. However, it is increasingly gaining powers in legislative matters on the way to becoming a more equal partner to the Council.

Legitimacy in the eyes of Governments of Member States and the European Commission remains to a large extent a matter of performance, with the focus clearly lying on output legitimacy (Kohler-Koch,

1999). The institutional reforms that are being envisaged in order to preserve the functioning of an enlarged Union also reinforce the conclusion that efficiency is crucial. However, the European Council's mandate is to bring "the Union closer to its citizens" (Turin European Council, 1996), an essential notion considering that the post-Maastricht crisis arose due to the fact that Union citizens were unwilling to follow or were even rejecting the agreements reached at European level. Nevertheless, individual Member States do not follow a single trend in their understanding of Union democracy and legitimacy. Whereas the Finnish Presidency (1999) called for "improved efficiency of decision making", the Foreign Minister of Germany insisted that "the EU's capacity to meet the challenges of the future necessitates its enhanced legitimisation and increased credibility with the citizens" (Fischer, 1999). A strengthened public's identification with the Union, its integration and enlargement is meant to lead to the development of a political and cultural identity that goes beyond the state, thereby increasing the legitimacy of the European project through Community-building.

Thus, divergent ideas about the Union's *finalité politique* in terms of institution building and what constitutes good European governance have arisen. While some call for federalist solutions and parliamentary democracy and others hold that the statist analogy cannot apply, the principal actors in the governance arena remain the European Institutions and Member States (Kohler-Koch, 1999). However, this in turn raises the various claims that the Union is suffering from a democratic deficit.

Focus on Democracy

Although several requirements need to be satisfied for a system of governance to be considered democratic, it is essential to guarantee basic liberties to the citizens and "participatory rights to initiate, influence and object to proposals in formal as well as informal assemblies". It would follow that the legitimacy of any governmental structure is based on the principles of liberty, equality, security and participation, such that the criteria of congruence and accountability are met. Congruence is "the basic democratic principle that those affected by decisions should also be responsible for them", thus an imbalance will either lead to a lack of legitimacy or to a reduction in efficiency. Accountability then, allows the citizenry to hold decision-makers responsible for their actions and to dismiss inadequate rulers (Eriksen, 2001).

The European Union is striving to move from being a predominantly technocratic problem-solving organisation to a polity in which the relationship between the Union and its citizens and the relations between different levels of government are equally important. Each level of government, be it supranational, national or sub-national, has become increasingly involved in the legitimacy of the other (Lord, 2000:3). However, rendering governance structures beyond the nation-state democratic and legitimate raises problems of, amongst others, institutional design and political accountability. This is due to the fact that the procedures of democratic government and the necessary pre-conditions for democracy have historically evolved within the context of the nation state and not of the hybrid entity the Union has become.

Since the Union is not a state but is made up of a combination of supranational integration and intergovernmentalism, the task of reshaping such entity with sound democratic foundations, traditionally associated with the nation state, is indeed challenging. The prospect of enlarging the Union to 25 and more Member states makes it imperative to enhance the efficiency of the Institutions whilst making them conform to the values of democracy. However, given the entire nature of European integration, it is necessary to accept the difference between national democracy and the European transnational reality, and thence attempt to legitimise it.

The Union is being compared to the model of the democratic nation-state because this has been the only successful one historically. When translating the nature of the Union into that of its respective national polities, the conclusion that it suffers from a democratic deficit is perhaps inevitable. This, in turn, would suggest that the only way of filling the deficit is to provide conventional democratic institutions for the Union's decision-making procedure. This method could include asserting parliamentary sovereignty, instituting direct elections for the President of the Commission or ratifying a federal constitution (Schmitter, 2001). The more the Union uses distinctive criteria in the design and evaluation of its

Institutions, the more difficult it will be to convince its citizens that its actions are really democratic. Thus, the current public debate on the future structure of the Union concentrates on the notion that the Union's problem with legitimacy is essentially its democratic deficit, although views on its nature differ, since the term comprises a number of different features.

Majone (2000) holds that the democratic deficit is due to an "absence or incomplete development of institutions which we take for granted in a parliamentary democracy". With respect to the Union, this deficit is a distinctive feature of a process within which economic and political integration occur at different speeds, with the former following the principle of supranationalism and the latter being presently based on intergovernmentalism. Thus, the democratic deficit will remain as long as the majority of Union citizens continue to view the sovereign nationstate as the real arena of democratic politics. However, the expression "democratic deficit" is also used to indicate the problems that arise whenever powers that traditionally fall under nation-state sovereignty are delegated to institutions which are not directly responsible to the voters or to their elected representatives. The essence of the problem is most commonly placed on the limitations on the use of the national veto in the Council and the relatively elementary powers of the Parliament. In fact, the most common presentation of the democratic deficit of the European Union stresses the secondary position of the Parliament with respect to other European institutions, most importantly the Council and the European Council, in the decision-making process of the Union (Maduro, 2002). In spite of the legal and political developments that have reinforced the position of the Parliament in the Union, this "executive dominance issue" (Weiler *et al.*, 1995), reflects a weaker degree of parliamentary representation and majority decision-making in the Union's political process than in national democracies. Moreover, the increased competencies of the Union lead to, as Weiler terms it, the "distance issue", since powers previously under the control of national parliaments are transferred to the Institutions of the Union. Thus the fact that it is ultimately the national governments, together with the Commission, which largely control decision-making also weakens parliamentary power at the national level (Blichner, 2000). As a result, the majority of legislative decisions in the Union are taken by qualified majority voting in closed session by indirectly elected representatives, thereby raising the "transparency and complexity issue" (Weiler *et al.*, 1995). Technocrats and national interest groups dominate this sphere to the exclusion of the more traditional channels of democratic decisionmaking. Moreover, Weiler (1991) also describes another aspect of the democratic deficit as the absence of "the ability of a small number of Community citizens represented by their Minister in the Council to block the collective wishes of the rest of the Community".

The ensuing problems associated with a decline in voter turnout in Parliament elections, unfavourable attitudes towards the Union and arising difficulty in ratifying treaties by national referenda, amongst others, require a reform enhancing political accountability and transparency in the eyes of the electorate of the Union. Decision-making should be conducted in a far more public manner than in the past and the consent of the Union's citizens should be achieved. In addition, it is also necessary to consider the possibility of including civil society alongside the traditional discourses of parliamentary representation, power-separation and decision-making mechanisms, in the process of opinion formation and decision-making in the institutional complex of the Union (Eriksen, 2000).

To this end, in subsequent reports to the White Paper, the Commission reiterates its call for the improvement of bottom-up involvement in EU policy making as a win-win option for all actors involved, and provides general standards and principles for consultation towards more transparency, coherence, and promotion of mutual learning (see for example, COM, 2002). Moreover, the Convention on the Future of the European Union, the Internet, the media, as well as other public engagements have in recent years further intensified the public debate on the integration process, thereby promoting European governance as a joint effort by all players.

Efficiency and Political Accountability

The Union being a new and for many still an unfamiliar political system leads to the reasonable expectation that issues of legitimacy are critical in an environment where decisions taken at the European level affect the daily lives of individual citizens. Political accountability in the Union is a problematic issue due to the fragmented and non-transparent nature of its complex decision-making rules. European

law and policies are the result of discussions and negotiations within the mass administrative and advisory committees surrounding the Commission, working parties of the Council of Ministers, Parliament committees and inter-institutional dialogue (Hoskyns, 2000: 180). The process of integration has affected Member States through the transfer of legislative powers and responsibilities from national parliaments to the executive branches of the Union. Thus, this institutional balance together with the lack of transparency applied in reaching decisions about technical matters contribute to a weakness of political accountability in the Union. In addition, the relative weakness of control and legislative input on the part of the Parliament as the only directly elected institution at the European level aggravates the problem, although with the coming into force of the Treaty of Nice (2002), the competencies of the Parliament have again been extended.³

The Union has been put under pressure to reach a certain level of legitimacy based on performance, democracy and identity (Beetham and Lord, 1998). The search is for a balance between policy effectiveness and efficiency, and equal and direct citizen influence on European policymaking and government accountability in a socially homogenous political order with strong civil society institutions and a collective identity among its citizens (Schimmelfennig, 1996). Once European integration becomes a process facilitating the citizens' ability of participating in the decision-making process, it will also need to provide a system capable of facilitating their control over transnational economic and social processes. However, although the political decision-making competences at European level may exist, their democratic control is limited by the problems involved in attributing the Union with sound democratic foundations. The fact that the collective identity, or *demos*, required for democracy still does not exist at the European level makes it too difficult, at least for the time being, to meet such challenge.⁴

Democracy, Effective Enlargement and National Autonomy

Democracy may be defined as the "institutionalisation of a set of procedures, [not necessarily synonymous with parliamentary government,] for the control of governance, which guarantees the participation of those who are governed in the adoption of collectively binding decisions". Legitimacy, then, is a "generalised degree of trust of the addressees of these decisions towards the political system" (Jachtenfuchs, 1997). Since the models of democracy developed in the national context are not so easily transferable to the European Union, a political strategy based on such a transfer would not necessarily lead to a more democratic Union or to an increase in its legitimacy. Nevertheless, a democratic system would increase the stability of the Union's decentralised system, the efficiency of its complex decision-making procedures and its relatively weak capacities for policy implementation.

A potential solution for the legitimacy problem of the Union may be based on the three distinct values of democracy, effective integration and Member State autonomy (Christiansen, 1997). Democracy thus would become the demand for public accountability; effective integration would necessitate the search for institutionalised solutions to transnational policy-making, whilst the maintenance of Member State autonomy would seek to preserve national diversity throughout the Union. These processes pose an understanding of Union legitimacy as reflecting the "contradictions between intergovernmental bargaining, functional administration and democracy [which are] embedded in the Treaties establishing the European Communities" (Wallace and Smith, 1995).

Any reform aimed at enhancing the legitimacy of the system of supranational governance would thus need to balance these goals carefully. Whilst greater efficiency of supranational decision-making bodies can balance out the democratic deficit (Jachtenfuchs, 1995), with respect to the Union's recognition of national identity and state autonomy as a means of ensuring the maintenance of national diversity, the issue integration process could be organised in an "autonomy-respecting manner", by combining the majority and nationality principles in the European Parliament (Katz, 1994), or by developing a consociational model (Weiler, 1999:279). European Union legitimacy as described here provides an

3. The scope of co-decision has been expanded to cover more policy areas. Moreover, the assent of the Parliament is now required when establishing enhanced cooperation in an area covered by the co-decision procedure. See, amongst others, Memorandum to the Members of the Commission, SEC (2001) 99, Summary of the Treaty of Nice, Brussels, January 2001:3.

4. *Demos* refers to "the citizens of a polity that constitute the basis of the modern democratic state, or rule by the people". See R. Pace, (2001).

inter-institutional model that places the Council of Ministers and the Parliament as the guardians of national autonomy and of democratic governance respectively, whereas the Commission, together with the European Court of Justice, as the guardians of effective integration. However, it is necessary for the Union to exhibit a “fair representation in each of the institutions, and [further] enhance the role of the European Parliament within the existing institutional balance, and the role of the national parliaments” (Reflection Group Report, 1995: vii).

The above arguments provide evidence of the complexity of legitimacy in the European context. Giving full co-decision-making powers to the Parliament may lead to a centralisation of power at the European level. On the other hand, increasing the participation of national or regional parliaments may slow down or impede effective decision-making in the Union, thereby undermining the way in which recognition of national diversity and autonomy is maintained (Dehousse, 1995). This being said, either solution or a combination of both would however enhance the Union’s democratic legitimacy.

Nevertheless, the democratisation of the Union cannot be achieved all at once and such extension of parliamentary powers or democratic rights needs to continue as part of the unfinished project of European integration. In order to render European governance at supranational level legitimate, it is necessary to re-interpret and adapt the traditional ideals of liberal parliamentary democracy through reforms and constitutional choices in an attempt to balance out effective integration, democratization and national autonomy, without turning the Union into a state (Bellamy and Castiglione, 2000: 69).

The Governance Practice

Governance may be defined as a “mechanism for dealing with a broad range of issues in which actors regularly arrive at mutually satisfactory and binding decisions by negotiating and deliberating with each other and co-operating in the implementation of these decisions” (Schmitter, 2001). According to Schmitter, the legitimacy of the Union is much more likely to increase through “the admittedly ‘fuzzy’ but innovative practices of governance, than from reforms in the much more clearly delineated and conventional institutions of government”.

Governance here is not seen as a goal in itself, but as a means to an end, achieving a variety of goals, chosen independently both by the actors involved and those affected. Governance arrangements also differ from government in that the latter highlights the “utilisation of public authority by some subset of elected or (self-) appointed actors, backed by the coercive power of the state and (sometimes) the legitimate support of the citizenry to accomplish collective goals” (Schmitter, 2001). Moreover, governance does not equate with political rule through governments, administrations, law-making activities, or the law implementing activities of courts, but constitutes innovative practices of networks or horizontal forms of interaction between actors, including voluntary and nonprofit organisations, who may often have conflicting objectives (Wincott, 2001). Their mode of interaction is not unitary, solving a single common problem just once, but repeats itself predictably over a period of time. In this way, a continuous process can be envisaged whereby actors experience successive compromises, widen the range of their mutual concerns and hence become committed to the process of governance itself. In this respect, governance is not exclusively about making decisions via deliberation, bargaining and negotiation, but also about policy formation and implementation. The successful administration of these policies would, over a period of time, provide for an increase of the legitimacy of all the actors involved.

A successful governance arrangement requires extensive local knowledge about those affected and frequently the presence of an outside agent to pay for initial costs. With respect to the Union, support for governance arrangements has increasingly been coming not only from public actors and national sources but also from the private sector and transnational as well as supranational sources, making the Union among the most active and innovative producers of such arrangements. Nevertheless, it is questionable whether the Union has been as successful in convincing its citizens that these arrangements represent a legitimate exercise of its authority. The issue lies in finding a way to democratise supranational governance, without jeopardising the Union’s integration. Hence, it is necessary to adapt the abstract ideals of liberal democracy to the special requirements of European governance.

Having recognised the significance of the current political condition and the need for a new vision of the future architecture of the Union, the Prodi Commission sought to make a move towards exploring and developing new forms of governance by producing the White Paper on European Governance (COM, 2001:428). For many observers, the White Paper was to make an essential reconsideration of the aims of European governance, which is taken to encompass “rules, processes and behaviour that affect the way in which powers are exercised at European level, particularly as regards accountability, clarity, transparency, coherence, efficiency and effectiveness” (COM, 2001, 428:8). The respective roles of Union, national, and sub-national institutions, the role of civil society in European policy-making, and the possible development of new forms of governance were thus to be taken into account, the goal being that of opening up policy-making to make it more inclusive and accountable (Pollack, 2001). Such a better use of power would connect the European Union more closely to its citizens whilst leading to more effective policies.

The Aims of European Governance

The White Paper on European Governance aims to enhance not only the efficiency of the decision-making process but also the democratic credentials and the legitimacy of the Union’s Institutions. The main recommendations of the White Paper are based on twelve reports, two studies and intense consultation of civil society, comprising national and regional actors and European citizens.⁵ Whilst addressing the European Parliament, Commission President Romano Prodi, describes the reasons behind the Commission White Paper on European Governance and what it is meant to achieve. As recognised by the Commission, European integration is shifting from a largely economic process to an increasingly political process, a “political integration [that] must advance hand in hand with its geographical enlargement” (Prodi, 2000). The current political integration deals with issues that go to the heart of national sovereignty and require a higher level of political consensus than ever before. Taking into consideration the concerns that the Union has been facing in policy-making, the Commission decided to promote, amongst others, new forms of European governance by starting “the process of renovating the way our policies are managed and implemented at all levels”; after which, “the Commission [would] put forward the substantive changes to be made to the Treaties, drawing on the reactions to the White Paper” (Prodi, 2001b).

The initial aim of the White Paper was to improve the effectiveness of the Union and develop strategies to improve its communication and engagement with the wider European publics. Drawing on these two concepts together, the White paper calls for a European governance arrangement based on knowledge available not only within the administrative machinery but also in society, which is in turn dependent upon the management capacities of enterprises and non-governmental organizations (Joerges, 2001). This was meant to improve the effectiveness of policymaking and implementation and reduce the “aloofness” of the Union’s political decision-making process from its citizens (Héritier, 2001).

President Prodi stated that European governance is synonymous with European democracy. Therefore, it must be dealt with in terms of, on the one hand, relations between the citizens, organised civil society, central and local government and the European institutions, and on the other, in terms of the inter-institutional dialogue at European level. This is meant to achieve a more democratic form of partnership between the different levels of governance in Europe (Prodi, 2001a). To this end, the White Paper’s proposals focus on the five essential principles of “good governance”, by stating that, “five principles underpin good governance and the changes proposed in this White Paper: openness, participation, accountability, effectiveness and coherence” (COM, 2001:10). The proposals also call for more consultation and transparency, for more and better expertise and for the improvement of the Community Method, that is the way in which the Commission initiates policy with legislative decisions taken by the Parliament and Council, and the adoption of implemented measures being monitored by the Commission itself.

5. These reports are available at *Governance in the European Union*: White Paper web-site http://europa.eu.int/comm/governance/white_paper/index_en.htm. It should be noted that the following analysis deals only with the final text of the White Paper.

All of this together has to be translated as a clear allocation of decision-making responsibilities to the Council, Parliament and the Commission respectively together with the application of the principles of openness, participation, accountability, effectiveness and coherence, each of which applies to all levels of government across the Union. The principle of openness refers to the work of the European Institutions, which should together with Member states, communicate more expansively with the citizens about actions and decisions of the Union, thereby improving the confidence in its complex institutional structure. The transparency advocated by the principle of openness would thus compensate for other weaknesses in the democratic credentials of the Institutions (Lord, 2000, 10). Craig lists five principal goals that the Union pursues in terms of transparency (Craig, 1997). Other than the right of access to information, the provision of information to experts and “society in general” is necessary prior to any substantial legislative proposal, whilst the provision of information to national parliaments should allow reasonable time for consultations. Moreover, whereas the operation of the European Institutions should be made more transparent, particularly that of the Council and the Commission, Community law should be simplified with the aim of rendering it more accessible (Reflection Group Report, 1995, vi).

A clearer understanding of the underlying Community processes leads to the necessity to include as wide a participation as possible in the process of policy-making, from the initial proposals to implementation. Like openness, participation is concerned with input legitimacy issues, as it testifies to a government’s public support and democratic credentials (Federal Trust, 2001). According to the White Paper, the participation of various sub-national and non-governmental actors will ensure the “quality, relevance and effectiveness” of the said Union policies and further instills confidence in the acquired results. Thus, participation is considered to improve legitimacy due to the fact that by fostering an element of direct input into policy-making, citizens become more inclined to accept policies. Moreover, by taking into account the views of those affected or who have expertise in the relevant policy area, it is likely that the final measures will be more effective.

Other than delivering effective policies, policy-making must also be efficient, achieving what is needed on the basis of clear objectives. The principle of effectiveness and participation lead to the requirement of implementation of Union policies and decision-making at the most appropriate level. Thus, together they are meant to complement and reinforce, whilst allowing a better use of the two fundamental principles of subsidiarity and proportionality.⁶ In this respect, the White Paper insists on finding the “right combination of instruments to deliver policies that are matched to the objectives pursued” and taking greater account of local conditions (COM, 2001:32). Moreover, policies and actions must also be coherent and easily understood. Effectiveness and coherence are essential in terms of output and efficiency and are key concerns in the context of an enlarged Union because it remains the responsibility of the European Institutions to ensure a consistent approach throughout the Union.

Finally, in order to conform with the principle of accountability, the European Institutions together with Member States authorities and all those involved in developing and implementing policies must explain and take responsibility for their actions. In fact, the White Paper suggests a “Code of Conduct” regarding whom the Commission should consult, and when and how such consultations ought to occur (COM, 2001:17). In addition, accountability is also a requirement facing the Commission itself; thus it is necessary to ensure the presence and proper functioning of the Institutions which are meant to keep the Commission accountable.

Based on these five principles, the White Paper suggests that good governance is possible by “renewing the Community Method” (COM, 2001:4). The White Paper’s suggestions of the checks and balances inherent in the Community Method are defined by the Commission as guaranteeing “both the diversity and effectiveness of the Union... [by providing] a means to arbitrate between different interests by passing them through two successive filters: the general interest at the level of the Commission; and democratic representation, European and national, at the level of the Council and European Parliament, [which together form] the Union’s legislature” (COM, 2001:8).

6. The principles of subsidiarity and proportionality are enshrined in Article 3b of the Treaty on the European Union. The Treaty of Amsterdam adds a Protocol, of which Article 5 states that “for Community action to be justified, it must be established both that the objectives of the proposed action cannot be sufficiently achieved by the Member States and that they can be better achieved by action on the part of the Community”.

The White Paper aims to “enhance” the Community method by involving the citizens in defining the policies of the Union, by implementing the said policies more effectively and by distinguishing the tasks and responsibilities of the European Institutions. Thus, “the linear model of dispensing policies from above should be replaced by a virtuous circle, based on feedback, networks and involvement from policy creation to implementation at all levels” (COM, 2001:11).

The Commission’s Proposals for Change

The White Paper expands on what it calls “proposals for change”, in which it suggests reform in the light of the above-mentioned principles and a Community Method based on a less “top-down approach” (COM, 2001:4). The aim of these proposals is four-fold, that is, to improve involvement in policy making and implementation, improve their quality and enforcement, examine and “refocus” the European Institutions, and assess the Union’s role in global governance.

Having adhered to the principle of openness by providing information about all stages of the European decision-making process, the Commission examines the questions of input and legitimacy and envisions the “better involvement” of citizens in defining Union policies. Participation enhances both the efficiency and the legitimacy of European governance (Magnette, 2001). It should “connect Europe with its citizens” and make the policy-making “more inclusive and accountable” by responding to “the expectations of the Union’s citizens” (COM, 2001:35). To this end, the White Paper aims to channel the opinion of the citizens and find new means of entering into a dialogue with all levels of government, civil society, as well as affected industries.⁷ This consultation process, the quality and impartiality of which should be monitored by the Parliament, would lead to “network-led initiatives” which fully involve regional and local actors in all stages of policy-making (COM, 2001:18). Moreover, the greater use of skills and practical experience in the respective fields would then ensure effectiveness in policy implementation.

Effectiveness and efficiency are of crucial importance to the Commission in its quest for legitimacy and high-quality Community law. Thus, with respect to output and efficiency, the proposal for “better policies, regulation and delivery” is not only meant to restore public confidence in experts and technocrats but it also determines the circumstances under which Community legislation should be complemented (COM, 2001:18). In this respect, the White Paper also stresses the necessity to highlight the division of competence between the Commission, which should concentrate on areas that require political responsibilities, and European regulatory agencies. The latter are meant to ensure that a more flexible Community law is properly applied and enforced in all Member States, taking into account the diversity of each. Whereas such action is meant to facilitate the legislative process, an increase in the coherence of the Union is envisaged by ensuring more vigorous prosecution of national governments accused of violating European law (COM, 2001:24-25).

The White Paper also recognises the need to clarify the respective roles of the European Institutions as provided by the Treaties, due to the fact that their current types of action often make it difficult to distinguish between their separate functioning. Thus, as recommended in the White Paper’s proposal for “refocused policies and institutions”, the Commission should reformulate essential policy tasks by “identify[ing] more clearly long-term objectives”, and by re-organising the way the Council, Parliament and Commission operate and co-operate (COM, 2001:28). To this end, institutional reform must ensure that the Council reinforces its capacity to take decisions and co-ordinate all aspects of Union policy, including its interaction with national processes. The Council and the Parliament should focus more on defining the essential elements of policy Parliament should focus more on defining the essential elements of policy and should have equal controlling capacity over the way in which the Commission executes those policies, thereby further increasing the openness and accountability of the Union to its citizenry. The Parliament is also meant to enhance its role in feeding the views of its electors into the political debate. Whereas the Commission will remain responsible for carrying out its executive role,

7. Civil society is defined on page 14 of the White Paper as including: “trade unions and employers’ organisations (‘social partners’); non-governmental organisations; professional associations; charities; grass-roots organisations; organisations that involve citizens in local and municipal life with a particular contribution from churches and religious communities”.

it should seek to apply the principles of good governance to its global responsibilities thereby boosting the effectiveness and enforcement powers of international institutions (COM, 2001:30).

Thus, the five political principles for good governance are meant to guide the Union in organising the way it works and in pushing reforms forward. The White Paper calls for a Union where power is divided between the legislature and the executive and competences are shared between the Union, its Member States and civil society in a system of multi-level governance (COM, 2001:34). Whilst making a series of proposals of its own, the White Paper is also calling for citizens to use the Union as an instrument through which they can use the process of consultation to bring about change based on better assessment of policy needs and evaluation of outcomes.

Towards a European Public Space

The European Union is endeavoring to find ways in which to ensure its direct legitimacy by improving its openness, transparency and accountability whilst maintaining its efficiency and coherency throughout the institutional system. The White Paper has initiated a necessary process of discussion on European Governance in an attempt to achieve a more democratic form of partnership between the different levels of governance in Europe. It has taken the approach of focusing on the relation between the citizens, organised civil society, central and local government and the European institutions on the one hand, and on the institutional balance and inter-institutional dialogue at European level, on the other. In addition, its proposals address a number of important topics, including the improvement of the policy-making and implementation and the strengthening of the Union's involvement in the global arena.

The White Paper states that "reforming governance addresses the question of how the EU uses the powers given by its citizens" (COM, 2001:8). According to the White Paper, solving the legitimacy problem of the Union involves improving the efficiency of the processes of decision making and policy-formation and planning within the Institutions, whilst increasing the knowledge of the citizens about what takes place at the European level. Indeed, the question of governance should also encompass an examination of who exercises that power, how and at which level. However, when talking about the principles of good governance, concern should not just focus on the smooth functioning of the multi-level system, but also on the legitimacy of the European Union as a whole. Thus, the legitimacy problems originate from the lack of citizen involvement in the making of the laws they have to abide by (Eriksen, 2001).

The focus on governance, problem-solving and reinforced co-operation in terms of legitimacy derives from an intergovernmental view of the Union with the underlying assumption that the Union uses an indirect mode of legitimation through the Governments of Member States, which in turn are the sole providers of democracy. The Union has emerged as an entity that goes beyond functional integration. It contributes to the re-organisation of political power in Europe and through this White Paper, aims to transform its governance structures. The governance arrangements as provided for in the White Paper that contribute towards enhanced accountability, visibility and transparency provide an additional layer of democratic legitimacy.

The combination of different types of representation and participation remains a central issue in the debate on the legitimacy of the European Union. In an enlarged, legitimate and political Union, the Council should be efficient, the Commission should become more accountable and transparent, whereas the European Parliament's institutional position should be further strengthened (Goehring, 2002). It is thus necessary to switch from a Union constituted of Member States as its high contracting parties to a Union whose citizens are significantly involved in its affairs. In the search for channels of representation, a balance between collective and individual representation should be found (Schimmelfennig, 1996).

Kohler-Koch proposes a vision of the Union as a permanent type of polity made up of nation-states whose legitimacy would be as sound as that of its constituents. Whereas some actors of civil society would remain confined within their nation-states, relying on national governments to pursue their interests through a system of multi-level governance, others would move across borders, taking the Union as a single playing field and addressing the Institutions directly (Kohler-Koch, 2001). The social

actors would then engage in a process of self-regulation between themselves, with a European public authority “acting as a mixture of referee, co-ordinator and tutor” (Lebessis and Paterson, 1997). As opposed to demanding Union citizens to adopt a predominantly European identity, Kohler-Koch (2001) suggests that such Union would be based on a “‘political society’ with national, although ‘Europeanised’, identities”. The White Paper’s proposal of “better involvement” could then be reinterpreted as contributing to a “learning process that might trigger a Europeanisation of identities and [...] activate transnational intermediary organisations that could contribute to the evolution of a European public space” (Kohler-Koch, 2001).

Such kind of involvement in consultations with European Institutions and in the activities of the European networks would transport the idea of a legitimate polity different from that the modern state. In such a setting, citizens would acquire “ownership” of the Union, becoming, as is the meaning of the Convention on the Future of Europe, “active subjects rather than the passive objects of the integration process” (Bellamy and Warleigh, 1998).

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