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## **DELIVERABLE 4**

# **The European Public Sphere: A Monitoring System**

### ***Project Co-ordinator:***

*The Interdisciplinary Centre for Comparative  
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### ***Partners:***

*ECOLOGIC Institute for International and  
European Environmental Policy*

*Research Centre for Citizenship and Civil  
Society of the University of Barcelona*

*University of Gothenburg – Inter-European  
Research*

*Queen Mary and Westfield College of the  
University of London*

*Institute of Sociology of the Academy of  
Sciences of the Czech Republic*

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# **EUROPUB Project**

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### **European Public Space: A Monitoring System**

March 2004

This report presents the results of the work carried out in the framework of WP4 of the EUROPUB project for the development of an assessment framework that can be used to assess the democratic standards and practices in the European Union. It comprises an introductory paper and eight annexes.

The introductory paper, authored by Liana Giorgi, and entitled 'The European Union as a Democratic Political System; Towards a Revised Assessment Framework' provides the conceptual background for the development of a democratic audit for European multilevel governance. It includes a review of previous audit experiences and a reflection on Dahl's work on democratisation that has informed much of the democratic audit scholarship and which can also be used to design a democratic audit for the European Union. Against this background, the fourth section of this paper outlines the main elements of the EUROPUB democratic audit.

The Annexes to this report present the EUROPUB indicators.

Annex I provides a visual representation of the EUROPUB democratic audit.

Annexes II to VIII present the indicators corresponding to the following strategic objectives around which the audit is organised:

- Subsidiarity
- Coherence and effectiveness of policies
- Rule of law and access to justice
- Effective, independent and representative legislature
- Civil, media and corporate responsibility
- Openness and participation
- Citizenship.

The EUROPUB democratic audit can also be viewed at the EUROPUB Web Site at <http://www.iccr-international.org/europub/monitoring>

*Liana Giorgi*

*The Interdisciplinary Centre for Comparative Research in the Social Sciences (ICCR)*

## **The European Union as a Democratic Political System – Towards a Revised Assessment Framework**

“Whatever form it takes, the democracy of our successors will not and cannot be the democracy of our predecessors. Nor should it be. For the limits and possibilities of democracy in a world we can already dimly foresee are certain to be radically unlike the limits and possibilities of democracy in any previous time or place (...) Yet the vision of people governing themselves as political equals and possessing all the resources and institutions necessary to do so, will I believe remain a compelling if always demanding guide in the search for a society in which people may live together in peace, respect each other’s intrinsic equality, and jointly seek the best possible life” (Dahl 1991, p.341).

The significant extension of the competences of the European Union following the Maastricht Treaty in 1992 gave rise to an intense debate during the last part of the previous century regarding the democratic legitimacy and possible deficit of the European Union as a political system. These concerns have been accentuated by the decision to proceed with the project of East European enlargement. The latter made clear that efficiency in decision-making and success in policy output would only be possible within a transparent, expedient and accountable institutional framework.

The European Convention on the Future of the European Union was launched in 2002 with the task of specifying this new institutional

framework for the enlarged Union. This was the second go at this rather ambitious project, the first being the 2000 Intergovernmental Conference that resulted in the Nice Treaty. The Convention finished its work by proposing a Constitutional Treaty yet the European Council failed to reach agreement on this at its December 2003 meeting in Brussels. Opinions currently diverge regarding the likelihood of obtaining agreement on this issue in the near future.<sup>1</sup>

The allocation of the task of elaborating the details of the institutional reform to a Convention made up largely by parliamentary representatives – national and European – is indicative of the significance assigned to the Union's democratic character as a source of legitimacy. The decision to recommend a Constitution as a framework for an institutional reform suggests, moreover, the implicit intention to begin thinking of the European Union's political system as a state political system even if it is not yet one by reason of subsidiarity and the continuing predominance of nation-state sovereignty in key areas like justice affairs, police, the security and the armed forces.

Independently of whether the Constitutional Treaty becomes a reality or not, the developments of the last couple of years suggest that the future of the Union will fundamentally depend on how it articulates and carries out its functions as a democratic political system, state or non-state. Democracy is however not a distinctive attribute. Even if it is straightforward to characterise non-democratic political systems as such, those that are democratic are often so to a variable degree by reason of performance or they are variable by intention, i.e. in that they follow different normative and institutional frameworks. Therefore if we want to comprehensively address the problem of the Union's democratic deficit – either from a scientific analytical viewpoint or a political perspective – we must establish a basis of measuring the extent to which EU institutions or procedures are democratic and detail their characteristics.

This paper advances a framework for the assessment of democracy at European Union level. It begins with a review of previous experiences with democratic audits developed primarily for the national level. We

consider the work done in the UK, Sweden and Australia as well as the assessment frameworks developed by international organisations like Freedom House, the International Institute for Democracy and Electoral Assistance (IDEA) and the Centre for Democracy and Governance of the U.S. Agency for International Development (USAID). This section also reviews the first Democratic Audit of the European Union developed in the UK by the same scholar group working on the UK Democratic Audit. Against this background, the second section critically assesses the work on ‘democratic modelling’ from the perspective of Robert Dahl’s work (1971, 1991) which inspired much of the democratic audit scholarship. In the third section we outline the specific characteristics of EU democracy which need to be taken into account when developing a democratic assessment framework for this polity level. Based on these considerations, section 4 proposes a revised framework for the assessment of democratic standards and practices at European Union level.

## **1 Previous experiences with democratic audits**

A democratic audit is “a systematic assessment of a country’s political life in order to answer the question: how democratic is it?”. It represents a ‘benchmarking’ or evaluative exercise that relies on a set of criteria or indicators for measuring the condition of democracy in a particular country. These are the definitions provided by the International Institute for Democracy and Electoral Assistance (IDEA) and the Centre for Business and Policy Studies of Sweden (SNS) respectively. IDEA runs a programme on the state of democracy and has developed for this purpose a *Handbook on Democracy Assessment*. The SNS has been in charge for the formulation and implementation of the Swedish democratic audit since 1994.

Democratic auditing is not new. The first attempts for monitoring the state of national democracies began in 1955 with the launching of the ‘Freedom in the World Survey’ by Freedom House. This concentrated on

political rights and civil rights but included consideration of the rule of law and the functioning of government.<sup>2</sup> Most national democratic audits, however, derive their inspiration and theoretical underpinnings from Robert Dahl's seminal work on *Polyarchy* (1971) and the work carried out in the framework of the Democratic Audit of the UK (1994-1998) (Beetham 1994, Weir and Beetham 1999)<sup>3</sup> that further elaborated Dahl's criteria.

Dahl (1971, 1991) considered inclusiveness and public contestation as central to democratic political systems. Inclusiveness refers to the provision of citizenship to all those with a legitimate stake in a polity. Following from this, civil and political rights as well as voting equality are key democratic criteria. Public contestation implies the ability of citizens within political systems to formulate and signify their preferences but also to have these adequately represented or weighted in the conduct of government. This presupposes the existence of institutions that make the formulation and implementation of policies dependent on citizen input. An assessment of democracy must therefore explore the opportunities for citizen information and effective participation.

The UK Democratic Audit concentrates on the representative democratic model. According to Weir and Beetham (1999), a representative democracy must guarantee public control and political equality. These, in turn, are mediated through authorization, accountability and responsiveness. A number of 'empirical preconditions' measure the realisation of the core values and mediating principles. These empirical preconditions are free and fair elections, open, representative and accountable government as well as democratic society and civil liberties. In order to facilitate international comparisons, Beetham subsequently extended the list of empirical preconditions to include citizenship, law and rights, participation and governance responsiveness and democracy beyond the nation state (Lord 2001).

The method of assessment in this as well as most other audits reviewed in this section includes answering a number of *generic* questions for each category. For instance, questions relating to 'government

responsiveness' relate to the degree of openness and systematic character of procedures for public consultation; the existence of opportunities for the public to influence policy agendas; the extent to which the making of law and policy correspond to the ideals of political deliberation; the existence of evaluation arrangements for existing policy and law in the light of citizen feedback and the degree of trust in political institutions.

The IDEA Handbook on Democracy Assessment<sup>4</sup> sought to further extend the comparative basis of the UK Democratic Audit. Like the latter, the IDEA framework considers popular control and political equality as the key dimensions of democracy. Intermediate dimensions are defined somewhat differently as comprising a guaranteed framework of equal citizen rights, institutions of representative and accountable government and a civil or democratic society. A detailed examination of the individual criteria or generic questions posed by the UK and IDEA audits reveals a significant overlap, albeit with a few notable exceptions. Thus the IDEA framework explicitly considers 'decentralisation' as an evaluative criterion concerning democracy and also explicitly mentions social rights as part of citizen rights.

The democratic audit of Sweden addresses similar dimensions but places the emphasis on government rather than on politics or society. This is probably not unrelated to the main motivation for embarking on a democratic audit for Sweden, namely the conclusion by economists working on the SNS annual report on Sweden's economy that weak economic performance was linked to problems within the political system (Micheletti 1998). The SNS framework comprises three dimensions and thirteen criteria. The three dimensions are popular government, constitutional government and effective government. The 'popular government' dimension reiterates the principles of 'public contestation' as elaborated by Dahl, i.e. control of the agenda, enlightened understanding, effective participation and decision-making equality. Like with IDEA, effective participation includes explicit reference to the local dimension of democracy in that it mentions local self-government. The Swedish democratic audit enlarges this area to include citizen tolerance

in order to tap on the political capacity of citizens and the civil society to respect the democratic principle of giving voice to minority views. Under 'constitutional government' we find many of the criteria that other audits raise under rule of law or civil and political rights but also reference to the separation of powers within government and between the executive, legislative and judicial functions. Finally 'effective government' reiterates many of the issues raised under 'accountable government' in the UK Audit with a greater emphasis on the outcomes of policies and in particular the efficiency of their implementation. Criteria under this dimension also raise the issue of institutional capacity, including resources, to enable government organisation to implement policies and policy reforms.<sup>5</sup>

The Centre for Democracy and Governance, established as part of the U.S. Agency for International Development (USAID) in 1994, elaborated an assessment framework comprising strategic objectives, intermediate results and indicators and targeting young democracies. Four strategic objectives were identified as important for monitoring democracies on a regular basis: rule of law and respect of human rights, genuine and competitive political processes, a political active civil society as well as transparent and accountable government institutions. There are two novelties regarding the USAID democracy framework. The first has to do with its emphasis on political democratic culture. An aspect of this dimension was raised by the Swedish democratic audit that highlighted citizen tolerance as a democratic criterion. The USAID framework is significantly more extensive and covers civil society organisation, political parties and the media, including the latter's internal organisation and democracy as well as institutional capacity to represent and effect policy input. The second innovation of the USAID relates to its methodological framework.<sup>6</sup> The USAID democratic assessment framework is the first to seek the definition of measurable indicators. Most other democratic audits stop at the definition of criteria corresponding to key dimensions and propose that the assessment is carried out through experts or citizens by answering generic questions. The USAID attempts to move away from this. Thus, for instance, it proposes the identification and description of the main civil society

organisations or the counting of women or minority representatives within political parties towards the achievement of a certain threshold. Important to recall is that the USAID democracy assessment framework is conceptualised as a monitoring tool that should be used at regular intervals to tap on democratisation. From this perspective, the collection of quantitative information, where possible, gains in relevance.

A new democratic audit is currently under development in Australia. This again builds on the experiences of the UK Democratic Audit and IDEA but seeks adaptations to reflect Australia's federal system and inter-governmental system of decision-making. The Research School of Social Sciences of the Australian National University that has initiated the Australian democratic audit also promises to evaluate how representative government institutions may limit the scope for popular control and effective participation. The quality of public debate and discussion, i.e. the degree to which debates and discussions can be distorted by manipulation, strategizing, deception and restrictions on "allowable" communication represent another key focus of the research (cf. Dryzek 2000). The Australian democratic audit promises to be of particular interest for the European Union for its focus on federalism, inter-governmental decision structures and democracy beyond the (liberal representative) state.<sup>7</sup>

These areas are only cursorily addressed by the 'Democratic Audit of the European Union' project financed by the ESRC under the 'One Europe or Several?' research programme (1999-2002) (Lord 2001).<sup>8</sup> This audit – the first to target the European Union directly – focuses instead on exploring first, how the weights attached to specific democratic criteria may differ depending on the real-democratic model chosen and second, how different models may apply to different community methods of decision-making as well as different European institutions like the European Parliament, the Council or the European Commission.

'Euro-democracy' according to Lord (2001) is characterised by "competing ideas of what would count as an adequately democratic EU"

(p.645). These he classifies as competitive, consensual or participatory. For each of these 'models' it is possible to specify indices of democratic performance from among the pool of criteria (generic questions) included in the UK Democratic Audit. For example, the key to understanding and assessing the competitive democratic model is the scope and performance of electoral and party systems at national and European levels, whereas central to the consensus model is the acknowledgement of different social and ideological interests in the policy process as well as the reliance on decision-making procedures that promote the reaching of consensus or the balancing of different kinds of majorities. Both competitive and consensual democratic models assume a certain level of interest representation and the aggregation of these through either voting and/or the policy process. In contrast, the participatory democratic model emphasises both inclusive and active citizenship and prioritises deliberation as a method for decision-making.

None of the existing national democratic polities can be classified as clearly belonging to any of the above democratic families. Real democracies are hybrid constructions. This is all the more true of the European Union. Hence, according to Lord, when undertaking a democratic assessment at EU level, it is important to specify the unit of assessment prior to collecting and analysing relevant information on the selected indices. Specifying the unit of assessment also implies focusing on the "main variations in the democratic standards in the politics of the EU" (p.646).

Democratic standards at EU level vary around two key dimensions:

- (a) the European institution – Council, Parliament, Commission;
- (b) the policy area – next to the three pillars Lord considers a fourth residual category to include all those policy areas which are dealt with 'flexibly' and which, as a result, give rise to different procedures for decision-making and inter-institutional configurations; finally, monetary / fiscal policy is identified as a stand-alone area.

The possibility of a two-way variation of democratic standards at EU-level, i.e. across both EU institutions and policy area – or even of three-way interactions if the national variation were also to be taken into account – are not explicitly addressed by Lord. These are nevertheless possible following the above conceptual model.

## **2 Democratic ‘modelling’ and/or democratisation?**

One of the most frequent criticisms of democratic audits concerns the variation of democratic regimes (cf. Lord 2001). That this is particularly relevant for the assessment of democracy at EU level is understandable. The trans-national character of the EU as well as its non-state character (as of yet) are strong reasons to be cautious about carelessly transferring the experiences made through largely national democratic audits to the European level.

In the literature there are two standard ways to analyse the differences between democratic models in theory or between real democratic systems in practice.

The first is to focus on the normative criteria of democracies with regard to the role of the state, the scale of political action, the processes that make up politics, the subject matter or scope of politics, the nature of the people and the nature of political judgement. Held (1996) discusses these analytical issues by distinguishing ten generic or ideal-type democratic models. These, as Crowley (2003) says, “may conveniently be thought of in terms of possible ways of making sense of these questions and answering them” (p. 18).

The second way of thinking about different democracy types is by concentrating on their practical aspects, namely their institutional practices regarding decision-making and the processing and aggregation of citizen preferences. Crowley (2003) draws a distinction between three significant competing models, namely that of aggregation through voting, that of delegation through representation and that of

deliberation through direct citizen participation in policy-making. Contemporary democratic systems, according to Crowley, tend to rely on a combination of aggregation and delegation. Some form of civic republicanism through a greater emphasis on deliberation might however deserve “normative priority” in contemporary considerations about how to overcome the European democratic deficit. The three-fold classification of ‘Euro-democracy’ models by Lord (2001), which was reviewed in the previous section, is not equivalent to that of Crowley but also not contradictory. The competitive and consensus democratic approaches can be thought of as representing different ways of combining and balancing the aggregation and delegation principles. The participatory approach corresponds to what Crowley, following political theory, labels civic republicanism.

It is beyond debate that national democracies differ with regard to their normative criteria and, by extension, their institutional practices. Britain can be taken to come closest to the competitive democratic model while Switzerland is the most participatory in relying extensively on direct democratic procedures (Abromeit 2001). Post-war Austria and also the Netherlands during the same period came closest to the consensus democratic model – Austria in an attempt to balance social and ideological differences that had led to the civil war in the inter-war period and subsequently the take-over by Nazi Germany; Netherlands in order to balance religious differences (Mol 1972). Both countries have in the meantime assumed more competitive elements (Luther and Pulzer 1998).

A closer look at social institutions and sectoral policies within democratic societies, however, reveals a much more differentiated picture in terms of democratic practices. Hence in the field of environmental policy and technology assessment, participatory structures have been in place for some time now and across several countries, including those with no tradition in deliberative democracy. (Joss and Belucci 2002). Wage policy has tended to involve the social partners also in countries with no tradition in corporatism. To this must be added that the process of European integration has tended to support inclusionary decision-

making processes in areas such as the labour market, regional policy or infrastructure investment (Homeyer et al. 2003). On the other hand, the institutional opportunity structures for participation in areas such as migration or monetary policy remain restricted even in societies with a tradition in consensus or deliberative democracy.

Such and similar considerations led Lord to the conclusion that democratic assessment at European level is only possible if the 'democratic model' character of the policy sector or institution in question is specified first. An equally legitimate conclusion to draw from this 'variable geometry' however is that democratic 'modelling' as a classificatory exercise is useful only to a certain extent, namely that of clarifying the normative orientation of democratic polities at the *national* level. Dahl (1971) makes this specification for his own list of criteria and contextual conditions regarding polyarchies. Relevant to this discussion of democratic 'modelling' is also the second of Dahl's specification, namely that concerning democratisation as a historical process. Unlike much of the contemporary debate on democracy – including that on democratic audits – Dahl emphasises the character of democracy as a dynamic process.

Indeed, the objective of Dahl's *Polyarchy* book was to specify those conditions that may favour or impede the *transformation* of a political system into a regime in which the opponents of the government can "openly and legally organise into political parties in order to oppose the government in free and fair elections" (p.1). Dahl sees democratisation as developing around two dimensions, namely, public contestation and inclusiveness. A system which displays no or little public contestation and is limited only to a small number of citizens is characterised as a closed hegemony. Competitive oligarchies are characterised by low inclusiveness but a high degree of contestation. Inclusive hegemonies are the opposite of competitive oligarchies, they are generously inclusive but provide little space for public contestation. Polyarchy is that system which is inclusive and liberal with regard to public contestation. Democracy is closest to polyarchy, whereby Dahl is careful not to entirely equate the two terms "since democracy may involve more

dimensions ... and, since no large system in the real world is fully democratised” (p.8).

As a process, democratisation takes place in history. Dahl distinguishes three key transformation periods regarding democratisation and sees his work as relating primarily to the first and second phases, namely, the transformation of hegemonies and competitive oligarchies into near-polyarchies (during the nineteenth century) and the transformation of near-polyarchies into full polyarchies (at the end of the nineteenth century and the beginning of the twentieth century) (p.10). The third transformation phase, which according to Dahl began in the 1960s, concerns advanced democracies and the multitude of “social institutions” (p.11) *within* democratic societies. At this stage, the assessment of democratic institutions becomes more complex as it is multi-level within and across societies.

Twenty years after *Polyarchy* was published, Robert Dahl published another book on democracy entitled *Democracy and its Critics* (1991). In this book Dahl elaborates many of his previous arguments regarding the democratisation process and discusses problems related to this. Relevant for the present discussion are his conclusions about the specificities and prospects of advanced democracies.

Dahl notes that democratisation has been about the gradual extension of citizenship rights to an ever greater number of individuals. This brings about a significant change of scale.

“ ... even while the second transformation drastically reduced the opportunities for direct political participation in the decision of the national government, and virtually eliminated prospects that all citizens might be committed to a harmonious vision of the common good, it prodigiously increased the number of people who lived within a common legal and constitutional system and enjoyed a comprehensive body of equal rights. While the first transformation had transferred the right to govern from the few to the many, the ‘many’ were in actual fact rather few

while those who were excluded were in actual fact rather many. By contrast, after the second transformation was completed in democratic societies (with no little struggle), equal rights of citizenship had been extended to virtually all adults. Are we now in the midst of another dramatic increase in the scale of decision-making? And may not this change prove to be as important for democracy as the change in scale from city-state to national state?" (Dahl 1991, p.318).

This change of scale, Dahl goes on to argue, necessitates an adaptation of the democratic idea. "The most obvious is to duplicate the second transformation on a larger scale: from democracy in the national state to democracy in the transnational state" (p.320). Dahl sees the European Union (at the time of writing the European Community) as possibly "harbouring a supranational growth gene" (op. cit.). However he is cautious about the democratic prospects of supranational states or political systems (like international organisations). He thinks that such supra-national political systems bring about new problems which could lead to the demise rather than the strengthening of democracy by supporting what he calls (following Plato) 'guardianship' and which is elsewhere referred to as technocracy or expertocracy (cf. Held 1998).<sup>9</sup> His comments resonate those made by several other scholars of social and political theory in the recent years.

In order for democracy not to fail in complex, multilevel and transnational systems, a number of preconditions would need to be fulfilled. Following Dahl, the most important of these would be the following:

1. Democratic institutions would have to be strengthened at *all* levels and not solely at the transnational level. This means that democracy would need to be strengthened at national level but also, significantly, at the local level: "The larger scale of decisions need not lead inevitably to a widening sense of powerlessness provided citizens can exercise significant control over decisions on the smaller scale of matters important in their daily lives" (p.321). The subsidiarity principle which is at the core of the EU experiment of

political integration would appear to be in line with this recommendation.

2. Reducing gross political inequalities with regard to resources, capacities and opportunities. Political inequalities are likely to increase in advanced democratic societies by reason of constraints imposed by increasing size and complexity. Hence a democratic society should focus on reducing “the remedial causes of gross political inequalities” by improving the opportunities for personal development, promoting the advancement and protection of valid interests and supporting the diffusion of knowledge and cognitive skills (pp.323-4).
3. Extending democratic control and auditing to the internal government of firms. Dahl’s recommendation follows his conclusion that the market economy – in principle a key element of democratic societies – is today characterised by an increasing concentration. Already back in 1971 he considered the concentration of income resources to be counterproductive for polyarchies. At the firm level this supports a shift towards ‘stockholder’ or ‘shareholder’ democracy.<sup>10</sup>
4. Avoid reliance on only a few experts for policy-making. Dahl thinks that the greatest danger for the long-term prospect for democracy derives from that particular subset of intellectuals “who are particularly concerned with public policy and actively engaged in influencing governmental decisions, not only directly but also indirectly through their influence on public and elite opinion”. Their role in public policy decisions, he goes on to argue, “would hardly be a matter of profound concern to citizens in an advanced democratic society if it were not for the increasing complexity of public policies” (p.333-5).
5. Finally and in line with the above, Dahl reiterates the key argument made in his earlier book, namely increasing the institutional opportunities for citizen participation in decision-making. He recognises however that this is more difficult to organise in a supranational and complex polity. Even though he does not

elaborate a lot on this point, he points to instruments like citizen conferences organised at different levels and points in time and on different topics that would help create “a critical mass of well-informed citizens” (p.339).<sup>11</sup>

Dahl’s work from 1991 does not constitute a comprehensive theory regarding the democratic performance of advanced democracies in transnational contexts but it provides the basis for developing one. The democratic audits elaborated during the 1990s derive their inspiration mostly from the previous work of Dahl (back in 1971) and as such are only appropriate in part for assessing democracy at European level. This also applies to the European Union Democratic Audit developed in the framework of the ESRC ‘One Europe or Several’ Programme because of its primary emphasis on EU institutions and pillars.

Instead what is needed is a framework that concentrates on the traditional aspects of democracy (which are still valid) but tries to locate these in the new context of a trans-national and multi-level polity, keeping in mind that the latter has still to achieve its final state in terms of political organisation and political community.

Prior to presenting such a framework, we review in brief the specific characteristics of the European Union as an advanced transnational democracy in-the-making. This discussion is meant to alert us to those issues which are important to consider when assessing democratic performance at European Union level.

### **3 What makes EU democracy so specific?**

The process of European integration has led to a significant transformation of nation-state sovereignty and nation-centred forms of political legitimation. In that it has contributed to the perceived weakening of social institutions which is a more general process associated with the emergence of the knowledge society. In a knowledge society knowledge becomes not solely the driver of economic

development but also a commodity which is more widely diffused and accessible. At the same time the restrictions on individual choice increase by reason of complexity and uncertainty (Stehr 2003). This brings about new demands on government and democracy. This chapter sketches these developments with reference to the European Union.

European integration has clearly been accompanied by a “redeployment” of state functions even if no longer or always at the national level. The European Union has been taking over from the nation-state several functions which the latter performs less well, like the regulation of financial markets and international trade (Delanty 2000). Indeed, the regulatory character of the European Union (Majone 1996) has since the Maastricht Treaty been gradually extending to areas other than trade or the market. As of recently, and through the open method of coordination, the Union is also attempting to consolidate its agenda-setting role in areas which are still carefully guarded for national sovereignty, that is labour market policy and social inclusion (as indirectly also affecting systems of social protection). This redeployment of state functions has been assessed by most as signalling the erosion of state power.<sup>12</sup> This perception is aggravated by the rather extensive variability of regulatory regimes in conjunction with a serious implementation deficit in several areas (Philippart 2003).

Despite the extensive and constant assumption of state functions by the European Union the majority of political observers and academic scholars are very cautious about referring to the European Union as a state political system. Key areas of state sovereignty like security and foreign policy still rest with the nation-state (Hix 1999). Yet the uncontested state-like political role of the European Union has raised questions of democratic legitimacy leading to the establishment of a European Parliament in 1979 and the gradual extension of the latter's powers in terms of legislative control. The European Parliament shares legislative functions with the European Council while the latter has also executive functions together with the European Commission. The one ‘state function’ which is clearly attributed at European level is the judicial function. This state of affairs is considered as slowly reaching its limits in

terms of both efficiency and effectiveness and not least in terms of actual and perceived accountability and transparency. Indicative of this is the call of the White Paper on European Governance (2001) for a clear separation of powers, an issue taken up once again by the European Convention on the Future of the European Union.

The European Union is based on the principle of subsidiarity and a key debate in this connection has been whether, as a result, the European Union can be seen to be gradually developing into some form of a federal state. One problem with this proposal is that this would imply a choice between competing state models which is not forthcoming or obvious in the near future (Siedentop 2002). In practical terms the fact that the European Union is made up of constituent parts which differ both in size and in terms of political-territorial organisation<sup>13</sup> is a serious obstacle not least because these differences emulate differences in political culture. The latter are reflected, among others, in the different ideologies and organisational structures of political parties around Europe – one reason for the difficulties of European party federations to present consistent and comprehensive political programmes at this level.<sup>14</sup>

The weakening of parliamentarism – especially obvious at the European level but also apparent at the national levels – has at the same time meant that change is today more likely to be effected through governance than through government where governance indicates the horizontal networking among several self-organising actors (Rhodes 1996) and in the best case “the political assertion of civil society” (Delanty 2000, p.52).<sup>15</sup> This is evident on the national level where we find some of the earlier ‘new’ social movements to now constitute key voices and centres for repeated mobilisation around alternative views. In areas such as the environment and technology assessment these movements have in the meantime assumed a strong trans-national component and use ‘Europe’ as a platform for demanding policy reform. The same is true of the anti-globalisation movement even if in substance it is not concerned with Europe as such (Feron 2004). However, given that the identification with Europe as a political community still remains a

minority phenomenon, it might be too early as of yet to talk about the emergence of a truly European civil society. Nevertheless, it is possible to talk about the emergence of overlapping European public spheres as spheres of discourse and debate around European issues. These debates are still occurring at the national level but they concentrate on European issues and increasingly display shared meanings. This can be seen in the sphere of communication proper, i.e. the media (Koopman and Erbe 2004) as well as the semantic reference frameworks used by civil society organisations but also actors closer to government like trade unions but also government proper (von Homeyer 2004). Even if these (national) debates are far from being disconnected temporally or with regard to participating actors, they are also not integrated in such a way as to allow us to talk of a single European public sphere. Hence the reference to European public spheres in the plural.

The increased salience of citizen participation and hence deliberative democracy – in theory as well as in practice – is not reflected in the development of European citizenship. This is largely formalistic in that it concentrates on rights, yet it misses one significant element of formal citizenship as a set of rights and duties. This concerns social rights. Given that the boundaries of the welfare state are still national there is no social dimension to European citizenship other than that which applies to European citizens working in another European Member State. In the context of restrictive migration policies, European citizenship has also been little successful in achieving a shared recognition status of immigrants from third non-European countries already residing in the European Union. The result is that Europe represents an agglomeration of different multicultural integration regimes.

European citizenship has yet to gain value resonance as representing membership in a political community. This is not unrelated to the linguistic and cultural diversity within Europe that represents the most significant source of complexity within multilevel governance polities at the symbolic level and is repeatedly referred to as possibly the main obstacle to European political integration. I leave aside those making

such arguments out of nationalist sentiment which they dress up as patriotism but which hide in fact racism (the case of the extreme right wing in most European countries). A more serious objection to European political integration with reference to language and culture is that which correctly points to the importance of communication in democracies, hence also language, and to the familiarity implied by sharing a common culture which is a useful basis for a political community.

A cosmopolitan political community is either brushed aside as universal liberalism which must be rejected on both empirical and conceptual grounds as not recognising difference (Hall 2002) or as vague and abstract political thinking which is naïve. The following quotation from Calhoun (2002) summarises the above arguments quite nicely:

“If one of its virtues is challenging the idea that nationality (or ethnic or other identities understood as analogous to nationality) provides people with an unambiguous and singular collective membership, one of its faults is to conceptualise the alternative too abstractly and vaguely. Another is to underestimate the positive side of nationalism, that is the virtues of identification with a larger whole. This can indeed be oppressive and antidemocratic. But it can also be the source of mutual commitment and solidarity underpinning democracy and uniting people across a range of differences. Moreover, whatever its limits, the nation-state has proved to be more open to democratisation than religious or some other types of large groupings” (p.96)

Gerard Delanty (2000) following Habermas (1991, 1998) has a different answer:

“ ... if Europe cannot be a ‘real’ community perhaps it can become a ‘virtual’ one. This virtual society is not one that is constituted as a system of values but as a discursive framework ... since under the conditions of multiculturalism and cultural diversity – which would be both impossible and undesirable to wish away, quite apart from being dangerous

– Europe cannot be based on a cultural community ... the challenge for further social transformation is to explore how the principle of discursivity can be given expression by European integration. In this context, a central position is that of status and the role of knowledge” (p.118).

Which of the two approaches turns out to be right – or less wrong – remains an open question and one of the most significant ones regarding the prospects of European democracy.

#### **4 A new framework for EU democratic assessment**

This chapter proposes a new assessment framework for democracy in Europe. We refer to this democratic audit as the EUROPUB Democratic Audit in acknowledgement of the research programme within which it was developed.

The EUROPUB Democratic Audit is organised on three levels following the USAID methodological framework:

**Strategic Objectives** – these are principal themes identified as of key significance for understanding and assessing democracy.

**Intermediate Results** – these are sub-themes corresponding to each strategic objective; they allow a more in-depth and structured assessment of each strategic objective.

**Indicators** – a set of measurable indicators are proposed for each strategic or intermediate objective. Each indicator separately and all of them jointly allow to gauge how a particular society or political / institutional level in a multilevel governance context performs with regard to the principal democratic themes under consideration.

Following the discussion in the previous sections, the EUROPUB democratic audit is based on the following key premises:

**Subsidiarity** is a substantive normative orientation of the EU political system and in the best case a roadmap about how to divide and share competencies between different levels of government. Following subsidiarity decision-making rests with that level of government or territory for which the decision is more relevant. Reiterating Dahl (1991), this empowers citizens to exercise control over those decisions on smaller scale that are significant for them.

A correct interpretation and application of subsidiarity in a democratic context implies (a) an efficient and transparent division of powers at European level; (b) efficient and transparent rules on shared competencies between European, national and regional levels of government and (c) responsiveness to the local level where most decisions have to be implemented. These are also the three intermediate results dimensions corresponding to the subsidiarity strategic objective. The indicators covered by this dimension cover institutional competencies, rules on institutional reform, intra-governmental consultation, the definition and practice of sharing of powers – in general and with regard to policy definition, formulation and implementation – the constitutional devolution of power, the local government capacity to act and mechanisms of participation at the local level.

The sharing of decision-making responsibility and policy implementation across different territorial levels also implies that judging EU democracy also means judging democracy at all of these levels. From this follows one key characteristic of the EUROPUB democratic audit. Most indicators of the audit apply to at least two levels of government – the European and the national – and in many cases the assessment must be extended to cover another two levels, namely the regional and local. This perspective is also in line with that of the SNS audit developers who similarly argue in favour of using the same framework to assess democracy at different levels (Peterson 2002).

This approach is only seemingly at odds with that of Lord (2001) who contends that different criteria must be applied to different democratic

types used to describe European institutions or community methods of decision-making. In the EUROPUB democratic audit we prefer instead to speak about different modes of government and corresponding policy processes when assessing the **coherence and effectiveness of policies**. This is better aligned to the terminology in policy analysis which is better equipped both conceptually and methodologically to contribute to the study of decision-making processes at different levels.

Indicators under the theme 'coherence and effectiveness of policies' include:

- For establishing the governance mode of a particular policy sector: the extent of reliance on either positive regulation (command and control measures), negative regulation (removal of market barriers) or policy mixes; the significance of voluntary agreements; the application and use of the open method of coordination; the role of evaluation as well as of autonomous agencies.
- For establishing the characteristics of the policy process and subsequently its openness: rules and practices governing policy formulation and implementation, policy reform and policy evaluation; the role of the legislative in policy decisions; the scope and extent of inter- and intra-governmental consultation as well as of participation and consultation (with citizens, civil society organisations, experts); and ethical standards.

Understanding how multilevel governance works and, more importantly, whether it works effectively implies that different policy domains should be assessed and compared across Member States and at the European level. At this stage, no definitive answer can be provided to the question whether certain governance modes are more democratic than others or what may be the democratic quality implications of a combination of different governance modes across Member States.<sup>16</sup> Answers to these questions can only be supplied gradually as empirical results of policy analyses emerge.

The next two strategic objectives are regularly found in democratic audits, but no less important.<sup>17</sup>

**Rule of law and access to justice** is at the centre of democratic societies. Three sub-themes or intermediate objectives are of particular relevance in this connection: (a) human right legislation and implementation; (b) the extent to which the legal framework of a society supports market-based economies, albeit not at the expense of public services; (c) the openness and comprehensiveness of the legal sector, especially concerning the independence of courts, equal access and due process.

Representative democracy is a foundation of modern democratic states. The objective of indicators under the strategic objective '**effective, independent and representative legislature**' is to capture the extent to which the legislature is not only representative but also has the capacity to influence policy. In turn this includes assessments of the extent to which citizens may access legislative procedures as well as of the function and representativity of political parties as measured by internal management and democratic procedures, the representation of marginalised groups, political programmes and political elites.

The internal democratic organisation of modern social institutions is at the core of the strategic objective '**civil, corporate and media responsibility**'. Democracy is not alone a condition that is structured from above through legislation or policy but also one that is reflected in the behaviour of economic actors, civil society organisations and the media.

With regard to civil society, indicators listed relate to the legal framework on civil society, the existence of key civil society organisations, the existence of civil society organisations representing marginalised groups and the institutional / financial capacity of civil society organisations. Insofar as corporate responsibility is concerned, key areas to address are the legal framework on corporate social responsibility and the existence of key economic lobbies. Turning finally to the media, principal themes include the legal framework on media ownership and

management, the existence of plural information sources as well as of investigative media.

The last two strategic objectives of the EUROPUB democratic audit are 'Openness and Participation' and 'Citizenship'.

**Openness and participation** taps on Dahl's key argument regarding democratisation, namely, the institutional opportunity structures for citizen participation in decision-making. This dimension is also raised by the White Paper on European Governance as central to overcoming the democratic and legitimacy deficit of the European Union. Indicators covered under this dimension relate to laws on information access as well as participation, consultation and participation standards as well as civilian competence and political culture. Several of these indicators are also found under the dimensions 'coherence and effectiveness of policies' and 'effective, independent and representative legislature'. Bringing these together under a distinct own category is meant to underline the significance of this dimension for advanced democratic societies but also in order to facilitate assessments that take this as their starting point rather than assuming an institutional or policy perspective. The methodological implication of this and one raised in the detailed description of the indicators is that comparative data should be collected at territorial level as well as with reference to specific policies or institutional mechanisms.

**Democratic citizenship** – how this is defined, what it includes and, not least, whom it is extended to – is an important aspect of democracy. Insofar as the discursive / participatory aspect of citizenship is covered by the previous dimension, here we approach citizenship primarily from the formalistic perspective on rights. The indicators under this strategic objective are classified under three sub-themes: (a) inclusive citizenship, (b) civil and political rights and (c) social rights. They include constitutional and political arrangements regarding citizenship; provisions regarding multiculturalism and migration policy; civil rights; political rights; universal social rights and mechanisms for protecting against risk of poverty and social exclusion.

The EUROPUB Democratic Audit includes over 400 indicators across the above seven themes. For each indicator the following information is provided: definition and unit of measurement, relevance and input data / information required for the assessment.

A full-scale democratic audit of any particular society or of the European Union would involve assessments across all key themes or strategic objectives for different levels, territories or (policy) sectors of government and for different key actors. However the EUROPUB Democratic Audit can also be used in a more selective way to assess specific dimensions or themes of interest and at different comparative levels.

Most indicators are not conceptualised as benchmarks with clear quantitative target lines. However several of them are axiomatic in the sense of seeking to establish the existence or absence of specific provisions or procedures or the degree of impact of the latter with regard to horizontal generic democratic dimensions such as transparency, accountability, openness, participation, representativity or policy output. Indicators on governance mode or policy process, on the other hand, are tailored to assembling information that allows a better exploration of the extent to which specific decision mechanisms or methods are or might be specific in terms of either facilitating or obstructing democracy. This is especially of relevance for the European Union polity.

## **5 Conclusions**

In this paper I have reviewed several national democratic audits as well as the work carried out by Lord and associates on a democratic audit of the European Union. The theme of democratic models or typologies was discussed from the perspective of democratisation and with reference to the scholarship of Robert Dahl which inspired much of the work on democratic audits. The main conclusion drawn from this analysis set against the particularities of the European Union was that there remain key principles and issues that should be used in a democratic

assessment despite the existence of differences with regard to the operationalisation of democratic standards across countries as well as across institutions or policy domains within democratic societies.

A democratic assessment of the EU political system as representing a transnational form of democracy in-the-making must be carried out at different territorial levels. The emergence of a supranational actor does not make national democracy (and assessment) obsolete, it rather presupposes it. Furthermore, in advanced democratic societies, like the EU, democratic assessment must be extended to cover social institutions, like civil society, the media and economic corporations as well as policy domains. EU democratic auditing is best thought of as a nested activity that pulls together information from different sources and levels of government and concentrates on comparisons across and within societies.

The complexity in terms of decision-making and territorial scale of transnational democracies renders these fragile with regard to democratic standards and practices. Multilevel and flexible governance mechanisms may appear as extending the opportunity structures for stakeholder and citizen participation in decision-making but assuring this is the case implies submitting these new institutional structures to democratic scrutiny. In practice social institutions in advanced democracies tend to substitute real with virtual representation and participation with technical expertise. This could lead to the transformation of advanced democracies into modern forms of guardianship. One way to avoid this is through comprehensive democratic auditing that asserts, rather than negating, the significance of mainstream criteria for democratic political systems and decision processes.

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## Notes

<sup>1</sup> In the meantime the weaknesses of the draft Constitutional Treaty are beginning to emerge. See online papers and newsletter of Federal Trust at <http://www.fedtrust.co.uk>

<sup>2</sup> The Freedom in the World Survey covers 192 countries and 17 so-called contested territories. Basic standards drawn from the Universal Declaration of Human Rights are used to rate a country's political rights and civil liberties and to categorize it as being free, partly free or not free. The country/territory ratings are proposed by the writers of each country/territory report and are reviewed on a comparative basis in a series of regional discussions involving analysts and regional academic experts. A cross-regional assessment is subsequently carried out to ensure comparability and consistency in the findings. The rating process involves awarding a country or territory 0 to 4 raw points for each of 10 questions grouped into three subcategories in a political rights checklist, and for each of the 15 questions grouped into four subcategories in a civil liberties checklist. The highest possible total score that can be achieved for political rights is 40 (i.e. a total of up to 4 points for each of 10 questions), and 60 points for civil liberties (a maximum of 4 points for each of 15 questions). The total number of raw points is the definitive factor that determines the final status of each country/territory. Those with combined raw scores of 0 – 33 points are 'not free', 34 – 67 points are 'partly free' and 68 – 100 points are 'free'. Next to the ratings, each country report includes summary information on basic political, economic and social data as well as an overview of recent political developments. Thus, for instance, the reports on the EU Member States, all of which receive a high rating according to the standard criteria, include information on the resurgence of extreme right-wing parties, political corruption, human rights and immigration. See Freedom in the World Survey 2003 by Freedom House at <http://www.freedomhouse.org/research/index.htm>.

<sup>3</sup> With the support of the Joseph Rowntree Charitable Trust.

<sup>4</sup> IDEA was established in 1995 and currently includes 21 members. IDEA is an "intergovernmental organization with member states across all continents, [which] seeks to support sustainable democracy in both new and long-established democracies. IDEA draws on comparative experience, analyses democracy trends and assistance, and develops policy options, tools and guidelines relating to political participation, electoral systems, political parties and post-conflict democracy building." See [www.idea.int](http://www.idea.int) The IDEA audit framework is intentionally conceptualized in a flexible manner insofar as the standards and benchmarks are concerned. A number of questions on each of the key dimensions are available on the IDEA Web Site to answer from the subjective perspective. This is in line with the basic assumption underlying the work of IDEA that the people most suitable to evaluate a country's democracy are its own citizens.

<sup>5</sup> A scale of five grades are used in the SNS audit. Two plus signs (++) indicate that current conditions lie as close to the ideal as they plausibly can. One plus sign (+) signifies that the conditions are close to the ideal, while zero (0) represents an acceptable level. One minus sign (-) demonstrates a departure from the democratic norm, whereas two minus signs (--) indicate a substantial departure of democratic quality from the norm. The yearly assessment is carried out by an expert panel comprising a minimum of five political scientists, sociologists and legal experts. If necessary, surveys on specific topics are carried out to provide input into the SNS democratic audit. For instance, the 1997 democratic audit included a survey on the perception of democracy at different levels and separately for citizens and politicians. Besides a general assessment of the state of Swedish democracy, the SNS democratic audit has a different thematic focus every year. The 1997 theme was 'democracy across borders', that of 1998

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'democracy and citizenship' (Micheletti 1998). The 1999 audit was concerned with 'democracy the Swedish way' (Petersson et al., 1999) while in 2000 the SNS focused on the role of political parties. The 2001 audit dealt with accountability (Petersson et al. 2002) and that of 2003 with democracy in the EU focusing on the European Constitutional Convention (Petersson et al. 2003). For a conceptual and methodological description of the SNS audit, consult Micheletti (1998) and Petersson (2001) at <http://www.const.sns.se/dr/english/>

<sup>6</sup> The assessment framework developed by USAID defines its key four areas as strategic objectives and defines for each a set of intermediate objectives. Subsequently performance indicators are defined for each strategic or intermediate objective. These are presented in the form of so-called 'results frameworks' comprising a summary template and excel spreadsheets. The indicators proposed by USAID unlike those of the previous audits reviewed so far are measurable and performance oriented. Both quantitative and qualitative indicators are included. Each indicator is defined with reference to the unit of analysis, its relevance, issues relating to target setting or interpretation and data collection methods and costs. See USAID Handbooks and [http://www.usaid.gov/our\\_work/democracy\\_and\\_governance/](http://www.usaid.gov/our_work/democracy_and_governance/)

<sup>7</sup> See <http://democratic.audit.anu.edu.au/>

<sup>8</sup> See also <http://www.leeds.ac.uk/polis/demaud.htm>

<sup>9</sup> Dahl presents the guardianship thesis through a modern account of a Socratean dialogue between a modern democrat and a contemporary advocate of guardianship (pp.59-64). He then goes on to criticise the guardianship vision by discussing knowledge (character and access to) and public goods. With regard to knowledge his main argument is that knowledge is neither value-free nor only accessible to the few. Furthermore, especially in a context of risk and uncertainty policy judgements must be based on a plurality of views rather than those of the few. On the issue of public good he proposes to view communities as systems rather than as aggregates following a Durkheimian line of argument (the whole is more than the sum of its parts). He concludes that: "Prudence and practical wisdom will argue against the vision of guardianship (...) An imperfect democracy is a misfortune for its people, but an imperfect authoritarian regime is an abomination. If prudence counsels a 'maximin' strategy – that is choose the alternative that is the best of the worst outcomes – then the experience of the twentieth century argues powerfully against the idea of guardianship. But if instead we choose a 'maximax' strategy, it will also lead us to endorse democracy rather than guardianship. For in its ideal outcomes, democracy is better. In an ideal system of guardianship, only the guardians can exercise one of the most fundamental of all freedoms, the freedom to participate in the making of the laws that will be binding on oneself and one's community. But in an ideal democracy, the whole people enjoys that freedom" (p.78).

<sup>10</sup> Dahl does not elaborate this argument at length but it would appear from what he says that he is in particular critical of the economist conception of democracy that has come about through the re-emergence and strengthening of neo-liberalism over the last several years. He says: "'stockholder' democracy is an oxymoron, since allocating votes by shares would violate a fundamental criterion of the democratic process, voting equality among citizens. Democracy requires that the votes of each citizen be counted equally, a requirement that cannot be satisfied by counting the vote of each share of stock equally" (p.329).

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<sup>11</sup> Dahl does not refer to citizen or consensus conferences per se but from his description it would follow that this is what he has in mind. With reference to the United States he uses instead the image of a 'minipopulus' consisting of around thousand citizens, randomly selected but representative and meeting with the help of new communication technologies.

<sup>12</sup> One noteworthy exception is Delanty (2000) who notes that the opposite might in fact be the case over time.

<sup>13</sup> For instance, more than one of the regional constituent states of Germany or Austria are considerably bigger than the smallest of the new Members of the European Union, Cyprus and Malta. With regard to political-territorial organisation not only is Europe an agglomeration of centralised and federal states but among federal states we also find quite a significant variation: for example, the federal structure currently under negotiation for Cyprus (towards the re-unification of the two constituent communities of the island) will in some respects be more complex than that of Germany.

<sup>14</sup> How many political parties does a democracy sustain, how are interests best represented or mediated, and what are the trade-offs between parliamentarism and the executive branch of government? Dahl was of the opinion that countries where "competitive politics is accompanied by a highly fractionalised party system (which in a parliamentary system is likely also to produce a weak executive) the chances for a shift towards a hegemonic regime are rather high" (p.123). However he also was keen to underline that "if a competitive political system is less likely in countries with a considerable measure of subcultural pluralism, it would be going too far to say that it is impossible or that subcultural pluralism necessarily rules out an inclusive polyarchy" (p.111).

<sup>15</sup> Multilevel governance is today the umbrella term of several research programmes at national level and also significantly at the European level. Research on multilevel governance mainly relates to the EU and Europe more generally but not alone. Much of research on (regional) sustainable development also closely relates to the concept of multilevel governance and the ongoing decentralisation processes in countries like the UK or France have renewed interest in the study of complex political systems characterised by divided or shared sovereignty and extensive self-government. The discourse on the resolution of territorial conflicts through the introduction of complex forms of federal structures as is known in Belgium, Switzerland or Canada is also ultimately one on multilevel governance, even if not referred to as such.

<sup>16</sup> Lord's conceptual scheme is able to avoid this question as it accepts that different democratic standard criteria can apply to different European institutions or policy domains. For the EUROPUB democratic audit however this is a valid question as we base our analysis on the hypothesis, following Dahl, that what comes under the 'democratic model' literature is better reflected upon as historical institutional pathways and transformation phases and that the differences in the mode of governance and policy process that can be observed does not make certain democratic standards, like institutional opportunity structures for citizen participation in decision-making, obsolete. It is rather more honest and ultimately more useful from the democratic assessment perspective to classify policy domains as more or less democratic across specific dimensions.

<sup>17</sup> The terminology chosen for these two strategic objectives follows that of the USAID democratic assessment framework.