

European political integration: theoretical contributions of multi-level governance and democratic theory*

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Abstract: The future of the European Union (EU) is frequently debated in terms of a democratic polity in the making, although one that is a new political creature rather than a conventional polity designed according to extant political models. Such analysis is often theoretically inscribed in non state-centric views of the EU, notably the multi-level governance (MLG) approach. Concomitantly, theorisation on a hypothetical political community underpinning EU's democratic legitimacy widely resorts to interpretations based on the theory and practice of both representative and direct democracy. I argue that the crossing of those frameworks of analysis (MLG and democratic theory) brings further contribution to understanding European political integration, notably on present days standpoints and impacts of critical junctures such as the «crisis».

Keywords: Multi-level governance, democratic theory, political integration, European Union.

Resumen: *El futuro de la Unión Europea (UE) a menudo se debate bajo la hipótesis de la construcción de una entidad política democrática sui generis, es decir, fuera de los estándares de las tipologías de los sistemas políticos convencionales. Dicho análisis suele inscribirse en visiones no estadocéntricas de la UE, principalmente en los análisis multinivel de la gobernanza. Al mismo tiempo, la teorización sobre el desarrollo de una comunidad política en la UE que pueda sostener su legitimidad democrática se basa, en gran medida, en los debates sobre democracia representativa y directa. El argumento de fondo de este texto es el de que los dos mar-*

* Recibido el 30 de marzo, aceptado el 17 de junio de 2013.

cos teóricas (gobernanza multinivel y teoría democrática) contribuyen de manera importante a la comprensión del proceso de integración política europea, a saber en lo relativo a lo logrado hasta el presente y a los impactos de momentos de cambio como la «crisis».

Palabras clave: *gobernanza multinivel, teoría democrática, integración política, Unión Europea.*

I. Introduction

Increasingly, the future of the European Union (EU) is debated in terms of a democratic polity in the making, although one that is a new political creature, rather than a conventional polity, designed according to extant political models. Far from being purely descriptive, this view is theoretically inscribed in non state-centric views of the EU, notably the multi-level governance approach. Concomitantly, theorisation on a hypothetical political community underpinning EU's democratic legitimacy has evolved and widely resorts to interpretations based on the theory and practice of democracy under the archetypes of representative as well as of direct democracy. I argue that the crossing of both frameworks of analysis —i.e. governance and democratic theory— brings further contribution to understanding European political integration and for normative uses at the level of EU building.

In the text and for the sequence of the argument two main topics are addressed: multi-level governance (MLG) theories and patterns of democracy, both being relevant theoretical fields for EU theorisation and strong conceptual tools for explaining some of its key aspects. Institutions, conventionally the place for meso theories, are at present a substantial area of research and theorisation in European integration studies¹. Multi-level governance theories bring in innovative views on political institutions, but also on their linkage to civil society. Therefore, the subsequent question, to be framed within democratic theory concepts, is on how participation and democratic legitimacy are being guaranteed, within a multi-level governance framework. Both theoretical fields, if combined, may shed light on the current process of European political integration and its medium term perspectives.

¹ Good overviews on European integration theorisation are presented by WIENER, A. and DIEZ, T. (eds.), «European Integration Theory», 2nd ed., Oxford UP, Oxford, 2009, and by JORGENSEN, K., POLLACK, M. and ROSAMOND, B. (eds.), *Handbook of European Union Politics*, Sage, London, 2006.

As Olsen puts it «Democracy and citizenship are concepts strongly linked to the framework of the nation-state» and thus «changes in mentality»² are probably necessary for accomplishing the project of European political integration. These changes, if they are to occur, will have to make citizens' political participation match the several levels of the multi-level governance framework of the EU, instead of remaining mostly national. Subsidiarity is in line with that process, but shortcomings in the EU democratic legitimacy are quite often pointed out in academic and normative debates. Furthermore, the EU is, in the context of the current crisis, often targeted for institutional weaknesses, lack of efficiency and creation of popular discontent. Thus, the overarching question running through the article is on the pathway of European political integration: where we are at present; where the European project is presumably going; how critical junctures such as the «crisis» may hinder/foster the process of political integration; whether the whole process abides by democratic rules.

II. Governance and the European Union

EU institutions cannot be fully addressed without tackling the broader picture of institutional change and institutional building. This brings along issues of state-society relations or, perhaps better put for the EU context, issues of political institutions-society relations. Beate Kohler-Koch speaks of «systemic impacts» and of «institutional change», as part of the processes the literature addresses under the very broad idea of governance in the EU. According to the author, these entail «political structuring» at the EU level, but may have «disintegrative effects» at the national level³.

The assertion that the institutional system of the European Union is «new and open-ended»⁴ is widely accepted. Still, conventional theoretical fields may have a capacity to explain it. Mark Jachtenfuchs mentions the divide between «theories of international relations» and «theories of domestic politics» but further considers that «the dividing line between the two sub-disciplines of political science is eroding. Ideally, a more general approach to political science should be able to offer an integrated

² OLSEN, J., *Europe in Search of Political Order. An institutional perspective on unity/diversity, citizens/their helpers, democratic design/historical drift and the co-existence of orders*, Oxford UP, Oxford, 2007, p. 132.

³ KOHLER-KOCH, B., «European governance and system integration», in *European Governance Papers (EUROGOV)* N. C-05-01, 2005: <http://www.connex-network.org/eurogov/pdf/egp-connex-C-05-01.pdf> (accessed 20/01/2013).

⁴ OLSEN, J., *op.cit.*, p. 16.

view»⁵. The idea that the two sub-disciplines are converging is crucial to understanding the whole process. International relations sprang from the study of the structure of the international system as a system of states. But is it still so?

State-centrism has been for long cornerstone for the interpretation of Western political systems and of international relations. Many theories on the EU, notably intergovernmentalism⁶, follow this approach, which presents the EU as a «highly institutionalized negotiating system among states»⁷. From this point of view the logics underlying the EU are very much the result of minimum common denominators between the member-states, negotiated in intergovernmental fora. Decisional power fundamentally stays with the states that have entered these arrangements in order to maximise their negotiation capability, while domestic and international spheres remain discrete, rather than continuous⁸.

If instead the interpretation of the European Union is one that sees it as a polity (though a new polity in the making) the core of the system has to be dislocated. Theories emphasising the supranational dimension of many of the EU institutions and procedures, i.e., their autonomy and the inherent transferences of sovereignty from the national to the supranational level thus undermine the role of the conventional nation-state. In presenting the EU as a polity, Simon Hix⁹ states:

(...) with the global devolution of power to regions, localities and non-state organizations, and the delegation of authority to supranational bodies such as the European Union and the World Trade Organization, political power is now dispersed or «shared». This does not mean that the 'state' does not exist. But, it does mean that politics and government now exist in many contexts either outside or beyond the classic state.

This view is consistent with analyses of world politics put forward in theories of global governance and indeed it can be argued that there is continuity between the structural changes in political power at the global

⁵ JACHTENFUCHS, M., «The European Union as a Polity (II)», in JORGENSEN, K., POLLACK, M. and ROSAMOND, B. (eds.), *Handbook of European Union Politics*, Sage, London, 2006, pp. 159-160.

⁶ Cf. MORAVCSIK, A., «In Defence of the Democratic Deficit: Reassessing Legitimacy in the European Union», *Journal of Common Market Studies* 40 (4), 2002, pp. 603-624.

⁷ *Ibid.*, p. 159.

⁸ HOOGHE, L. and MARKS, G., *Multi-Level Governance and European Integration*, Rowman & Littlefield, Lanham, 2001, pp. 2-3.

⁹ HIX, S., «The European Union as a Polity (I)», in JORGENSEN, K., POLLACK, M. and ROSAMOND, B. (eds.), *Handbook of European Union Politics*, Sage, London, 2006, p. 141.

and the regional (European) levels¹⁰. Governance, and for the EU context multi-level governance (MLG) are alternative views to state-centrism¹¹. However, and because the word governance is being increasingly used, its meaning may be slightly blurred, thus requiring some initial definitions.

1. Definitions

The concept of governance does not belong solely with EU integration studies. Several definitions can be found and some theoretical elaboration has been produced, notably for the EU context¹². The text below is not aimed at producing a full overview of definitions but the guidelines of the debate are nevertheless necessary.

As aforementioned there is some continuity between uses of the word «governance» for global politics and for EU politics. For the former, the concept made its way among others on James Rosenau's¹³ well known assertion of «governance without government» which became a landmark for the debate:

To presume the presence of governance without government is to conceive of functions that have to be performed in any viable human system irrespective of whether the system has evolved organizations and institutions explicitly charged with performing them. (...) governance is not synonymous with government. Both refer to purposive behaviour, to goal-oriented activities, to systems of rule; but government suggests activities that are backed by formal authority, by police powers to insure the implementation of duly constituted policies, whereas governance refers to activities backed by shared goals that may or may not derive from legal and formally prescribed responsibilities and that do not necessarily rely on police powers to overcome defiance and attain compliance. Governance, in other words, is a more encompassing phenomenon than government.

¹⁰ Cf. WARLEIGH-LACK, A., «The European and the Universal Process? European Union Studies, New Regionalism and Global Governance», in JORGENSEN, K., POLLACK, M. and ROSAMOND, B. (eds.) *Handbook of European Union Politics*, Sage, London, 2006, pp. 561-575.

¹¹ HOOGE, L. and MARKS, G., *op.cit.*; JACHTENFUCHS, M. and KOHLER-KOCH, B., «Governance and Institutional Development», in WIENER, A. and DIEZ, T. (eds.), *European Integration Theory*, Oxford UP, Oxford, 2004, pp. 97-116.

¹² Cf. TREIB, O., HOLGER, B. and FALKNER, G., «Modes of Governance: A Note Towards Conceptual Clarification», in *European Governance Papers (EUROGOV)* N. N-05-02, 2005: <http://www.connex-network.org/eurogov/pdf/egp-newgov-N-05-02.pdf> (accessed 20/01/2013); KOHLER-KOCH, B., *op. cit.*

¹³ ROSENAU, J., *Governance without Government: Governance, Order and Change in World Politics*. Cambridge UP, Cambridge, 1992, pp. 3-4.

It seems quite relevant that Rosenau stressed functional requisites as starting point for governance. However, it does not exclude governments from governance, though it does affirm that there is governance beyond governments¹⁴. Thus, for the world of state-centrism governance would be the exclusive product of governments, whereas for the world of globalisation, there is governance, as «systems of rule» without the underlying formal, legal, hierarchical and exclusive state structure. Globalisation theorists will claim that power has «escaped» the state upwards (the regional and global levels), downwards (the regional sub-national and the local levels) and sideways (the transnational civil society hypothesis). These changes enlarge the number of agents in the process and blur the conventional state-society divide, as well as the domestic-international divide¹⁵.

Despite the similarities and the common aspects of both political processes (i.e. at the regional and the global levels), in the context of EU theorisation the concept addresses a much more structured political reality, not only because the states remain in place, but also because the range of differences to match for governing Europe is relatively small, if compared with world politics.

To put it simply: the EU is, for governance purposes, a terrain where strong and solidly rooted political institutions, the states, remain playing a fundamental political role. Yet, the debordering of conventional political territorialisation is happening as in the rest of the world: growing interdependences, transnationalisation of civil society, supranational political institutions. However, unlike for the rest of the world, the latter is already a quite developed institutional framework. Therefore, it can be argued that an incremental but pervasive process of readjustment is in place in the EU¹⁶.

With reference to the EU context, Mark Jachtenfuchs and Beate Kohler-Koch define governance «as the continuous political process of setting explicit goals for society and intervening in it in order to achieve these goals»¹⁷. Also, Guy Peters and Jon Pierre consider that «at a very fundamental level, governance is a functional theory, assuming that societies must govern themselves and to do so must perform certain ac-

¹⁴ Cf. TREIB, O., HOLGER, B. and FALKNER, G., *op. cit.*.

¹⁵ Cf. HELD, D. and MCGREW, A. (eds.), *Globalization Theory: approaches and controversies*, Polity Press, Cambridge, 2007; KARNS, M. and MINGST, K., *International Organizations: The Politics and Processes of Global Governance*, Lynne Rienner Publishers, London, 2004.

¹⁶ HOOGHE, L. and MARKS, G., *op. cit.*, p. 39.

¹⁷ JACHTENFUCHS, M. and KOHLER-KOCH, B., *op. cit.*, p. 99.

tivities». They further clarify that governance often involves «a variety of actors, many from outside the public sector itself, in order to achieve public purposes»¹⁸. Adrienne Héritier's distinction between governance that embraces hierarchical «political steering» and a more restricted sense, which entails only «political steering in which non-hierarchical modes of guidance, such as persuasion and negotiation are employed» is also relevant¹⁹.

Therefore, three aspects are to be emphasised. First, and in line with the global dimension, these definitions include the societal need for organisation as starting point for «governance». Second, they establish that there are several types of actors involved, some coming from outside the public sector, i.e., leaving behind the conventional state-society divide. Still, Guy Peters and Jon Pierre admonish that the word can also encompass conventional governments²⁰. Third, soft, non-hierarchical mechanisms as those highlighted by Héritier are a marker of «governance», although it does not necessarily discard hierarchical mechanisms.

As a whole, the concept is now indisputable in EU studies. Its potential for addressing the process of European integration has been particularly developed under the multi-level governance framework²¹. MLG is a non-state-centric framework for interpreting the political architecture of the EU, according to which the polity is organised under a fairly complex system of political levels, or layers, from the supranational «downwards» to the national to the regional and the local, but also «sideways» to the corporate and in general the civil society layer. Whether the metaphor of layers geometrically organised as concentric circles at the core of which is the citizen (following the principle of subsidiarity) is adequate, can be a matter of some contention. A decentred and overlapping layout of the layers may well be more adjusted to the object being depicted. The metaphor of the layer cake as opposed to the marble cake, as used by Thomas Risse for the parallel issue of identities, can also be applied here, for the visual

¹⁸ PETERS, G. and PIERRE, J., «Governance Approaches», in WIENER, A. and DIEZ, T. (eds.) *European Integration Theory*, 2nd ed. Oxford UP, Oxford, 2009, pp. 93-94.

¹⁹ Cit. in TREIB, O., HOLGER, B. and FALKNER, G., *op. cit.*, p. 6.

²⁰ PETERS, G. and PIERRE, J., *op. cit.*, p. 92.

²¹ Cf. HOOGHE, L. and MARKS, G., *op. cit.*; JACHTENFUCHS, M. and KOHLER-KOCH, B., *op. cit.*; LITTOZ-MONNET, A., «Dynamic Multi-Level Governance: Bringing the Study of Multi-level Interactions into the Theorising of European Integration», *European Integration online Papers (EIoP)* 14 (1), 2010: <http://eiop.or.at/eiop/texte/2010-001a.htm> (accessed 02/10/2012); ZIMMER, C. and BENZ, A., «The EU's competences: The "vertical" perspective on the multilevel system», *Living Reviews in European Governance*, 5 (1), 2010: <http://www.livingreviews.org/lreg-2010-1> (accessed 02/10/2012).

illustration of the idea²². Peters and Pierre²³ also stress this complex characteristic. It can be further explained if we look at the distribution of competences²⁴. Whereas exclusive competences draw a fairly clear, eventually hierarchical, dividing line between levels, shared competences rely on a case to case assessment of levels of political decision, which enforces the malleability of the system but may create some instability. This is also a consequence of the procedures involved: there are hierarchical procedures, but there is a lot of negotiation and bargaining between actors as relevant as governments, some of which at sheer intergovernmental level, and a series of soft instruments that are aimed at creating convergence in policies. These address articulations within the same level, though partners involved may be unevenly strong (sovereign states, under the intergovernmental procedures all have a veto, but it is not so when it comes to softer negotiations procedures). A further difficulty arises from vertical relations, notably the fact that the levels are not all equally consistent or capable of exerting political power: the regional level cannot be compared to the national level, not to mention the fact that there is a huge variation between so called «regions» in the EU context²⁵. Because this is the result of a polity in the making, dynamics of the construction still have a strong impact upon the structure: not only decisional processes keep being adjusted (eg. under treaty amendments) but also there is a tension between functional requirements and politically structured processes: Mark Jachtenfuchs²⁶ mentions the need for horizontal collaboration, understood as functional interdependencies across policy areas, along with the vertical articulation the system already presupposes.

The model depicts an «open ended process», that meaning that much of what it describes is incremental rather than constitutionalised change. Hooghe and Marks²⁷ draw a comparative framework between «feudal order», «state order» and «post-state order» which deserves some reflection. From that layout, similarities between the first and the third types of political order emerge, notably the overlapping characteristic, the multiplicity and the sharing of competencies. State order was created in the «West» for overcoming feudalism. This meant the crafting of the notion of exclusive sovereignty as a prerogative of the central state, and the clear and hierarchi-

²² RISSE, T., «Social Constructivism and European Integration», in WIENER, A. and DIEZ, T. (eds.), *European Integration Theory*, Oxford UP, Oxford, 2004, pp. 159-175.

²³ PETERS, G. and PIERRE, J., *op. cit.*, p. 95.

²⁴ Cf. ZIMMER, C. and BENZ, A., *op. cit.*

²⁵ Cf. LITTOZ-MONNET, A., *op. cit.*

²⁶ JACHTENFUCHS, M., *op. cit.*

²⁷ HOOGHE, L. and MARKS, G., *op. cit.*, p. 46.

cal definition of relations between vertical political levels (e.g. the local, the regional and the central); but it was in the long run also responsible for the split between public and private affairs, based on a distinction of political power vis à vis other forms of private power, which liberalism then reified in the state-civil society dividing line, under representative democracies²⁸. «Post-state» order is blurring these distinctions: the drift of political power upwards and downwards questions the hierarchical dominance of the state, whereas sideward drifting (i.e. market and civil society) reintroduces society as yet another locus for politics. Hooghe and Marks'²⁹ layout does not assess the types of political order from the point of view of efficiency or the quality of political solutions involved. Still, the comparison opens several lines of reflection as to the evolution of Western political systems and indeed has to be read under what Beate Kohler-Koch³⁰ has designated as long term systemic impacts of political change.

2. «Good» governance id est democratic governance?

At its minimum, governance means some kind of political order and the word does not necessarily carry a normative orientation³¹. Yet, and for the EU case, re-opening the Pandora box of Western politics (as addressed in Hooghe and Marks comparative framework) may indeed mean unleashing hidden «devils». By this I mean that the reformulation of the spheres of European politics expressed in the many and overlapping layers may entail loopholes providing opportunities for the privatisation of powers, and consequent ambiguities in the definition of the «common interest».

Good governance, as a normative tool, guides EU governance into democratic governance. This was expressed in the Commission's *EU Governance. A White Paper*³²:

«Governance' means rules, processes and behaviour that affect the way in which powers are exercised at European level, particularly as regards openness, participation, accountability, effectiveness and coherence.»

²⁸ CHAMBERS, S. and KOPSTEIN, J., «Civil Society and the State», in DRYZECK, J., HONIG, B. and PHILLIPS, A., *The Oxford Handbook of Political Theory*, Oxford UP, Oxford, 2006, pp. 363-381.

²⁹ HOOGHE, L. and MARKS, G., *op. cit.*

³⁰ KOHLER-KOCH, B., *op. cit.*, 2005.

³¹ Cf. TREIB, O., HOLGER, B. and FALKNER, G., *op. cit.*

³² EUROPEAN COMMISSION, *European Governance: A White Paper*. COM (2001) 428 final (Brussels, 25/07/2001).

These principles cover statutory requirements of democracy, namely participation and accountability; still, they sound as a top-down effort for reform stemming from institutions that have repeatedly been pointed out for their shortcomings in democratic governance. Guy Peters and Jon Pierre³³ state that EU governance remains undemocratic. That the EU is very much a bureaucratic construction produced by a elite of politicians and decision makers is eventually a fairly indisputable interpretation of the European Union. Overcoming these weaknesses is one of the major challenges for the European project at present, especially if democracy is understood as a substantial rather than as a procedural concept, as stated by Beate Kohler-Koch and Berthold Rittberger³⁴:

It is the principle of autonomy that stands at the centre stage of the democratic project. (...) Autonomy is intimately linked to self-determination: Autonomy implies that people are free and equal in the determination of their own lives. Autonomy qua self-determination is thus set against any notions of paternalistic authority or domination which deny that people are the best judges of their own individual good or interest.

The threshold for democratic multi-level governance in the EU thus defined is quite demanding. From the theoretical point of view, this is where the debate on MLG meets the theory of democracy.

III. Democracy and the European Union

Democracy is statutory in the EU (TEU, article 2 and Title II). At the same time, democracy has proved to be a difficult requisite to fulfil in EU governance. Departing from an MLG explanatory framework for the EU as *sui generis* political system, this part of the text addresses the problem of the «democratic deficit», in the framework of that model.

1. *The problem: the «democratic deficit»*

The expression «democratic deficit» was coined late in the seventies to designate the distance between the citizens and the institutions in European

³³ PETERS, G. and PIERRE, J., *op. cit.*, p. 97.

³⁴ KOHLER-KOCH, B. and RITTBERGER, B. (eds.), *Debating the Democratic Legitimacy of the European Union (Governance in Europe)*, Rowman & Littlefield, London, 2007, p. 12.

governance³⁵, and has ever since fuelled strong academic and political debates³⁶. According to Hooghe and Marks³⁷:

The democratic deficit —that is, the weakness of representative democracy in the EU— is rooted in the institutional genesis of the EU as an offspring of national institutions that claim sovereignty in their respective territories.

The authors thus point at the core of the problem, which is the link between the democratic mechanisms of representation and participation and the institutions of European governance.

A state-centric approach to EU integration combined with a strictly procedural view of «democratic legitimacy» may indeed consider that, from the formal point of view, the deficit of democracy in the EU is not an issue³⁸. The fact that the states involved in the process are democratic and that their governments are legitimate makes their decisions for the supranational sphere also legitimate, in the framework of representative national democracies. Furthermore, if centrality is attributed to the role of the states, then the problem is mostly a problem of the domestic order, i.e., of the contract between the citizens and political institutions as established internally with domestic elections and under the conventional pattern of representative democracy. Whether political parties manage to meet the requirements and expectations of the citizens is, from this point of view, a domestic policy problem, especially if civil society in the EU is addressed as a series of discrete national civil societies, and representation understood as a two step process: unmediated for internal issues, but mediated, or indirect, for external matters.

The question thus resulting is on whether this conventional layout, traditionally designed for legitimating national governments in issues of con-

³⁵ Marquand cit. by MÉNY, Y., «De la démocratie en Europe: Old Concepts and New Challenges», in WEILER, J., BEGG, I. and PETERSON, J. (eds.), *Integration in an Expanding European Union: Reassessing the Fundamentals*, Blackwell, London, 2003, p. 399.

³⁶ Cf. among many others, DAHL, R., *On Democracy*, Yale UP, New Haven, 1998; FOLLESDAL, A. and HIX, S., «Why there is a Democratic Deficit in the EU: a Response to Majone and Moravcsik», *European Governance Papers (EUROGOV)* N. C-05-02, 2005: <http://www.connex-network.org/eurogov/pdf/egp-connex-C-05-02.pdf> (accessed 02/10/2012); SCHMITTER, P., MAJONE, J. and MORAVCSICK, A., «Democracy and Constitutionalism in the European Union», in *ECSCA Review* 13 (2), 2000, pp. 2-7: <http://aei.pitt.edu/61/01/DemocracyForum.htm> (accessed 02/10/2012).

³⁷ HOOGHE, L. and MARKS, G., *op.cit.*, p. 41.

³⁸ RAMOS, C., «On Democracy and Political Participation: Quagmires of Legitimacy in the European Union Context», Paper presented at the IPSA — 21st World Congress of Political Science — *Global Discontent: Dilemmas of Change*, Santiago, Chile, 12-16 Sept., 2009: <http://paperroom.ipsa.org/papers/view/1508> (accessed 10/12/2012).

ventional foreign policy, is sufficient for the on-going process of European integration. National parliaments' recurrent claim that they keep losing control over governmental decisions at EU level provides evidence of the contrary³⁹. Besides, the «output legitimacy» argument relying upon the alleged effectiveness of EU policies⁴⁰ does not meet the standards of «input legitimacy», especially when it comes to core sovereignty policy areas⁴¹.

A significant step into supranational representation was taken in 1979 with the emergence of the European Parliament (EP) as a directly elected institution, thus introducing a new type of legitimacy, direct legitimacy, based on representation resulting directly from the votes of the citizens at the EU level⁴². However, from the point of view of patterns of democracy, it relies entirely upon formal representative democracy. Ever since, there have been claims that the EP remains weak (in spite of the reinforcement of its powers in subsequent treaty amendments). Besides, the political parties, electoral campaigns and electoral systems in place for EU elections remain national, rather than supranational. Neither did a European public sphere «automatically» emerge as unified space for the debate of European politics. Nor can the analysis of the transnationalisation of civil societies in the EU put forward major evidence of the emergence of a united political community, the citizens remaining quite locked away from the EU⁴³. As a whole, representative democracy at the EU level remains quite weak.

2. *Democratic participation and multi-level governance*

The shortcomings of explanations based on a state-centric versus supranational dichotomy are the reason why the multi-level framework may provide better hermeneutics for explaining patterns of political institutions-society relations in the EU. The answer to the characterisation of the EU political

³⁹ AUDEL, K. and BENZ, A., «Expanding National Parliamentary Control: Does it enhance European Democracy?», in KOHLER-KOCH, B. and RITTBERGER, B. (eds.), *Debating the Democratic Legitimacy of the European Union (Governance in Europe)*, Rowman & Littlefield, London, 2007, pp. 57-74; FOLLESDAL, A. and HIX, S., *op. cit.*

⁴⁰ MAJONE, G. (ed.), *Regulating Europe*, Routledge, London, 1996.

⁴¹ BEKKERS, V. *et al.*, *Governance and the Democratic Deficit*, Ashgate, Aldershot, 2007; BELLAMY, R. «Democracy without democracy? Can the EU's democratic "outputs" be separated from the democratic "inputs" provided by competitive parties and majority rule?», in *Journal of European Public Policy*, 17 (1), 2010, pp. 2-19.

⁴² RAMOS, C., *op. cit.*

⁴³ FOLLESDAL, A. and HIX, S., *op. cit.*; MAIR, P., «Popular Democracy and the European Union Polity», in *European Governance Papers (EUROGOV)* N. C-05-03, 2005: <http://www.connex-network.org/eurogov/pdf/egp-connex-C-05-03.pdf> (accessed 02/10/2012).

system does no longer seem to be an either or statement based on the inter-governmental pattern as opposed to the supranational pattern, the latter understood as a state like polity, only in a larger scale⁴⁴. Under a multi-layered framework, the question of democratic participation has to be put at each level within its specificities, and also for the whole architecture involved. The question becomes even more complex because MLG encompasses overlapping levels, and also because multi-level arrangements are not based on such a stricter distinction between society and political institutions as was conventional for domestic representative democracies. With such distinctions blurred, it may be difficult to overcome democratic deficits on the basis of representative democracy only. Thus democratic inputs have to be sought for also under other mechanisms of political participation.

It can be hypothesised that MLG portrays a transitional period, given the systemic changes occurring and the pervasiveness of incrementalism over constitutionalism in the EU. The mechanism meanwhile developed for fostering the legitimacy of the European Commission (the election by the EP) may seem one such experiment, eventually leading to other solutions in the future. However, multiplicity and non exclusive attachments to political levels, rather than hierarchy, seem to be the rule. As a consequence, a framework imbued of traditional legitimation mechanisms falls short of the objectives⁴⁵. Hence, the question is on how to meet the threshold of democratic legitimacy within a multi-level political arrangement.

Subsidiarity, as part of democratic theory and «constitutional» principle in the European Union emphasises the ascendant (subsidiary) characteristic of the levels in EU governance, from the citizen to the top. Eventually, this does not fully characterise reality but only empirical evidence will be able to say more⁴⁶. It is not in the scope of this text to assess concrete practices of democracy at each and every level of multi-level EU governance, nor the transactions between the levels. Yet, in the framework of MLG analysis, it is important to ask whether representative democracy is still a/the solution; and whether there are other solutions that may foster democracy in the EU.

As to the first question: mechanisms of representative democracy in place account for formal legitimacy, notably for Council and EP decision-making. Yet, neither for the first nor for the second case has the process managed to overcome the distance (as expressed in treaty ratification referenda or EP elections turnouts) between the citizens and the European Un-

⁴⁴ Ibid.

⁴⁵ FOLLESDAL, A. and HIX, S., *op. cit.*; KOHLER-KOCH, B., *op. cit.*, 2005; OLSEN, J., *op. cit.*; SCHMIDT, V., *Democracy in Europe. The EU and national polities*, Oxford UP, Oxford, 2006.

⁴⁶ Cf. BEKKERS *et al.*, *op. cit.*; KOHLER-KOCH, B. and RITTBERGER, B., *op. cit.*

ion. Criticisms have also been put forward and some scepticism expressed as to the capacity for improving the EU as a polity, by emulating the state pattern, and thus seeking to implement competitive European party politics, as grounds for a fully representative exercise of legislative and executive powers in the EU. Peter Mair⁴⁷ emphasises the fact that also at the national level partisan politics are undergoing a crisis («depoliticisation») and, therefore, that it is time to seek for other complementary processes of political participation, instead of imprisoning the EU in the old clothes of the states. Mair and Thomassen⁴⁸ even affirm that the lack of party government at the European level (i.e. government according to formal representation) may be more of a virtue than a flaw in the system, an assertion many would nevertheless contest⁴⁹.

Lord and Pollak⁵⁰ speak of «EU's many representative modes» as «compound representation», addressing both conventional, formal mechanisms of representation, as abovementioned and other informal ways of representation, notably through non-elected representatives of civil society organisations and organised interests in general (eg. in consultative procedures). They present both the advantages and the disadvantages of the model. Among the latter, I would stress the possibility that the representation of several interests in such compound system may «collide» instead of «cohere»; besides, unlike under formal representation, informal representatives stand for segmented interests, and thus no general claims can be assumed. The authors do conclude that «EU's specific combination of representative practices hardly allows for ensuring public control with political equality»⁵¹. In fact, increased participation in the design and implementation of policies by those civil society members directly involved may increase the quality of policies. Yet, neither does it guarantee general public control over bureaucratic and political agents of policy making (eg. the Commission) nor are the informal representatives under clear «accountability» rules. As Olsen puts it: «One basic principle of democratic citizenship is that those affected by decisions should be able to influence common affairs on equal terms»⁵².

⁴⁷ MAIR, P., *op. cit.*

⁴⁸ MAIR, P. and THOMASSEN, J., «Political representation and government in the European Union», *Journal of European Public Policy*, 17 (1), 200, pp. 20-35.

⁴⁹ Cf. KOHLER-KOCH and RITTBERGER, *op. cit.*; SCHMIDT, V., «Re-Envisioning the European Union: Identity, Democracy, Economy», *Journal of Common Market Studies*, 47, Annual Review, 2009, pp. 17-42.

⁵⁰ LORD, C. and POLLAK, J., «The EU's many representative modes: Colliding? Cohering?», *Journal of European Public Policy*, 17 (1), pp. 117-136.

⁵¹ *Ibid.*, p. 117.

⁵² OLSEN, J., *op. cit.*, p. 119.

As to the second question: at the basilar level of the patterns of relation between political institutions and societies, a more encompassing notion of participation, rather than representation⁵³, may pave the way for complementary types of democracy⁵⁴. The dividing line between representative and direct democracy runs on the mediation of the will of the citizen by a delegate, as against personal intervention in the process. The first presupposes a strict state-society division. The second easily collides with it, but may fit well into a more indistinct layout as that of MLG.

What was addressed as informal representation above largely draws on the move towards governance and participatory democracy⁵⁵, as fuelled by the European Commission in the last decades. It is therefore in many cases a top-down and output oriented strategy, specifically designed for fostering the involvement of civil society in policy making. It may indeed improve the quality of political outputs and promote consensus among specific interest groups, but it hardly fits a notion of common interest. Other participatory practices, notably deliberative democracy, have aimed at involving the citizens directly, in order to foster the input side of democratic legitimacy⁵⁶. Deliberative experiments are theoretically grounded in the promotion of a European public sphere, which remains nevertheless quite unstructured⁵⁷. Yet, they are difficult to implement in terms of scope and can only encompass the small number, or the small territorial dimension. Furthermore, popular legislative initiative, which was introduced in the treaty of Lisbon, still has its way to make in order to prove its virtues. As for referenda, there is not yet the possibility of a general referendum at the EU level. Besides, the track record of national referenda results on EU issues is far from convergent with the decisions taken by the politicians under the mechanisms of representative democracy.

⁵³ Cf. KOHLER-KOCH, B., «Civil society and EU democracy: “astroturf” representation?», *Journal of European Public Policy*, 17 (1), 2010, pp. 100-116.

⁵⁴ Cf. CATT, H., *Democracy in Practice*, Routledge, London, 1999; HELD, D., *Models of democracy*, 3rd ed., Stanford UP, Stanford, 2006.

⁵⁵ Cf. FINKE, B., «Civil society participation in EU governance», *Living Reviews in European Governance*, 2 (2), 2007: <http://www.livingreviews.org/lreg-2007-2> (accessed 21/02/2013); GREVEN, M., «Some considerations on Participation in Participatory Governance», in KOHLER-KOCH, B. and RITTBERGER, B. (eds.), *Debating the Democratic Legitimacy of the European Union (Governance in Europe)*, Rowman & Littlefield, London, 2007, pp. 233-248; JOERGES, C., MENY, Y. and WEILER, J. (eds.), «Mountain or Molehill? A Critical Appraisal of the Commission White Paper on Governance», *The Jean Monnet Working papers* 6 (01), 2001.

⁵⁶ FINKE, B., *op. cit.*; KOHLER-KOCH, B., *op. cit.*, 2010.

⁵⁷ VREESE (de), C., «The EU as a public sphere», *Living Reviews in European Governance*, 2 (3), 2007: <http://www.livingreviews.org/lreg-2007-3> (accessed 21/02/2013).

Bekkers and Edwards'⁵⁸ systematisation of strengths and weaknesses of models of democracy in terms of input/throughput/output legitimacy is inspirational for analysing both the virtues and the flaws of multiple patterns of democracy applied to the MLG framework. It seems that, given the diversity and intricacy of levels, multiple forms of democracy may produce better combined results than a single form. A remaining question will however be that of the articulation between the levels.

3. *The test of critical junctures*

Recent years have put EU governance to test, notably on what concerns the articulation of the levels and the capacity for effective and timely answers to emergent problems. The depth of economic and monetary integration is now such that there has been an increasing demand for correspondent political integration, especially for facing the several episodes of the long financial and economic crisis that has impacted upon the EU⁵⁹.

From the point of view of institutional decision-making the protagonists have been the European Council, the Council, particularly the Eurogroup formation, and of course the European Central Bank. Leadership, if understood as general guidance for EU's political choices, emerges from the European Council, while the European Commission and the European Parliament have kept a lower political profile. Hence, a problem in the horizontal linkage of EU institutions may be emerging. Although consentaneous with the statutory profile of the institutions, the outcome of the process appears to be a reinforcement of the intergovernmental dimension of EU negotiation. However, there is a paradox, given the asymmetrical nature of that negotiation, apparently the result of imbalances in the pragmatic economic interests of member states. Besides, in the case of states receiving EU's emergency financial aid, a major vertical problem also sprouts from the reinforcement of top-down processes of decision under conditionality agreements that undermine their national autonomy⁶⁰. The intergovernmental framework does not fully explain the process.

⁵⁸ BEKKERS, V. and EDWARDS, A., «Legitimacy and Democracy: a Conceptual Framework for Assessing Governance Practices», in BEKKERS, V. *et al.*, *Governance and the Democratic Deficit*, Ashgate, Aldershot, 2007, p. 55.

⁵⁹ Cf. ZIMMERMANN, H. and DÜR, A., *Key Controversies in European Integration*. Palgrave Macmillan, Houndmills, 2012.

⁶⁰ SCHARPF, F., «Monetary Union, Fiscal Crisis and the Preemption of Democracy», in *MPIfG Discussion Paper*, N. 11, 2011: http://www.mpifg.de/pu/mpifg_dp/dp11-11.pdf (accessed 21/02/2013); RAMOS, C., «The crisis and the ordinary citizen: the role of the people in EU democracies torn by the financial crisis», *International Journal of Human Rights and Constitutional Studies*, special issue (to be published, 2013).

From the point of view of corporate and civil society actors there are also changes, namely: corporate actors moving quickly across the EU territory looking for lower taxes; bank unsteadiness fostering the crisis and pressing negotiations; social unrest expressed in an increase in street demonstrations; electoral patterns' change (eg. Greece, 2012 and Italy, 2013); and, growing public awareness of the EU member-states' economic, financial and electoral interdependences. Furthermore, the abovementioned asymmetry in decision-making hinders the conventional two-step democratic legitimacy of the EU. Therefore, conventional frameworks of participation and legitimacy are being tested, while an emergent European transnational civil society may be in the verge of emerging⁶¹.

As a whole, the European polity can no longer be described as simply an intergovernmental forum of negotiation. Neither does it perform as a coherent and hierarchical supranational polity. It looks more like a new, complex and unfinished political building caught in the emergency of the crisis, being strongly pushed forward by the depth of monetary integration but lagging behind in terms of political integration. The non-hierarchical and discontinuous nature of the multi-level governance structure thus came to the fore.

IV. Conclusion

Theories are helpful for framing interpretations of European integration. With a strong non state-centric focus, multi-level governance is a theory that provides an alternative explanation to the conventional dichotomy between intergovernmentalism and supranationalism. Yet, its multiple and overlapping layers quite inevitably make it a patchy terrain for conventional political participation.

Conventional representative democracy has not proved capable of providing substantial democratic legitimacy at all levels of EU integration. On the contrary, it seems to have sent citizens further astray from politics. Even if the problem is primarily within the domestic relation of governments with their national citizens, in the end it amounts to the «core» problem of EU's democratic deficit, since the levels must be subsidiary.

MLG is an alternative way of looking into European political integration. It requires new conceptual tools and collapses with entrenched state-centric views of the polity, but also with conventional supranationalism. From the institutional point of view, there is evidence that political decision

⁶¹ SCHARPF, F., *op. cit.*; RAMOS, C., *op. cit.*, 2013.

in the EU became something more complex than a conventional intergovernmental negotiation, but also something less organised than a clearly hierarchical supranational polity. MLG deemphasises the alleged mutual exclusiveness of the national and the supranational levels of sovereignty, by considering multiple, overlapping and non-hierarchical levels in the political process, as aforementioned.

Democratic legitimacy and political participation also face new challenges under the fairly unconventional MLG framework. Participation can no longer remain exclusively within the national boundaries, given the shortcomings of representation under the indirect legitimacy pattern, as is many times addressed in the «democratic deficit» debate. The direct legitimacy of the European Parliament is an answer to this, by introducing a clear mechanism of representative democracy at the supranational level. Furthermore, informal ways of representation, for instance under consultative procedures by the EU institutions, reinforce participation. Yet, they do not comply with the rules of electoral representation. However, in the MLG framework, this is a process that carries the imprint of strong civil society participation, as commonly advocated by its supporters.

As stated above, a more encompassing notion of participation, rather than representation, may be fostered in the MLG framework. The blurring of the conventional state-society divide, which was intimately associated to representative democracy, paves the way for debates on complementary modes of participation, from referenda to deliberative democracy exercises. The latter may at first sight seem more adequate for decision-making at the micro level. Yet, the point is that the conventional national level of politics is being curtailed in its exclusive relation with the citizens, because of the many modes of representation and of the many modes of participation emerging in the MLG framework. The same citizen may be inscribed inside different and unstable circles of participation, making of the whole political process a complex ground for negotiation.

This idea reintroduces the debate on loyalties and the boundaries of political communities which, from this point of view, must be considered of variable geometry. Yet, the academic debate forcefully has to ask whether the institutions and, moreover, the citizens are already living beyond the mental framework of the nation-state, as Olsen puts it, and incorporating multiple levels and new modes of participation, as so many times prescribed by the European Commission itself. If not, then MLG may fail, by reproducing the pattern of the former «democratic deficits» of the EU: top-down prescription.

It is also not immediate that MLG fosters EU democracy. The multi-level, decentralised framework of subsidiarity and the prescriptive idea of «good governance» as «democratic governance» attach it to the democratic

pattern but, in practice, there are shortcomings. However, the major contribute of MLG for fostering EU democracy may well come from decentring democracies from the national level and pushing them upwards, downwards and sideways, thus creating a third way, out of the apparent dichotomy between the national democratic polity and the supranational nation-state-like democratic polity. If a transition to a supranational polity is ever to occur, it will most probably not rely on sudden and abrupt transference from an intergovernmental pattern to a supranational solution. MLG is in between.