DEMOCRATIC LEGITIMACY, DEMOCRATISATION AND DEMOCRATIC IDENTITY OF THE EUROPEAN UNION - OLD QUESTIONS, NEW CHALLENGES

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Introduction: Legitimacy, Democracy And Identity Of The EU

The subjects of this paper are a better legitimisation and a further democratisation of the EU, as well as the development of an EU identity. Four related questions will be discussed: Why is the democratic Legitimacy of the EU insufficient, and how can the EU be legitimised better? What is the interrelation between legitimisation and democratisation of the EU, and the development of an EU identity? Why does the EU need to be democratised, and how can this be accomplished? What exactly does EU identity mean, and how can it be achieved? This paper differs from most contributions on these topics coming from European integration theory because it is largely based on the framework of normative critical democratic theory, but also on empirical and methodological results stemming from Political Sociology.

The paper proceeds in six steps. The first part will discuss the relation between EU legitimisation and democratisation, and EU identity formation from a normative point of view. The second will outline the necessity of a further democratisation of the EU. The third part will discuss two different strands of the discussion on EU democratisation, one institution-based and the other *demos*-based. The fourth part will analyse what EU identity means from a normative, a methodological, and an empirical point of view, to develop a working definition of EU identity. The fifth part will discuss possible contents of EU identity. The sixth part will present the conclusions.

1. The Relationship Between Legitimacy, Democracy And Identity

The argument is based on the following normative considerations on democratic legitimacy, democratisation and democratic identity. To begin with: what does democratic legitimacy mean? The different concepts of legitimacy that have been developed throughout centuries of democratic thought cannot be discussed here in detail, but the essential core components of representative democratic legitimacy shall be summed up briefly. Based on the simple Lincoln concept, representative democracy can basically be understood as being government of, by, and for the people. This formula indicates several decisive dimensions and components of legitimacy. The first is the input-dimension: the citizens need rights and possibilities for participation and contestation (government of the people), and they need the right to elect their representatives (government by the people). Second, the representatives must be accountable, the procedures of election and government in the representative system must be organized transparently and following the rules of law, and the system should stick to the ideal of the separation of powers. Third, representative democracy has an output-dimension: the decisions taken by the representatives should satisfy the majority of the represented (government for the people).

The input dimension of democratic legitimacy entails a decisive normative interrelation between legitimacy, democratisation and the development of democratic identity: Democracy, no matter if it is conceptualised following a republican, communitarian or liberal ideal, needs to consist not only in election or citizenship rights, but also in a minimum of democratic practice (meaning the active fulfilment of the legitimacy dimensions of participation, contestation and representation). As a consequence, democratic institutions and procedures must be carried and should also be actively filled by a democratic subject, a *demos*, that defines itself as such at least to a minimum extent. Democratic identity in this respect means the self-identification of a democratic subject.

Demos-building and identity-formation are necessary in a democratic polity for several reasons: It is a condition for political activity that the *demos* is at least conscious of the fact that it is linked to a respective polity – that is, people should consider themselves as members of that polity. If this is not the case, people will not direct their political activity to it. Moreover, to make redistributive policies

acceptable, the members of the *demos* should mutually identify themselves as such – again, if this is not the case, redistributive policies are not impossible, but will hardly be accepted when going beyond a minimum degree. In this sense, democratic identity is a crucial element of democratic legitimacy.

2. Legitimacy And Democratisation Of The EU

According to these criteria, the EU shows several flaws – if it is seen as a supranational democratic polity. Even though the output dimension can be regarded as rather satisfying, the different legitimacy components are not adequately balanced, and in particular the input dimension is missing.

But this diagnosis does not represent a consensus among EU scholars. Some even state the contrary, two of the most prominent contributions in this respect coming from Andrew Moravscik (2002) and Giandomenico Majone (1998). Majone (1998: 5) begins his argument by rightfully stating that whether one sees a democratic deficit in the EU or not depends on the standards one is using – and he claims that the EU is no supranational democratic polity, but a kind of "regulatory state" (Majone 1998: 18) in which politics and economy should be kept as separate as possible. He concludes that therefore "the process of European integration is inherently non-majoritarian" (Majone 1998: 7) and even states that "depoliticisation of European policy-making is the price we have to pay in order to preserve national sovereignty largely intact" (Majone 1998: 7). Even though Majone admits that the democratic character of the member states is sufficient to legitimate the intergovernmental, but not the supranational component of the EU, he sees the legitimacy of the supranational component entirely in a successful delegation of competences to the EU as a regulatory state. Therefore, for Majone legitimacy of the EU depends on the successful fulfilling of the functions as a regulatory agency. For these, it is not a problem, but a condition for legitimacy to be exempted from the necessities of finding political majorities and being subject of political contestation: they need to have "procedural legitimacy" (Majone 1998: 20). It consists in a successful delegation of specific functional tasks that can be tackled more efficiently or credibly at the supranational level. As long as this is guaranteed, Majone does not see any further need for a better legitimisation of the EU.

Moravscik (2002: 606) defines the justification for democracy as "to check and channel the arbitrary and potentially corrupt power of the state". His main argument is that this claim is well fulfilled in the EU (2002: 606): the number of EU policy areas is limited, and they are marked by several procedural constraints like the requirement of unanimity in many fields, or the requirement of parliamentary ratification of treaties. Moravscik claims that there is a horizontal separation of powers between the Commission, the Council, the Parliament, and the Court, as well as a vertical one between the EU, the national and the regional levels. Thus, according to Moravscik, the EU does show a higher degree of pluralism in its governance than the member states. As a result, consistent and effective policy-making in the EU requires broad majorities among national representatives, in the Commission, in the parliament, and also in the Court. Therefore, EU legislation, according to Moravscik, requires widespread consent. EU legislations are made accountable directly via the EP and indirectly via elected national officials. Furthermore, Moravscik argues that member states for which an EU legislation is nonetheless unacceptable have the possibility to "opt out" in some areas. He denies any necessity for the EU to increase political participation – arguing that greater participation would neither increase public support for the EU, nor the willingness of people to participate more, since they would not be interested in the respective issues treated on the EU level. Therefore, the EU would only encourage "informationally impoverished and institutionally unstructured deliberation" (Moravscik 2002: 616), with a higher level of political dissatisfaction resulting from it.

This sketch of Majones and Moravsciks main arguments indicates their specific understanding of **a)** democratic legitimacy and **b)** the EU. **A)** they emphasise the functional and output dimensions of democratic legitimacy and do not regard it as something crucially depending on an input or the political activity of a *demos*. But it is not acceptable to leave the input dimension as completely aside as they do. One does not need to argue for a sophisticated model of deliberative democracy to make it clear that democracy must always be "government of the people" as well, as Lincoln said, since the legitimacy components sketched in the beginning are interdependent. Even the slimmest liberal models of democracy would agree that democracy always needs an input dimension, consisting at least in unhindered possibilities for participation and contestation of the *demos*. **B)** Both Majone and Moravscik leave the input dimension aside because they

assume that the EU is not a supranational democratic polity which necessitates input legitimacy – be it because it is seen as a regulatory state, or because EU policy making procedures are seen as sufficiently legitimated by their intergovernmental character and the balancing of competences between several institutions and levels of governance. But there are several good arguments not to accept these definitions, which will be laid out in the following.

Føllesdal and Hix (2006) as well as Beetham and Lord (1998) have countered the base of Moravsciks and Majones argument. They argue that EU policies today are far from being merely regulatory, but already have strong redistributive consequences. Beetham and Lord (1998: 17) add that legitimacy cannot be based merely on an elite consensus, and moreover the EU directly affects the legitimacy of the member states themselves. Moreover, Føllesdal and Hix (2006: 551) criticise Moravskic for justifying an absence of democratic participation in the EU by the fact that people are not interested in EU policies, arguing that the low interest may also be a result of a lack of democratic arenas for political contestation. In sum, these arguments claim that integration is too far advanced to simply declare the EU as a regulatory or functional regime. On the contrary, the EU has acquired such a broad degree of competences, and has such extensive policy effects, that a better democratic legitimacy is necessary, which could also enhance stronger participation.

Besides these arguments, the results of EU referenda since the 1990s are empirical indicators for the fact that the models of Majone and Moravscik are no longer tenable. European integration is no longer a process that is silently accepted or regarded as self-evident by the member states' populations. In 1993 the first Danish referendum on the Maastricht Treaty did turn out negatively (which was not the case for the second, a year later). In Ireland in 2001 the first referendum on the Nice Treaty did turn out negatively (the second in 2002 also did turn out positively; Schwarz 2002). During the constitutional process in spring 2005, two negative votes appeared in a row – in the Netherlands and in France, two founding members of the EEC. These results indicate that the years of the "permissive consensus" are over – this term coined by Lindberg and Scheingold (1970: 40) names the silent and unspoken acceptance of the integration process by the majority of the EU citizens. Today, EU citizens seem to be more and more interested in, but also critical of, the integration process and its legitimation.

But what exactly do the negative outcomes of the referenda indicate? Considering survey results on the matter (see e.g. Eurobarometer 2005: 15; Eurobarometer 2005b: 15; Hug 2002: 27), it is hard to say if on the whole they are really linked to a feeling of insufficient democratic legitimacy in the EU. This has been an important argument in Denmark in 1993, but the main reason named in French surveys in 2005 was economic insecurity and a feeling that further integration might be dangerous for the French social and economic system. The Constitutional Treaty was regarded as being too neo-liberal and not presenting enough perspectives for a more social Europe. The main reason named in the Netherlands was – of all things – a lack of information on the contents of the treaty. The second reason was that Dutch voters saw their national interests as contrary to the constitutional treaty. Therefore, the referenda rather indicate profound doubts of EU citizens concerning the benefits and aims of European integration, and an insecurity concerning the *legitimating ideas* of the EU.

Finally, another main argument against a mere functionalist and intergovernmentalist view of EU legitimacy has been put forward among others by Jürgen Habermas (1997: 186), Andreas Føllesdal (1997: 2) and Simon Hix (Føllesdal and Hix 2006: 534). They refer to the fact that European integration brings about continually growing competences of the EU institutions – and therefore a growing gap between their competences and their insufficient democratic legitimacy, as well as a continuing loss of competences on the level of national representative democratic systems. This brings about an increase in executive power and a decrease in national parliamentary control. While national representative systems, as defective as they may be, fulfil most of the legitimacy criteria that have been named, this is not the case for the EU. Therefore, there is a risk of a continuing net loss of democratic legitimacy – with the integration process going on, the nation states losing competences, and no adequate creation of democratically legitimate structures and processes on the supranational EU level following.

The last treaty reforms, even if they have decidedly improved the legitimacy of the EU decision making procedures (in particular with the EP getting more competences), brought no decisive remedy for this problem. They only partly balanced the competence losses on the national level, in particular because there are still many EU policy areas left where neither the national parliaments nor the European

Parliament have a say. Therefore, the intergovernmentalist argument which claims that the basis of legitimacy lies with the nation states, and democracy should be kept there, too (and not be extended to the EU level) in the end leads to a dangerous consequence. Accepting a continuing integration without creating better democratic legitimacy for the EU institutional system would mean to accept an ongoing loss of democratic legitimacy – an option that has to be declined from a normative point of view.

Because of these reasons, most contributions in the field agree that there is a lack of democratic legitimacy, or a "democratic deficit" in the EU (see Føllesdal and Hix 2006 for an overview of the current state of the art of the argument, for earlier contributions see for example Føllesdal 1997; Zürn 1996; Preuss 1995; Bach 2000; Grande 1997; Kielmannsegg 1996, 2003; Scharpf 1995, 1998). Two strands of argumentation can be distinguished here. One is institution-based, the other *demos*-based. The institution-based argument stresses the fact that the EU system does not fulfil the standards of modern representative democracy and the separation of powers.

There is lack of representative transparency and accountability in the EU institutional system: the nationally elected representatives in the Council are situated at the end of a long and sometimes intransparent legitimisation chain, since they are members of the national governments, which have been elected or appointed by the national parliaments or presidents, and only those have been directly elected. The Commission even consists of members which have been appointed (and not elected) by national governments. Moreover, the EU institutional system still shows deficits concerning the ideal of a separation of powers: The European Commission, which by its nature should be the executive body, is also the only institution possessing the right to start legislative initiatives. Since it controls the correct application of EU laws, it has judicative competences as well. The Council finally has full legislative competences, but also lacks the right to legislative initiatives. The EP still does not possess the full competences the legislative body should possess according to the ideal of representative democracy: it has the right to make co-decisions only within the EU policy areas, and it does not have the right to start legislative initiatives.[1] Føllesdal and Hix (2006: 534) sum up three more problem dimensions: despite EP's growing competences EP elections are not European elections. The EU is `too distant´ from voters. Finally the EU

produces a policy drift from the voters' policy preferences: it adopts policies that are not supported by a majority of citizens in many or most member states. This institution-based criticism of the democratic deficit of the EU is at the base of the further argument, but not in its main focus.[2]

The argument concentrates on the second aspect of the EU democratic deficit: the *demos* dimension. It has been discussed in particular in German contributions. The *demos* argument of the EU democratic deficit can be summed up as follows (see Habermas 1997: 185, Scharpf 1998, Kielmannsegg 1996, 2003): currently the EU does not show – or does not show enough of – a democratic identity of the population, a European public space, or a European civil society. Therefore it lacks crucial elements of a *demos*.

3. *Demos*-building, EU Democratisation And EU Identity

Contributions on EU democratisation referring to this latter argument underline that a mere democratisation of EU institutions (like an improvement of the competences of the European Parliament) will not be sufficient (Scharpf 1998; Kielmannsegg 1996, 2003; Habermas 1997: 185). In this context, the contributions from the German debate make a decisive opposition explicit: there are two approaches with respect to the processes that can or will lead to EU *demos*-formation.

First, there are the adherents of the *no-demos-thesis*. According to this argument, the EU does not show a democratic identity of the population, a European public space, or a European civil society. These are seen as preconditions for EU democratisation by the defenders of the *no-demos-thesis*, for whom a further democratisation of the EU would not only be unwise, but could also be dangerous from a normative point of view. This argument was put forward for example by Scharpf (1998) and Kielmannsegg (1996, 2003), two German political scientists, whose works became milestones for this debate at least in Germany. Their argument is linked to a special German connotation of citizenship based on ethnic and organic ideas (Weiler 1995: 4).

What is the main content of the argument? The *no-demos-thesis* postulates a certain, normatively binding succession in time of *demos*-building and democratisation. In this sense it implies a formula that claims democratisation has to follow *demos*-building. Because of the

normative interrelation between legitimacy, democracy and democratic identity, the *no-demos-thesis* particularly stresses to role of the latter – but it postulates a pre-political identity as a *precondition* for the further democratisation of the EU.

The opposing approach is more constructivist and claims that this postulate has to be declined. First, the succession in time of *demos*-building and democratisation is not necessary from a normative point of view, because democratic identity as well as a European public space or a European civil society can and probably will develop within (representative) democratic institutions and through democratic practice. It is democratic citizenship that enables this development, as has been argued among others by Jürgen Habermas (1997) and Rainer Lepsius (1999). Moreover, as it will be discussed in more detail later, pre-political identities do not exist. The comparative look on historical *demos*-building processes shows that such a chronological order – which means *demos*-building happening first and democratisation following – never occurred in practice in the simplified way suggested by the defenders of the *no-demos-thesis*. Furthermore, the *no-demos-thesis* is a circular one, because it implies a permanent repetition of negative circumstances repeatedly hindering a *demos*-building.

To sum up: the *no-demos-thesis* is too simplified, because *demos*-building-processes are far more complex and consist in mutual dependencies between institutional components and different aspects of democratic practice.

But the discussion that has been sketched briefly underlines some important aspects. Both of the approaches that have been presented hint at four decisive components of a *demos*: a democratic identity, a European public space, a European civil society and democratic citizenship. They also agree on the fact that at least three of these elements – democratic identity, a European public space or a European civil society – are currently missing or incomplete in the EU. But the two approaches firstly disagree on the question if a European *demos* will or can develop, because they secondly disagree on the presumed ways in which it could develop. Whereas the *no-demos-thesis* claims that *demos*-building and identity formation in particular are preconditions of democratisation, the more constructivist and deliberative approach is based on the idea that *demos*-building and identity formation will be going hand in hand with the development of democratic practice. This approach was proven to be **a)** normatively and

b) empirically justified. The syllable `pre´ in his respect indicates a decisive normative as well as methodological difference: *demos*-building is not a precondition for EU democratisation, but an indicator for a sufficiently successful democratisation process. The further discussion will concentrate on the component of self-definition of a *demos*, on democratic identity.

4. EU Identity: A Working Definition

But what exactly does EU identity[3] mean from a normative and methodological point of view? When looking at the debate on EU identity, it soon becomes evident that the contributors do not have an identical definition of EU identity and its components – and several of them do not even define it clearly. The label EU identity is often used as one that is deliberately left open to interpretation. Therefore, in the following, methodological and normative considerations on how EU identity should be understood will be presented.

EU identity is often depicted as a type of "collective identity". The constructivist research on nationalism in the last decades has shown that this term needs to be further specified and criticized. The results of the research of Benedict Anderson (1998), Ernst Gellner (1988), Eric Hobsbawm (1991) and others can be summed up as follows (Thadden 1991: 496): first, collective identity is not something that is naturally existing or pre-political, but it is socially constructed. Second, collective identity is not static, but open to change. There are no stable collective identities, but only narratives that are historically changing. Third, democracies do not rely on a homogenous people or nation, but on heterogeneous societies comprising multiple different groups and interests. Fourth, even though they are related to regions or countries, identities are not necessarily linked to fixed geographical areas. Fifth, there are no simple or monolithic identities. Identities are on the contrary always complex and they express belongings on all levels of human existence. Sixth, the term collective identity can only be used in the sense that collectively shared memories, values and identifications are always a part of individual identity (Langenohl 2000: 61). This means that the respective phenomenon can rather be termed "a collective pattern of individual identifications" than a collective identity in the proper sense. These collective patterns of individual identifications are socially constructed.

Especially when looking at its link to EU democratisation and legitimisation, the question of EU identity also has to be discussed from a normative point of view with a background in democratic theory. In particular, one idea stemming from newer democratic theory is relevant when asking how to conceptualize EU identity: Democratic identity from a normative point of view has to be respectful of difference, because otherwise the collective patterns of identifications and values in multiple ways can offend individual identities. This means that democracies mainly have to be respectful towards differences concerning race, class, gender, religion or culture (see for example Habermas 1997; Taylor 1997).

This premise nearly inevitably results in multiple tensions, because one easily reaches conflicting points between individually and collectively shared patterns of values or identifications. An example from the late German public debate illustrates these problems: it concerns the question whether Muslim women should be allowed to wear headscarves while they work in public service. In cases like these it soon comes to debating or deciding if individual values or collectively shared values should be prevalent. Concerning the Muslim women wearing headscarves while doing public office, the lines of tension were complicated: it proved to be difficult to find an unequivocal position, because Christian nuns were allowed to wear their nun clothes while doing public office. There was apparently no good reason to interdict Muslim women to wear headscarves – at least if one did not want to prohibit the wearing of religious symbols in public service completely, which would have also meant to forbid nuns to wear their special clothes.

Tensions like these between individual and collectively shared values cannot be discussed here in more detail, but it has to be underlined that they teach important lessons for conceptualizing EU identity: Even in relatively well integrated Western nation states like Germany, it proves difficult to balance democracy and difference. But the European Union is much more heterogeneous than a single one of its member states. Therefore, claiming that EU identity must enable a minimum set of shared democratic values while preserving a maximum respect of difference is a challenge which inevitably leads to a considerable number of conflicts, since there are several different opinions on what should even be the range and content of that minimum set.

From a normative point of view, what is clear after these considerations is that the polity EU will have to rely on a set of mere political and democratic basic values. The EU is a political community based on 27 different nation states, their respective cultures, and their differences regarding the role of religion (ranging from a very catholic tradition in Poland to the laic state France). If the EU wants to succeed in reconciling democracy and difference, its political values must be as indifferent as possible regarding these differences. Therefore, neither culture nor religion can be made part of the EU political values base. Rather, the concept of constitutional patriotism (see for example Habermas 1997: 188) indicates the way to follow. For this, it will probably help that there already are bases for the definition of EU political core values: the European Charter of Fundamental Rights, the treaties, or the Copenhagen Criteria; and there are also implicit ideas that are shared by a considerable number of EU citizens or member states' governments. They will be discussed in part 5.

The results of empirical studies and discourse analyses on EU identity construction indicate that when not searching for an identity that can be directly compared to national identity, elements of an EU identity can already be found. But they prove to be different from national identity.

Surveys state that most EU citizens already show a form of EU identification, which for a majority in most member states is positively loaded. But the degree of positive identification traditionally varies throughout the EU and the member states (see for example Eurobarometer 67 / June 2007: 16). Second, the identification of citizens with the EU is not constant but variable. It can be positively or negatively influenced by several socioeconomic factors (for an overview see Pichler 2005). Third, some population groups traditionally have a more positive opinion towards the EU than others. In particular, the degree of higher education of a person is decisive here, but also their degree of wealth. The higher both, the more probably the person will identify positively with the EU (see Inglehart (1971) or Bréchon / Cautrès / Bernard (1995) for proofs of this correlation, Soerensen for criticism). Fourth, as Westle (2003) found out, EU citizens do not exclusively perceive themselves as European citizens, but appear as what can be called as-well-as-citizens – they feel to be Europeans as well as German or French citizens. Identification with the EU only proves to be low when opposed to national (or regional) identification. If it

is assumed that the two (or three) levels of identity can exist independently, they even show themselves to be positively interrelated. These empirical findings underline the fact that EU identity cannot be presumed to be monolithic, but will consist in a multilevel-model of identity, in which regional, national and European identifications will be complementary.

While surveys analyse opinions of individuals, discourse analyses concentrate on EU elites in the sense of politicians and leading national media. But they also underline that national and European identities are complementary. And they indicate another important characteristic of EU identity: there are different national models of European identification (see for example Marcussen et al. 2001; Weiss 2003). These national models are not stable. They are shaped by discourses of national elites and differ according to their bases, motives, and their argumentative direction. The finding that there are different national discourses, or rather concepts of identification with the EU backs survey findings indicating that EU identity is part of a multilevel system of identities. Finally, as Wodak and Puntscher-Riekmann (2003) state, identity construction in the EU is not totally different from national identity construction: like national identity, EU identity is constructed in discourse, and is enforced by institutions and socioeceonomic structures. EU politicians, like in national states, often distinguish an `Other´ (the US or Asia), and refer to positive founding myths.

After what has been said, a conclusion to the first part of the last question can be drawn: What has to be understood by EU identity? EU identity from a normative point of view signifies the self-identification of the EU *demos*. It must guarantee the acceptance of difference. In practice, EU identity development means the development of a minimum level of identification of the EU population and also a minimum set of collectively shared values with regard to the polity EU. EU identity, like national identity, is rather a collective pattern of identification than a collective identity. Like national identity, it will on the one hand develop in discourses, and can on the other hand be influenced through socioeconomic factors and structures. Like in national identity discourses, the definition of an `Other´ for the EU and the reference to a founding myth plays a role. EU identity will have a character of its own in the sense that it will be a multilevel identity comprising different national models of identification which

will most probably develop further. Different from national identity in centralised nation states (but similar to federal nation states), EU identity will be tenable only when national and European identifications are complementary.

5. What Is The EU About? On Processes And Contents Of EU Identity Formation

The discussion has so far led to **a)** an argument for a better legitimisation and democratisation of the EU, **b)** a conclusion on the relationship between identity formation, EU legitimisation and democratisation, **c)** a working definition of EU identity.

The second part of the question on EU identity has not been answered yet: how can an EU identity be achieved? This refers first to the potential identity-forming processes – how can EU identity develop (or strengthen)? – and second to the content of the collective EU-related pattern of identification. What is going to be at the base of EU identity, what is it, or what can it be, that people identify with when identifying with the EU? More exactly: what can be basic legitimating ideas for the EU?

The remaining part of the paper will discuss these questions. Whereas up to now, the arguments have been based on normative democratic theory as well as on a broad range of methodological and empirical findings, the following part of the paper is of a more essayistic character.

5.1. How Can EU Identity Develop?

How can EU identity develop? The conclusion from what has been said is that it will develop through democratic practice in the EU. But what does this practically imply?

First, there are top-down and bottom-up processes at stake. If the institutional system of the EU were further democratised, and the EP gained full parliamentary competences – both would happen with the Reform Treaty – this could incite citizens to stronger participation and contestation, and in the following EU democratic identity would be strengthened. But if such an institutional democratisation was not fol-

lowed by stronger participation, it would stay weak in that the *demos* would be passive. The other way around, it has to be said that every political activity directed to the EU will actively contribute not only to the development of an active *demos*, but also to the development of an EU identity and a stronger democratisation.

But to which degree an EU identity will develop and in which way, will also depend on factors that can hardly be influenced by institutions. They are indicated by the following questions: Will the differences concerning values currently existing in the EU be diminishing, will consent on a minimum of common values be reached, or will even a proper European political culture of difference and mutual acceptance develop? Or will the existing value differences increase, and maybe even develop into conflicting issues? What will be the role of the national governments and the media? Will they become advocates for a democratic European integration, inform the citizens about Europe, and therefore help creating areas for public exchange within the different member states? Or will they abstain more or less from talking about Europe, or even publish populist statements against the so-called Brussels bureaucracy and the like? Will a mutual recognition and acceptance develop between the European citizens? Already, EU citizens for a majority of the EU population are no longer seen as real foreigners, but will they more and more start to define citizens from other member states as Europeans like them, and will they even start to recognize that Finnish fishermen have the same right to receive EU subventions as Greek olive planters, and vice-versa?

5.2. Suggestions From EU Conceptual History

What can be adequate legitimating ideas for the EU? First, conceptual history of European integration teaches important lessons. The idea of European integration is more than 250 years old. For many years, it was a kind of utopia. One point all concepts of European integration had in common was that they aimed at guaranteeing peace in Europe. But there were always two different directions of argumentation: one is based on the classic idea of sovereign nation states and a balance of power, the second has a strong normative background and conceptualizes Europe as a democratic federation, or even as a supranational democratic polity.

Following the balance of power concept, as early as in the 17th century in France, Sully and St. Pierre developed the idea of a federal Europe – of course seeing France as the leading state. On the contrary, the ideas of Immanuel Kant (Kant 1999: 18), Saint-Simon and Victor Hugo aimed at enabling peace, the progress of mankind, a federation and a supranational democracy in Europe (Pfetsch 1997: 16).

After the First World War, concepts like these were taken up by activists campaigning for a united Europe. Among them was the Count Coudenhove-Kalergi, who in 1923 wrote the book "Paneuropa" (Coudenhove-Kalergi 1926) and founded a movement with the same name. His aim was to prevent a Second World War after the breakdown of the League of Nations. Coudenhove-Kalergi (1926: 5) described in emphatic words the unification of Europe as a vision, as a dream, an aim for many. He argued that the reason for Europe´s decline was less its degeneration, but its wars ("the fact that Europe´s inhabitants kill each other by using the most modern means of technology"). To enable peace in Europe, the creation of a European federation or confederation was necessary.

Coudenhove-Kalergis found several fellow campaigners. Most were left-wing politicians, like the German social democrats, or the French Prime Ministers Edouard Herriot and Aristide Briand. The latter was charged by the European members of the League of Nations to present a plan for a European federation, what he did in 1930. The document claimed a European federation based on a contract, and united by several economic and scientific integration projects, like they were later realised by the EEC (Niess 2001: 17).

Finally, the Second World War proved decisive for the realisation of the utopia of European integration. The "European federalists" associations, founded in the course of the resistance against national socialism and fascism, had the main role in developing the concept of a United Europe for the years between 1940 and 1945 (see Lipgens 1977: 545, for a description of the groups).

The different European federalist groups were based on the following leading ideas: European unification was the only way to make Europe progress in peace and freedom, Europe should be neutral and chose a third way in between a capitalist economy and a planned economy. A European constitutional council should take place and vote on the constitution of a European federation. The guiding principles of this federation should be democracy, civil liberties and rights,

pluralism, decentralisation and federalism. Europe was an ideal, a normative vision, loaded with emphatic participatory democratic ideas. The ideal consisted in overcoming the nation states and creating a pluralist grassroots federalism bringing about freedom for everybody in Europe.

The federalist ideas were based on strong normative assumptions, which can be compared to some communitarian concepts of today. Their conception of the European relied on the idea of person – as opposed to the idea of an individual who is isolated and acting alone. It was also based on the idea of community, as opposed to a totalitarian, not a liberal society. European federalism would be based on love for the multitude of different ethnic and cultural groups in Europe. Thus, minorities would enjoy equal rights, because every grouping, however small it may be, would be valued by the pluralist federation. It would be these groups and the European persons that would federate, and not primarily the nation states and their governments. This means that a European federation only could develop, if the participating nation states did not aim at dominating it. The orienting principle clearly was supranational. Thus, the federalists were aiming at fundamental reforms of the state system: they wanted to reduce the role of nation states or even to abolish them, to ensure peace through democratic structures. Some strands even argued that a European federation must be part of a world federation (Czuczka 1947, Schenck 1947; Kövér 1947a; Kövér 1947b; Lipgens 1977: 43, 9, 292, 514).

In 1947, the second important unification movement was established by the foundation of the "United Europe Movement" (UEM), the main association of the "European Unionists". The unionists also aimed at safeguarding peace in Europe and creating a unified Europe, but they followed the balance of power motive. As opposed to the federalists, they were in favour of a unified Europe consisting of sovereign nation states, which should be coordinated by a European Council. They mobilized leaders in politics, the economy, and the media for their ideas. The Unionists, as a rather centralised organization of elites, never had more than 2500 members, whereas the federalist movements had altogether more than 6000. Winston Churchill became president of the UEM, which mainly included the new leaders of the European nation states, among them Adenauer and De Gaulle (Niess 2001: 126; Gasteyger 1994: 25; Pfetsch 1997: 16).

Thus, unionists as well as federalists both had a strong normative base for their arguments: both wanted to unite Europe, both wanted to do so to establish stable peace in Europe, and both saw European integration as the only means to do so. But they differed in two decisive aspects. Whereas the federalist ideas were based on a strong normative and participative ideal of democracy and on the aim of abolition of the nation states, the unionists aimed at a Europe consisting of sovereign nation states, and not at democracy on the European level.

But because of two main reasons, the unionists determined the direction of the European integration process. First, the Cold War changed the options that were possible for European integration in a decisive way. The US had clear interests in Western Europe´s emerging markets, and the position Western Europe would take in the Cold War was determined by its economic dependencies on the Marshall Plan and the European Recovery Programme (Gasteyger 1994: 25, 50; Pfetsch 1997: 16). This constellation diminished the possibilities for Europe as a "Third Way".

Second, the Hague Congress which took place in 1948 and represented the first decisive step of European integration (whereas it founded the Council of Europe and not the EEC) marked the breakthrough of the unionist ideas. This was mainly due to their better procedural skills – they managed to design decision making procedures, voting rights, speakers as well as declarations to be voted upon. They even obtained the majority of votes in the congress, even if they had less members than the federalists (Niess 2001: 164, 181; Pfetsch 1997: 18). The congress of the Hague resulted in a large public debate – and it marked the breakthrough of the unionist concepts for European integration. National governments, and not European citizens, were to become the main actors of European integration.

The starting steps of the integration process which led to today´s European Union fixed this decision. In 1952, France, Italy, Germany, Luxemburg, the Netherlands and Belgium founded the European community of Coal and Steel and integrated the key industries for economic development and for military production. The Treaty of Rome in 1957 founded the European Economic Community. European integration was based on two pillars for many years to come: intergovernmental cooperation and economic integration. Even if politicians, in particular EP parliamentarians, advanced proposals for EU democratisation several times, an EU constitution, or an EU citi-

zenship, EU democratisation became a mainstream topic not until the integration process was much further advanced.

The overview of the conceptual history of European integration has shown that the questions concerning legitimacy, democracy and democratic identity in the EU are not new. On the contrary: the problems that have to be solved today have already been discussed more than 60 years ago. And EU conceptual history teaches important lessons. Both federalists and Unionists indicate one crucial legitimating idea of European integration – guaranteeing peace in Europe. Moreover, concerning the questions of how to democratise the EU better, how to distinguish the corresponding legitimating ideas, and what EU identity might consist in, the federalist ideas are particularly helpful – even without claiming the need for a new grassroots federalism or the abolition of nation states. The federalist lesson is that the EU has to be built in a bottom-up-way by democratic practice of the European citizens.

5.3. Implicitly Existing Legitimating Ideas

Second, it is argued that several EU legitimating ideas already exist and are explicitly or implicitly fixed, and that they can become contents of EU identity. Before presenting them, there is an important constraint to be mentioned. These ideas are not all explicitly agreed upon (except the first two) neither among the member states, nor among the citizens. Some are even disputed. Therefore, before they can be made more explicit and get publicly accepted as EU legitimating ideas, they would need to be discussed and agreed upon, preferably among national governments as well as among citizens. This would bring about the challenges related to the definition of an EU common values base that have been sketched in the parts 4 and 5.1.

a) Peace: As has been said, European integration has been based on one central normative legitimating idea from the beginning: establishing and safeguarding durable peace in Europe, after the experiences of two devastating wars in the 20th century. It can be said that the European integration process is a great success story particularly with regard to this normative ideal. Not only were there no more wars between the member states of the European Union since World War II, it also seems impossible that a war between member states could start within the EU – at least as long as the European Union exists.

b) Centuries of a constitutional tradition: The EU is based on centuries of a constitutional and representative tradition in Western Europe in several respects. Some of its member states have been representative democracies (like Great Britain) for centuries, others have durably become representative democracies only shortly before joining the integration process (Germany, Spain or Portugal, or the Eastern transition countries).

These traditions are reflected in the treaties and in political practice. The EU Treaty since Maastricht explicitly fixes in Title I that the EU is based on democratic member states (Bundesregierung 1997: 21). In its Article 6, the Amsterdam Treaty states that the EU is based on the principles of freedom, democracy, respect for Human and Basis Rights and the rule of law (Bundesregierung 1999: 22). Whereas attempts to apply strong democratic standards among member states did not succeed,[4] the making and application of EU law is in many respects based on these democratic traditions. EU citizenship laws contain some EU participation rights (participation in elections in host countries), and the Charter of Fundamental Rights introduced a catalogue of democratic and basic rights covering most of the areas of classical human and citizenship rights. If the new Reform Treaty will be ratified in the following months, the Charter will finally have obtained a formal status by means of a reference in the text (until now, the European Court of Justice has already acted as according to the Charter in its judgements; Engels 2001: 14; European Union 2005). The Copenhagen criteria for the adhesion of new members make minimum democratic standards a condition for adherence to the EU, even if the decision on adhesion mostly was taken despite some doubts in this respect.

c) Peaceful foreign and security policy: so far, the outcomes of EU Common Foreign and Security Policy have been much more based on democratic values and on peaceful conflict settlement much more than - to cite the prominent negative example - US foreign policy. While the US tend to react unilaterally, the EU has tried to act in favour of negotiations and peace-making, for example in the Israeli-Palestine conflict or in its politics on Iran. But one could ask if it is justified to speak of *one* EU foreign policy, since it is only in its beginnings and since the member states have not always shown agreement in the last years, as the war in Iraq clearly showed. Moreover, there is an important link between foreign policy and democracy missing in the EU (and also in some of its member states). Questions of war and peace do not

need to be voted upon in the EP. This important link between foreign policy and democratic legitimacy exists in some member states like Germany and should be created on the EU level as well.

d) The EU social model: the welfare state traditions of the EU member states represent an EU social model. Of course, the standards of welfare differ largely throughout the EU. But, looking closer at the relevant EU policies (citizenship rights, equal treatment, protections in workplaces, etc.), it shows that – even if in some areas the EU endangers high national standards – they are not establishing a mere "race to the bottom". Many of the regulations in question rather attest the safeguarding of a medium standard, and some even established standards improving the situation in the member states. On the whole, the EU thus shows a much higher standard of welfare than it is the case in comparable regions like the US. The European social model, which at least in the old member states entails a notion of solidarity and a good quality of public services has made Europe successful in many ways, and also in economic terms. Moreover, it is something Europeans can identify with. Thus, it should become an explicit part of a legitimating idea for the EU – and this also means it should become a leading policy principle. In that respect, it is instructive to cite the conservative Prime Minister of Luxemburg, Jean Claude Juncker, from his speech on the Lisbon Strategy on the meeting of the European Council in March 2005:

> "What do the citizens of Europe want? Competitiveness? Yes. Higher growth? Yes. Higher productivity? Yes. But these terms do not speak to their hearts. (...) What Europeans really want, in fact, is work. They want to be able to set up their company in good conditions and find the finance for it and they want open markets and efficient communications and transport systems. They want to be able to reconcile their family life with their professional life and keep up with the new technologies and the world of the Internet. They want a good education for their children, public utility services, decent pensions and a healthy environment." (Juncker 2005)

e) Borders: This point rather indicates an open question than an implicit legitimating idea. It is unclear where the final borders of the EU have to be set, and according to which criteria this has to be done. Thus the criteria of admission to the EU and for fixing the EU borders have to be further discussed in the process of legitimising and de-

mocratising the EU. In this respect, a first conclusion from what was said is that the admission of countries to the EU must be based on the fulfilment of democratic criteria and values, and cannot be based on ethno-cultural or religious matters. The question of EU borders is less obvious, for it can be rightfully argued that there is a practical limit for the number of member states the EU can deal with. And if this limit is not equivalent with the number of applicant states applying for membership – which seems probable – other criteria will have to be determined, be they mathematic (not more than X member states) or geographic.

6. Conclusion

In the following, first the results on the four main questions will be summed up. Then a proposal will be made of how to enhance a stronger democracy in the EU.

1) Why is the democratic legitimacy of the EU insufficient, and how can the EU be legitimised better? The EU is in need of a better legitimisation because it has long crossed the threshold of being a mere intergovernmental regulatory agency. It directly affects the life of EU citizens as well as the politics of its member states. If the EU is not better legitimised, there will be an ongoing loss of democratic legitimacy, since the member states' legitimate institutions lose competences and this loss needs to be balanced by comparative gains on the EU level. Thus the EU needs to be better legitimised regarding two of the legitimacy components sketched in part 1: first the input-dimension, which means citizens' rights and possibilities for participation, contestation and representation – and also the related practice; second the accountability of the representatives, the transparency of the representative system, and the rule of law.

2) What is the interrelation between legitimisation and democratisation of the EU and the development of an EU identity? As has been said, democracy needs to consist not only in election or citizenship rights, but also in a minimum of democratic practice. This depends in return on the question whether the *demos* defines itself as such at least to a minimum extent.

3) Why does the EU need to be democratised, and how can this be accomplished? The EU needs a democratisation of the institutional

system as well as a strengthening of its input dimension. The main claim with regard to the institutions is to give the European Parliament the full legislative competences as according to the ideals of representative democracy. Democratic practice in the sense of active participation and contestation cannot be prescribed, but must develop in a bottom-up-way. But it can be strengthened by further institutional changes. A proposal on this will be made in the end.

4) What does EU identity mean, and how can it be achieved? EU identity from a normative point of view signifies the self-identification of the EU *demos* which must guarantee the acceptance of difference. EU identity means the development of a minimum level of a collectively shared pattern of identification of the EU population, and also of a minimum set of collectively shared values, with regard to the polity EU. EU identity will develop on the one hand in discourses, and can on the other hand be influenced through socioeconomic factors and structures. The definition of an `Other´ for the EU and the reference to a founding myth plays a role. EU identity will be a multilevel identity comprising different national models of identification. EU identity will be tenable only if national and European identifications are complementary. It could be strengthened through a stronger democratic practice in the EU, and it would both be strengthened and based by making the EU´s legitimating ideas more explicit.

Several possible legitimating ideas for the EU have been discussed: First, European integration has been based on the aim of establishing and safeguarding durable peace in Europe from the beginning. Second, European integration is based on centuries of a constitutional tradition. Third, the EU social model in the sense of the welfare state traditions of the EU and its member states clearly characterises the EU. Fourth, it is to be discussed where to set the EU borders, and according to which criteria. Fifth, inspired by the federalist ideal for Europe, Europe must gain a stronger input-legitimacy and be better based on bottom-up activities of its citizens. Such a process could be triggered both in a top-down way based on institutional reforms, and in a bottom-up matter, based on stronger participation and contestation. To conclude, six proposals will be presented that represent a top-down way to enhance Democracy in the EU in this sense. I owe the first four proposals to Kostas Lavdas and Dimitris Chryssochou (2005: 32):

1) Every EU citizen should be given the right to vote in any election in his country of residence – not only in the EP and the local elections, but also in national elections.

2) Likewise, every EU citizen should be given the possibility to stand for public office on every political level in his country of residence.

3) Article 51 of the Charter of Fundamental Rights should be eliminated, which limits its application to the institutions of the EU.

4) An independent EU citizenship should be created that is applied to all persons willing to accept the political values of the EU. Therefore, former third-country nationals could be EU citizens.

5) The EP a should be made a second chamber with full legislative competences in all policy areas that are discussed on EU level – which would mean: also in Common Foreign and Security Policy.

6) EP elections should become truly European elections in the sense that all EU citizens should chose between EU-wide candidate lists in an EU-wide voting procedure, rather than voting for national candidates in national votings.

NOTES

1. This criticism can be relativised by the fact that in the French presidential system the parliament does not possess more competences than the EP.

2. Many contributions from European Studies have made propositions for a further democratisation of the EU, ranging from a reform of the institutional system to EU-wide referenda; for overviews see for example Abromeit 1998; Føllesdal and Koslowski 1997; Nentwich and Weale 1998.

3. The term "European identity" is often used in the debate on these topics. Even if this term probably expresses everyday feelings of the EU citizens better (they feel like "Europeans" rather than EU-citizens), the term EU-identity expresses what is at stake more exactly: a democratic identity of EU citizens *as* EU citizens.

4. The Amsterdam Treaty also introduced the procedure of Article 7 which was first practiced after the extreme-right FPÖ joined the Austrian government in February 2000. This procedure showed the limits of such a regulation in the actual situation of the EU institutional systems: the sanctions against Austria proved to be practically unsuccessful, since Austria did not lose any of its competences as an EU member state. The sanctions were thus given up after a few months.

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