

**THE EUROPEAN UNION:  
DEMOCRATIC LEGITIMACY IN A REGIONAL STATE?<sup>1</sup>**

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#### Abstract

Democratic legitimacy for the EU is problematic if it is seen as a future nation-state. If instead the EU were seen as a regional state—with shared sovereignty, variable boundaries, composite identity, compound governance, and a fragmented democracy in which the EU level assures governance *for* and *with* the people through effective governing and interest consultation, leaving to the national level government *by* and *of* the people through political participation and citizen representation—the problems of the democratic deficit diminish for the EU level. But they become even greater for the national level, where the changes to national democratic practices demand better ideas and discourses of legitimization. A further complicating factor results from problems of ‘institutional fit’, because the EU has had a more disruptive impact on ‘simple’ polities, where governing activity has traditionally been channeled through a single authority, than on more ‘compound’ polities, where it has been more dispersed through multiple authorities.

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The Constitutional Convention of the European Union was an important first step in addressing the so-called ‘democratic deficit’ of the EU not only institutionally, with proposals for structural reform, but also procedurally, through intense deliberation and wide consultation (Magnette 2003). The disappointments of the Intergovernmental Conference cannot take away from this. But even had the IGC followed in the same line as the Convention, there would have been no solution to the ‘democratic deficit’ as currently conceived. This is because, first, conceptions of the ‘democratic deficit,’ and therefore of its problems and solutions, are grounded in the wrong model: that of the nation-state. And secondly, whatever the constitutional remedies at the EU level, they can do little to address, let alone resolve, another arguably more significant problem: the ‘democratic deficit’ at the national level.

As everyone reminds us, the EU is certainly not a nation-state. It is ‘*sui generis*’, an ‘unidentified political object’ (Delors—cited in Schmitter 1996, p. 1), ‘less than a federation, more than a regime’ (Wallace 1983), or maybe ‘the first truly postmodern political form’ (Ruggie 1993, pp. 139-40). And yet, in discussions of the democratic deficit, the EU is consistently compared to the nation-state, and necessarily found wanting. But what then can or should it be compared to if we are to avoid such a problem? I argue that we would do better to conceive of it as a ‘*regional state*,’ by which I mean a ‘regional union of nation-states’<sup>2</sup> in which the creative tension between the Union and its member-states ensures both ever-increasing regional integration and ever-continuing national differentiation. I use the term ‘regional state’ deliberately here for two reasons: first, in an ideational strategy to stretch the concept of the state to encompass the EU and, second, in a discursive strategy to break the hold of the nation-state concept with regard to understandings of democracy in the EU and its member-states. Thus, even if the first concept-stretching strategy promoting the idea of the regional state were not to win over many converts, the second strategy still serves a useful purpose, by showing how different the EU is and will remain at least for the medium term from its closest counterparts, the economically advanced, democratic nation-states such as the United States, Japan, Switzerland

or even its own member-states (leaving aside in this instance how they have themselves changed as a result of European integration).

These nation-states have had a certain finality characterized by indivisible sovereignty, fixed boundaries, clear identity, established government, and cohesive democracy. By contrast, the EU is better conceptualized in terms of its process of development into the first of the *regional states*, in which sovereignty is shared with its constituent member-states and contingent upon internal acceptance and external recognition; boundaries are variable with regard to policy reach and not as yet fixed with regard to geography; identity is composite in terms of ‘being’ and ‘doing’, given EU, national, and sub-national levels; and governance is highly compound as a result of multi-level, multi-centered, and multi-form institutions.<sup>3</sup>

Moreover, EU democracy does not fit the nation-state definition as ‘government *by* the people’ through political participation, ‘government *of* the people’ through citizen representation, ‘government *for* the people’ through effective government, and what I call ‘government *with* the people’ through consultation with organized interests. Instead, the EU mainly provides democracy ‘*for* the people’ and ‘*with* the people’—largely through the elaborate process of interest intermediation known as the ‘Community Method’—leaving to its member-states government *by* and *of* the people.

With such a fragmented democracy, legitimacy has been in question. But this is because the EU is compared to the ideal of the nation-state. Were it to be reconceived of instead as a regional state, and the democratic status of its nation-states-turned-member-states added into the equation, the problems of the democratic deficit at the EU level would turn out not to be as great as they are sometimes made to appear. But the problems for national democracy within the context of the EU turn out to be much greater, with a national democratic deficit the result of the impact of the EU on the traditional workings of member-states’ democracies.

The national democratic deficit, however, results not so much because national governance practices have changed as because national leaders have so far failed to generate ideas and discourse that explain and legitimize these changes. Without new ideas to reconceptualize their national democracies in the context of a developing regional European state, national publics continue to hold national leaders accountable for decisions for which they are not fully responsible, over which they may have little control, and to which they may not even be politically committed.

Any such reconceptualization requires not only new ideas about the soundness and appropriateness of Europeanization for national polities but also new discursive interactions. The nation-state typically has two overlapping spheres of discourse in which policy actors ‘coordinate’ the construction of new policies and practices and political actors ‘communicate’ them to the general public for deliberation and legitimization (Schmidt 2002, Chapter 5). In the EU, the ‘coordinative’ discourse among policy actors is especially elaborate, the communicative discourse between political actors and the public particularly thin. This means that whereas in the coordinative sphere, national policy actors can and do engage in debates on EU level policies and their potential impact, in the communicative sphere, national publics are almost wholly dependent on national leaders to convey information on and lead deliberation about the EU’s impact on national polities. On balance, as I argue here, national leaders have bungled their communicative role. Although the European Constitutional Convention has gone some small way toward creating a more ‘deliberative democracy’ at the EU level, ‘deliberative democracy’ at the national level remains in question, at least with regard to the impact of the EU. And this is arguably the most serious problem facing not only national polities but the European Union as a whole.

There is a further complicating factor, however, which is the differential impact of the EU on its member-states. Differences in institutional ‘fit’ between the EU and its member-states make for differences in the relative ease or difficulty of adapting national institutions and, in consequence, for differences in the concomitant challenges to ideas about national democracy. For more ‘simple’ polities such as Britain and France, where governing activity has traditionally been channeled through a single authority, adaptation requires more change, and therefore greater potential challenges to ideas about the organizing principles of democracy, than for more ‘compound’ polities such as Germany and Italy, where governing activity has long been dispersed through multiple authorities. By the same token, however, simple polities have greater potential for speaking to such challenges, where they so choose, because they are better able to speak in one voice and to convey a single message, given their concentration of authority, than more compound national polities, let alone the EU, given the number of potentially authoritative voices with differing messages.

In what follows, I consider in turn the EU’s move to regional sovereignty, the variability of the EU’s regional boundaries, the composite character of EU identity, the compound

framework of EU regional governance, and the fragmented nature of the EU's democracy. I end with a discussion of the real sources of the democratic deficit in the EU, linked to the lack of ideas and discourse about national democracy, and how this affects simple and compound national polities. Throughout, I offer examples from a wide range of EU member-states, but in particular from four countries which represent matched pairs of cases in terms of governance practices, with Britain and France as 'simple' polities, Germany and Italy as 'compound' polities. These cases serve to draw attention to the institutional differences that enable us to generalize about the greater or lesser EU-related changes in national governance practices and, thereby, about the greater or lesser challenges to national democratic ideas and discourse.

### *From Nation-States' to 'Regional' State*

Although it began as a regional trade association of nation-states, the EU has gone much farther than any other such associations toward a formal governance system with jurisdiction over a wide range of issues and areas, although it is certainly not itself a nation-state. And yet, when considered in terms of its international form, it is generally compared—unfavorably—to the nation-state because it lacks indivisible sovereignty, fixed boundaries, and clear identity.

### From Nation-State Sovereignty to Regional Sovereignty

The EU has none of the traditional attributes of nation-state sovereignty on its own—whether international recognition from other states; autonomy with regard to the exclusion of external authority; control over activities within and across their borders; or exclusive power to organise authority within the polity (Krasner 1999). But it shares these to varying degrees and in various ways with its member-states through a 'pooling' of sovereignty (Keohane and Hoffmann 1991), in which its member-states accepted limits to all four types of their own nation-state sovereignty. For example, EU member-states gave up their individual international recognition when they agreed to have their interests represented by the EU commissioner for international trade; they ceded their decision-making autonomy to the independent authority of the European Central Bank; they gave up individual control over internal activities in the context of the single market; and they have given up their exclusive organizational authority by accepting the precedence of EU institutions in setting policy and in judging compliance in an ever-widening array of domains. Most importantly, although such giving up of sovereignty is sometimes contested in practice—attesting to the contingent nature of such 'regional' sovereignty—as when

the French threatened to veto the early 1990s GATT round because of dissatisfaction with the agricultural aspects of the agreement or when the French and Germans do not stick to the deficit spending criteria of the Stability and Growth Pact, the general principle has been consecrated.

In short, the originally ‘indivisible’ sovereignty of EU member-states can be seen as having increasingly become ‘divided’—but only if we assume the concept to be a rigid construct, indivisible, and an attribute of the nation-state alone, as do most realists in international relations theory. If we were to consider it instead as ‘socially constructed’ and evolving over time, following more constructivist IR theorists (e.g., Biersteker 1999), then the EU could be seen as constituting a new kind of shared regional sovereignty which is contingent upon internal acceptance as well as upon external recognition, policy area by policy area. As such, however, EU regional sovereignty is also ‘relational’, since it is realized ‘through participation in the various regimes that regulate and order the international system’ (Chayes and Chayes 1995, p. 27). Thus, for example, the U.S. tacitly accepted the EU as a sovereign region in international trade negotiations when it agreed to the EU Commission’s exclusive role representing EU member-states beginning with the Uruguay Round; in competition policy decisions, even when these scuttle mergers between American companies; but not in security and defense policy, where the different approaches to sovereignty of the two powers—unitary in the US’s external authority, multiple for the EU—are at the source of serious potential problems between the two (Keohane 2002)—as illustrated in the case of the Iraq war.

#### A Regional State with Variable Boundaries

Nation-states tend to be defined also by their territoriality and their notionally fixed boundaries. The EU’s regional state, by contrast, has been expanding with no clear end in view on what those territorial boundaries may ultimately be. Questions abound regarding whether Turkey will become a member and, if it does, what about the Ukraine, and even Russia?

The EU’s boundaries are not only not fixed in terms of territory, however, they also vary in terms of policy arenas, including in those that are seen to underpin sovereignty in the nation state. Thus, we find differences in membership with regard to the Schengen group of countries which includes Iceland and Norway but not Britain or Ireland; the eurozone countries where the UK, Denmark, and Sweden as well as the eastern enlargement countries remain outside; and even ESDP (European Security and Defense Policy), which encompasses all current member-

states other than Denmark, but decisions on troop deployment (and most everything else) remain sovereign decisions of member-states and therefore highly variable as well. This variability may increase even further if ‘enhanced cooperation—or ‘structured cooperation’—which allows a group of member-states to go forward on their own, becomes truly viable—enabling, for example, member-states with common interests to move forward in foreign and security policy.

But whatever the EU’s future variability in terms of policy geometry, and however far the extension of the EU’s territory, the EU has already undermined the coherence and co-incidence of the territorially-based boundaries of its nation-state members not only in terms of policies but also in terms of culture, economics, governance, and military. Europeanization has been a ‘process of nation state *boundary transcendence*, resulting in a process of *de-differentiation of European polities*’ after a history of five centuries of progressive differentiation into nation-states (Bartolini 2002). And for older nation-states, such as the UK and France, such a process of boundary transcendence is arguably more difficult to countenance than for younger ones, such as Germany and Italy.

#### A Regional State with a Composite Identity

Nation-states are also often defined by their sense of ‘nationhood’, or that which binds them through ties of collective identity, shared culture and values, common language(s), historical memories, myths of origin, a sense of membership, and a sense of common destiny. On these grounds, the EU is far from becoming, let alone being, a nation-state, since the EU lacks the nation-state’s ‘thick identity’ (Weiler 1995). Whereas most nation-states have a majority of citizens who have a primary or at least secondary identity tied to their nation-state, Europeans by all opinion polls identify much less with Europe than with their member-state or region (e.g., Eurobarometer 52, p. 10).

However, national identity is not just a question of ‘being’ but of ‘doing’ through national political, economic, and social structures and activities that build a sense of belonging (Howorth 200). A political community need not be based primarily on ethno-cultural identity but rather, as Habermas (1996, p. 495) argues, on ‘the practices of citizens who exercise their rights to participation and communication’. ‘Doing’, however, is not only the product of citizens acting in the world but also of governments acting upon it, with the ‘state’ in modern history

having actively taken a role in constructing a sense of ‘nationhood’ through the creation of ‘imagined political communities’ (Anderson 1983, pp. 6-7).

The EU has also begun to use some such tools, with symbols such as the European passport, European license plates, the European flag, the European anthem, and the euro, as well as various citizen exchange programs and academic projects (Shor 2000). But it has been less successful for a number of reasons, not the least of which is the fact that the nation-states that make up its members continue to be engaged in the self-same task. The EU can be no more than an add-on for two reasons. First, because it depends in large measure on its member-states to build a sense of Europe, given the lack of a common language, Europe-wide mass communication system, political leadership with Europe-wide election campaigns, and so forth. And second, because it is imagined mainly through the different lenses of national identity and purposes, with the Europe represented in the public imagination portrayed differently by French leaders than by the Germans, the British, or the Italians (Risse 2001).

As a result of the plurality of nationally-imagined Europes, it is very hard for the EU to have a common identity equivalent to member-states’ senses of ‘nationhood’. But building a sense of European ‘region-hood’ is still possible if one accepts its necessarily composite nature—with national constructions of Europeanness alongside EU constructions of Europeanness.

### ***A Regional State with Compound Governance and Fragmented Democracy***

If democratic legitimacy in a nation-state is predicated on a country’s indivisible sovereignty within a fixed set of boundaries with a clear national identity enabling the expression of a collective will through directly representative institutions, then the EU is clearly very far from achieving nation-state legitimacy. But this does not mean that the EU lacks democratic legitimacy. Much the contrary, since it can be shown to pass many of the legitimacy tests required of nation-states in terms of political participation, citizen representation, effective governing, and interest consultation—only in somewhat different ways with different emphases. This is because the EU has a more highly compound governance system than any nation-state, with governing authority much more diffused among multiple authorities, and with institutions more fully ‘multi-level’ (Marks et al. 1996) and more ‘multi-centered’ (Nicolaidis 2001) than those of any nation-state. This makes for a more fragmented democracy in which legitimacy depends upon both EU and national levels.

### Democracy *by, of, and for* the people

Democratic legitimacy in the nation-state has traditionally been seen as depending upon, in the phrase coined by Abraham Lincoln, ‘government *by* the people, *of* the people, and *for* the people’, that is, on political participation, citizen representation, and effective government.<sup>4</sup> In the US, these have been based on a compound government system consisting of federal institutional structures and a majoritarian representation system.

In the EU, political participation ‘*by* the people’ and citizen representation *of* the people’ has generally been much weaker than effective governance ‘*for* the people’, since political participation and citizen representation are situated primarily at the national level. The EU’s representative politics are in fact very far from that of any nation-state, given the lack of EU-wide elections for a president and/or prime minister and for a legislature with vigorous political parties in a competitive electoral system. Instead, the EU has the indirect representation afforded by nationally-elected executives through the Council and the much weaker direct representation of the European Parliament, given the ‘second-order’ nature of EP elections—where citizens’ voting has more to do with national than European issues (Reif and Schmitt 1980; van der Eijk and Franklin 1996—and the fact that they do not reflect or express a collective will, as elections in principle do in a nation-state democracy. But how could they, since the EU has no collective identity, which is a *sine qua non* for the expression of a collective will. Any ‘government *by* and *of* the people’ based on the electoral politics of the kind found in the nation-state—in particular where this involves elections of representatives by majority rule (Kielmansegg 1996)—is not possible in the EU at the moment.

What is more, unlike in any nation-state, where party politics and partisan competition is ever-present, in the EU, partisan differences and political contestation have been submerged by the general quest for consensus and compromise. In the EU, the Council tends to be dominated by the politics of national interest or even European interest, as national ministers are expected to speak for their country or the EU as a whole rather than for the political party or coalition of which they are a member. Moreover, the European Parliament is primarily focused on the politics of the public interest, as MEPs are more likely to coalesce around ‘citizen’ issues rather than party politics, given the difficulties of party organizing (Ladrech 1999). Finally, the Commission is mostly concerned with the politics of organized interests, as Commission officials seek input from ‘civil society’—meaning the vast range of interest groups that seek

access and influence in Brussels—as well as from government actors (Imig and Tarrow 2001a; Goetz and Hix 2001).

But this does not mean that ‘democracy beyond the nation-state’ (Zuern 2000) is impossible, or that the EU is necessarily democratically illegitimate. Although there may be no *demos* (Weiler 1999), or a single people, there are *demoi*, or peoples, who make up the EU ‘*demoicracy*’ (Nicolaidis 2003). Moreover, the ‘will of the peoples’ can still be expressed, and is—indirectly and strongly through the national executives sitting in the Council of Ministers; directly but much more weakly through the elected members of the European Parliament. In addition, if legitimacy means legislating in such a way as to safeguard minority rights while responding to the majority will, then the EU, if anything, does better than most nation-state democracies. Any decision subject to the unanimity rules means that national executives can veto it. And the consensus rule—by which any issue with high political saliency is not forced on the concerned member-state—serves to safeguard any minority rights that would not already be protected by the supermajorities (of over 70%) required in qualified majority voting (Scharpf 2002). On these grounds, any fears of a federal ‘superstate’ are clearly greatly exaggerated, especially if one adds that the EU has much less in the way of taxing, spending, implementing, and coercive powers than any nation-state (Moravcsik 2002, pp. 606-10).

The dangers of any federal ‘superstate’ are also diminished by the quasi-federal system of checks and balances embedded in the EU’s institutional structures, which protect democratic legitimacy by preventing abuses of power *by* the people. The very multiplicity of authorities and interests engaged in the elaborate EU interest consultation process ensures a kind of mutual horizontal control (Héritier 1999). Moreover, the EU’s quasi-federal institutional structures guarantee its constituent members much greater independent powers than those of any federal nation-state in policy formulation, to shape as well as to veto legislation, and in policy implementation, to transpose EU directives and to administer them (along with the regions) (Schmidt 1999a, 2001). In this kind of legitimacy, the EU leads all nation-states, given the need for a very high consensus among institutional actors for anything to be agreed.

By the same token, however, the checks and balances system can potentially undermine governing effectiveness ‘*for* the people’ as a result of the immobility that comes from lack of agreement on rules in intergovernmental or joint decision-making. This is a potential problem not only with regard to rules not agreed but also to those formerly agreed but now no longer

accepted, given that rules once made are very difficult to reverse in the absence of an EU politics or strong political participation ‘*by the people*’. This leaves the EU at risk of maintaining rules that are no longer seen as legitimate, and even of provoking member-states to defy the rules, thereby risking a crisis of legitimacy. The restrictive criteria of the Stability and Growth Pact of EMU and the subsequent actions by France and Germany forcing the suspension of the rules are cases in point.

It is in the ‘supranational’ governance mode, in fact, that the EU runs the greatest risk of being accused of being a ‘federal superstate.’ However, here, if there are dangers from a superstate, then this is something all nation-states face as well, since the kinds of delegated authority given over to the Commission, the ECB, and the ECJ are the same which for good reasons are given over to independent bodies everywhere (Moravcsik 2002, pp. 613-14). In the EU, democratic legitimacy is based on the fact that all actions follow from the legitimate decisions of the member-states as the outcome of Treaty negotiations, with ‘expertocracy’ providing for a kind of ‘output’ legitimacy based on delegated responsibility, or governing effectiveness *for* the people (Majone 1998).

### Government *with* the people

Avoiding abuses of power and guaranteeing minority rights while ensuring democratic participation, representation, and effective government are not the only means of reinforcing legitimacy in nation-state democracies. Another kind of democratic legitimacy has come to be added to the original formulation of ‘government *by, of, and for* the people’, which I call ‘government *with* the people’ because it opens decision-making up to citizens qua organised interests as opposed to qua voters. This kind of democracy through interest intermediation has gained its greatest support from democratic theorists in the US such as David Truman and Robert Dahl, with roots traced back to Madison’s Federalist no. 10, who have portrayed ‘pluralist’ policymaking as complementing ‘democracy *by, of and for* the people’. It represents a way in which minority interests can gain a voice even without a majority vote, through a kind of consultative democracy. For the EU, governance *with* the people through consultation—which comes mainly through the ‘Community Method, or the ‘joint decision’ governing mode (Scharpf 2001, 2002a)—has deliberately been encouraged as a way of counterbalancing the paucity of governance *by or of* the people through citizen participation and representation.

In governance systems with pluralist policymaking processes such as the United States but also the EU (see Schmidt 1999b, 2001), the problem for democratic legitimacy raised by interest consultation ‘*with the people*’ is that it can interfere with political participation ‘*by the people*’ or citizen representation ‘*of the people*’ by catering to the demands of interests rather than the wishes and welfare of voters. Moreover, the sheer complexity of any such consultation system can lead to a kind of opaqueness with regard to who is responsible for decisions and who benefits—which is all the more problematic in the EU given that there are no EU-wide elections *by the people* to set the parameters for the consultations *with the people*. The (partial) solution to this problem in the U.S. pluralist process has been citizen activism and grass roots mobilization to balance out the power of special interests. In the EU’s quasi-pluralist process, the (partial) solution has been Commission activism to mobilise citizens and even to create ‘grass roots’ interest groups (e.g., of women and consumers) at the EU level to counterbalance more powerful and already present business groups along with an increase in transparency.

But such governance *with the people* is no panacea. It still faces a number of legitimacy problems. In the EU’s ‘comitology’ system in particular, while a certain ‘deliberative democracy’ may be achieved (Jeorges and Vos 1999), there are problems of transparency, given the vast number of expert committees meeting behind closed doors with little public awareness; accountability, given that they are generally not subject to parliamentary review or other forms of public scrutiny; and access—since it is still the Commission that chooses which groups to include and which to exclude (Dehousse n/a). In other words, governance *with some* of the people and possibly not *for all* of the people is meant to make up for the lack of government *by* and *of* the people.

### ***The EU’s Impact on National Practices and on Simple and Compound Polities***

The EU, in short, confronts a range of potential problems of legitimacy, but is probably no worse off than most nation-states. As a regional state, moreover, it makes up for its limits with regard to government *by* and *of* the people—which it leaves largely to the member-states—with more governance *for* and *with* the people through a wide variety of policymaking processes that ensure against ‘federal’ excesses. As a result, the problems of an EU level democratic deficit are not in fact as great as many seem to think. Indeed, one could argue that democratic legitimacy in the EU, rather than being diminished by being based on multiple and often

seemingly contradictory principles, is actually enhanced by this, especially if the contradictions are the basis for an informed and full deliberative process (Lord and Magnette 2002).

But why, then, do people nonetheless feel a democratic deficit? Because of the democratic deficit at the national level, which results from the impact of the EU on national democratic practices. Moreover, because the EU is not only multi-level and multi-centered but also ‘multi-form’ (Schmidt 1999a, the democratic deficit is experienced differently and arguably more strongly in ‘simple’ national polities than in more ‘compound’ ones.

### The EU’s Impact on National Democratic Practices

The main problem for national polities generally is that people miss the simplicity of a system in which one can ‘throw the scoundrels out’, even if in the EU one doesn’t really need to (since it has little opportunity to impose, given the consensus model) and one can’t (since the main decision-makers are the nationally-elected executives of the member-states acting in the Council of Ministers). Perversely, the result is that participatory democracy ‘*by the people*’ means holding national leaders accountable for policies over which they have little control, such as in cases of supranational governance ‘*for the people*’. In macroeconomic policy, for example, at the same time that the Commission held Chancellor Schröder to task for risking breaching the 3% deficit criteria, the German public held him to blame for high unemployment and the declining state of the economy. Given this, it should come as no surprise that Germany—and France for similar reasons—chose to buck the Stability Pact.

Similar disjunctions affect consultative democracy ‘*with the people*’ in the EU. Although Brussels holds the key to decision-making in increasing numbers of policy areas, national interest groups in most areas mostly still organise, pressure, and protest primarily at the national level, with relatively little transnational coordination (except for business) (Imig and Tarrow 2001a). This is as much the case for immigration policy, despite the fact that since the Amsterdam Treaty decision-making has been increasingly focused on the EU level with the move of the policy area from the third pillar to the first (Guiraudon 2001), as in agricultural policy, although here the long history of CAP policy has led to more EU-level action, despite the continued predominantly national focus (Kandermans et al. 2001).

Most problematic, however, are the effects of Europeanization on participation and representation ‘*by and of the people*’ when national governments, elected on a political platform

at the national level, must speak and act at the EU level as representatives of national territorial interests or even national organised interests about policies which, once passed, they then must speak for and act on at the national level in their capacity as political representatives. The result is that they are therefore held accountable not only for that for which they may be not be entirely responsible but also for that to which they may not be politically committed. The French government's implementation of EU-led deregulation in electricity is a case in point (Eising and Jabko 2002).

Electoral politics also suffers. Because national elections tend to be focused on substantive policy issues that increasingly can only be fully addressed at the EU level, such as immigration, food safety, or economic growth, while European Parliamentary elections tend to focus on more general polity issues that can only be resolved by nationally-based actors, such as how to reform EU institutions, voters have voice over questions that don't count at the level at which they voice them, running the risk of depoliticization and of decreasing citizen engagement in traditional politics (Mair 2001).

Contentious politics, which can be understood as a kind of consultative democracy '*with the people*' when the regular consultation process breaks down, confronts similar difficulties. This is because protests against EU policies tend to target national officials who are accountable for policy implementation but can do little to accommodate the protesters' concerns, as in the case of French and Italian truckers' protests against EU-mandated deregulation, while protests focused on more local issues may find more response from EU officials than national ones, as in the case of the 'euro-strikes' against the closing of French car manufacturer Renault's Belgian plant (Imig and Tarrow 2001b).

### The Differential Impact of the EU on 'Simple' and 'Compound' National Polities

These problems for national democratic practices, moreover, are arguably more pronounced for more 'simple' polities like France and Britain, where governing activity has traditionally been channeled through a single authority, than for those farther along a continuum toward more 'compound' polities, such as Germany and Italy, where governing activity has traditionally been much more diffused through multiple authorities, as in the EU (see Schmidt 2003). It is the lack of institutional 'fit' which underpins the greater impact on the democratic

practices of simple polities than on those of compound polities and the concomitant greater clash with their traditional ideas about the organizing principles of democracy.

In compound polities, federal or regionalized institutional structures and proportional representation systems tend to confer democratic legitimacy on the governing activities of a wide range of authorities, all of which can be seen as representatives *of* the people, elected *by* the people, charged to act *for* the people, in consultation *with* the people—since corporatist policymaking processes also bring certain ‘privileged’ interests, mainly business and labor, into policy formulation and implementation. The risks to democratic legitimacy here are therefore similar to those of compound systems with pluralist processes, given that the politics of interest consultation *with* the people may hold sway over participatory and representative politics *by* and *of* the people and produce policies only *for* some of the people. In compound polities with more clientelistic processes such as in postwar Italy—arguably also a form of government ‘*with* the people’ in which ‘*partitocrazia*’ meant giving organized interests tied to parties generally what they wanted in policy formulation and dividing the spoils among them in policy implementation—the risks to democratic legitimacy are even greater than in corporatist or pluralist systems, given the potential corruption tied to the politics of interest.

In simple polities, by contrast, unitary structures and majoritarian electoral systems tend to focus democratic legitimacy primarily on the governing activities of the executive as the representative *of* the people, elected *by* the people, and charged to act *for* the people without interest consultation *with* the people. Consultation *with* the people has traditionally been ruled out in principle because of its possible interference with government *by* and *for* the people, and has been ensured in practice by statist policymaking processes which have tended to limit interest access and influence in policy formulation. Here, the legitimacy problems are therefore the converse of those in pluralist or corporatist countries, since in catering to the general wishes and welfare of the majority of voters, the specific wishes and welfare of minority interests may be neglected. Ironically, the (partial) solution to this potential problem has been to bring in ‘government *with* the people’ at the implementation stage of the policy process, through the accommodation of interests. In France, this has traditionally been done by making exceptions to the rules, even though it risks compromising governing effectiveness *for* the people. In Britain, it has involved limiting the number of rules in order to allow for voluntary self-governing arrangements, despite risks to participation ‘*by* the people’ (Schmidt 1999a, 2001).

The EU, by seeking to govern more effectively *for* the people and to reinforce consultation *with* the people as a way of overcoming the comparative weakness of EU level participation *by* and representation *of* the people, has had a more disruptive impact on the democratic practices and ideas of simple member-state polities than on compound ones. For simple polities, the EU's emphasis on consultation *with* the people introduces interests into a policy formulation process from which they had traditionally been excluded as illegitimate by statist processes at the same time that it undermines the executive's political legitimacy as the sole representative *of* the people and the channel for participation *by* the people. For compound polities, by contrast, the EU is more likely to reinforce legitimacy, since it adds a wider range of interests to those traditionally involved in corporatist processes at the same time that it reinforces the legitimacy of a system in which interest consultation *with* the people has always been seen as complement to participation *by* and representation *of* the people.

Moreover, the EU's emphasis on regulatory and legalistic implementation, by denying interest accommodation in simple polities either by insisting on applying the rules (in France) or by making statutory what were voluntary rules (in Britain), reduces the executive's ability to govern effectively *for* the people (at least in the way it has traditionally done) (Schmidt 1999b; 2001). The EU has instead simply reinforced governing effectiveness *for* the people in compound polities with similarly regulatory and legalistic approaches to implementation, such as Germany, at the same time that it has promoted governing effectiveness *for* the people in compound polities such as Italy, by substituting regulatory enforcement for a discredited clientelism.

Finally, the EU's interest-based, consensus-oriented politics has tended to put more of a damper on the highly polarized, politically charged politics of simple polities with majoritarian electoral systems such as France and Britain—where compromise has been less necessary since the majority in government generally had the power to impose—than on the already more consensus-oriented (albeit partisan) politics of compound polities with proportional electoral systems such as Germany or Italy, where compromise has always been a *sine qua non* of representative politics.

### ***The National Sources of the Democratic Deficit: The Lack of Communicative Discourse***

Thus, even though EU legitimacy may be increasing with the development of EU institutions, national legitimacy increasingly suffers from the impact of the evolving EU

governance system on national democratic practices, and more for simple polities than for compound polities. The problem here, however, is not so much the changes in national democratic practices *per se* as that they have gone unrecognized or unaccepted. And this is *the* problem, because mainstream political leaders in most member-states, instead of acknowledging the changes and seeking to redefine national democracy in light of them, have instead tended to hold on to traditional ideas about their country's democracy—seeming to suggest that nothing has changed, even though everything has.

In fact, while EU-related changes in policy are generally the subject of much national discourse, with national leaders often using the EU as a blame-shifting device to ensure public acceptance, EU-related changes in the 'polity', that is, in the traditional workings of national democracy, have mainly been a matter of institutional creep, and are mostly passed over in silence—except, of course, during referenda and parliamentary debates over Treaty ratification, and in the UK under Thatcher and Major (Schmidt 2002b; 2003b). Although this is understandable—politicians, after all, are not likely to use their scarce political resources to speak about changes that are complicated and difficult to 'sell', especially since there are no electoral incentives to do so—it adds to the problems of the democratic deficit.

### The Importance of Communicative Discourse

The widespread absence of substantive discourse and deliberation about the impact of Europeanization on the polity—even as policy change gets an extensive but mixed press—only contributes to the public disaffection and depoliticization that has characterized national democracies in the last decade of the 20<sup>th</sup> century and at the beginning of the 21<sup>st</sup>. It is no wonder that the extremes on both sides of the political spectrum have exploited the lack of discourse for their own electoral purposes—on the extreme right with regard to the impact of immigration and on the left with regard to the welfare state. Indications of the political problems are found not only in the substantial electoral wins of extreme right parties—as in Austria or the Netherlands—or the defeat of a left-wing presidential candidate by the dissipation of left-wing votes in splinter parties—as in France. It is also found in the surveys, opinion polls, and electoral studies that show that citizens' trust in national governments as well as in EU institutions is down (Reynié and Cautrès 2001, pp. 243-244; Bréchon 2002, p. 103) while general

cynicism about national leaders is rampant and voter apathy, evident in higher and higher rates of abstentionism, is up (Klingemann 1999; Pharr and Putnam 2000).

One of the main challenges for the EU as a whole is the fact that while large numbers of policy actors have been debating and deliberating EU generated policies on an everyday basis in the ‘coordinative’ sphere of discourse, in the ‘communicative sphere’ political actors have rarely informed the public of, let alone debated, the EU-related changes in national democratic practices that follow from the impact of EU-related policies and practices (see Schmidt 2002a, Ch. 5).

The EU has a highly developed coordinative discourse, in which discursive consultation *with* the people adds deliberation to the (pluralist) procedural foundations of democratic legitimization. Here, policies are generated by the ideas of the ‘epistemic communities’ of, say, the central bankers, economists, and financial reporters who convinced policymakers of the merits of EMU (Haas 1992; Verdun 2002). They are elaborated through the discursive ‘policy networks’ that have brought together EU, national, and regional actors in the development and implementation of structural and cohesion policies (Kohler-Koch 2002). They are promoted by the ‘advocacy coalitions’ which have had the power to push their ideas, in particular in those areas covered by the joint-decision mode of policymaking (Sabatier 1998). They are decided in the ‘supranational deliberative democracy’ (Joerges 2001) or the ‘directly-deliberative polyarchy’ (Gerstenberg and Sabel 2000) of the EU-anointed national experts, government representatives, and interests meeting in ‘comitology’ committees; they are critiqued through the ‘strong publics’ constituted by the Parliament (Erikson and Fossum 2002); and so on.

By contrast, the EU has the thinnest possible of communicative discourses. This is to be expected, of course, given the lack of a European public sphere underpinned by a substantial EU level representative politics and the paucity of EU political actors able to speak directly to a European public in a common language, reported by a European media, and considered by a European public opinion (Habermas 1996; Grimm 1995; Weiler 1999). Instead, the communicative discourse comes largely by way of national political actors speaking to national publics in national languages reported by national media and considered by national opinion.

The absence of a European communicative arena is not only a problem for creating a sense of European identity, since there are relatively few European political actors *saying* to a general European public what the EU is *doing*, which means that it may have little effect on

*being* European. It is also a problem for crafting a Europe-wide sense of legitimacy in terms of governance ‘*by and of the people*’. The legitimacy problems are admittedly attenuated if one argues that there is indeed a developing European public sphere, only one made up of European member-state ‘publics’ rather than some idealized single ‘public’ in which national publics are increasingly aware of European issues and the views of other member-state publics on those issues (see Risse 2003). And the Constitutional Convention did represent the first truly European communicative discourse about questions of ‘polity’ in a fully European public space (Magnette 2003), even if 55% of the populations of the EU 25 had never even heard of it (Flash Eurobarometer 142). However, this does not get around the fact that without a Europe-wide representative politics to focus debate, European political leaders have little opportunity to speak directly to the polity issues and European publics have little ability to deliberate about them or to state their conclusions directly—through the ballot box.

#### The Importance of Communicative Discourse in Simple and Compound Polities

The inherent weakness of the EU’s communicative discourse demands a much stronger national communicative discourse to legitimize EU-related changes to national publics. Here, the problems come not only from the lack of new ideas but also from problems with national communicative discourses themselves, problems moreover which differ in simple and compound polities.

In ‘simple’ polities, where a restricted, governmental elite tends to ‘coordinate’ the construction of the ideas and then to ‘communicate’ them to the public for discussion and deliberation, political leaders are schooled in projecting a clear message to the public. The strength of the communicative discourse means that political leaders in simple polities have the capacity to speak eloquently to Europeanization—itsself a good and necessary thing in light of its challenge to simple polities’ governing practices and ideas about democracy. The problem, however, is that political leaders have not addressed these issues in a positive manner. Instead, French mainstream leaders have tended to downplay any polity changes by presenting European integration as an extension of national sovereignty through the country’s leadership in Europe, serving to renew the country’s ‘*grandeur*’ and to expand citizenship based on the universal rights of man (see Risse 2001; Schmidt 2002b), without admitting that Europeanization has also undermined the unitary nature and powers of the ‘Republican state.’ As a result, not only may

citizens hold them solely to blame for unpopular EU policies but they may also be vulnerable to the extremes on the left and right who decry the loss of the ‘Republican State’s sovereignty and identity, or blame immigrants for unemployment and EMU for the pressures on the welfare state. In the UK, by contrast, it is not just the political extremes but many mainstream leaders who have played up the negative impact on the polity, presenting Europeanization as a threat to parliamentary sovereignty, to the ‘historically-established rights of Englishmen,’ to English identity, while pro-Europe leaders have tended to side-step the polity issues entirely by emphasizing only the economic benefits. As a result, citizens are likely to blame government leaders not just for implementing unpopular EU-related policies but even for undermining national democracy in the event of new EU initiatives—whether the euro or defense and security policy (Schmidt 2002b).

By contrast, in ‘compound’ polities, political leaders are more schooled in communicating in vague terms on the agreements reached among the wide range of actors involved in ‘coordinative’ discourse of policy construction. Here, it is a good thing that Europeanization has been less of a challenge to compound polities’ governing practices and ideas about democracy, since were national leaders to need to speak to such issues, the ideas communicated to the public could get lost in a cacophony of voices were there no consensus, which would in any case take time to build. As it is, the lack of communicative discourse can be problematic where Europeanization challenges polity issues related to political processes or economic order. For example, German leaders have presented European integration as the basis for a new German identity, out of a troubled past ‘*being*’ into an economically prosperous ‘*doing*,’ without generally addressing the potential impact of Europeanization on the traditional economic order of the social market economy—increasingly an issue given Competition Directorate decisions on banking practices and aid to industry. Moreover, Italian leaders have presented European integration as a reinforcement of sovereignty through the rescue of the nation-state and a source of national pride, without mention of the fact that Europeanization will increasingly force an end to the long-standing ‘democratic’ derogation of the rules in policy implementation.

## CONCLUSION

Thus, at the same that the EU taken as a whole may achieve some kind of legitimacy as a regional state, based on shared sovereignty, variable boundaries, multiple levels and modes of governance, composite identity, and fragmented democracy, its member-states may be losing their traditional legitimacy—and more so in simple polities, where legitimacy tends to be more focused on the executive than for ‘compound’ polities, where it is diffused among multiple authorities. The response by national politicians has often been to ignore such problems by continuing to project traditional visions of national democracy in their communicative discourse. The result is that citizens may feel an increasingly significant democratic deficit at the national level—even as all attention is focused on the democratic deficit at the EU level. But no remedies proposed by the Constitutional Convention for the EU level or instituted through a new Constitutional Treaty, however inspired, will solve the national problems. This can only be done at the national level, by national leaders engaging the public in deliberations on the changes in the traditional workings of their national democracies in light of Europeanization. For this, leaders of ‘simple’ polities could have an easier time than those of ‘compound’ polities, given greater concentration of voice—but neither kinds of leaders have sought to do so. The opportunity for such deliberations will come if and when national referenda and parliamentary debates are held on a new Constitutional Treaty. But will national leaders take advantage of this new opportunity to engage the citizenry in deliberations about their own national democracies rather than focusing solely on the new architecture of the European Union? The future not only of national democracies but also of the EU may be at stake.

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## FOOTNOTES

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<sup>2</sup> My thanks to Renaud Dehousse for suggesting the term: regional union of nation-states.

<sup>3</sup> Yet another dimension of the differences between nation-states and the regional state is the economic, since nation-states tend to have integrated economies whereas in the regional state the economy is highly differentiated in terms of varieties of capitalism and families of welfare states, despite increasing monetary and market integration. There is no room here to go into these differences. But see Schmidt 2002a and Scharpf and Schmidt 2000 for more detail on the differentiation of the European economy.

<sup>4</sup> Often, this is summarised in the distinction between 'input' democracy—consisting of government *by* the people, focused on citizen participation, and generally traced back to Rousseau—and 'output' democracy—consisting of government *for* the people, focused on government effectiveness, and traced back to Montesquieu (Scharpf 1999, Chapter 1).