Analysing the Democratic Credentials of the 'Accountability Web' in European Multilevel Governance: The Potential Role of Civil Society Organisations

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Abstract

Working mechanisms of accountability are an essential part for the functioning of modern democracies. More often than not accountability is reduced to electoral accountability, but many claim that this mechanism is not properly working in the EU and other ways of achieving accountability should be looked at more closely. Civil society organizations are expected to bind the decision-making elite either directly to citizens and specific constituencies or to introduce surrogate mechanisms for such direct binding. In the paper, we first turn to the theoretical question of linking accountability to democracy and then look at the potential roles of civil society organisations in fostering European accountability.

Accountability is a core value of democracy and now also a normative standard applied to the European political system (Benz 2006; Benz et al. 2007; Bovens 2007a, 2007b; Harlow 2002; Harlow and Rawlings 2007). In most diagnoses deficits in accountability are expected to be one cause for the democratic deficit of the European Union and enhanced accountability is seen as a remedy for this very deficit. While the Commission's White Paper on European Governance addresses both a democratic as well as an accountability deficit in the EU, it comes as a surprise that both issues are more or less unconnected: Civil society involvement is expected to foster democratic legitimation, whereas clarifying and streamlining governmental competences at European and national level is said to ease the European accountability deficit, however, there is no role for civil society organisations in holding key European political actors accountable (Commission 2001).

The scientific literature, on the other hand, attributes civil society actors a *potential* role in making governing beyond the state more accountable and thus rendering it more democratic (Scholte 2005; Steffek 2010; Steffek et al. 2006).

Unfortunately much remains unclear in the existing literature as to the theoretical link between accountability and democracy and how to apply this to the EU. In the first part of the paper, we address two main general problems of accountability research: (1) approximating a plausible concept of democratic accountability and (2) its application to modern political systems and the EU. The diverse accountability enhancing roles of civil society organisations in European governance are dealt with in the second part of this paper (section 3).

With respect to the appropriate concept of accountability, most of the literature starts with a principal-agent-centred definition, which is rejected here for fostering a mis-conceptualisation of the normative reasoning, which most of these authors would subscribe to as well. Furthermore, and somewhat surprising, the connection between accountability and democracy remains 'under-theorized' – the theoretical link is simply taken for granted and thus not addressed in a systematic way. Our plea is that we should spell out more clearly what kind of accountability lives up to democratic standards and is bound to render a political system more democratic. This also has consequences for conceptualizing indicators of accountability; our plea to go beyond actor-centred approaches to accountability forces us to think about criteria indicating what might be called 'system accountability'. As different mechanisms in distinct institutional settings have very different normative tasks or functions within a political system our set of criteria has to reflect this institutionalized division of normative labour (see section 1).

A second kind of problems comes up when applying the concept of (democratic) accountability to the EU. Some authors turn to problem of EU accountability emanating from the characteristic features of the EU system, i. e. a multi-level system of governance with the diffusion of the allocation of political power across system levels and among numerous actors in multiple arenas of decision-making and investigate how the traditional mechanisms of electoral and parliamentary accountability could be adjusted to make for a system of multi-level accountability (e.g. Benz 2007; Papadopoulos 2007). Another strand of the research is addressing "The Real World of EU Accountability" (Bovens/Curtin, 'tHart 2010) by investigating the accountability of distinct EU institutions in the given constitutional set-up of the Union (see e.g. Auel 2007; Busuioc 2009; Curtin 2007; van de Steeg 2009; Vibert 2007). When looking at this research from the comparative democracy literature it becomes clear, that these approaches are theoretically and empirically insufficient. We will argue that we have to analyse the working together of very different accountability mechanisms because different mechanisms might only in combination foster democratic accountability. This calls for a more thorough theoretical conceptualisation and with respect to empirical research a greater openness for a more 'inductive' methodological approach in order to capture to possible accountability mechanisms (section 2).

1. Conceptualizing Democratic Accountability

In the face of the existing controversies about the right term (responsibility, control, responsiveness, accountability etc.) and the appropriate definition of the essence of accountability it might be helpful to reject a pure etymological access to accountability and to postpone the definition for a moment.

We choose a pragmatic approach by starting with our theoretical aim: Why are we interested in accountability? Our answer here is – in accordance with the political objectives of the Commission's "White Paper on European Governance"[1] and the normative views of most of the scientific literature, that accountability (however it is precisely defined) ought to be a principle of democratic organization whenever the demos delegates substantial parts of collectively binding decision making. And if no trade-offs between accountability and other

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[1] This reading is supported by two quotations from the WP: "Reforming governance addresses the question of how the EU uses the powers given by its citizens. It is about how things could and should be done. The goal is to open up policy-making to make it more inclusive and accountable. A better use of powers should connect the EU more closely to its citizens and lead to more effective policies." (Commission 2001: 8). And later: "Five principles underpin good governance and the changes proposed in this White Paper: *openness, participation, accountability, effectiveness and coherence*. Each principle is important for establishing more democratic governance." (Commission 2001: 10)

democratic principles exist, each increase in accountability is tantamount to an increase in democracy (for an opposing theoretical view, see e.g. Puntscher Riekmann 2007). An elaborate version of such an accountability-centred approach to democracy, which has also been applied to the EU, is presented by Philippe Schmitter (Schmitter 2000, 2007; Schmitter and Karl 1991). For him and Terry Karl effective accountability is a sufficient condition for democracy: "Modern political democracy is a system of governance in which rulers are held accountable for their actions in the public realm by citizens, acting indirectly through the competition and cooperation of their elected representatives." (Schmitter and Karl 1991: 76)

Accountability mechanisms qualifying as rendering a political system accountable are according to this definition of two kinds: mechanisms of vertical accountability binding the rulers or rule-making directly to citizens (e.g. elections) and horizontal mechanisms of accountability (or Schmitter's competition among representatives) binding different kinds of representatives (for the distinction of vertical and horizontal mechanisms, see O'Donnell 1994). We agree with Schmitter in three respects: First, accountability is an essential ingredient of any modern democracy, second only a combination of a variety of vertical and horizontal mechanisms can lead to effective democratic accountability, and third that this definition might be a good concept to empirically select more democratic from undemocratic countries in the world. But this minimal definition is not demanding enough for a comparative investigation of the democratic credentials of political systems in the democratic world. Schmitter's definition misses explicitly any reference to political equality which is a core, if not the primary standard in most other normative conceptions of democracy (Christiano 1996; Dahl 1989; Dworkin 2000; Habermas 1996). Democracy does not materialize if rulers are just held effectively accountable by *any* citizens, but only if all citizens have an equal right and chance to do so in an egalitarian way. Whereas Schmitter's conception of democracy can be regarded as the idea of *maximizing* effective vertical accountability to citizens, we assume the normative aim for a democracy is to *optimize* effective vertical accountability *and* political equality or to put it differently, to maximize effective egalitarian vertical accountability.

Other democratic theorists might ask: Why not simply maximizing political equality (McGann 2006)? If we would be only interested in the egalitarian aspect of citizens' influence in the political realm, we would more or less automatically favour less demanding procedures of participation over 'thicker' participation. For McGann a political system approximating proportional representation in electoral systems and majority rule in the representative assembly would be the best possible democratic system. This is obviously egalitarian, but also

close to minimizing citizens' (equal) political influence. And this would question the value of such a kind of political equality (see Dworkin 2000: 190ff.).

Whereas the weakness of Schmitter's approach is that his minimal conception of democratic accountability makes oligarchic and other half-way democratic arrangements indistinguishable from democratic arrangements, the egalitarian representation approach is concerned with the question if all votes have been counted and weighted correctly, but not with the question, if these votes (and the citizens as voters) have a significant influence on the political course of action. It should be clear, that an appropriate idea of democratic accountability has to combine both, the idea of egalitarian and effective impact of the people on public rule.

If maximizing egalitarian vertical accountability is the primary democratic aim, why should we focus on mechanisms of horizontal accountability at all? The institutional and functional differentiation of the political system can both enable and constraint vertical accountability. E.g. functioning electoral commissions normally enable or secure the fairness of elections and thus enable vertical accountability. But the working of other functional agencies might well constrain the options for vertical accountability and we will have to scrutinize mechanisms of horizontal accountability in order to judge whether or not they add up to make the system democratically accountable.

Here the conceptual reasoning about horizontal accountability will focus on the question if such mechanisms have the potential to foster vertical accountability or if they are bound to constrain it. Empirical research would have to analyse (1) the quality of vertical accountability mechanisms, (2) the quality of horizontal accountability mechanisms in supporting and enabling vertical accountability and (3) the constraining effects of horizontal mechanisms on vertical accountability. Only when engaging in such a threefold analysis an adequate systematic assessment of democratic accountability is possible.

The three dimensions tell us (in a rather abstract way), what we should analyse. But what are the normative standards, which should be applied to the accountability mechanisms. Or to put it differently: How do we know if and to what extent such a complex system of accountability makes for democratic accountability? We suggest four normative standards which we consider to be sufficient for indicating the quality of democratic accountability[2]:

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[2] As we are not concerned with measuring the standards in this paper, and most of the standards are familiar from the accountability literature, we do not enter into an intensive discussion of the relevant normative and theoretical issues here. But the three most important considerations should at least be outlined: 1. All four standards need clarification. There are many potential meanings, which are out there in the normative literature. And we have to clarify and justify our understanding. 2. Depending on the ideological background, liberal and

1. Maximizing effective egalitarian binding in vertical mechanisms

2. Appropriate horizontal accountability mechanisms

3. Minimizing horizontal accountability constraints on vertical accountability

4. Maximizing publicity or public discourse on the framing of political processes.

To put it in a nutshell, the focus has to be on 'system accountability'. The 'class' of rulers should be bound to the demos. And the more effective and egalitarian this binding is, the more democratic is a political system.

Now we can reassess some of the scientific controversies about the 'right' definition of accountability. Contrary to our approach, some authors restrict their accountability research to either the vertical dimension of accountability (Held and Koenig-Archibugi 2005: 3) or to a horizontal understanding (Peters 2001; Schedler et al. 1999). Both approaches might be fruitful enterprises since research questions always differ, but with respect to the idea of democratic accountability – discussed in this paper - only the conceptual combination of vertical and horizontal mechanisms is appropriate: just as a voting system without control of the fairness of electoral competition and without options to judicial review of possible electoral law violations can not be sufficiently democratic, so can no modern political system set up appropriate vertical accountability without horizontal mechanisms of accountability.

When it comes to mechanisms of vertical accountability, proponents of liberal democracy will differ with those advocating deliberative or associational democracy and thus a greater role for civil society engagement. As the idea of participatory democracy is that citizens or citizens' associations do most of the democratic job themselves and holding representatives to account is part of this job, less accountability work remains to representative actors. Consequently, participatory approaches to democracy might entail weak expectations concerning horizontal mechanisms of accountability whereas conceptions based on the model of representative democracy might be inclined to expect more from stringent forms of horizontal accountability. in order to avoid a conceptually introduced bias in empirical research, measuring accountability has to assess the comparative effectiveness of comprehensive sets of vertical and horizontal mechanisms and the respective roles of civil

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egalitarian conceptions of democracy would ascribe somewhat different functions especially to horizontal mechanisms (Bovens 2007b: 113ff.), thus we should expect a certain degree of normative pluralism also concerning the question of adequate accountability standards. 3. There is a general need for normative ordering of the standards concerning the appropriate understanding of optimized political equality and vertical influence as well as concerning clear prescriptions in the case of trade-offs between the different standards.

society actors in democratic accountability relations, i. e. in subjecting decision-makers to public scrutiny (see below).

The idea of linking accountability to democracy has been rejected by Mark Bovens. In Bovens' now famous "narrow" conception accountability is defined "as a relationship between an actor and a forum, in which the actor has an obligation to explain and to justify his or her conduct, the forum can pose questions and pass judgment, and the actor may face consequences" (Bovens 2007b: 107).

It should be *narrow*, by (1) restricting the definition only to intentional social relationships, (2) solely to retrospective mechanisms (106; 108), and (3) by making sanctions ("may face consequences") a necessary ingredient of any accountability mechanisms. Furthermore, it should be *distinct* from any conception of democracy, by cutting it from participation and transparency.

We would question his claim that this definition is close to accountability's "etymological and historical roots" (107), but this is not our concern here. From our democracy related perspective we take issue with Bovens' plea for a narrow conception of accountability. He is arguing for a *retrospective* definition of accountability (108). But apart from methodological difficulties which accrue from examining different mechanisms in depth (elections provide mandates but always have an element of retrospective accountability; judicial review is ex post but is also channelling future legislation, etc.) we should be open to a less restrictive definition if we want to explore empirically which mechanisms are effective to impose democratic responsibility. In particular, when the aim is to analyse the quality of democratic binding in representative democracies we should explore the interconnection between different mechanisms of representation, mandating and subjecting decision-makers to justify, explain and correct their conduct (see e.g. Gutmann and Thompson 1996: cp. 3; Pettit 2008; Przeworski 1999).
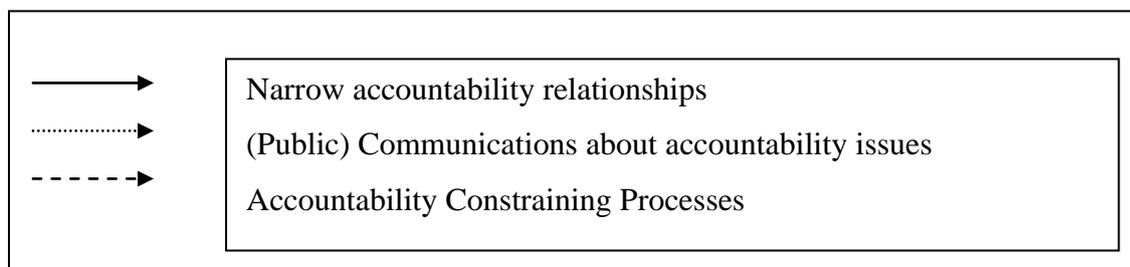
With respect to a second definitional core of accountability, the availability of *sanctions*, we share Bovens' position suggesting a very broad understanding of sanctions as any kind of consequences an actor may face. As we are interested when and how rulers will be induced to adequate behaviour the exploration of appropriate mechanisms is a purely empirical question. In addition, when we understand democratic accountability as a complex set of very different accountability enhancing mechanisms, then we will expect that different combinations of mechanisms with and without sanctions might further democratic accountability effectively. Thus, we would like to emphasize the idea of a '*functional division of accountability labour*':

Democratic accountability in modern political system does not work by applying same tasks and functions to all relevant political actors and institutions, but by a successful interplay of several different accountability mechanisms with different tasks and functions.

To sum up: We are not interested in selective accountability relations and, consequently, not in individual mechanisms of accountability, but in the democratic credentials of multiple mechanisms of accountability. We have suggested maximizing effective egalitarian vertical accountability to be the primary normative democratic standard which is assisted by three additional standards concerning horizontal accountability and publicity: The more these standards are realized in a modern political system, the more democratic it is.

The relevant unit of analysis is the political system as a whole. Our general model of democratic accountability is outlined in table 1. Only processes indicated by continuous arrows, which are traced to the demos belong to vertical mechanisms of accountability. Here we can distinguish between the 'traditional' forms binding the legislative processes to the demos (elections, referenda etc.) and surrogate processes of binding (especially via civil society organisations).

Table 1: Accountability processes in modern political systems[3]

——————▶	Narrow accountability relationships
·················▶	(Public) Communications about accountability issues
- - - - - ▶	Accountability Constraining Processes

Contrary to the actor centred approaches, (account giving) actors are more or less invisible in table 1. It is not our purpose to analyse primarily the account giving qualities of single institutions, be it the European Commission, the Councils, the ECJ or the European Parliament. When we know that individual 'actors' such as the Council of the European Union (to use Bovens example) have an "accountability deficit" (Bovens 2007b: 113) this does not tell us much about a deficit in democratic accountability as long as the Council is not functionally situated within the political system and as long as the democracy related demands are not specified. Alternatively, Arthur Benz' (2007, 2009) very similar to our aspirations focuses on the legislative process, looking at how the relevant actors interact within the given institutional structures (e.g. the co-decision procedure in the EU).

To clarify our general approach using the example of co-decision procedure: The question of vertical accountability in the co-decision procedure has to be looked at in the agenda-setting, policy deliberation and final decision making phase. For each of these sequences we have to ask to what extent the policy making is under scrutiny of and is responsive to the citizens be it via Commission, via EP representation, via national government representation and not the least via participation of civil society organisations within formal and informal policy deliberation arenas. But assessing these instances of vertical accountability is only the first step. Additionally the enabling and constraining effects of vertical accountability from within the EU political system have to be analysed as well. An enabling horizontal mechanism *might*

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[3] Narrow accountability relationships with effective formal sanctions are indicated by continuous arrows. Obviously between branches with formal accountability mechanisms other, more informal and weaker mechanisms may exist as well. Accountability relationships without the possibility of effective formal sanctioning are indicated by dotted arrows. And possible accountability constraining processes are indicated by discontinued arrows.

be Eurobarometer opinion polls enabling Commission's responsiveness to EU citizens.[4] Some of the processes and institutions *potentially* constraining vertical accountability are also well known: e.g. the Commission's right to establish and rely on expert groups with restricted membership, the lack of appropriate feed-back mechanisms in public consultations, etc.

From the above said it follows that an appropriate assessment of the democratic accountability of the EU necessitates a rather complex research design. Empirical research focussing at single actor-forum relations provide valuable insight, in particular when it is based on an enlightened assessment of that institution's role in the overall institutional set-up, but it does not live up to the necessary research complexity. As becomes clear in the next section, we have to face variable institutionalisation of different accountability mechanisms in modern political systems, having positive as well as negative synergetic effects. Thus, without an encompassing (empirical) analysis open for the institutional division of accountability labour, an appropriate assessment of democratic accountability is impossible.

2. Analysing 'Accountability Webs' in the EU: Lessons from Comparative Research

A first look only at *vertical* accountability mechanisms might indicate, elections are the most important, for some authors the only instrument worth to be analysed (Przeworski 1999; Hellwig and Samuels 2007; Schmitter and Karl 1991). But a second more comparative look should clarify, there are multiple possible mechanisms of vertical accountability, and their actual relevance within a political system can only be assessed empirically and might differ from one system to another. The most obvious vertical mechanisms – beyond elections – are instruments of direct democracy (referenda) and different forms of surrogate involvement (citizens' panels, planning cells, involvement of civil society organisations), but also certain kinds of independent public discourses (Habermas 1996) and contestations (Fraser 2007).

As we know from comparative empirical research, these mechanisms are organized differently in different nation states, and may foster democratic accountability in different degrees. This issue has been dealt with prominently in the literature on comparative politics focussing on citizens' influence in different electoral and political systems (for an overview, see Hellwig and Samuels 2007). Pronounced differences can also be expected with respect to divergent kinds of national civil society involvement. More pluralist forms of associational involvement can be expected to have other accountability related credentials than civil society involvement in more corporatist regimes (Lijphart 1999: cp. 9). Also national public spheres

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[4] To be clear this kind of horizontal mechanism is meant to be a possibility, which should be assessed empirically having in mind that the Commission might also have framed questions that produce desired answers.

are to very different degrees open to ('critical') contributions from 'below' such as from civil society actors or to investigative journalism (for differences in openness to CSO contributions in German and American public discourses, see e.g. Marx Ferree et al. 2002). Assessing vertical accountability mechanisms systematically demands research across these very different mechanisms.

In addition, the different mechanisms are not completely independent from one another: demanding instruments of direct democracy can expected to have normally a negative effect on electoral participation, thus in direct democratic countries citizens' vertical influence is more effective (due to referenda) but also less egalitarian, as participation in both instruments is significantly lower than in pure electoral systems.

Two lessons can be drawn from these insights about national accountability mechanisms:

First, what we have to analyse *accountability webs* that is we have to look at multiple interacting mechanisms of vertical accountability. We should not apply a distinct theoretically developed model of democratic accountability to the EU, but rather inductively analyse the existing accountability relations assessing their success in realizing the four normative accountability standards and compare the success to analogous processes in nation state polities.

Secondly, ideally the comprehensive set of vertical and horizontal mechanisms of accountability (in the broad sense) should be integrated in a complete research program. As we know, however, empirical research comes in much smaller portions. Thus we have to concentrate on investigating only part of the picture. However, based on theoretical insight we might draw the boundaries of our segment in way so that we nevertheless get a comprehensive view. In particular we have to be aware how levels of analysis further and constrain our insight. On the micro-level different kinds of actors and their accountability relations can be investigated in depth but are hard to generalize; on the meso-level we have the choice between selecting a relevant functional segment of the political system and explore all the relevant accountability relations or we can opt for a comprehensive investigations on different types of actors and analyze how they perform across policy fields; the macro-level calls for a synthesis of characteristic accountability relations and access them in view with general findings regarding systemic Verselbständigung in order to come to a general assessment of democratic accountability.

A more pragmatic approach looks for gaps in recent research and theoretical claims that need empirical underpinning. Recent research has produced quite a number of studies supporting a

critical account of EU accountability (Gustavsson et al 2009) and pointing to specific accountability 'gabs' in European politics (Harlow 2002; Harlow and Rawlings 2007). Furthermore, as mentioned above, "The Real World of EU Accountability" (Bovens et al 2010) provides valuable insights in individual institutional accountability relations. In addition, successive investigations in parliamentary accountability in the compound system of the EU (Benz 2006, Auel 2007, Benz/Papadopoulos) and electoral EU accountability (van der Eijk/Schmitt 2008) has deepened our knowledge concerning the limits of these traditional vertical accountability mechanisms in the EU context. A rather recent claim stipulates a prominent role for civil society actors to put EU policy-making under democratic accountability (Steffek 2010). Though this claim is theoretically well argued it still needs theoretical refinement and empirical validation. Therefore, we have embarked on a research project that will scrutinise the potential role of civil society organisations in EU governance and put it in perspective to other mechanisms of vertical and horizontal accountability.

3. Analysing the Democratic Credentials of CSO Involvement in the European Accountability Web: CSOs as actors and facilitators of EU accountability[5]

Not only that the principle of accountability is acknowledged in key EU documents, civil society organisations (CSO) have regularly insisted that EU institutions ought to render account on how it responded their input. Though due to the political importance of the Commission and because of the openness of the Commission to CSO involvement, these demands are mainly addressed to the Commission but the demands are addressed also to the European Parliament and above all to the Council. Whereas the Council has been very reluctant to respond and also the European Parliament has some misgivings about the aspiration of CSO to represent citizens, the Commission has been ready to commit itself to provide feed-back and give reasons why certain stakeholder views have or have not been taken on board. A synthesis report following consultations is now common though not universal practice. The legal obligation of transparency, the requirement to submit impact assessments on major policy initiatives, the pledge to provide road maps to better track the consultation and decision making process, and the above mentioned feed-back procedures are important stepping stones to accountability.

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[5] This part of the paper is a short and adapted version of Kohler-Koch 2010.

But even if the other EU decision-making institutions would follow suit, would this kind of procedural innovations institutionalise accountability in EU-society relations? And above all, do they contribute to democratic accountability? What could and should be the appropriate role of organised civil society? To provide an answer we will, first, clarify different role models which enable CSOs to enact accountability under the given institutional constraints of the EU system.

In the most general term one can say that accountability is a mechanism "to put matters right" (Harlow and Rawlings 2007: 546). The idea is that accountability will enforce effective participation because the obligation of a decision-maker to explain and justify his conduct and the likelihood that he has to face consequences will keep him in line with the preferences of the represented. Democratic accountability is a more demanding concept because it does not only require that accountability mechanisms have an impact on those who exert public authority but it requires that it relates back to the "principal", i. e. the citizens and that they have an equal chance to have a say in it. Consequently, CSOs can only claim to further democratic accountability when they contribute to bring citizens in. They can do so as an *actor* or as a *facilitator* in an accountability relation. As an *actor* they have to prove that they enjoy democratic legitimacy, as a *facilitator* they have to engage democratically legitimate actors.

When CSOs constitute the forum to which account is to be rendered we may call it "*social accountability*" as suggested by Bovens (2007a: 457). This social accountability may be a one-level relationship linking EU institutions to CSOs or it may be a two-level relationship which combines the accountability of EU institutions with the accountability of CSOs towards their own membership or constituency. CSOs can act as facilitator in what Bovens (2007a: 454-455) called *political accountability*, and, again, we have two different models. CSOs can be crucial for activating political representatives such as political parties, parliaments or national governments to demand EU executives to render account or CSOs may enable citizens to participate in EU accountability. In both accountability models the essential difference is who constitutes the ultimate accountability forum. When CSOs constitute the accountability forum to hold EU authorities to account we may call it *EU level social accountability*; when at the same time CSO are subject to accountability exercised by their own members it is a case of *two-level social accountability*. When political representatives constitute the forum it is a matter of *elite based political accountability* and when the public is involved we may call it *grass roots based accountability*.

Table 2: The role of CSOs in EU accountability

	Roles of CSO	
	Actor	*Facilitator*
Types of accountability relations	EU level social accountability	Elite based political accountability
	Two-level social accountability	Grass roots based political accountability

3.1 Social accountability

Social accountability attributes CSOs a central role in EU accountability. They oblige EU institutions to explain and justify their conduct; they question the appropriateness of policy proposals; they pass judgements and as far as they can they impose sanctions. Social accountability may be restricted to the Brussels arena or it may be a two-level mechanism. In the latter case CSOs are under the obligation to render account to their own members and constituencies and thus draw them into a system of extended accountability.

EU level social accountability

This mode of social accountability establishes a direct and explicit accountability relation between those who decide and implement public policy and CSOs. CSOs take advantage of their close relationship with decision-makers; accountability is not so much an ex post facto mechanism but embedded in a process of ongoing consultation and dialogue. This practice has been developed into a concept that considers accountability and participation to be inseparable (Grant/Keohane 2005). The argument is that exacting accountability from within is stimulating deliberation and mutual learning and thus is providing both input and output legitimacy. The idea is that civil society actors are engaging with decision-makers directly and thus induce democratic responsiveness by building on "state-civil society synergy" (Malena et al. 2004: 13). However, critical observers argue that such synergies may end in capture or collusion and that accountability needs a detachment of those who demand accountability from those who have to render account. When it comes to gaining information, participation is an advantage but when CSOs want to bring to light controversies and push for publicity they soon experience that it is a mixed blessing.

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Information is a sine quo non condition for a working accountability relation. With the enactment of the transparency legislation the EU is a remarkably open system and it provides abandoned information. However, open access to information is just a necessary, not a sufficient condition to ensure an equal system of accountability. Despite all efforts especially by the Commission, to get hold of relevant information is a time consuming and costly process and thus subject to disposal of resources. CSOs that are well funded, have been present in Brussels for a long time, belong to the well established policy-communities and are able to deliver the knowledge needed for efficient problem-solving have a clear advantage (Quittkat 2010b). They have insight knowledge and thus are in a privileged position to put questions, to ask for justification and pass a credible judgement on the conduct of the EU actors. Consequently, the EU is not only a system of biased representation but also a system of biased accountability relations. CSOs from the North and West of Europe are more active than those from the South or the East and CSOs representing economic interests are more numerous in putting pressure on EU institutions and because of their command of in-depth expert knowledge they are better versed in extracting detailed information and reasoning from EU institutions. Nevertheless, when compared to only a decade ago accountability relations have improved: The principle of accountability is firmly established, rules and procedures have been developed and the networks of the 'rights and value based' NGOs are quite efficient in pushing EU institutions to render account of their principled conduct.

Social accountability is, however, a soft mode of accountability because two essential elements are missing: the obligation to give account and an accountability forum. The project of institutionalizing a 'Civil Dialogue' (as suggested ion the Lisbon Treaty) has not yet materialized but from the respective documents one has to draw the conclusion that it will not establish a formal obligation to give account. The lack of formal obligations may be substituted by the readiness - for what ever reasons - to render account. EU institutions have openly declared to be committed to the principle of accountability but they are less ready to acknowledge CSOs as legitimate actors to ask for explanation and justification. The European Parliament insists that it is accountable to the electorate and the Council maintains the responsibility of member governments to their national constituencies. The Commission (2001) has written the principle of accountability into the White Paper on European Governance but it is noteworthy that even Commission officials who have been involved in the long standing Civil Society Dialogue of DG Trade put their accountability towards Member States first (Slob/Smakman 2007: 74). Even when accountability is accepted as a political obligation; it is conceding CSOs not the *right* to enact accountability.

Another important deficit is that there is no arena for rendering account. The feedback mechanism of the Commission is linked to the consultation process and so it is issue specific and makes for a compartmentalisation of the accountability relation. Furthermore, some consultation instruments such as the widely used online-consultations are accountability adverse (Quittkat 2010c). The "structured dialogues" which have been established in some policy fields and will be extended with the implementation of the Civil Dialogue have some potential of providing an accountability forum.

To conclude: the ability to gain information is distributed unevenly and no EU-institution is obliged to render account to CSOs. In the case of the Commission the willingness to submit to CSO accountability is at the discretion of the individual Directorates General and exercised in various ways and to various degrees. The issue of accountability is closely linked to consultations, yet the widely used instrument of online-consultation is hardly suitable. Furthermore, there is no arena where CSOs can ask questions and demand to the point explanations. When CSOs succeed in obliging the Commission services to render account and pass a judgement, it is a bilateral exchange which makes for compartmentalised accountability.

Even if this EU level social accountability would work more effectively, its democratic quality would be dubious. In order to satisfy minimal standards of democracy the plurality of CSOs active in Brussels would have to be a fair representation of the divergent preferences of the European public and all different kinds of CSOs would have to have an equal chance to put EU institutions under pressure to give account. So far research rather presented evidence to the contrary Kohler-Koch/Quittkat 2010). The most pertinent question, however, is if CSOs qualify as a legitimate actors to impose accountability.

Two-level social accountability

In order to qualify as legitimate accountability actors CSOs ought to be accountable to their members and constituencies. All European CSOs assert their commitment to accountability. The sine qua none prerequisite is a well functioning communication between the European level organisation and member organisations at all levels down to the individual members at the grass-roots. However, an easy flow of information and communication is difficult to achieve because of the multi-level structure of European organisations. These structural impediments affect some CSOs more than others. Not only size but the complexity of the organisations and the degree of organisational consolidation make a difference. Streamlined hierarchical organisations combining the principle of territorial and functional representation

in a systematic way are mostly found among market and labour related associations. NGOs, especially the encompassing NGO confederations stand out as being far more complex. Part of the explanation is that the European Platforms, which are the main interlocutors of the EU institutions, are still in the process of consolidating their organisational structures. The enlargement of the EU by twelve new member states has aggravated the situation.

CSOs strive hard to professionalize in order to improve their communication with members. But empirical research gives a sobering picture concerning their capacity to reach down to the grass-roots and to give EU policies more publicity (Kohler-Koch/Buth 2010; Altides 2010). Assuming that information would be wide spread and controversial issues were in the open would this boost up CSO accountability and would it deserve the quality label "democratic"? In the case of member organisations, agents are obliged to render account and with exit and voice members can definitely impose consequences. But what if European CSOs have only a restricted membership? We lack systematic empirical data, but from comparative investigations we may conclude that EU organisations are far from being inclusive. Bozzini (2007: 14) found in her cross-sectoral and cross-national comparison that on average far less than half of national associations are members of an EU umbrella organisation. And how can advocacy groups be accountable which have no members and are mainly funded by the EU so that neither exit nor voice will work?

3.2 Political accountability

Political accountability sees CSOs as facilitators that draw the attention of other actors to the poor performance or even wrong-doings of authorities. Their role is to provide additional information, to raise awareness, to disclose alternative policy options, to bring out controversial issues and raise opposition to specific policy options so that other actors will be motivated to enforce accountability. It is the most common perception of CSOs as political watchdogs and whistleblowers. CSOs may target their activities primarily at political actors such as the European Parliament, national parliaments, political parties and governments on national or sub-national levels. Or they may address the general public. In both cases they call on a third party to put pressure on EU institutions to explain, justify and eventually modify, amend or cancel their actions.

Political accountability lives on public controversy and in this respect it is a good starting point that nowadays so many CSOs are active on the EU level representing a wide range of interests and being in conflict with each other on key issues of EU policies. Nevertheless, EU decision making structures and the dedication to a culture of deliberation rather than

confrontation are taming political conflict. The EU, from the very beginning, has been geared towards consensus and expert based joint problem-solving. For structural reasons the Commission would be ill-advised to take sides along party cleavage lines because the Council as the ultimate decision maker is an "all-party government" characterised by party pluralism. The institutionalisation of "participatory governance" has, in addition, furthered what Mouffe (2005) has called the consensus ideology of the post-modern democracy.

Another factor that mitigates controversies is the dilemma situation well known by all intermediary actors who want to have impact on policy-making. They can exert influence by participating in the decision-making process and by putting pressure on decision-makers from the outside. It is not an either – or choice; rather both options are always latent and used by all CSOs. Based on our knowledge about CSO performance in member states it is plausible to assume that different kinds of CSOs face different choices. In general, business and trade associations prefer an insider strategy because they have the necessary resources to opt for the "expert knowledge" approach; they either can mobilise expertise from their members or commission scientific advice. General interest groups can often not provide the scientific and technical expert knowledge asked for in EU decision-making; they actively participate in discussions on the general framing of a policy but loose out when it comes to comment detailed regulatory proposals (Quittkat 2010).

Elite based political accountability

Notwithstanding the constraining effects of the EU decision-making culture, the choice of strategy is also conditioned by public resonance and potential alliance partners. Both depend on the policy issue at stake which may or may not stir political sensitivities and bring out latent conflicts. It is easy to gain public attention and mobilise support or opposition along existing cleavage lines: Trade unions against industry; consumer and environmental interests against business concerns; minority rights against mainstream positions, etc. As to alliance partners, all CSOs agree that the media are crucial and all CSOs put high priority on media resonance. Just because NGOs are in their self-ascription oriented towards the public interest and are "rights and value based" as the Civil Society Contact Group put it, they are more inclined than economic oriented CSOs to see political parties and parliaments as potential allies.

However, political actors must have an interest on their own to take up what CSOs lay at their doorstep. Thus it is crucial that in recent years the European Parliament and the European political parties have become more assertive than before in playing the game of politics.

Nowadays, the EP is quite eager to assert its role as accountability actor and does not hesitate to get engaged in a power struggle with the Commission (Bouwen 2006). The higher the salience of an issue, the level of conflict and media resonance the more is it likely that the EP is taking up the issue and becomes a valued partner for CSOs. Though CSOs primarily address their "natural" allies, the environmentalists the Green parties, trade unions and the Social Platform the European Socialists, Business Europe the European People's Party, the Human Rights Network the Liberals, etc., all CSOs aim at mobilising a broad coalition to have an impact. They are eager to engage parliament and party groups not just on the EU but also on national level. Since the left – right (social versus economic) and also the liberty against law-and-order cleavage in the EP mirrors the prevalent cleavage structure in most member states (Mair and Thomassen 2009) mobilising and networking with national political actors is made more easy.

It could be argued that for elite based political accountability the role of CSOs as information providers is less relevant than their role as activator of publicity and controversy. Members of parliament can easily get first hand knowledge and should have the proficiency to evaluate the information so that they can hold EU decision makers to account. However, based on the findings of Steffek and Ferretti (2009: 56) one can argue that participatory governance has put CSOs in an advantage. Institutionalised participation in highly technical European Agencies has not empowered CSOs to exert their watchdog function directly, but it provides NGOs with insight so that they can "act as transmitters and translators of highly specialised information (…). They may also provide the (…) audience with critical counter-expertise to challenge IOs and governments."

Unfortunately, we lack systematic empirical research for a sound assessment of CSOs as facilitators of political accountability. Selected cases illustrate favourable conditions which help CSOs to assert their role as accountability facilitator: Close relations between a CSO and a faction in the EP, a controversial issue that is, nevertheless, difficult to ignore because it touches on fundamental rights, receptive media.[6] In order to get the full picture, the focus should be broader and not just concentrate on the EP. Costa and his colleagues (2003: 670-672) have reminded us that the EU is characterised by a multiplication of control mechanisms. Accordingly, a well-founded assessment of the role of CSOs as facilitators of political accountability would have to keep in mind the many ways of triggering these control mechanisms. Above all, it would be interesting to know when and how European CSOs

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[6] The resignation of Rocco Buttiglione is an illustrative case; see Kohler-Koch 2010b.

manage to reach beyond Brussels and are able to engage national parliaments and governments as opposition powers.

It is less difficult to decide whether or not elite based political accountability qualifies as democratic. The sine qua non condition is that the political actors who enforce accountability possess democratic legitimacy which is beyond doubt in the case of the EP or national parliaments if they act in common.

Grass roots based accountability

Accountability that involves the general public deserves the highest mark of democratic legitimacy. The popular argument is that civil society achieves what political parties and other mass based organisations such as the trade unions no longer deliver: the mobilisation of grass roots and the participation of ordinary people. Grass roots based accountability, however, is more demanding than elite based political accountability. The essential precondition is that ordinary citizens have to become alerted. It is not sufficient to make information available, rather the task is to make citizens aware of and sensitive to the issue and the options entailed. Only when a controversy gains publicity, citizens will form a judgement and translate it into political behaviour. CSOs can do what citizens cannot do themselves: regularly monitor the daily policy process in Brussels and watch if decision-makers deviate from the declared preferences of the public. CSOs will spot controversial issues, bring them to the attention of the people and advocate in favour of one position or the other. Citizens have to rely on intermediaries such as CSOs and the media if they want to hold political authorities to account.

CSOs also serve as facilitators of grass-roots accountability by engaging in what might be called political education. They often engage in EU sponsored projects to enhance public understanding of EU affairs which, after all, is a crucial prerequisite for exerting accountability on the basis of 'enlightened understanding". Critical voices from national and sub-national member organisations, however, argue that in practice the teaching of the EU is adverse to democratic accountability. Though they agree that in principle political education paves the ground for reasonable judgement they call for a more critical stance on those who are asked to render account.

CSOs active in Brussels would all agree that it is their mission to raise the awareness not just of their members but also of the wider public. Above all EU NGOs are on record that communicating with their constituencies and the public at large ranks high on their agenda. But empirical research on European NGOs confirms what we know from national and sub-

national NGOs: Though they employ the full range of the action repertoire (Bozzini 2007; Kriesi et al 2007), their first preference is to have contacts to decision-makers, to provide expertise and to participate in consultations. They also make use of a wide set of strategies to target the public and media campaigns are regarded a most effective form of action, but many NGOs have experienced that despite all efforts the media are not very responsive (Bozzini 2007: 3). This confirms our own findings (Altides 2010). All CSOs are keen to communicate their position to the media when the issue under discussion is both highly salient and controversial. Since media campaigns proper are restricted to instances of utmost importance, CSOs rely on their standard instruments such as personal contacts, policy briefings and up-to-date web-site information. We found that resonance in the press is limited and except for a few cases it is difficult to tell whether CSOs have served as transmission belts for spreading the news or not.

If CSOs manage to serve as issue specific transmission belts and bring critical choices to the attention of citizens, the question with regard to accountability is: what will happen next? Public protest is a demanding strategy of exacting accountability since it has high thresholds for participation. Elections have very low thresholds for participation but are a rather indiscriminate instrument to sanction decision-makers. Only if the salience of a single policy issue is strong enough to make a difference or if it adds up to other disappointments, electoral preferences may shift. Even then democratic accountability may fail. Two reasons are often mentioned: one is that EP elections are second-order elections and, as a result, electoral choice is influenced by national experience; the other argument is the weak position of the EP. The first hypothesis has been challenged by Rohrschneider and Clark (2008: 137) who found strong support that EU performance matters and voters to a considerable extend evaluate EU-level factors. This gives hope for the future as the EP is increasingly exerting its power to gain control over policy output.

It seems as if the positive image of civil society as a political actor forcing decision-makers "to put matters right" is resulting from a methodological research bias. Scholars have concentrated on the role of CSOs in extraordinary events such as the fight against the "Bolkestein directive"[7], but have not looked in a systematic way at less spectacular though still important instances of EU accountability.

3.3 CSO Roles in European Accountability Processes: A Conclusion

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[7] The issue was the liberalisation of services, see Della Porta 2009.

The message of section 3 is that a sound assessment of CSOs in EU accountability needs an analytical approach that differentiates between distinct types of accountability relations and different roles attributed to CSOs. Accountability relations vary depending on who is considered to be the legitimate actor to hold EU-institutions to account. CSOs can take different functional roles; they may be actors or facilitators of accountability. Accordingly, we have suggested four models of CSO related accountability – EU level and two-level social accountability, elite based and grass roots based political accountability. When examining how the four models fit reality we find that context conditions for exacting accountability have improved over the last years. The principle of accountability is widely acknowledged and information on substance and procedures of EU decision-making is provided. CSOs are focused on making the Commission render account (EU level social accountability). Only more recently, in response to the demands of EU-institutions, they are concerned with their own accountability in relation to their members and constituencies (two-level social accountability). Engaging other political actors (elite based political accountability) and paving the way for easy and equal access of citizens (grass roots based political accountability) is not part of a purposeful strategy of accountability so far; it is rather a by-product when CSOs aim to increase their influence. Social accountability ranks high even though crucial elements of an effective accountability relation are missing: EU-institutions are not obliged to render account to CSOs and they do not have to face hard consequences if they choose not to give explanations and justifications for their conduct. Even more important is that CSOs can hardly claim to have a legitimate mandate to exact accountability on EU-institutions.

Why then are such high flying expectations attached to social accountability? A political answer is that CSOs see it as a useful tool to gain control over the Commission and that the Commission is equally interested in pushing accountability but with the intention to make consultations more manageable rather than for the sake of democracy (Greenwood and Halpin 2007: 190). The theoretical answer is that accountability is seen in the context of "participatory governance". In contrast to the principle-agent delegation model suggested by Bovens, accountability in participatory governance is not a formalised ex post facto mechanism but a constituent element in the on-going process of negotiation. According to the logic of participatory governance the diversity of views can only be reconciled by providing explanation and justification. Thus, reason giving and feedback has been stylized as a permanent process of accountability. In other words, participatory governance is internalising the process of accountability. This conception is in apparent contradiction to the ideas

presented in this article which take accountability to be essentially a public procedure with a clear demarcation of responsibilities. Fusing participation and accountability bears the risk that questioning and evaluation will be overshadowed by the mutual interest in policy-making efficiency and long-term relationship (Harlow and Rawlings 2008: 289). CSOs will only contribute to the democratic legitimacy of EU governance if they foster accountability procedures which are public and which will open windows of opportunity for citizens to pass a political judgement and compel decision-makers "to put matters right".

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