



## **EU Legitimacy and Social Affiliation**

### **A study of Engineers in Europe**

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**EU Legitimacy and Social Affiliation:  
A study of Engineers in Europe**

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***EU Legitimacy and Social Affiliation***  
***A study of engineers in Europe***

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ABSTRACT: Analyses of European governance usually bring the member states into the fore placing the citizens in the background. By means of economic analysis, this paper brings explanations of EU legitimacy down to the level of individuals. A method will be suggested that combines explanations based on individual interests and a sociological approach to identity. The paper investigates how work organizations become levers for a European outlook that may release legitimizing from its national context. The individual level analysis will be carried out for one particular occupational group (engineers) and the research questions are elucidated by a small number of interviews with Danish engineers concerning their experience of policies and actions with technological knowledge.

Keywords: Legitimacy, Social Capital, Transaction Costs, Social Identity, Multi-Level Governance

JEL classification: H70, L50

## 1 Introduction

In some EU countries the costs of patent protection are five times as much as in the US and Japan. These costs could be reduced with EU institutions that give inventors the option of obtaining a patent legally valid throughout the EU through a single application to the European Patent Office. To avoid that technology producing firms and other owners of patents run the risk of legal action before national courts in each member country, a centralised community court to rule disputes arising from Community Patents could be set up.<sup>1</sup> Would these efficiency increasing improvements increase the legitimacy of the EU? In trying to answer this question, I note that there is no unquestioned view of democratic legitimacy. The three liberal-democratic criteria of legitimacy (performance, democracy and identity), which are usually applied to the national states, are sometimes applied to the EU (Beetham, Lord 1998). It seems to be a minimum of consensus that democratic legitimacy rests on both substantive and procedural values. While procedural values concern the degree to which groups of the population exercise influence through voting and participation in decision making (input-based legitimization), substantive values are associated with the idea that a public service is democratically legitimate if the users are satisfied and believe that production is run efficiently (output-based legitimization) (Jacobsson 1997), (Erlingsson 1999).

The previous vice president of the EU Commission Leon Brittan (1998) defends shifts of sovereignty to the supra-national level by arguing that the populations are willing to accept reductions in legislative sovereignty as it gives welfare returns. Brittan also points to the need of bringing the analyses of EU legitimacy down to the level of individuals. This is in accord with scholarly observations that analyses of European governance usually bring the member states into the fore placing the citizens in the background (Svetlozar 2004). It is interesting to look into questions of how European citizens become aware of and make a supra-national political system in Europe legitimate, which leads to the aim of this paper: to apply economic analysis to bring analysis of EU legitimacy down to the level of individuals. A method will be suggested that combines explanations based on individual interests and a sociological approach to identity. It will be linked up with works by Akerlof and Kranton (2000), (2002), Coleman (1990) and Burt (1992).

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<sup>1</sup> “Activities of the European Union – Summaries of Legislation: Intellectual Property” and “EU Institutions press releases: Results of the Competitiveness Council of Ministers, March 2003”.

The power of EU is often justified on utilitarian grounds: supra-national institutions are required to satisfy crucial needs and values in a cost-efficient way. This paper tries to widen the perspective to encompass how properties of community or identity motivate preferences for EU policies. It also considers the importance of low identification in the EU and recognizes that the indirect model of legitimization points to two types of incorporation to deal with this difficulty (Beetham, Lord 1998): incorporation of national governments (make use of the legitimating force of national identities) and involvement of organized non-governmental actors that are most affected by EU policies. The second type of incorporation has been discussed in previous papers arguing that empowering regional authorities in EU policymaking gives the citizens preferences for European institutions (Gunnarsson 2003), (Gunnarsson 2004). Regional-level politics is closer to the citizens and affirms one's regional identity, which is a legitimizing force of the EU. The indirect model is inspiring because it draws attention to the role of non-governmental actors. Yet, it is bounded to low EU identity and seems to become awkward when the consequences of EU policies for one community depend on actions taken by citizens outside the community. This paper suggests improvements.

The identity of an individual for the most part develops gradually within nations with national perspectives. EU legitimization, on the other hand, requires that the electors can relate their identity to European institutions. The Commission mentions as a hindrance to legitimacy that people cannot see that improvements come from European rather than from national decisions (2001 White Paper). EU directives and laws lead to much national lawmaking, but it is not obvious how domestic politics derive from the EU. Slurring the merits of the EU can even be a strategy national politician use to hold up domestic politics. With its focus on work organization, which goes beyond national contexts, this paper looks into alternative levers for a European outlook. Many civil servants and employees in firms work in organizations that are Europeanized. The staff becomes involved in EU decision-making, its dependence on EU's internal market increases or it is otherwise affected by EU policies. Thus, places of work create clashes between identities, and differences may transform the national identity. Economic analysis offers an individual level analysis of European integration as well as significant insights into how interaction between politics and markets affects integration. The individual level analysis concentrates on one particular occupational group (engineers) and in this paper the research questions are illuminated by a small

number of interviews with Danish engineers, where the making of EU legitimate is seen in view of action with technological knowledge.

Section 2 is devoted to a discussion of models of legitimacy. Since the economic model has been criticized for being “undersocialized”, it is extended in the spirit of Scharpf (1999) and Schmitter (2001). The method for analysing occupational groups draws on the notion of social structure of markets. Market structures thus provide a bridge between politicians and their constituencies and introduce social norms and institutions to the economic analysis (section 3). The explanations offered are flavoured with a case-study based on interviews with and a questionnaire addressed to a small sample of Danish engineers. The process of moving between theory and interviews (or questionnaire), which is discussed in section 4, ends with a weak form of theories or preliminary hypotheses to be explored in a future, more exhaustive study. The research questions are addressed in view of a few political practices in the area of EU diffusion policy, which also are fenced off in this section. A framework for analyzing legitimacy in terms of social affiliation is suggested and fitness for studies of occupational groups in the EU is examined in a few illustrative examples (section 5). Section 6, finally, contains a few concluding remarks.

## **2 Perspectives on legitimacy**

### *Economic analysis and legitimacy*

Economic analysis emphasizes the ability of government to satisfy individual needs in a cost-efficient way. It authorizes political organizations with low production and transaction costs, where losers from European integration are compensated by side-payments. Values of various aspects of community are neglected. That is, enough attention is not given to traditional liberal democratic institutions, how governments democratically select office holders, how consultations are carried out and to electoral approval of political programmes. An efficient EU is legitimate even if it is not democratic. This is not to say that an economic approach has no bearing on EU governance. EU with underdeveloped democratic institutions rests on efficient service production. Yet, European citizens may be reluctant as the European administration is weak as compared with the national administrations with limited capacity to influence national-level processes (Svetlozar 2004)

Transaction Cost Economics has overshadowed economic theorizing about institutions and merits due consideration in this paper. Advocates of this approach often lean on functionalist explanations, where transaction costs of developing European institutions are considered as small, and national traditions and institutions are believed to adapt smoothly. These explanations require that bargaining to an efficient agreement does not depend on the bargaining power of the different parties and the benefits individual parties receive, and costs and risks they bear, can be evaluated as being equivalent to some cash transfer that all costs and benefits can be reduced to.<sup>2</sup> In European politics, however, powerful states defect from European legislation, which leads to considerable bargaining costs. Furthermore, the electors have preferences for national democratic institutions and they also have territorial identities, which cannot easily be reduced to a cash transfer. In these cases, side-payments cannot compensate citizens for losing national democratic institutions implying that they will not accept that sovereignty moves to the EU.

Economic reasoning does not justify that institutions for civic participation are used to increase EU legitimacy. It would increase transaction costs considerably. For example, in economic literature on corporate governance it is argued that costs of collective bargaining increase with democratic representation and participation, which may remove the social gains of a governance system (Tirole 2001), (Hansmann 1996). Hansmann, however, accepts democratic procedures in case of homogenous preferences and interests, which tend to reduce the transaction costs. Yet, aspects of community have no value per se. They do not give grounds for a democratic representation. Cost-efficiency is served if European institutions are insulated from political pressure, which is brought about through the realization of a single market in Europe. It helps the growth of an efficiency-oriented policy provided by experts and regulatory institutions, such as the European Commission, isolated from political pressure (Jachtenfuchs 2001). The European Commission has an important role to monitor member state compliance and the huge amount of EU committees is designed by the principal (the member states) to supervise the supranational agent (the Commission) (Pollack 2004).

Transaction costs tend to be high when the political credibility is low, for example if the electors believe that the expertise is less than enough. A political agent lacking the adequate expertise may increase his or her credibility by delegation of tasks to individuals and organizations that are not

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<sup>2</sup> Cf. the Coase theorem discussed in Coase (1993) and in Milgrom & Roberts (1992).



directly accountable to the voters or their elected representatives (Majone 1996). This argument, however, neglects that experts and private consultants are powerful and have their own private interests to serve. Cowles (1995) examines the involvement of the “European Round Table of Industrialists” in the Single Market policy-making process. She develops a model that recognizes the power of non-governmental actors at both the domestic and the European levels. Thus, instead of becoming a lever of increased legitimacy, regulatory institutions that give expert advice (in business, law etc), may create serious capture problems.

In this paper it is argued that economists analysing EU legitimacy should look more into questions of how legitimacy depends on identity with communities persons belong to. From this perspective there is no guarantee that increased reliance on expertise will increase the authority of the EU. On the contrary, the Europeans seem to be sceptical about the credibility of European elites and this scepticism seems to be grounded on lack of identification. The paper applies a broad perspective on transaction costs that links motivation for behaviour to properties of community (organizations and institutions). It includes ‘motivation costs’, which is associated with situations in which citizens do not have all relevant information they need to approve of transferring sovereignty to the EU (information incompleteness and asymmetries) (cf. Milgrom, Roberts 1992). In other words, legitimization of EU governance depends on issues on disclosure and transparency. Another source of ‘motivation costs’ is the inability of politicians to bind themselves to follow a mandate given to them by a constituency (imperfect commitment). It will be argued that significant insights into deficits of legitimacy in this case are provided by inquiries into social identities locally and social structures of the society at large.

### *Complementary perspectives on legitimacy*

I agree with Granovetter (1992 p 72), who argues that transaction cost economics rely on an “undersocialized conception”. This brings me to political models of legitimacy, where aspects of community have a value. Schmitter (2001) defines legitimacy 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”. In assuming that behaviour is governed by a set of norms shared by “those who rule” and “those who are ruled”, Schmitter argues that there are common institutions

affecting all parties to comply with generally accepted rules. Legitimacy does not only derive from efficiency due to low production and transaction costs, but also from common norms for what is institutionally appropriate behaviour. Yet, European integration is pluralistic and “will protect the diversity of experiences rather than attempt to assimilate them into a single ‘European’ culture or identity”. But the actors at the national and sub-national levels are “reasonable pluralistic” in terms of “pre-disposed to bargain, negotiate and deliberate until an agreement is found”. This suggests that legitimate European institutions develop within smaller islands with favourable conditions for community. Schmitter refers to these islands in terms of “fuzzy” practices of governance, but also in terms of deliberate “European Governance Arrangements” (EGA), to which power is delegated and has a purpose and rules for reaching decisions. Improvements of the economic approach, discussed in the following, also rely on Sharpf (1999), who seems to consider the EU as composed of multiple governance practices and multiple collective identities. He calls attention to various legitimizing mechanisms referring to procedural values in the sense that they presuppose the existence of an “identifiable constituency”. There is no reason to assume solidarity among the members of a constituency, or to believe that they will pursue the public interest. Legitimacy only requires that all individual interests can be interpreted in terms of institutionalized norms that serve public interests (ibid p 13).

Schmitter’s and Sharpf’s approaches seem to be consistent with the indirect model of legitimization, where EU derives legitimacy from organized non-governmental actors. However, like this model they seem to neglect norms that are widely recognized among European constituencies. It is referred to common rules for transparency and good arguments that help problem-solving processes, where persons in different communities are aligned by “institutional arguing” (Neyer 2003). Legalization is a necessary instrument to structure this discourse, and legalism dominates much of EU politics. Exploring EU legitimacy in terms of social categories corresponds with the model of individual rationality used in this paper. This model is inspired by Simon’s notion of procedural rationality (Simon 1996) extended to political institutions by March and Olsen (1989). In assessing value to communities and behaviour, and in linking these assessments to preferences, the citizens rely on simplistic descriptions of reality. The model of rationality applied also recognizes that individuals use social norms to organize and interpret their environments. This is contrary to the standard model in economics, where possible actions are established objectively and afterwards

applied to preferences. Instead norms and preferences play an active role already in the construction of the decision alternatives.

### **3 Method**

The research questions are approached by examinations of Danish engineers. One of the interviewees - a civil servant - approves vehicle designs. He applies EU standards and also participates, together with colleagues from other member countries, in the working out of European technical standards for road safety. Another engineer – a university researcher – gets half of his research budget from the EU implying that he is directly involved in fund-raising in Brussels. In general an interviewee finds conflicts about patent rights and intellectual property costly and has a positive attitude to a Community patent and a Community court to rule disputes over patents. In the paper, connections between the interviewees and the EU will be seen through the lens of social structures of markets, which are social relations developing between employees and between employees and employers. These relations constitute an institutional resource that serves the market interests of the engineers.

Many engineers gain from having identity relations with the employers. The interests coincide, for instance, with regard to policies on intellectual property (patents and licenses). Some engineers administrating standardization policies, however, often face tensions between markets for intellectual property and public rules for disclosure of information. They feel growing uneasiness as administrative practices have to be adjusted to fit vital economic interests. Here professional communities are useful to obstruct the negative consequences. Engineers, involved in university research, suffer discomfort because the national governments and the EU try to commercialize research. University research and education have traditionally been autonomous based on the self-organized force of researchers defining standards and rewarding research within peer-groups. These fellowships can also be used to master the pressure from the markets for technology.

Social structures of markets are social capital that increases the economic value of transactions in markets (cf. Burt 1992). This value depends on the political context, i.e. social structures and communities support market strategies differently depending on political circumstances. From this

perspective the engineers ensure flows of critical resources both from markets and from institutional environments (Hannan, Freeman 1977), (Hannan, Freeman 1989), (DiMaggio, Powell 1991), (Gunnarsson 2001). Furthermore, the legitimacy of political institutions is intertwined with beliefs about social structures of markets. Legitimization of political organisations is connected with beliefs about whether these structures are sufficient, should replace government or eventually should be substituted for government. Economic analysis emphasizes preferences persons have for the outcome of organizational processes and neglects preferences for procedures controlling these processes. In this paper it is argued that the citizens give some thoughts to the way they exercise political influence. In doing so, they appraise this influence as members of a social group. Persons 'try to do the right things' by aligning their preferences with the institutional context (the EU, domestic political institutions, institutions for civic activity, work organizations), which means that social norms and social identity are considered.

The preferences (individual interests) become endogenous and determined when the appropriate behavioural rules are figured out in a given situation (Risse 2004). Relations between social norms and individual preferences are discussed by Akerlof and Kranton (2000), (2002), Coleman (1990), Burt (1992) and Putnam (1993 and 2000). From these discussions it is tempting to conclude that the legitimacy of EU institutions increases if the engineers perceive that the social market structures they identify with are involved in EU-policymaking. However, one's perception of political power also depends on one's self-image as belonging to the community and probably varies with the size of the social group. Yet, from Putnam (1993) it is obvious that a person's perception of political power also depends on how rightful political institutions are in the eyes of the citizens. That is, perception of political power cannot only be associated with the size of the social group the person belongs to. According to Putnam, legitimacy derives from the avoidance of "personalistic, patron-client networks" (ibid p 99). The legislative and the administrative processes are perceived as legitimate, because the citizens feel powerful to influence politics when they have supporting social networks or communities.

## 4 Engineers in the EU

### *Relevant EU policies*

The importance of EU for engineers is obvious from diffusion policies, which Stoneman (2002) defines as policies that influence economic growth through transfers of technology. Usually, this policy area has been associated with the creation of infrastructures conducive to a rapid spread of knowledge about management and technology. The preparation of a Community Patent and a centralised community court to rule disputes arising from Community patents may illustrate. All member states take part in the Munich Convention on the European Patent, which gives inventors the option of obtaining a patent legally valid throughout the EU through a single application to the European Patent Office. Institutions for obtaining and protecting patents are also seen as a part of the EU single market programme linking up with the treatise of Rome. The treatise contains principles for legal activism from which a market for technology in Europe probably will be institutionalised through decisions by European courts and the Commission without much political attention (cf. Brittan 1998), (cf. Scharpf 1999). Similar processes have been found in other areas. It is referred to the creation of a European health market, where EU law gives patients the right to go for treatment in other Member States (Sindbjerg Martinsen 2004). It is arguable that Community patents make technology more easily available in Europe and the Commission and the Court may argue that the Community principle on free movement of goods should be applied. One lesson to be learned from Sindbjerg Martinsen is that transfer of sovereignty to the supra-national level will become motivated by the Community court. It will become the active driver (judicial activism) rather than political decision making and traditional democratic institutions of national government. One question arising is if this process is legitimate in the eyes of engineers.

EU standardization is another diffusion policy, but it is institutionalised with other drivers than judicial activism. It develops through organizations for certification mainly based on activities organized voluntarily by national organizations<sup>3</sup>. These activities are coordinated by European expert committees that perform some form of trustworthy quality control. While the causal relations

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<sup>3</sup> The notion of certification derives from Akerlof and is discussed by Scharpf (1999)

between standardization and economic growth are unclear, the output-based legitimacy of the policy is uncertain. Standardized products and components become easily incorporated into larger systems implying that standardization policies speed up technology diffusion and growth within a single European market. On the other hand, standardization prevents designs that differ considerably from technical standards to be developed. Thus, these policies may hurt incentives to innovate. Legitimization is improved if standardization policies foster a rightful balance between public interests in disclosure of information and private interests in protecting technological secrets (necessary condition for efficient technology markets). A related difficulty for a credible EU policy is to establish an organizational structure for certification and quality control that motivates European consumers and producers to accept higher prices for certificated products.

Intellectual capital has become crucial in European companies causing conflicts between engineers and shareholders about rights to earnings of new technology (Rajan, Zingales 2000), (Audretsch 1995). These conflicts are channeled through national corporate governance systems, which are becoming Europeanized due to EU policies. To help a common capital market in Europe, the national governments have been encouraged by the EU to liberalize and deregulate in order to make it easier for foreigners to invest in domestic firms.<sup>4</sup> It has also become an urgent task to prevent the employees (who personify the human capital) from running with valuable assets. This “integration problem”, which should be a concern of diffusion policies, has been noticed recently by Rajan and Zingales (op. cit.). EU directives on a modern European company law framework aim at establishing protection throughout the EU “for those who are involved in and affected by the affairs of the company”<sup>5</sup>. A solution to the “integration problem” will not be considered as legitimate unless it protects engineers from losing rights to intellectual capital in case of dismissals and job-hopping. It is not obvious that the EU framework places technical workers on an equal footing with the shareholders. Yet, due to the subsidiarity principle and to differences in national laws and codes of conduct, there are significant national differences in the treatment of the rights. In Germany, where legal rules bring employees in a relatively strong position, there is a clause in EU’s takeover directive giving the board of a target firm the right to refuse a takeover bid by reference to other stakeholder interests than those of the shareholders<sup>6</sup>.

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<sup>4</sup> The political elite in the EU has been more or less successful in pursuing member countries, where England distinguishes herself as one of the most active to open up for foreign investors, while, for instance, Germany has been passive. The Scandinavian countries are gradually changing their attitudes (Brown and Raines 2000).

<sup>5</sup> High Level Group of Company Law, final report, 2002 page 29

<sup>6</sup> Information picked up from an interview with an expert of international company law

Closely related policy areas concern European Work Councils and university-industry partnerships for the commercialisation of research.

### *Interviews and questionnaires*

The following approach to legitimacy has developed by incompatibilities between theory and transcripts from interviews. Disagreements between an interview and theory were resolved and a revised theory was formulated. This theory was revised in the light of another interview and a new theory was discovered, which generalizes from the first two interviews and so on. The same list of questions has been used for the interviews and consists of candid questions concerning the respondents' opinion about intellectual property, technology-sharing with colleagues (within and outside the working place) and about attitudes to government. Each interview lasted for about one hour. Interviews with three engineers - Allan, Anne and Peter - are discussed in the following. While the sample of interviewees is small the results are preliminary: a precursor to a large-scale empirical study. It should be mentioned that results emerging from questionnaires that were added to the interviews will be discussed separately (the questionnaires were answered by four engineers).

*Anne* is educated at the Royal Veterinary and Agriculture University and at the Technical University. She finished her studies in 2000. Afterwards she has worked as a researcher in a middle-sized biotech firm producing enzymes and micro organisms. *Peter* finished his education at the Technical University in 1981. His dissertation is on automobile engineering, which motivated him to take a job as civil servant in the road safety and transport agency within the Ministry of Transportation. Peter has worked there ever since he left the university and is now the head of his department. While Anne and Peter have left the university, *Allan* is an assistant professor at the Technical University specialized in computerized network-communication. He is lecturing and researching, but he is also starting up a firm in collaboration with five young researchers from his university. They have joined up with two engineers having long work experience (thirty years) in various industrial firms.

To have an opinion about European politics is costly (information costs are high). In theory it is arguable that workplace-based networks provide an efficient way of organizing learning about

politics. The interviewees' use of work relations to become aware of the EU is interesting background information of this study. Instead of using social connections engineers may hire an expert or pay for membership in national associations such as the Society of Danish Engineers. Sometimes citizenship by proxy is caused by communicative strategies applied by the politicians, who only respond to loud voices. Lehman Schlozman, Brady and Verba (1997) have found, firstly, that policymakers can expect an outcry when organized interests are threatened. Secondly, as the distribution of civic engagement is unequal, certain groups are ignored with impunity. They are "...simply not part of the campaign discourse" (p 6). In one questionnaire the interviewees were asked to assess a value (from 1 to 5) to various sources for professional advice and advice about career. For the small sample of interviewees, table 1 suggests that work-related sources (work organizations and professional journals) are at least as important as mass media.

Table 1: The importance of various sources for professional advice and advice about career

<u>Source:</u>	Work organizations	Professional journals	Mass media
<u>Marks (1-5):</u>	2-3	3-4	2-3

Awareness of politics accelerates in problematic situations, for example in connection with closures of workplaces. The interviewees point to work-related topics that tend to develop into political issues that are specific for engineers. Peter mentions dissatisfaction with the neglect of public rules for disclosure (all information obtained by a ministerial agency is public). He associates this neglect of public rules with EU policies on technology secrecies. In practice documents are made available to the public if a technical design already is available on the market. EU standardization policy is another reason for discomfort out of which a political issue may be made. An approval given to a producer in one member country is valid in the whole union, while routines for giving approvals vary between countries. This brings the producers in a position to play off transport agencies in different EU countries against each other. Anne and Allan worry about the protection of incomes from inventions. Inefficient patent regimes make Anne's incomes more uncertain and increase the costs of communication across firms and universities (more contractual regulation, more use of project managers and lawyers). Allan, who is setting up a new firm (spin-off from university research), acknowledges that patents are needed to satisfy the financial market. But large firms "do whatever they want". They know that most small and middle-sized firms cannot afford to protect



their intellectual property, and they show no respect for patent holders’ rights if doing so serves their interests.

Results emerging from this study often refer to the regulation of intellectual property (patents and licenses). One question arising is if issues on patents are important when engineers make European politics legitimate. Answers to one of the questionnaires suggest that there are more important policy areas (importance of patents and licenses for daily work is low according to table 2), but “conflicts about patent-rights are frequent and costly” scores a high value in table 2. This suggests that intellectual property may be a political issue. In addition, the interviewees assign a crucial role to the EU and there is some doubt whether intellectual property contributes to an efficient use of technological knowledge.

Table 2: Interviewees’ attitude to policies on patents and licenses

<u>Patents and licenses:</u>	Important for the daily work	Lead to efficient use of technological knowledge	Conflicts about patent-rights are frequent and costly	Prevent engineers from using critical technical knowledge	In favour of Community court and Community patent
<u>Marks (1-5):</u>	2-3	2-3	3-4	3-4	3-4

### *Social structures of markets*

A method of legitimization analysis was outlined in section 3. It will now be worked out more in detail to cover Coleman’s notion of community (Coleman 1990). Joining a community implies that a person satisfies his or her individual interests by voluntarily accept to obey others. It implies subordination to authority relations, which Coleman assigns into two principal categories. Firstly, relations based on similar interests among those involved, who vest authority to one and another to serve individual interests (“conjoint authority relations”). Cohesion derives from norms for what is good and what is poor behaviour and from sanctions that back these norms. Secondly, authority relations characteristic of employee-employer relations (“disjoint authority relations”). Common norms are lacking and the community has no value per se. Rights to control actions have been

transferred to a principal and those giving away these rights cannot expect that the authority will be exercised in their interests. On the other hand, they will get payments in return.

Anne often takes workmates with experiences of biotechnical research on advice. When making experiments, she also draws on colleagues employed by customers or on PhDs and researchers at the university. Like many engineers, she established contacts during her university studies and can draw on social connections with schoolmates and professors throughout her career. Conjoint authority relations are also found at the universities. Yet, there are limitations on the amount of information that comes to the researcher through social connections at the work place. Allan goes to conferences to meet his colleagues. Probably, the authority relations of university communities serve three types of private interests: interests of senior scientists to find recruits for their research, interests of potential recruits to receive advice from senior scientists and interests of senior researchers to share technology. Peter has a similar story to tell. Approvals are often given for technical designs, where a professional engineer is demanded. He or she relies on technical information and on professional advice from colleagues employed by the transport agency. Contacts with professionals outside the workplace are rare. On the other hand, there are no internal barriers to technology-sharing. A seniority principle is applied implying that experienced engineers tutor newcomers.

These authority relations are linked to markets. When developing knowledge of road safety, Peter and his colleagues rely on domestic and foreign firms having competences in producing facilities for road transport. One question arising is if this market connection transforms the identity of the personnel (rules for openness may be changed). Anne experiences significant market influence from producer-customer relations. If the customers have contacts with rival firms social connections for technology sharing across firms can hardly be maintained. For example, Allan is a customer of an American firm producing tools he uses for research. Even if technological information is exchanged with personnel of this firm, "they will never tell /him / how their products work". Networks Anne created during her studies at the technical university are important, but they are only used for general issues on engineering and good advice about interesting jobs. Exchange of information about specific technical solutions, which usually involves technical secrets, is not permissible. In theory patents could eliminate some barriers for the development of social contacts. In practice,

however, the transaction costs would be too high (project managers and lawyers have to be involved).

To be considered as social structures of markets these workplace communities must serve the market interests of the interviewees. Allan, for instance, draws on the conjoint authority relations with colleagues and students at the university when recruiting PhDs to the firm he is starting up. Technology produced by Allan and Anne can be more easily marketed if they can develop sympathy among colleagues towards behaviour preventing technical secrets from being transferred to rival firms. The same type of authority relation guarantees Allan the acceptance by his PhD students that issues on critical strategies of his firm should be excluded from the information he communicates to the students. This brings us to hybrids of disjoint authority sanctioned by identity with the employer. These hybrids improve the market positions of the interviewees. Anne considers patents and technical secrets the “living” of her employer as well as her living. A necessary condition for social structures of markets, however, is that loyalty with the employer is backed by sanctions within a close community of employees. Peter and his colleagues identify with their employer’s interest in a growing agency for road safety and transport. A new growth strategy relies on market motives, client oriented case work and charging clients fees for licences. The substitution of the actual static criterion of administration (short waiting time) for a new growth strategy could serve the interests of the personnel and the heads of the agency in increasing the earnings and to have more interesting jobs.

## **5 EU legitimization: illustrative examples**

It is claimed that social structures of markets can be incorporated into the indirect model of legitimization. To show this it is referred to Coleman (1990), who draws attention to social structures that facilitate certain actions of individuals within the structures and considers the structures a social capital. From this perspective social relationships are resources to satisfy individual interests. Furthermore, social capital is not a single entity, but is defined by its function, which depends on whether it is used to create values in markets, in political or other institutional contexts. A narrow approach is applied in this paper, which concentrates on values created in markets, but it also admits that beliefs about social structures of markets are intertwined with the legitimacy of political institutions. Danish engineers are motivated by technological professionalism

and adjust their competences to increased competition with other professional groups<sup>7</sup>. In the following, social capital that serves interests of high technological professionalism will be called *independent capital*. Social capital that serves the engineers' interests of loyalty to the employer will be called *cooperative capital*<sup>8</sup>. Independent social capital will be associated with social norms prescribing that "one ought to share the technological knowledge one possesses with everybody, who accept this norm". Cooperative capital is associated with a norm that prescribes which technological knowledge should be kept secret in order to protect the competitive advantages of the employer. This norm derives from a belief of the employees that one protects one's own living by protecting the earnings of the employer.

It will be returned to the interviews. More specifically, to explanations showing how EU policies are confirmed by persons in work organizations that rely on independent and cooperative capital. Before, I have a few remarks about the way EU legitimacy is approved at the individual level. Legitimacy is a special right politicians have to exercise power without using force. The legitimacy of those who rule the EU cannot easily be related to voting (elections to the EU parliament). It is unclear whether a low voter turnout is a signal to the politicians that the citizens are satisfied with the way Europe is governed or a signal about lack of legitimacy. If a voter is satisfied, she or he may not see any reason for obtaining information and spend time on voting. An alternative way of approaching legitimacy is outlined in this paper. Instead of looking at voting behaviour the paper emphasizes the importance of social affiliations for legitimization. In appraising interaction at the EU level, citizens refer to their perceptions of power as a member of a social group and base their appraisal on how the advantages of belonging to a social group depend on European decisions and institutions. According to the individual level approach to EU legitimacy, EU institutions must become a reference point in action taken by these social groups. It is claimed that this condition is partially satisfied by the research design focusing on occupational groups and working organizations, which extend beyond national contexts and, thus, help to promote a European outlook. Since different occupational groups relate to EU policymaking differently, the range of legitimization processes probably becomes wide. This is an empirical question to be looked into in future research.

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<sup>7</sup> Ingeniørforeningen i Danmark, "Fremtidens ingeniørprofiler – et debatoplæg om ingeniørers kompetencer og uddannelser", oktober 2002 and "IDAs strategiske samarbejdsrelationer og alliancer", Ingeniørforeningen i Danmark 2001

<sup>8</sup> "Identity with the employer" means that employees subordinated in an authority relation are satisfied when the interests of the employer are satisfied.

Before returning to the interviews it will also be hinted at needs for improvements of the indirect model of legitimization. While this model is useful for low European identification, empirical evidence discussed below suggests that some policy areas are characterized by high identification. Even for policy areas with low identification the model is difficult to use. If activities of significant interest for one community are controlled by persons in other communities the model becomes awkward. It is asked for a more general approach to legitimacy, discussed in the following. This approach explores legitimization using identity externalities. To illustrate it is referred to two social categories: engineers, who think about themselves as ‘employees’ and engineers having identification with ‘entrepreneurs’. ‘Employees’ act according to their identity because they believe it serves their market interests to have a safe job and unemployment compensation in case of being unemployed. They obey loyalty to the employer’s interest in recruiting engineers and in protecting patents. ‘Entrepreneur identity’ motivates members to set up their own firms and to create goodwill in the eyes of the suppliers of finance. Instead of relying on patents there are prescriptions saying that ‘entrepreneurs’ balance the need of keeping technological knowledge secret against sharing technology with others. Moreover, a loyal member of this community accepts what Carree and Thurik (1999) call “control commitments”. This is a specific advantage of small firms that derives from the fact that they are controlled by a small group of persons, or bears the personal stamp of one person. This motivates inventors to work below the minimum wage and convince the employees to work below market prices.

Linkages between communities, which are lacking in the indirect model of legitimacy, will be analyzed in terms of identity externalities, which occur when persons refer to behavioural prescriptions of social categories and one person’s action has meaning and evokes responses in others (Akerlof and Kranton 2000). Whenever a person, who usually complies with the prescription of one social category, begins to behave according to prescriptions of another category it has a psychological effect on other persons that may lead to a response. Also encounters between persons with different identity provoke this effect and response. All ‘employees’ will lose social capital if persons in the group of employees begin to behave as ‘entrepreneurs’. They will suffer from more frequent job-hopping as the behavioural prescription for ‘entrepreneurs’ does not respect the loyalty to the employers. ‘Entrepreneurs’ on their side will suffer discomfort to work together with ‘employees’, to whom control commitments are unacceptable. It is claimed that legitimacy derives

from persons' perception of political power, which depends on their self-image as belonging to a social category. Self-image varies with the size of the social group and increased size increases the perceived political power. It is a prerequisite for feelings of having power to influence politics that the group also is perceived as democratic and fair, where all members are treated equally. Political institutions appear as less rightful when members leave the group or choose behavioural prescriptions of other social categories. This distrust of politics is not repaired by immigration, which instead seems to lead to social encounters and costs leading to further distrust.

#### *The indirect model: EU patents and EU standardization*

Anne is loyal to the interests of her employer to protect technological secrets. This loyalty is a cooperative capital backed by sanctions by her workmates, which reduces job-hopping and technological spillover to rival firms. One question arising is if this communality is a legitimizing force for the judicial activism that characterizes EU patents (cf. section 4). In showing interests in building cooperative capital locally, Anne and her colleagues may increase the efficiency of EU policies in favour of output-based legitimization. However, in case of a trade-off between cooperative and independent social capital this effect may disappear. Anne tells me that even in large firms technical workers exchange technological information with rival firms (through producer-customer relations) and with researchers and PhDs at universities. This exchange, which usually is motivated by technological professionalism, is subject to costs as patents must be arranged before communication can start. This limitation on the free exchange of technological information may reduce the independent capital, which is a price for maintaining the loyalty to the employer. If the price becomes too high, job-hopping may become more acceptable among the engineers.

Scholars have documented how engineers and technical workers in Silicon Valley exchange technological knowledge through frequent job-hopping. The explanation to high labour turnover is that trade secret protection is weak in California (cf. Fosfuri & Rønde 2004). One lesson to be learned for EU legitimacy is that there is a connection between legitimacy and authority relations within the firms (the amount of cooperative capital). Cooperative capital contributes to an efficient delivery of policies on Community patents based on legal activism, which tends to make EU institutions more legitimate. However, to ensure legitimization EU institutions must become a

reference point in the workplace-based networks. Moreover, less judicial activism and more political attention probably increase the involvement of technology producers in EU's legislative process and further increase the legitimacy. As concerns standardization policy, future road safety will probably be tackled by EU leading to increased competition among national agencies with fees on transportation approvals. This can improve the budget situation of the agencies and increase the rewarding of the personnel. Accordingly, the interview with Peter suggests identification with the employer's interest in a growing agency. This cooperative capital will make the delivery of EU policy in this area efficient increasing the output-based legitimacy of the policy. As mentioned in section 4, EU's standardization policies are based on voluntary activity by national organizations. Communities of engineers provide a solid foundation of this activity and when involved in policymaking, they will make the conditions for EU legitimacy still more favourable.

It is convenient to think about the indirect model of legitimization as if common European norms are replaced by a principal. The principal derives legitimacy from alliances with governments and non-governmental actors. It is also tempting to consider the authority relations as "disjoint" in Coleman's sense of the word. However, he considers disjoint relations as voluntary, where individuals are free to enter and leave at any point in time. This is not the way one thinks about political communities. The approach tends to overrate the attractiveness of new European institutions as well as the elasticity of domestic institutions and communities. To avoid coercion, persons are compensated for their losses in welfare by side-payments. Yet, it is an interesting question if reduced values when one community is substituted for another can be compensated through cash transfers. If democratic values associated with domestic institutions cannot easily be reduced to a money equivalent (or other obvious measures of welfare returns), a legitimate representation with shared responsibilities between a national and a supra-national level of governance cannot be easily built.

For example, privatization of technological knowledge through EU patents may have positive wealth effects, but can they legitimize transfers of sovereignty to European institutions? To increase the cooperative capital to a proper level, it may be necessary to give up some of the independent capital. For engineers, reductions of independent capital are reductions in wealth. Unless it can be transferred to a cash transfer, it is difficult to make the calculation showing that this reduction is balanced by the value of the increased cooperative capital. According to Anne, it is true that

learning about new technology organized by the public authorities reduce the private costs of social learning. It also sounds reasonable that these reductions in costs compensate the engineers for leaving over control to the public authorities. But the social relations for information exchange that are lost have a meaning to Anne, which affects the reliance on the knowledge she obtains. In her own wording: “when you go to conferences, you learn during the lunch breaks”. Many policies by national governments and the EU, which make technological information public (coherent ‘European Research Area’, technology advisory centres etc.), reduce the transaction costs without deriving the necessary legitimacy to become successful. The explanation may be that independent capital is destroyed. While these negative wealth effects cannot easily be reduced to a cash-transfer, the technical workers are unable to see if the reductions of the transaction costs are worthwhile.

### *Improving the indirect model*

The indirect model of legitimacy becomes awkward when the consequences of EU policies for one community depend on actions taken by citizens outside the community. One way to tackle this difficulty is to examine identity externalities (examine the meaning actions taken by a person in one group has for persons in another group). While political institutions coordinate conflicts between communities, questionnaires about the interviewees’ attitude to EU governance probably provide insights into crucial identity externalities. Scholars in the field of experimental and behavioural economics note that democratic institutions (lawmaking, voting) may bring to mind social norms that encourage coordination (Tyran, Feld 2002). Norms for cooperation or for disobedience are activated depending on how rightful public authority is perceived. Peter expresses lack of confidence in government: “funding technology sharing by taxes encourages people to cheat and swindle”.

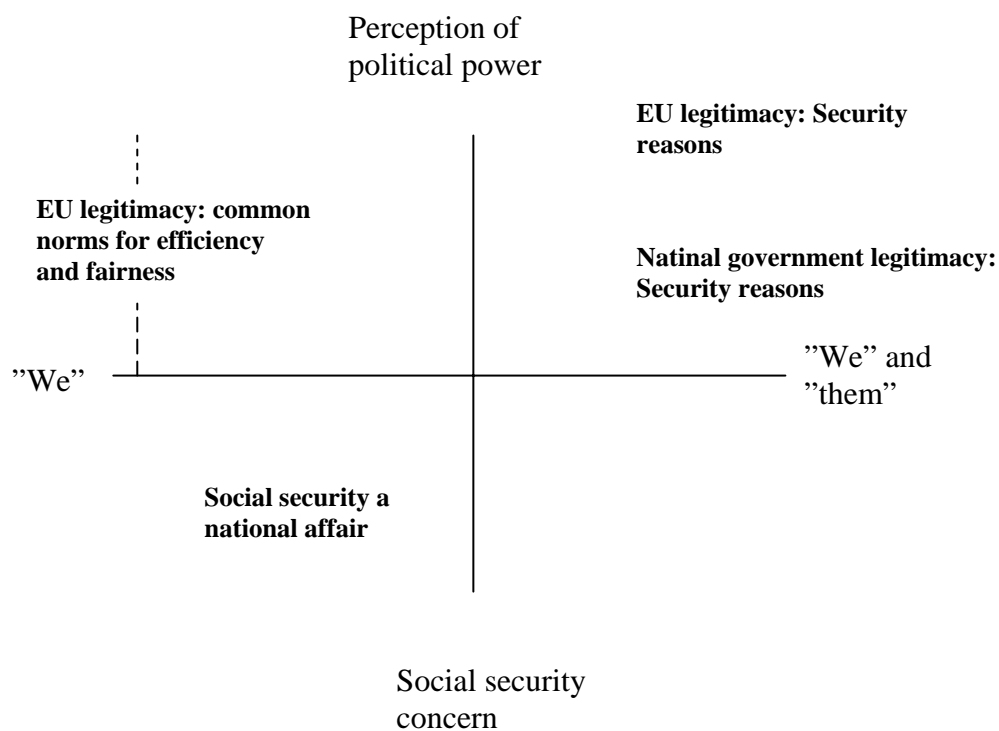
Social encounters have been examined by a questionnaire that refers to ten different policy areas. In a first step, an interviewee was asked to assess a value (from 1 to 5) to each area indicating preferences for transferring the area to the EU. For each interviewee, the interviewer, in a second step, made a random selection of answers, which were arranged into four pairs. For each pair, the interviewee was asked to write down the reason for assessing a higher value to one of the policy areas in a pair. Finally, the reasons assigned were interpreted in terms of identity externalities. It is arguable that many identity externalities perceived as threatening are tolerated if a person also



perceives his or her community as powerful. Accordingly, it is interesting if the answers to the questionnaire also can be interpreted in terms of perception of political power. The author's interpretations of the written answers are presented in table 3.

Table 3 suggests that the indirect model based on low European identity is incomplete. The questionnaire visualizes areas, where prescriptions for behaviour probably are motivated by a European identification ("We"). There are two groups of policy areas that are associated with low European identity ("We" and "them"). The first group seems to have a predisposition to the EU for "security reasons" ("EU legitimacy: Security reasons" in table 3). More specifically, it covers identity externalities concerning the interviewees' confidence in the protection of working places and natural resources (which are believed to be threatened by actions taken abroad). The interviews visualize that security also depends on perceptions of power. Thus, the interviewees are not willing to accept that liability moves from the national to the EU level unless they have power to influence EU. Like in the indirect model of legitimacy EU seems to require the legitimizing force of national governments or non-governmental actors.

Table 3: Meaning the interviewees impute to transfers of policy areas to the EU



In fact low-identity cases where this force is not required seem to be rare. Persons within local communities must be informed about multiple identities. They must also give “outsiders” rights to control actions even if these actions affect their own communities. This may be to the point when Anne admits that her interests differ from university researchers and engineers, who like Allan try to set up their own firms. They are entrepreneurs, who need public forums, where technological knowledge can be used freely. Anne acknowledges that actions taken by her to promote efficient patent regimes limit the technological matters to be discussed in these forums. Conversely, patents cannot easily be obtained for ideas and designs already revealed in a forum. However, if both communities recognize each other’s right to control actions with consequences across the communities, it is reason to believe that European institutions will be accepted (even if political power is moved between the two groups). Without this recognition (or if the power to influence EU is lacking) the need of security should be satisfied by the national government (“National government legitimacy: Security reasons” in table 3).

It is argued that the imputation of meaning to clashes between identities depends on national politics, which is a serious problem for EU legitimacy. Countervailing forces have been discussed in this paper such as the Europeanization of work organizations. Governance structures in Europe, which make the borders between European spaces fuzzy, may also be a countervailing force. It is referred to EU multi-level governance that produces fluid borders between regions and states. While it is far from clear how this type of governance becomes a driver of a European identification, there is evidence of a growing number of cross-border regions that may wipe out borderlines between people. The questionnaire suggests that there may be prescriptions for behaviour that are appropriate to people in many European communities (which is contrary to the indirect model of EU legitimacy). Policy areas are visualized, where EU legitimacy derives from a European identification with norms for efficiency and fairness (“EU legitimacy: Common norms for efficiency and fairness” in table 3). It turns out that this is the most important group of areas identified by the interviews. It includes policies for obtaining and protecting patents, public support of industrial research and regulation of mergers and acquisitions. These are efficiency-oriented policies that can be delivered by experts according to the economic model of legitimacy. The questionnaire suggests that some policy areas such as “protection of working places” lack a sharp border line to areas that for security reasons has a predisposition for the EU. Accordingly, there are

border-line cases, where social encounters and power are crucial for some interviewees, while identity with European norms are important for others. In the latter case perception of power is irrelevant for EU legitimacy (indicated by the broken line in table 3). Governance is imagined as arrangements for “institutional arguing” structured by legalization, common rules for transparency and good arguments (cf. Nyer 2003).

It is unanimity between the interviewees that social security should be left to the national government (“Social security a national affair” in table 3). One explanation may be the success of the Danish welfare state. If the same questionnaire had been answered by engineers in another EU country it might well be that the result had been more ambiguous. A more plausible explanation is that there are policy areas, which are “irreducible national” (cf. Beetham, Lord 1998). We may imagine them as policies based on experience of care and nursing that are very personal. These areas have been located on the “We”-axis in table 3 but to the right of the European identity indicating that they reflect identity with local communities based on ties of friendship. Moreover, its location is below the axis showing that perception of power plays no role.

## **6 Conclusion**

The aim of this paper is to apply economic analysis to bring analyses of EU legitimacy down to the level of individuals. By concentrating the explanation on Danish engineers, there is a risk of excluding possibilities for generalizations. On the other hand, the explanation offered uses general methods and approaches that link satisfaction of individual interests to social structures, which brings us to the indirect model of legitimization. It recognizes that the creation of a European identity is seriously limited, for instance, because individual identities usually develop in national contexts with nationalistic perspectives. It is an advantage of this paper that it considers work organizations, which extend beyond national contexts and may give leverage for a European outlook. Alliances are often established between these organizations and the authorities as part of problem-solving strategies at various levels of EU governance, for instance, when a single actor (foremost a public organization) is unable to manage a problem by itself (Gunnarsson 2003). While generalizing the indirect model, the paper demonstrates methods suitable for analyzing the effects

of these alliances on the legitimacy. All in all, the material presented in the paper provides grounds for drawing a few conclusions.

One lesson so far is that Danish engineers seem to become aware of how Europe is governed through Europeanized work-relations. This is true irrespectively of work as civil servant, researcher or as an engineer in a private company. Peter (civil servant) prepares technical standards for road safety in Europe. He realizes that the European Single Market creates conflicts about public rules for disclosure of information about technical designs. A single market in Europe also plays off transport agencies in different EU countries against one another. Allan (researcher) is in part founded by the EU. In addition, new university-industry partnerships imply that he must give EU policies on intellectual property and patents some thoughts. The commercialization of the university research implies that the work-relations of Allan and Anne (engineer in a private company) become alike. For Anne, the Single Market accelerates the Europeanization of the producer-customer relations, which simultaneously demands an efficient patent-regime in the EU.

Secondly, the paper tries to tell a reliable story about how engineers, by building social capital within work organizations, help the legitimization of the EU. The interview with Anne visualizes how cooperative social capital, which derives from loyalties to the employer, satisfies her payment-interests. If interaction at the EU level becomes a reference point in the building of cooperative capital, then the latter becomes intertwined with the legitimization of EU policies on patents. Yet, if the price in terms of damages to the independent social capital, which serves the engineers' interest of technological professionalism, is too high, or the damage cannot easily be reduced to a monetary equivalent, the effect on EU legitimacy is likely to disappear. This story does not prove that the indirect model of EU legitimization is suitable when the consequences of EU policies for one occupational group depend on actions taken by other groups. An alternative story points to the importance of identity externalities. It mentions policy areas with low EU identity and interdependencies across occupational groups, but the legitimating force of national governments and non-governmental groups is still efficient. However, the involvement of governments and non-governmental groups must bring about that the persons in the occupational groups perceive that they have power to influence the EU. The alternative story also mentions policy areas with interdependencies between occupational groups, but perception of political power is not a necessary condition for EU legitimacy. However, this brings us to the special occasion of a European

identification with norms for efficiency and fairness. Finally, there seems to be areas that are “irreducible national”.

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