

# PARAPHRASING THE DEMOCRACY IN EUROPEAN UNION TERMS

## INTRODUCTION

European Union today stands on her continent as one of the most amazing human projects of the world. At the same time Europe, as the cradle of modern democracies has long been laid herself open to criticisms about democratic deficit in this European Union. From the House of Lords to the Bundestag, from Lok Sabha (India) to Knesset (Israel); Parliaments all around the world with their all pride and glory represents houses of *demos*. The most substantial criticism about the democracy in the European Union is related to this fact; the weakness of European Parliament. However looking closely, it might seem as though different dynamics of the European Union deserve a different type of perception. This paper will consider the democracy in European Union by analysing different points of view and solutions about the Democratic Deficit in the European Union.

## SECTION I: DEFINITION OF CONCEPTS

### A) DEMOCRACY

A well known definition of democracy is as simple as the term's simplest description: *demos-kretain; people and rule*. It is not within the scope of the paper to make a deep analysis about democracy however it should be beneficial for the process of the paper to illustrate at least what we are looking for within the European Union. The question of how do we define the "rule by people" from the outset depends on defining a relevant criteria for the democracy. A simple definition of democracy in the modern world rests on ruler-ruled correspondence.<sup>1</sup> The main theme of this paper is firstly built on this correspondence. One understandable definition in this respect might be "Democracy is about *government* by information exchange and consent, where *organised publics* have

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<sup>1</sup> See Dahl's criteria for Democratic process. Dahl, R, *On democracy*, (New Haven ; London : Yale University Press, 2000) p3.37-38 i)Effective participation, ii)Voting Equally,iii) Enlightened Agenda, iv)Inclusion of Adults

the *means to conduct a dialogue with government* and thus hold it to account."<sup>2</sup> (Emphasize added) Thus democracy at the outset necessitates an existence of a government, an organised public and a means of conduct. Although among the complex vocabulary of the democracy this definition might be simple, as the paper's aim is to scrutinize the democracy from the European Union perspective, application of more complex, ambiguous variants of democratic theory into a *sui generis* structure *inter alia* leads to confusion and deviation from the core of the discussion. Thus the base of the discussion on whether there is a democratic deficit within the European Union is whether there is a democracy within the European Union.

## **B) LEGITIMACY**

From the outset the concept of legitimacy relies on *[t]rust in institutional arrangements*<sup>3</sup> which imaged itself as consent and in modern democracies dealt with the *[t]he manner in which this consent is secured*.<sup>4</sup> Scharph in definition of legitimacy spoke about two sources of legitimacy, input legitimacy, as whether *[g]overning processes are generally responsive to the manifest preferences of the governed*<sup>5</sup> and output legitimacy, as whether *[p]olicies adopted will generally represent effective solutions to common problems of the governed*.<sup>6</sup> Accordingly the former one represents government *by* people and the latter one represents government *for* people. Legitimacy at the European level, then, considers both consent and also the way how this consent is given to the Governance of European Union.<sup>7</sup> However democracy is one of the most important distinguishing elements of legitimacy from all other legitimate forms of governments.

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<sup>2</sup> Hirst, P. ( 2000). "Democracy and governance" in Kees Van Kersbergen, Frans Van Waarden 'Governance' as a bridge between disciplines: Cross-disciplinary inspiration regarding shifts in governance and problems of governability, accountability and legitimacy' European Journal of Political Research 43 (2) (2004) p.145

<sup>3</sup> Fritz W. Scharpf, Problem Solving Effectiveness and Democratic Accountability in the EU, Institute for Advanced Studies, Vienna (February 2006) p. 1

<sup>4</sup> John Lewis John D. Lewis, *The Elements of Democracy*, The American Political Science Review, Vol. 34, No. 3 (Jun., 1940), p 467

<sup>5</sup> Scharpf, supra note 3 at. 1

<sup>6</sup> Ibid. at. 1

<sup>7</sup> Thomas Banchoff and Mitchell P. Smith "*Legitimacy and the European Union : the contested polity*" (London : Routledge, 1999.) p.4

Therefore in analysing the legitimacy problem without considering democratic parameters an independent study can not be constructed.

### **C) GOVERNANCE**

In defining governance, it is recognizable at the first point; the unit of analysis is no more democratic government but the democratic governance. An argument about the general definition is given by Rhode as *[g]overnance refers to 'self-organizing. Inter-organizational networks' and ... these networks complement markets and hierarchies as governing structures for authoritatively allocating resources and exercising control and co-ordination.*<sup>8</sup> Whatever the definition and usage of the term governance, it is not in the same footing with the term of government.<sup>9</sup> On the other hand neither inter-governmental, nor statal characteristics are attributable to the *sui generis* governmental structure of the European Union,<sup>10</sup> but preferably the European Union stands *[a]s a complex web of policy and political relationship linking European, national, and subnational institutions.*<sup>11</sup> Within this complex web of policy and political relationship, the European Union is usually defined as *Multi-Level Governance.*<sup>12</sup> Multi-level governance moreover refers to *[c]onnected processes of governance incorporating both public and private actors in contextually defined forms of exchange and collaboration.*<sup>13</sup> Within the European Union level this definition is supported with the existence of sub-national, national and supranational actors in the policy making mechanism<sup>14</sup>.

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<sup>8</sup> R. A. W. Rhode, *The New Governance: Governing without Government*, *Political Studies* 44 (4) (1996). p.652

<sup>9</sup> *Ibid.* p.652

<sup>10</sup> Weiler, Joseph, "The constitution of Europe : "Do The New Clothes Have an Emperor?" and Other Essays on European Integration (Cambridge : Cambridge University Press, 1999.)p.270

<sup>11</sup> Thomas Banchoff and Mitchell P. Smith "*Legitimacy and the European Union : the contested polity*" (London : Routledge, 1999.) p.12

<sup>12</sup> Paul Craig and Gràinne, *The evolution of EU law*, ( Oxford : Oxford University Press, 1999) p.16

<sup>13</sup> Guy Peters and Jon Pierre, "*Multiple-Level Governance: A View From the Garbage Can*", European Policy and Research Unit (MPP 1/2002) [online] available:

<[http://www.socialsciences.manchester.ac.uk/disciplines/politics/publications/workingpapers/documents/manchester\\_working\\_papers/MPP1.pdf](http://www.socialsciences.manchester.ac.uk/disciplines/politics/publications/workingpapers/documents/manchester_working_papers/MPP1.pdf)> (accessed on 10 May 2008)

<sup>14</sup> Paul Craig, *supra* note 12, at. 16

## **E) INPUT VERSUS OUTPUT: WHAT IS DEMOCRATIC DEFICIT?**

It would be appropriate to explain what a deficit might be. The term '*deficit*' may be represents the negative difference between an input and output. It can be used in economics as an analysis tool, for example regarding the budget deficit or trade deficit. Therefore, from this perspective the inevitable emphasis is on the imbalance between the notion of democracy at the national level and at the European Union level. Thus from the outset roles and functions of the European Parliament is the ultimate source to determine such scope and from this perspective it may be confidentially argued that there is already a '*[g]ap between the powers transferred from 'more democratic' national institutions to 'less democratic' European ones.*'<sup>15</sup> Another factor is that the problem is an institutional problem and the institutions are scapegoats for the democratic deficit within the European Union. Since as Craig and De Burca stressed; "*Democracy cannot be measured or calibrated in the same way as a budget*"<sup>16</sup>, this mere mathematical calculation is surely an illustrator, before drawing attention to the discussion on the existence of a gap and proposed solution by the academic literature on the subject matter. On the other hand the term of '*deficit*' also might indicate that something is not complete or more appropriately something less. Thus logically it addresses the existence of democracy on the European level below the accepted standards<sup>17</sup> of classical democracy. That might mean that there is democracy but not enough for the polity in question. From this point of view in order to talk about a deficit one should clearly define the scope of that polity which democracy will be fitted in. Actually the main debate in the academic literature in defining democratic deficit stems from the difficulty in how and where to fit it. However at least a slight consensus is achieved about the problem and is a structural one rather than merely institutional.<sup>18</sup> As Jörg Trenz Eder, pointed out *[t]urn from functional to political spill-over ultimately also implies the turn to democratic spill-*

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<sup>15</sup> Lord, Christopher. *Democracy in the European Union* (Sheffield : Sheffield Academic Press, 1998.) p.14

<sup>16</sup> Paul Craig, *supra* note 12, at. 24

<sup>17</sup> See for a non-exhaustive list of commonly accepted criteria, Andreas Follesdal, and Simon Hix, Why There is a Democratic Deficit in the EU: A Response to Majone and Moravcsik , *JCMS*, 44 (3) (2006) p.547

<sup>18</sup> Allan Rosas and Esko Antola, *A citizens' Europe : in Search of a New Order* (London : SAGE Publications, 1995) p.31

over.<sup>19</sup> That is democracy can no longer be attributable to the member states but EU level democracy is the ultimate element of EU legitimacy. Thus within the complexly integrated multi-level governance of the European Union, at the outset [*i*]ndirect democratic control via national parliaments<sup>20</sup> is not enough to create a controllable, legitimate European Union. Thus democratic deficit can now be hardly thought just as this section at the beginning tried to define – as a subtraction between inputs and outputs of democratic controls within the EC level and national state level, but is related to the structural design of European Union. So far as a signal for structural problem about assessing democracy is perceived, now the question turns to whether if the democracy will be adapted to the European Union, or if whether the European Union will be adapted to the democracy. Both approaches doubtless have different calculation for the scope of deficit. In regard to the former one, if someone agrees that there is democratic deficit within the EU due to the input-output differences, some institutional reforms might be *sufficient* to make the institutions more accountable, representative and transparent to the citizens.<sup>21</sup> However for the latter one a democratic deficit can only be narrowed by satisfying its *necessary* conditions in the classic statal meaning of democracy. Within this latter sense a so-called deficit is sought within an ideal democracy in which '[m]inimum binding majoritarian decision making at the European level'<sup>22</sup>. 'Where to fit democracy' anxiety within the European Union is, nevertheless, for both approaches at least one common unit of analysis; the *Demos*.

## **F) DEMOS**

Everything ultimately turns around demos. As Weiler put forward; "the very language of modern democracy, its grammar, syntax and vocabulary, revolve around the state, the nation and the people – the *demos*."<sup>23</sup> (Emphasis not added) The focal point of discussion is where the demos of the European Union stand in the horizon of the democracy. *No*

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<sup>19</sup> Hans-Jörg Trenz and Klaus Eder, The Democratizing Dynamics of a European Public Sphere Towards a Theory of Democratic Functionalism, E.J.S.T. 7(1) (2004) p.12

<sup>20</sup> Andrew Moravcsik Reassessing Legitimacy in the European Union, JCMS 40 (4), (2002) p.605

<sup>21</sup> See Andrew Moravcsik Reassessing Legitimacy in the European Union, JCMS 40 (4), (2002) p.605

<sup>22</sup> Haltern, Meyer and Weiler, 'European Democracy and its Critique' West European Politics, 18 (4) (1995) p.8

<sup>23</sup> Weiler, supra note 10, at.268

*demos* thesis has been constructed in a rigid rejection of democracy within the European Union synonym to a nation-state democracy. Simply the thesis depends on as a necessary condition of the democracy, the *demos*, it can not be created within the multi-cultural, multi ethnic structure of the European Union.<sup>24</sup> Moreover, the thesis defends that neither *[l]ong term relations with thickening economic and social intercourse*<sup>25</sup>, can be enough to create a European *demos*. As also *Schmitter & Karl* pointed out 'All regimes have rulers and a public realm, but only to the extent that they are democratic do they have citizens.'<sup>26</sup> Within this strictness, the Treaty of Amsterdam and treaties establishing the European Communities declared the European citizenship<sup>27</sup> as a base for constructing democracy. For Weiler, the introduction of citizenship was problematic in the sense of creation of a European people since the integration process had been about "lay[ing] the foundations for an ever closer union among the *peoples* of Europe'. Not the creation of 'one people' but a union of many."<sup>28</sup> However Weiler proceeds as "*European citizenship should not be thought of either as intended to create the type of emotional attachments associated with nationality-based citizenship. The coupling of nationality and citizenship opens the possibility, instead, of thinking of co-existing multiple demoi.*"<sup>29</sup> Thus within the context of Weiler's *demoi*, European citizenship, in a challenge to the no *demos* thesis, is the only source where the democracy might be constructed.

## **SECTION II: IS THERE ANY DEMOCRATIC DEFICIT WITHIN THE EUROPEAN UNION**

*"Any attempt to strengthen the democratic dimension of the European Union is either illusory or likely to jeopardise the roots of democracy where they are at their deepest and firmest- the nation state."*<sup>30</sup>

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<sup>24</sup> Haltern, Meyer and Weiler, *Supra* Note 24 at. 7 This is because 'Neither the subjective element (the sense of shared collective identity and loyalty) nor the objective conditions which could produce these ( the kind of homogeneity of the ethno-national conditions on which peoplehood depend) exists.'

<sup>25</sup> Haltern, Meyer and Weiler, *Supra* Note 24 at. 7

<sup>26</sup> Schmitter, P. Karl T, *What Democracy Is. . . and Is Not*, *Journal of Democracy* ,2 (3), Summer (1991),p.77

<sup>27</sup> Article 17 of the Treaty Establishing the European Community ; "Citizenship of the Union is hereby established. Every person holding the nationality of a Member State shall be a citizen of the Union. Citizenship of the Union shall complement and not replace national citizenship."

<sup>28</sup> Haltern, Meyer and Weiler, *Supra* Note 24 at. 13

<sup>29</sup> Haltern, Meyer and Weiler, *Supra* Note 24 at. 32

<sup>30</sup> Mancini F, *Constitutionalism and democracy in the European Union: collected essays*, (Oxford : Hart, 2000) p.55

## A) THE WORST CASE SCENARIO: Europe as an 'Iron Cage' or not?

"...bureaucracy "depersonalizes" itself"<sup>31</sup>

As Antony Orum pointed out 'Although the parliament, or congress, represents the elected officials, the state bureaucracy, consisting of civil servants, remains decisive because it actually carries out the law that is formulated by political officials'<sup>32</sup>(when the state established soon it bureaucratizes itself) Weber defines bureaucracies as goal oriented rationally organized institutions in which *[i]n the place of the old-type ruler who is moved by sympathy, favor, grace, and gratitude, modern culture requires for its sustaining external apparatus the emotionally detached, and hence rigorously "professional" expert.*<sup>33</sup> According to Weber this bureaucratization is inevitable and nothing can be done to eliminate its effect on alienation of people.<sup>34</sup> Thus the rationalization of bureaucratization by efficiency and calculability would put individuals into an 'Iron Cage of the institutions of the modern world'<sup>35</sup>. Synonymously this scenario might be quite applicable to the notion of comitology within 'an elite-led consensus democracy.'<sup>36</sup> The commission's regulatory powers and committees' technocratic decision making capability<sup>37</sup> (even restricted) further may support the Iron cage scenario for alienation of the peoples of the Europe. Moravcsik, at this point emphasized; EU regulatory powers is concentrated in those issues which are not salient in the minds of European voters.<sup>38</sup> The lack of saliency, most probably as Follesdal and Hix also argued, might be as a *[r]esult of lack of democratic arenas for contestation*<sup>39</sup> within this further thickened iron cage.

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<sup>31</sup> Coser, Lewis A. *Masters of Sociological Thought: Ideas in Historical and Social Context 2<sup>nd</sup> Ed.* Fort Worth, Texas: Harcourt Brace Jovanovich, 1977. p.231

<sup>32</sup> Orum, Anthony M. *Introduction to Political Sociology*, 4<sup>th</sup> Ed. ,New Jersey: Upper Saddle River, 2001.p.42

<sup>33</sup> Coser, Supra note 32, at. 231

<sup>34</sup> Orum, Supra note 33, at. 42

<sup>35</sup> Ibid.p.42

<sup>36</sup> Lord, Christopher. Supra Note 14, at.129

<sup>37</sup> Paul Craig, supra note 12, at. 24, Craig refers this element of democratic deficit as "bypassing democracy" through comitology

<sup>38</sup> Andrew Moravcsik ,Supra Note 21, at. 606

<sup>39</sup> Andreas Follesdal Simon Hix, supra note 18, at. 16

## **B) EXECUTIVE DOMINANCE**

Follestal and Hix called European integration as [a]n increase in executive powers and a decrease in national parliamentary control.<sup>40</sup> Therefore as they also argued classical control and balance mechanism provide by parliaments are lacked.<sup>41</sup> One of the most important impacts of inadequate parliamentary controls, doubtless is on the accountability. Hence as in put forward in the first section of the paper, in the end the desired correspondence between the ruler and ruled rests on accountability. However for Moravcsik "Constitutional checks and balances, indirect democratic control, via national parliaments and the increasing powers of the European parliament are *sufficient* to ensure that EU policy-making is, in nearly all cases, clean, transparent, effective and politically responsive to demands of European citizens."<sup>42</sup> In regard to parliamentary control over the executive, Paul Craig maintains a more realist attitude. Craig's first expression is about world wide tendency in *[i]ncreasing executive power in most modern polities*<sup>43</sup>, hence he adds *"it is...by no means self-evident that the EP has less power over the content of legislation than do national parliaments."*<sup>44</sup> Furthermore Craig, at the second stage, approached the problem by assuming that if the European Union never exists. Craig from this perspective finds; in the absence of EU, there will still be international coordination, and most of the regulatory powers will be subject to the international multilateral or bilateral treaties where parliaments have little control and most of burden is on executives.<sup>45</sup> The lack of European elections in a way to determine [t]he make-up of the government at the European level<sup>46</sup>, might be regarded as a sidestep of general acceptance of weakening of parliamentary powers within the domestic sense as well as in approximating the national level democratic controls with the European level democratic controls.

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<sup>40</sup> Ibid. 4

<sup>41</sup> Ibid. 4

<sup>42</sup> Andrew Moravcsik, *Supra* Note 21, at.605

<sup>43</sup> Paul Craig, *supra* note 12, at. 25

<sup>44</sup> Ibid. at. 25, Craig further comments about the strength of parliament within the context of co-decision procedure.

<sup>45</sup> Paul Craig, *supra* note 12, at. 25-26

<sup>46</sup> Andreas Follestal Simon Hix, *supra* note 12, at. 6

## **MAJOR DEFENCES OF THE DEMOCRATIC DEFICIT**

### **A) ...AS A MATTER OF SALIENCE**

Moravcsik's approach to the problem of the democratic deficit in the EU is constructed on the argument of the Union should be perceived as *[a] division of labour, in which commonly delegated functions are carried out by the EU.*<sup>47</sup> Essentially on *what EU does.* In addition Moravcsik further conceptualises the debate within the boundary of delegated functions' popularity.<sup>48</sup> The argument's very emphasis is on democratic deficit first of all might exist in those areas where member states opted to delegate their powers to insulated institutions of European Union, *[i]n which many advanced industrial democracies, including most Member States of EU, insulate themselves from direct political contestation.*<sup>49</sup> In an attempt to illustrate the necessity of insulated institutions, she lists three convincing arguments as; insulated institutions, those that carry out insulated delegated functions, at first reduce the cost of decision making through specialization, they prevent majority tyranny through minority participation and moreover they provide *unbiased* representation to the majorities in the means of immunity from the distortion of *particularistic* minorities without any vote anxiety.<sup>50</sup> This, less democratic but more representative and efficient thesis continues with an emphasis that EU regulatory powers are concentrated in those areas where a great degree of specialization is necessary at the same time on those issues not salient in the minds of European voters.<sup>51</sup>

### **B) ...AS A MATTER OF STANDARDS**

The standards issue is one of the crucial elements in the definition of democratic deficit and in the attempts of measuring democratic deficit. So far as the paper illustrates, as long as European democratic deficit is concerned, democracy is free from its origin. We

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<sup>47</sup> Andrew Moravcsik, *Supra* Note 21, at. 606

<sup>48</sup> *Ibid.* p. 606

<sup>49</sup> *Ibid.* p. 613

<sup>50</sup> *Ibid.* p. 614

<sup>51</sup> *Ibid.* p. 606

left behind first government, then demos and turn to discuss the democracy of governance of *multiple demoi*.<sup>52</sup> Thus in determining standards not to approximate the national level of institutions with the European level institution but to recognize the multi-level standing of European Union and rethink the legitimacy crisis and democratic deficit within this dimension, might be the best way to measure the distance between the ruler and ruled. In supporting this argument Majone sets four different types of standards of legitimacy as; standards based on the analogy with national institutions; Majoritarian standards; standards derived from democratic legitimacy of member states and social standards.<sup>53</sup> The first two types links member states and national parliaments with the European Union, thus necessitates an approximation. The third one is an approach to the legitimacy issues from the national parliament's control over the Council and thus has the same effect with the indirect legitimacy. Empowering the European parliament and weakening the Council from this point of view can not be a solution for the so-called legitimacy crisis. The famous *No-Demos* thesis's implication on this point is as follows; without appropriate demos of Europe, while in one hand a powerful Parliament in such sense become despotic, hence maybe has *[s]lightly more legitimacy than the writ of an emperor*, on the other hand it reduces the *[v]oice of member states...[thus] exacerbate the legitimacy problem of the Community*.<sup>54</sup> That is '*the real source of legitimacy, namely national politicians and national parliaments*'<sup>55</sup> should not be limited with elected European Parliament. Majone's very argument shaped within the fourth type of legitimacy. By re-calling Scharph's out-put legitimacy, Majone in the same sense, sees European Union as a regulatory state<sup>56</sup> and bases his argument on *accountability on result*<sup>57</sup>thesis. The most important assertion in this thesis is that "efficiency-oriented policies are basically legitimated by results." Majone proceeds in a precise manner, such in the competences delegated to the European Union level,

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<sup>52</sup> Weiler, supra note 10, at.344

<sup>53</sup> Giandomenico Majone, *Europe's 'Democratic Deficit': The Question of Standards*. E.L.J, 4(1) (1998) p.6

<sup>54</sup> Haltern, Meyer and Weiler, Supra Note 24 at. 13

<sup>55</sup> Svein S. Andersen and Kjell A. Eliassen, *The European Union, how democratic is it?* (London : Sage, 1996) p.62

<sup>56</sup> Giandomenico Majone, Supra Note 54, at. 5

<sup>57</sup> Ibid. at. 28

efficiency-oriented policies are subject to non-majoritarian sources *legitimacy; expertise, procedural rationality, transparency and accountability by result.*<sup>58</sup> Thus as Moravcsik, Majone also believe in the efficiency of insulated institutions. As an illustration, what is being stated as being the fuel of democracy is *compromised* however the efficiency only works with *truth*.

### **C) ...AS A MATTER OF BOUNDARY**

*"Even if the Union were to replicate in its system of governance the very same institutional set-up found in its constituent states, there would be a diminution in the specific gravity, in the political weight, in the level of control of each individual within redrawn political boundaries."*<sup>59</sup> Weiler called this effect as inverted regionalism as the European Union is enlarging, rather than a de-centralization effect of regionalism from the center, as opposite Community reach expands into those [a]reas previously thought to be the preserve of the state or of the individual<sup>60</sup> thus it centralized the power in Brussels. This introduces another handicap; political boundaries of Europe. The political boundary of the European Union, in this sense, is large enough to create an obstacle for narrowing the gap between Demos and Krates. As Moravcsik also argued; *"An organization of the continental scope will of course, appear rather distant from the individual citizens."*<sup>61</sup>

### **MULTI-LEVEL GOVERNANCE REVISITED; "no single model of democracy"**<sup>62</sup>

Weiler, in parallel to the notion of multi-level governance within the European Union, introduced three modes of governance by which each of them correspond to different models of governance. Accordingly Intergovernmental governance of the European Union which is directly concerned with the fundamental system rules overlaps with the consociational form of democracy. Consociationalism, as an indispensable model for cleavage theory, provides functionality and stability in a fragmented Europe by providing

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<sup>58</sup> Ibid.at.28

<sup>59</sup> Weiler, supra note 10, at.264

<sup>60</sup> Ibid. at. 265

<sup>61</sup> Andrew Moravcsik, Supra Note 21, at.604

<sup>62</sup> Paul Craig, supra note 12, at. 29

consensual politics.<sup>63</sup> In regard to supranational modes of governance, Weiler suggests competitive elitism.<sup>64</sup> Craig at this point, convincingly argues that competitive elitism in the supranational decision making which is concerned with a primary legislative agenda is not suitable for the European Union.<sup>65</sup> Finally on infra-nationalism Weiler offers neo-corporatist governance and democracy. Infra-nationalist governance of the European Union mostly overlaps with the concept of comitology and the technocratic face of the European Union. Weiler, in this regard believes that infra-nationalism about *[t]ransnational interest groups, governance without governance, empowerment beyond nationalities,*<sup>66</sup> from this point of view *[n]eo-corporatism does not replace the parliament and other institutions....but simply side-steps them in reaching public choice of the polity.*<sup>67</sup> Thus within those issue areas where there is effective functioning of comitology, neo-corporatist model provides reaching decisions by excluding the parliamentary controls. Weiler in regard to the neo-corporatist model however accepts some problems are due to the lack of transparency and absence of representatives in the means of limited participation and excluding some public voices.<sup>68</sup>

## **NEW FORMS OF GOVERNANCE AND WIDENING CITIZEN PARTICIPATION**

Whatever the theoretical debates about the democracy within the EU, there has been one focal point on the recognition of problems with the EU's democratic legitimacy; *[t]he Union is often seen as remote and at the same time too intrusive.*<sup>69</sup> The Commission's white paper on the new governance of EU at this point, illustrated the need to deviate from the classical community method on the governance of EU to bridge the gap between peoples of the European Union and its institutions. To reach the aim of an open, accountable, participative, effective and coherent *Good governance*; the Commission's

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<sup>63</sup> Ibid. at 30

<sup>64</sup> Weiler, supra note 10, at 283 "Or aspirationally at least, with the reference to a statal, federal version of pluralistic society."

<sup>65</sup> Paul Craig, supra note 12, at. 32-42

<sup>66</sup> Weiler, supra note 10, at 224

<sup>67</sup> Ibid. at.223

<sup>68</sup> Ibid.at. 284

<sup>69</sup> EC White Paper on European Governance, COM(2001) 428 final, at 33 (July 25, 2001)

'*better use of power*'<sup>70</sup> strategy involved introduction of wide range of tools from social dialogue to open method of coordination, from involvement of civil society, to most often use of secondary legislations (framework directives) from simplifying community law to achieve more flexibility at the national level. New governance is defined by Scott and Trubek as; departures within the "*classic*" *Community Method (NOG) and alternatives to that Method*.<sup>71</sup> Accordingly in defining new governance of the EU they abstract two distinct categories of deviation from what is defined as old governance, accordingly first departure is from the Classical Community Method (what they label as New Old Governance "NOG") and the second category is alternatives to the Classical Community method.<sup>72</sup> First category includes development of flexibility phenomenon in the legislation process via [*i*]ncreasing recourse to directives<sup>73</sup> and non-binding soft laws; variation from the comitology by [*i*]ntroduction of implementation committees into the decision-making process; and involvement of range of actors in the legislation process, with a considerable emphasis on '*civil dialogue*'.<sup>74</sup> On the other in the second category, Scott and Trubek, lists four main alternatives<sup>75</sup> to the Classic Community Method. *Inter alia*, *social dialogue* and an *open method of co-ordination* are both represent most radical alternatives and which both carry essential potential for the solution of democratic deficit literature. Both of these new governance tools are in their designs possess inclusive elements. They are surely important innovation in the means of widening citizen participation within the European Union. OMC in the white paper defined as [*a*] way of encouraging co-operation, the exchange of best practice and agreeing common targets and guidelines for Member States, sometimes backed up by national action plans as in the case of employment and social exclusion.<sup>76</sup> The Lisbon strategy of the European Council on [*s*]trengthen employment, economic reform and social cohesion

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<sup>70</sup> Ibid.

<sup>71</sup> Joanne Scott, David M Trubek, Mind the Gap: Law and New Approaches to Governance in the European Union, E.L.J. 8 (1) (2002) p.5

<sup>72</sup> Ibid p.2

<sup>73</sup> Ibid p.3

<sup>74</sup> Ibid p.3

<sup>75</sup> Ibid.3-5 Those alternatives are namely; wide range of partnership and autonomy in the communities responsible for structural funding; environmental policy integration; Social dialogue and Open Method of Coordination.

<sup>76</sup> EC White Paper on European Governance, COM(2001) 428 final, at. 22

as part of a knowledge-based economy<sup>77</sup>, represented OMCs as a shining tool *[w]hich is designed to help Member States to progressively develop their own policies.*<sup>78</sup> Within its terminology OMC embodies active inclusion of regional and local level actors as well as social partners and civil society. Moreover its structure is based on peer review, periodic monitoring, and social learning. All these features, at the outset, represent the democratic potential of the Open Method of Coordination. Beside these optimistic beliefs about the democratic nature of the OMC, there are, also, sceptical approaches about democratization through OMC and about its satisfactory usefulness. For Moravcsik; *"[T]here is some sketchy evidence that governments may have used the information exchange to help plan social reforms, but no solid evidence either of any impact on or policy learning with regard to substantive policy."*<sup>79</sup> Moreover Athur Benz even defends that *[O]MC is far from meeting the criteria of participatory or deliberative democracy.*<sup>80</sup> Benz argues *[i]n deliberation the share of responsibility of individual actors in producing outcomes can not be determined,*<sup>81</sup> in this regard it can not be accountable.<sup>82</sup> Social dialogue with its civil elements represents another shining tool for the democracy within the European Union. A special meaning of Civil Society within the Social dialogue, in the means of *[d]elegating law making authority to representatives of the parties to be affected by these laws,*<sup>83</sup> for Joanne Scott, David M Trubek, *[s]eems to solve some of the democratic deficit problems in the area it covers by essentially.*<sup>84</sup>

## CONCLUSION

It would be unjust to call the European Union an undemocratic entity. It would be also inappropriate to apply classical democratic theory within the European Union terms. As the paper illustrated, at this point *no demos* thesis provides a substantial ground for the

<sup>77</sup> European Council, Lisbon Conclusions, B.E.U, 3-2000

<sup>78</sup> European Council, Lisbon Conclusions, B.E.U, 3-2000 point 38

<sup>79</sup> Moravcsik, A. 'The European Constitutional Compromise and the Legacy of Neo-functionalism'. *Journal of European Public Policy* 12 (2005) p. 366

<sup>80</sup> Benz, Arthur, "Accountable Multilevel Governance by the Open Method of Coordination?". *E. L.J.* , 13 (4) (2007) p. 515

<sup>81</sup> *Ibid* p.513

<sup>82</sup> *Ibid* p. 515

<sup>83</sup> Joanne Scott, David M Trubek , *Supra* Note 72, at.8

<sup>84</sup> *Ibid.* p.8

searching democracy within different criteria rather than state centric classical democratic criteria. The main theme of the paper focused on two main drawbacks of the European political integration, Comitology and Executive Dominance. These two features of European Union act against normally what we are familiar with the democratic elements: representativeness, participation, competition for government, accountability and transparency. Efficiency on the other hand constitutes the most important figure of the out-put oriented legitimacy within the European Union. Since indirect legitimacy for almost all intergovernmental organisations is a legitimizing function, as discussed in the paper, should not be given main importance in regards to the European Union. However rather than these abstract, collectivist considerations and by considering all the realities of the European Union, democratic deficit in the Union should be considered in an individual basis and from the perspectives of *parties to be affected* by the democratic deficit. In this regard new governance initiatives and attempts at the civilianization of political decision making, at least, illustrates that political spill-over has a *democratic spill-over effect* <sup>85</sup>and represents a very large potential for the progressive democratization of the European Union.

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<sup>85</sup> Hans-Jörg Trenz and Klaus Eder, *Supra* Note 20, at 12

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