Near East University, North Cyprus

From the SelectedWorks of Direnç Kanol

February, 2011

Assessing the Legitimacy of the EU

Direnç Kanol, University of Siena

Available at: https://works.bepress.com/direnc_kanol/4/
Assessing the legitimacy of the EU

DIRENÇ KANOL
PhD Student at CIRCaP, University of Siena

The Lisbon Treaty could not meet the demands of many as regards the issue of the EU’s legitimacy and democratic governance. By analyzing the literature on the legitimacy of the EU, the article shows why the EU has to fulfill the legitimacy criteria of the liberal-democratic states by defining the EU as a multi-level governance polity which affects the legitimacy of the member-states. This view discards the arguments for assessing the legitimacy of the EU as of an international organization. Likewise, it rejects the views arguing that the EU is a regulatory state and its legitimacy should be assessed in terms of regulatory legitimacy. A conceptual framework is provided at the end of this article to initiate an empirical research design to measure and subsequently perhaps to increase the legitimacy of the EU.

Introduction

Until the Maastricht Treaty (1992), the European Union (EU) justified its legitimacy by mere ‘permissive consensus’ (Lindberg and Scheingold 1970: 41-42; Obradovic 1996: 192). As long as the European polity did not influence people’s lives radically, they were willing to give their consent to European integration as an elite affair (Obradovic 1996: 192). Since the Maastricht Treaty, however, the policy competences of the EU have increased enormously, making the EU a polity which affects citizens’ lives directly on most of the societal matters (De Burca 1996: 350; Eriksen and Fossum 2000b: 264; Obradovic 1996: 192). Failed referenda, low degree of trust in European institutions, decreasing turnout in European elections, increasing number of protests, complaints about the missing social dimension of Europe, and the changing perceptions about the EU’s formal legitimacy (the insufficient accountability of the Commission, the insufficient legislative powers of the Parliament in comparison to the Council of Ministers, the transparency deficit in the Council of Ministers etc.) have showed the academics that the days of ‘permissive consensus’ is over and that there is a problem with the legitimacy of the EU (Obradovic 1996: 192-193; Ehin 2008: 621; Eriksen and Fossum 2000b: 262; De Burca 1996: 350-352; Banchoff and Smith 1999a: 1; Dobson and Weale 2003: 162-165; Wimmel 2009: 182; Höreth 1999: 253-257; De Jonghe and Bursens 2003: 3-5).

Nevertheless, not everyone accepts that the EU is in legitimacy crisis (Moravcsik 1993, 2002; Majone 1998). Confusion on the topic is caused by the conflicting views on how to assess the legitimacy of the EU. Shall the same legitimation criteria be used for the EU that is used for international organizations? Would it suffice to use regulatory legitimacy criteria? Shall the same legitimation criteria that is used for liberal-democratic states be used for the EU? The valid way of assessing
the legitimacy of the EU needs to be found before accepting the legitimacy ‘crisis’ argument. This article aims to provide a tentative solution to this puzzle by looking at the strength of arguments of different authors after analysing the EU as a multi-level governance polity.

**Multi-level Governance**

The concept of multi-level governance came to life when Gary Marks (1992) used EU-polity as an independent variable for examining structural policy (Bache and Flinders 2004: 2). The basic argument is that policy-making in the EU is not a centralized process in Brussels but involves European, national, regional, and local levels. Decision-making does not depend on a hierarchical model; decisions are taken after negotiations between these levels. The interaction between these levels enables the governors to decide who is to take the lead in formulating and implementing a particular policy or if the policy process should involve various actors cooperating to come up with effective results (Enderlein 2010:3-4; Bache and Flinders 2004: 3; Pierre and Peters 2005: 72; Delmartino and Pattyn 2007: 187). Strong structure and strict rules are missing in this model, as decision-making process is vague and depends on negotiations (Rhodes, 1996:652; Pierre and Peters 2005: 72; Dobson and Weale 2003:156).

Multi-level governance can be defined by concentrating on four different aspects. Firstly, it is a model of governance; the model is inclusive of various private and public actors (Enderlein, 2010:2; Piattini 2010:20 and 250). Secondly, different levels of government including European, national, regional and local levels are included in governance in a non-hierarchical way; actions of one specific level can be largely independent from another level. Division of labour exists between public institutions at different levels (Pierre and Peters 2005: 83-84). Thirdly, rather than practising under strict legal frameworks, the non-hierarchical model based on flexible legal frameworks functions through negotiations between the actors who take place in governance process. Thus, transnational multi-level governance resembles domestic networks (Enderlein, 2010:3; Pierre and Peters 2005: 86). Finally, multi-level governance is a political game where highly autonomous actors compete to influence policy. Participating in the game may lead to influencing policy since there is no rigid structure. Players may change depending on policy and strong actors may moderate their demands in order to maintain their strong positions. The focus is more on efficiency and outcomes rather than procedures, and structures do not automatically decide the outcomes (Pierre and Peters 2005: 86-87 and 90).

**Nature of the beast**

What is the nature of the EU? Does the EU fit the multi-level governance paradigm? Or does the EU resemble to other types of polities or international institutions? Intergovernmentalists for instance, have sought to describe the EU by concentrating on sovereignty, decision-making authority of the national governments and the mere agent role of the supranational institutions. Even though these agents might influence the decision-making process by dealing with details of policies, the ultimate decision-makers are states. Judiciary and bureaucracy of the EU are not independent of the states. They have been created to ease the common decision-making and implementation process (Hooget and Marks 2003: 283-284; Marks et al. 1996:342).

According to the intergovernmental theorists, unanimity ensures that the sensitive issues cannot be forced upon any of the member-states and all policy arises out of bargaining and negotiations, ending up in lowest common denominator form (Moravcsik 1993: 517). Liberal intergovernmentalists theory formulated by Moravcsik, does not ignore the influence of various interest groups in shaping states’ position at the domestic level; this was a neglected phenomenon in the first intergovernmentalist accounts (Hoffman 1966). However, Moravcsik shares a similar opinion with early intergovernmentalists, arguing that ‘supranational institutions’ cannot impose their interests on states which are rational actors (Moravcsik 1993: 481-482 and 519).

There are numerous alternative theories to intergovernmentalism and liberal intergovernmentalism: neofunctionalism (Haas 1958), rational choice-theory, sociological institutionalism, historical institutionalism and constructivism have all sought to explain the causes and direction of European integration as a process (Pollack 2005: 26). The goal in this paper however, is to find a successful approach to European Union as an entity, so that different ways of assessing the legitimacy of this entity can be discussed. Scholars who have attempted to explain the EU from a comparative politics perspective have compared the EU to federal and confederal systems and advanced our
understanding of the EU as a polity (Pollack 2005: 26). Governance approach to the EU uses both international relations and comparative politics to explain the EU as a sui generis polity which is neither a traditional international organization nor a Westphalian type domestic state (Auberger and Iszkowski 2007: 272; Pollack 2005: 36).

According to Marks’s definition, ‘governance’ dimension of multi-level governance paradigm refers to interdependence between governments and non-governmental actors at different territorial levels (Marks 1993: 402-403). Private actors and informal mechanisms of governing are two unquestionable characteristics of this model. Pierre and Peters argue that none of the European states that we know gives us a better example of this as the EU (Pierre and Peters 2009: 94). After the creation of the single market, domestic actors have moved their locus of attention from the domestic level to the European level (Hooghe and Marks 2003: 291-292). Interest groups try to influence decision-making by lobbying the Parliament, the Council of Ministers, and the Commission. European Commission asks for their opinion and values their input (Schmidt 2004: 983), (Banchoff and Smith 1999a: 14) and (Banchoff and Smith 1999b: 212).

Together with traditional legislation-making that is common in liberal-democratic states, the EU governance uses various soft modes of governance (Borrás and Conzelmann 2007: 531) and (Eberlein and Grande 2005: 100). An example of such soft modes of governance is networks coordinated informally and based on soft harmonization (Hajer and Wagenaar 2003: 2; Jachtenfuchs 2003; Peterson 1995). These networks may involve representatives of nation-states, sub-national actors, experts, economic actors, and civil society. Networks develop benchmarks or ‘best-practice’ rules and practices for governance – eg. European Forum for Electricity Regulation, Open Network Provision Committee etc. (Eberlein and Grande 2005: 100).

Policy-initiation in the EU is an empirical evidence of the non-hierarchical, multi-actor, negotiation-based multi-level governance in action. Although the European Commission is set to be the main actor, policy initiation includes interaction between the Commission, the Parliament, the Council of Ministers, the European Council, and interest groups including sub-national ones (Marks et al 1996: 357-358; Hooghe and Marks 2003: 297-298). The policy implementation proceeds similarly; although the directives coming from Brussels should be complied with, policy implementation is neither a strict hierarchical nor one level process. The commission shares authority with the member-states by cooperating with the national committees (Hooghe and Marks 2003: 306; Pierre and Peters 2009: 96). These committees involve representatives from both public and private sectors, and public sector may involve representatives from national authorities as well as sub-national ones (Hooghe and Marks 2003: 306-307).

All of these phenomena together may suggest that the states are not the sole deciders, and policy-making involves both public and private groups, and different levels— subnational, national and supranational— without a traditional hierarchy. One may add the transnational level to this. The latter has been ignored by many MLG scholars (George, 2004:124-125) and (Delmartino and Pattyn, 2007:185-186). An extensive argument about this issue is not the purpose of this paper.
not disprove the intergovernmental interpretation of the European institutions, whose role reduces to being mere agents of the member-states. Analyzing the institutions of the EU can shed light on this puzzle. The European Commission takes decisions by majority rule. Twenty seven Commissioners, who are proposed by each nation-state and are approved by the President of the Commission, are expected to act in favor of the EU as a whole rather than defending national interests (Eriksen and Fossum 2000a: 6). Commission’s position, which makes it suitable for acquiring information from national and sub-national institutions, and interest groups, makes it a highly competent informational base that can independently influence policy-making (Marks et al., 1996: 355; Hooghe and Marks 2003: 294). Although the process can be influenced by national and social actors, the European Commission, which is a supranational institution at the EU’s level, has the right to initiate legislation (Nugent 2006: 167-169; Hooghe and Marks 2003: 295; Pierre and Peters 2009: 95-96). It also has the agenda-setter and broker role under cooperation and co-decision procedures (Nugent 2006: 187; Hooghe and Marks 2003: 302). Despite member states’ involvement due to Commission’s lack of capacity to implement policy, the latter also has the right to implementation and ensures that the directives are implemented according to the decisions that are taken in Brussels (Nugent 2006: 175; Pierre and Peters 2009: 95-96). This right also implies interpretation, issuing administrative regulations and decisions for specific cases (Hooghe and Marks 2003: 306).

Comitology can be a misleading concept for some since they might think that nation-states have gained control over the implementation process. Comitology is the weakest in areas where the Commission has strong executive powers (Hooghe and Marks 2003: 306; Marks et al., 1996:367). Moreover, national governments mainly select as members of the committees individuals among epistemic and business communities, academics, sub-national officials (mainly in federal systems) and interest groups (Hooghe and Marks 2003: 306-307; Marks et al., 1996: 367-368). The Commission negotiates on trade and environment issues and plays a crucial role in international negotiations (Nugent 2006: 186-187; Hooghe and Marks 2003: 295). The Commission also negotiates with countries applying to the EU and with countries seeking economic or cultural partnership with the EU (Nugent 2006: 186; Hooghe and Marks 2003: 296). Moreover, the vague nature of the treaties has enabled the Commission to strengthen its role and legitimize its preferences by referring to treaties. This was the case with the structural policy where the Commission has played the most important role in transforming the regional policy into an interventionist policy (Hooghe and Marks 2003: 293).

European Parliament is another example of a supranational institution in the European Union. Since 1979, the members of the Parliament are elected by the EU citizens. Party membership and ideology of the MEPs are often more important to the latter’s stance than nationality (Hooghe and Marks 2003: 291). Unlike Moravcsik, Hooghe and Marks argue that strengthening of the Parliament’s position has ended with the Council of Ministers losing its ultimate power in decision-making process (Hooghe and Marks 2003: 290). Apart from its power to request the Commission for policy and legislative initiation, influencing budgetary matters and control and supervision of the executive, the European Parliament has the authority to decide on policy and legislation together with the Council of Ministers in most of the policy areas. Co-decision and assent procedures apply to most of the policy areas which give the Parliament a veto on passing legislative proposals (Nugent 2006: 243-244). Cooperation procedure also allows the Parliament to exert considerable influence on the Council of Ministers (Nugent 2006: 243). The important role of the European Parliament in decision-making is a manifestation of the Council of Ministers’ restricted power and the formal authority of supranational institutions in the EU (Hooghe and Marks 2003: 291).

State-centric views perceive the European Court of Justice (ECJ) as another agent of the member-states. However, the ECJ has an impartial multinational nature and has the authority to legally oblige the member-states through the treaties. Since the treaties define ‘tasks’ and ‘purposes’ for European cooperation e.g. Completion of the internal market (Single European Market), or in other words since there is a lack of precision in the EU’s statute law, the Court has played an expansive and interpretive role by specifying competencies of both intergovernmental and supranational institutions, (Marks et al., 1996: 354; Hooghe and Marks 2003: 308; Nugent 2006: 289). An example the ECJ’s power is the ‘Cassis de Dijon’ case where the ruling by the Court has obliged the member-states to recognize any product that is produced and recognized in any other member-state (Hooghe and Marks 2003: 308-309; Marks et al. 1996: 370). The constitutionalization
of EU treaties does not seem to comply with the preferences of the national governments but is a product of the Court’s actions (Hooghe and Marks 2003: 293). The Council of Ministers is arguably the most important decision-making body of the EU (Nugent, 2006: 192). It has the power to request the Commission to produce proposals and vote on legislations. Even though the Council of Ministers is comprised of national ministers defending their national interests, one can see that the application of the QMV limits the control of individual national governments (Obradovic 1996: 202; Marks et al., 1996:350; Hooghe and Marks 2003: 286). The QMV is used for decision-making for most of the issues (Auberger and Iszkowski 2007: 274; Hooghe and Marks 2003: 299). Although a serious blow to this principle has come by the 1966 Luxembourg Compromise, the Luxembourg veto is not used since June 1985 (Marks et al. 1996: 362-363; Hooghe and Marks 2003: 299-300).

Apart from the Council of Ministers which has certain intergovernmental features, the European Council is an intergovernmental institution. The European Council meets rarely and its decisions are mainly comprised of general policy frameworks to be set up by the Commission. This gives maneuverability to the Commission to create legislative programs (Marks et al 1996:357; Hooghe and Marks 2003: 296). Do the abovementioned factors have a coercive influence on member-states when maintaining their sovereignty? Does the deficiency of military power at the EU level make the EU an intergovernmental organization lacking major independence from the sovereign member-states? If member-states do not comply with the decisions that are being taken at the EU level or pull out of the EU, what can the EU do? One can argue that the traditional approach to state sovereignty, based on mere physical power cannot be applied to political control in the contemporary capitalist societies. It should not be forgotten that there are crucial economic and political sanctions and subsequent dislocation that would maintain the order by inhibiting member-states on not following the EU rule (Marks et al., 1996:352; Hooghe and Marks 2003: 287; Scharpf 2007: 16).

A quick analyses of the institutions and the functioning of the EU demonstrates the fallacy of the state centric models, arguing that the national governments dominate policy making and the supranational institutions are mere agents of the member-states (Beetham and Lord 1998b: 17; Hooghe and Marks 2003: 294). Inter-governmental relations as well as supranational institutions make up the EU. It is crucial to understand that the EU is not comprised only of delegate institutions of the member-states and the member-states but it is an independent authority which has its own competencies (Wallace 2005: 493; Höreth 1999: 249-250; Auburger and Iszkowski 2007: 275; Eberlein and Grande 2005: 91; Hooghe and Marks 2004: 19; Weale 1995: 83; Sand 1998: 280-282; Beetham and Lord 1998b: 17-19).

Many of the decisions that affect the EU citizens’ lives are taken by the EU polity and these decisions have direct effect on the policies and political legitimacy of the nation-states (Dobson and Weale 2003: 159-160; Marks et al., 1996:342-343; Beetham and Lord 1998a: 13-14; Beetham and Lord 1998a: 16; Beetham and Lord 1998b: 17-18).

Legitimacy of the EU

“Legitimacy is the recognition of the right to govern” (Coicaud 2002:10). The governors possess power and it is only when the acquisition and exercise of power takes place according to justifiable rules and there is evidence of consent that we can call a power relationship legitimate (Beetham 1991: 3). Legitimacy comprises of three different elements. Political power is legitimate, to the extent that:

- “It is acquired and exercised according to established rules (legality); and
- the rules are justifiable according to socially accepted beliefs about (1) the rightful source and (2) the proper ends and standards of government (normative justifiability); and
- positions of authority are confirmed by the express consent or affirmation on the part of appropriate subordinates, and by recognition from other legitimate authorities (legitimation) (Beetham and Lord, 1998b:15).

The enhanced order, stability, and efficiency are the consequences of a legitimate system. A legitimate system can be maintained easier since the maintenance of order presupposes obedient people who are subordinated to power (Beetham 1991: 33). The obedient subordinates make a regime stable since higher levels of support for the system mean that the regime will be resistant to economic crisis, political failures etc. (Beetham 1991: 33). This high support for the system allows the powerful to achieve their goals by enjoying high performance by the subordinates (Beetham...
Moravcsik (2002) argues that the legitimacy of the EU can be assessed by using the same criteria used for international organizations. Nevertheless, the EU is a multilevel governance polity rather than an international organization and the legitimation criteria used for international organization would not be fully applicable. Though not absolutely inapplicable, it is simply insufficient for fulfilling the legitimacy criteria of the EU (Beetham and Lord 1998a: 16; Ehin 2008: 834). International institutions acquire legitimacy through legitimate member-states or other institutions, not through citizens directly. Thus this type of legitimacy is indirect (Beetham and Lord 1998a: 11). This applies to the EU on occasions where the member states negotiate and ratify treaties without citizen participation, participate in decision-making process (recognition from other legitimate authorities), oblige to to rule of law in the EU created by the member states (legality), and try to establish and reach goals that are not possible to achieve individually (normative justifiability) (Beetham and Lord 1998a: 11-13).

Like Moravcsik (2002), Majone also falls in the trap of misperceiving the nature of the EU. Consequently, his assessment of the legitimacy of the EU is erred. Majone (1996a: 287) argues that the EU is a regulatory state since it has competences only in limited scope of social and economic regulation and its legitimacy should consequently be a regulatory legitimacy. He considers the administrative supranational institutions such as the Commission, the Court of Justice and the European Central Bank as ‘non-majoritarian institutions’ meaning that they are not directly accountable to electors or elected officials (Majone 1996a: 285; Majone 1998: 15). Their legitimacy rather depends on performance than political accountability (Majone 1996a: 285-286). Delegation of policy-making power to ‘non-majoritarian’ supranational institutions such as the European Commission is necessary since it is not possible to be sure that the agreements between the nations will adhered to without a monitoring agency (Majone 1996b: 617). Technocratic institutions are set up and their existence can be justified by the lack of expertise in solving complicated technical problems. Moreover, they allow policy continuity since they are less influenced by election results (Majone 1996b: 617). Majone differentiates between two types of legitimacy:

“Procedural legitimacy implies, among other things, that the agencies are created by democratically enacted statutes which define the agencies’ legal authority and objectives; that the regulators are appointed by elected officials; that regulatory decision-making follows formal rules, which often require public participation; that agency decisions must be justified and are open to judicial reviews” (Majone 1996a: 291).

Substantive legitimacy on the other hand:

"Relates to such features of the regulatory process as policy consistency, the expertise and problem-solving capacity of regulators, their ability to protect diffuse interests and, most important, the precision of the limits within which regulators are expected to operate" (Majone 1996a: 291-292).

Majone argues that procedural legitimacy of the EU can be improved by regulators giving reasons for their decisions; this will enable the EU to have transparency and accountability in decision-making (Majone 1996a: 292-294; Majone 1998: 21). Substantive legitimacy can be improved if non majoritarian-institutions’ purposes are clearly defined (Majone 1996a: 294; Majone 1998: 24).

Looking at the substantive legitimacy, Majone (1996a: 298-299) argues that the highly heterogeneous nature of the EU does not allow the EU to take the equity side of the efficiency-equity tradeoff. A more active role of the EU in redistribution can only aggravate the legitimacy of the EU polity. As long as these non-majoritarian institutions only deal with efficiency issues (maximization of aggregate welfare) rather than redistributive issues (redistribution of income and wealth), which can only be decided by elected officials or administrators accountable to elected officials because of the zero-sum nature of the redistributive policies, the non-majoritarian institutions can be legitimate (Majone 1996a: 294-295; Majone 1998: 28). In addition, the understanding of Madisonian type of democracy in Europe with serious cleavages would suggest that the majoritarian types of finding solutions for increasing the legitimacy of the EU can only exacerbate its legitimacy (Majone 1996a: 287). Majone misses the point with his defense of regulatory legitimacy for the EU. It is one thing to defend the independence of regulatory bodies in a liberal democratic state where government is directly elected by ‘demos’, and another to argue for an independent executive body influencing the decisions both at the European and the domestic levels when this body is not directly elected.
by a certain ‘demos’ or is not politically accountable to an elected body. Majoritarian or Madisonian, an unaccountable executive branch, being a crucial actor in policy-initiation and implementation, creates problems for normative justification in a democratic polity (Hansen and Williams 1999: 245; Beetham and Lord 1998a: 21; Rothstein 2003: 340). Majorone's perception of the EU and its legitimacy reduces the latter's accountability. Political accountability here is limited with mere reasoning of the decisions. Majone's recipe for legitimacy is a good example for output legitimacy. Technocratic or (output) legitimacy is about policy outputs or delivering the needs of the society (Scharpf 1999; Höreth 1999: 251; Wimmel, 2009:184,191; Dobson and Weale 2003: 160). However, the EU policy competencies have exceeded the competencies of a regulatory state. Reducing the legitimacy of the EU governance to only technocratic legitimacy cannot be normatively justified in a democratic society (Auberger and Iszkowski 2007: 274; Wincott 2006: 762; Höreth 1999: 261; Beetham and Lord 1998a: 22).

The EU is neither controlled by the member-states nor is it a regulatory state. The EU is a model of multi-level governance which influences the policies and the legitimacy of liberal democratic states. Thus, one should follow the way of reasoning that raises the stakes and obliges the EU to comply with the legitimacy criteria that are used to assess the legitimacy of liberal-democratic states. The EU can fulfill the legitimacy criteria only by ensuring that it conforms to legality, normative justifiability, and legitimation that is used for liberal democratic states (Beetham and Lord 1998a: 22; Ehin 2008: 634). However, this does not mean that fulfilling these criteria will be achieved by the same methods that are used for liberal democratic states (Schmitter 2007: 5; Vink 2007: 317-319; Scott 2009: 172; Georgiev 2008: 111). Neither does it mean that indirect legitimacy that is appropriate for the international organizations should be replaced by the liberal-democratic criteria. They can indeed be complementary. Direct and indirect legitimacy coexist together for the legitimation of the EU polity: the so-called ‘double legitimacy’ (Dehousse 1995: 22-26). The task is to find specific means to acquire legitimacy by both direct and indirect methods that are available for the EU-polity (Beetham and Lord 1998a: 23).

The first element of normative justifiability for liberal-democracies is performance. Performance can be used interchangeably with technocratic legitimacy which solely depends on efficiency and effectiveness without democratic procedures. The second element is democracy that encompasses accountability, electoral authorization of government and representation, as these ensure that the source of political authority lies only with the people (Beetham and Lord 1998a: 6; Beetham and Lord 1998b: 16; Dobson and Weale 2003: 160). Popular sovereignty also requires that people as the source of political authority are clearly defined, thus identity is the third element (Hansen and Williams 1999: 236; Wimmel, 2009:190; Beetham and Lord 1998a: 6; Beetham and Lord 1998b: 16). The legality criterion in liberal democracies depends on the constitutional rule of law and the legitimation criterion in liberal democracies depends on the consent subsumed in electoral authorisation and recognition by other legitimate authorities (Beetham and Lord 1998a: 5, 7-8; Beetham and Lord 1998b: 16). Table 2 shows the criteria for assessing normative justifiability, legality and legitimation in liberal-democracies.

<table>
<thead>
<tr>
<th>Normative Justifiability</th>
<th>Legality</th>
<th>Legitimation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Performance</td>
<td>Constitutional rule of law</td>
<td>Consent subsumed in electoral authorisation</td>
</tr>
<tr>
<td>Accountability, Electoral</td>
<td></td>
<td>Recognition by other legitimate authorities</td>
</tr>
<tr>
<td>authorisation of government</td>
<td></td>
<td></td>
</tr>
<tr>
<td>and Representation (Democracy)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Identity</td>
<td>-</td>
<td>-</td>
</tr>
</tbody>
</table>

Table 1 - Legitimacy of Liberal Democracies

Source: Author's own compilation.
Another crucial point is that ‘the legitimacy of political authority in Europe is now a two-level process, which cannot be analyzed at one level but only as a process of interaction between the EU and its member-states’ (Beetham and Lord 1998a: 30; Beetham and Lord 1998b: 18; Thomassen and Schmitt 1999: 8). This is due to the legitimacy deficits under identity, democracy and performance having different consequences on the member-states and their legitimacy (Jachtenfuchs et al. 1998: 433; Beetham and Lord 1998a: 30-31). Differing perceptions of legitimacy of the EU among the member-states and varying effects of the legitimacy of the EU on different member-states also cause varying impact on the legitimacy of the EU. Table 3 gives a conceptual framework for assessing the legitimacy of the EU.

Table 2 - Multi-Level Governance Legitimacy of the EU: A Conceptual Framework

| Identity → Normative Justifiability → Legitimacy of the EU ↔ Specific Member-State |
|---------------------------------|---------------------------------|------------------|
| Democracy                       | Legitimation ← Electoral authorization ←? |
|                                  | Recognition by other legal authorities |

Source: Author’s own compilation.

Conclusion

This article reviewed the literature to find applicable standards for the assessment of the EU’s legitimacy. This article has analysed different arguments, discussed the flaws of the ones arguing that the EU is not in need of democratic legitimation because it is an ‘intergovernmental organization’ or a ‘regulatory state’. The author argued that the weakness of these authors’ arguments emanates from their impaired understanding of the nature of the EU which hinders correct assessment of the EU’s legitimacy. The author stated that analyzing the EU from a multilevel governance perspective should point to the researchers that Beetham and Lord’s (1998a) theoretical framework is currently the most applicable for the assessment of the legitimacy of the EU. The EU is a multilevel polity that influences the legitimacy of its member-states. The EU is obliged to meet the same criteria that liberal democracies have to meet. These criteria are democracy, performance, identity (normative justifiability), rule of law (legality), electoral authorization and recognition by other legal authorities (legitimation). However, one should note that indirect legitimacy, relevant to international organizations, can coexist with the EU’s direct legitimacy and can be complementary. In addition, any assessment of the legitimacy of the EU should
take into account the interaction between the EU and the member-states. Legitimacy of the EU affects each member-state differently and different understandings of legitimacy of the EU among the member states and the different effects of the former on the member-states have an impact on the legitimacy of the EU.

**BIBLIOGRAPHY**


Hansen, L. and Williams, W.C. (1999). ‘The Myths of


Hoffman, S. (1966). ‘Obstinate or Obsolete? The Fate of the Nation State and the Case of Western Europe’ Daedalus, 95, pp. 862-915.


