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Popular Democracy and the European Union Polity

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Abstract

Although we still celebrate the late twentieth-century ‘victory of democracy’, our understanding of what democracy entails in both theory and practice is increasingly subject to a variety of qualifying definitions, many of which now seem to devalue the role of elections and electoral accountability. This is also obviously seen in the politics of the European Union, where the efforts to displace conflict dimensions into arenas where democratic authority is lacking, as well as the efforts to depoliticize issues that relate to European integration, have led to the development of a distinct political system in which the exercise of popular control and electoral accountability proves very difficult. At the same time, the EU should not be seen as exceptional in this regard, but should instead be seen as symptomatic of a wider process of depoliticization. As the experience of the EU suggests, the combination of popular democracy and legitimacy is proving increasingly problematic - not only in Europe, but also further afield.

Keywords: constitutional change, democracy, Europeanization, governance, legitimacy, non-majoritarian institutions, political parties, political representation, polity building

Table of Contents

1	Introduction	4
2	Being safe for, or from, democracy	4
3	The EU polity	6
4	Politicization and displacement	10
5	Europeanization and depoliticization	12
6	The puzzle of apolitical Europe	14
7	The EU as a construct	17
8	Conclusion	24
	List of References	26

1 Introduction

This paper seeks to locate the understanding of the European Union's democratic deficit within the context of the more widespread drift towards forms of decision-making that eschew forms of electoral accountability and popular democratic control.¹ I argue that despite its evident idiosyncracies, the EU should not be seen as particularly exceptional or *sui generis*, but should best be regarded as a political system that has been constructed by national political leaders as a safeguarded sphere in which policy making can evade the constraints imposed by representative democracy. The scale of the European construct may be unique and without precedent, but the rationale which lies behind it conforms closely to current thinking about the role of non-majoritarian institutions, on the one hand, and about the putative drawbacks of popular democracy, on the other. To study the EU in isolation is therefore to miss this wider, and increasingly relevant picture.

As I suggest towards the end of the paper, rather than being seen as a special case, the EU can better be conceived as an outcome, or as the consequence of a longer developmental trajectory, in which the democratic process grows and mutates, and in which the mechanisms that allow democracy to function change and adapt. To put it another way, the fact that conventional forms of democracy and representative government are difficult to apply at the level of the EU is not so much exceptional as symptomatic, and if we could democratize the European Union along conventional lines, then we probably wouldn't need it in the first place.

2 Being safe for, or from, democracy

It is probably fair to say that the world is now more favourably disposed towards democracy than at any point in our history. Already by the year 2000, according to recent Freedom House figures, some 63 per cent of the independent regimes in the world, home to some 58 per cent of the world population, could be classified as democratic. Half-a-century earlier, despite the sometime optimism of postwar reconstruction, just 28 per cent of independent regimes had been classifiable as democratic, accounting for 31 per cent of the world population. Further back again, in 1900, there were no fully-fledged democratic regimes at all, with countries such as the United Kingdom and the United States combining widespread democratic practices in the exercise of public office with some quite severe restrictions on the scope of the franchise.

In fits and starts, or in what some see as more or less sustained waves (Huntington 1991; Doorenspleet 2000), democracy in the past 100 years has therefore taken root, has blossomed, and has now finally become consolidated. Small wonder, then, that

¹ Earlier versions of this paper were presented to the workshop on Sustainability and the European Union at the ECPR Joint Sessions in Uppsala in April 2004, and to the Connex Workshop on Accountability, Legitimacy and Representation in Leiden in March 2005. I am grateful to participants in both workshops, and to an anonymous referee, for useful comments and encouragement. Work on this paper was facilitated by financial support from the Dutch Scientific Research Council (NWO), grant no. 403-01-006.

the twentieth-century has been deemed the 'Democratic Century',² and celebrated as such. As Axel Hadenius (1997, 2) put it in his introduction to an end-of-century Nobel symposium: 'the principles of democratic government...have been triumphing.' More importantly perhaps, by the end of the century these principles seemed neither subject to challenge nor capable of being challenged. 'After the fall of the Berlin wall', noted Juan Linz (1997, 404) in the same symposium, 'no anti-democratic ideology appeals to politicians, intellectuals, religious leaders...as an alternative to political democracy.' Or, as Linz and Stepan (1996, 5) noted, borrowing a phrase from Giuseppe de Palma, democracy had finally become 'the only game in town.'

But what sort of democracy was this? Even up to the 1980s, this might have sometimes seemed a bizarre question. Up to that point, and certainly during the peak years of the Cold War, the political world had been divided into three more or less simply defined categories: the first world, which was the capitalist world and which was also mainly, but not exclusively, a democratic world; the second world, which was the world of the Soviet Union and China, and which comprised the countries that were then under the communist sphere of influence; and the third world, which was courted and contested by both first and second worlds, and which was neither especially democratic nor powerful. Within this tripartite division, democracy was more or less just democracy, and while it was important for scholars and policy-makers to distinguish between democratic and non-democratic forms of government, and, especially in Cold War terms, to distinguish between different types of non-democracy, the democratic world itself tended to remain undifferentiated.

This view eventually began to change in the 1980s, at least at the level of scholarship, with the shift in perspective been pushed along in part by the so-called 'neo-institutional' turn in political science. If the state was to be brought back in as an independent variable, and if institutions were to be used to explain individual behaviour and choice (e.g. Shepsle 1995), then it was obviously going to be necessary to highlight differences between institutions as well as between various forms of democracy: otherwise there would never be enough variation to weigh in the explanations. The shift in perspective was also helped by the influential work of Arend Lijphart, who had initially sought to identify a distinct democratic regime type, consociational democracy, and who later, in a widely cited book, specified the various institutional differences that could be associated with the contrasting majoritarian and consensus models of democracy (Lijphart 1984).

It was only with the end of the Cold War, however, that the pronounced variation in types of democracy was brought to the fore. The former first world category, now ever more loosely defined, was soon filled to overflowing, and it became increasingly obvious that not all democracies were alike. Larry Diamond (1996) and Fareed Zakaria (1997), for example, soon drew attention to the contrast between the fully-fledged liberal democracies that had long been established in the west and the more limited 'electoral' or 'illiberal' democracies that were then emerging in the former second and third worlds. Other scholars spoke of variations such as populist democracy or delegative democracy. In 1997, in what had then become a hugely

² The term, and the figures, come from the Freedom House report 'Democracy's Century: A Survey of Global Political Change in the 20th Century', published on December 7, 1999. The full report can be found at <http://www.freedomhouse.org/reports/century.html>.

expanded field of study, Collier and Levitsky (1997) were able to document more than 500 terms that were then being used to distinguish between different versions of democracy. By now, that number will certainly have been increased even further.

In short, while the political field in the late twentieth-century may have become free for democracy and the democrats, as Linz (1997) had suggested, democracy itself was becoming less easy to define: the edges had suddenly become less sharp and boundaries less clear. In particular, it seemed that it was no longer enough to define democracy according to its basic procedures, especially if the emphasis in those procedures lay with the electoral process and with notions of popular democracy. That had always been the key to the Schumpeterian notion – in which democracy was defined as a system that required ‘free competition for a free vote’, and that embodied ‘that institutional arrangement for arriving at political decisions in which individuals acquire the power to decide by means of a competitive struggle for the people’s vote’ (Schumpeter 1947, 271, 269). Now it seemed that something more than elections was required, or perhaps even something different. Echoing the traditional Madisonian or constitutional approach to democracy, various theorists and influential commentators began to downgrade the importance or centrality of the popular vote, and placed the stress instead on the need for institutional pluralism and for more reasoned or even expert decision-making. ‘Elections are an important virtue of governance, but they are not the only virtue,’ argued Fareed Zakaria (1997, 23), adding in a later publication that ‘what we need in politics today is not more democracy but less’ (2003, 248). Or, as Philip Pettit noted when clarifying what was entailed by his influential conception of modern republicanism, ‘while democracy is certainly recognized as an important safeguard against governmental domination, it is never presented as the center-piece of the republican polity’ (Pettit 1998, 303).

In other words, although elections and other modes of popular democracy remain important to the definitions of late twentieth-century democracy, they are no longer privileged as guarantors of legitimacy. Indeed, if anything, it now seems that the structures of power and decision-making sometimes need to be protected from the people, and from excessive ‘input’; that is, it seems necessary to create what Everson (2000, 106) has identified as ‘a sphere which is guarded...from disruptive redistributive goals’ and which thereby ‘serves the goal of democracy by safeguarding the democratically set goals of the polity from the predatory inclinations of a transitory political elite.’

3 The EU polity

The European Union polity is probably the most pre-eminent of such spheres. To be sure, this is not a system that is wholly safeguarded from the inclinations – predatory or otherwise – of transient, or elected, political elites. But by comparison to the conventional national political systems in Europe, the scope for organised, electorally-mandated input within the EU polity is notoriously meagre. This is the case despite the fact citizens who seek to exercise control in and over the European Union political system have access to two overlapping channels of political influence, with two sets of delegates who may be mandated.

On the one hand, citizens seeking voice in the European Union can seek to exert influence through their national parliaments and governments, and then, in a further step, through the Council of Ministers and the European Council. Less frequently, and less directly, citizens can also use this channel to influence appointments to the European Commission and other public offices at the EU level. On the other hand, and with more immediate effect, albeit with less weight, citizens can seek representation through the European Parliament, and here too, albeit again indirectly, they can use this channel in order to exert a very limited influence on appointments to the European Commission. It was through this channel, for example, that the parties in the European Parliament forced the withdrawal of Rocco Buttiglione from the proposed new Commission headed by José Manuel Barroso in 2004.

Although constitutionally quite separate from one another, these two channels nevertheless experience considerable overlap, and this occurs in two important ways. First, and increasingly so, overlap occurs as a result of processes of co-decision in the EU, whereby issues and/or appointments are decided on the basis of input from both channels at the same time, that is, on the basis of input from both the European Parliament and the national governments. Second, overlap also occurs because, in the main, it is usually the same actors or delegates that take on the role of intermediary in both channels. In other words, the same political parties, subject to control by the same political leadership and by the same organized membership, compete in both channels. To be sure, the candidates and fraction leaderships that these parties nominate for election will usually differ from one channel to the next, and the precise labels under which they compete may also sometimes differ, in that the campaign for the EP elections may be organised under the aegis of trans-European Europarties. Whatever the label, however, and whatever about the candidates, the key actors in both channels remain the national parties, and even within the European Parliament, the key principal for whom the MEPs act as agent is the national party leadership (see Hix 2002).

As well as two channels of representation, there are also two dimensions of possible conflict and competition that have to do with the establishment and functioning of the EU polity and along which citizens and their representatives may be aligned. The first of these may be defined as the 'Europeanization dimension',³ a dimension that is bounded at one end by conflicts over the institutionalisation of a distinctive European political system (see Cowles et al. 2000), and at the other end by conflicts over the penetration of European rules, directives and norms into the domestic sphere (see Featherstone and Radelli 2003; Goetz and Hix 2001). That is, at one end of the Europeanization dimension there exists the potential for conflicts regarding the creation, consolidation and territorial reach of authoritative political institutions at the supra-national European level, whereas at the other end of the same dimension the potential conflicts concern the extent to which local policies and practices become subject to standardising European influences and constraints. This latter end also involves a more complex set of issues, in that it encompasses not only conflicts about the very formal aspects of Europeanization, including the *acquis*, but also conflicts about the more or less binding side-agreements that are reached by some or all of the member states with one another, and even conflicts about the sheer convergence and standardization of cultural practices and lifestyles. Both ends of this

³ See Mair (2004, 340-343), of which the following paragraphs are drawn.

dimension are related, of course, in that each requires and is dependent upon the other. Were it not for the institutionalisation of a European political system, there would be little to exert an 'external' impact on the domestic sphere; and in the absence of any penetration into the domestic sphere, the institutionalisation of a European political system would be of little practical concern. It is in this sense that these two faces of Europeanization – institutionalization and penetration – are part of a single dimension.

This single dimension of Europeanization offers a close parallel to the territorial dimension that was specified by Lipset and Rokkan (1967, 6-26) in their now classic analysis of the development of national cleavage structures. Indeed, apart from the level of application, the major difference between this Europeanization dimension, on the one hand, and the Lipset-Rokkan territorial dimension, on the other, is that, as yet, the conflicts that are invoked by the former are substantially less pervasive and less politicized than those invoked by the latter. I will come back to this point later in the paper. At one end of the territorial dimension in the Lipset-Rokkan framework can be found those conflicts that involve local opposition 'to encroachments of the aspiring or the dominant national elites and their bureaucracies' (1967, 10); in the European equivalent, this can be seen to constitute local opposition to the interference of Brussels. At the other end of the dimension are located conflicts that concern 'the control, the organization, the goals, and the policy options of the system as a *whole*...[often reflecting] differences in conceptions of nationhood, over domestic priorities and over external strategies', and these, when translated to the European level, would be equivalent to the current divisions about the desired shape, depth and territorial extension of the European integration process.⁴

In their original schema, Lipset and Rokkan also specified a second or functional axis that cut across the territorial dimension. At one end of this dimension were grouped various interest-specific conflicts over the allocation of resources. These conflicts were seen as pragmatic in nature and as capable of being solved 'through rational bargaining and the establishment of universalistic rules of allocation.' At the other end, were grouped the more ideological oppositions, in which the conflict was not about particular gains or losses but instead concerned 'conceptions of moral right and ... the interpretation of history and human destiny' (1967, 11). Such a second dimension is also perfectly compatible with the translation of this scheme onto the European level. In this case, as in the case of the Lipset-Rokkan nation-building model, the second axis is not about Europe or Europeanization as such, whether specified in terms of institutionalization or penetration, but rather takes Europe as a given and divides instead along strictly functional conflicts, be these interest-specific or ideological. Conflicts that occur along this dimension take no position on the question of Europe as a polity, but are more concerned with the allocation of resources within whatever version of Europe happens to exist at the time.

In sum, there are two dimensions of competition involved here, the Europeanization dimension and the functional dimension. The one concerns the shape and reach of the increasingly institutionalised European Union political system, while the other concerns policy areas in which there is already an established EU competence, but

⁴ For a wide-ranging application of Rokkan's framework to the process of European integration, see Bartolini (1999; 2006).

in which there are disagreements about approach and about priorities. In addition, and as outlined above, there are also two channels of representation within the EU system; that is, there are two channels through which citizens can hope to exert influence on, or control over the outputs of the system. The one channel works through European elections and the European Parliament, an institution which has an increasingly important voice and authority in the policy-making process, and hence on the outputs of the EU, but which has only a limited say over the constitutional structures or even over the appointment of the political executive; the other works through national elections and national parliaments and governments, that is, within the arena that has the exclusive authority over constitutional questions.

In principle, it should be possible to match these dimensions and channels to one another, and, at least at first sight, it seems also obvious how they fit together. As far as opposition on the Europeanization dimension is concerned, for example, and most especially as far as opposition to the institutionalization of Europe is concerned, the competences of the various institutions are such that one would expect this to be channelled through the national route. It is here, and only here, that the relevant authority lies. As far as opposition on the functional dimension is concerned, on the other hand, while this might also be channelled through the national route, since some of the relevant authority is also located here, the expectation is that this should mainly be focused on the European channel, and through the European Parliament, since it is along this dimension that the main EP competences seem to lie. To be effective, therefore, it would seem that representation via the national channel is best invoked for opposition along the Europeanization dimension, whereas representation via the European channel is best invoked for opposition along the functional dimension (see also Thomassen and Schmitt 1999, 258-260).

In practice, however, the real-world patterns of contestation tell quite a different story (see Mair 2000). That is, when we look at the debates and programmes that are found in each of the channels, we tend to find opposition regarding the institutionalization of Europe being voiced within the European channel, where no relevant competence lies; whereas opposition along the functional dimension is usually invoked in the national channel, even though on this dimension authority is shared with the European channel. The result is simple. The choices in both channels become increasingly irrelevant to the outputs of the system, and the behaviour and preferences of citizens constitute virtually no formal constraint on, or mandate for, the relevant policy-makers. Decisions can be taken by political elites with more or less a free hand.

What we see, therefore, is the absence of effective representation in the European Union political system, in that, as with the various versions of late twentieth-century democracy noted above, the citizens lack ultimate control (see also Thaa 2001). In other words, despite the seeming availability of channels of access, the scope for meaningful input and hence for effective electoral accountability is exceptionally limited. It is in this sense that Europe appears to have been constructed as a safeguarded sphere, protected from the demands of voters and their representatives.

4 Politicization and displacement

How can we account for this evident evasion of conventional procedures for popular control? In the short run, the answer, at least in principle, is very simple, and especially so when viewed from a supply-side theory of political competition: the system is driven by the choices made by party and political leaders when they contest elections, and by the strategies which they adopt – in both access channels. That is, and again with few exceptions, political leaders dealing with Europe choose to contest elections on issues in which those elections cannot prove decisive, and to exclude those issues on which the elections can prove decisive. They prefer to talk about the institutionalization of Europe when competing in elections to the European parliament, where it's largely irrelevant, and they prefer not to raise these questions when competing in national elections, where it matters.⁵ By organizing political competition in this way, these political leaders free themselves from any possible restraints imposed by external and binding mandates.

The result is a remarkable under-politicization of the Europeanization dimension (see also van der Eijk and Franklin 2004). There may well be a potential for conflict over Europe – over its reach, its form, and its sheer size – but, at least as yet, the parties which contest elections, particularly at national level, seem to want to push this to the shadows. The preference appears to be that Europe not be contested – at least within the mainstream. Van der Eijk and Franklin (2004, 47) refer to this situation as being equivalent to 'the sleeping giant', arguing that the European issue is now 'ripe for politicization' and suggesting that 'it is only a matter of time before policy entrepreneurs ...seize the opportunity...to differentiate themselves from other parties in EU terms'. Indeed, it may be that we are now seeing signs of precisely this shift, particularly as opinion in Europe appears to swing to the right, in that the Europeanization dimension is now beginning to force itself with greater weight into the various national electoral arenas.

This has always been the case in the UK, of course, where displacement has never been particularly pronounced, and where the European divide has also become a mainstream partisan divide. In France too, the issue has often come quite strongly to the fore in national elections, both parliamentary and presidential (e.g. Knapp 2004). However, it is now striking to note how this pattern is beginning to spread – including to both the Netherlands and Austria during their 2002 elections, for example. Part of the reason for this, as van der Eijk and Franklin emphasise (2004), is simply the increased salience of the Europeanization dimension as such – Europe now counts for more, and the conflicts which it stimulates were further exacerbated by the lead up to the 2004 enlargement as well as in the discussions regarding possible Turkish membership. Part of the reason can also be traced to the rise of new populist parties on both the right (mainly) and left (occasionally), and to the quite widespread resentment and even hostility towards the established political class that can now be

⁵ Although this is generally true for the mainstream parties in particular, the most extreme example of such displacement comes from the fringe, where the Danish June Movement and People's Movement Against the EU choose to fight their anti-European battle in the electoral arena of the European Parliament rather than in that of the Folketing. The two parties win a lot of support – almost 25 per cent in the 1999 round of EP elections – but they are also clearly choosing, deliberately so, to fight in the wrong arena.

seen in a large number of European polities. In this case, Europe becomes a key issue with which to launch a populist assault, in that hostility to European integration has become one of the best possible weapons in the political armoury of the anti-establishment forces. Unlike the other issues – such as the immigration issue – that are also used in this attack, for example, it is one that unites, or is at least shared by, the outsiders on both right and left. In this sense, it can and does play a crucial role.

This is hardly surprising, especially given that the long march forward towards European integration has always been a project driven by Europe's political and administrative elites; that is, it has been an 'elite-led process which has been largely unexplained and certainly under-advocated to the average citizen' (Bellamy and Warleigh 2001, 9). Moreover, and largely by mutual agreement across the political mainstream, it has also been a project that has been pursued without becoming politicized and without seeking to generate any fanfare. Indeed, if anything, it was to be developed by sleight of hand.⁶ In the spirit of the so-called Monnet method, the EU building process was one that was almost always kept out of conventional opposition politics and public political debate. Hence the displacement discussed above. As an elite project, however, or as *the* elite project, effective progress towards European integration could only be achieved as long as the elites themselves were trusted. This was the essence of the permissive consensus. It was a consensus in the sense that there was agreement more or less across the mainstream, and it was permissive in the sense that popular trust in the elites ensured that there was popular deference to their decisions.⁷ But once that trust and deference began to fade, and once disengagement and disillusion began to set in, the elites became vulnerable. And as they became vulnerable, so too did their projects, and in particular that on Europe.

This is not to suggest that European integration has now become a major issue of political dispute, or even a major cleavage. That would be far too great an exaggeration: the giant is still sleeping, even if a bit more restlessly than before. But precisely because of the importance of the permissive consensus in the past, and precisely because that consensus so self-evidently concerned an elite project, the European issue has now emerged as a hammer with which to beat the establishment. This occurs not just on the right, however. Rather, it is a hammer for use by the anti-establishment forces on both left and right, and both sides are more than happy to allow it to fuel their support. In the Netherlands, the Europeanization dimension helped win support for both Pim Fortuyn on the right and the small Socialist Party on the left. In France, it has not only helped Jean Marie Le Pen and his Front National, but also the various far left groupings, a number of whom polled relatively successfully in the presidential elections of 2002 (Knapp 2004). In the short run, this new pattern of competition clearly increases the level of politicization of the Europeaniza-

⁶ This seems also to be the reading of Pascal Lamy, EU Trade Commissioner: 'Cooperation on coal and steel was the first thing the founding fathers of the European project agreed upon. It was a trick they played: they wanted a political union and the easiest place to begin was a common market in these two basic products', see Joe Klein, 'Who's in charge here?', *The Guardian* 26 June 2002.

⁷ Note the typically acerbic observation by the late Ken Tynan in his 1975 diary: "6 June: Roy Jenkins, interviewed on TV after the result [of the Common Market referendum] was announced, made an unguarded remark that summed up the tacit elitism of the pro-Marketees. Asked to explain why the public had voted as it had, ...[he] smugly replied: 'They took the advice of people they were used to following'." See Lahr (2001, 248).

tion dimension, and hence also helps to break the long-term permissive and hence depoliticized consensus. As yet, however, even these recent shifts remain quite muted, and the Europeanization dimension continues to have just a limited direct effect on either the parties or on the ways in which they compete with one another.

5 Europeanization and depoliticization

But even though its direct effect may be limited, Europe does exert a strong indirect influence on the parties and their modes of competition. Indeed, in this regard the importance of Europe should not be underestimated. To begin with, the development of a European level of decision-making has clearly played a major role in the hollowing out of policy competition between political parties at the national level. This has happened in two ways. First, and most obviously, one major effect of Europe is to limit the policy space that is available to the competing parties. This happens when policies are deliberately harmonised, and when we are confronted with more or less forced convergence within the Union. That is, it comes from adopting the *acquis* and from accepting, at least in certain key policy areas, the rule that one size fits all (e.g. Grabbe 2003). National governments may still differ from one another in how they interpret and act upon these demands for convergence, of course, and in this sense there may still remain a degree of variation from one system to the next. But even when such interpretations differ across countries, they rarely appear to differ – at least across the mainstream – within countries. Thus even when one of the member states does seek to opt out of, or evade a particular policy, this usually happens by agreement between government and opposition, and hence the policy space remains foreshortened and the issue in question rarely becomes politicized.

Second, Europe limits the capacities of national governments, and hence also the capacities of the parties in those governments, by reducing the range of policy instruments at their disposal, and hence by limiting their repertoire. This occurs through the delegation of decision-making from the national level to the European level – whether to the European Central Bank, or to Europol, or to any of the many new regulatory agencies that now proliferate at all levels within the European polity (Kelemen 2002). These are the so-called non-majoritarian institutions, from which parties and politics are deliberately excluded. In this instance, policy is decided according to a variety of different expert or legal merits, and in principle, at least, is not subject to partisanship. If we think of parties and their national governments as being like armies that are being sent into battle on behalf of their supporters, then the effect of such delegation to Europe – as well as to other non-majoritarian agencies at national level (e.g. Strøm et al 2003; Thatcher and Stone Sweet 2003) – is to reduce the amount of weaponry at their disposal, leaving them less and less capable of carrying through their putative campaigns. In addition, Europe also has the effect of disallowing what had once been standard policy practices on the grounds that they interfere with the free market. Particular goods can no longer be excluded from import or sale, particular qualifications can no longer be deemed inadequate, and particular domestic services can no longer be privileged. Moreover, as companies such as Ryanair have found to their cost, governments are severely restricted in the extent to which they, or other public authorities, can offer subsidies or help to particular industries or companies, and they are also limited in the exercise of their

traditionally very basic function of determining which persons may enter and/or seek work within their territory. In other words, practices that involve public bodies in selection, privileging, or discrimination become more and more restricted, and hence the stock of policies available to governments, and to the parties which control those governments, is steadily curtailed.

Both sets of limits serve to substantially reduce the stakes of competition between political parties, and to dampen down the potential differences wrought by successive governments. Policy competition becomes more attenuated, and elections inevitably become less decisive in policy terms. To be sure, elections do continue to determine the composition of government in most polities, and as more and more party systems tend towards a bipolar pattern of competition, and towards a contest between two teams of leaders, this aspect of the electoral process is likely to become even more important. But insofar as competing policies or programmes are concerned, the value of elections is steadily diminishing. In sum, through Europe, although crucially not only through Europe, political competition becomes increasingly depoliticized.

There are also two other senses in which the deepening of European integration can be seen to promote depoliticization and disengagement. First, there is the simple socializing effect, in that the existence and weight of the European institutions, and of the Commission in particular, is clearly going to accustom citizens into a more generalised acceptance of being governed by institutions, which are neither representative nor properly accountable. The corollary of this is obviously that less attention need then be given to those institutions that are representative and/or accountable. In other words, if important decisions are made by so-called non-majoritarian institutions, and if these are accepted and acceptable, then this inevitably raises the question about the centrality, relevance, and sheer necessity of those institutions that still do depend on the electoral process. In short: politics is devalued to the extent that key decisions are taken by non-political bodies (see also Flinders 2004).

Second, because the European Parliament – the one European body that does depend on the electoral process – fails to generate much commitment and enthusiasm on the part of citizens, it may well be responsible for a negative spill-over effect on national politics. This can happen on the one hand through contagion, whereby a disregard for the European Parliament as a legislative institution, and in particular a disregard for the MEPs who work in that institution, can feed into, or be encouraged to feed into, a disregard for national parliaments and national representatives. If one elected body is seen to be ineffective and self-serving, then why not others? On the other hand, it can happen through a learning process, in that by not voting in EP elections, citizens may learn that it is also possible and non-problematic to abstain from taking part in national elections. If voting is seen as a duty, then neglect of that duty in one arena may encourage neglect in other arenas, including the national parliamentary arena; and if voting is a habit, then even one experience of abstention may be enough to break that habit entirely. In other words, by democratising the European Parliament, the polity builders in Europe may have inadvertently contributed to devaluing the electoral process as a whole.⁸

⁸ Already in 1981, just two years after the introduction of direct elections to the European Parliament, R K Carty (1981, 241) expressed concern about this very possibility, noting that 'it would be a

If we put all of these factors together, then what we see is that the reduction in the stakes of political competition at the national level, and the wider process of depoliticization to which Europe contributes, acts to downgrade the real and perceived importance of traditional democratic processes: if politics becomes less weighty, then so too does democracy – at least in the sense of popular participation and electoral accountability. The result is not only the familiar democratic deficit that we see at the European level, but also a series of domestic democratic deficits within the member states themselves. To put it another way, because democratic decision-making proves marginal to the working of the European polity at the supranational level, it also tends to lose its value in the working of the various component polities at the national level. It is in this sense that, through Europe, European citizens learn to live with an absence of effective participatory democracy.

They also learn to live with a growing absence of politics. For while European integration serves to depoliticize much of the policy-making process at the domestic level – by reducing the policy range, policy instruments and policy repertoire available to national governments and to the parties who organise them – it fails to compensate for this reduction by any commensurate repoliticization at the European level. To be sure, some corresponding repoliticization can be seen in the growing evidence of contestation along the Europeanization dimension (see above), as well as in the re-animation, through Europe, of formerly dormant regional or territorial lines of conflict.⁹ As yet, however, this occurs only on a very limited scale, and hence what is being lost on the swings is not being found again on the roundabouts. Political conflict in this sense becomes eviscerated in Europe, and by Europe. The question is: why should this be the case?

6 The puzzle of apolitical Europe

Within what is an enormous and still growing literature on the European Union system, one recurring theme concerns the apparent exceptionalism of what has actually developed in postwar Europe. In its most succinct form, this is encapsulated in the notion that the European Union represents an *n* of 1,¹⁰ being neither a national state, nor a conventional supranational or international organisation; and being neither part of the national political systems of Europe, nor constituting a distinct political unit in its own right. Above all, it is seen to be exceptional in that it lacks a so-called 'demos', and hence, by definition, or so it is asserted, it is a system that cannot function democratically: Neunreither (2000, 148) puts it baldly: 'There is no chance of a possible EU democracy, because there is no European people, no *demos*. No *demos*, no democracy – quite simple.' With time, of course, with education, and with socialization, such a European demos might eventually emerge, and then it would

tragedy if the net result of electing the European Parliament were a less democratic Europe.' It seems that the more powers have been accumulated by the European Parliament over the years, the less interest and support it has generated. See also Pijpers (1999).

⁹ The reawakening of the traditional centre-periphery cleavage in Norway in the context of the first EEC referendum is an obvious case in point (Valen 1976), with more recent examples being found in Catalonia as well as in northern Italy.

¹⁰ See, for example, the debate by James Caporaso et al, *ECSA Review* 10:3, 1997, available at <http://www.eustudies.org/N1debate.htm>.

become possible to speak of constructing a real democracy within what is now the European Union. Until that time, however, we will have to make do with something other than popular democracy, for it seems that 'without a clear sense of a European demos it is difficult to adequately institutionalize government either by or for the European people' (Bellamy and Warleigh 2001, 9).

What we have in Europe, therefore, is some strange and ill-defined polity, which, by virtue of the lack of definition, appears to evade the need for the standards normally applied to other sets of governing institutions (see also Gustavsson 1998). If it is a non-democracy, it is because, in the end, it is a non-polity. This is also the lesson that Shaw (2000, 291) appears to draw when concluding that the EU is a 'polity-in-the-making', for in such a context, she suggests, 'democracy remains both a conceptual problem and a practical challenge, requiring multilevel and multi-actor solutions that are 'beyond the state' and, perhaps, also beyond the conventions of western style representative liberal democracy.' In these terms, it seems that even the notion of a democratic deficit may be misleading, since it implies that inappropriate standards are being applied.

But although this argument runs through much of the recent theoretical and empirical literature on the EU, it remains somewhat puzzling. To begin with, the notion that the absence of a single, culturally coherent and presumably self-conscious 'demos' precludes the establishment of democratic solutions is an assertion that appears to fly in the face of all the attempts, both successful and unsuccessful, to establish democracy in multi-cultural or even multi-national territories. Indeed, even to raise this question is to invite a return to the classic early postwar discussions in political science about whether a viable democracy was possible in the context of a culturally segmented or plural society. In that early literature at least, whether based on empirical data or theoretical argument, the answer was clearly yes: it was possible, even if the institutions of the democracy in question did have to be constructed in such a way as to allow for minority vetoes, cross community cooperation, and what would now be called subsidiarity. In other words, it would be possible if the democracy in question were to be consociational, consensual or even 'working' (see Almond 1960; Lijphart 1977). It is precisely this reasoning which continues to argue that Belgium, for example, which clearly lacks a single Belgian demos, or Switzerland, which lacks a single Swiss demos, or even Northern Ireland, which lacks a single British, Irish or even Ulster demos, can work with more or less standard democratic procedures and with the institutions of a fully democratic polity.

But even this is not the key issue, for if we also return to the classic discussions in political science, and to the work Almond (1960) and Easton (1965) in particular, then it seems hardly plausible that we can set the EU aside as something exceptional and incomparable. That early literature shared much with the contemporary literature on Europe in that it also struggled to come to terms with 'polities' which were not conventional states – be these polities in the making, or polities that were somehow primitively organised, or whatever. That literature also made major headway in seeking to extend the conceptual scope of political science beyond the limits set by its then more or less exclusive application to the developed political world and to what were seen as conventionally structured state forms (see Mair 1996, 312-319). It did this in two ways. First, it sought to develop a new conceptual language which went beyond those conventional terms, and which became sufficiently abstract to

accommodate the primitive, developing, or so-called exceptional polities. This was the language of 'the political system', a language that allowed scholars to analyse the unusual and often poorly crystallized institutions that characterised much of non-western politics (Almond 1990, 192), and that was able 'to encompass pre-state/non-state societies, as well as roles and offices that might not be seen to be overtly connected with the state' (Finer 1970, 5). Second, it sought to relate this new conceptual language to more concrete and specific terms of reference in a fairly rigorous and systematic fashion, such that particular cases and institutions could be compared to one another at varying levels of abstraction. This was the approach that was outlined by Sartori (1970) in a now famous article, in which he distinguished between different levels of abstraction and specificity, and proposed a set of clear guidelines about how to move between these levels without at the same time stretching or abandoning the concepts involved.

To take this now classic language and set of terms of reference on board can obviously prove a major advantage in this context, in that it allows us to treat the European Union as a political system, and, in this sense, as something that is also comparable to other political systems.¹¹ That is, as a political system, we can address to the European Union the questions that can be addressed to any political system – and we can expect of the European Union the standards of accountability and legitimacy that are expected of other political systems. That is, by looking at the European Union as a political system we can move beyond the limits imposed by assumptions of exceptionality. Whether the EU may also be deemed a state is in this sense beside the point, since the purpose of using the concept of political system is precisely to avoid the confines of the concept of the state, and we do this by moving up the ladder of abstraction towards a definition that can more easily accommodate non-conventional political forms.

In other words, and following Almond (1960), the EU is a political system, in that, just as other political systems, it makes and implements binding decisions, and has the capacity to (a) extract resources; (b) regulate behaviour; (c) distribute benefits; (d) respond to demands; and (e) symbolise values and identities. Precisely how the EU political system does these things, or how it exercises these common capacities, may well be peculiar to itself, of course. But this is more or less true for any individual political system, and it is only through noting these differences that we can learn about and begin to understand the concrete cases that are to be found in real world situations. Moreover, precisely because, at bottom, every individual system and actor is *sui generis* and unique, it is only possible to compare them by developing more abstract concepts with which to analyse and accommodate them. This is the essence of comparative inquiry – 'to substitute names of variables for the names of social systems' (Przeworski and Teune 1970, 8). So the fact that the precise form taken by the EU political system is *sui generis*, and that it may bear very little relation to the equally *sui generis* forms taken by the political systems of France, or Germany, or wherever, is not really important. It goes without saying that while France, for example, is a political system, not every political system is France.¹² What matters in

¹¹ See also Hix (2004, 2-5) and Kassim (2003, 140-142).

¹² This paraphrases the observation by Sartre (1963: 56) in a more extended discussion of method: 'Valéry is a petit bourgeois intellectual....But not every petit bourgeois intellectual is Valéry.' See also Przeworski and Teune (1970, 17-23).

the case of the EU is that it is a political system, and that it can be analysed and compared as such.

So in what particular ways does the EU political system differ from other political systems, particularly those in the European area? One way it differs is in its outputs, since in terms of Almond's list of the capacities of political systems, about the only output in which the EU has a pronounced role, as Majone (e.g. 2003) has often pointed out, is that of regulation. Indeed, for Majone, this is what makes the EU distinctive – that is, this is what makes the EU distinctive as a state (see also below). The EU does not engage very extensively in the redistribution of resources, except perhaps via the structural funds; nor does it even do a great deal in terms of positive integration. But it is responsible for a substantial range of regulation, such that, following Majone, it might even be seen primarily as a regulatory 'state'.

The EU also obviously differs when looked at in terms of its inputs, and this is clearly where the problems of representation and democracy arise. For, while in other political systems, and again particularly in Europe, inputs/demands are primarily voiced through elections and, within the electoral process, through parties, this is hardly the case in the EU political system as such. This is not to suggest that the EU political system is unresponsive, however. On the contrary, it may even be said to be highly responsive – across its own institutions, to lobbyists, to corporate interests, to action groups, to individual citizens as well as other actors who gain voice through 'self-representation' in the courts, and so on. As the present convention discussions indicate, the EU also sees itself as strong promoter of participatory governance, and clearly favours extending the involvement of elements within civil society – organised groups, social movements, professional associations, stakeholders, and so on – in its decisions-making procedures. Indeed, Beyers and Kerremans (2004) have recently shown that there are quite important channels of access to the EU, albeit those primarily used by advocacy coalitions and lobby groups.

But what is obviously most striking about the EU when compared to other political systems in the post-industrial world is that it is *not* responsive in terms of elections, parties and the conventional procedures of popular democracy. This is the core of the puzzle we are dealing with here, and it can not simply be evaded by stressing the uniqueness of the EU as such. What we have here is a political system that cannot adequately be reached or accessed by means of elections and parties, that is, by means of traditional representative organs and channels. We have a political system that is open to all sorts of actors and organisations, as Beyers and Kerremans (2004) underline, but that is more or less impermeable as far as voters are concerned. That is, we have a political system that cannot seem to work within the familiar conventions and modalities of representative government.¹³

7 The EU as a construct

This is the real puzzle concerning the apolitical Europe: not how to come to terms with something that is exceptional and *sui generis* – the issue of Europe as an *n* of 1

¹³ On this particular issue, see also the conclusions to a wider study drawn by Thomassen and Schmitt (1999, 255-267).

– but rather how to understand why the EU has been made that way to begin with. Instead of thinking about the forms of legitimacy that might succeed in a system that eschews popular democracy, it is more relevant to ask why popular democracy was eschewed in the first place.

In this context, the most important single feature to be borne in mind is that the EU is a construct. It is a system that was designed and built by constitutional architects. To be sure, like all other political systems, and like all other institutions, it has developed its own momentum. In this sense, while the EU may have been originally constructed in a particular way and for the furtherance of particular national or sectoral goals (Moravcsik 1998), it has always had the capacity to go beyond this initial stage, and, as various neo-institutionalists and neo-functionalists remind us, it has long been a textbook example of how institutions can rapidly outgrow their original intent (see Sandholz and Stone Sweet 1998). In this respect, it may even be said to have passed beyond control. But even to accept this is not to deny that in terms of its core parameters and institutional make-up, including all the modifications and extensions that have been built in the period stretching from the original founding Treaty of Rome through to the new constitutional Treaty of Rome, we are dealing with a system that was established and approved by politicians who were both government leaders and party leaders. We may like to think of the EU as being somewhere ‘out there’; but it is also sometimes salutary to recall that this is no *deus ex machina*, but is instead something that is the result of hands-on moulding and shaping. The EU is the house that the party politicians built. The puzzle is that they built it without any substantial room for either politics or parties.

Why build a system of government that lacked conventional and familiar forms of democratic accountability? Even if we accept that this wasn’t a problem in the early and very restrained stages of European polity-building, why extend the powers of what was an initially quite limited and bureaucratic organisation without tying that extension to some meaningful form of popular democratic control? Given the recent growth in the EU remit, why continue to resist the adoption of at least some elements of a democratically accountable presidential system, whereby the President of the Commission would be subject to popular election, or at least some elements of a classic European-style parliamentary system, whereby the right of nomination and dismissal of the Commission, or even of its President, would be in the hands of the European Parliament? Given that a certain amount of power does now reside in the EU system, why not allow its institutions to be properly democratised?¹⁴ There are at least three sorts of answers to these questions, and let us now look at these one by one.

The first of these has already been discussed when noting the problems of the absent demos and those of the polity-in-the-making: the EC in the past, and the EU now, are simply too exceptional to be suited to normal forms of democracy. Indeed, why should we even consider that democracy might prevail in these circumstances? For Eriksen and Fossum (2002, 402), for example, ‘the insistence on standards of democratic governance is puzzling when considered in the light of the widely held

¹⁴ And why talk about the need to tackle the democratic deficit while allowing it to become more acute in practice?: ‘On the record all core decision-makers are devoted to improving democratic legitimacy but institutional reforms are instead contributing to further diluting the link between the citizens and the decision-makers in Europe’ (Kohler-Koch 2000, 513 [abstract]).

assertion that there is no European *demos*, nor a genuine European-wide public sphere.’ In other words, while the practice of electoral accountability and the logic of popular democracy are all well and good when functioning at the level of the nation state, they are not really appropriate or applicable at the exceptional level of Europe. This is how the theorist Albert Weale (1997, 668) puts it:

‘In many ways, the conception of democracy associated with the nation state, though tolerable in a way that it balanced competing values, was based upon a particular conception of democracy couched in terms of majoritarian popular will-formation through party competition. Since this version of democracy cannot be a model for an EU democracy (given that the conditions for its realization do not obtain), we need to reformulate the notion of democratic legitimacy itself in terms drawn from other strands of democratic theory.’

How Weale might also have put it, albeit more bluntly, is to suggest that if Europe doesn’t fit the standard interpretation of democracy, then we should change that standard interpretation. Rather than adapting Europe to make it more democratic, it makes more sense to adapt the notion of democracy to make it more European. That political leaders opt for a form of European governance that fails to match up to conventional democratic criteria is therefore a mark of their good sense: they know it cannot otherwise work or prove legitimate. The scale is wrong, the institutions are wrong, and the people – the *demos* – are wrong. Whichever way we look at it, the answer is the same: ‘Democratic legitimacy within the EU cannot be obtained by modeling its institutions on those of the nation-state’ (Bellamy and Warleigh 2001, 10).

The second sort of answer sees the decision-making politicians as being motivated more by self-interest than by some sense of the common good. In one version of this answer, the reluctance to establish democratic institutions at the European level stems from an unwillingness on the part of national political leaders to encourage the emergence of any institutional competitors (e.g. Andeweg 1995). It is all very well to have second-order elections in Europe, it might be argued, as long as there are still first-order elections at home. The other way around would obviously prove much less congenial. At the same time, again for obvious self-interested reasons, although perhaps also occasionally for more altruistic motives, national political leaders will have been reluctant to envisage democratic legitimacy migrating from their own domestic institutions to those of a new Europe. Indeed, it is this argument that sometimes lies at the heart of British Eurosceptic rhetoric, and which finds favour among other senior politicians elsewhere in the EU. Nobody who one held the reins of power now wishes to be seen to be as being in charge of the branch office. As suggested earlier, however, such a strategy might well prove self-defeating. Although Europe may not acquire much popular legitimacy if treated in the Monnet way, it can still have the effect of reducing levels of legitimacy at the national level – not least by enhancing the various domestic democratic deficits. In this sense, and if we can think of it in these terms, the whole sum of democratic legitimacy would be diminished and the position of national political leaders could be even worse off.

Self-interest looms even larger in another version of this answer, in that the attested tendency towards collusion among mainstream political parties, and the wider process by which party systems become increasingly cartelized, is markedly

facilitated when policy commitments can be externalized to non-democratic decision-makers (see Blyth and Katz 2005). Through Europe, as well as through the use of other non-majoritarian institutions, politicians can therefore gradually divest themselves of responsibility for potentially unpopular policy decisions and so cushion themselves against possible voter discontent. At the same time, they will also take every opportunity to claim credit for policies that do win popular favour, but that may perhaps originate within the European institutions. However, this self-preservation strategy can only work when the institutions, which take over this role from the cautious politicians, are themselves not subject to popular control. Hence the non-democratic shape of Europe today. That said, there are also other risks that apparently arise in these circumstances, which may not have been foreseen by the politicians. To the extent that policy is increasingly externalized, for example, politicians will be seen by their publics to be carrying less and less responsibility, and hence will risk the onset of what might be called the de Tocqueville syndrome: that is, they might be unable to justify their privileges in a context in which they fulfil fewer and fewer important functions.¹⁵ In other words, if politicians choose to divest themselves of responsibility by pretending that they are only running the branch office, and if they go on to feign helplessness in the face of the Brussels head office, their status in the eyes of their voters will almost certainly diminish. In this sense, cartelization may not be a sure guarantee of success in the longer term.

The third sort of answer is perhaps the most serious, however, and is also probably the most plausible: the EU continues to be constructed without traditional forms of democratic legitimacy because these traditional forms of democratic legitimacy no longer work. They no longer prove viable. It therefore follows that it is not so much that popular democracy needs to be established in the EU, but rather that the EU – and various less significant non-majoritarian institutions – is actually a solution to the growing incapacity of popular democracy. In short, the EU is not conventionally democratic, and can never be conventionally democratic, for the simple reason that it has been constructed to provide an alternative to conventional democracy. Putting it crudely: if the EU was susceptible to conventional democratization, it probably would not be needed in the first place.

In some ways this is quite a radical interpretation, but in other respects it is also quite conventional and familiar. From the perspective of policy-making, for example, we know that the EU exists in order to make and implement decisions that cannot be taken or made sufficiently effective at national level – indeed, this is part of its appeal to many purposive politicians (e.g. Lafontaine 2000, 199). The EU in this sense offers both the economies and advantages of scale, and is seen as providing a more effective arena than the nation state, as well as offering a basis for the ‘rescue’ of the nation state (Milward 1992). It exists to do things that no longer can be done – that no longer work – at the national level.

¹⁵ ‘When the nobles had real power as well as privileges, when they governed and administered, their rights could be at once greater and less open to attack... True, the nobles enjoyed invidious privileges and rights that weighed heavily on the commoner, but in return for this they kept order, administered justice, saw to the execution of laws, came to the rescue of the oppressed, and watched over the interests of all. The more these functions passed out of the hands of the nobility, the more uncalled-for did their privileges appear - until at last their mere existence seemed a meaningless anachronism.’ See de Tocqueville (1966, 60). For an earlier observation on this syndrome, see Mair (1995).

But there is obviously more to it than this. Were the EU to be simply a higher level or larger-scale version of the nation state, developing its own specific capacities within the context of a clear national-supranational division of labour, and then it is likely that the pressure to democratize would prove quite acute. If decision-making authority is being passed up the hierarchy, then so too should the conventional modes of accountability. Moreover, democratization in this context would be seen to entail quite normal procedures – that is, democratizing the EU would involve a core role for popular democracy, and would build around familiar parliamentary or presidential institutions. Legitimacy in the EU, in short, would be derived in much the same way as it has been traditionally derived at the level of the European nation state – through elections, through accountability and, in all likelihood, through party democracy.

This is clearly not the case, however. Indeed, in almost all contemporary discussions of the EU, as we have seen, it is assumed that ‘normal’ democracy can never be applied at this level, and that the means of deriving legitimacy cannot be modeled on what has been the practice at the level of national political systems (see also Thaa 2001). Nor is this justified solely by reference to the still uncertain boundaries of the EU: although the argument about the polity-in-the-making is a strong one (e.g. Bartolini 1999; 2006), the rejection of conventional forms of democratic legitimacy in the context of the EU goes much further than this. If anything, the eschewal of popular democracy and conventional forms of legitimation in the EU is the *preferred* option, and the EU wins favour as a polity precisely because it can evade these principles. It is not by chance that the EU was constructed as an alternative to conventional democracy: in fact, it is believed to offer the only effective means by which an alternative to conventional democracy can be realized.

For this reason also, however, the EU should not be seen as ‘a special case’ or as an exception. It can be better conceived as an outcome, or as the consequence of a longer developmental trajectory, in which democracy grows and mutates, and in which the mechanisms that allow democracy to function change and adapt. If conventional forms of democracy cannot be applied at the level of the EU, then this is not so much exceptional as symptomatic. On the one hand, it is symptomatic of the growing sense that the mechanics of popular democracy are increasingly incompatible with the needs of policy-makers; on the other hand, it is symptomatic of a post-Cold War world in which precisely because democracy is the only game in town (see above), democracy itself – in the form of elections and electoral accountability – no longer needs to be defended, let alone promoted. Nowadays, as Fareed Zakaria (1997, 24) put it, ‘elections are an important virtue of governance, but they are not the only virtue.’ For Zakaria, the problem with elections is that they imposed too strong a constraint on the capacity of governments to make decisions for the common good. Moreover, the electoral process can be seen to encourage policy responses that are more suited to the needs of those in power than to those of the society writ large. This problem can be avoided at the European level, however, since the EU is ‘the place where the economic reforms that most of the individual members want, but can’t do politically, are implemented.’¹⁶ In other words, through the EU it is possible to find policy solutions that are perhaps deemed necessary by

¹⁶ Christopher Bertram, director of the Stiftung Wissenschaft und Politik, as cited in Joe Klein, ‘Who’s in charge here?’, *The Guardian* 26 June 2002.

governments or administrators, but that might prove unacceptable to many of the citizens of the member states, and that might be rejected by many voters. The EU and its related organs also offer expertise – something which again most politicians lack: ‘Specialized agencies, staffed with neutral experts, can carry out policies with a level of efficiency and effectiveness that politicians cannot’ (Majone 1996, 4).

These and similar arguments tap into what is now seen as an ever sharpening dilemma in contemporary political systems: the trade off between efficiency and popularity (Dahl 1994). What governments appear to need in terms of policies is not necessarily what voters will accept – particularly in the short term; and what makes for a successful strategy in the electoral arena may not offer the best set of options when it comes to making government policy. And although this was also recognized as a problem in the past (see, for example, Schumpeter 1947, 288; Brittan 1975, 136), it was then usually solved by virtue of the deference that was shown to governmental authority and the trust that was bestowed on political leaders. Voters may not have liked some of those past solutions, but they were more willing to accept them. Today, however, with a much more fragmented civil society, with more individualised and particularized preferences, and, above all, with government under the control of parties and political leaders that no longer seem able to serve as effective representatives and that are sometimes poorly trusted, other decision-making solutions need to be found. As Scharpf (1999, 188) has argued: ‘even in constitutional democracies at the national level, input-oriented arguments could never carry the full burden of legitimizing the exercise of governing power.’ Hence the raft of new non-majoritarian institutions, and hence also the growing powers and competences of those institutions that can operate beyond the democratic state – including the European Union in particular.

It is self-evident that European integration has been a problem-solving exercise. The full story that is involved here is not only about economies of scale, however, for Europe is also problem-solving in the sense that it allows decision-making to evade the control and constraint of popular democracy and accountability. The key supranational institutions in Europe are non-majoritarian by definition, and although the Council of Ministers is at least potentially vulnerable to national democratic sanctions, it also proves evasive in opting to work mainly behind closed doors and in a non-transparent and effectively non-accountable fashion. The same holds true for the extensive system of committees – the so-called comitology – that bridge the Council and the Commission. As Deirdre Curtin (2004, 4) has recently put it, ‘what has been qualified as executive [in EU terms] is on the whole depoliticized in the sense that it occurs outside of any public space of communication, deliberation and debate.’ And the reason for doing this is that it is believed to get the job done.¹⁷

‘Why is it that European policies which stagnate in the main political arena materialize in other shapes and forms elsewhere [in the EU system]?’ asks Adrienne Héritier (2001, 57) in her revealing assessment of overt and covert policy-making. In this context the answer is very clear: it is because the room that allows those other shapes and forms to materialize was deliberately created when the EU system was developed, and this, in turn, was because of the a priori assumption that policies

¹⁷ For a wide-ranging review of these issues, which is also more sceptical about the real capacity for depoliticization, see Flinders 2004.

were likely to stagnate in the political arena. Politics and efficiency do not necessarily go hand in hand in this complex world, and, as Eriksen and Fossum (2002, 410) put it, 'extended participation and more publicity...do not help much in reaching correct decisions in cognitively demanding cases.' But while this process may be built in to the EU architecture, it is nevertheless important to underline that it does not equate to a sort of constitutional equivalent of the policy-based 'rescue' of the nation state. Particular policies might well have been rescued by transferring them onto a supranational or intergovernmental level, but democratic procedures are not redeemed in any comparable sense. In fact, by moving up one level in terms of decision-making, the architects of the European construction have been able to leave democratic procedures behind.

In short, the principal reason why we find a democratic deficit at the European level, and why we also find more and more related deficits at the domestic level, is because the European Union was established and extended in order to provide a political system that could go beyond conventional democratic legitimacy. The EU construct is, self-evidently, a solution. On the one hand, it is a solution to the policy problems and credibility issues that have been confronted by decision-makers and their clients, and it offers a means of institutionalizing a regulatory system that would not always prove viable were it to be dependent upon the vagaries of electoral politics. On the other hand – and this is a topic I develop elsewhere – it is a solution to the political problems posed by the failings of traditional modes of representation and party democracy at the national level. While lobby, NGO and interest group access can offer specialized and particularized alternatives to conventional party modes of representation, they often lack sufficient legitimacy to substitute for partisan and electoral channels in the domestic realm – almost regardless of the standing of the latter. At the European level, by contrast, where the relevant partisan and electoral channels are notoriously weak, such particularized alternatives can easily thrive. Indeed, as Beyers and Kerremans (2004) suggest, it is often through such alternatives that European issues become politicized.

One obvious result of the downgrading of normal democratic processes, as noted earlier, has been an emerging popular discontent and skepticism, and the opening of a space that seems easily exploitable by populist parties of both the right and the left.¹⁸ One other, and perhaps less visible result is that within the European Union itself, as well as in a host of interested academic and scholarly circles, a great effort is now being made to redefine legitimacy in such a way that it can accommodate the EU as a form of political system that is not conventionally democratic.¹⁹ Fritz Scharpf's (1999) much cited distinction between output-oriented legitimacy and input-oriented legitimacy can be read as one such effort. Another familiar and confidently

¹⁸ It might be argued that the immediate problem here is that the constitutional architects of the European construct have not gone far enough in their abandonment of democratic legitimacy (see also Pijpers 1999; Christiansen 1998). By allowing a small opening for a fairly ineffective form of popular democracy at the European level – direct elections to the European Parliament – they have reminded at least some citizens of the limited role popular democracy plays in this whole enterprise. Had no such channel being created, then popular acceptance of the non-majoritarian character of the EU might well have proved more easily to manage. To offer a touch of democratic legitimacy is to remind citizens of its limits; to offer none at all might well have facilitated the emergence of alternative sources of legitimacy.

¹⁹ On this more general point, see also Katz (2001).

theorized effort can be seen in Giandomenico Majone's insistence that the EU is simply a regulatory 'state' which, as such, does not require popular democracy: 'Redistributive policies can only be legitimated by the will of the majority, while efficient policies are basically legitimated by the results they achieve' (1996, 11).²⁰ Nor are such views exceptional. For Jürgen Neyer (2000, 120), for example, who builds on Majone, the European political system can be seen as 'a non-majoritarian regulatory apparatus', and 'the fact that majoritarian [i.e. popular democratic] procedures are of utmost importance when justifying democratic governance in the member states does not automatically mean that the EC must also be democratized by means of majoritarian procedures.' For Thomas Christiansen (1998, 105), any increase in the weight of popular democracy in the EU, whether effected through a strengthening of the European Parliament or through expanding the role of national parliaments, 'would enhance the EU's democratic legitimacy. But it would jeopardize, at the same time, the legitimacy which the system derives from producing effective policy outputs'. And so on. Indeed, the contemporary literature is currently full with the various shades of meaning of democracy, and with the many different nuances of legitimacy, such that almost any system of rule can be found to be acceptable – even that by judges and their equivalents. 'Expert based decision-making is not on its own illegitimate and antithetical to democracy' argue Eriksen and Fossum (2002, 410). 'It is conducive to democratic legitimacy under certain modern conditions.'

8 Conclusion

The European Union political system is hardly anti-democratic: it is open and accessible to interest representation, it invites participation and engagement from lobby groups, advocacy coalitions, and the rest, and its Parliament is effectively – if not always intentionally – quite representative (Thomassen and Schmitt 1999). But even if the EU polity is not anti-democratic, it is nonetheless non-democratic, at least in the conventional postwar European sense of the term: there is a lack of democratic accountability, there is little scope for input-oriented legitimacy, and decision-makers can only rarely be mandated by voters. However, despite much public breast-beating about democratic deficits, the absence of conventional democratic processes is not necessarily seen as disadvantaging or weakening the Union. Indeed, as I have tried to show in this paper, the EU has been able to grow in importance and weight precisely because it appears to constitute such an effective non-democratic route to decision-making.

But while the scale and impact of the EU may be without precedent in Europe or elsewhere, its principal modes of operation are becoming less and less exceptional. For a variety of reasons, some of which have to do with the end of the Cold War, and some of which have to do with the rise of globalization and the end of embedded liberalism, the scope and utility of partisan politics has been rapidly eroded in recent years. At the same time, within the world of partisan politics itself, there is growing evidence of disengagement – by citizens, on the one hand, who increasingly withdraw into the private sphere, and by their political leaders, on the other, who

²⁰ For a similar argument see Moravcsik (2002), who suggests that since the EU is just another – albeit very powerful – non-majoritarian institution, it does not actually need to be democratized.

increasingly withdraw into the public institutions. Partisan politics, in short, is hollowed out, and becomes less appealing and effective, while alternative forms of decision-making – including judicialisation, expert decision-making, and a reliance on non-majoritarian institutions – win greater prominence and acceptance (see also Mair 2005). It is against this background that our understanding of the EU polity needs to be assessed, and that the various proposals for its reform need to be evaluated.

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